

1937

1

38174

CO 533/482

38174

KENYA

MINING

Previous

297

1936

SEE PG. FILE
Subsequent

1939

R. 297

4/1/37

R. 309

297

6/5/37

R. 309

19/6

R. 297

14/9

In Flood

4

M. Clouston

14/9

Sr. C. B. Atkinson

15/9

S.S.S.

1/1

Sr. C. B. Atkinson

17/9

In Flood

17

M. Clouston

17/9

Sr. C. B. Atkinson

24/9

Sr. M. ...

31/10

P.L.

MINING

FOR ORAL REPLY ON 21ST APRIL 1937

(No. 1 ON P.Q. FILE)

1. Extract from Supplement to Gazette 20 of 4.5.37

Registered for record

Putty

Romwith
1878737

above

2. Your dep. 529. 9.9.37
asks for approval by tel. to suspend
royalty for two years from 1st October.

3. My letter of 9/9/37
replies to No. 3 by 14 Sept.

The question of the royalty on gold in Kenya is not new, and from recent articles in the press I have been expecting that we should get something from the Governor on the subject. I did not, however, expect to be confronted with what is practically a fait accompli and a request for a reply within three^{or} days.

The old Mining Ordinance, or rather the regulations made thereunder, prescribed a flat rate of royalty of 5% on all gold won. This rate was the same in Kenya, Uganda and Tanganyika and was based upon the Tanganyika Ordinance. The 5% rate was, I understand, modelled ^{originally} on the Gold Coast and is pretty general. In September, 1933, Sir Henry Moore wrote semi-officially asking for advice. He said that there was a good deal of local talk and that mining managers and engineers in Kenya naturally intended to advise that the royalty should be kept as low as possible, or even suspended

No. 28 on
3033/35

suspended

suspended altogether in order to foster the infant mining industry; that a flat rate of royalty on gold was generally thought inadvisable as it might tend to keep low grade ores out of production as well as ores which could only be dealt with by costly working, so that with a high royalty a company might pick the eyes out of a mine and leave low grade ores; that a profits tax as in South Africa would be difficult to work; and that local opinion was in favour of a graduated scale of royalty adjustable according to the grade of ore and the difficulty of extraction. A graduated scheme was prepared by Mr. Murray-Hughes based on the value of the output per month. Briefly, the proposal was to have no royalty if the output did not exceed £100 a month, and to start a 5% royalty when it got over £1,500 a month, provided that the ore produced more than one ounce a ton. If it was less than one ounce per ton, the royalty was to be 4%; and there were provisions for further reductions for low grade ore or if the shaft was very deep.

This suggestion was referred to the Gold Advisory Committee which was then functioning, and the result is contained in Sir Cecil Bottomley's letter to Sir H. Moore of the 24th of October, 1933. The views of the Committee were as follows:-

1. Though in many gold mining countries, there was a tendency to abandon royalty in favour of a profits tax, it would be difficult to do it in Kenya.

2. A system of royalties graduated

according

according to the quality of the ore had many advantages but was unsuitable for the then conditions in Kenya because the gold field was then scarcely scratched, the exact determination of the gold-content in ores would throw a huge burden on the Mines Department; and the only resort was to adopt a flat rate of royalty. It was suggested that, in view of the rise in the sterling price of gold, a sliding scale of royalty might be devised based on the price per ounce. The royalty would wobble from 5% with gold at £4 an ounce ^{to} ~~and~~ ^{8 1/2%} if it was up at £7 an ounce. The letter went on to say that everybody was agreed that it was much too early to lay down any permanent system for taxing the Kenya gold industry, and whatever was adopted must be provisional only.

In January, 1934, we received from Kenya their new Mining Ordinance, together with a report of the local Committee on mining legislation. In regard to royalty, the Committee argued in favour of the sliding scale as proposed from Kenya, and said that it was wrong to talk about a premium since mining operations in Kenya had not started until gold was up to £6 an ounce. A minority of the Committee, (^{two of the} ~~comprised of~~ Unofficials) recommended that no royalty should be charged for 20 years, and that thereafter the maximum should be as originally proposed in Kenya. The reason given for this was that, having regard to the situation of the gold field, the "Government Railway monopoly", Customs duties, and the general system of taxation, Government should rely solely upon its indirect revenue and not attempt to tax gold. We asked Sir Henry Moore why they had dropped ^{our} ~~the~~ sliding

(i.e. the low sliding scale)

scale

scale proposal, and he replied that Government did not feel able to meet the local argument that it was unfair to raise the royalty in accordance with the premium on gold because gold-mining had started when there was already a substantial premium over the par price, and that mining operations had been largely based on the assumption that gold would not fall below that figure. There we let it drop.

Now we have this proposal for dropping the mining royalty altogether. I have seen a paragraph in "East Africa and Rhodesia" to the effect that Kenya was considering some modification in the interests of the industry. And a more recent paragraph stated that the payment of royalty was making all the difference between profitable working with a prospect of raising the necessary further capital for development, and unprofitable working which must sooner or later lead to stepping the whole industry.

The Committee points out, after reviewing the previous history of the thing, that conditions have changed. On the one hand, the price of gold has gone up and now appears to be steady at about £7 an ounce; on the other, the original estimates of the quality and continuity of ore were unduly high and working costs have proved greater than were expected. Consequently, a situation was arising where the charge of royalty was putting a heavy burden on low grade ore. A further new factor was that, with income tax companies

operating

operating would have to pay a tax on the profits earned.

It appears that it is generally accepted in Kenya that Government, as representing the community, has a right to some form of royalty on mineral resources since minerals belong to the Crown and are being exploited for profit by leaseholders. Some, however, argued that since Income Tax was in force no further charge on gold production was justifiable. The Committee's view, however, was the much more sensible one: that a royalty was not a tax on gold but was compensation payable for the exploitation for profit of communal property, and that the State had an ultimate right to a royalty which could not be questioned (see paragraph 10 of the Committee's report, which is signed without any dissent).

In paragraph 13 of the report the Committee reviews the present position of the industry. They point out that the ore is not nearly so rich in general as had been supposed. Many of the deposits which have been discovered up to the present can hardly produce a profit at all without further development in which more capital is required. As a result, producers feel disappointed, cannot raise more capital, and can only finance further development out of their revenue. Consequently, "to restore confidence and so attract capital ... it is essential that as many mines as possible shall be enabled to improve their position and so operate at a reasonable profit". The existing royalty represents a charge of about $\frac{1}{9}$ a ton on $\frac{5}{16}$ dwt. ore basis, a reduction of which would extend the reserves which could be profitably worked.

In

No. 10 on 28061/34.

This of course is sheer nonsense)

now attached?

From this I argue that the proposal has got well out.

In paragraph 14 it is pointed out that about £2,000,000 has been spent by the mining industry in the last three years, and the present expenditure is about half a million a year, employing 400 Europeans and over 11,000 natives. Accordingly, the Committee unanimously is of opinion that the royalty in force does not bear a reasonable relation to the value of the asset, and that, since the asset (i.e. the gold-bearing ore) has only a small marginal value, the royalty portion should ^{also} be only marginal; ~~so~~ that a long-sighted policy requires the remission of the royalty for a period in order to safeguard the indirect benefits arising from the industry. They also recommend that the price of gold should be ignored, since if it goes up it will give an added impetus to development. They recommend ^{the} ~~the~~ remission ^{of the royalty} for a period of three years at the end of which the whole question should be re-considered, and they think that a more equitable basis than a royalty based on output might be found.

On these last points I agree. In the case of the Gold Coast the royalty payable to Government is calculated on the profits of the companies as returned for Income Tax. There is one exception which is the biggest of the lot - the Ashanti Gold-fields - which has a special rate of its own calculated on the flat.

Speaking generally, it cannot be denied, as indeed the Committee recognizes, that

that Government has a perfect right to charge a royalty on its minerals. The minerals represent an asset owned by the whole community. That asset cannot be realized without some work, and Government allows people to do their work and make what they can out of the asset on condition that a small payment is made. That is unquestionable. You have a wasting asset in minerals, and it can be argued with great force that it is not right for a Government which holds such wasting assets to allow them to be depleted in the interests of private concerns without any return.

It is possible, however, to overdo this, and I would call attention to paragraph 4 of the despatch which points out that outside capital has almost ceased so that development has to be financed internally from production; if there is no profit after payment of royalty, development ceases. ^{and the Kenya mines are still developing.} The local Board of Economic Development considered the question with, apparently, a very open mind. Mr. Hosking told them that, in the case of one company, the collection of the royalty would certainly make the difference between collapse and continuing, and in many others it was very probable it would. Major Grogan pointed out that capital was being concentrated on South Africa and that "organized capital" was ignoring Kenya. "Organized capital is, of course, a bit of a bugbear ^{of his} ~~to us~~. Mr. Hosking pointed out that, though gold was ~~an~~ ^{a valuable} asset, yet it was not one unless it could be worked at a profit, and he suggested that the principle that Government should get something out of it could equally well be maintained by sharing profits. Accordingly, the Board recommended dropping

dropping the royalty except for a token payment of $\frac{1}{4}\%$ and that the period of reduction should be limited to two years. They coupled with this, however, a recommendation that a long-range policy should be worked out during the two-year period. In Executive Council, however, the Governor and Council agreed that the payment of royalty should be entirely suspended for two years from the 1st of October next, and they asked for an immediate telegraphic reply. They asked Tanganyika what they were doing and it appears that that Government is considering a proposal for assisting small mine-owners which will, of course, have the same effect as remitting royalty. The analogy, however, is not very good, since in the case of Kenya it is not small mine-owners that are now concerned but larger concerns employing capital.

As regards revenue, the total loss is put at about £17,500 a year, and as revenue generally is expanding, I think this can be faced with equanimity.

It may be argued that an industry which cannot get on unless it is provided with its free raw material (i.e. the gold-bearing ore) is not worth supporting, but to let the Kenya gold industry now collapse would, I think, be a serious disaster to the economic life of the country, especially in the Kavirondo district. As is pointed out, Government will be able to get something out of the mining companies in Income Tax and the position can be reviewed again during the next couple of

proposal be accepted.

There will, of course, be a considerable political 'squeal'. The questions of the Parliamentary Questions file show what is in the wind. Mr. Lunn talked about returning to the natives a proper proportion of the wealth accruing from the mines and asked whether native interests would be safeguarded. In another question in 1936 he wanted to know whether the royalties and other charges had been increased when circumstances required. All that the critics will look at will, of course, be the price of gold, and they will say that if 5% was charged when gold was only 36 an ounce, it should be far more now that gold is higher, and that the action of Government in "handing over the gold to the miners is altogether unjustifiable. The answer, of course, is that the gold industry is not doing well and that, so far from any fortunes being made out of it, it cannot pay its way unless royalties are lowered or done away with. The argument will, however, be used and very noisily used. Still, it can be countered with the reply that the mining companies would have to pay Income Tax so that their proceeds, which is the only thing that really matters, will not be exempted. In this connection, a suggestion was made to me in conversation by Mr. Clouston, through whom I send this paper, which is to the effect that Government, in consideration of withdrawing the royalties, should invite the companies to agree to some form of profit-sharing. If, for instance, a company made £10,000 a year profit, then Government should take, say, 25% of that, leaving the company to pay Income Tax on the remainder until such time

1937 file

1936 file

as whatever new proposals for adaptation were framed and put into force. The suggestion is not unattractive since it cannot affect anybody until he begins to earn profits and one could have it that no profit-sharing would begin until it was a fairly substantial profit. But I would not do more at this stage than suggest it to Kenya. In doing so, we should point out that, as the Committee recognizes, Government is clearly entitled to something in return for its gold deposits and this seems as fair a way as any for ensuring that Government does get something, while it does not prevent anyone from making reasonable profits, and does not hamper development work until profits come after that. But it's only a suggestion. Draft herewith in two pieces. J.L.H. 14.9.57.

Mr. Flood has since asked me to call attention to the report to the subject of 15th of last year & attached (attached).

This is a very difficult question, but the other side to have got the points of principle pretty well set out, viz. that the community is entitled to a payment on all irreplaceable wealth removed from the country & that if the production is so marginal that it can only go on if such payment is not made, it had better not go on at all. After all the gold will still be there & conditions may change.

I believe that capital is not going to change for gold mining because it is a doubtful proposition, not because of the amount of gold, but because of the uncertainty of

in the world, & I don't believe that removing the royalty will bring any appreciable capital in however. I agree that this ought to be tried, in the hope of saving the industry, provided that it is not too late, but it is a temporary expedient only & I do think that to safeguard the Govt's position there ought to be a provision that where a company is carrying good profits, & so I have offered to pay the royalty, which is after all very small, it shall pay part of those profits, even during this period, as a sort of substitute for royalty. The amount of something say 25% of all profits over 5% per annum, is of course open to discussion.

C. L. Clauson
17/9/57

Secretary of State.

They ask for a reply by the 17th.

There are two main points:-

(1) You will certainly be told by the Opposition that it would be better to leave the gold in the ground than to help Capital to take it away without advantage to Kenya.

The replies are:-

- (a) Kenya will still get income tax on whatever profits are made. The country has the advantage of the large reserves, large reserves, & has already.
- (b) The profit sharing scheme foreshadowed by Mr. Clauson will bring in further money if there is any to be obtained, and
- (c) It is not ^{likely} to waste the money which has been invested in Kenya in this enterprise.

If a Colony wants assistance in developing its resources it must treat people decently.

(2) The reaction on other Dependencies, especially Tanganyika.

flagged

The Tanganyika Government in its letter of May last drew attention to the fact that the action proposed in Kenya would no doubt lead to pressure for similar concessions in Tanganyika, concessions that that Government saw no reason to give. Kenya retorted with what was entirely a red herring, by referring to the Tanganyika scheme for giving temporary assistance to small diggers, on much the same lines as Kenya is perpetually ~~doing~~ *doing* in the case of other commodities. There is no doubt that there will be pressure in Tanganyika and it will have to be resisted on the lines (probably) that gold mining is far more promising there than in Kenya and that any necessary assistance to the small people can be given in the form of the revolving advances already contemplated.

Frankly, I do not much like the proposal, but I think that there is no alternative but to agree. I have, however, added words to the draft to provide for the contingency of Kenya already having received protests from Tanganyika and Uganda, to whom a copy of the despatch has been sent.

If possible, will you please telegraph to say whether you agree to the

draft

8

draft reply being sent off? We have kept a copy of the draft.

*See c. Bottomley has
shown me the letter &
I agree with the
action proposed on
regards the Tanganyika
aspect of the matter.*

*Edwards
15.9.37.*

W.C.S.
15.9.37.

I regret not having more time to consider this - but as a reply by telegraph today is required I leave in effect no opportunity of reconsidering and I approve the draft with regret & urge on you there is bound to be an discussion in Parliament, & much to be said hard to meet.

W.C.S. 16.9.37

4. To Kenya 17.9.37

I showed the file to Mr. Hanagan who called to-day. He said he thought the proposal a mistake, and that it was due to Mr. Conway Harvey who more or less 'represents' the miners in Council. He did not think the benefit would be at all substantial and generally thought Govt. had been stampeded. So we have.

Draft here with.

*J.S.W. Knox
17.9.*

S.S.S. Submitted W.C.S. 21.9.37

11.5. Kenya 21.9.37 - 2 shown 16.9.37

P.O. ST. LUIS, FOR EARL REPLY ON WED, 10th NOV, 1914

(N° 2 ON P. 9 FILE)

22/24/37 Kenya

C. O.

Mr. Flood 17/9

Mr. Clouston 17/9

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley. U. 9

Sir J. Shuckburgh.

Perm. U.S. of S.

Parly. U.S. of S.

Secretary of State. WJ 21-9
for consen.

C. O.
R 22 SEP
D 27

28. Sept. 1937

Sir

I have the honour to acknowledge the receipt of your despatch of the 27th of September submitting a proposal to temporarily suspend the payment of gold mining royalties envisaged for a period of two years. In view of your representations as to the urgency of the matter I informed you by telegram on the 16th of Sept. that I was prepared to agree.

2. I regret that it should have been necessary for you to put the matter to me as one of urgent matter. Though the sum at stake as revenue from mining royalties is not great still it is an appreciable item in the Colony's revenue and the principle involved is of great importance. In their report the Committee which considered the question recognize that mining involves the exhaustion of the assets of

DRAFT.

Kenya

No 819

Com. Air Chief Marshal Sir Robert Brooke-Popham

FURTHER ACTION.

royalty cannot be questioned. Mining royalties are almost universally levied and the proposal to abandon them in Kenya, even temporarily, is a serious departure from well-established practice. I should therefore have been glad of an opportunity for giving more careful consideration to the proposal but in view of your urgent representations I felt that I had no course open save to agree

3. I am ^{well} reassured that no notice appears to have been taken of the possible effect of ^{this} action on public opinion in this country. It will be well to remember that, when gold was first discovered in Kenya, there was much controversy both in Parliament and in the Press, and as recently as the 21st of April this year a question was addressed to me in Parliament enquiring whether the Committee would deal with methods for returning to the natives of Kenya a proper proportion of the wealth accruing from the mines. It may therefore be expected that, when it is announced that Govt. proposes to ~~repeal~~ the act to increase the royalty, but actually to suspend it, this will be a considerable volume of criticism based

1937 P. Q. 10/11

- G. O.
- Mr.
- Mr.
- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Parlt. U.S. of S.
- Parly, U.S. of S.
- Secretary of State.

DRAFT

FURTHER ACTION.

of creating and valuable asset to be exploited by private individuals without taking any steps to secure a proper share of the proceeds. There will in fact be some difficulty in meeting such criticism, and it will not be a ^{complete} answer to point out that mining companies are subject to income tax or that some find the payment of royalty a serious burden.

4. I note that the Board of Economic Development expressed an opinion in favour of a token royalty of one-half per cent. pending the formulation of some other method of securing a proper % payment from the industry, and that the Commissioner of Mines is recorded as having expressed the view that the principle stated in paragraph 10 of the Committee's report could equally well be secured by some system of profit sharing. I think this suggestion is worthy of further consideration and it will no doubt be carefully examined in the course of the investigation which is to be undertaken.

5. The ^{disadvantage} of a profit sharing system is that if no profits are in fact being earned

... ~~has~~ falls upon the industry, and it is
 easy to ascertain whether there are any prospects since
 the requisite information has to be collected for the
 purposes of the income tax returns. It is important
 however to bear in mind that if a system
 of profit sharing is ^{temporarily} substituted for royalty payments
 then it is only reasonable that Govt. should ^{demand} exact
 a fairly large share since it will be net profit
 that is being taken into account. Further it is for
 consideration whether the Govt. share should not be
 calculated on a sliding scale varying with the
 amount of profit earned. These and other points
 will no doubt be considered but I suggest
 for immediate consideration that, in the interests
 of the colony as a whole, some scheme should
 be devised at once so that if, during the period
 of suspended royalty, the mining industry ^{does in}
 fact proceed to yield substantial profits a due
 proportion may be secured for Govt. I note, for example,
 from the Report of the Mines Dept for 1925 that one Company in
 6. It is a matter for regret that the high ^{that year paid a}
^{dividend of 25%.}
 hopes which had been formed when mining first
 began appear to have been falsified. If the industry
 is in such a weak condition that the payment
 of the royalty is an excessive burden then it is
 very doubtful whether this small relief will

A share of 25% of
 all profits in excess of
 five percent on capital
 would not be excessive
 in such cases.

or any individual
 concerns engaged
 in mining,

There is no reason
 why a Company which
 is doing as well as
 this should be relieved
 of the comparatively
 small burden of
 the royalty.

C. O.

Mr.
Mr.
Mr.

Sir H. Moore.
 Sir G. Tomlinson.
 Sir C. Bottomley.
 Sir J. Shackburgh.
 Permi. U.S. of S.
 Parly. U.S. of S.
 Secretary of State.

well be the case
 that there is little
 in store for the
 industry in future

DRAFT

FURTHER ACTION.

assist in attracting capital. Indeed,

publication of the fact that the royalty has
 had to be suspended in order to assist development
 is more likely to deter the inflow of fresh
 capital. If the Kenya gold mines are unable to pay
 even profits will gold at its present price it may

7. As I have indicated above I view the
 proposal with great misgiving, but, in view
 of the ^{part played by} ~~importance~~ ^{of} the mining industry to Kenya,
 and of its ^{at this moment} ~~present~~ value to the native population
 as an employer of labour, I reluctantly
 agree to the temporary suspension of the royalty
 as proposed by you, ~~on the whole~~ and I
 urge that careful conser. should be given
 at once to the introduction of some
 scheme of profit-sharing as I have
 suggested.

(Signed) W. ORMSBY GORE.

C. O.

17c

R 297

C. O.
R 16 SEP
16-

4
Loaded sent
12.30 pm
16/9/37
WJG

Mr. Flood 14.9.
Mr. Clauson 14.9.
Mr.

Sir H. Moore.
Sir G. Tomlinson.

x Sir C. Bottomley. 15.9

No. 173

Sir J. Shuckburgh.
Perm. U.S. of S.
Parly. U.S. of S.

Your despatch 9th September

Secretary of State.

has aff'd
see tel. attached
WMS, 6.9.37

No. 529. Having regard to all the
circumstances and in view of strong

DRAFT. (for conson)

recommendation by you and Executive

Code Telegram

Council in support of Committee's

Governor

proposals I agree that mining royalty may

Nairobi.

be suspended for a period of two years

as you propose. Despatch follows in

which I will suggest that some form of

profit-sharing be devised so that in

the event of industry earning substantial

profits during this period Government

may have some share in results of

exploitation of a wasting asset.

FURTHER ACTION.

already
If you have received
representations from T.T. or
Uganda as to effect of your
proposals then I should
be glad to have the opportunity
of considering them before 20th
answer

C. O.

39176/37/Moga

13

Mr. Flood 4/9

Mr. Clauson 14/9

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley 15/9

Sir J. Shuckburgh.

Perm. U.S. of S.

Parly. U.S. of S.

+ Secretary of State

(for conson)

DRAFT code
Allypoo

Governer

Nairobi

Sent 16.9.37



70

Your despatch 9 Sept. 70 529

Having regard to all the circumstances and in view of strong recommendation by you and Executive Council in support of Committee's proposals I agree that mining royalty may be suspended as you propose. Despatch follows in which I will suggest that some form of profit-sharing be devised so that in the event of industry earning substantial profits during this period Government may have some share in results of exploitation of a wasting asset.

for a period of two years

already
If you have received
recommendations from
T.T. a copy is to be sent to effect

FURTHER ACTION.

of your proposals there I
should prefer to have the
opportunity of considering
them before you announce
my approval.

S.O.MIN.1/1/6/1/1/11/33.

The Secretariat,
Nairobi,

8th September 1937.

Dear Sir,

A despatch goes to the Secretary of State by this mail, recommending the suspension of the gold royalty for a period of two years.

When the matter was considered by Executive Council on the 3rd September, attention was unfortunately not drawn to the Secretary of State's telegram No. 22 of the 23rd February, 1936, which instructed that prior reference should be made to the Secretary of State of any contemplated change in the rate of royalty. Not appreciating that the Secretary of State's approval of the proposal would be required, Council advised that the suspension of the royalty should take effect from the 1st October and that the necessary amendment of the Mining Regulations, 1937 should be put up to Council on the 17th September.

Although the Report of the Gold Royalty Committee has not yet been published, it is fairly certain that the mining/

J.E.W. Flood, Esq., C.M.G.,
Colonial Office,
LONDON. S.W. 1.

-2-

mining people had all about it, and they would also not wind up the local decision to suspend the royalty. Things have therefore gone rather further than we would have if attention had been drawn at an earlier stage to the necessity for reference to the Secretary of State.

I recognize that the Governor in Council's proposal to bring the suspension into effect on the 1st October gives very little time for consideration of the matter for the Colonial Office, but it would be most helpful to us if we could get a definite answer to the despatch (I hope a favourable one) by the 1st November.

Yours sincerely,



AIR MAIL

KENYA
No. 529



2
GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED

Sir,

I have the honor to acknowledge the receipt of your letter of the 14th inst. in relation to the proposed increase of the railway rates. I am sorry that I cannot give you a more definite answer at this time, but I am sure that you will understand the necessity of the Government to consider the financial position of the Colony in connection with this matter.

2. In March last, after the Railway Act had been passed, in response to similar representations, the Government had introduced certain rate reductions. It is true that this has resulted in a loss of revenue to the Railway of about 10% annually. To assist the industry, the Government has appointed a Committee to examine the incidence of the various charges and to report whether a re-arrangement of the charges is possible. A Committee was accordingly appointed in May last and its report is being prepared.

Answer ⑤

"The Government at present are considering the possibility of a royalty on the use of the railway for the transport of goods. It is not possible to submit recommendations at this time, but any variations, and, if necessary, variations are possible."

3. I have transmitted to you a copy of the Committee's Report. I am sure that the Committee record their conclusions and recommendations. The Government in the Colony is at present facing a serious financial crisis, and that, generally speaking, the Government are

THE RIGHT HONOURABLE
SIR JAMES GREGG, K.C., M.P.,
SECRETARY OF STATE FOR COLONIES AND OVERSEAS DEVELOPMENTS

of five per centum, and not more, or not less than discrete such profits as would otherwise be made by those engaged in the industry. In the Committee's view, such a measure has a restrictive effect on the development of the industry, the value of which to the industry could be estimated by the expenditure of some £10,000,000, and the Committee is of the opinion that such a measure of encouragement is not necessary. The Committee has recommended that the measure be suspended for a period of three years.

4. The Committee's Report, written as it was with an eye on the possible effect of publication (although it is not now proposed to publish it), avoids emphasizing the precarious position in which the industry finds itself to-day. The Commissioner of Mines has, however, stressed the fact that, in the almost total absence of outside capital, development has to be financed internally from the industry's profits. If no profit remains, development ceases. The Committee has pointed out that this is a serious situation, and that it is not possible for the industry to continue to develop in this way. It has recommended that the industry should be allowed to obtain finance even for the base minerals which are being developed and which are eventually destined to be an asset rather than gold.

5. The Report was considered by the Standing Committee on Economic Development, and endorsed generally. The Committee has recommended that the retention of a token report is not essential.

...a resolution of the... your interest... subject.

6. When the Committee was constituted... the 3rd... the... with... vice... the... to... the... the whole question of the... with a view to determining whether in future royalty should be assessed on the present basis or whether some alternative basis would be preferable.

7. Sir P. Condliffe-Risler (new Lord Swinfen) telegraphed... on the 1st February, 1934 requested that no change might be authorized in the existing rate of royalty without prior reference to the Secretary of State. In the light of the explanation now furnished, I trust that you will inform me as early as possible by telegram... see any objection to... on the 1st October. It... vacated in a... before the 19th September.

8. When the Committee was... communicated the terms of reference to the... of Uganda and the Director of Lands... Tanganyika, and asked for any comments they might wish to offer on the matter. The... of Uganda was that it is not proposed to alter the policy of... the payment of royalty... It may be observed that the... almost entirely with... alluvial...

now almost a negligible part of the Kenya output. The Tanganyika Government replied that an alteration in the rate of Royalty paid in Kenya would, if favourable to the mining community, undoubtedly lead to pressure being brought on that Government to make similar concessions; that the present rate appeared to be reasonable, and that any reduction would be undesirable.

9. After the Committee had completed their Report it was learnt from a statement in the local press that the Tanganyika Government proposed to adopt a scheme for financing selected small mine-owners. Further information was at once sought from Tanganyika regarding this proposal, and I enclose for your information copies of the correspondence which has taken place with the Tanganyika Government on the matter.

10. It is unfortunate that neither this Government nor the Committee had any previous knowledge of what was contemplated in Tanganyika. Nevertheless, the suspension of royalty is a relief sought by the Kenya industry; the assistance which is expected to be given by the Tanganyika industry. It is a relief method, and one which follows the principle that the community's share in a mineral asset cannot and should not be maintained at a constant level when other shares decline or disappear. It should be remembered, moreover, that the companies operating in Kenya are liable to local income tax, whereas the Tanganyika companies are not, and it is understood that the Tanganyika scheme is limited to assisting the small mine-owner.

11. The fullest consideration has been given to the financial effect on the Colony's revenue position of a

loss/

loss of revenue of £17,500 per annum from the royalty -
 the gross loss in royalty over the five years will
 be £85,000 - £46,800. The Colony's revenue is rising
 steadily and it is tentatively estimated that in
 1931 will be some £100,000 in excess of the revenue
 for the present year. It is therefore suggested that

The matter has received the most careful
 consideration, and it is satisfied that it is in the best
 interests of the Colony that the Government should
 temporarily forego revenue from the royalty rather than
 jeopardise an industry which is of great value to the
 community and contributes to revenue in many other ways.

12. Copies of this despatch are being sent to the
 Governments of Uganda and Tanganyika Territories for their
 information.

I have the honor to be, Sir,

Sir,

Your most obedient,

Wm. G. ...

Wm. G. ...

REPORT
OF THE
GOLD ROYALTY COMMITTEE.

Your Excellency,

We have the honour to submit herewith the Report of the Committee appointed by you to consider the existing system of payment of royalty on gold won in Kenya.

2. CONSTITUTION OF COMMITTEE.

The following was the personnel of the Committee:-

The Hon. J. B. Hosking, C.B.E., M.L.C.,
Commissioner of Mines (Chairman).
The Hon. G. Beresford Stooke, M.L.C.,
Acting Treasurer.
The Hon. Conroy Harvey, M.L.C.
Mr. A. A. Lawrie, A.S.A.A., A.I.C.E.
Mr. V. H. Bertens, B.A., A.S.A.A., (Secretary).

3. TERMS OF REFERENCE.

The terms of reference given to the Committee were:-

"To consider and report upon the policy at present governing the payment of royalty on gold won in Kenya and to submit recommendations as to whether any variations, and, if so, what variations, are required."

4. MEETINGS.

The Committee held six meetings between the 21st of April and the 15th of July, 1937, at three of which oral evidence was given by interested parties. Two of these meetings were held in Kisumu, the remainder in Nairobi.

5. EVIDENCE.

In reply to notices appearing in the Official Gazette and local newspapers inviting interested persons to submit memoranda for the consideration of the Committee, seventeen statements were received and oral evidence was given by fourteen witnesses representative of all sections of the industry (List in Appendix I).

It is necessary to place on record here that the Chairman of the East African Chamber of Mines, in submitting the representations of that body, protested against the Committee's action in inviting individual evidence instead of relying on the collective evidence as represented by the Chamber. The Committee, however, felt that, though the considered opinion of the Chamber carried great weight, it was, nevertheless, essential to invite and consider equally, evidence from every available source.

6. HISTORY OF GOLD ROYALTIES IN KENYA.

The previous history of mining royalties in Kenya is briefly as follows:-

Under the Mining Ordinance, 1912, royalty was to be prescribed by regulation. In Regulation 123 of the Mining Regulations, 1912, promulgated in January, 1913, it is prescribed that:-

"A mineral lease.....shall reserve such royalty, not exceeding ten per cent on the net profits, as the Governor, in the case of each lease, shall determine."

This Regulation was amended in July, 1915, by Regulation 3 of the Mining (Amendment) Regulations, 1915, by the deletion of the words "not exceeding ten per cent of the net profits."

Under the Mining Ordinance, 1925, royalty on gold was inserted in the Ordinance to the following effect:-

"Section 55 (1). A royalty of two and a half per cent. on the gold won shall be due and payable quarterly to the Commissioner of Mines when the profits earned by the Lessee exceed the sum of one hundred pounds per month. In ascertaining the profits earned the following shall not be taken into account or reckoned:-

- (a) Remuneration for the service of the lessee.
- (b) Option money, rent, or tribute paid by any holder working under option, sublease or tribute agreement in an amount greater than ten per cent of the value of the gold won.

It may be noted that under both the Ordinance of 1912 and that of 1925, production of gold was originally only allowed under lease, though the latter Ordinance was amended authorising the Commissioner of Mines to permit "export from a claim". No leases for precious minerals were issued under either of these Ordinances. In subsequent legislation production under claim or location title has been lawful and in the Mining Ordinance, 1933, the Commissioner of Mines may also consent to alluvial mining under Exclusive Prospecting Licence.

Under the Mining Ordinance, 1931, royalty was once more left to regulation, and was, in conformity with Tanganyika Territory and Uganda, prescribed as 5% on the gold won on the gross sum realised (Government Notice No. 176.

- 5 -

the Mining Regulations, 1932.

The Mining Ordinance, 1938, which prevails to day, still leaves royalty to be prescribed by regulations and the same provision appears in regulation 3 of the Mining Regulations, 1934, and in regulation 39 of the Mining Regulations, 1937, which replaced them and which are in force today.

Royalty is collected on the account sales submitted by the refiners on the value of the pure gold, except where the unrefined gold is retained in the Colony, when the royalty is assessed at the computed value of the pure gold.

Royalty is not inserted in the conditions of mining leases except in special leases issued under the provisions of section 47 of the Mining Ordinance, 1933.

One such special lease has been issued to one mining company whose predecessor in title had actually applied for a lease under the Mining Ordinance, 1925. In this lease the condition as to royalty is a compromise between the provisions of section 55 of the Mining Ordinance, 1925, and of the royalty as prescribed under the Mining Ordinance, 1933. It provides for the payment of royalty at 2s. on the first 500 ozs. won, each month, and at current rates (now 5s.) on any production in excess of 500 ozs.

7. The Committee appointed on the 31st May, 1933, "to examine local mining legislation and to make recommendations for any requirements which may be deemed necessary to facilitate development of the Colony's mineral resources", went carefully into the question of royalty and it was on this subject alone that its members failed to reach unanimity. The majority recommendation (quoted for easy reference in Appendix II) was in favour of a tax graduated according to the value of the ore while the minority report (Appendix III) was in favour of the total remission of royalty for twenty years. Two members of that Committee are serving on the present committee, one of whom sponsored the majority, the other the minority report.

Nearly four years have passed since the report was submitted and conditions in the Colony have altered, for instance:-

- (1) The price of gold has actually improved and appears to be constant at 140/- per ounce or over, though it is quite impossible to predict its future.
- (2) Experience has shown that the original estimate of the grade and continuity of ore was unduly optimistic whilst working costs are higher than was anticipated. Consequently the problem of the low grade mine, wherein a flat rate royalty is a heavy charge on production, must be faced.
- (3) The introduction of Income Tax in 1937 has provided the machinery for the collection of a royalty on the basis of the profits earned.

SOUTHERN RHODESIAN COMMITTEE REPORT.

The Report of the Committee of Enquiry into the taxation of low-grade mines in Southern Rhodesia, issued on the 24th February, 1937, is of considerable interest to this Committee and we would draw Your Excellency's attention thereto. It was hoped that much of the ground before us had already been covered by that Committee in a country with far larger mining experience.

Its recommendations are:-

- (1) abolition of the royalty on output at 2½ and of the Gold Premium Tax, and
- (2) the substitution thereof of the levy of a royalty on profits as computed for income tax purposes, derived from mining, on the following basis:-
 - (a) A primary abatement of £600 to be allowed; such abatement to diminish by £1 for every £4 by which the profit derived from mining during the year exceeds £600 and to disappear entirely when a profit of £3,000 is reached.
 - (b) The tax to be at the rate of 2/- per pound of the taxable amount after abatement as above."

These recommendations, though accepted by the Southern Rhodesian Government, have been strongly opposed by the mining community as is evidenced by the following resolution passed by the Gwelo Conference:-

"This Conference of all bodies associated with the Mining Industry amplify their former resolutions to the Government, which are as follows:-

- (a) That royalty charges be continued as heretofore; also claim licences.
- (b) That all outputs up to £300 be free of royalty, with a similar abatement on outputs up to £1,000.
- (c) That a Mining Board consisting of Government and mining representatives be empowered to grant remission of royalty in the case of producing mines or mines considering production which can prove that they are not making or could not make an adequate profit.

This Conference further reiterates its strongest objection to differential taxation being levied on the gold mining industry, as is done under the present form of Income Tax".

Little assistance can, therefore, be derived from Southern Rhodesian recommendations in finding a panacea for our local troubles, but it should be appreciated that the basic royalty there was only half that prescribed in Kenya, and that there was a high scale of exemption, not reflected locally.

9. The Southern Rhodesian Committee of Enquiry appear to have found difficulty in obtaining sufficient figures from which to make general deductions and the same difficulty, but to a far greater extent, has confronted us.

The response on the part of the mining public to the call for evidence, oral or written, was fully up to expectation, but, with certain exceptions, few persons, companies or syndicates have been operating for a sufficient period to obtain reliable facts and figures for the ascertainment of comparative results.

10. ANALYSIS OF EVIDENCE AND ALTERNATIVE BASIS OF ROYALTY.

From the written and oral evidence submitted, it was apparent that considerable diversity of opinion existed as to the most equitable form of royalty, though it was generally accepted that Government had a right, on behalf of the community, to some form of royalty on the mineral resources retained by the Crown and exploited at a profit under the provisions of the Mining Ordinance by location or lease holders. Some, however, held that, as business profits were now taxable under the Income Tax Ordinance, no further charge on gold production was justifiable. With this latter view we cannot agree, as we are of the opinion that royalty is in no sense a tax on gold, but compensation payable for the exploitation, for profit, of communal property.

In the mining industry as distinct from commerce, irreplaceable material is supplied by the Crown and, though it is recognised that the mineral resources of the Colony cannot be considered assets unless they can be worked at a profit, the ultimate right of the State to a royalty cannot be questioned.

11. It has been ascertained that the Governments of the neighbouring Territories of Uganda and Tanganyika, which have a similar flat rate of royalty on production as that at present in force in Kenya, do not contemplate any change, being satisfied that the royalty is, in their circumstances, fair and equitable.

The proposition, that gold mining royalties in the three East African territories should be on the same scale can, in our opinion, only be justified scientifically, if two conditions exist, namely (a) that the extent and nature of the deposits are similar in each territory and (b) that the general fiscal basis is similar. So far as we can ascertain, neither of these conditions exists.

In Tanganyika, to quote from an article recently published by their eminent mining consultant, "the proportion of alluvial gold produced is still high, being about two-thirds of the total" while prospects indicate "a very large tonnage of easily and cheaply workable ore carrying very good values". In Uganda practically all the gold won is alluvial. In Kenya alluvial working is a minor factor and during the development stage costs of lode mining are necessarily high.

12. The following courses have been advocated:-

- (i) The total remission of all royalty for a period of three years.

- (ii) A similar reduction for each mine for the first three years from the date when the mine commences production.
- (iii) A reduction of the existing flat rate on output.
- (iv) The substitution of a sliding scale on output.
- (v) The substitution of a sliding scale according to the depth from which the gold is won.
- (vi) The substitution of a royalty based on profits.
- (vii) The retention of the existing royalty with a rebate per ton of one milled.

13.

PRESENT POSITION OF INDUSTRY.

In considering these proposals the Committee felt it necessary to review the general position of the industry as a whole.

The earlier optimism as to the richness of the Kenya gold deposits has not yet been justified. The grade of ore worked varies considerably but the bulk is between 5 and 7 dwts. Representative working costs have proved difficult to ascertain as there is no uniformity of accounting systems. However, the Committee, after careful consideration of the extent of variation in the evidence of working costs submitted and the different bases used in such computations, are of the opinion that Shs. 55/- per ton may be taken as representative. Accordingly it will be noted that with gold even at Shs. 100/- per ounce, 5 dwt. recovery only just covers the cost of production.

The present stage of development is inadequate to determine the true payability or to indicate the life of the goldfields, but it seems clear that, generally speaking, many of the deposits which have, up to the present, been discovered can barely be profitable, unless further development is undertaken. We were impressed by the confidence generally expressed by witnesses as to the future of the fields, if money were to be available for development at depth.

Disappointment at the failure to achieve immediately the spectacular results originally hoped for and the early stage of development of the field generally do not tend to stimulate the investment of additional capital and consequently a majority of producers can only finance further development out of revenue. As the payment of royalty directly reduces the cash revenue of the producer, it is clear that the imposition of this charge tends to restrict and limit development.

At present the margin between profit and

loss is narrow and further development is retarded by lack of capital. To restore confidence and so attract capital for the development of the mineral resources of the Colony, it is essential that as many mines as possible shall be enabled to improve their position and so operate at a reasonable profit.

We are of the opinion that encouragement and active assistance must be given both to existing mines and future prospects to get down to the primary ore and to build up adequate ore reserves.

Relief has already been afforded by the Railway Authorities who, by a reduction of rates involving an estimated loss of revenue to them of some 28,000 per annum, have improved mining costs by about 1/- per ton, but the great increase in the costs of steel and other metal goods has gone far to counter-balance this concession.

The existing royalty represents a charge of Sh. 1/75 per ton on 5 dwt. recovery and a reduction or remission of this charge would extend the ore reserves which can be profitably worked and to increase the development footage which can be undertaken out of revenue.

14.

VALUE OF THE INDUSTRY TO THE COLONY.

In the past three years about £2,000,000 have been spent in the Colony by the mining industry, while the present local expenditure amounts to considerably over £500,000 per annum. Over 400 Europeans and over 11,000 natives, as well as a number of Asians, are employed in an industry which, in 1936, produced an export commodity of nearly £270,000. This represents a circulation of wealth which the Colony cannot afford to lose.

15.

CONCLUSIONS AND RECOMMENDATIONS.

We are unanimously of the opinion that the royalty at present in force is related to the volume rather than to the value of the asset upon which it is levied.

We have endeavoured to show that, at the present stage of development, the costs of producing gold in Kenya are necessarily high and that, for this reason, the asset has only a marginal value. It appears to us that if the royalty is to bear a reasonable and just relation to the value of the asset, the royalty also should at least be only marginal.

If it is agreed that the further development of the industry would be of advantage to the community in general, it must follow that it would be in the best interests of the community to remove any restricting factors such as royalty.

We are of the opinion that a long-sighted and sound policy requires the remission of royalty on gold for a period with a view to safeguarding the much greater indirect benefits which will accrue if the industry can be established on a sound basis.

Although the contingency seems unlikely in present circumstances, we have considered whether such a remission of royalty should cease if the price of gold were to rise to a figure which would allow an ample margin of profit. Remission of royalty alone does not represent an unduly large reduction in working costs, and a rise in the price of gold would give an added impetus to the development which, in our opinion, is so necessary. Provided, therefore, that the period of remission is, in the first instance, of not too long a duration, we consider that the price factor should be ignored.

We consequently recommend the total suspension for a period of three years of the royalty prescribed by Regulation 59 (1) (a) of the Mining Regulations 1937, and as a corollary thereto - though this may be outside our terms of reference - that, without interfering with the discretion at present vested in him, the Commissioner of Mines should insist on the development conditions prescribed by the Mining Regulations, 1937, being more strictly carried out.

We further recommend that, at the end of three years, the question of the re-imposition or of the further suspension of the royalty on gold should be reconsidered by a similarly constituted Committee in the light of conditions then obtaining, as we are of opinion that a more equitable and less onerous basis of assessment than a royalty based on output might well be found.

Finally, should our recommendations be accepted, we urge that effect be given thereto at the earliest possible date.

16. We wish to place on record our appreciation of the services rendered to our Committee by our Secretary, Mr. V. H. Mortons.

We have the honour to be,

Sir,
Your Excellency's obedient servants,

Nairobi.

July, 16th. 1937.

E. B. WOSKING.

Chairman.

G. BERESFORD STOOKE.

CONWAY HARVEY.

Members.

ANGUS A. LAWREN.

APPENDIX I.

PERSONS SUBMITTING EVIDENCE EITHER WRITTEN
OR ORAL.

Memoranda.

Mr. H. Sandys, M. Inst., M. E.,
A. Chamber of Mines.

Major A. F. Dudgeon, O. B. E., B. A.,
Assoc. Inst. M. E., Ngiga.

Mr. J. P. Alderson, Macalder Mines,
Ltd.

Mr. O. Soskice, A. R. S. M., Assoc.
Inst., M. E., Sir Robert
Williams & Co.

Mr. H. Yates, Yates & Whitmarsh

Mr. R. C. Samuels, Kenya Reefs Ltd.

Capt. R. Potheringham, Lewengi Ltd.

Mr. A. Owen, Kotoni Mine.

Mr. W. Prophet, C. A. on behalf
of several small companies.

Major W. Struan Robertson, L. C.
Kerebe Mines, Ltd.

Mr. J. J. Hughes, B. Sc., Assoc., Inst.,
M. E., Kavirondo Gold Mines, Ltd.

Col. A. D. Stitt, D. S. O.

Major F. H. Lathbury, M. C., M. Inst.,
M. E. Ngiga.

Major B. F. Webb, M. C., Ndorobo.

Mr. G. G. Smallwood, Smallwood &
O'Brien.

Mr. E. C. L. Garrett, A. R. S. M.,
D. I. C., M. Inst., M. E.
Kenya Gold Mining Syndicate,
Ltd.

Mr. D. D. Smythe, M. Sc.

Oral.

Major A. F. Dudgeon, O. B. E., B. A.
Assoc., Inst., M. E.

Major A. F. Lathbury, L. C., M. Inst.,
M. E.

Major W. Struan Robertson, L. C.

Lt. Col. A. D. Stitt, D. S. O.

Mr. D. D. Smythe, M. Sc.

Mr. R. C. Samuels.

Mr. J. L. Ridloch.

Mr. D. K. Williams, Asembo Mines,
Ltd.

Mr. H. W. Yates.

Mr. A. R. Dresser, Edzawa Ridge
Mining Company Ltd.

Mr. W. J. Hughes, B. Sc., Assoc.,
Inst., M. E.,
Kavirondo Gold Mines, Ltd.

Mr. H. Sandys, M. Inst., M. E.,
Rosterman Gold Mines, Ltd.

Mr. O. Soskice, A. R. S. M., Assoc.,
Inst., M. E.

Mr. F. C. Jarvis, M. S. A. I. E., of
M. C. H. & E. S., Senior
Inspector of Mines.

APPENDIX II.

EXTRACT FROM 1933 MINING COMMITTEE MAJORITY REPORT.

The question of royalty is one of extreme difficulty and is the one point on which we have been unable to arrive at unanimity. A tax on profits or on output appear to be the only alternatives to a flat rate, which might restrict production from low grade ores. It appeared to us that the recommendations from England in favour of a flat rate increasing with the premium on gold were possibly based on the false premises that gold mining in this Colony had benefitted from the enhanced premium whereas in point of fact, practically all mining operations in Kenya commenced when gold had already reached Shs. 120/- per fine ounce. The majority of the Committee, therefore, recommended that the proposals of Mr. Murray Hughes' scheme should be adopted, i.e. a royalty adjusted to the grade of ore extracted with the proviso that the Governor should be able to reduce this royalty where circumstances justified the reduction.

APPENDIX III.

EXTRACT FROM 1933 MINING COMMITTEE MINORITY REPORT.

RE: ROYALTY.

(a) We are of opinion that no royalty should be charged for a period of at least twenty years and that thereafter Government should be entitled to charge a royalty up to the maximum scale as proposed in an appendix prepared by Mr. Murray Hughes, attached to the Report.

Our reasons, very briefly, for expressing this view are that, having regard to the situation of the Kakamega and adjacent goldfields, the Government railway monopoly, the Customs duties imposed, and the general system of taxation in operation in the Colony, that the prospects of Government net revenue would be enormously enhanced by not imposing any direct imposition in the form of royalty upon the Mining Industry during its infancy and that Government should rely solely upon the immense indirect revenue that it derives through the Railway, Customs, etc., from every form of new enterprise and introduction of new capital, with its incidental, but very important benefit to the native population.

(b) In the event of Government being unable to see its way to accede to charging no royalty, as set out in (a) above, we would prefer to see some scale of royalty introduced upon either the Murray Hughes plan above referred to or some other simple scale calculated upon the gold premium above Sh. 120 per ounce, provided that any such scale, whether following the Murray Hughes scale or any other form of scale should provide generous exemption for the small mine, and in any event the scale throughout, whether a mine be great or small should be at a rate very much under the scale proposed by Mr. Murray Hughes.

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EXTRACT FROM THE MINUTES OF THE SIXTH
MEETING OF THE STANDING BOARD OF ECONOMIC
DEVELOPMENT HELD AT THE SECRETARIAT, C.P.
THURSDAY, THE 12TH AUGUST, 1939 at 2.15 p.m.

Minute 4/37.

Gold Royalties.

The Board had before it the Report of the Gold Royalty Committee, recommending the suspension of the gold royalty for a period of three years.

The Commissioner of Mines was in attendance and outlined to the Board the arguments which had led the Committee, of which he was Chairman, to this recommendation. The inclusion of the Treasurer and Mr. Lawrie in the membership of the Committee reflected, he said, the fact that the question before the Committee was mainly a financial one and concerned with the financial position of companies and persons engaged in mining. The importance of the mining industry to the Colony could be gauged from its expenditure of an average of £800,000 per annum in the Colony. At present money for development purposes was extremely hard to obtain, yet further development was what was needed to prevent or disprove the prospects of the industry. Only one company had paid a dividend, and the absence of dividends was an important factor in the situation. Money for further development had therefore to come from earnings. The royalty on the present basis of 5% on gold won would amount in the present year to approximately £17,500, and next year to approximately £20,000. In the case of one company the royalty almost exactly represented the profits, and generally a tax on profits would produce much the same result as suspension of the royalty, since there were, generally speaking, so profits to tax. Costs of machinery, etc. were going up and this increase set off concessions given by the Railway. The industry needed a breathing space, and the psychological effect of Government's bearing its share of the burden would greatly ease the position.

In/

In reply to Mr. Sayer, Mr. Hosking said that the cost of collection of the royalty, which was collected on Bank returns, was very small.

In reply to Mr. Wolfe he said that the services rendered to the industry by the Government, excluding geological survey, which could not be regarded as in any way a charge against the industry, cost approximately £8,000 per annum. About 50% of the total revenue from the royalty was paid by four companies.

In reply to Major Grogan, he said that the amount spent by the industry in salaries and wages in the Colony in 1936 was £233,000.

The Chairman asked whether in Mr. Hosking's opinion continued collection of the royalty would make the difference between collapse and carrying on.

Mr. Hosking said that in the case of one company certainly it would, and in many other cases it was very probable that it would.

Major Grogan said that the Keny mining industry appeared to be marooned by the sources of organized capital available for investment in gold mining. Such capital was being concentrated on South Africa.

Mr. Sayer suggested that, in order to maintain the principle stated in paragraph 10 of the Committee's Report, a token payment of royalty should be retained.

Mr. Hosking said that he was personally in favour of this. As, however, gold was not an asset unless it could be worked at a profit (there was gold in the sea), the principle could equally well be maintained by sharing profits as by sharing the gold itself.

Major Cavendish Bentinck asked whether it might not be better to take some measures to encourage development by small-workers as such.

Mr. Hosking replied that the small-workers in the field at present were badly in need of money for development.

Major Grogan drew attention to the importance of giving 'title' to the industry, so that it could know where it stood in regard to future liabilities to the Government.

After further discussion it was unanimously AGREED as follows:-

The Board is satisfied that the Colony's mining industry requires assistance by the reduction of the gold royalty, and supports the recommendation of the Gold Royalty Committee, subject to (a) the retention of a token royalty not exceeding 1%; and

(b) the reduction to be confined to

a period of two years from the date of its operation.

The Board considers it of importance that during the two years' period a long-range policy should be worked out to determine the basis upon which gold royalty should be assessed, regard being paid to the desirability of placing the industry in a secure position in relation to future liabilities to the State. The reduction from the three years' period, proposed by the Committee, to two years is made with a view to expediting a decision on this question of policy.

COPY.

No. 15428/23

The Secretary,

Dar es Salaam

6th May 1937.

Sir,

I am directed to inform you that the Director of Lands and Mines of this Territory has received a communication from the Commissioner of Mines, Kenya, stating that a Committee has been appointed to consider and report upon the policy at present governing the payment of royalty on gold won in Kenya and to submit recommendations as to whether any variations are required, and asking for comments and assistance in the matter.

It will be appreciated that any alteration in the rate of royalty paid in Kenya would, if favourable to the mining community, undoubtedly lead to pressure being brought on this Government to make similar concessions here, and I have therefore been asked to indicate the views of this Government in this matter, which are, briefly, that the present scales are reasonable and compare favourably with those in other gold producing countries, and that any reduction in the existing scales would be undesirable.

I am to add that the matter was recently considered in response to representations from one of the Mining Associations in this Territory, and Government decided that no reduction could be entertained.

I have the honour to be,
Sir,
Your obedient servant,
(sgd) H.F. SAUNDERS.

For CHIEF SECRETARY

THE HONORABLE
THE COLONIAL SECRETARY
COLONY & PROTECTORATE OF KENYA
NAIROBI.

22nd July 1937.

G.MIN.1/1/6/1/1/169.

Sir,

With reference to your letter No. 15743, 23 of the 6th May, indicating the view of your Government that the present scales of royalty on gold are reasonable and that any reduction in the existing scales would be undesirable, I have the honour to inform you that it is understood from a report in the East African Standard of the 19th July that the Tanganyika Government proposes to adopt a scheme for financing selected, small mine-owners.

2. The report, which describes the proceedings at the annual dinner of the Tanganyika Small Miners' Association on the 10th July, states:-

"His Excellency also said that a scheme for financing selected, small mine-owners had been approved, but would be restricted to the category of mines favourably reported upon by Government engineers, who could not obtain capital."

3. It will be appreciated that the adoption of such a scheme of financial assistance will very probably lead to pressure being brought on this Government to give similar assistance here. It was not within the knowledge of the Committee which has been examining the question of the gold royalty in Kenya that the Tanganyika Government was proposing to introduce a scheme of assistance of this nature, and this Government would be grateful for such information as may be made available as to the extent, estimated cost, and date of introduction of any scheme of assistance on these lines which may be contemplated in Tanganyika.

I have the honour to be,
Sir,
Your obedient servant,
(sgd) A. de V. WADE.

COLONIAL SECRETARY

The Hon. Chief Secretary to the Government,
DAR ES SALAAM
Tanganyika Territory.

L.H.No. F. 1849/4.

The Secretariat.

5th August 1937.

Sir,

With reference to your letter No. C.M. 1/1/6/1/1/165 of the 22nd of July, regarding a scheme for the assistance of small mine-owners in this Territory, I am directed to inform you that the approval of the Secretary of State has recently been obtained to a plan whereby a sum of £40,000 would be hypothecated from the territory's surplus balances and lent upon security to the holders of mining leases or claims who by reason of their remote situation, the small scale on which they are working, or other causes, are not able to obtain capital through the ordinary financial and commercial channels. The loan will be a revolving one, some capital being re-issued, and will be administered by a Committee, who will before making advances receive reports on each property concerned from the staff of the Mines Division.

2. The project is based on the Loan Funds Scheme of Southern Rhodesia, and only the broadest outlines of it have at present been settled. Its details are now being worked out between the departments concerned, and it is not yet possible to state what their recommendations will be: and of course the scheme may be subject to alteration as a result of discussion in Legislative Council. It would therefore be premature at this stage to make any statement beyond that already made by the Acting Governor at the Tanganyika Sisal Growers' dinner, and I would be grateful if such information as is contained in this letter could be treated as confidential for the time being.

3. Further information will be sent to you as soon as it is possible to set forth the scheme in detail.

I have etc.

(sd) G. E. SAYERS.

AG. CHIEF SECRETARY TO THE GOV.

The Honourable
the Colonial Secretary
Colony and Protectorate of Kenya,
NAIROBI

GOVERNMENT NOTICE No. 378

THE MINING ORDINANCE, 1933

REGULATIONS

IN EXERCISE of the powers conferred upon the Governor in Council by section 101 of the Mining Ordinance, 1933, His Excellency the Acting Governor in Council has been pleased to make the following Regulations:—

1. These Regulations may be cited as the Mining Regulations, 1937, and shall come into force on the 15th day of May, 1937. Short title.

2. In these Regulations the term "the Ordinance" means the Mining Ordinance, 1933, and any Ordinance in amendment or substitution thereof. Interpretation.

PART I

PRELIMINARY PROSPECTING

3. (1) An application for a Prospecting Right or any renewal thereof shall be made to the Commissioner on Form 1 set out in the First Schedule hereto. Applications.

(2) Prospecting Rights may be issued or renewed by the Commissioner, or by any officer appointed by him on his behalf.

(3) A Prospecting Right or a renewal thereof shall follow as closely as may be Form 2 set out in the First Schedule hereto.

4. The holder of a Prospecting Right may in any area open to prospecting himself post a notice to be called a "Protection Notice", such notice— Protection Notices.

(i) shall follow as closely as possible Form 3 set out in the First Schedule hereto; and

(ii) shall be carried on an upright artificial support erected in a conspicuous and accessible place. All brushwood around such notice shall be cleared for a distance of 30 feet and the place shall be marked by a flag elevated 12 feet above the ground.

The posting of such notice shall confer upon the holder the exclusive right of prospecting within an area of 500 yards, measured horizontally from the notice in any direction (such area to be termed "Protection Area") for a period of thirty days from the date of posting.

Extension of protection period.

5. (1) The Commissioner, at his discretion, may extend the period of protection provided by the notice, on payment of the prescribed fees, for further periods of thirty days each, up to a maximum of one hundred and eighty days in all, from the date of posting such notice.

(2) Application for every such extension must be accompanied by a Statement of Work which shall be in Form 4 set out in the First Schedule hereto.

(3) The Commissioner shall, upon the extension of every period of protection, issue a Certificate of Extension with an official registered number to such Protection Area, and shall cause an entry thereof to be made in a book to be kept for the purpose. The registration number and the date to which the protection from time to time is extended shall be marked forthwith on the Protection Notice by the holder thereof. The Certificate of Extension shall follow as closely as may be Form 5 set out in the First Schedule hereto.

Protection Notice to be maintained.

6. The holder of a Prospecting Right who has posted a Protection Notice shall, during the period of protection, maintain such notice in such manner as to be clearly legible.

7. Until the Protection Notice posted under a Prospecting Right is removed, no second or further Protection Notice shall be posted in the same administrative district by virtue of such Prospecting Right.

Any person who contravenes this Regulation shall be guilty of an offence.

PART II

EXCLUSIVE PROSPECTING LICENCES

Application for Exclusive Prospecting Licence.

8. An application for an Exclusive Prospecting Licence shall be made to the Commissioner in triplicate, and in Form 6 set out in the First Schedule hereto, and the prescribed fees shall accompany the application.

Sketch plans.

9. (1) A sketch plan in quadruplicate on a reasonable scale shall accompany the application, and shall be in accordance with the delineation set forth in the form of application and shall show the following details:—

- (i) the main topographical features in and about the area applied for in such a manner as will enable the boundaries to be identified on the ground;
- (ii) an approximate estimate in square miles of the area applied for;

(iii) such other information as will enable the area to be delineated on the general map of the district in which the area applied for is situated.

(2) If the Commissioner is not satisfied with the adequacy of the sketch plan submitted under sub-regulation (1) of this Regulation, or with the programme of work or the financial provision submitted under sub-section (2) of section 17 of the Ordinance, he may refuse to consider the application.

10. Every person who has applied for an exclusive prospecting licence, and who is informed that his application will be granted, shall forthwith cause all boundaries to be beaconed in the manner specified in Part II of the Fourth Schedule hereto, or beaconed or demarcated in accordance with the written directions of the Commissioner, and shall, if required by the Commissioner, cause a survey of the area to be made in strict conformity with the requirements of the regulations made under the Land Surveyors Ordinance and at the expense of the applicant and to the satisfaction of the Commissioner, submitting the plan, field notes and computations of such survey (which shall become the property of Government) to the Surveyor General for his examination and approval.

11. (1) Within fourteen days of the receipt of an Exclusive Prospecting Licence, the holder thereof shall forthwith paint clearly on an iron plate securely bolted to every beacon on the side facing the area the subject of such licence his name and the official number of such Exclusive Prospecting Licence.

(2) The holder of an Exclusive Prospecting Licence shall during the period of such licence—

- (a) maintain his beacons in good condition and in proper position;
- (b) keep clearly painted on such beacons the particulars required by sub-regulation (1) of this Regulation; and
- (c) keep cut and cleared of vegetation all or any of the boundaries specified by the Commissioner for a distance of not less than 50 yards from the beacons defining such boundaries.

12. Every Exclusive Prospecting Licence shall follow as closely as may be Form 7 set out in the First Schedule hereto.

Renewal of Licences.

13. (1) Application for the renewal of an Exclusive Prospecting Licence shall be made through the Commissioner not later than two months before the date of expiration of such licence.

(2) When a licence holder who has so applied has, up to and including the date on which his licence is due to expire, not received any notification of the allowance or disallowance of his application he may continue his operations until he receives such notification.

(3) Where such application is allowed the licence shall be renewed as from the date of expiry.

PART III LOCATIONS

Pegging of locations.

14. (1) The holder of a Prospecting Right may peg off a location in the following manner: in the case of a lode location the shape of the location and of each of the claims shall be, as nearly as circumstances permit, a rectangular parallelogram, and the length of the longer side of each claim shall not exceed three times the length of the shorter side. In the case of an alluvial location, the width of each claim shall not be less than 50 feet.

Registration Notice.

(2) The holder of a Prospecting Right shall, on the completion of such pegging, post a notice (to be styled the "Registration Notice") on a substantial artificial support at corner peg "A" of such location as prescribed by sub-Regulation (2) (d) of Regulation 17 hereof.

(3) Any such Registration Notice shall in respect of lode locations or alluvial locations follow as closely as may be Forme 8 and 10 respectively set out in the First Schedule hereto.

Classes and areas of locations.

15. For the purpose of these Regulations, a location shall consist of a block of not more than ten claims of one of the following classes and dimensions:

- (1) A "precious metals" lode location, of which each claim shall be of an area of not more than 20,000 square yards.
- (2) A "precious stones" lode location (excluding diamonds, unless authorized by the Commissioner by an endorsement on the Certificate of Registration) of which each claim shall be of an area of not more than 20,000 square yards.
- (3) A "non-precious minerals" lode location of which each claim shall be of an area of not more than 60,000 square yards.

(4) A "precious metals" alluvial location of which each claim shall be of an area of not more than 10,000 square feet.

(5) A "precious stones" alluvial location (excluding diamonds, unless authorized by the Commissioner by an endorsement on the Certificate of Registration) of which each claim shall be of an area of not more than 10,000 square feet.

(6) A "non-precious minerals" alluvial location of which each claim shall be of an area of not more than 10,000 square feet.

16. The posting of any Protection or Registration Notice or the pegging of any location between sunset and sunrise is forbidden and shall not be deemed to confer any rights whatsoever. Hours when pegging and the posting of notices is forbidden.

17. (1) Every person pegging a location shall, before he posts the Registration Notice on such location erect upon every claim thereof four corner pegs. Erection of corner pegs.

(2) The following conditions must be fulfilled as regards the corner pegs:—

- (a) they shall be placed at all the points of intersection of the claim boundary lines (which must be straight) :

Provided that where a peg by reason of its position, can be regarded as common to contiguous claims it may be reckoned as one peg in respect of each of such claims and may bear accordingly the required letter of the alphabet and the number or numbers of the claims (1 to 10) to which it is common. (See Specimen Form 12 in the First Schedule hereto);

- (b) they shall carry a plate not less than 4 inches square which shall be marked with the appropriate letter and number or numbers of the claims;
- (c) they shall be not less than 3 feet in height and, if constructed of wood, must measure not less than 4 inches in diameter;
- (d) the peg marked "A" shall bear the Registration Notice.

Pegging an area in excess of prescribed area.

18. Where a person is found to have pegged in excess of his claim, he shall be required by the Commissioner to reduce the claim to the area prescribed by these Regulations, and, at the discretion of the Commissioner, either re-peg within fourteen days the excess area as a new location, or abandon such excess area:

Provided that if the pegger re-pegs such excess area he shall, upon applying for the registration of the location pay a registration fee of treble the amount of the fee ordinarily payable, in respect of the ground so pegged in excess.

Documents to accompany application for registration of locations.

19. (1) Every application for a Certificate of Registration shall be made to the Warden of the mining district in which the location is situated and the applicant shall lodge with such Warden for inspection or filing, as the case may be, the following documents:—

- (a) two copies of his Registration Notice and a plan in triplicate giving the dimensions in yards of the claims to be registered within the location together with such detailed particulars and measurements as will enable the location to be located on the general maps of the district;
- (b) a certificate signed by the applicant to the effect that the copies of such notice are true copies, and that all the facts stated therein are true and correct;
- (c) a written statement of the class of minerals for which such location is to be registered;
- (d) the Prospecting Right and (where such exists) any power of attorney or other instrument under whose terms the location has been pegged.

(2) The fees payable in respect of claims shall be:—

- (a) for a lode claim: Sh. 10.
- (b) for an alluvial claim: Sh. 2.

(3) The Certificate of Registration shall in respect of lode locations or alluvial locations follow as closely as may be Forms 9 and 11 respectively set out in the First Schedule hereto.

Registered numbers.

20. The Warden shall upon the original registration of every location assign an official registered number to such location, and shall cause an entry thereof to be made in a book to be kept for the purpose. Such registered number shall be added, as soon as may be, to the particulars on the Registration Notice of the location.

21. In all cases of dispute between peggers of locations as to the right and title to any particular location the principle of priority of title shall prevail, provided always that the priority title has not been abandoned.

Disputes as to titles.

22. (1) Within a period of four months from the date of the issue of a Certificate of Registration in respect of any location, all the external pegs demarcating the periphery of such location shall be replaced by stone beacons as specified in Part I of the Fourth Schedule hereto.

Replacement of corner pegs with beacons.

(2) The peg of every stone beacon demarcating the periphery on a location shall bear a notice board or notice containing, in the order shown, the following particulars:—

Notices.

- (a) a letter and number or numbers corresponding to the letter and number or numbers assigned to such peg in the Registration Notice;
- (b) the name of the lode and/or class of the location;
- (c) the registered number of the location;
- (d) the date of the original pegging of the location;
- (e) the office at which the location is registered;
- (f) the name or names of the holder, or holders.

(3) The Registration Notice shall be maintained until such time as the location covered by it has been permanently beacons in accordance with this Regulation.

23. Notice boards on which Protection or Registration Notices are posted, or which are fixed to pegs or beacons marking the boundaries of a location shall be at least twelve inches square. A notice shall be distinctly and legibly written, printed or painted, and all dates and times shall be pricked through the writing. No paper or other material liable to be rendered illegible by rain or exposure shall, except for purely temporary purposes, be deemed a proper marking.

Notice boards

24. The holder of a location shall, during the operation of such location, maintain all prescribed notices and markings in such a manner as to be clearly legible and shall keep all prescribed pegs and beacons in good condition and in their proper position.

Notices and markings to be maintained in good order

25. (1) The holder of any location (other than a lode location) shall commence, within a period of thirty days after the date of his application for registration, unless he has been informed that registration has been refused, and with

Development Alluvial locations.

due diligence during the continuance of the location carry out, or cause to be carried out, prospecting or mining operations to the satisfaction of the Commissioner.

Lode locations.

(2) The holder of a lode location shall during each year of the continuance of the location execute upon the area of each claim at least twelve feet of development work of the nature set forth in the Second Schedule hereto, not less than half of which shall be completed in the first six months of each such year.

Excess on claims.

(3) Where the work done on any one claim is in excess of the prescribed amount of development such excess may be taken into account in reckoning the amount of development work required in respect of the remaining claims in the same location.

Excess on locations.

(4) Where the work done on any location is in excess of the prescribed amount of development, the Commissioner may, in his discretion, permit such excess to be taken into account in reckoning the amount of development work required in respect of locations in the same ownership.

Saving

(5) Notwithstanding anything in this Regulation contained the Commissioner may, in his discretion, permit a location holder to pay a sum not exceeding one pound per claim in lieu of carrying out the development work for any year prescribed for such claim, or may for good and sufficient reason permit a location holder to perform a smaller amount of development work than that prescribed, or may extend for a period not exceeding six months the time in which such development is to be completed.

Development work while prospecting

26 Prospecting work performed by the holder of a Prospecting Right on ground which is subsequently registered by him as a location may be included and reckoned in the measure of work certified in the statement of development.

Renewal of locations

27 (1) Application for the renewal of a location or part thereof shall be made to the Warden prior to the date of expiration thereof, and in Form 14 set out in the First Schedule hereto. When such application has been made and the holder has been notified as to whether his application has been allowed before the date on which the location expires, he may continue his mining operations unless and until notified that his application is disallowed. Where the application is allowed the renewal shall date from the day on which the location would, but for such renewal, have expired.

(2) A fee of ten shillings shall be paid in respect of each renewal of a lode claim, and a fee of two shillings in respect of each renewal of an alluvial claim.

Fees.
Statement of development.

(3) No application for a renewal shall be considered unless accompanied by the prescribed fees and until supported by statements of development for the current year as required under Regulation 37 (1) (iii) of these Regulations. Such statements of development must be lodged with the Warden not later than seven days after the date due for expiry and shall follow as closely as may be Form 13 set out in the First Schedule hereto.

28. The holder of a location may transfer the same or part thereof on payment of a registration fee of two shillings for each claim or part thereof contained in such location. Every such transfer shall be evidenced by the completion of a form which shall follow as closely as may be Form 15 set out in the First Schedule hereto.

Transfer of locations.

29. The holder of any lode location may proceed to production after having given reasonable notice in writing to the Commissioner of his intention to do so. Any holder who proceeds to production without having given such notice shall be guilty of an offence.

Proceeding to production.

30. (1) The Commissioner, if satisfied that a survey is necessary for the prevention of differences as to the boundaries of the land included in any location or licence or for securing a proper definition of the area included therein, may give notice to the holder of such location or licence that a survey in strict conformity with the requirements of the regulations made under the Land Surveyors Ordinance and at the expense of the applicant is required to be made of the land included in such location or licence and that a plan thereof must be furnished to the Commissioner, and may require the cost of the survey and plan to be estimated as hereinafter provided. Thereupon such holder shall within the time specified in such notice deposit with the Commissioner such sum as may be the estimate of the Surveyor General be necessary to cover the cost of such survey and plan.

Survey may be required.

Cap. 147.

(2) As soon as conveniently may be, after payment of the sum demanded, the Surveyor General shall cause a proper survey of the land included in such location or licence to be made, and shall forward a plan thereof to the Commissioner together with a report in writing upon all matters which

Surveyor General to report.

appear necessary to him, or upon which the Commissioner shall, by written instructions, have required him to report.

(3) In any case where a holder to whom notice has been given in pursuance of this Regulation fails to pay the amount demanded as the cost of such survey within the time specified the location or licence in respect of which such survey is required shall become liable to forfeiture.

(4) The Commissioner authorized to hear suits under the Ordinance may, during the hearing of a suit before him, if it shall appear necessary, order any party to the suit to cause a survey and a plan to be made by a licensed land surveyor of any land which is the subject matter of a suit and may adjourn the hearing of the suit for such purpose. The Commissioner may make such order as to the payment of the costs of any such survey and plan as he may think fit.

(5) No person shall make a survey required to be made by the Ordinance or by any Regulation thereunder except under the instructions of the Surveyor General. Any plan which has not been passed and signed by the Surveyor General or an officer acting under his authority shall not be received or acted upon by the Commissioner or any Warden, nor shall the making of a survey or the preparation of a plan be deemed to be a compliance with a notice requiring survey (given by an officer duly authorized in that behalf), unless the survey has been made under the instructions of the Surveyor General and the plan has been passed as aforesaid.

(6) The cost of a surface survey shall be estimated and charged in accordance with the scale of fees for the time being charged by the Survey Department for a survey for the purposes of a lease of Crown land.

11 (1) The Commissioner upon application by the holder of any location, and on the production of the certificate of its registration, may, at his discretion cancel such certificate and such registration of such location without abandonment or forfeiture of such location resulting therefrom and may cause to be issued to such holder at one and the same time a fresh Certificate of Registration in respect of the whole or any part of such location which shall have been previously beaoned in the manner prescribed in these Regulations, assigning to it a fresh official number.

(2) Within a period of seven days from the date of issue of such certificate of registration, or within such period as the Commissioner may prescribe, all the beacons of the original location not being in use for the beaconing of the

Liability to forfeiture.

Suits may be adjourned for survey.

Surveys to be made under instructions of Surveyor General.

Cap. 141.

Fees.

Cancellation of Certificate of Registration without abandonment.

said part shall be removed by the holder of such location, and on the beacons of the said part the official number originally assigned to such location shall be replaced by the new official number assigned to such portion.

32. (1) Lists of locations or licences which have expired shall be posted on a board to be exhibited in some conspicuous place outside the office of the Warden in whose district the locations or licences were situated.

(2) A list of registered locations, licences or leases which have expired or have been abandoned, surrendered or forfeited shall be published from time to time in the Gazette.

(3) Where any signed statement of abandonment is made by a registered holder of any location or licence, the abandonment of such location or licence shall be deemed to be of full force and effect as from the date of the receipt of such statement by the Commissioner.

(4) Where any location, licence or lease is forfeited the forfeiture of such location, licence or lease shall be deemed to be of full force and effect as from the date given in the Commissioner's notice of forfeiture.

PART IV

MINING LEASES

33. (1) The holder of any location may apply on Form 16 set out in the First Schedule hereto through the Commissioner for a lease covering the whole or any portion of the area covered by any location or locations held by him. He shall deposit with his application a plan showing the boundaries of the area applied for and the boundaries of his location or locations, and the abutting areas in respect of which prospecting, mining or surface rights may have been granted. The holder shall further deposit with the Commissioner the last Certificate or Certificates of Registration issued in connection with such location or locations, together with a written undertaking that he will defray the cost of survey and the cost of suitable plans for attachment to the lease.

(2) The applicant for a lease of a location or locations shall, with his application, file an affidavit setting forth that the pegs or beacons of the location or locations have been

Lists of expired locations and licences.

Lists of expired, abandoned, surrendered and forfeited locations, licences and leases.

Cancellation in cases of abandonment.

Cancellation in cases of forfeiture.

Applications.

Affidavit to accompany application.

bona fide erected and properly maintained and continued, and also, where possible, naming all the adjoining locations or leases (if any).

Notice to be given.

(3) The Commissioner upon receipt of any such application, shall, at the expense of the applicant cause a notice containing particulars of the application to be inserted once in the Gazette and three times (at intervals of not less than a week) in a local newspaper. The Commissioner shall give written notice of the application to all holders of adjoining locations and to all persons who, to his knowledge, have or claim to have any interest in the land to which the application relates.

Objections.

(4) Objections in writing against any such application may be lodged with the Commissioner, by any person interested, at any time within a period of ninety days from the date of the last of the publications provided for in sub-regulation (3) hereof. No objection shall be received or considered which has not been lodged within the said period.

(5) Every such objection shall be heard and determined by the Commissioner, who shall make such order thereon as the justice of the case requires. An appeal shall lie to the Governor from any such order of the Commissioner, but no appeal shall be admitted after the expiration of thirty days from the date of the order appealed against.

Granting of lease

(6) (i) Where no such objection has been lodged with the Commissioner within the prescribed time, or where such objection has been disallowed or has lapsed, and the requirements of this Regulation have been satisfactorily complied with, the Governor may issue to the applicant a lease. So soon as an applicant has been informed that a lease will be granted to him, the Commissioner shall cause the land to be surveyed in strict conformity with the requirements of the regulations made under the Land Surveyors Ordinance, at the cost of the applicant, and under the direction of the Surveyor General, and the plan of the area signed by the Surveyor General shall be attached to the lease.

See 147

(ii) Upon the completion of the survey, the applicant shall forthwith cause all boundaries to be beaconed in the manner specified in Part III of the Fourth Schedule hereto and in accordance with the directions of the Commissioner.

Survey.

(7) Every such survey shall be lodged with the Surveyor General and shall become the property of the Government.

34. (1) Upon the grant of the lease the lessee shall forthwith paint clearly on every beacon on the side facing the area leased the official number of such lease.

Painting and maintenance of official number of lease.

(2) The lessee shall during the period of such lease maintain his beacons in good condition and proper position, and keep clearly painted on such beacons the official number of such lease.

35. (1) The Commissioner shall retain a duplicate of every lease and of every plan issued by him and shall cause such duplicates to be filed and preserved in the Mining Register.

Duplicate of lease.

(2) Every mining lease shall follow as closely as may be Form 17 set out in the First Schedule hereto.

Form of lease.

(3) The lessee may, with the consent of the Governor, assign his lease. Any such assignment shall follow as closely as may be Form 18 set out in the First Schedule hereto.

Assignment

(4) A lessee may, with the consent of the Governor, surrender his lease. Any such surrender shall follow as closely as may be Form 19 set out in the First Schedule hereto.

Surrender

36. (1) Every lessee of a lode lease shall, during each year of the continuance of his lease execute at least twenty-five feet of development work of the nature set forth in the Second Schedule hereto in respect of every ten acres or portion thereof included in the area of the lease.

Lode leases: development.

(2) Every lessee of an alluvial lease shall work the same to the satisfaction of the Commissioner.

Alluvial leases.

(3) Notwithstanding anything in this Regulation contained the Commissioner may in his discretion, for good and sufficient reason shown, permit a lessee to perform a smaller amount of development work than that prescribed, or may extend the time in which such development is to be completed.

(4) Where the work done on any lease is in excess of the prescribed amount of development, the Commissioner may, in his discretion, permit such excess to be taken into account in reckoning the amount of development work required in respect of leases or locations in the same ownership and in the same vicinity.

Excess development.

PART V

GENERAL

37. (1) The following prescribed returns and reports of operations shall be furnished as follows:—

Returns and Reports.

(i) by every lessee, and every holder of a location or of an exclusive prospecting licence who is producing

minerals, to the Senior Inspector of Mines on or before the 14th day of each month complete returns covering the operations of the previous month in Forms 20 and 21 set out in the First Schedule hereto;

(ii) by every lessee, and every holder of a location or of an exclusive prospecting licence to the Commissioner—in January and July—a written statement setting forth—

- (a) the name of the lessee or holder;
- (b) the date and number of the lease, location or licence;
- (c) any change which may have been made in the appointment of the attorney, and, in the case of a company, in the officers of the company, during the preceding six months;
- (d) any change of address of the lessee, holder, attorney or officers;
- (e) the nature of the operations being conducted on the area of the lease, location or licence;
- (f) the average number of non-natives and natives employed on the area in mining or prospecting during the preceding six months;
- (g) the amount paid in wages to persons actually engaged in mining or prospecting operations on the area of the lease, location or licence or in supervising such operations during the preceding six months;
- (h) the nature and value of any machinery or plant brought on to or removed from the area since the previous return;
- (i) the kind and quality of minerals obtained during the preceding six months and the manner in which they have been disposed of;
- (j) the particulars of any death or accidents which may have occurred amongst the employees during the preceding six months;

(k) amount expended in the Colony due to mining or prospecting;

(l) any further particulars that the Commissioner may call for.

(iii) (a) by every holder of a location to the Warden in whose office the location is registered on the expiry of each period of six months commencing from the date of pegging a statement in duplicate of development, as in Form 13 set out in the First Schedule hereto, certifying that the prescribed development has been duly performed, remitted or compounded for in accordance with Regulation 25 of these Regulations.

In the case of a lode location the statements shall be accompanied by sketch plans in duplicate illustrating the development effected during the period;

(b) by every lessee to the Commissioner a statement every twelve months, commencing from the date of the grant of the lease, certifying that the development required under Regulation 36 of these Regulations has been duly effected.

In the case of a lode lease the statements shall be accompanied by plans illustrating the development effected.

(2) The returns required by this Regulation shall be signed and certified to be correct—

- (a) in the case of an individual lessee or holder resident in the Colony by the lessee or holder;
- (b) in the case of an individual lessee or holder not so resident, or in the case of a syndicate or company having its head office out of the Colony, by the resident attorney of the lessee or holder, syndicate or company;
- (c) in the case of a syndicate or company having its head office in the Colony by the manager or secretary of the syndicate or company.

38. All royalties shall be payable on demand to the Commissioner, who may, if so requested and after payment has been made, issue a permit to export the mineral on which royalty has been paid. Such export permit shall follow as closely as may be Form 22 set out in the First Schedule hereto.

Returns to be certified.

Royalties.

Rates of royalties.

39. (1) Royalties shall be payable at the following rates:—

(a) on gold: a royalty of 5 per cent on the gross sum realized from the gold won;

(b) on other minerals, as prescribed by the Governor in Council from time to time by notice in the Gazette.

Returns in respect of minerals exported.

(2) Within three months of the export of any minerals originating in the Colony, or within such extended time as the Commissioner may allow, a sales account in respect of such minerals shall be produced to the Commissioner and any adjustments which may be necessary to ensure payment of the full amount of royalty due shall be made.

Accounts.

40. Every location holder or lessee shall keep, to the satisfaction of the Commissioner, proper books, records and accounts, showing the expenses incurred and the profits earned, and the Commissioner or any official authorized by him in writing shall have access at all times to such books, records and accounts, and shall be entitled to make extracts therefrom.

Appointment of attorneys.

41. (1) Every lessee and every holder of an Exclusive Prospecting Licence or of a location who is not resident in the Colony or who intends to be temporarily absent from the Colony shall appoint some person resident in the Colony as his attorney with full powers to represent him during his absence from the Colony, in all matters relating to his licence or location.

Appointment of attorney to represent corporations, etc.

(2) When any corporation or other body, whose registered or head office is outside the Colony, is a lessee or a holder of an Exclusive Prospecting Licence or location, such corporation or body shall at all times be represented by an attorney resident in the Colony and having full powers to represent such lessee or holder in all matters relating to such lease, licence or location.

Revocation or variation of powers.

(3) Every lessee or holder who gives a power of attorney as required by sub-regulations (1) and (2) of this Regulation shall forthwith forward to the Commissioner a copy of such power of attorney and shall likewise on the revocation or variation of such power of attorney forthwith forward a copy of any document effecting such revocation or variation.

Fees

42. The fees set out in the Third Schedule hereto shall be paid in respect of the matters and things specified in that Schedule.

43. (1) The Registrar shall keep a register of mining leases and Exclusive Prospecting Licences and of documents assigning or transferring such leases or licences or any right, title or interest arising therefrom.

Registration.

(2) The Registrar shall file in the register a copy of every lease or Exclusive Prospecting Licence.

(3) A register of locations shall be kept in the Mines Office and a return of all duplicate Certificates of Registration shall be sent monthly to the Registrar of Mines.

(4) Any person desiring to apply for the registration of any document, assigning or transferring or surrendering or in any way dealing with or affecting any mining lease, location, or Exclusive Prospecting Licence, or any right or interest under the same, shall send the original document, with a copy thereof and a copy of any plan attached to such document together with the prescribed fee, to the Registrar, with a request that the same shall be registered. The Registrar having first satisfied himself that the copy of the original document and of the plan if any is correct, and that the requisite approval of the assignment, transfer, surrender, or other transaction has been obtained, and that the document if liable to stamp duty has been duly stamped, shall endorse on the document over his signature the word "Registered" together with the date on which the document was presented for registration and shall return the document so endorsed to the person who shall have presented the same for registration, and shall file the copy in the Register.

(5) The Registrar or Warden shall, when application is made together with payment of the prescribed fees, allow searches to be made in any register at all reasonable times, and shall supply copies or extracts from any entry in the register or of any documents or certificates issued under the Ordinance.

44. The Mining Regulations, 1934, and the Mining (Amendment) Regulations, 1935, are hereby revoked.

By Command of His Excellency the Acting Governor in Council.

Nairobi.

This 16th day of April, 1937.

R. W. BAKER-BEALL,
Clerk to the Executive Council.

FIRST SCHEDULE

Form
No.

1. Application for Prospecting Right or renewal thereof (Regulation 3 (1)).
2. Prospecting Right or renewal (Regulation 3 (3)).
3. Protection Notice (Regulation 4 (1)).
4. Statement of Work and Application for Extension of the Rights conferred by a Protection Notice (Regulation 5 (2)).
5. Certificate of Extension of the Rights conferred by a Protection Notice (Regulation 5 (3)).
6. Application for Exclusive Prospecting Licence (Regulation 8).
7. Exclusive Prospecting Licence (Regulation 12).
8. Registration Notice: Lode Location (Regulation 14 (3)).
9. Certificate of Registration: Lode Location (Regulation 19 (3)).
10. Registration Notice: Alluvial Location (Regulation 14 (3)).
11. Certificate of Registration: Alluvial Location (Regulation 19 (3)).
12. Specimen form of lettering and numbering claims in a location (Regulation 17 (2) (a)).
13. Six-monthly Statement of Development (Regulation 27 (3) and Regulation 37 (1) (ii) (a)).
14. Application for renewal of a Location (Regulation 27 (1)).
15. Transfer of Claims or Locations (Regulation 28).
16. Application for Mining Lease (Regulation 33 (1)).
17. Mining Lease (Regulation 35 (2)).
18. Assignment of Mining Lease (Regulation 35 (3)).
19. Surrender of Mining Lease (Regulation 35 (4)).
20. Monthly Return A (Regulation 37 (1) (ii)).
21. Monthly Return B (Regulation 37 (1) (ii)).
22. Export Permit (Regulation 38).
23. Memorandum of Complaint.
24. Notice of Complaint.

Form No. 1.

THE MINING ORDINANCE, 1933
(Regulation 3 (1))APPLICATION FOR A PROSPECTING RIGHT OR RENEWAL
THEREOF

To the Commissioner of Mines.

1. Name of applicant
2. Nationality of applicant
3. Age of applicant
4. Address in Kenya Colony at which notices, etc., may be served
5. Whether the applicant intends to prospect on his own account, or as an employee of any other person
6. If he is in the employ of any other person, the name and address of such person
7. Whether he has previously made an application for a Prospecting Right or Licence, and if so, whether any such application has been refused
8. Whether the applicant or his employer (if any) has previously held any prospecting right, claim, location, licence or lease authorizing prospecting or mining in the Colony which has been revoked or forfeited.
9. I am (not) in possession of a valid Prospecting Right

or

I hereby surrender Prospecting Right No.
(Strike out whichever is inapplicable.)

I hereby declare the above particulars to be true.

Signature of Applicant.

Form No. 2. No.

THE MINING ORDINANCE, 1933
(Regulation 3 (3)).

PROSPECTING RIGHT OR RENEWAL OF PROSPECTING
RIGHT No.

The right, subject to the provisions of the Mining Ordinance, 1933, and of the Regulations thereunder now in force, or which may come into force during the continuance of this right is hereby granted to (*)
(*)
for one year from the date hereof to prospect for minerals.

This day of 19.....

FEE: SH. 20.

.....
Commissioner of Mines.

(*) Here insert name, address and description of the prospector.

(*) If the prospector is to use this right as employee on behalf of a company, partnership or individual, state name, address and description of employer here.

Form No. 3.

THE MINING ORDINANCE, 1933
(Regulation 4 (1))

PROTECTION NOTICE

Date and time of posting

Prospecting Right No.

Signed

Agent for

Witness

Registered No.

Extended to

Form No. 4.

THE MINING ORDINANCE, 1933
(Regulation 5 (2))

STATEMENT OF WORK PERFORMED AND APPLICATION FOR
EXTENSION OF THE RIGHTS CONFERRED BY PROTECTION
NOTICE

I hereby certify that I,
holder of Prospecting Right No. issued at the office
of at
have completed the following work on the area covered by
my Protection Notice erected on 19.....
at (place) in (Area No.)

- (a) Trenches (*)
- Pits
- Shafts
- Drives and cross cuts
- Drilling (mechanical)
- Drilling (hand-auger)
- (b) Any other method of prospecting

In virtue of having performed the above work, I hereby
apply for an extension of days to be
granted in respect of the Protection Area covered by the
above-mentioned Protection Notice.

Dated this day of 19.....

(*) Fees enclosed, Sh.

Signature

Address

(*) Measurements to be given in Development Footage.

(*) The following fees are payable in respect of extension of the rights
conferred by a Protection Notice:—

	Sh.
(a) First thirty days extension ..	10
(b) Second thirty days extension ..	20
(c) Third thirty days extension ..	30
(d) Fourth thirty days extension ..	40
(e) Fifth thirty days extension ..	50

Form No. 5.

THE MINING ORDINANCE, 1933

(Regulation 5 (3))

CERTIFICATE OF EXTENSION OF THE RIGHTS CONFERRED BY
A PROTECTION NOTICE*Extension*

This is to certify that the Protection Area acquired by under Prospecting Right No. at (place) in Area (No.) has been registered as No. and that the rights acquired thereunder are hereby extended until

Dated this day of 19.....

FEES PAID: SH.

.....
*Commissioner of Mines.*Original
Duplicate
Triplicate
Quadruplicate

Form No. 6.

THE MINING ORDINANCE, 1933

(Regulation 8)

APPLICATION FOR AN EXCLUSIVE PROSPECTING LICENCE
(Accompanied by Plan of area applied for in accordance
with Regulation 9)

To the Commissioner of Mines.

Date and hour of receipt by the Commissioner

1. Name of applicant
2. Nationality of applicant
3. Address in Kenya Colony at which notices, etc., may be served
4. Number of applicant's Prospecting Right
5. Name of company, corporation, syndicate or person (if any) represented by applicant
6. Position held by applicant in relation to or under such company, corporation, syndicate or person

7. Delineation and approximate area (in square miles) of area applied for (see next page)
8. Minerals for which applicant desires to prospect
9. Statement of geographical position of the area and its position in regard to some town, village or river-crossing or junction
10. Name and nationality of directors of company or syndicate (if any)
11. A Financial Statement as to the position of the applicant(s) is appended in a Schedule hereto
12. Is a copy of the memorandum and articles of association lodged with the Commissioner? If not, a copy must be enclosed herewith.
13. Remittance of Sh. enclosed herewith
14. Programme of work submitted herewith
15. Any other information called for by the Commissioner.

.....
Signature of Applicant.

*DELINEATION

An area of approximately commencing (here give situation of point of commencement in relation to a trigonometrical beacon or some physical feature);

thence on a true bearing of yards;
at a distance of yards;

thence on a true bearing of yards;
at a distance of yards;

thence on a true bearing of yards;
at a distance of yards to
the point of commencement.

.....
Signature of Applicant.

*Note.—All descriptions should be clockwise.

Form No. 7.

THE MINING ORDINANCE, 1933
(Regulation 12)

EXCLUSIVE PROSPECTING LICENCE

No.

The Exclusive Licence, subject to the provisions of the Mining Ordinance, 1933, and of the Regulations thereunder now in force or which may come into force during the continuance of this Licence or any renewal thereof, for one year from the day of, subject to the special conditions hereunder written, is hereby granted to (here insert name, address and description of licensee) to prospect for minerals (or as the case may be) within the following limits (here insert boundaries of area) as delineated approximately on the plan attached hereto and coloured

This day of 19

Governor.

SPECIAL CONDITIONS

FEE: Sh. 150

REGISTRATION FEE: Sh. 10

STAMP DUTY: Sh. 1.

Form No. 8.

THE MINING ORDINANCE, 1933
(Regulation 14 (3))

REGISTRATION NOTICE
(Lode Location)

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. issued at the office of at has under the said right, pegged off a block of (*) lode claims of the form shown below and in the position shown on the plan to be lodged with a copy of this notice at the office of the Warden at on registration

Name of location

Date and time of completion of pegging

Attach or insert in space opposite a diagram showing the form and the position of all pegs and the points of the compass in reference to block, and the length of all lines

CERTIFICATE

I, of hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

As Agent for (*)

Date

(*) Here insert the number of claims pegged in the location, and the class of minerals for which the location is to be registered in accordance with Regulation 15 of the Mining Regulations, 1937.

(*) Delete if inapplicable.

Form No. 9.

THE MINING ORDINANCE, 1933
(REGULATION 19 (3))

CERTIFICATE OF REGISTRATION OF LODE LOCATION

Official No. ... District Office
..... 19.....

This is to certify that
is the registered holder of lode claims
comprising Location No. named
the situation of which is stated to be
and numbered in my register for one year (1)

.....
Commissioner of Mines

(1) Here state date of completion of pegging.

Form No. 10.

THE MINING ORDINANCE, 1933
(Regulation 14 (3))

REGISTRATION NOTICE
(Alluvial Location)

Notice is hereby given that the undersigned, being lawfully entitled to act under Prospecting Right No. issued at the office of at has pegged off a block of alluvial claims (1) of the form shown below, and in the position shown on the plan to be lodged with a copy of this notice at the office of the Warden, at

Date and time of completion of pegging

Attach or insert in space opposite a diagram showing the form of the location and position of all pegs and the points of the compass in reference to the claims and the length of each side.

CERTIFICATE

I, of
hereby certify that the above Registration Notice is a true copy of the notice posted on the above ground, and the facts stated therein are true and correct.

.....
As Agent for (2)

Date

(1) Here insert the number of claims pegged in the location and the class of minerals for which the location is to be registered in accordance with Regulation 13 of the Mining Regulations, 1937.

(2) Delete if inapplicable.

Form No. 11.

THE MINING ORDINANCE, 1933
(Regulation 19 (3))

CERTIFICATE OF REGISTRATION OF ALLUVIAL LOCATION

Official No. ... District Office
..... 19.....

This is to certify that
is the registered holder of
alluvial claims comprising Location No.
the situation of which is stated to be
and numbered in my register for one
year (1)

.....
Commissioner of Mines

(1) Here state date of completion of pegging.

Form No. 12.

THE MINING ORDINANCE, 1933
(Regulation 17)
SPECIMEN FORM OF LETTERING AND NUMBERING CLAIMS
IN A LOCATION

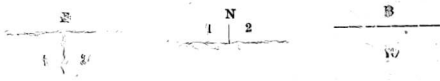
RN					
A	G	H	I	J	B
1	3	5	7	9	
E	K	L	M	N	F
2	4	6	8	10	
D	O	P	Q	R	C

Pegs to be marked thus:—



RN										
A	E	F	G	H	I	J	K	L	M	B
1	2	3	4	5	6	7	8	9	10	
D	N	O	P	Q	R	S	T	V	U	C

Pegs to be marked thus:—



Form No. 13.

THE MINING ORDINANCE, 1933
(Regulation 37 (1) (iii) (a))

SIX-MONTHLY STATEMENT OF DEVELOPMENT

I,, address,
being the (authorized representative of the) registered holder of
..... location(s) enumerated below, hereby
certify that development has been performed on the loca-
tion(s) held as follows:—

Location No.	Date of Pegging	Development footage according to Second Schedule of the Mining Regulations	Period during which the development has been performed

*and that the plan submitted herewith is a true representation of the development work performed; and that such development is sufficient to fulfil the prescribed conditions in full; or that the Commissioner of Mines has permitted (ref. his letter No. of):—

- (i) Excess development of locations to count towards the development footage on locations and that such development is sufficient to fulfil the prescribed conditions.
- (ii) Has remitted development; conditions on loca- tion to the extent of feet.
- (iii) Permitted the payment of a fee of Sh. in lieu of development on locations
- (iv) Has extended the period for performance of the development on locations for months.

Signed

Date.....

*Not applicable to alluvial locations. Strike out words that do not apply.

Form No. 14.

THE MINING ORDINANCE, 1933
(Regulation 27 (1))

APPLICATION FOR RENEWAL OF LOCATION.

To the Warden of Mines.

1. I (registered holder)
of hereby apply for the
renewal of Location(s) No.
for one year from the day of, 19.....

2. Remittance of Sh. for renewal, late and com-
pounding fees enclosed herewith.⁽¹⁾

3. I undertake to lodge with the Warden not later than
seven days after the date due for expiry of the Location(s)
mentioned in paragraph 1 hereof, Statements of Development
for the current year as required by Regulation 27 (3) of these
Regulations.

Signature of Applicant⁽²⁾.....

Date

⁽¹⁾ Delete reference to any fees inapplicable.⁽²⁾ To be signed by the Registered Holder, or by his Attorney
duly authorized.

Form No. 15.

THE MINING ORDINANCE, 1933
(Regulation 28)

TRANSFER OF CLAIMS OR LOCATION

I, of
in consideration of paid to me
by do hereby
transfer to him the following claims of my Location No.
claim(s) No.(s) subject to all and singular
the terms and conditions under which the said Location and
claims have been held by me, and I,
of do hereby accept the said
claim(s) subject to the terms and conditions aforesaid.

Dated at this day of
..... 19.....

Transferor

Witness

Occupation

Address

Transferee

Witness

Occupation

Address

STAMP DUTY: Sh.

REGISTRATION FEE: Sh. 2 for each claim.

Form No. 16.

THE MINING ORDINANCE, 1933

(Regulation 33 (1))

APPLICATION FOR A MINING LEASE

To the Commissioner of Mines.

Date and hour of receipt by the Commissioner

1. Name of applicant(s)
 2. Nationality of applicant(s). If a syndicate, corporation or company, give names, nationalities and descriptions of members and directors, if any, in a separate schedule.
 3. Address in Kenya Colony at which notices, etc., may be served
 4. Number(s) of applicant's location(s) and district of registration
 5. A financial statement as to the position of the applicant(s) including the amount of nominal capital, subscribed capital and working capital, is appended in a Schedule hereto.
 6. A copy of the memorandum and articles of association of the syndicate, corporation or company is lodged herewith.
 7. Area
 8. Kind of mining lease desired and mineral to be mined
 9. Term desired
- Date 19

.....
Signature of Applicant.

Form No. 17.

THE MINING ORDINANCE, 1933

(Regulation 35 (2))

MINING LEASE

No.

This lease is granted to (here insert name, address and description of lessee) for the purpose of mining (here insert the mineral or minerals in respect of which the lease is granted) in, under or upon (here describe area with boundaries) as the same is delineated and coloured on the plan annexed hereto, for a term of years from the day of 19..... at an annual rent of Sh. according to the true intent and meaning of the Mining Ordinance, 1933, and subject to the provisions thereof and of any Ordinance amending the same or substituted therefor and to all regulations now in force or which may come into force, under any of the said Ordinances, during the continuance of this lease and to the special conditions hereunder written.

Dated this day of 19.....

.....
Governor.

Witness

Accepted:

.....
Lessee.

Witness

Occupation

Address

FEE: Sh. 100.

REGISTRATION FEE: Sh. 10.

STAMP DUTY: Sh.

SPECIAL CONDITIONS:

Form No. 18.

THE MINING ORDINANCE, 1933
(Regulation 35 (3))

ASSIGNMENT OF MINING LEASE

Whereas under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (or as the case may be) upon or under (*here describe area with boundaries, etc., as in original lease*) was on the day of 19..... granted to for a term of years from the date thereof, and duly registered in Volume..... Folio of the Register of Mining Leases:

Now these presents witness that in consideration of the sum of the said lessee doth hereby assign to all his rights, title and interest in and under the said lease as for the remainder of the term thereof.

In witness, etc.

.....
Lessee.

Witness
Occupation
Address

.....
Assignee.

Witness
Occupation
Address

Approved:

.....
Governor.

STAMP DUTY: Sh.

REGISTRATION FEE: Sh. 10.

Form No. 19.

THE MINING ORDINANCE, 1933
(Regulation 35 (4))

SURRENDER OF MINING LEASE

WHEREAS under the provisions of the Mining Ordinance, 1933, a lease for the purpose of mining minerals (or as the case may be) upon or under (*here describe area with boundaries, etc., as in the original lease*) was on the day 19..... granted to for a term of years from the date thereof, and duly registered in the Register of Mining Leases:

AND WHEREAS the said desires to surrender the said lease, and the Governor is willing to accept such surrender:

NOW these presents witness that the said

doth hereby surrender all his rights, title and interest in and under the said lease as from the day of

In witness, etc.

Approved:

.....
Governor.

STAMP DUTY: Sh.

REGISTRATION FEE: Sh. 10.

Form No. 20.

RETURN "A"

THE MINING ORDINANCE, 1933
(Regulation 37 (1) (i))

PRODUCER'S MONTHLY RETURN FOR MINES OTHER
THAN ALLUVIAL

(A separate Form shall if so required by the Commissioner be used for each Location or Lease).

1. Month and year for which the Return is being rendered 19.....
2. Number of Mining Unit (Location or Lease) from which mineral produced (i)
3. Name of mine of which the above Unit forms a part
4. Mining District in which the Unit is situated
5. Name of registered owner

6. Number of tons of ore crushed (ii) :—
..... tons
7. Number of tons of ore treated (ii) :—
..... tons
8. Method of treatment (iii) tons
9. Number of tons of sand treated tons
10. Number of tons of slimes treated tons
11. Mineral recovered:—

	From ore	From sand	From slimes	Total
Gold	.....oz.	.....oz.	.....oz.	.....oz.
Silver	.....oz.	.....oz.	.....oz.	.....oz.
Other Mineral (to be specified) (iv)	.....	.....	.....	.....

12. Approximate value, in weight of mineral, per ton of tailings
13. Average grade of ore per ton
14. Percentage of recovery per cent
15. Depth from which mineral mined to nearest 50 feet
..... feet
16. Remarks

17. Adjustment for month of 19.....
(Difference between the declared and the true weight of mineral produced)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this day of 19.....

Signed
On behalf of Owner

Position held by Signatory

Address

Notes.

- (i) State clearly whether location at lease.
- (ii) Long tons: 2,240 lb.
- (iii) e.g. smelting, amalgamation, cyanidation, etc.
- (iv) Tin should be given in lb. of concentrate; copper, lead and zinc in lb. of metal; other non-precious minerals in lb. of product as sold.

This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished.

Form No. 21.

RETURN "B".

THE MINING ORDINANCE, 1933
(Regulation 37 (1) (ii))

PRODUCER'S MONTHLY RETURN FOR ALLUVIAL WORKINGS
(A separate Form must be used for each Location, Licence or Lease)

1. Month and year for which this Return is being rendered
2. Number of Mining Unit (Location, Licence or Lease) from which mineral produced (i)
3. Name of lake, river or stream covered by the above Unit
4. Mining District in which unit is situated
5. Name of Registered Owner
6. Number of cubic yards treated cubic yards
7. Method of treatment (iii)
8. Mineral recovered:—
- | | | |
|---|----------|----------|
| Gold |oz. |oz. |
| Silver |oz. |oz. |
| Tin |oz. |oz. |
| Other minerals (to be specified) of concentrate | ..... | lb. |

9. Average recovery per cubic yard
10. Remarks
11. Adjustment for the month of 19.....
(Difference between the declared and the true weight of mineral produced)

I hereby declare the above particulars true to the best of my knowledge and belief.

Dated this day of 19.....

Signed
On behalf of the owner

Position held by signatory

Address

Notes.

- (i) State clearly whether location, licence or lease.
- (ii) e.g. hand sluicing, dredging, etc.
- This return must be sent to the Inspector of Mines not later than the 14th of the month following that in respect of which it is furnished.

Form No. 22.

THE MINING ORDINANCE, 1933
(Regulation 38)
EXPORT PERMIT

No.

Permission is hereby granted to
..... on behalf of
..... to export packages
of (a) containing (b)
produced from the (c) district,
and marked, on which royalty has been
paid, or secured to the satisfaction of the Commissioner of
Mines.

Dated this day of 19.....

Commissioner of Mines

- (a) Here state mineral. If gold, state whether reef or alluvial.
(b) Quantity: gold and silver in ounces; tin in lb. of concentrate;
copper, lead and zinc in lb. of metal; other non-precious
minerals in lb. of product as sold.
(c) Mining district from which the mineral was produced.

Form No. 23.

THE MINING ORDINANCE, 1933

MEMORANDUM OF COMPLAINT

To the Commissioner of Mines.

A.B. of complains of
E.F. of
and says:—

1. That, etc.
2. That, etc.
(Set forth the subject matter of the complaint
in paragraphs)

The complainant therefore prays
(set forth relief sought) or such other further relief as shall
be just.

The amount sought to be recovered so far as the demand
is pecuniary is

Dated this day of 19.....

A.B.

Form No. 24.

THE MINING ORDINANCE, 1933

NOTICE OF COMPLAINT TO DEFENDANT

Complaint No.

To (insert name of the defendant)

of
You are hereby summoned to appear before me at
..... on the day
of 19..... at o'clock in
the noon, precisely, to answer the com-
plaint, a copy of which is sent herewith, of (insert name of
complainant).

You may have a summons to compel the attendance of
any witness, or for the production of any books or documents
by applying at my office.

Given under my hand this day of
..... 19.....

Commissioner of Mines

SECOND SCHEDULE

Regulation 25 (2) and Regulation 36 (1)

DEVELOPMENT

Development work shall include shafts, drives, cross-
slices, raises, adits, and boreholes of a minimum
diameter of seven-eighths of an inch, that are situated or
extend beyond twenty feet from the point of entry and which
entirely shall be included in the development footage. It
shall also consist of surface trenching (if of a minimum depth
of three feet, and designed to trace a lode or prove a deposit),
and of hand-augering.

2. Development need not be done upon a lode, but it
is requisite that it shall be done with a view to actual develop-
ment of a lode and that it shall be new work and not the
restoration or clearing of development work previously done
or of earlier workings.

3. Development returns shall be rendered in terms of the "development foot" which unit shall be calculated as follows:—

(a) for hand-augering:—

Every three yards below the first two yards to count as one-third development foot.

(b) for trenching:—

Every eighteen cubic yards to count as one development foot.

(c) for all other work mentioned in paragraph 1:—

Every linear foot to count as one development foot.

THIRD SCHEDULE

FEES		Sh.
1. Prospecting right or renewal thereof	.....	20
2. For first thirty days extension of the rights conferred by a protection notice	.....	10
3. For second thirty days extension of the rights conferred by a protection notice	.....	20
4. For third thirty days extension of the rights conferred by a protection notice	.....	30
5. For fourth thirty days extension of the rights conferred by a protection notice	.....	40
6. For fifth thirty days extension of the rights conferred by a protection notice	.....	50
7. For registration of a lode claim	.....	10
8. For registration of an alluvial claim	.....	2
9. For transfer of a claim	.....	2
10. For renewal of a lode claim	.....	2
11. For renewal of an alluvial claim	.....	2
12. For preparation of an exclusive prospecting licence	.....	150
13. For registration of an exclusive prospecting licence	.....	10
14. For renewal of an exclusive prospecting licence, as provided, but not to exceed	.....	150
15. For transfer of an exclusive prospecting licence	.....	20
16. For preparation of a lease	.....	100
17. For registration of a lease	.....	10

18. For transfer of a lease	.....	Sh.
19. For renewal of a lease	.....	10
20. For surrender of a lease	.....	40
21. For registration of a document for which no special provision is made	.....	10
22. Fees in lieu of development for each claim or part thereof	..... (not exceeding)	20
23. For search in register, for every half-hour or part thereof	.....	20
24. For copy of prospecting right, location certificates, or extract from any registered document, or register, for every 100 words or part thereof (stamp duty Sh. 1)	.....	2
25. For extra carbon copy of or extract from any registered document or register, for every 100 words or part thereof	.....	1
26. On complaint to the Commissioner (including hearing fee and order fees)	.....	50
27. For every witness summons	.....	2

Where no fees are prescribed, or where mileage allowance or allowances to witnesses are concerned, the same fees or allowances as are payable in civil matters before Subordinate Courts as prescribed by the Rules of Court.

FOURTH SCHEDULE

PART I

Beacons for Locations

1. Every such beacon shall be at least two feet high and four feet in diameter at the base, and in the centre of such beacon shall be solidly and securely fixed a peg in an upright position and standing not less than one foot above the top of such beacon.

2. At such beacon or peg a trench six feet in length and one foot in width and depth shall be dug in the alignment of the next beacon or peg: Provided that on stony ground a wall of stones of the same dimensions may be built.

PART II

Beacons for Exclusive Prospecting Licence Areas

The minimum beacon shall consist of an angle iron four feet in length, and weighing not less than 6 lb., set in concrete and surrounded by a cairn of stones or a mound of earth. An iron plate, of a size sufficient for the clear inscription of the official number of the Exclusive Prospecting Licence and the name of the holder of such licence, shall be securely bolted to the angle iron.

Not less than 12 lb. of cement shall be used for each beacon in concrete and the angle iron shall be sunk to a depth of at least 18 inches in the ground.

Two reference marks consisting of 18-inch iron pins shall be driven in flush with the ground on boundary lines at distances of 4 feet from each beacon.

PART III

Beacons for Lease Areas

Beacons of lease areas shall consist of concrete blocks moulded in the shape of truncated cones (the horizontal cross section being a circle) and reinforced by an iron rod or pipe in the centre not less than half an inch in diameter. The concrete shall be well mixed in the proportion of 2 cement, 2 clean sand, 4 stone, and the beacon shall be sunk 2 feet in the ground.

The minimum dimensions shall be:—

Height: 4 feet 6 inches.

Diameter of base: 2 feet 6 inches.

Diameter of top: 1 foot.

MINING ROYALTIES.Inquiry by Kenya Government.

The Kenya Government is to appoint a committee to investigate the incidence of mining royalties, and to report whether some modification is desirable in the best interests of the future development of the Colony's mineral resources.

A statement to this effect was made in the Legislature in answer to a question by Mr. Conway Harvey, who, urging an investigation, asked if Government was aware that a continuance of the present system of royalties might have an adverse effect on public revenues, paradoxical though that might sound.

In representations to the Government before the present Mining Ordinance was drafted, Mr. Harvey, together with Mr. W. T. Sheehan and Colonel Stitt, recommended that the incidence of royalties should be withheld for 30 years to give the industry firmly to establish itself.