

10216

KENYA

1927

CO 533/368

1927

PREVIOUS POSTS IN THE BUREAU RECORDS.

Previous

See 2440

Subsequent

See 17169/1/23

See

17169

See 17169/1/23

See 17169/1/23

See 17169/1/23

See 17169/1/23

See 17169/1/23

See 17169/1/23

See 297

1. ----- O.A.G. Denham ----- 8th February 1927.
97.

Trs. petition from the Nursing Sisters in regard to the creation of further pensionable posts in the Nursing Establishment. Recommends pensionable status be extended to 10 posts.

Mr. Jeffries

As to the last paragraph, the position in regard to EA is still as in the last minute on C 15291 Gen. as shown in 25030 Gen., that is a few replies to the Circular to the Colonies are still being awaited. ∴ This has been decided not to proceed with the scheme. But the proposal in this despatch need have no relation to that scheme.

The present proportion of pensionable posts to the establishment (not including Matrons, Senior Nursing Sisters, or Sister Health Visitors) is as follows:

Kenya	3	out of 31
Uganda	1	.. 22
T.T.	2	.. 24
Cyprus	1	.. 7
Trinidad	1	.. 7

If therefore the Kenya proposal for 10 pensionable posts is approved, Kenya will be

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97.

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T.T.	2	.. 24
Hyderabad	1	.. 7
Trinidad	1	.. 7

If therefore the Kenya proposal for 10 pensionable posts is approved, Kenya will be in

the other S.A. Dependencies. But I don't think that this
would matter much, and as to say, I don't think that
Kenya's superiority would affect recruitment for the
other and in fact of the other Dependencies
and of similar establishments as a result of
the decision to Kenya a independence of it,
I think there would merit favourable consideration

I have and approve personal

W. G. G. G.

25.3.37

I agree that this can be dealt with
apart from the general scheme for
retiring allowances for nurses: but the
O.A. should be told the position
with regard to that scheme as it may
affect his views.

It should be pointed out in
reply, (as to 17) in the case of
railway pensionable posts, that on
the introduction of the pensions Order
there will be "pensionable offices",
included in which no doubt will be
the office of Nursing Sister. There will
then be no legal limit to the
number of holders of such an office
who may be admitted to the
pensionable establishment but it will
of course be open to the Gov. to

the other S.A. Dependencies. But I don't think that they
could matter much, that is to say, I don't think that
Kenya's superiority would affect recruitment for the
other and in fact if the other Dependencies
are of similar population as a result of
the decision to Kenya a independence of it,
I think they would merit favourable consideration

? I should approve

W. G. G. G.

25.3.27

I agree that this can be dealt with
apart from the general scheme for
retiring allowances for nurses; but the
O.A.G. should be told the position
with regard to that scheme as it may
affect the views.

It should be pointed out in
reply to the O.A.G. in the case of
unusually permissible posts, that on
the introduction of the permissive Order
there will be "permissible offices",
in which no doubt will be
the office of Nursing Sister. There will
then be no legal limit to the
number of holders of such an office
who may be admitted to the
permissible establishment but it will
of course be open to the Govt to
restrict the number in practice.

whatever may be considered appropriate. 3

If in the light of this comm. the O.A.G.
considers that as many as 10 nursing
sisters ^{etc.} may be allowed to be on
the permissible establishment at
a time the S.O.S. will not object, but
it should be made clear that
admission will be regulated by merit
& no nurse can have a
claim to admission by reason
of length of service or of less
than 10 being in the establishment
at any time.

Dft. comm.

G. Jeffries

24.3.27.

at once.

Mr 2 to Gov 289/100000/1

Mr Edwards

Post may wish to see

2
4
G. D.
R 29/11/27
D J 11

Mr. Jewell 28/3/27

Mr. Jeffries 28/3

Mr. Donnie 28/3

Mr. E. J. Harding

Mr. C. Strachey

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

Downing Street,

30 March, 1927.

Sir,

I have etc. to acknowledge the receipt of your despatch No.97 of the 8th of February, in which you recommend that pensionable status should be accorded to ten of the existing posts of Nursing Sister in the Medical Dept., and to inform you

for Dawson

DRAFT.

KENYA

No. 289

O. A/Govt.

Insert A from overleaf

for Dawson

2. I desire to point out that on the introduction of the European Officers' Pensions Ordinance, there will no longer be pensionable posts, but there will be "pensionable offices", included in which, no doubt, will be the office of Nursing Sister. There will then be no legal limit to the number of holders of such an office who may be admitted to the pensionable establishment, but it will, of course, be open to the Governor to restrict the number in practice to whatever may be considered appropriate. If, in the

all

all
~~light of these circumstances, you con-~~
sider that as many as ten Nursing Sisters *et.*
should be ~~allowed to be admitted~~ ^{or} to the
pensionable establishment at a time, I
will offer no objection, but it should be
made clear that admission to the pension-
able establishment will be regulated by
merit, and that no Nursing Sister can have
a claim to admission by reason of length
of service or of the fact that less than
ten are on the establishment at any time.

~~2. In regard to para. 5 of your des-~~
~~patch, I may observe that no decision has~~
~~yet been reached with regard to the proposed~~
general
scheme of retiring allowances for non-
has not been abandoned, but
pensionable Nursing Sisters, *as* replies to
the Circular on the subject are still
awaited from the Govts. of several Cols.
before a decision is taken.
I have, etc.

A

(Signed) L. S. AMERY

all
~~light of these circumstances, you con-~~
sider that as many as ten Nursing Sisters etc.
should be ~~allowed to be admitted to the~~ ^{on}
pensionable establishment at a time, I
will offer no objection, but it should be
made clear that admission to the pension-
able establishment will be regulated by
merit, and that no Nursing Sister can have
a claim to admission by reason of length
of service or of the fact that less than
ten are on the establishment at any time.

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~~patch, I may observe that no decision has~~
~~yet been reached with regard to the proposed~~
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scheme of retiring allowances for non-
pensionable Nursing Sisters, ~~as~~ replies to
the Circular on the subject are still
awaited from the Govts. of several Cols.
before a decision is taken.
I have, etc.

A

(Signed) L. S. AMERY

KENYA.

No. 97



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
5 MAR 1927
COL. OFFICE

8th February, 1927.

Sir,

I have the honour to transmit a petition which has been drawn up and signed by Nursing Sisters in the Medical Department in regard to the creation of further pensionable posts in the Nursing Establishment.

I am averse in general at present from recommending individual additions to the pensionable establishment, as the whole question is a most difficult matter requiring comprehensive consideration. At the same time I observe that the Duke of Devonshire was disposed to agree in principle with the proposal put forward in Sir Charles Bowring's despatch No. 542 of the 4th April, 1923, that the number of pensionable posts in the Nursing Service should be increased approximately to one third of the total establishment, though its application was postponed until the financial position improved.

2. I share the view previously expressed and consider that the extension of pensionable status would be justified to 10 out of the existing establishment of 32 posts.

Petition dated
31-12-1926.

Recd 289

Gov 21991

THE RIGHT HONOURABLE
LIEUTENANT COLONEL
L. C. M. S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON S.W.

3. In making this recommendation I have not lost sight of the fact that little difficulty appears to be experienced in recruitment under existing conditions and that no case of hardship by the present limitation of pensionable posts has been brought to notice since Sisters who have completed more than two tours have almost automatically proceeded in the end to a pensionable position. There seems, however, to be no guarantee that the contingency will continue to be met in this manner, and it is advisable to make provision to encourage Sisters with local experience to remain in the Service rather than to have frequent changes and engage new recruits to complete the establishment.

4. I shall be glad to learn whether you are disposed to accept my recommendations for immediate introduction.

5. In this connection I venture to refer to the correspondence terminating with your telegram of the 28th May last on the subject of a scheme of retiring allowances for Nursing Sisters engaged through the Overseas Nursing Association. I presume that it has been decided not to proceed with the proposal outlined in your Circular despatch of the 16th April last.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. M. [Signature]

ACTING GOVERNOR.

OTNA
54379/15/2
54379

M9
54379
25
Spind.

3rd Dec 1926.

To:—

His Excellency the Governor,

Through:

The Honourable Director of Medical & Sanitary Services,

And:

The Honourable Acting Colonial Secretary,
KENYA COLONY AND PROTECTORATE.

Your Excellency,

We, the Nursing Sisters in Government Service in the Colony and Protectorate of Kenya, desire to bring to the notice of Your Excellency a subject on which we feel very strongly. We are confident that our petition will receive Your Excellency's sympathetic consideration and support.

2. At present there are 19 posts of Nursing Sister, but of these three only are permanent and pensionable. We feel this to be a very grave injustice to the nursing staff, making an invidious distinction between this and practically every other branch of Government Service.

In the majority of appointments for males engagement for a second tour of service carries with it pensionable privileges. In the Education Department no differentiation is made as to pensionable status between the sexes. Female postal clerks and telegraphists are (with the exception of a few young girls locally engaged) on the permanent establishment, and in other Departments female clerks are pensionable.

3. It is perhaps hardly necessary to point out to Your Excellency that every member of the Nursing Staff is highly trained and the majority holds at least two certificates of

Our work is as hard, our duties as exacting and our qualifications as high as in any of the branches mentioned but we find ourselves adversely treated in this important matter.

4. We would urge that from the point of view of efficiency it is desirable to encourage the best of the nurses to remain in the service of the Colony as a nurse with experience of this country is, other things being equal, surely of more value than a new recruit; and we submit, one tour of service is a sufficient period to enable Government to decide whether a nurse's services should be retained or not.

5. It is, of course, obvious that from the cold financial aspect it is cheaper for Government to dismiss nurses who have reached their maximum salaries and engage recruits who commence at the bottom of the scale, but we cannot believe that such a cynical attitude has Your Excellency's approval.

6. It is practically impossible on present salaries to save for future needs, so old age remains without provision. Opportunities of promotion in the Colony are non-existent, and return to Home service becomes increasingly difficult after one or two tours in the Colonies, as one gets out of touch with Home conditions.

7. For these reasons we most earnestly plead that Your Excellency will support our contention and, at the earliest possible date, approach the Secretary of State with a view to removing what we cannot but feel to be a flagrant injustice.

8. Our petition is that all Nursing Sisters after one satisfactory tour of service be placed on the permanent and pensionable establishment.

9. We do not wish to encroach further on Your Excellency's time, but we would ask that if the case herein advanced be not convincing or if any points remain obscure Your Excellency will be so good as to grant an interview to a small deputation.

We have the honour to be,
Your Excellency's most humble and
obedient servants,

Rae Anderson
Agnes K. Wilson
Nellie Rinder
Annie E. Davis

Mina G. Rhind

J. M. Siggart.

Li Rogers

Tom Kenny-

J. A. Nicholson.

M. S. Neville

B. A. Robinson

Annie Hagan

H. E. Michan.

M. G. Rice-Oxley

Wang K. K.

S. I. Beazley

H. K. Hamman

M. K. Lead

P. K. D. Little

W. B. Sharp

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W. Rogers

Tom Kenny

J. G. Nichols

Mrs. Neville

B. A. Robinson

Annie Hagan

H. E. Michener

M. G. Rice-Osley

Wm. P. Roche

S. I. Bealey

H. B. Bannan

M. H. Haddock

P. K. Dutton

Wm. P. Roche

1927

Kenya

No. 10217 C0533/368

SUBJECT

Kenya Uganda Railway Bill.

Previous

C.O. 4035/26

Subsequent

15005/28
(Amendment O.C.)
15066/28
(Bill)

X. 10217

K

KENYA

X. 10217

1A

1927



1927

KENYA UGANDA RAILWAY BILL.

Previous

C.O. 7035 F
destroyed 26

Ala	3/1/28
Ed	7/1/28
Mr Richardt	10
Mr Wiseman	10/1
Mr Bottomley	11/1
Mr Bottomley	11/1
Room 4	12/1
no Leake	18 JAN 1928

Subsequent

① X. 15005/28
(part bond)

② X. 15066/28
by Bell

Room 1	1/3
Mr Allen	2/3
Room 1	1/3
Mr Allen	1/3
Room 3	1/3
Room 1	2/3
Mr Allen	2.5
Mr Allen	3/5
Mr Allen	5/5
Mr Allen	6/5
Mr Allen	7
X 5A	20/5
Ed	30
Room 1	✓

X. 10217
27

1
2

1 ——— OAC's Dep. Northcott ——— 27 February 1927

101

Trs, with comments, twelve copies of the draft Kenya and Uganda Railway Bill, which he proposes to introduce at the Session of the Legislative Council beginning on 8th March.

A Gazette copy of the Bill has not been attached as the Bill has not come. Also of the attached 3PN & Kapuleli.

ST/KEE

17/3 at table

AG to AG of Col Sec (answ) con **15 MAR 1927**

2 ——— Ag. Gov. Dep. Northcott ——— 26 Feb 1927

175

In this stated is advised that it is unnecessary to insert but not after meeting. Reg. case in the Bill.

the Bushe
written to Bottomley

No action seems called for until we have the Ordinance, but I cannot advise on the position.

Good
25:7

As regards 13 they go me better even than the dropped clause in the Bill. It has incorporated the phrase "a business principles" which will have been.

~~Guarantee of... to the... Commission~~

~~They... of... of...~~

Unless the section is to be acquiesced in, I assume that it would be discussed with Mr. Grogg & Mr. Pelling while they are here. For the rest it of course necessary to await the Orders.
W. H. Allen

3/5/27

... ..
... ..
... ..

It is not so much fully with § 13 to
... ..
... ..

See § 21 of
appears A
to

... ..
... ..
... ..
... ..

... ..
... ..
... ..
... ..

... ..
... ..

W. H. Allen
6.5.27

to ——— Mr. Pol. Sec. ——— 5 May 1927

Three copies to Library.

Two 12 copies of draft Kenya and Uganda Railway Bill.

Party / West
30.5.27.
a case

Mr. ...

6 of Gov. Donham 785. ——— 8th Dec 1927
Transmits two authenticated copies of the Kenya and Uganda Railway Ordinance 1927 together with copy of legal report by the attorney general.
(1 spare copy to library)

The only question of policy seems to have been concerned with 2.13. which Mr. Bostwick was not prepared to continue opposing (minute of 6.5.27).
Therefore subject to legal
? Sanction L.F.

R. W.
7/1/28
A. H.
10/1/28

to

Noted off
1/1/28

7 to Gov 78 / 6 and 1

19 JAN 1928

9/3

46



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA A.

AS. No. 795

December, 1927.

Sir,

With reference to Kenya Despatches
No. 101 of the 8th February, 1927, and No.135
of the 24th February, 1927, respectively,
I have the honour to transmit herewith two
authenticated copies of "An Ordinance to Pro-
vide for the Regulation, Control and Management
of Railways and Steamer Services in the Colony
and Protectorate of Kenya, and for matters
incidental thereto" - No.XV of 1927, together
with a copy of the Legal Report by the Attorney
General.

*not
No 3
1/2*

Ordinance.

Legal Report.

16 p. 11

2. This Ordinance passed its third reading
in the Legislative Council on the 13th September,
1927, and ^{Sir Edward Gegg} assented to it in the name of His
Majesty on the 22nd October, 1927.

3. Twelve printed copies of the Ordinance
will be sent to you in due course.

I have the honour to be,

Sir,

Your most obedient, humble servant,
W. H. Denham

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET

GOVERNOR'S DEPUTY.

(L.S.)

EDWARD GRIGG.

[22ND OCTOBER, 1927.]

No. XV.

1927



Colony and Protectorate of Kenya.

IN THE EIGHTEENTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

EDWARD WILLIAM MACLEAY GRIGG,

K.C.V.O., C.M.G., D.S.O., M.C.,

Governor.

An Ordinance to Provide for the Regulation, Control and Management of Railways and Steamer Services in the Colony and Protectorate of Kenya, and for matters incidental thereto.

[22ND OCTOBER, 1927]

Date of Assent

BY PROCLAMATION

Date of commencement

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows

PRELIMINARY.

1. This Ordinance may be cited as "The Kenya and Uganda Railway Ordinance, 1927," and shall come into force on such date as the Governor shall by proclamation in the Gazette appoint.

Short title and commencement.

Interpretation.

2. In this Ordinance, unless the context otherwise requires:—

"Animals" includes animate things of every kind except human beings.

"Fare" includes all sums received or receivable, charged or chargeable, for conveyance of passengers upon or along the railways or on any ship.

"Firebreak" means a strip of land cleared and maintained in a clean state by burning, ploughing or any similar or other method.

"Free pass" means an authority in writing given to any person to travel as a passenger on the railways or on any ship without the payment of any fare.

"Freight" includes all sums received or receivable, charged or chargeable, for the transport of goods.

"General Manager" means the officer appointed by the High Commissioner as such pursuant to the provisions of the Order in Council.

"Goods" means goods, luggage, or other movable property of any description, and includes animals and birds, whether alive or dead.

"Harbours" means and includes all the ports on the lakes of the Colony, and also includes the relative areas thereto, together with the wharves, slips, docks, and breakwaters, and the machinery, plant, tools, and other property appertaining thereto.

"High Commissioner" means the High Commissioner for Transport established by the Order in Council.

"Imprisonment" means imprisonment of either description.

"Luggage" means such articles of necessity of personal use and convenience as, being enveloped in some kind of package, are usually carried by passengers for their personal use, but does not include merchandise or other valuables which, though carried in the trunks of passengers or otherwise, are not designed for any such use, but are for sale or other like purposes.

"Master" in relation to a ship, means any person (other than a pilot) having charge of that ship.

"Order in Council" means the Kenya and Uganda (Transport) Order in Council, 1925.

"Perishable goods" means goods liable to rapid deterioration, and includes fish, fruit, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, dogs, small animals, birds, poultry, and any other thing which may hereafter be declared by the High Commissioner by proclamation in the Gazette to be perishable goods.

"Police officer" includes any member of the Police Force.

"Railway" means the whole or any portion of the railways.

"Railway Advisory Council" means the Kenya and Uganda Railway Advisory Council established by the Order in Council.

"Railways" means and includes all lines of railway of which the High Commissioner has the control, working and management, and all lands, stations, sidings, buildings, plant, machinery, rolling-stock, and all other movable and immovable property used in connection therewith.

"Railway and Harbour Fund" means the fund established by the Order in Council.

"Regulation" means any regulation made and in force in accordance with this Ordinance.

"Rolling-stock" means locomotive engines, tenders, motors, coaches, wagons, trucks and trolleys of all kinds.

"Servant" means any person employed in the Services.

"Services" means the Services as defined in the Order in Council.

"Ship" includes any ship, vessel, tug, lighter or boat of any kind whatsoever used by the Services, whether propelled by steam or otherwise, or towed.

"Traffic" includes not only passengers and their luggage and goods conveyed by the High Commissioner, but also rolling-stock.

"Train" means a locomotive engine or motor by itself, or any rolling-stock that is drawn or propelled along a railway or is in course of being drawn or propelled along a railway by a locomotive engine or motor.

"Ticket" includes a single ticket, a return ticket, a season ticket, a trip-bearer ticket (when date-stamped at a booking office) and any other written authority (not being a free pass) for a person to travel as a passenger on the railways.

"Warehouse" means any building or place provided or used by the High Commissioner or by any railway servant in charge of a station for the purpose of storing or depositing goods. Where it is more convenient to the High Commissioner that the goods to be warehoused shall remain in trucks, those trucks when placed in a siding shall, for the purposes of this Ordinance, be deemed a warehouse.

CHAPTER I.

POWERS OF THE HIGH COMMISSIONER.

3. In addition to the powers conferred on him by the Order in Council, the High Commissioner shall have power as follows:—

(a) In so far as is not inconsistent with the provisions of any law to acquire, take, use, hire, purchase, work, sell, lease, deliver, transfer, or otherwise lawfully dispose of property, whether movable or immovable, including water, ships, and other rights for railway or harbour purposes, and turn the same to account;

(b) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the Services, including contracts for the supply of water or electric energy to ships or to persons; and to grant powers of attorney and like authorities;

Powers of High
Commissioner

(c) To construct any lines of railway or any roads or any other works whatever, or to negotiate with any person for the construction of lines of railway, roads or works of any kind, and to complete agreements concerning the same. No railway for the conveyance of public traffic and no harbour or similar work shall be constructed without the sanction of the Legislative Council, and no such sanction shall be given without a prior report thereon or on any alternative railway line or harbour by the Railway Advisory Council, but the sanction of the Legislative Council shall not be necessary for the construction of sidings or short branch lines to mines, stores, warehouses, or other works or premises, or for other purposes;

(d) To erect, maintain and regulate lighthouses, beacons, port lights and signal stations within his jurisdiction, and to provide the necessary staffs for the same;

(e) To establish and maintain lifeboats, life-saving apparatus and such other works, institutions or appliances as may be necessary for the requirements of any harbour or other place;

(f) To transport and convey upon the railways and ships or upon any road all such traffic as may be offered to him for transport and conveyance, but subject to the rules or by-laws of any local authority having control of the roads over which such traffic is transported or conveyed;

(g) To delegate to the General Manager any of the powers conferred upon him by this Ordinance:

(h) Generally to execute and do all such acts, deeds and things as may be necessary for the control, working, management and construction of railways, harbours and ships.

4. (1) Subject to the provisions of this Ordinance and, in the case of immovable property, to the provisions of any enactment for the time being in force for the acquisition or resumption of land for public purposes the High Commissioner may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force:—

Authority of
the High
Commissioner to
execute all
necessary works.

"Ship" includes any ship, vessel, tug, lighter or boat of any kind whatsoever used by the Services, whether propelled by steam or otherwise, or towed.

"Traffic" includes not only passengers and their luggage and goods conveyed by the High Commissioner, but also rolling-stock.

"Train" means a locomotive engine or motor by itself, or any rolling-stock that is drawn or propelled along a railway or is in course of being drawn or propelled along a railway by a locomotive engine or motor.

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(a) In so far as is not inconsistent with the provisions of any law to acquire, take, use, hire, purchase, work, sell, lease, deliver, transfer, or otherwise lawfully dispose of property, whether movable or immovable, including water, ships, and other rights for railway or harbour purposes, and turn the same to account;

(b) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the Services, including contracts for the supply of water or electric energy to ships or to persons; and to grant powers of attorney and like authorities;

Powers of High Commissioner

(c) To construct any lines of railway or any roads or any other works whatever, or to negotiate with any person for the construction of lines of railway, roads or works of any kind, and to complete agreements concerning the same. No railway for the conveyance of public traffic and no harbour or similar work shall be constructed without the sanction of the Legislative Council, and no such sanction shall be given without a prior report thereon or on any alternative railway line or harbour by the Railway Advisory Council, but the sanction of the Legislative Council shall not be necessary for the construction of sidings or short branch lines to mines, stores, warehouses, or other works or premises, or for other purposes;

(d) To erect, maintain and regulate lighthouses, beacons, port lights and signal stations within his jurisdiction, and to provide the necessary staffs for the same;

(e) To establish and maintain lifeboats, life-saving apparatus and such other works, institutions or appliances as may be necessary for the requirements of any harbour or other place;

(f) To transport and convey upon the railways and ships or upon any road all such traffic as may be offered to him for transport and conveyance, but subject to the rules or by-laws of any local authority having control of the roads over which such traffic is transported or conveyed;

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4. (1) Subject to the provisions of this Ordinance and, in the case of immovable property, to the provisions of any enactment for the time being in force for the acquisition or resumption of land for public purposes the High Commissioner may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force:—

Authority of the High Commissioner to execute all necessary works.

(a) Make or construct in, upon, across or over any lands, or any streets, roads, railways, tramways, or any rivers, canals, streams, or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper;

(b) Alter the course of any rivers, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over, and under them, and divert or alter, as well temporarily as permanently, the course of any rivers, streams or water courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the High Commissioner may think proper;

(c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to the railway;

(d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, engines, machinery, apparatus, and other works and conveniences as the High Commissioner may think proper;

(e) Alter, repair or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead;

(f) Take, carry away and use any earth, stone, timber, gravel or sand, or any other materials or things out of any land contiguous to such railway and other works and which may be proper or necessary for making, maintaining, altering, repairing, or using such railway or works;

(g) Sink wells, construct dams and all other works necessary for providing a water supply; and

(h) Do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on the High Commissioner by sub-section (1) shall be subject to the control of the Governor in Council.

5. The High Commissioner may, for the purpose of exercising the powers conferred upon him by this Ordinance, alter the position of any pipe for the supply of gas, water, or compressed air, or the position of any electric wire, or of any drain not being a main drain:

Alteration of pipes, wires, and drains.

Provided that—

(a) When the High Commissioner desires to alter the position of any such pipe, wire or drain, he shall give reasonable notice of his intention to do so, and of the time at which he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) A local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.

6. It shall be lawful for the High Commissioner or any person authorised by him, in case of any accident from whatever cause happening or being apprehended to any cutting or embankment or other works connected with any railway, to enter upon any land adjoining such railway for the purpose of repairing any damage caused by such accident or of guarding against any apprehended accident and to do such work as may be necessary for the purpose.

Powers in case of accident.

7. Subject to the control of the Governor in Council, the High Commissioner may take, or cause to be taken, water for the purposes of the Services:—

Power of High Commissioner to take water for railway purposes.

(a) From any river, stream, pan or other natural source;

(b) From any dam, furrow or artificial works used for the storage or distribution of water upon payment of compensation to the owner of such dam or furrow or artificial works: Provided that a sufficient supply be left

- (a) Make or construct in, upon, across or over any lands, or any streets, roads, railways, tramways, or any rivers, canals, streams, or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper;
- (b) Alter the course of any rivers, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over and under them, and divert or alter, as well temporarily as permanently, the course of any rivers, streams or water courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the High Commissioner may think proper;
- (c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to the railway;
- (d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, engines, machinery, apparatus, and other works and conveniences as the High Commissioner may think proper;
- (e) Alter, repair or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead;
- (f) Take, carry away and use any earth, stone, timber, gravel or sand, or any other materials or things out of any land contiguous to such railway and other works and which may be proper or necessary for making, maintaining, altering, repairing, or using such railway or works;
- (g) Sink wells, construct dams and all other works necessary for providing a water supply; and
- (h) Do all other acts necessary for making, maintaining, altering or repairing and using the railway.
- (2) The exercise of the powers conferred on the High Commissioner by sub-section (1) shall be subject to the control of the Governor in Council.

5. The High Commissioner may, for the purpose of exercising the powers conferred upon him by this Ordinance, alter the position of any pipe for the supply of gas, water, or compressed air, or the position of any electric wire, or of any drain not being a main drain:

Alteration of pipes, wires, and drains.

Provided that—

- (a) When the High Commissioner desires to alter the position of any such pipe, wire or drain, he shall give reasonable notice of his intention to do so, and of the time at which he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;
- (b) A local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.
6. It shall be lawful for the High Commissioner or any person authorised by him, in case of any accident from whatever cause happening or being apprehended to any cutting or embankment or other works connected with any railway, to enter upon any land adjoining such railway for the purpose of repairing any damage caused by such accident or of guarding against any apprehended accident and to do such work as may be necessary for the purpose.
7. Subject to the control of the Governor in Council, the High Commissioner may take, or cause to be taken, water for the purposes of the Services:—
- (a) From any river, stream, pan or other natural source;
- (b) From any dam, furrow or artificial works used for the storage or distribution of water upon payment of compensation to the owner of such dam or furrow or artificial works: Provided that a sufficient supply be left

Powers in case of accident.

Power of High Commissioner to take water for railway purposes.

to the owners or occupiers of land entitled to the use of such water for household and agricultural purposes and for watering their stock.

Payment of compensation.

8. (1) The High Commissioner shall do as little damage as possible in the exercise of the powers conferred by sections 4, 5, 6 and 7, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation or any compensation payable under section 7 (b), but in case of dispute the amount thereof shall be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15 both inclusive, sections 18 to 34 both inclusive, and sections 53 and 54 of the Indian Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.

Accommodation works.

9. (1) The High Commissioner shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) Such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from the railway, as may, in the opinion of the High Commissioner, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and

(b) All necessary arches, tunnels, culverts, drains, water courses or other passages over or under or by the sides of the railway of such dimensions as will, in the opinion of the High Commissioner, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be

(2) Subject to the other provisions of this Ordinance the works specified in paragraphs (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

(a) There shall be no obligation on the High Commissioner to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

(b) Save as hereinafter in this chapter provided, there shall be no obligation on the High Commissioner to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) Where the High Commissioner has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, there shall be no obligation on the High Commissioner to provide other accommodation for the crossing of the road or stream.

10. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the High Commissioner to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the High Commissioner, or as, in the case of difference of opinion, may be agreed upon by the Governor in Council and the High Commissioner.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

11. (1) Where it is proposed to construct a railway across a public road, the Governor in Council may require the High Commissioner either to carry the railway across such road on the level or to carry the railway over or under such road by means of a bridge or arch with convenient ascents

Crossing of public roads.

to the owners or occupiers of land entitled to the use of such water for household and agricultural purposes and for watering their stock.

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(b) All necessary arches, tunnels, culverts, drains, water courses or other passages over or under or by the sides of the railway of such dimensions as will, in the opinion of the High Commissioner, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway or as nearly so as may be

(2) Subject to the other provisions of this Ordinance the works specified in paragraphs (a) and (b) of sub-section (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

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(b) Save as hereinafter in this chapter provided, there shall be no obligation on the High Commissioner to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) Where the High Commissioner has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, there shall be no obligation on the High Commissioner to provide other accommodation for the crossing of the road or stream.

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Power for owner, occupier or local authority to cause additional accommodation works to be made

11. (1) Where it is proposed to construct a railway across a public road, the Governor in Council may require the High Commissioner either to carry the railway across such road on the level or to carry the railway over or under such road by means of a bridge or arch with convenient ascents

Crossing of public roads.

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and descents and other convenient approaches, and to execute such other works as, in the circumstances of the case, may appear to the Governor in Council to be necessary for the public safety and convenience.

(2) Where a railway has been constructed across a public road on the level, the Governor in Council may at any time, if it appears to him necessary for the public safety and convenience, require the High Commissioner to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, and to execute such other works as, in the circumstances of the case, may appear to the Governor in Council to be best adapted for removing or diminishing the danger arising from the level crossing and for meeting the convenience of the public.

(3) Provided that before requiring the High Commissioner to execute any works under this section, the Governor in Council shall communicate with the High Commissioner and with the authority responsible for the maintenance of such public road, and shall take into consideration any representations made by the High Commissioner and such authority respectively.

(4) The manner of construction and the apportionment of cost (both construction and maintenance) of any works executed under this section shall be determined by agreement between the High Commissioner and the authority, and in the absence of such agreement shall be determined in such manner as may be agreed upon by the Governor in Council and the High Commissioner.

Removal of trees dangerous to or obstructing the working of a railway

12. In either of the following cases, namely:—

(a) Where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic;

(b) When a tree obstructs the view of any fixed signal,

the High Commissioner may cause the tree to be cut down or deal with it in such other manner as will, in his opinion, avert the danger or remove the obstruction, as the case may be.

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CHAPTER II.

WORKING OF THE SERVICES.

13. The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport. So far as may be, subject to such provisions as may be considered necessary to meet contingencies, the total earnings of the Services shall not be more than sufficient to meet:—

General policy as to working of Services.
Appropriation of earnings.

(a) The necessary outlays for working and maintenance;

(b) Contributions to reserve funds for renewals, betterments, stores and other purposes proper to the Services;

(c) Interest and sinking fund charges due on capital not being capital contributed out of railway or harbour revenue;

(d) Such costs, compensation or damages as may be awarded against the High Commissioner.

Conveyance of Passengers.

14. A copy of the time-table and of the fares and conditions for the time being in force relating to the conveyance of passengers shall be posted up in a conspicuous place at each railway station so as to be visible and accessible.

Time-tables and fares to be posted up.

15. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of there being room available in the train or ship, and, on the train, in a compartment of the class for which the tickets are issued.

Conditions upon which tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is no room available in the train or ship for which the ticket was issued, shall, upon returning the ticket at the earliest opportunity, have his fare refunded.

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(2) Where a railway has been constructed across a public road on the level, the Governor in Council may at any time, if it appears to him necessary for the public safety and convenience, require the High Commissioner to carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, and to execute such other works as, in the circumstances of the case, may appear to the Governor in Council to be best adapted for removing or diminishing the danger arising from the level crossing and for meeting the convenience of the public.

(3) Provided that before requiring the High Commissioner to execute any works under this section, the Governor in Council shall communicate with the High Commissioner and with the authority responsible for the maintenance of such public road, and shall take into consideration any representations made by the High Commissioner and such authority respectively.

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12. In either of the following cases, namely:—

(a) Where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic;

(b) When a tree obstructs the view of any fixed signal,

the High Commissioner may cause the tree to be cut down or deal with it in such other manner as will, in his opinion, avert the danger or remove the obstruction, as the case may be.

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15. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of there being room available in the train or ship, and, on the train, in a compartment of the class for which the tickets are issued.

Conditions upon which tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is no room available in the train or ship for which the ticket was issued, shall, upon returning the ticket at the earliest opportunity, have his fare refunded.

(3) A person for whom there is no room available in any compartment of a train or in that portion of a ship of the class for which he has purchased a ticket and who elects to travel in a compartment of the train or portion of the ship of a lower class shall, on delivering up his ticket and receiving the certificate hereinafter in this section referred to, be entitled to a refund of the difference between the fare paid by him and the fare payable in respect of the class of compartment of the train or portion of the ship in which he has travelled: Provided that a refund shall only be made if at the first opportunity the passenger so travelling has called the attention of the servant in charge of the train or ship to the fact that he is obliged to travel in a compartment of the train or portion of the ship of a class inferior to that mentioned on his ticket, and has received from the servant a certificate showing that he is entitled to the refund.

(4) A servant in charge of a train or ship may, for the purpose of better utilising the accommodation on such train or ship, require a passenger to move from one compartment or cabin to another compartment or cabin of the same class.

(5) The class of coach or compartment shall be from time to time fixed by the High Commissioner, and shall be legibly marked on the outside of each coach or compartment.

(6) Subject to the provisions of this Ordinance or any other law or any regulation, the High Commissioner shall not refuse to carry a passenger who has tendered the proper fare for the journey which he desires to make and the class in which he desires to travel.

(7) The provisions of sub-sections (2) and (3) shall not apply to season tickets.

16. The High Commissioner may refuse to carry, except in accordance with the regulations, a person who appears to be a lunatic or suffering from any contagious or infectious disease, or who appears to be under the influence of liquor, whether or not such person has a ticket or free pass.

17. No person shall enter any coach on a railway or upon any ship for the purpose of travelling therein as a passenger unless he has with him an available free pass or ticket.

Conveyance of lunatics or infectious persons.

Travelling without a free pass or ticket prohibited.

18. (1) If a passenger travels in a train or ship without having an available free pass or ticket with him, or being in or having alighted from a train or ship fails or refuses to present for examination or to deliver up his free pass or ticket immediately on requisition being made therefor, he shall be liable to pay, on the demand of any authorised servant, the excess charge hereinafter in this section mentioned in addition to the ordinary fare for the distance which he has travelled or is travelling, or, if there be any doubt as to the station or harbour from which he originally started, as the fare from the station or harbour from which the train or ship originally started, or, if the tickets of passengers have been examined since the original starting of the train or ship, the ordinary fare from the place where the tickets were examined, or, if they have been examined more than once, the place where they were last examined.

Travelling without free pass or ticket or with insufficient pass or ticket or beyond authorised distance.

(2) If a passenger travels or attempts to travel in a compartment of a train or portion of a ship of a higher class than that for which he has obtained a free pass or ticket, or travels in a train or ship beyond the place authorised by his free pass or ticket, he shall be liable to pay, on the demand of any authorised servant, the excess charge mentioned in sub-section (1), in addition to any difference between any fare paid by him and the fare in respect of such journey as he has made.

(3) The excess charge referred to in sub-sections (1) and (2) shall be:—

(a) Where the passenger has, immediately after incurring the charge and before being requested to produce his free pass or ticket as aforesaid, notified to a servant on duty with the train or ship the fact of the charge having been incurred, two shillings, one shilling, or twenty cents, according as the passenger is travelling or has travelled or has attempted to travel in a compartment of a train or a portion of a ship of the first class, or in a compartment of a train or a portion of a ship of the second class, or in a compartment or carriage of a train or a portion of a ship of any other kind or class; and

(b) In any other case twelve shillings, six shillings, or two shillings, according as the passenger is travelling or has travelled or has attempted to travel in a compartment of a train or a portion of a ship of the first class,

(3) A person for whom there is no room available in any compartment of a train or in that portion of a ship of the class for which he has purchased a ticket and who elects to travel in a compartment of the train or portion of the ship of a lower class shall, on delivering up his ticket and receiving the certificate hereinafter in this section referred to, be entitled to a refund of the difference between the fare paid by him and the fare payable in respect of the class of compartment of the train or portion of the ship in which he has travelled: Provided that a refund shall only be made if at the first opportunity the passenger so travelling has called the attention of the servant in charge of the train or ship to the fact that he is obliged to travel in a compartment of the train or portion of the ship of a class inferior to that mentioned on his ticket, and has received from the servant a certificate showing that he is entitled to the refund.

(4) A servant in charge of a train or ship may, for the purpose of better utilising the accommodation on such train or ship, require a passenger to move from one compartment or cabin to another compartment or cabin of the same class.

(5) The class of coach or compartment shall be from time to time fixed by the High Commissioner, and shall be legibly marked on the outside of each coach or compartment.

(6) Subject to the provisions of this Ordinance or any other law or any regulation, the High Commissioner shall not refuse to carry a passenger who has tendered the proper fare for the journey which he desires to make and the class in which he desires to travel.

(7) The provisions of sub-sections (2) and (3) shall not apply to season tickets.

16. The High Commissioner may refuse to carry, except in accordance with the regulations, a person who appears to be a lunatic or suffering from any contagious or infectious disease, or who appears to be under the influence of liquor, whether or not such person has a ticket or free pass.

17. No person shall enter any coach on a railway or upon any ship for the purpose of travelling therein as a passenger unless he has with him an available free pass or ticket.

Carriage of lunatics or infectious persons

Travelling without a free pass or ticket prohibited

18. (1) If a passenger travels in a train or ship without having an available free pass or ticket with him, or being in or having alighted from a train or ship fails or refuses to present for examination or to deliver up his free pass or ticket immediately on requisition being made therefor, he shall be liable to pay, on the demand of any authorised servant, the excess charge hereinafter in this section mentioned in addition to the ordinary fare for the distance which he has travelled or is travelling, or, if there be any doubt as to the station or harbour from which he originally started, the fare from the station or harbour from which the train or ship originally started, or, if the tickets of passengers have been examined since the original starting of the train or ship, the ordinary fare from the place where the tickets were examined, or, if they have been examined more than once, the place where they were last examined.

(2) If a passenger travels or attempts to travel in a compartment of a train or portion of a ship of a higher class than that for which he has obtained a free pass or ticket, or travels in a train or ship beyond the place authorised by his free pass or ticket, he shall be liable to pay, on the demand of any authorised servant, the excess charge mentioned in sub-section (3), in addition to any difference between any fare paid by him and the fare in respect of such journey as he has made.

(3) The excess charge referred to in sub-sections (1) and (2) shall be:—

(a) Where the passenger has, immediately after incurring the charge and before being requested to produce his free pass or ticket as aforesaid, notified to a servant on duty with the train or ship the fact of the charge having been incurred, two shillings, one shilling, or twenty cents, according as the passenger is travelling or has travelled or has attempted to travel in a compartment of a train or a portion of a ship of the first class, or in a compartment or carriage of a train or a portion of a ship of any other kind or class; and

(b) In any other case twelve shillings, six shillings, or two shillings, according as the passenger is travelling or has travelled or has attempted to travel in a compartment of a train or a portion of a ship of the first class,

Travelling without free pass or ticket or with insufficient pass or ticket or beyond authorised distance

or in a compartment of a train or a portion of a ship of the second class, or in a compartment or carriage of a train or a portion of a ship of any other class or kind :

Provided that the excess charge shall in no case exceed :—

(i) If the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section; or

(ii) If the liability to pay arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If any person wilfully refuses to pay the amounts due by him under this section to any servant demanding the same, it shall be lawful for any station-master or other authorised servant or police officer to arrest that person without warrant and detain him in custody and bring him as speedily as possible before a court having jurisdiction to be dealt with according to law on a charge of such wilful refusal; and he shall be liable to a fine not exceeding five pounds or to imprisonment for a period not exceeding one month or to both such fine and imprisonment : Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.

(5) Any fare or excess charge payable by a passenger under this section shall, on application made to any magistrate by any servant appointed by the High Commissioner in this behalf, be recoverable by the magistrate from the passenger as if it were a further fine imposed on the passenger by the magistrate.

19. (1) If a passenger wilfully alters, obliterates, or defaces, or attempts to alter, obliterate or deface a free pass or ticket with intent to render the date, number or any material portion thereof illegible, he shall be liable to a fine not exceeding ten pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment, and

Altering or defacing free pass or ticket.

shall in addition be liable to a further fine equal to the amount of a single ticket for the journey performed by the class in which he was travelling; and any such altered, obliterated, or defaced free pass or ticket shall be confiscated.

(2) Any person who obtains by false pretences or other fraudulent means or who counterfeits, forges, or alters any ticket, order, receipt for fare or free pass issued by the High Commissioner designed to entitle the holder to travel in the trains or ships of the High Commissioner, or who utters, publishes, or puts into circulation any counterfeit or false ticket, order, receipt for fare or free pass, with intent to defraud the High Commissioner or any other person, or any person who attempts to do any of the foregoing acts, shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

20. If a person sells, or attempts to sell, or parts or attempts to part with the possession of a season ticket, free pass or any half of a return ticket in order to enable any other person to travel therewith, or purchases or receives a season ticket, free pass or half of a return ticket so sold or parted with, he shall be liable to a fine not exceeding ten pounds, or in default of payment, to imprisonment for a period not exceeding one month, and if the purchaser or receiver of the season ticket, free pass or half of a return ticket travels or attempts to travel therewith, he shall be liable to a further fine not exceeding the amount of the single fare for the journey authorised by the ticket.

Transferring season ticket or any half of return ticket.

21. If a person, with intent to defraud the High Commissioner :—

Fraudulent travelling or attempting to travel.

(a) Enters any coach or other rolling-stock on a railway or any ship; or

(b) Uses or attempts to use a single free pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket or pass, a half thereof which has already been so used,

he shall be liable to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, in addition to the amount of the single fare for any distance he may have travelled, together with the excess charge or booking fee described in sub-section (3) of section 18.

or in a compartment of a train or a portion of a ship of the second class, or in a compartment or carriage of a train or a portion of a ship of any other class or kind :

Provided that the excess charge shall in no case exceed :—

- (i) If the liability to pay it arises under sub-section (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that sub-section; or
- (ii) If the liability to pay arises under sub-section (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.
- (4) If any person wilfully refuses to pay the amounts due by him under this section to any servant demanding the same, it shall be lawful for any station-master or other authorised servant or police officer to arrest that person without warrant and detain him in custody and bring him as speedily as possible before a court having jurisdiction to be dealt with according to law on a charge of such wilful refusal; and he shall be liable to a fine not exceeding five pounds or to imprisonment for a period not exceeding one month or to both such fine and imprisonment: Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.
- (5) Any fare or excess charge payable by a passenger under this section shall, on application made to any magistrate by any servant appointed by the High Commissioner in this behalf, be recoverable by the magistrate from the passenger as if it were a further fine imposed on the passenger by the magistrate

Altering or defacing free pass or ticket

19. (1) If a passenger wilfully alters, obliterated, or defaces, or attempts to alter, obliterate or deface a free pass or ticket with intent to render the date, number or any material portion thereof illegible, he shall be liable to a fine not exceeding ten pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment, and

shall in addition be liable to a further fine equal to the amount of a single ticket for the journey performed by the class in which he was travelling; and any such altered, obliterated, or defaced free pass or ticket shall be confiscated.

(2) Any person who obtains by false pretences or other fraudulent means or who counterfeits, forges, or alters any ticket, order, receipt for fare or free pass issued by the High Commissioner designed to entitle the holder to travel in the trains or ships of the High Commissioner, or who utters, publishes, or puts into circulation any counterfeit or false ticket, order, receipt for fare or free pass, with intent to defraud the High Commissioner or any other person, or any person who attempts to do any of the foregoing acts, shall be liable to a fine not exceeding one hundred pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

20. If a person sells, or attempts to sell, or parts or attempts to part with the possession of a season ticket, free pass or any half of a return ticket in order to enable any other person to travel therewith, or purchases or receives a season ticket, free pass or half of a return ticket so sold or parted with, he shall be liable to a fine not exceeding ten pounds, or in default of payment, to imprisonment for a period not exceeding one month, and if the purchaser or receiver of the season ticket, free pass or half of a return ticket travels or attempts to travel therewith, he shall be liable to a further fine not exceeding the amount of the single fare for the journey authorised by the ticket.

Transferring season ticket or any half of return ticket.

21. If a person, with intent to defraud the High Commissioner :—

- (a) Enters any coach or other rolling-stock on a railway or any ship; or
- (b) Uses or attempts to use a single free pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket or pass, a half thereof which has already been so used,

Fraudulent travelling or attempting to travel.

he shall be liable to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, in addition to the amount of the single fare for any distance he may have travelled, together with the excess charge or booking fee described in sub-section (3) of section 18.

No. XV.

Kenya and Uganda Railway

Appropriation
of certain fines.

22. Any further fine or amount recovered under sections 18 to 21, inclusive, shall be paid to the High Commissioner.

*Passengers' Luggage.*Conveyance of
passengers'
luggage

23. The High Commissioner shall convey without charge such amount of luggage as may be prescribed by regulation of public notice for each class of passenger.

Registration
of luggage

24. (1) When passengers' luggage is handed to a servant for conveyance in the luggage van of a train or hold of a ship he shall cause the same to be registered and shall affix to every package a registered number and shall give to the passenger a duplicate of that number: Provided that the High Commissioner shall not be liable for luggage left with a servant or otherwise disposed of on any railway or harbour premises unless such luggage is registered as in this sub-section provided or is deposited in a cloakroom.

(2) Whenever a passenger fails to have his luggage so registered and conveyed in the luggage van of a train or hold of a ship, it is carried at his own risk.

(3) Cloakrooms provided by the High Commissioner shall be deemed to be warehouses established for the sole convenience of passengers and the public.

(4) The High Commissioner shall not be liable for the loss, misdelivery or detention of or damage to any article or package deposited in a cloakroom which exceeds in value the sum of five pounds unless at the time of deposit the value of the article be declared and an additional charge paid for excess value in accordance with the regulations.

Lien on
luggage

25. The High Commissioner shall have a lien upon the luggage of a passenger for the payment of any fare or other charge to which he is entitled from him.

*Conveyance of Goods.*Maximum load
for wagons.

26. (1) The High Commissioner shall determine the maximum load for every wagon or truck in his possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every wagon or truck.

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(2) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the High Commissioner for the class of axle under the wagon or truck.

27. (1) The High Commissioner may, from time to time, fix rates, classify animals and goods, and impose conditions, not inconsistent with this Ordinance or with any regulation with respect to the receiving, forwarding or delivering of any goods.

Power for the
High Com-
missioner to
impose rates
and conditions
for working
traffic.

(2) A copy of the conditions and rates for the time being in force under this section shall be kept at every station, traffic depot or harbour, and the servant appointed by the High Commissioner to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the conditions and rates are authorised by the High Commissioner.

(3) The High Commissioner shall not be bound to carry any animal suffering from any infectious or contagious disorder.

28. (1) If a person fails to pay on demand made by or on behalf of the High Commissioner any rate, terminal or other charge due from him in respect of any goods, the High Commissioner may detain the whole or any of the goods, or, if they have been removed from the railway or from any ship or harbour, any other goods of such person then being in or thereafter coming into his possession.

Lien for rates,
terminals and
other charges.

(2) When any goods have been detained under sub-section (1), the High Commissioner may sell by public auction, in case of perishable goods at once, and in the case of other goods on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, sufficient of such goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the High Commissioner may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the goods, if any, as remain unsold, to the person entitled thereto.

Appropriation
of certain fines.

22. Any further fine or amount recovered under sections 18 to 21, inclusive, shall be paid to the High Commissioner.

*Passengers' Luggage.*Conveyance of
passengers'
luggage

23. The High Commissioner shall convey without charge such amount of luggage as may be prescribed by regulation or by public notice for each class of passenger.

Registration
of luggage

24. (1) When passengers' luggage is handed to a servant for conveyance in the luggage van of a train or hold of a ship, he shall cause the same to be registered and shall affix to every package a registered number and shall give to the passenger a duplicate of that number: Provided that the High Commissioner shall not be liable for luggage left with a servant or otherwise disposed of on any railway or harbour premises unless such luggage is registered as in this sub-section provided or is deposited in a cloakroom.

(2) Whenever a passenger fails to have his luggage so registered and conveyed in the luggage van of a train or hold of a ship, it is carried at his own risk.

(3) Cloakrooms provided by the High Commissioner shall be deemed to be warehouses established for the sole convenience of passengers and the public.

(4) The High Commissioner shall not be liable for the loss, misdelivery or detention of or damage to any article or package deposited in a cloakroom which exceeds in value the sum of five pounds unless at the time of deposit the value of the article be declared and an additional charge paid for excess value in accordance with the regulations.

Lien on
luggage

25. The High Commissioner shall have a lien upon the luggage of a passenger for the payment of any fare or other charge to which he is entitled from him.

*Conveyance of Goods.*Maximum load
for wagons

26. (1) The High Commissioner shall determine the maximum load for every wagon or truck in his possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every wagon or truck.

(2) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the High Commissioner for the class of axle under the wagon or truck.

27. (1) The High Commissioner may, from time to time, fix rates, classify animals and goods, and impose conditions, not inconsistent with this Ordinance or with any regulation with respect to the receiving, forwarding or delivering of any goods.

Power for the
High Commissioner to
impose rates
and conditions
for working
traffic.

(2) A copy of the conditions and rates for the time being in force under this section shall be kept at every station, traffic depot or harbour, and the servant appointed by the High Commissioner to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the conditions and rates are authorised by the High Commissioner.

(3) The High Commissioner shall not be bound to carry any animal suffering from any infectious or contagious disorder.

28. (1) If a person fails to pay on demand made by or on behalf of the High Commissioner any rate, terminal or other charge due from him in respect of any goods, the High Commissioner may detain the whole or any of the goods, or, if they have been removed from the railway or from any ship or harbour, any other goods of such person then being in or thereafter coming into his possession.

Lien for rates,
terminal and
other charges.

(2) When any goods have been detained under sub-section (1), the High Commissioner may sell by public auction, in case of perishable goods at once, and in the case of other goods on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, sufficient of such goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the High Commissioner may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the goods, if any, as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from railway or harbour premises within a reasonable time any goods which have been detained under sub-section (1) or any goods which have remained unsold after a sale under sub-section (2), the High Commissioner may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the preceding sub-sections, the High Commissioner may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

29. (1) When any goods have come into the possession of the High Commissioner for carriage or otherwise and are not claimed by the owner or other person appearing to the High Commissioner to be entitled thereto, the High Commissioner shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the High Commissioner may, within a reasonable time, sell the goods as nearly as may be under the provisions of the last preceding section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

30. Where any goods or sale-proceeds in the possession of the High Commissioner are claimed by two or more persons, or the ticket or receipt given for the goods is not forthcoming, the High Commissioner may withhold delivery of the goods or sale-proceeds until the person entitled in his opinion to receive them has given an indemnity, to the satisfaction of the High Commissioner, against the claims of any other person with respect to the goods or sale-proceeds.

31. (1) The owner or person having charge of any goods which are delivered to the High Commissioner for the purpose of being transported, and the consignee of any goods which have been transported, shall, on the request of any servant appointed in this behalf by the High Commissioner, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the High Commissioner is entitled to charge in respect thereof.

Disposal of unclaimed articles on a railway

Power for the High Commissioner to require indemnity on delivery of goods in certain cases

Requisition for written accounts of description of goods

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the High Commissioner may (a) in respect of goods which have been brought for the purpose of being transported, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time for any class of goods, or (b) in respect of goods which have been transported, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been transported, the High Commissioner may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time for that or any other class of goods.

(4) If any difference arises between a servant and the owner or person having charge, or the consignee, of any goods which have been delivered for transport, or have been transported, respecting the description of goods of which an account has been delivered under this section, the servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the High Commissioner the cost of the detention and examination of the goods, and the High Commissioner shall be liberated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the High Commissioner shall pay the cost of the detention and examination and be responsible to the owner of the goods for any such loss as aforesaid.

32. (1) No person shall be entitled to take with him, or to require the High Commissioner to carry, any dangerous or offensive goods on a train or ship.

Dangerous or offensive goods.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from railway or harbour premises within a reasonable time any goods which have been detained under sub-section (1) or any goods which have remained unsold after a sale under sub-section (2), the High Commissioner may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of sub-section (3).

(5) Notwithstanding anything in the preceding sub-sections, the High Commissioner may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

29. (1) When any goods have come into the possession of the High Commissioner for carriage or otherwise and are not claimed by the owner or other person appearing to the High Commissioner to be entitled thereto, the High Commissioner shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the High Commissioner may, within a reasonable time, sell the goods as nearly as may be under the provisions of the last preceding section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

30. Where any goods or sale-proceeds in the possession of the High Commissioner are claimed by two or more persons or the ticket or receipt given for the goods is not forthcoming, the High Commissioner may withhold delivery of the goods or sale-proceeds until the person entitled in his opinion to receive them has given an indemnity, to the satisfaction of the High Commissioner, against the claims of any other person with respect to the goods or sale-proceeds.

31. (1) The owner or person having charge of any goods which are delivered to the High Commissioner for the purpose of being transported, and the consignee of any goods which have been transported, shall, on the request of any servant appointed in this behalf by the High Commissioner, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the High Commissioner is entitled to charge in respect thereof.

Disposal of unclaimed articles on a railway

Power for the High Commissioner to require indemnity in delivery of goods in certain cases

Requisition for written accounts of description of goods

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the High Commissioner may (a) in respect of goods which have been brought for the purpose of being transported, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time for any class of goods, or (b) in respect of goods which have been transported, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been transported, the High Commissioner may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time for that or any other class of goods.

(4) If any difference arises between a servant and the owner or person having charge, or the consignee, of any goods which have been delivered for transport, or have been transported, respecting the description of goods of which an account has been delivered under this section, the servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the High Commissioner the cost of the detention and examination of the goods, and the High Commissioner shall be liberated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the High Commissioner shall pay the cost of the detention and examination and be responsible to the owner of the goods for any such loss as aforesaid.

32. (1) No person shall be entitled to take with him, or to require the High Commissioner to carry, any dangerous or offensive goods on a train or ship.

Dangerous or offensive goods

(2) No person shall take any such goods with him upon a train or ship without giving notice of their nature to the servant in charge of the place where he brings the goods upon the train or ship, or shall tender or deliver any such goods for carriage upon a train or ship without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the servant to whom he tenders or delivers them.

(3) Any servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in sub-section (2) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from any law in force in the Colony relating to the possession or transport of explosives, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered for carriage by order or on behalf of the Government or to any goods which a member of His Majesty's naval, military or air forces, or a member of any force established by Ordinance for the defence of the Colony, or a police officer or a person enrolled as a volunteer or volunteer reservist may take with him upon a railway in the course of his employment or duty as such.

CHAPTER III.

RESPONSIBILITY OF THE HIGH COMMISSIONER AS CARRIER.

33. (1) The High Commissioner shall, according to his powers, afford all reasonable facilities for the receiving, forwarding and delivery of traffic on the Services.

(2) The High Commissioner shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person in any respect whatsoever, or subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Traffic facilities.

No undue preference.

34. (1) The High Commissioner shall only be liable for loss of life or of personal injury to any passenger when the loss of life or personal injury is caused by the want of ordinary care, diligence or skill on the part of the High Commissioner or of his servants, and shall in no case be liable for loss of life of, or personal injury to, a passenger who is travelling by special permission, whether verbal or written, in any part of a train other than in a passenger coach; or who is travelling on a free pass; or a passenger who is travelling by permission of the Resident Engineer, or any person appointed by him, over any construction line.

(2) For the purposes of this section the term "passenger" shall include every person, other than a servant on duty, lawfully travelling upon a train or ship.

35. (1) Unless the owner or consignor or his representative accompanies the goods and retains control thereof, the High Commissioner shall, subject to the provisions of this Ordinance, be liable for loss of or injury to goods from any cause whatsoever from the time the goods are accepted in accordance with the regulations until delivery of the goods to the consignee or his representative or until the same are placed in a warehouse at the place of destination pursuant to this Ordinance or the regulations, except in the case of—

- (a) an inherent defect, vice or weakness, or some actien of the property itself;
- (b) the act of God;
- (c) inevitable accident;
- (d) the act of the King's enemies or any inevitable superior force;
- (e) the act of the law.

(2) The High Commissioner shall be liable even in the cases excepted by sub-section (1), if the negligence of his servants exposes the property to the cause of the loss.

(3) The High Commissioner shall be liable for loss arising from delay only when it is caused by want of ordinary care and diligence.

Liability in respect of loss of life of or personal injury to passenger.

Measure of general responsibility of the High Commissioner as a carrier of animals and goods.

(2) No person shall take any such goods with him upon a train or ship without giving notice of their nature to the servant in charge of the place where he brings the goods upon the train or ship, or shall tender or deliver any such goods for carriage upon a train or ship without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the servant to whom he tenders or delivers them.

(3) Any servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in sub-section (2) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from any law in force in the Colony relating to the possession or transport of explosives, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered for carriage by order or on behalf of the Government or to any goods which a member of His Majesty's naval, military or air forces, or a member of any force established by Ordinance for the defence of the Colony, or a police officer or a person enrolled as a volunteer or volunteer reservist may take with him upon a railway in the course of his employment or duty as such.

CHAPTER III.

RESPONSIBILITY OF THE HIGH COMMISSIONER AS CARRIER.

33. (1) The High Commissioner shall, according to his powers, afford all reasonable facilities for the receiving, forwarding and delivery of traffic on the Services.

(2) The High Commissioner shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person in any respect whatsoever, or subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Traffic facilities.

No undue preference.

34. (1) The High Commissioner shall only be liable for loss of life or personal injury to any passenger when the loss of life or personal injury is caused by the want of ordinary care, diligence or skill on the part of the High Commissioner or of his servants, and shall in no case be liable for loss of life or personal injury to, a passenger who is travelling by special permission, whether verbal or written, in any part of a train other than in a passenger coach; or who is travelling on a free pass; or a passenger who is travelling by permission of the Resident Engineer, or any person appointed by him, over any construction line.

(2) For the purposes of this section the term "passenger" shall include every person, other than a servant on duty, lawfully travelling upon a train or ship.

35. (1) Unless the owner or consignor or his representative accompanies the goods and retains control thereof, the High Commissioner shall, subject to the provisions of this Ordinance, be liable for loss of or injury to goods from any cause whatsoever from the time the goods are accepted in accordance with the regulations until delivery of the goods to the consignee or his representative or until the same are placed in a warehouse at the place of destination pursuant to his Ordinance or the regulations, except in the case of—

- (a) an inherent defect, vice or weakness, or some action of the property itself;
- (b) the act of God;
- (c) inevitable accident;
- (d) the act of the King's enemies or any inevitable superior force;
- (e) the act of the law.

(2) The High Commissioner shall be liable even in the cases excepted by sub-section (1), if the negligence of his servants exposes the property to the cause of the loss.

(3) The High Commissioner shall be liable for loss arising from delay only when it is caused by want of ordinary care and diligence.

Liability in respect of loss of life or personal injury to passenger.

Measure of general responsibility of the High Commissioner as a carrier of animals and goods.

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Limitation of liability.

36. (1) The liabilities and obligations of the High Commissioner shall not be limited by general notice but may be limited by special contract.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(a) is in writing signed by or on behalf of the person sending or delivery to the High Commissioner the goods, and

(b) is otherwise in a form approved by the Governor in Council :

Provided that nothing in this sub-section contained shall be deemed to apply to any condition, expressed in a contract of carriage, regarding the responsibility of the High Commissioner in respect of any loss, destruction or deterioration of goods which may happen during carriage by ship.

(3) Nothing in the common or statute law of England, regarding the responsibility of common carriers with respect to the carriage of goods, shall affect the responsibility of the High Commissioner as defined in the last preceding section.

Further provision with respect to the liability of the High Commissioner as a carrier of animals

37. (1) The responsibility of the High Commissioner under the two last preceding sections for the loss, destruction or deterioration of animals delivered to the High Commissioner for the purpose of being transported shall not in any case exceed, in the case of horses, fifty pounds a head, or, in the case of mules, twenty pounds, or, in the case of ostriches, camels, or horned cattle, five pounds a head, or, in the case of donkeys, sheep, goats, dogs, or other animals, one pound a head, unless the person sending or delivering them to the High Commissioner caused them to be declared or declared them, at the time of their delivery for transport, to be respectively of higher value than fifty pounds, twenty pounds, five pounds or one pound a head, as the case may be.

(2) Where such higher value has been declared, the High Commissioner may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against the High Commissioner for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

38. The High Commissioner shall not be responsible for the loss, destruction or deterioration of any parcels, luggage or goods unless they shall have been accepted, booked and a receipt granted therefor by a servant.

Further provision with respect to the liability of the High Commissioner as a carrier of luggage, etc.

39. (1) When any articles mentioned in the Schedule are contained in any parcel or package delivered to the High Commissioner for transport, and the value of such articles in the parcel or package exceeds ten pounds, the High Commissioner shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the High Commissioner caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for transport, and, if so required by the High Commissioner, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

Further provision with respect to the liability of the High Commissioner as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) The High Commissioner may make it a condition of carrying a parcel declared to contain any article mentioned in the Schedule that a servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

Limitation of liability.

36. (1) The liabilities and obligations of the High Commissioner shall not be limited by general notice but may be limited by special contract.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(a) is in writing signed by or on behalf of the person sending or delivery to the High Commissioner the goods, and

(b) is otherwise in a form approved by the Governor in Council:

Provided that nothing in this sub-section contained shall be deemed to apply to any condition, expressed in a contract of carriage, regarding the responsibility of the High Commissioner in respect of any loss, destruction or deterioration of goods which may happen during carriage by ship.

(3) Nothing in the common or statute law of England, regarding the responsibility of common carriers with respect to the carriage of goods, shall affect the responsibility of the High Commissioner as defined in the last preceding section.

37. (1) The responsibility of the High Commissioner under the two last preceding sections for the loss, destruction or deterioration of animals delivered to the High Commissioner for the purpose of being transported shall not in any case exceed, in the case of horses, fifty pounds a head, or, in the case of mules, twenty pounds, or, in the case of ostriches, camels or horned cattle, five pounds a head, or, in the case of donkeys, sheep, goats, dogs, or other animals, one pound a head, unless the person sending or delivering them to the High Commissioner caused them to be declared or declared them at the time of their delivery for transport, to be respectively of higher value than fifty pounds, twenty pounds, five pounds or one pound a head, as the case may be.

(2) Where such higher value has been declared, the High Commissioner may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

Further provision with respect to the liability of the High Commissioner as a carrier of goods.

(3) In every proceeding against the High Commissioner for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

38. The High Commissioner shall not be responsible for the loss, destruction or deterioration of any parcels, luggage or goods unless they shall have been accepted, booked and a receipt granted therefor by a servant.

Further provision with respect to the liability of the High Commissioner as a carrier of luggage, etc.

39. (1) When any articles mentioned in the Schedule are contained in any parcel or package delivered to the High Commissioner for transport, and the value of such articles in the parcel or package exceeds ten pounds, the High Commissioner shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the High Commissioner caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for transport, and, if so required by the High Commissioner, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

Further provision with respect to the liability of the High Commissioner as a carrier of articles of special value.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) The High Commissioner may make it a condition of carrying a parcel declared to contain any article mentioned in the Schedule that a servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

Burden of proof in suits in respect of loss of goods.

✓ 40. In any suit against the High Commissioner for compensation for loss, destruction or deterioration of goods delivered to the High Commissioner for transport, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Notification of claims to refunds of over charges and to compensation for losses.

✓ 41. (1) A person shall not be entitled to a refund of an overcharge in respect of passengers or goods transported or to compensation for the loss of goods delivered to be transported, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the High Commissioner within six months from the date of the carriage of the passenger or the delivery of the goods for transport.

(2) A person shall not be entitled to compensation for damage to or the deterioration of goods delivered to be transported unless his claim has been preferred in writing by him or on his behalf to the High Commissioner within one month from the date of the delivery of the goods to the consignee.

Exonerated from responsibility in case of goods falsely described or wrongly addressed.

✓ 42. Notwithstanding anything in the foregoing provisions of this chapter, the High Commissioner shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 31 or in respect of which a wrong or improper or insufficient address for delivery has been given, if the loss, destruction, or deterioration is in any way brought about by the false account or by giving a wrong or improper or insufficient address, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Suits for compensation for injury to through booked traffic.

43. Notwithstanding anything in any agreement purporting to limit the liability of the High Commissioner with respect to traffic while on a railway not included in the Services, a suit for compensation for loss of life, or personal injury to a passenger, or for loss, destruction or deterioration of goods, may be brought against the High Commissioner where the passenger was or the goods were booked through by the High Commissioner over a railway not included in the Services.

✓ 44. (1) When the High Commissioner contracts to carry passengers or goods solely by ship or partly by train and partly by ship, a condition exempting the High Commissioner from responsibility for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by ship from the act of God, the King's enemies, fire, accidents from machinery, boilers, and steam and all and every other dangers and accidents of the seas, lakes, rivers, and navigation of whatsoever nature and kind shall, without being expressed, be deemed to be part of the contract, and, subject to that condition and to any conditions expressed in the contract of carriage, the High Commissioner shall, irrespective of the nationality or ownership of the ship, be responsible for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by ship, to the extent to which he would be responsible under the Merchant Shipping Act, 1894, if the ship were registered under that Act and the High Commissioner were owner of the ship, and not to any greater extent.

Limitation of liability of the High Commissioner in respect of accidents on ship.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by ship shall lie on the High Commissioner.

CHAPTER IV.

ACCIDENTS.

✓ 45. When any of the following accidents occurs in the course of working a railway or in a harbour or ship, namely:—

Report of railway accidents.

(a) Any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code or with serious injury to property;

(b) Any collision between trains or ships of which one is a train or ship carrying passengers;

(c) The derailment of any train carrying passengers or of any part of such a train;

(d) Any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;

Burden of proof in suits in respect of loss of goods.

✓ 40. In any suit against the High Commissioner for compensation for loss, destruction or deterioration of goods delivered to the High Commissioner for transport, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Notification of claims to refunds of over charges and to compensation for losses.

✓ 41. (1) A person shall not be entitled to a refund of an overcharge in respect of passengers or goods transported or to compensation for the loss of goods delivered to be transported, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the High Commissioner within six months from the date of the carriage of the passenger or the delivery of the goods for transport.

(2) A person shall not be entitled to compensation for damage to or the deterioration of goods delivered to be transported unless his claim has been preferred in writing by him or on his behalf to the High Commissioner within one month from the date of the delivery of the goods to the consignee.

Exonerated from responsibility in case of goods falsely described or wrongly addressed.

✓ 42. Notwithstanding anything in the foregoing provisions of this chapter, the High Commissioner shall not be responsible for the loss, destruction or deterioration of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 31 or in respect of which a wrong or improper or insufficient address for delivery has been given, if the loss, destruction, or deterioration is in any way brought about by the false account or by giving a wrong or improper or insufficient address, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Suits for compensation for injury to through booked traffic.

43. Notwithstanding anything in any agreement purporting to limit the liability of the High Commissioner with respect to traffic while on a railway not included in the Services, a suit for compensation for loss of life of, or personal injury to, a passenger, or for loss, destruction or deterioration of goods, may be brought against the High Commissioner where the passenger was or the goods were booked through by the High Commissioner over a railway not included in the Services.

✓ 44. (1) When the High Commissioner contracts to carry passengers or goods solely by ship or partly by train and partly by ship, a condition exempting the High Commissioner from responsibility for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by ship from the act of God, the King's enemies, fire, accidents from machinery, boilers, and steam and all and every other dangers and accidents of the seas, lakes, rivers, and navigation of whatsoever nature and kind shall, without being expressed, be deemed to be part of the contract, and, subject to that condition and to any conditions expressed in the contract of carriage, the High Commissioner shall, irrespective of the nationality or ownership of the ship, be responsible for any loss of life, personal injury or loss of or damage to goods which may happen during the carriage by ship, to the extent to which he would be responsible under the Merchant Shipping Act, 1894, if the ship were registered under that Act and the High Commissioner were owner of the ship, and not to any greater extent.

Limitation of liability of the High Commissioner in respect of accidents on ship.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by ship shall lie on the High Commissioner.

CHAPTER IV.

ACCIDENTS.

✓ 45. When any of the following accidents occurs in the course of working a railway or in a harbour or ship, namely:—

Report of railway accidents.

(a) Any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code or with serious injury to property;

(b) Any collision between trains or ships of which one is a train or ship carrying passengers;

(c) The derailment of any train carrying passengers or of any part of such a train;

(d) Any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;

(e) Any accident of any other description which the Governor may notify in this behalf in the Gazette,

the General Manager shall, without unnecessary delay, send notice of the accident to the Governor, and the station-master or pier-master nearest to the place at which the accident occurred, or, where there is no station-master or pier-master, the railway servant in charge of the section of the railway, or, in the case of a ship, the master of such ship on which the accident occurred shall, without unnecessary delay, give notice of the accident to the magistrate of the district in which the accident occurred, and to the officer in charge of the police station within the local limits of which it occurred, or to such other magistrate and police officer as the Governor appoints in this behalf.

46. The Governor may make rules consistent with this Ordinance and any other enactment for the time being in force for all or any of the following purposes, namely:—

(a) For prescribing the forms of the notices mentioned in the last preceding section, and the particulars of the accident which those notices are to contain;

(b) For prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(c) For prescribing the duties of servants, police officers, inspectors and magistrates on the occurrence of an accident.

47. The General Manager shall send to the Governor a return of accidents occurring upon the railways or ships or at the harbours, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor directs.

48. Whenever any person injured by an accident on a railway or ship or at the harbours claims compensation on account of the injury, any court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

Power to make rules regarding notices of and inquiries into accidents

Submission of return of accidents

Provision for compulsory medical examination of person injured in accident.

CHAPTER V.

GENERAL OFFENCES IN RESPECT OF RAILWAYS, HARBOURS AND SHIPS AND BY SERVANTS.

49. Any person who does or causes or procures to be done any of the following acts, namely, who—

Penalties for certain classes of offences.

(a) Trespasses upon a railway or upon any harbour or ship and refuses to leave after being warned to leave by any servant;

(b) Wilfully gives a false name or address to a servant or police officer for the purpose of avoiding prosecution;

(c) Is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others on the railways or upon any harbour or ship;

(d) Does or attempts to do anything which may cause injury to persons employed or travelling on the railways or upon any ship;

(e) Commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language on the railways or upon any harbour or ship;

(f) Writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation, or character upon the railways or upon any harbour or ship;

(g) Wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp or light upon the railways or upon any harbour or ship;

(h) Defaces the writing on any board or any notice authorised to be maintained upon the railways or upon any harbour or ship;

(i) Damages or attempts to damage any railway rolling-stock or any material used upon or belonging to any railway;

(j) Being a passenger, enters a coach or a compartment of a train or a cabin of a ship which is reserved by the High Commissioner for the use of another passenger or which already contains the maximum number of passengers authorised to be carried therein, and refuses to leave it when required to do so by a servant;

(e) Any accident of any other description which the Governor may notify in this behalf in the Gazette, the General Manager shall, without unnecessary delay, send notice of the accident to the Governor, and the station-master or pier-master nearest to the place at which the accident occurred, or, where there is no station-master or pier-master, the railway servant in charge of the section of the railway, or, in the case of a ship, the master of such ship on which the accident occurred shall, without unnecessary delay, give notice of the accident to the magistrate of the district in which the accident occurred, and to the officer in charge of the police station within the local limits of which it occurred, or to such other magistrate and police officer as the Governor appoints in this behalf.

Power to make rules regarding notices of and inquiries into accidents.

46. The Governor may make rules consistent with this Ordinance and any other enactment for the time being in force for all or any of the following purposes, namely:—

(a) For prescribing the forms of the notices mentioned in the last preceding section, and the particulars of the accident which those notices are to contain;

(b) For prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(c) For prescribing the duties of servants, police officers, inspectors and magistrates on the occurrence of an accident.

Return of report of accidents.

47. The General Manager shall send to the Governor a return of accidents occurring upon the railways or ships or at the harbours, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor directs.

Examination of compensation when persons injured in accident.

48. Whenever any person injured by an accident on a railway or ship or at the harbours claims compensation on account of the injury, any court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

CHAPTER V.

GENERAL OFFENCES IN RESPECT OF RAILWAYS, HARBOURS AND SHIPS AND BY SERVANTS.

49. Any person who does or causes or procures to be done any of the following acts, namely, who—

Penalties for certain classes of offences.

(a) Trespasses upon a railway or upon any harbour or ship and refuses to leave after being warned to leave by any servant;

(b) Wilfully gives a false name or address to a servant or police officer for the purpose of avoiding prosecution;

(c) Is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others on the railways or upon any harbour or ship;

(d) Does or attempts to do anything which may cause injury to persons employed or travelling on the railways or upon any ship;

(e) Commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language on the railways or upon any harbour or ship;

(f) Writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation, or character upon the railways or upon any harbour or ship;

(g) Wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp or light upon the railways or upon any harbour or ship;

(h) Defaces the writing on any board or any notice authorised to be maintained upon the railways or upon any harbour or ship;

(i) Damages or attempts to damage any railway rolling-stock or any material used upon or belonging to any railway;

(j) Being a passenger, enters a coach or a compartment of a train or a cabin of a ship which is reserved by the High Commissioner for the use of another passenger or which already contains the maximum number of passengers authorised to be carried therein, and refuses to leave it when required to do so by a servant;

(k) Being a passenger, resists the lawful entry of another passenger into a coach or a compartment not reserved by the High Commissioner for the use of the passenger resisting, or not already containing the maximum number of passengers to be carried therein or thereon;

(l) Being a passenger, refuses or neglects to obey the lawful request of a servant, acting under sub-section (4) of section 15, within a reasonable time;

(m) After having been refused admission to a ship by a servant on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

(n) Having gone on board a ship at any place, and having been requested on account of the ship being full by a servant to leave the ship before it has quitted that place and had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

(o) Smokes in any part of any ship or any compartment or other part of a coach on a train when smoking is prohibited in that compartment or part;

(p) Enters or attempts to enter or leaves or attempts to leave any coach on a train while it is in motion, or elsewhere than at the side of the coach adjoining the platform or other place appointed by the High Commissioner for passengers to enter or leave the coach, or opens any outer door of any coach on a train while it is in motion;

(q) Travels or attempts to travel on or in any part of a train not intended for the use of passengers;

(r) In the absence of a gatekeeper, omits to shut and fasten any gate on the railway so soon as such person and the animal, vehicle or other things (if any) under his charge have passed through the gate: Provided that the gate is furnished with an efficient latch or fastening easily applied;

(s) Being a driver or conductor of a tramcar, omnibus, carriage or other vehicle, disobeys, while upon the premises of the railways, the reasonable directions of a servant or police officer,

(t) Shall be liable to a fine not exceeding ten pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

✓ 50. Any person who does or causes or procures to be done any of the following acts, namely, who—

Penalties for certain other classes of offences.

(a) Being a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by the High Commissioner for communication between passengers and a servant in charge of or concerned in the running of a train:

(b) Knowing or being in a position to know that a coach, compartment, or other place is reserved for the exclusive use of males or females, or persons of particular races, or different classes of persons, or natives, enters that coach, compartment or other place in contravention of a regulation and without lawful excuse, or having so entered it remains therein after having been desired by a servant to leave it;

(c) Knowing or having reason to believe that an engine or train is approaching along a railway, opens or attempts to open any gate, chain or bar set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take any animal, vehicle or other thing, across the railway;

(d) Pulls down or attempts to pull down or wilfully injures or attempts to injure any board or document set up or posted by order of the High Commissioner on a railway or ship or on any rolling-stock;

(e) Gives or offers to a servant any money or anything of value for the purpose of evading payment of any sum due under this Ordinance;

(f) Being a passenger who to his knowledge is suffering from an infectious or contagious disease, enters or travels upon a railway or ship in contravention of the regulations;

(k) Being a passenger, resists the lawful entry of another passenger into a coach or a compartment not reserved by the High Commissioner for the use of the passenger resisting, or not already containing the maximum number of passengers to be carried therein or thereon;

(l) Being a passenger, refuses or neglects to obey the lawful request of a servant, acting under sub-section (4) of section 15, within a reasonable time;

(m) After having been refused admission to a ship by a servant on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

(n) Having gone on board a ship at any place, and having been requested on account of the ship being full by a servant to leave the ship before it has quitted that place and had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

(o) Smokes in any part of any ship or any compartment or other part of a coach on a train when smoking is prohibited in that compartment or part;

(p) Enters or attempts to enter or leaves or attempts to leave any coach on a train while it is in motion, or elsewhere than at the side of the coach adjoining the platform or other place appointed by the High Commissioner for passengers to enter or leave the coach, or opens any outer door of any coach on a train while it is in motion.

(q) Travels or attempts to travel on or in any part of a train not intended for the use of passengers;

(r) In the absence of a gatekeeper, omits to shut and fasten any gate on the railway so soon as such person and the animal, vehicle or other things (if any) under his charge have passed through the gate: Provided that the gate is furnished with an efficient latch or fastening easily applied.

(s) Being a driver or conductor of a tramcar, omnibus, carriage or other vehicle, disobeys, while upon the premises of the railways, the reasonable directions of a servant or police officer,

shall be liable to a fine not exceeding ten pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

✓ 50. Any person who does or causes or procures to be done any of the following acts, namely, who—

Penalties for certain other classes of offences.

(a) Being a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by the High Commissioner for communication between passengers and a servant in charge of or concerned in the running of a train;

(b) Knowing or being in a position to know that a coach, compartment, or other place is reserved for the exclusive use of males or females, or persons of particular races, or different classes of persons, or natives, enters that coach, compartment or other place in contravention of a regulation and without lawful excuse, or having so entered it remains therein after having been desired by a servant to leave it;

(c) Knowing or having reason to believe that an engine or train is approaching along a railway, opens or attempts to open any gate, chain or bar set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take any animal, vehicle or other thing, across the railway;

(d) Pulls down or attempts to pull down or wilfully injures or attempts to injure any board or document set up or posted by order of the High Commissioner on a railway or ship or on any rolling-stock;

(e) Gives or offers to a servant any money or anything of value for the purpose of evading payment of any sum due under this Ordinance;

(f) Being a passenger who to his knowledge is suffering from an infectious or contagious disease, enters or travels upon a railway or ship in contravention of the regulations;

(e) Being a servant and knowing that a person is a lunatic or suffering from an infectious or contagious disease, wilfully causes that person to travel upon a railway or ship without arranging for his separation from other passengers;

(h) Fails to deliver at the earliest possible opportunity to a servant any property found on any railway, harbour or ship, or removes from a railway, harbour or ship any property so found;

(i) Wilfully obstructs or impedes a servant in the discharge of his duty;

(j) Discharges any firearm, or throws stones, metal, bricks, gravel, timber, glass, bottles, or other articles likely to obstruct or injure anyone engaged in working on or near the railway or harbour, or discharges any firearm from a ship, or attempts to do any of the foregoing acts;

(k) Removes or attempts to remove from a railway or ship or any railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind, or permits any such rolling-stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises;

(l) Permits or allows any animal to stray on a railway provided with fences, subject to such fences being in a proper state of repair;

(m) Drives or knowingly permits any animal to be on any railway otherwise than for the purpose of lawfully crossing the railway, whether he be the owner of the animal or only in charge thereof, provided that such railway be properly fenced,

shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

51. Any person who does or causes or procures to be done any of the following acts, namely, who—

(a) Does any act which obstructs or might obstruct the working of a railway or ship or endangers or might endanger the lives of persons travelling thereon;

Penalties for
grave offences

(b) Without lawful authority, moves any part of the rolling-stock on a railway or leaves the same on any part of a railway;

(c) Without lawful authority, moves any signals, points, wires, sleepers, rails, stop-blocks, or machinery on a railway, or shows any signal likely to mislead;

(d) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift or otherwise causes damage to any ship, or causes any damage to sheds or piers.

(e) Without lawful authority, cuts down, breaks, removes, destroys or injures any fence, building or bridge, or other property in or upon any railway;

(f) Attempts or counsels the doing of or assists or aids in doing, any of the acts mentioned in this section,

shall be liable to imprisonment for a period not exceeding ten years.

52. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling stock forming part of a train or any part of a ship any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train or in or upon such ship, he shall be liable to imprisonment for a period not exceeding ten years.

Endangering
safety of
persons
travelling by
railway or ship.

53. (1) If a minor under the age of sixteen years is, with respect to a railway or ship, guilty of any of the acts mentioned or referred to in any of the four last preceding sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping not exceeding sixteen strokes with a light cane, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts.

Special
provision with
respect to the
commission by
children of acts
endangering
safety of
persons
travelling by
railway or ship

(g) Being a servant and knowing that a person is a lunatic or suffering from an infectious or contagious disease, wilfully causes that person to travel upon a railway or ship without arranging for his separation from other passengers;

(h) Fails to deliver at the earliest possible opportunity to a servant any property found on any railway, harbour or ship, or removes from a railway, harbour or ship any property so found;

(i) Wilfully obstructs or impedes a servant in the discharge of his duty;

(j) Discharges any firearm, or throws stones, metal, bricks, gravel, timber, glass, bottles, or other articles likely to obstruct or injure anyone engaged in working on or near the railway or harbour, or discharges any firearm from a ship, or attempts to do any of the foregoing acts;

(k) Removes or attempts to remove from a railway or ship or any railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind, or permits any such rolling-stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises;

(l) Permits or allows any animal to stray on a railway provided with fences, subject to such fences being in a proper state of repair;

(m) Drives or knowingly permits any animal to be on any railway otherwise than for the purpose of lawfully crossing the railway, whether he be the owner of the animal or only in charge thereof, provided that such railway be properly fenced,

shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both, such fine and imprisonment.

51. Any person who does or causes or procures to be done any of the following acts, namely, who—

(a) Does any act which obstructs or might obstruct the working of a railway or ship or endangers or might endanger the lives of persons travelling thereon;

(b) Without lawful authority, moves any part of the rolling-stock on a railway or leaves the same on any part of a railway;

(c) Without lawful authority, moves any signals, points, wires, sleepers, rails, stop-blocks, or machinery on a railway, or shows any signal likely to mislead;

(d) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift or otherwise causes damage to any ship, or causes any damage to sheds or piers.

(e) Without lawful authority, cuts down, breaks, removes, destroys or injures any fence, building or bridge, or other property in or upon any railway;

(f) Attempts or counsels the doing of or assists or aids in doing, any of the acts mentioned in this section, shall be liable to imprisonment for a period not exceeding ten years.

52. If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling stock forming part of a train or any part of a ship any wood, stone or other matter or thing with intent, or with knowledge that he is likely, to endanger the safety of any person being in or upon such rolling stock or in or upon any other rolling stock forming part of the same train or in or upon such ship, he shall be liable to imprisonment for a period not exceeding ten years.

Endangering
safety of
persons
travelling by
railway or ship.

53. (1) If a minor under the age of sixteen years is, with respect to a railway or ship, guilty of any of the acts mentioned or referred to in any of the four last preceding sections, he shall be deemed, notwithstanding anything in section 82 or section 83 of the Indian Penal Code, to have committed an offence, and the Court convicting him may, if it thinks fit, direct that the minor, if a male, shall be punished with whipping not exceeding sixteen strokes with a light cane, or may require the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts.

Special
provision with
respect to the
commission by
children of acts
endangering
safety of
persons
travelling by
railway or ship

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as a fine.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be liable to a fine not exceeding five pounds.

False returns

54. If any return which is required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

Giving false account of goods

55. If a person requested under section 31 to give an account with respect to any goods wilfully gives an account which is materially false, he shall be liable to a fine not exceeding seventy-five pounds, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway

56. If in contravention of section 32 a person takes with him any dangerous or offensive goods upon a railway or ship, or tenders or delivers any such goods for transport, he shall be liable to a fine not exceeding fifty pounds and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway or ship.

Offences by Servants.

Breach of duty imposed by section 27

57. If a servant whose duty it is to comply with the provisions of sub-section (2) of section 27 negligently or wilfully omits to comply therewith, he shall be liable to a fine not exceeding two pounds.

Drunkenness

58. If a servant is in a state of intoxication while on duty he shall be liable to a fine not exceeding five pounds, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway or ship, to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Endangering the safety of persons

59. If a servant, when on duty, endangers the safety of any person—

(a) by disobeying any regulation made, sanctioned published and notified under this Ordinance; or

(b) by disobeying any rule or order which is not inconsistent with any such regulation, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) by any rash or negligent act or omission,

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

60. If a station master or a servant in charge of a section of a railway omits to give such notice of an accident as is required by this Ordinance he shall be liable to a fine not exceeding five pounds.

Omission to give notice of accidents.

61. If a servant unnecessarily—

Obstructing level crossings.

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level-crossing closed against the public, he shall be liable to a fine not exceeding two pounds.

62. (1) If a servant before leaving the Services shall fail to give to the High Commissioner the notice specified in his agreement (if any) or provided by any regulation under this Ordinance or under the Order in Council, he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from his pay, and shall in addition be liable to a fine not exceeding fifteen pounds.

Leaving service without having given the requisite notice.

(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without having given the notice specified in the preceding sub-section, or of absence without leave, he may be arrested by any police officer without warrant, or the master or any officer may, with or without the assistance of the police, convey him on board the ship.

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant, if a native or Arab, from punishment under the Employment of Natives Ordinance or any Ordinance amending or substituted for the same.

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(2) The amount of the bond, if forfeited, shall be recoverable by the Court as a fine.

(3) If a father or guardian fails to execute a bond under sub-section (1) within the time fixed by the Court, he shall be liable to a fine not exceeding five pounds.

False returns

54. If any return which is required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

Giving false account of goods

55. If a person requested under section 31 to give an account with respect to any goods wilfully gives an account which is materially false, he shall be liable to a fine not exceeding seventy-five pounds, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway

56. If in contravention of section 32 a person takes with him any dangerous or offensive goods upon a railway or ship, or tenders or delivers any such goods for transport, he shall be liable to a fine not exceeding fifty pounds and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway or ship.

Offences by Servants.

Breach of duty with respect to

57. If a servant whose duty it is to comply with the provisions of sub-section (2) of section 27 negligently or wilfully omits to comply therewith, he shall be liable to a fine not exceeding two pounds.

Drunkenness

58. If a servant is in a state of intoxication while on duty he shall be liable to a fine not exceeding five pounds, or where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway or ship, to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Disobeying regulation

59. If a servant, when on duty, endangers the safety of any person—

(a) by disobeying any regulation made, sanctioned published and notified under this Ordinance; or

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(b) by disobeying any rule or order which is not inconsistent with any such regulation, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) by any rash or negligent act or omission,

he shall be liable to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

60. If a station master or a servant in charge of a section of a railway omits to give such notice of an accident as is required by this Ordinance he shall be liable to a fine not exceeding five pounds. Omission to give notice of accidents.

61. If a servant unnecessarily—

Obstructing level crossings

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level-crossing closed against the public, he shall be liable to a fine not exceeding two pounds.

62. (1) If a servant before leaving the Services shall fail to give to the High Commissioner the notice specified in his agreement (if any) or provided by any regulation under this Ordinance or under the Order in Council, he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from his pay, and shall in addition be liable to a fine not exceeding fifteen pounds. Leaving service without having given the requisite notice.

(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without having given the notice specified in the preceding sub-section, or of absence without leave, he may be arrested by any police officer without warrant, or the master or any officer may, with or without the assistance of the police, convey him on board the ship.

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant, if a native or Arab, from punishment under the Employment of Natives Ordinance Cap. 139. or any Ordinance amending or substituted for the same.

penalty for demanding more than is due.

63. Any servant who, with intent to defraud, asks or receives a greater sum or a lesser sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods or for any other services rendered or goods supplied, shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Procedure.

64. (1) If a person commits any offence mentioned in sections 49, 50, 51, 52, 58, 59 and 61, he may be arrested without warrant or other written authority by any servant or police officer or by any other person whom such servant or police officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a magistrate having authority to try him or commit him for trial.

65. (1) If a person commits any offence under this Ordinance, other than an offence mentioned in the last preceding section, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any servant or police officer or any other person whom such servant or police officer may call to his aid may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond, without sureties, for his appearance before a magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest magistrate having jurisdiction.

66. The High Commissioner may appoint so many persons as may be deemed necessary for the duty of maintaining order upon the railways and at the harbours, and when any such person so appointed is carrying out that duty he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed

Appointment of persons to maintain order upon the railways and at the harbours.

Arrest for offences against certain sections

Arrest of persons likely to abscond or unknown.

by a police officer, and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the police force of the Colony, and shall have the benefits of all the indemnities to which a member of the police force would be entitled in like circumstances.

67. (1) Any person committing any offence against this Ordinance shall be triable for such offence in any place in which he may be, or which the Governor may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations or harbours as the Governor may direct.

68. When any act or omission punishable under this Ordinance is also punishable under any other law for the time being in force the offender shall be liable to be prosecuted and punished either under this Ordinance or under such other law but shall not be liable to be punished twice for the same offence.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

69. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of the railways and harbours in aid of the funds of local authorities, namely:—

(1) The High Commissioner shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay the tax.

(2) While a notification of the Governor in Council under paragraph (1) of this section is in force the High Commissioner shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

Place of trial.

Provision as to offences under this Ordinance and any other law.

Taxation of railways by local authorities.

Penalty for demanding more than is due.

63. Any servant who, with intent to defraud, asks or receives a greater sum or a lesser sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods or for any other services rendered or goods supplied, shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Procedure.

Arrest for offences against certain sections.

64. (1) If a person commits any offence mentioned in sections 49, 50, 51, 52, 58, 59 and 61, he may be arrested without warrant or other written authority by any servant or police officer or by any other person whom such servant or police officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a magistrate having authority to try him or commit him for trial.

Arrest of persons likely to abscond or unknown.

65. (1) If a person commits any offence under this Ordinance, other than an offence mentioned in the last preceding section, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any servant or police officer or any other person whom such servant or police officer may call to his aid may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond, without sureties, for his appearance before a magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest magistrate having jurisdiction.

Appointment of persons to maintain order upon the railways and at the harbours.

66. The High Commissioner may appoint so many persons as may be deemed necessary for the duty of maintaining order upon the railways and at the harbours, and when any such person so appointed is carrying out that duty he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed

by a police officer, and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the police force of the Colony, and shall have the benefits of all the indemnities to which a member of the police force would in like circumstances be entitled.

67. (1) Any person committing any offence against this Ordinance shall be triable for such offence in any place in which he may be, or which the Governor may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations or harbours as the Governor may direct.

68. When any act or omission punishable under this Ordinance is also punishable under any other law for the time being in force the offender shall be liable to be prosecuted and punished either under this Ordinance or under such other law but shall not be liable to be punished twice for the same offence.

Provision as to offences under this Ordinance and any other law.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

69. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of the railways and harbours in aid of the funds of local authorities, namely:—

Taxation of railways by local authorities.

(1) The High Commissioner shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay the tax.

(2) While a notification of the Governor in Council under paragraph (1) of this section is in force the High Commissioner shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor in Council may at any time revoke or vary a notification under paragraph (1) of this section.

(4) Nothing in this section is to be construed as debarring the High Commissioner from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a municipal corporation or committee, district board or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or other fund.

70. No compensation shall be payable by the High Commissioner to any owner or occupier of any land contiguous to railway land adjoining a railway in respect of fires caused by sparks from locomotives to the land of such owner or occupier or to any property thereon unless he shall within fourteen days of such fire give notice to the High Commissioner in writing of his intention to make a claim in respect thereof and unless he shall prove that:—

(a) Prior to such fire he had on his land, contiguous to railway land adjoining a railway, a firebreak not less than ten feet wide;

(b) At the time such fire originated he had such firebreak in good condition;

(c) Not less than two months prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak;

(d) In the case of a building and any property therein damaged or destroyed by fire, such building was not within a distance of two hundred feet from the railway.

71. None of the rolling-stock, ships, machinery, plant, tools, fittings, materials or effects used or provided by the High Commissioner and which are necessary for the maintenance of the traffic on the railways and ships or of the stations, harbours or workshops, shall be liable to be taken in execution of any decree or order of any court, or of any local authority or

Restriction of liability for compensation for fires caused by sparks from locomotives.

Restriction on execution against railway property

person having by law power to attach or distrain property or otherwise to cause property to be taken in execution, without the previous sanction of the High Commissioner.

72. (1) Every servant shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

Railway servants to be public servants.

(2) A servant shall not—

(a) purchase or bid for, either in person or by agent in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 28 or section 29; or

(b) in contravention of any direction of the High Commissioner in this behalf, engage in trade.

73. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed: Provided that, in case of a servant dismissed for fraud or dishonesty, the High Commissioner may deduct from any sums payable to such servant under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty.

Disposal of provident fund contributions in event of dismissal from the Service.

74. (1) When the immediate arrest of a servant, either with or without warrant, would be likely to endanger the safety of any person travelling or being upon any railway or ship, or to cause serious inconvenience to the High Commissioner, the police officer whose duty it is to make such arrest shall at once apply to the head of the department to which the servant belongs to relieve such servant, and shall arrange so to watch him that he does not escape, and on such servant being relieved such police officer shall arrest him and proceed according to law.

Arrest of railway servant.

(2) The relief of a servant under the preceding sub-section shall be effected with the least possible delay.

(3) The Governor in Council may at any time revoke or vary a notification under paragraph (1) of this section.

(4) Nothing in this section is to be construed as debarring the High Commissioner from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a municipal corporation or committee, district board or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or other fund.

70. No compensation shall be payable by the High Commissioner to any owner or occupier of any land contiguous to railway land adjoining a railway in respect of fires caused by sparks from locomotives to the land of such owner or occupier or to any property thereon unless he shall within fourteen days of such fire give notice to the High Commissioner in writing of his intention to make a claim in respect thereof and unless he shall prove that:—

(a) Prior to such fire he had on his land, contiguous to railway land adjoining a railway, a firebreak not less than ten feet wide;

(b) At the time such fire originated he had such firebreak in good condition;

(c) Not less than two months prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak;

(d) In the case of a building and any property therein damaged or destroyed by fire, such building was not within a distance of two hundred feet from the railway.

71. None of the rolling-stock, ships, machinery, plant, tools, fittings, materials or effects used or provided by the High Commissioner and which are necessary for the maintenance of the traffic on the railways and ships or of the stations, harbours or workshops, shall be liable to be taken in execution of any decree or order of any court, or of any local authority or

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Restriction on execution against railway property

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Railway servants to be public servants

(2) A servant shall not—

(a) purchase or bid for, either in person or by agent in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 28 or section 29; or

(b) in contravention of any direction of the High Commissioner in this behalf, engage in trade.

73. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed: Provided that, in case of a servant dismissed for fraud or dishonesty, the High Commissioner may deduct from any sums payable to such servant under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty

Disposal of provident fund contributions in event of dismissal from the Services.

74. (1) When the immediate arrest of a servant, either with or without warrant, would be likely to endanger the safety of any person travelling or being upon any railway or ship, or to cause serious inconvenience to the High Commissioner, the police officer whose duty it is to make such arrest shall at once apply to the head of the department to which the servant belongs to relieve such servant, and shall arrange so to watch him that he does not escape, and on such servant being relieved such police officer shall arrest him and proceed according to law.

Arrest of railway servant.

(2) The relief of a servant under the preceding sub-section shall be effected with the least possible delay.

Procedure for summary delivery to High Commissioner of property detained by railway servant

75. If a servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow or any of his family or representatives refuses or neglects, after notice in writing for that purpose, to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner and in the possession or custody of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the High Commissioner or a person appointed by the High Commissioner in that behalf.

Mode of signifying communications from the High Commissioner

76. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the High Commissioner for any of the purposes of, or in relation to, this Ordinance or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to communicate his directions in respect of the matters to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices on the High Commissioner

77. Any notice or other document required or authorised by this Ordinance to be served on the High Commissioner may be served on the General Manager—

(a) by delivering the notice or other document to the General Manager or agent; or

(b) by leaving it at his office; or

(c) by forwarding it by post in a prepaid registered letter addressed to the General Manager or agent at his office.

78. Any notice or other document required or authorised by this Ordinance to be served on any person by the High Commissioner may be served—

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known place of abode of the person; or

(c) by forwarding it by post in a prepaid registered letter addressed to the person at his usual or last known place of abode.

Service of notices by the High Commissioner.

79. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other documents was properly addressed and registered.

Presumption where notice is served by post

80. (1) No action the cause of which shall have arisen after the commencement of this Ordinance shall be brought against the High Commissioner unless the same be commenced within twelve months after the cause of the action arose.

Limitation of actions.

(2) No action shall be commenced against the High Commissioner until one month at least after written notice of intention to commence the action has been served upon the High Commissioner by the plaintiff or by his attorney or agent. In that notice the cause of action and details of the claim shall be clearly and explicitly stated.

(3) In any action against the High Commissioner no execution or attachment or process in the nature thereof shall be issued against the High Commissioner or against any property of His Majesty, but the General Manager shall pay out of the Railway and Harbour Fund such sums of money as shall by the judgment of the court be awarded to the plaintiff.

81. (1) The High Commissioner may authorise the General Manager to act for or represent him, or to appoint any other person to act for or represent him, in any proceeding before any civil, criminal or other court.

Representation of High Commissioner in court.

(2) The General Manager, or any person appointed by him to conduct prosecutions, shall be entitled to conduct such prosecutions without the permission of the magistrate.

Procedure for summary delivery to High Commissioner of property detained by railway servant.

75. If a servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow or any of his family or representatives refuses or neglects, after notice in writing for that purpose, to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner and in the possession or custody of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the High Commissioner or a person appointed by the High Commissioner in that behalf.

Mode of signifying communications from the High Commissioner

76. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the High Commissioner for any of the purposes of, or in relation to, this Ordinance or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to communicate his directions in respect of the matters to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

Service of notices on the High Commissioner

77. Any notice or other document required or authorised by this Ordinance to be served on the High Commissioner may be served on the General Manager—

(a) by delivering the notice or other document to the General Manager or agent; or

(b) by leaving it at his office; or

(c) by forwarding it by post in a prepaid registered letter addressed to the General Manager or agent at his office.

78. Any notice or other document required or authorised by this Ordinance to be served on any person by the High Commissioner may be served—

Service of notices by the High Commissioner.

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known place of abode of the person; or

(c) by forwarding it by post in a prepaid registered letter addressed to the person at his usual or last known place of abode.

79. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other documents was properly addressed and registered.

Presumption where notice is served by post.

80. (1) No action the cause of which shall have arisen after the commencement of this Ordinance shall be brought against the High Commissioner unless the same be commenced within twelve months after the cause of the action arose.

Limitation of actions.

(2) No action shall be commenced against the High Commissioner until one month at least after written notice of intention to commence the action has been served upon the High Commissioner by the plaintiff or by his attorney or agent. In that notice the cause of action and details of the claim shall be clearly and explicitly stated.

(3) In any action against the High Commissioner no execution or attachment or process in the nature thereof shall be issued against the High Commissioner or against any property of His Majesty, but the General Manager shall pay out of the Railway and Harbour Fund such sums of money as shall by the judgment of the court be awarded to the plaintiff.

81. (1) The High Commissioner may authorise the General Manager to act for or represent him, or to appoint any other person to act for or represent him, in any proceeding before any civil, criminal or other court.

Representation of High Commissioner in court.

(2) The General Manager, or any person appointed by him to conduct prosecutions, shall be entitled to conduct such prosecutions without the permission of the magistrate.

CHAPTER VII.

REGULATIONS AND REPEAL.

Regulations.

82. The High Commissioner may, in addition to the powers conferred upon him by the Order in Council, make, vary or revoke regulations, not inconsistent with this Ordinance with respect to any of the following matters, that is to say, with respect to:—

- (1) The mode in which and the speed at which trains are to be propelled or moved, and the times of arrival and departure of any trains or ships or other conveyances, as also the duties of servants in connection with the working of trains and ships;
- (2) The loading or unloading of rolling-stock and the weights or dimensions of goods to be transported on any rolling-stock;
- (3) The collection, receipt, cartage, and delivery of goods transported or to be transported by rail, ships or road or at the harbours;
- (4) The accommodation and convenience of passengers, the manner in which they shall travel, the exclusion of short-distance passengers from long-distance or express trains, the manner of conveying the luggage of passengers, the use of bedding, lavatory accommodation, urinals, and other like conveniences on the trains, ships, or at stations, and the charges which may be fixed for the conveyance of luggage;
- (5) Fares, freight, or other charges, the amount thereof, and the time when and the place where they shall be paid;
- (6) The reservation of railway premises (including conveniences), or of any railway coach or ship or of any portion thereof, for the exclusive use of males or females, or of persons of particular races, or of different classes of persons, and the restriction accordingly of the use of the premises, coach, ship, or portion thereof so reserved;

(7) The proper control and management of any anchorage, dock, basin or harbour within his jurisdiction, and the entrance thereto, the removal of any obstruction therein, and the preservation from injury of any works, buoys, dredgers, ships or other property connected therewith;

(8) The erection of buildings or other structures, or the planting of posts or poles that may interfere with the proper working of any harbour or the signals or beacons thereat;

(9) The licensing or other authorisation of admission on to any trains, ships, or railway premises at any special times of any hotel representatives, or other persons soliciting patronage from passengers, at any railway station or railway premises;

(10) The prohibition of smoking in or on wharves, jetties, quays, buildings or rolling-stock;

(11) The prevention of obstructions and the preservation of good order on railway premises, wharves, jetties, landing places, breakwaters, and other works within his jurisdiction, or the approaches to the same;

(12) The duties and conduct of carmen, draymen, carriers and persons, other than servants, who ply for hire to or from any station, building, or other place which is under the control of the High Commissioner;

(13) The admission of the public to, or their exclusion from, any of the railways, harbours, docks, wharves, jetties and landing places and the charges (if any) to be made for admission, and the closing to the public for such period as the High Commissioner may think fit of any stations, harbours, docks, wharves, jetties, sheds, roads, or landing places under his jurisdiction;

(14) The prevention of damage or injury to any railway station, harbour, dock, slip, wharf, jetty, landing place or other works and premises, ships, railways, rolling-stock, or any property whatever;

(15) The prevention of the commission of any nuisance in or upon the railways, harbours, docks, wharves, jetties or landing places, and generally the promotion and ensuring of good sanitation, cleanliness and decency;

CHAPTER VII.

REGULATIONS AND REPEAL.

Regulations.

82. The High Commissioner may, in addition to the powers conferred upon him by the Order in Council, make, vary or revoke regulations, not inconsistent with this Ordinance with respect to any of the following matters, that is to say, with respect to:—

- (1) The mode in which and the speed at which trains are to be propelled or moved, and the times of arrival and departure of any trains or ships or other conveyances, as also the duties of servants in connection with the working of trains and ships;
- (2) The loading or unloading of rolling-stock and the weights or dimensions of goods to be transported on any rolling-stock;
- (3) The collection, receipt, cartage, and delivery of goods transported or to be transported by rail, ships or road or at the harbours;
- (4) The accommodation and convenience of passengers, the manner in which they shall travel, the exclusion of short-distance passengers from long-distance or express trains, the manner of conveying the luggage of passengers, the use of bedding, lavatory accommodation, urinals, and other like conveniences on the trains, ships, or at stations, and the charges which may be fixed for the conveyance of luggage;
- (5) Fares, freight, or other charges, the amount thereof, and the time when and the place where they shall be paid;
- (6) The reservation of railway premises (including conveniences), or of any railway coach or ship or of any portion thereof for the exclusive use of males or females, or of persons of particular races, or of different classes of persons, and the restriction accordingly of the use of the premises, coach, ship, or portion thereof so reserved;

(7) The proper control and management of any anchorage, dock, basin or harbour within his jurisdiction, and the entrance thereto, the removal of any obstruction therein, and the preservation from injury of any works, buoys, dredgers, ships or other property connected therewith;

(8) The erection of buildings or other structures, or the planting of posts or poles that may interfere with the proper working of any harbour or the signals or beacons thereat;

(9) The licensing or other authorisation of admission on to any trains, ships, or railway premises at any special times of any hotel representatives, or other persons soliciting patronage from passengers, at any railway station or railway premises;

(10) The prohibition of smoking in or on wharves, jetties, quays, buildings or rolling-stock;

(11) The prevention of obstructions and the preservation of good order on railway premises, wharves, jetties, landing places, breakwaters, and other works within his jurisdiction, or the approaches to the same;

(12) The duties and conduct of carmen, draymen, carriers and persons, other than servants, who ply for hire to or from any station, building, or other place which is under the control of the High Commissioner;

(13) The admission of the public to, or their exclusion from, any of the railways, harbours, docks, wharves, jetties and landing places and the charges (if any) to be made for admission, and the closing to the public for such period as the High Commissioner may think fit of any stations, harbours, docks, wharves, jetties, sheds, roads, or landing places under his jurisdiction;

(14) The prevention of damage or injury to any railway station, harbour, dock, slip, wharf, jetty, landing place or other works and premises, ships, railways, rolling-stock, or any property whatever;

(15) The prevention of the commission of any nuisance in or upon the railways, harbours, docks, wharves, jetties or landing places, and generally the promotion and ensuring of good sanitation, cleanliness and decency;

(16) The charges to be made for warehousing goods and for their care or custody, and the terms and conditions upon which they shall be received, and provision for the disposal of unclaimed goods;

(17) The issue of free passes and concession tickets and the prevention of abuse thereof;

(18) The definition for the purposes of this Ordinance of dangerous or offensive goods and the conditions under which and the times when those classes of goods shall be transported, and the prohibition of the transport of those classes of goods, and provision for or sanctioning of the removal or destruction of the same;

(19) The use of railways or railway or harbour land for coal stands, depositing or forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead or underground;

(20) The crossing and the manner of approaching any street, road or thoroughfare by a train;

(21) The construction, use, and maintenance of private sidings and branch lines connected with the railways, and the construction, opening and inspection of new railways, sidings, or branch lines within his jurisdiction;

(22) Advertising, and bookstalls on the railway and at the harbours, and the fixing of the hours and days during which any such bookstall may remain open for the use of the public;

(23) The use of stamps as prepayment upon parcels or goods;

(24) The insurance of persons travelling on the railways;

(25) The sale of liquors and refreshments in refreshment rooms at railway stations and in refreshment cars and on ships;

and generally with respect to the travelling or traffic upon or the use or working of the railways, ships or harbours and for the good government thereof, and the maintenance of order thereon and therein.

The regulations may provide penalties for any contravention thereof or failure to comply therewith, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed a fine of fifty pounds or imprisonment for a period of six months, or both such fine and imprisonment.

As often as the contravention of or failure to comply with any such regulation causes damage to any property under the management or control of the High Commissioner, the person causing the damage shall, in addition to any penalty which may be imposed under the regulation, be liable to make good the same.

A copy of all regulations for the time being in force shall be kept at each station on the railways and at the principal office at each harbour, and any person shall be allowed to inspect the same free of charge.

83. (1) The East Africa Railways Ordinance (Chapter Repeal 115 of the Revised Edition) is hereby repealed:

Provided that all rules, regulations, declarations, and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under the said Ordinance or under any other Ordinance or Order in Council relating to Railways shall, so far as they are consistent with this Ordinance, be deemed to have been respectively made, given, approved, conferred and published under this Ordinance.

(2) All references in any enactment or document to the Ordinance hereby repealed shall be construed as references to this Ordinance.

THE SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See Section 39.)

(a) Gold and silver, coined or uncoined, manufactured or unmanufactured;

(b) Plated articles, coins;

(c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer, or person enrolled as a volunteer or of any public officer, British or foreign, entitled to wear uniform;

(16) The charges to be made for warehousing goods and for their care or custody, and the terms and conditions upon which they shall be received, and provision for the disposal of unclaimed goods;

(17) The issue of free passes and concession tickets and the prevention of abuse thereof;

(18) The definition for the purposes of this Ordinance of dangerous or offensive goods and the conditions under which and the times when those classes of goods shall be transported, and the prohibition of the transport of those classes of goods, and provision for or sanctioning of the removal or destruction of the same;

(19) The use of railways or railway or harbour land for coal stands, depositing or forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead or underground;

(20) The crossing and the manner of approaching any street, road or thoroughfare by a train;

(21) The construction, use, and maintenance of private sidings and branch lines connected with the railways, and the construction, opening and inspection of new railways, sidings, or branch lines within his jurisdiction;

(22) Advertising, and bookstalls on the railway and at the harbours, and the fixing of the hours and days during which any such bookstall may remain open for the use of the public;

(23) The use of stamps as prepayment upon parcels or goods;

(24) The insurance of persons travelling on the railways;

(25) The sale of liquors and refreshments in refreshment rooms at railway stations and in refreshment cars and on ships;

and generally with respect to the travelling or traffic upon or the use or working of the railways, ships or harbours and for the good government thereof, and the maintenance of order therein and therein.

The regulations may provide penalties for any contravention thereof or failure to comply therewith, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed a fine of fifty pounds or imprisonment for a period of six months, or both such fine and imprisonment.

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A copy of all regulations for the time being in force shall be kept at each station on the railways and at the principal office at each harbour, and any person shall be allowed to inspect the same free of charge.

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ARTICLES TO BE DECLARED AND INSURED.

(See Section 39.)

(a) Gold and silver, coined or uncoined, manufactured or unmanufactured;

(b) Plated articles, coins;

(c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer, or person enrolled as a volunteer or of any public officer, British or foreign, entitled to wear uniform;

- (d) Amber, pearls, precious stones, jewellery and trinkets;
- (e) Watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Stamps;
- (h) Bills of exchange, promissory notes, bank notes and orders or other securities for payment of money;
- (i) Maps, plans, writings and title-deeds;
- (j) Paintings, engravings, lithographs, pictures, photographs, carvings, statuary, sculpture and other works of art;
- (k) Art pottery, glass, china and marble;
- (l) Silks in a manufactured or unmanufactured state and whether wrought up or not wrought up with other materials;
- (m) Cameras and cinematograph apparatus (including films);
- (n) Lace, furs and feathers;
- (o) Opium and narcotic preparations;
- (p) Ivory, ebony and sandalwood;
- (q) Musk, sandalwood oil and other essential oils used in the preparation of perfumes;
- (r) Musical and scientific instruments;
- (s) Any article of special value which the High Commissioner may by notification in the Gazette add to this schedule.

Passed in the Legislative Council the thirteenth day of September in the year of Our Lord one thousand nine hundred and twenty-seven.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct printed copy of the said Bill.

G. R. SANDFORD,
Clerk of the Legislative Council.

- (d) Amber, pearls, precious stones, jewellery and trinkets;
- (e) Watches, clocks and timepieces of any description;
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- (s) Any article of special value which the High Commissioner may by notification in the Gazette add to this schedule.

Passed in the Legislative Council the thirteenth day of September in the year of Our Lord one thousand nine hundred and twenty-seven.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct printed copy of the said Bill.

G. R. SANDFORD,
Clerk of the Legislative Council.

LEGAL REPORT.

THE KENYA AND UGANDA RAILWAY BILL,
1927.

The Bill, in the main, reproduces the East Africa Railways Ordinance (Chapter 115 of the Revised Edition). Certain alterations and modifications necessitated by the creation of the office of High Commissioner for Transport have been made.

Provision is made for the working and management of the Kenya and Uganda Railway including the Lake Services. The Bill, apart from certain provisions relating to private railways, does not deal with railways generally.

The responsibility of the High Commissioner as a carrier has been made clear by the substitution of new clauses for section 72 of the East Africa Railways Ordinance by which the responsibility of a railway administration was that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

It is also laid down, following the lines of a provision in the South Africa Act, 1909, that the services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport, and that the earnings of the services shall not be more than sufficient to cover necessary outlay for working and maintenance, and to make provision for reserve funds, renewals and betterments, and interest and sinking fund charges.

Certain restrictions are imposed in respect of claims for damage by the fire caused by sparks from locomotives.

A Comparative Table is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
21st October, 1927.

W.C. Merrard

ATTORNEY GENERAL.

AP.

COMPARATIVE TABLE OF SECTIONS.

THE KENYA AND UGANDA RAILWAY BILL, 1927.

Section.	Railways and Harbours Regulation Act - Union of South Africa, No.22 of 1916.	The East Africa Railways Ordinance (Chapter 115 of the Revised Edition)
1.	Short title.	
2.	Cf. section 2.	Cf. section 2.
3.	Cf. section 3.	
4.	Cf. section 4 of the Railways Expropriation of Lands Ordinance, 1903, Transvaal, No. 20 of 1903.	
5.		Cf. section 8.
6.	Cf. section 6 of the Railways Expropriation of Lands Ordinance, 1903, Transvaal, No. 20 of 1903.	
7.	Cf. section 8 of the Railways Expropriation of Lands Ordinance, 1903, Transvaal, No. 20 of 1903.	
8.		Cf. section 10.
9.		Cf. section 11.
10.		Cf. section 12.
11.	New.	
12.		Cf. section 15.
13.	Cf. section 127, South Africa Act, 1909, 9 Edw. 7, Ch. 9.	
14.	Cf. section 5.	Cf. section 47 (A).
15.	Cf. section 6.	Cf. section 67.

Section.	Railways and Harbours Regulations Act - Union of South Africa, No.22 of 1916.	The East Africa Railways Ordinance (Chapter 115 of the Revised Edition).
16.	Cf. section 7.	Cf. section 71.
17.	Cf. section 9.	Cf. section 68.
18.	Cf. section 10.	Cf. section 113.
19.	Cf. section 11.	Cf. section 113.
20.	Cf. section 12.	Cf. section 114.
21.	Cf. section 13.	
22.	Cf. section 14.	Cf. sections 113. (4) and 115.
23.	Cf. section 15.	
24.	Cf. section 16.	
25.	Cf. section 17.	
26.		Cf. section 53.
27.		Cf. section 54.
28.		Cf. section 55.
29.		Cf. section 56.
30.		Cf. section 57.
31.		Cf. section 58.
32.	Cf. section 28.	Cf. section 59.
33.		Cf. section 42.
34.		Cf. section 58.
35.	Cf. section 18.	

Section.	Railways and Harbours Regulation Act - Union of South Africa, No.22 of 1916.	The East Africa Railways Ordinance (Chapter 115 of the Revised Edition).
36.	Cf. section 19 (2).	Cf. section 72 (2) and (3).
37.	Cf. section 29.	Cf. section 73.
38.		Cf. section 74.
39.		Cf. section 75.
40.		Cf. section 76.
41.		Cf. section 77.
42.		Cf. section 78.
43.		Cf. section 80.
44.		Cf. section 81.
45.	Cf. section 68.	Cf. section 82.
46.		Cf. section 83.
47.	Cf. section 69.	Cf. section 84.
48.	Cf. section 66.	Cf. section 85.
49.	Cf. section 35.	Cf. sections 109, 110, 111, 120, 124 (b) and 118.
50.	Cf. section 36.	Cf. sections 109, 111, 124 (a), 121, 125 and 131.
51.	Cf. section 37.	
52.		Cf. section 129.
53.		Cf. section 130.
54.		Cf. section 105.

Section.	Railways and Harbours Regulation Act - Union of South Africa, No.22 of 1916.	The East Africa Railways Ordinance (Chapter 115 of the Revised Edition).
55.		Cf. section 106.
56.		Cf. section 107.
57.		Cf. section 98.
58.		Cf. section 99.
59.		Cf. section 100.
60.		Cf. section 102.
61.		Cf. section 103.
62.		Cf. section 104.
63.	Cf. section 18 of the Railways and Harbour Service Act, 1912, Union of South Africa, No.28 of 1912.	
64.		Cf. section 132.
65.		Cf. section 133.
66.	Cf. section 57.	
67.	Cf. section 67	Cf. section 135.
68.	New.	
69.		Cf. section 136.
70.	New.	
71.		Cf. section 137.
72.		Cf. section 138.
73.	Cf. section 47 of the Railway and Harbour Service Act, 1912, Union of South Africa No.28 of 1912.	

Section.	Railways and Harbours Regulation Act - Union of South Africa, No. 23 of 1916.	The East Africa Railways Ordinance (Chapter 115 of the Revised Edition).
74.		Cf. section 139.
75.		Cf. section 140.
76.		Cf. section 141.
77.		Cf. section 142.
78.		Cf. section 143.
79.		Cf. section 144.
80.	Cf. section 64.	Cf. sections 145 and 146 (3).
81.		Cf. section 148.
82.	Cf. section 4.	
83.	Repeal.	

Nairobi,
21st October, 1927.

W. J. Jarrard
ATTORNEY GENERAL.

TUBS...
BOM...

RECEIVED
30 MAY 1927
COL. OFFICE



49
34
THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
No. & D.D. 1/3/38
AND DATE

5th May, 1927.

No. 2
The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies and with reference to his third personal note X.10217/27 of the 15th of March, has the honour to transmit twelve further copies of the draft Kenya and Uganda Railway Bill referred to in Kenya *No. 1* Despatch No.101 of the 8th of February.



A Bill to Provide for the Regulation,
Control and Management of Railways,
Ports, Harbours and Steamer Services in
the Colony and Protectorate of Kenya, and
for matters incidental thereto.

THE KENYA AND UGANDA RAILWAY BILL.

STATEMENT OF OBJECTS AND REASONS.

The Bill, in the main, reproduces the East Africa Railways Ordinance (Chapter 115 of the Revised Edition). Certain alterations and modifications necessitated by the creation of the office of High Commissioner for Transport have been made.

Provision is made for the working and management of the Kenya and Uganda Railway including the Lake Services. The Bill, apart from certain provisions relating to private railways, does not deal with railways generally.

The responsibility of the High Commissioner as a carrier has been made clear by the substitution of new clauses for section 72 of the East Africa Railways Ordinance by which the responsibility of a railway administration was that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

It is also laid down, following the lines of a provision in the South Africa Act, 1909, that the services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport, and that the earnings of the services shall not be more than sufficient to cover necessary outlay for working and maintenance, and to make provision for reserve funds, renewals and betterments, and interest and sinking fund charges.

Certain restrictions are imposed in respect of claims for damage by fire caused by sparks from locomotives.

A Bill to Provide for the Regulation, Control and Management of Railways, Ports, Harbours and Steamer Services in the Colony and Protectorate of Kenya, and for matters incidental thereto.

PRELIMINARY.

1. This Ordinance may be cited as "The Kenya and Uganda Railway Ordinance, 1927," and shall come into force on such day as the Governor shall by Proclamation prescribe. Short title and commencement

2. In this Ordinance, unless there is something repugnant in the subject of the context :— Definitions

"Animals" includes animate things of every kind except human beings.

"Colony" means the Colony and Protectorate of Kenya

" Fare " includes all sums received or receivable, charged or chargeable, for conveyance of passengers upon or along the railways or on any ship.

" Firebreak " means a strip of land cleared and maintained in a clean state by burning, ploughing or any similar or other method.

" Free pass " means an authority in writing given to any person to travel as a passenger on the railways or on any ship without the payment of any fare.

" Freight " includes all sums received or receivable, 10 charged or chargeable, for the transport of goods.

" General Manager " means the officer appointed by the High Commissioner as such pursuant to the provisions of the Order-in-Council.

" Goods " means goods, luggage, or other movable 15 property of any description, and shall include animals and birds, whether alive or dead.

" Harbours " means and includes all the ports on the lakes of the Colony, and shall include the relative areas thereto, together with the wharves, slips, docks, and breakwaters, and 20 the machinery, plant, tools, and other property appertaining thereto.

" High Commissioner " means the High Commissioner for Transport established by the Order-in-Council.

" Imprisonment " means imprisonment of either descrip- 25 tion.

" Luggage " means such articles of necessity of personal use and convenience as, being enveloped in some kind of package, are usually carried by passengers for their personal use, but shall not include merchandise or other valuables, 30 which, though carried in the trunks of passengers or otherwise, are not designed for any such use, but are for sale or other like purposes.

" Master " in relation to a ship, means any person (other than a pilot) having charge of that ship. 35

" Order-in-Council " means the Kenya and Uganda (Transport) Order-in-Council, 1925.

" Perishable goods " means goods liable to rapid deterioration, and shall include fish, fruit, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, dogs, 40 small animals, birds, poultry, and any other thing which may hereafter be declared by the High Commissioner by proclamation in the Gazette to be perishable goods.

" Private railways " means all lines of railways within the Colony that are now or may hereafter be constructed for a private person or corporation by virtue of any law, and all 45 land, stations, sidings, buildings, plant, machinery, rolling-stock, and all other movable and immovable property and servitudes used in connection therewith.

" Railway " means the whole or any portion of the 50 railways.

" Railways " and " the railways " means and includes all lines of railway of which the High Commissioner has the control, working and management, and all lands, stations, sidings, buildings, plant, machinery, rolling-stock, and all 5 other movable and immovable property and servitudes used in connection therewith.

" Railway and Harbour Fund " means the fund established by the Order-in-Council.

" Regulation " means any regulation made and in force 10 in accordance with this Ordinance.

" Rolling-stock " means locomotive engines, tenders, motors, coaches, wagons, trucks and trolleys of all kinds.

" Servant " means any person employed in the services.

" Services " means the services as defined in the Order- 15 in-Council.

" Ship " includes any ship, vessel, or boat of any kind whatsoever, whether propelled by steam or otherwise, or towed, and the term shall include any steamer, tug, lighter or boat used by the services for the conveyance of passengers, 20 animals or goods.

" Traffic " includes not only passengers and their luggage and goods conveyed by the High Commissioner, but also rolling-stock.

" Train " means a locomotive engine or motor by 25 itself, or any rolling-stock that is drawn or propelled along a railway or is in course of being drawn or propelled along a railway by a locomotive engine or motor.

" Ticket " includes a single ticket, a return ticket, a season ticket, a trip-bearer ticket (when date-stamped at a 30 booking office) and any other written authority (not being a free pass) for a person to travel as a passenger on the railways.

" Warehouse " means any building or place provided or used by the High Commissioner or by any railway servant in charge of a station for the purpose of storing or depositing 35 goods. Where it is more convenient to the High Commissioner that the goods to be warehoused shall remain in trucks, those trucks when placed in a siding shall, for the purposes of this Ordinance, be deemed a warehouse.

CHAPTER I.

POWERS OF THE HIGH COMMISSIONER.

3. In addition to the powers conferred on him by the Order-in-Council, the High Commissioner shall have power 40 as follows:— Powers of High Commissioner.

(a) In so far as is not inconsistent with the provisions 45 of any law to acquire, hire, purchase, work, sell, lease, deliver, transfer, or otherwise lawfully dispose of property, whether movable or immovable, including water, ships, and other rights for railway or harbour purposes, and turn the same to account;

(b) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the services, including contracts for the supply of water or electric energy to ships or to persons; and to grant powers of attorney and like authorities;

(c) To construct any lines of railway or any roads or any other works whatever, or to negotiate with any person for the construction of lines of railway, roads or works of any kind, and to complete agreements concerning the same. No railway for the conveyance of public traffic and no port or harbour or similar work shall be constructed without the sanction of the Legislative Council, and no such sanction shall be given without a prior report thereon or on any alternative railway line, port or harbour by the Council, but the sanction of the Legislative Council shall not be necessary for the construction of sidings or short branch lines to mines, stores, warehouses, or other works or premises, or for other purposes;

(d) To erect, maintain and regulate lighthouses, beacons, port lights and signal stations within his jurisdiction, and to provide the necessary staffs for the same;

(e) To establish and maintain lifeboats, life-saving apparatus and such other works, institutions or appliances as may be necessary for the requirements of any harbour or other place;

(f) To transport and convey upon the railways and ships or upon any road all such traffic as may be offered to it for transport and conveyance, but subject to the regulations and to the by-laws of any local authority having control of the roads over which such traffic is transported or conveyed;

(g) To delegate to the General Manager any of the powers conferred upon him by this Ordinance;

(h) Generally to execute and do all such acts, deeds and things as may be necessary for the control, working, management and construction of railways, harbours and ships.

CHAPTER II.

CONSTRUCTION AND MAINTENANCE OF WORKS. 40

Authority of the High Commissioner to execute all necessary works

4. Subject to the provisions of this Ordinance and, in the case of immovable property, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes the High Commissioner may, for the purpose of constructing a railway or the accommodation of other works connected therewith, and notwithstanding anything in any other enactment for the time being in force:—

(a) Make or construct in, upon, across or over any lands or any streets, roads, railways, tramways, or any rivers, canals, streams, or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper;

(b) Alter the course of any rivers, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over and under them, and divert or alter, as well temporarily as permanently, the course of any rivers, streams or water-courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the High Commissioner may think proper;

(c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to the railway;

(d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, engines, machinery, apparatus, and other works and conveniences as he may think proper;

(e) Alter, repair or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead;

(f) Take, carry away and use any earth, stone, timber, gravel or sand, or any other materials or things out of any land contiguous to or adjoining such railway and other works and which may be proper or necessary for making, maintaining, altering, repairing, or using such railway or works;

(g) Sink wells, construct dams and all other works necessary for providing a water supply; and

(h) Do all other acts necessary for making, maintaining, altering or repairing and using the railway.

5. The High Commissioner may, for the purpose of exercising the powers conferred upon him by this Ordinance, alter the position of any pipe for the supply of gas, water, or compressed air, or the position of any electric wire, or of any drain not being a main drain:

Alteration of pipes, wires, and drains.

Provided that—

(a) When he desires to alter the position of any such pipe, wire or drain, he shall give reasonable notice of his intention to do so, and of the time at which he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) A local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.

(b) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the services, including contracts for the supply of water or electric energy to ships or to persons; and to grant powers of attorney and like authorities;

(c) To construct any lines of railway or any roads or any other works whatever, or to negotiate with any person for the construction of lines of railway, roads or works of any kind, and to complete agreements concerning the same. No railway for the conveyance of public traffic and no port or harbour or similar work shall be constructed without the sanction of the Legislative Council, and no such sanction shall be given without a prior report thereon or on any alternative railway line, port or harbour by the Council, but the sanction of the Legislative Council shall not be necessary for the construction of sidings or short branch lines to mines, stores, warehouses, or other works or premises, or for other purposes;

(d) To erect, maintain and regulate lighthouses, beacons, port lights and signal stations within his jurisdiction, and to provide the necessary staffs for the same;

(e) To establish and maintain lifeboats, life-saving apparatus and such other works, institutions or appliances as may be necessary for the requirements of any harbour or other place;

(f) To transport and convey upon the railways and ships or upon any road all such traffic as may be offered to it for transport and conveyance, but subject to the regulations and to the by-laws of any local authority having control of the roads over which such traffic is transported or conveyed;

(g) To delegate to the General Manager any of the powers conferred upon him by this Ordinance;

(h) Generally to execute and do all such acts, deeds and things as may be necessary for the control, working, management and construction of railways, harbours and ships.

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(a) Make or construct in, upon, across or over any lands, or any streets, roads, railways, tramways, or any rivers, canals, streams, or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper;

Authority of the High Commissioner to execute all necessary works

(b) Alter the course of any rivers, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over and under them, and divert or alter, as well temporarily as permanently, the course of any rivers, streams or water-courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the High Commissioner may think proper;

(c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to the railway;

(d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, engines, machinery, apparatus, and other works and conveniences as he may think proper;

(e) Alter, repair or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead;

(f) Take, carry away and use any earth, stone, timber, gravel or sand, or any other materials or things out of any land contiguous to or adjoining such railway and other works and which may be proper or necessary for making, maintaining, altering, repairing, or using such railway or works;

(g) Sink wells, construct dams and all other works necessary for providing a water supply; and

(h) Do all other acts necessary for making, maintaining, altering or repairing and using the railway.

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Provided that-

(a) When he desires to alter the position of any such pipe, wire or drain, he shall give reasonable notice of his intention to do so, and of the time at which he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) A local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be.

Powers in case of accident.

6. It shall be lawful for the High Commissioner or any person authorised by him in case of any accident from whatever cause happening or being apprehended to any cutting or embankments or other works connected with any railway to enter upon any land adjoining such railway for the purpose of repairing any damage caused by such accident or of guarding against any apprehended accident and to do such work as may be necessary for the purpose.

7. (1) The High Commissioner shall do as little damage as possible in the exercise of the powers conferred by sections 4, 5 and 6, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation but in case of dispute the amount thereof shall be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15 both inclusive, sections 18 to 34 both inclusive, and sections 53 and 54 of the Indian Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.

High Commissioner may take water for railway purposes.

8. The High Commissioner may take, or cause to be taken, water for the purposes of the services:—

(a) From any river, stream, pan or other natural source;

(b) From any dam, furrow or artificial works used for the storage or distribution of water upon payment of compensation to the owner of such dam or furrow or artificial works: Provided that a sufficient supply be left to the owners or occupiers of land entitled to the use of such water for household and agricultural purposes and for watering their stock.

Accommodation works

9. (1) The High Commissioner shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) Such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of or leading to or from the railway, as may, in the opinion of the High Commissioner, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made, and

(b) All necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway of such dimensions as will, in the opinion of the High Commissioner, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Ordinance the works specified in clauses (a) and (b) of subsection (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:—

(a) The High Commissioner shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

(b) Save as hereinafter in this chapter provided, the High Commissioner shall not be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) Where the High Commissioner has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the High Commissioner shall not be compelled to provide other accommodation for the crossing of the road or stream.

10. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the High Commissioner to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the High Commissioner, or as, in the case of difference of opinion, may be decided by the Governor in Council.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

11. (1) Where a railway has been constructed across a public road on the level, the High Commissioner may at any time, if it appears to him necessary for the public safety, carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the High Commissioner to be best adapted for removing or diminishing the danger arising from the level crossing.

Over and under bridges.

(2) In the absence of agreement the High Commissioner may require that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost of such works, or such portion of the cost as the High Commissioner thinks just.

12. In either of the following cases, namely:—

(a) Where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic;

(b) When a tree obstructs the view of any fixed signal;

Removal of trees dangerous to or obstructing the working of a railway.

the High Commissioner may cause the tree to be cut down or deal with it such other manner as will, in his opinion, avert the danger or remove the obstruction, as the case may be.

Powers in case of accident.

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(b) All necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway of such dimensions as will, in the opinion of the High Commissioner, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

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(a) Where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic ;

(b) When a tree obstructs the view of any fixed signal ;

the High Commissioner may cause the tree to be cut down or deal with it such other manner as will, in his opinion, avert the danger or remove the obstruction, as the case may be.

Removal of trees dangerous to or obstructing the working of a railway.

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CHAPTER III.

WORKING OF THE SERVICES.

13. The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport. So far as may be, subject to such provisions as may be considered necessary to meet contingencies, the total earnings of the Services shall not be more than sufficient to meet:—

(a) The necessary outlays for working and maintenance;

(b) Contributions to reserve funds for renewals, betterments, stores and other purposes;

(c) Interest and sinking fund charges due on capital not being capital contributed out of railway or harbour revenue;

(d) Such costs, compensation or damages as may be awarded against the High Commissioner.

Conveyance of Passengers.

Time-tables and fares to be posted up.

14. A copy of the time-table and of the fares and conditions for the time being in force relating to the conveyance of passengers shall be posted up in a conspicuous place at each railway station so as to be visible and accessible.

Conditions upon which tickets are issued.

15. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of there being room available in the train or ship, and, on the train, in a compartment of the class for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is no room available in the train or ship for which the ticket was issued, shall, upon returning the ticket at the earliest opportunity, be entitled to have his fare refunded.

(3) A person for whom there is no room available in the class of compartment on a train for which he has purchased a ticket, and who elects to travel in a compartment of a lower class shall, on delivering up his ticket and receiving the certificate hereinafter in this section referred to, be entitled to a refund of the difference of the fare paid by him and the fare payable for the class of compartment in which he travelled: Provided that a refund shall only be made if at the first opportunity the passenger so travelling has called the attention of the servant in charge of the train to the fact that he is obliged to travel in a class of compartment inferior to that mentioned on his ticket, and has received from that servant a certificate showing that he is entitled to the refund.

(4) A servant in charge of a train may, for the purpose of better utilising the accommodation on a train, require a passenger to move from one compartment to another compartment of the same class.

(5) The class of coach or compartment shall be from time to time fixed by the High Commissioner, and shall be legibly marked on the outside of each coach or compartment.

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(6) Subject to the provisions of this Ordinance or any other law or any regulation, the High Commissioner shall not refuse to carry a passenger who has tendered the proper fare for the journey which he desires to make and the class in which he desires to travel.

(7) The provisions of subsections (2) and (3) shall not apply to season tickets.

16. The High Commissioner may refuse to carry, except in accordance with the regulations, a person who appears to be a lunatic or suffering from any contagious or infectious disease, or who appears to be under the influence of liquor, whether or not such person has a ticket or free pass.

Conveyance of lunatics or infectious persons.

17. (1) The High Commissioner shall only be liable for loss of life or personal injury to any passenger when the loss of life or personal injury is caused by the want of ordinary care, diligence or skill on the part of the High Commissioner or of his servants, and shall in no case be liable for loss of life of, or personal injury to, a passenger who is travelling by special permission, whether verbal or written, in any part of a train other than in a passenger coach, or who is travelling on a free pass, or a passenger who is travelling by permission of the Resident Engineer, or any person appointed by him, over any construction line.

Liability in respect of loss of life or personal injury to passenger.

(2) For the purposes of this section the term "passenger" shall include every person lawfully travelling upon a train.

18. No person shall enter any coach on a railway or upon any ship for the purpose of travelling therein as a passenger unless he has with him an available free pass or ticket.

Travelling without a free pass or ticket prohibited.

19. (1) If a passenger travel in a train or ship without having an available free pass or ticket with him, or being in or having alighted from a train or ship fails or refuses to present for examination or to deliver up his free pass or ticket immediately on requisition being made therefor, he shall be liable to pay on the demand of any authorised servant, the excess charge hereinafter in this section mentioned in addition to the ordinary fare for the distance which he has travelled or is travelling or, if there be any doubt as to the station or harbour from which he originally started, the fare from the station or harbour from which the train or ship originally started, or, if the tickets of passengers have been examined since the original starting of the train or ship, the ordinary fare from the place where the tickets were examined, or, if they have been examined more than once, the place where they were last examined.

Travelling without free pass or ticket or with insufficient pass or ticket or beyond authorised distance.

(2) If a passenger travel or attempt to travel in a compartment or portion of a ship of a higher class than that for which he has obtained a free pass or ticket, or travels in a compartment or ship beyond the place authorised by his free pass or ticket, he shall be liable to pay on the demand of any authorised servant the excess charge mentioned in subsection (1), in addition to any difference between any fare paid by him and the fare in respect of such journey as he has made.

(3) The excess charge referred to in subsections (1) and (2) shall be:—

(a) Where the passenger has immediately after incurring the charge and before being requested to produce his free pass or ticket as aforesaid, notified to a servant on duty with the train or ship the fact of the charge having been incurred, two shillings, one shilling, or twenty cents, according as the passenger is travelling or has travelled or has attempted to travel in a compartment or portion of a ship of the first class, or in a compartment or a portion of a ship of the second class, or in a compartment or vehicle or a portion of a ship of any other kind or class; and

(b) In any other case twelve shillings, six shillings or two shillings, according as the passenger is travelling or has travelled or has attempted to travel in a compartment or a portion of a ship of the first class, or in a compartment or a portion of a ship of the second class, or in a compartment or vehicle or a portion of a ship of any other class or kind:

Provided that the excess charge shall in no case exceed:—

(i) If the liability to pay it arise under subsection (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that subsection: or

(ii) If the liability to pay arise under subsection (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If any person wilfully refuse to pay the amounts due by him under this section to any servant demanding the same, it shall be lawful for any stationmaster or other authorised servant or police officer to arrest that person without warrant and detain him in custody and bring him as speedily as possible before a court having jurisdiction to be dealt with according to law on a charge of such wilful refusal; and he shall be liable on conviction to a fine not exceeding five pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment: Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.

(5) The sum payable by a passenger under this section shall, on application made to any magistrate by any servant appointed by the High Commissioner in this behalf, be recovered by the magistrate from the passenger as if it were a fine imposed on the passenger by the magistrate and shall, as it is recovered, be paid to the High Commissioner.

Altering or defacing free pass or ticket.

20. (1) If a passenger wilfully alter, obliterate, or deface a free pass or ticket with intent to render the date, number or any material portion thereof illegible, he shall be liable to a fine not exceeding ten pounds, or, in default of payment, to imprisonment for a period not exceeding one month, and shall in addition be liable to a further fine equal to the amount of a single ticket for the journey performed by the class in which he was travelling; and any such altered, obliterated, or defaced free pass or ticket shall be confiscated.

(2) Any person who obtains by false pretences or other fraudulent means or who counterfeits, forges, or alters any ticket, order, receipt for fare or free pass issued by the High Commissioner designed to entitle the holder to travel in the coaches or ships of the High Commissioner, or who utters, publishes, or puts into circulation any counterfeit or false ticket, order, receipt for fare or free pass, with intent to defraud the High Commissioner or any other person, or any person who attempts to do any of the foregoing acts, shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

21. If a person sell, or attempt to sell, or part or attempt to part with the possession of a season ticket, free pass or any half of a return ticket in order to enable any other person to travel therewith or purchase or receive a season ticket, free pass or half of a return ticket so sold or parted with he shall be liable to a fine not exceeding ten pounds, or in default of payment, to imprisonment for a period not exceeding one month, and if the purchaser or receiver of the season ticket, free pass or half of a return ticket travel or attempt to travel therewith, he shall be liable to pay a further fine not exceeding the amount of the single fare for the journey authorised by the ticket, or to imprisonment for a further period not exceeding one month.

Transferring season ticket or any half of return ticket.

22. If a person, with intent to defraud the High Commissioner:—

(a) Enter any coach or other rolling-stock on a railway or any ship; or

(b) Use or attempt to use a single free pass or single ticket which has already been used on a previous journey, or in the case of a return ticket or pass, a half thereof which has already been so used;

Fraudulent travelling or attempting to travel.

he shall be liable to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, in addition to the amount of the single fare for any distance he may have travelled, together with the excess charge or booking fee described in section twenty-seven.

23. It shall be the duty of the court passing any sentence under section nineteen to impose, in addition to the sentence, a further fine equal to the amount payable to the High Commissioner for the fare and excess charge payable or due by the accused in respect of the journey performed by him in the class in which he was travelling, and to order that if, on the payment of the fine or at the expiration of the sentence, the further fine has not been paid, the person convicted shall be imprisoned for a further period not exceeding one month.

Recovery of fare, etc.

Any further fine recovered under this section or any further fine or amount recovered under sections nineteen to twenty-two, inclusive, shall be paid into the Railway and Harbour Fund.

Passengers' Luggage.

24. The High Commissioner shall convey without charge such amount of luggage as may be prescribed by regulation or by public notice for each class of passenger.

Conveyance of passengers' luggage.

Registration of luggage.

25. (1) When passengers' luggage is handed to a servant for conveyance in the luggage van or hold of a ship he shall cause the same to be registered, and shall affix to every package a registered number and shall give to the passenger a duplicate of that number: Provided that the High Commissioner shall not be liable for luggage left with a servant or otherwise disposed of at any railway station unless registered as in this subsection is provided or deposited in a cloakroom.

(2) Whenever a passenger fails to have his luggage so registered and conveyed in the luggage van or hold of a ship, it is carried at his own risk.

(3) Cloakrooms provided by the High Commissioner shall be deemed to be warehouses established for the sole convenience of passengers and the public.

(4) The High Commissioner shall not be liable for the loss, misdelivery or detention of, or damage to any article or package deposited in a cloakroom which exceeds in value the sum of five pounds unless at the time of deposit the value of the article be declared and an additional charge paid for excess value in accordance with the regulations.

Lien on luggage.

26. The High Commissioner shall have a lien upon the luggage of a passenger for the payment of any fare or other charge to which he is entitled from him.

Carriage of Property.

Maximum load for wagons.

27. (1) The High Commissioner shall determine the maximum load for every wagon or truck in his possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every wagon or truck.

(2) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the High Commissioner for the class of axle under the wagon or truck.

Power for the High Commissioner to impose rates and conditions for working traffic.

28. (1) The High Commissioner may, from time to time, fix rates, classify animals and goods, and impose conditions, not inconsistent with this Ordinance or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The High Commissioner shall not be bound to carry any animal suffering from any infectious or contagious disorder.

Lien for rates, terminals and other charges.

29. (1) If a person fails to pay on demand made by or on behalf of the High Commissioner any rate, terminal or other charge due from him in respect of any animals or goods, the High Commissioner may detain the whole or any of the animals or goods or, if they have been removed from the railway, or from any ship or harbour, any other animals or goods of such person then being in, or thereafter coming into his possession.

(2) When any animals or goods have been detained under subsection (1), the High Commissioner may sell by public auction, in case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the High Commissioner may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods, if any, as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under subsection (1) or any animals or goods which have remained unsold after a sale under subsection (2), the High Commissioner may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of subsection (3).

(5) Notwithstanding anything in the foregoing subsection the High Commissioner may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

30. (1) When any animals or goods have come into the possession of the High Commissioner for carriage or otherwise and are not claimed by the owner or other person appearing to the High Commissioner to be entitled thereto, the High Commissioner shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

Disposal of unclaimed things on a railway.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the High Commissioner may, within a reasonable time, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

31. Where any animals, goods or sale-proceeds in the possession of the High Commissioner are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the High Commissioner may withhold delivery of the animals, goods or sale-proceeds until the person entitled in his opinion to receive them has given an indemnity, to the satisfaction of the High Commissioner, against the claims of any other person with respect to the animals, goods or sale-proceeds.

Power for the Administration to require indemnity on delivery of goods in certain cases.

32. (1) The owner or person having charge of any goods which are delivered to the High Commissioner for the purpose of being transported, and the consignee of any goods which have been transported, shall, on the request of any servant appointed in this behalf by the High Commissioner, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the High Commissioner is entitled to charge in respect thereof.

Requisition for written accounts of description of goods.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the High Commissioner may (a) in respect of goods which have been brought for the purpose of being transported, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time for any class of goods, or (b) in respect of goods which have been transported, charge a rate not exceeding such highest rate.

(3) If an account delivered under subsection (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been transported, the High Commissioner may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time for that or any other class of goods.

(4) If any difference arises between a servant and the owner or person having charge, or the consignee, of any goods which have been delivered for transport, or have been transported, respecting the description of goods of which an account has been delivered under this section, the servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under subsection (1), the person who delivered the account, or if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the High Commissioner the cost of the detention and examination of the goods, and the High Commissioner shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under subsection (1), the High Commissioner shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid.

33. (1) No person shall be entitled to take with him, or to require the High Commissioner to carry, any dangerous or offensive goods on a train or ship.

(2) No person shall take any such goods with him upon a train or ship without giving notice of their nature to the servant in charge of the place where he brings the goods upon the train or ship, or shall tender or deliver any such goods for carriage upon a train or ship without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the servant to whom he tenders or delivers them.

(3) Any servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in subsection (2) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in subsection (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

Dangerous or
offensive goods

(5) Nothing in this section shall be construed to derogate from any law in force in the Colony relating to the possession or transport of explosives, and nothing in subsections (1), (3) and (4) shall be construed to apply to any goods tendered for carriage by order or on behalf of the Government or to any goods which a member of His Majesty's naval, military or air forces, or a member of any force established by Ordinance for the defence of the Colony, or a police officer or a person enrolled as a volunteer or volunteer reservist may take with him upon a railway in the course of his employment or duty as such.

34. A copy of the conditions and rates for the time being in force under subsection (1) of section 28 shall be kept at every station, traffic depot, or harbour and the servant appointed by the High Commissioner to quote the rate shall, at the request of any person show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the conditions and rates are authorised by the High Commissioner.

Exhibition to
the public of
rate-books, etc.,
authorising
quoted
conditions
and rates.

CHAPTER IV.

RESPONSIBILITY OF THE HIGH COMMISSIONER AS CARRIER.

35. (1) Unless the owner or consignor or his representative accompany goods and retain control thereof, the High Commissioner shall, subject to the provisions of this Ordinance and the regulations, be liable for loss of or injury to goods transported from any cause whatsoever from the time the goods are accepted in accordance with the regulations until delivery of the goods to the consignee or his representative or until the same are placed in a warehouse pursuant to this Ordinance or the regulations, except in the case of—

Measure of
general
responsibility of
the High
Commissioner
as a carrier of
animals and
goods.

(a) an inherent defect, vice or weakness, or some action of the property itself;

(b) the act of God;

(c) inevitable accident;

(d) the act of the King's enemies or any inevitable superior force;

(e) the act of the law.

(2) The High Commissioner shall be liable even in the cases excepted by subsection (1), if the negligence of his servants expose the property to the cause of the loss.

(3) The High Commissioner shall be liable for loss arising from delay only when it is caused by want of ordinary care and diligence.

36. (1) The liabilities and obligations of the High Commissioner shall not be limited by general notice but may be limited by special contract.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

(a) is in writing signed by or on behalf of the person sending or delivery to the High Commissioner the animals or goods, and

(b) is otherwise in a form approved by the Governor in Council:

Providing that nothing in this subsection contained shall be deemed to apply to any condition, expressed in a contract of carriage, regarding the responsibility of the High Commissioner in respect of any loss, destruction or deterioration of animals or goods which may happen during carriage by ship.

(3) Nothing in the common or statute law of England, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of the High Commissioner.

Further provision with respect to the liability of the High Commissioner as a carrier of animals.

37. (1) The responsibility of the High Commissioner under the two last foregoing sections for the loss, destruction or deterioration of animals delivered to the High Commissioner for the purpose of being transported shall not in any case exceed, in the case of horses, fifty pounds a head or, in the case of mules, twenty pounds, or, in the case of ostriches, camels, or horned cattle, five pounds a head, or, in the case of donkeys, sheep, goats, dogs, or other animals, one pound a head, unless the person sending or delivering them to the High Commissioner caused them to be declared or declared them, at the time of their delivery for transport, to be respectively of higher value than fifty, twenty, five or one pound or pounds a head, as the case may be.

(2) Where such higher value has been declared, the High Commissioner may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against the High Commissioner for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

Further provision with respect to the liability of the High Commissioner as a carrier of luggage etc.

38. The High Commissioner shall not be responsible for the loss, destruction or deterioration of any parcels, luggage or goods unless they shall have been accepted, booked and a receipt granted thereof by a servant.

Further provision with respect to the liability of the High Commissioner as a carrier of articles of special value.

39. (1) When any articles mentioned in the Schedule are contained in any parcel or package delivered to the High Commissioner for transport, and the value of such articles in the parcel or package exceeds ten pounds, the High Commissioner shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the High Commissioner caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for transport, and, if so required by the High Commissioner, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under subsection (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the

value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) The High Commissioner may make it a condition of carrying a parcel declared to contain any article mentioned in the Schedule that a servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

40. In any suit against the High Commissioner for compensation for loss, destruction or deterioration of goods delivered to the High Commissioner for transport, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

Burden of proof in suits in respect of loss of goods.

(1) A person shall not be entitled to a refund of an overcharge in respect of passengers, animals or goods transported or to compensation for the loss of animals or goods delivered to be transported, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the High Commissioner within six months from the date of the carriage of the passenger or the delivery of the animals or goods for transport.

Notification of claims to refunds of overcharges and to compensation for losses.

(2) A person shall not be entitled to compensation for damage to or the deterioration of animals or goods delivered for transport unless his claim has been preferred in writing by him or on his behalf to the High Commissioner within one month from the date of the delivery of the animals or goods to the consignee.

Notwithstanding anything in the foregoing provisions of this chapter, the High Commissioner shall not be responsible for the loss, destruction or deterioration of any animals or goods with respect to the description of which an account materially false has been delivered under subsection (1) of section thirty-two or in respect of which a wrong or improper or insufficient address for delivery has been given; if the loss, destruction, or deterioration is in any way brought about by the false account or by giving a wrong or improper or insufficient address, nor in any case for an amount exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

Exemption from responsibility in case of goods falsely described or wrongly addressed.

Notwithstanding anything in any agreement purporting to limit the liability of the High Commissioner with respect to traffic while on a railway not included in the Services, a suit for compensation for loss of life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, may be brought against the High Commissioner where the passenger was or the animals or goods were booked through by the High Commissioner over a railway not included in the Services.

Suits for compensation for injury to through booked traffic.

(1) When the High Commissioner contracts to carry passengers, animals or goods solely by ship or partly by train and partly by ship, a condition exempting the High Commissioner from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by ship from the act of God, the King's enemies, fire, accidents from machinery, boilers, and steam

Limitation of liability of the High Commissioner in respect of accidents on ship.

and all and every other dangers and accidents of the seas, lakes, rivers, and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and subject to that condition, and to any conditions expressed in the contract of carriage, the High Commissioner shall, irrespective of the nationality or ownership of the ship, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by ship, to the extent to which he would be responsible under the Merchant Shipping Act, 1894, if the ship were registered under that Act and the High Commissioner were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in subsection (1) happened during the carriage by ship shall lie on the High Commissioner.

CHAPTER V.

ACCIDENTS.

45. When any of the following accidents occurs in the course of working a railway or in a harbour or ship, namely:—

(a) Any accident attended with loss of human life, or with grievous hurt as defined in the Penal Code or with serious injury to property;

(b) Any collision between trains or ships of which one is a train or ship carrying passengers;

(c) The derailment of any train carrying passengers 25 or of any part of such a train;

(d) Any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;

(e) Any accident of any other description which the 30 Governor may notify in this behalf in the Gazette;

the General Manager shall, without unnecessary delay, send notice of the accident to the Governor, and the station-master or pier-master nearest to the place at which the accident occurred, or, where there is no station-master or pier-master 35 the railway servant in charge of the section of the railway, or, in the case of a ship, the master of such ship on which the accident occurred shall, without unnecessary delay, give notice of the accident to the magistrate of the district in which the accident occurred, and to the officer in charge of the police 40 station within the local limits of which it occurred, or to such other magistrate and police officer as the Governor appoints in this behalf.

46. The Governor may make rules consistent with this Ordinance and any other enactment for the time being in force for all or any of the following purposes, namely:— 45

(a) For prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which these notices are to contain;

(b) For prescribing the class of accidents of which notice is to be sent by telegraph immediately after the 50 accident has occurred;

(c) For prescribing the duties of servants, police officers, inspectors and magistrates on the occurrence of an accident.

Report of railway accidents.

Power to make rules regarding notices of and inquiries into accidents

47. The General Manager shall send to the Governor a return of accidents occurring upon the railways or ships or at the harbours, whether attended with personal injury or not, in such form and manner and at such intervals of time as the 5 Governor directs.

Submission of return of accidents.

48. Whenever any person injured by an accident on a railway or ship or at the harbours claims compensation on account of the injury, any court or person having by law or consent of parties authority to determine the claim may order 10 that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

Provision for compulsory medical examination of person injured in railway accident.

CHAPTER VI.

15 GENERAL OFFENCES IN RESPECT OF RAILWAYS, HARBOURS AND SHIPS AND BY SERVANTS.

49. Any person who does or causes or procures to be done any of the following acts, namely:—

Penalties for certain classes of offences.

(a) Trespasses upon a railway and refuses to leave 20 after being warned to leave by any servant;

(b) Wilfully gives a false name or address to a servant or constable for the purpose of avoiding prosecution;

(c) Is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others on the 25 railways or upon any ship;

(d) Does or attempts to do anything which may cause injury to persons employed or travelling on the railways or upon any ship;

(e) Commits any nuisance or act of indecency or uses 30 profane, obscene, indecent or abusive language on the railways or upon any ship;

(f) Writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation, or character upon the railways or upon any ship;

(g) Wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp or light on a train or railway or upon any ship;

(h) Defaces the writing on any board or any notice 40 authorised to be maintained on any railway or train or upon any ship;

(i) Damages or attempts to damage any railway rolling-stock or any material used upon or belonging to any railway;

(j) Being a passenger, enters a coach or a compartment or a cabin of a ship which is reserved by the High Commissioner for the use of another passenger or which 45 already contains the maximum number of passengers authorised to be carried therein, and refuses to leave it when required to do so by a servant;

(k) Being a passenger, resists the lawful entry of another passenger into a coach or a compartment not reserved by the High Commissioner for the use of the passenger resisting, or not already containing the maximum number of passengers to be carried therein or thereon; 5

(l) Being a passenger, refuses or neglects to obey the lawful request of a servant, acting under section fifteen (4), within a reasonable time;

(m) After having been refused admission to a ship by a servant on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship; 10

(n) Having gone on board a ship at any place, and having been requested on account of the ship being full by a servant to leave the ship before it has quitted that place and had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request; 15

(o) Smokes in any part of any ship or any compartment or other part of a coach on a train when smoking is prohibited in that compartment or part;

(p) Enters or attempts to enter or leaves or attempts to leave any railway coach on a train while it is in motion, or elsewhere than at the side of the coach adjoining the platform or other place appointed by the High Commissioner for passengers to enter or leave the coach, or opens any outer door of any railway coach on a train while it is in motion; 25

(q) Travels or attempts to travel on or in any part of a train not intended for the use of passengers; 30

(r) In the absence of a gatekeeper, omits to shut and fasten any gate on the railway so soon as such person and the animal, vehicle or other things (if any) under his charge have passed through the gate: Provided that the gate is furnished with a practical latch or fastening easily applied; 35

(s) Being a driver or conductor of a tramcar, omnibus, carriage or other vehicle, disobeys while upon the premises of the railways, the reasonable directions of a servant or police officer or constable; 40

shall be liable on conviction to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

50. Any person who does, or causes or procures to be done, any of the following acts, namely, who:— 45

(a) Being a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by the High Commissioner for communication between passengers and a servant in charge of or concerned 50 in the running of a train:

Penalties for certain other offences.

(b) Knowing or being in a position to know that a railway coach, compartment, or other place is reserved for the exclusive use of males or females, or persons of particular races, or different classes of persons, or natives, enters that coach, compartment or other place in contravention of a regulation and without lawful excuse, or having so entered it remains therein after having been desired by a servant to leave it; 5

(c) Knowing or having reason to believe that an engine or train is approaching along a railway, opens or attempts to open any gate, chain or bar set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take any animal, vehicle or other thing across the railway; 10

(d) Pulls down or attempts to pull down or wilfully injures or attempts to injure any board or document set up or posted by order of the High Commissioner on a railway or ship or on any rolling-stock; 15

(e) Gives or offers to a servant any money or anything of value for the purpose of evading payment of any sum due under this Ordinance; 20

(f) Being a passenger who to his knowledge is suffering from an infectious or contagious disease, enters or travels upon a railway or ship in contravention of the regulations; 25

(g) Being a servant and knowing that a person is a lunatic or suffering from an infectious or contagious disease, wilfully causes that person to travel upon a railway or ship without arranging for his separation from other passengers; 30

(h) Fails to deliver at the earliest possible opportunity to a servant any property found on any railway or in any railway coach or on any ship or removes any property so found from a railway or ship or railway coach or compartment; 35

(i) Wilfully obstructs or impedes a servant in the discharge of his duty;

(j) Discharges any firearm, or throws stones, metal, bricks, gravel, timber, glass, bottles, or other articles likely to obstruct or injure anyone engaged in working on or near the railway, or discharges any firearm from a ship, or attempts to do any of the foregoing acts; 40

(k) Removes or attempts to remove from a railway or ship or any railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind, or permits any such rolling-stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises; 45

(l) Permits or allows any animal to stray on a railway provided with fences, subject to such fences being in a proper state of repair; 50

(m) Drives or knowingly permits any animal to be on any railway otherwise than for the purpose of lawfully crossing the railway, whether he be the owner of the animal or only in charge thereof, provided that such railway be properly fenced; 55

shall be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Penalties for
grave offences.

51. Any person who does, or causes or procures to be done any of the following acts, namely, who:—

(a) Does any act which obstructs or might obstruct the working of a railway or ship or endangers or might endanger the lives of persons travelling thereon: 5

(b) Without lawful authority, moves any part of the rolling-stock on a railway or leaves the same on any part of a railway;

(c) Without lawful authority moves any signals, points, wires, sleepers, rails, stop-blocks, or machinery on a railway, or shows any signal likely to mislead; 10

(d) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift, or otherwise causes damage to any ship, or causes any damage to sheds or piers; 15

(e) Without lawful authority cuts down, breaks, removes, destroys or injures any fence, building or bridge, or other property in or upon any railway;

(f) Attempts or counsels the doing of, or assists or aids in doing, any of the acts mentioned in this section: 20

shall be liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

False returns.

52. If any return which is required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable on conviction to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment. 25

Giving false
account of
goods.

53. If a person requested under section thirty-two to give an account with respect to any goods wilfully gives an account which is materially false, he shall be liable on conviction to a fine not exceeding seventy-five pounds, and the fine shall be in addition to any rate or other charge to which the goods may be liable 30

Unlawfully
bringing
dangerous or
offensive goods
upon a railway.

54. If in contravention of section thirty-three a person takes with him any dangerous or offensive goods upon a railway or ship, or tenders or delivers any such goods for transport, he shall be liable on conviction to a fine not exceeding fifty pounds and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having 40 been so brought upon the railway or ship.

Offences by Servants.

Breach of duty
imposed by
section
forty-two.

55. If a servant whose duty it is to comply with the provisions of section thirty-four negligently or wilfully omits to comply therewith, he shall be liable on conviction to a fine not 45 exceeding two pounds.

Drunkenness.

56. If a servant is in a state of intoxication while on duty he shall be liable on conviction to a fine not exceeding five pounds, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or 50 being upon a railway or ship, to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

57. If a servant, when on duty, endangers the safety of any person:—

(a) By disobeying any general rule made, sanctioned, published and notified under this Ordinance; or

(b) By disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) By any rash or negligent act or omission;

10 he shall be liable on conviction to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

58. If a station master or a servant in charge of a section of a railway omits to give such notice of an accident as is required by this Ordinance he shall be liable on conviction to a fine not exceeding five pounds.

Omission to give
notice of
accidents.

59. If a servant unnecessarily:—

(a) Allows any rolling-stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level-crossing closed against the public; he shall be liable on conviction to a fine not exceeding two pounds. 20

Obstructing
level crossings.

60. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed; Provided that, in case of a member dismissed for 30 fraud or dishonesty, the High Commissioner may deduct from any sums payable to such member under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty.

Dismissal from
the service.

61. (1) If a servant before leaving the services shall fail to give to the High Commissioner the notice specified in his agreement (if any) or if no notice is so specified, then one month's notice (in writing when the servant is able to write) he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from his 40 pay and shall in addition be liable to a fine not exceeding fifteen pounds.

Leaving service
without having
given the
requisite notice.

(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without having given the notice specified in the preceding subsection, or of absence without leave, he may be arrested by any police officer without warrant or the master or any officer may, with or without the assistance of the police, convey him on board the ship. 45

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant, if a native or Arab, from punishment under the Employment of Natives Ordinance (Chapter 139 of the Revised Edition), or any Ordinance amending or substituted for the same. 50

Penalty for demanding more than is due.

62. Any servant who, with intent to defraud, asks or receives a greater sum or a lesser sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods or for any other services rendered or goods supplied, shall be liable on conviction to imprisonment of either description for a period of three months or to a fine not exceeding twenty pounds, or in default of payment to such imprisonment, or to both such fine and imprisonment.

Procedure.

Arrest for offences against certain sections.

63. (1) If a person commits any offence mentioned in sections forty-nine, fifty, fifty-one, fifty-six, fifty-seven and fifty-nine, he may be arrested without warrant or other written authority by any servant or police officer or by any other person whom such servant or police officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a magistrate having authority to try him or commit him for trial.

Arrest of persons likely to abscond or unknown.

64. (1) If a person commits any offence under this Ordinance, other than an offence mentioned in the last foregoing section, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any servant or police officer or any other person whom such servant or police officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond, without sureties, for his appearance before a magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest magistrate having jurisdiction.

Appointment of persons to maintain order upon the railways and at the harbours.

65. The High Commissioner may appoint so many persons as may be deemed necessary for the duty of maintaining order upon the railways and harbours and when any such person so appointed is carrying out that duty he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed by a police officer or constable, and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the police force of the Colony, and shall have the benefits of all the indemnities to which a member of the police force would in like circumstances be entitled.

Place of trial.

66. (1) Any person committing any offence against this Ordinance shall be triable for such offence in any place in which he may be, or which the Governor may notify in his behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under subsection (1) shall be published in the Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations or ports as the Governor may direct.

67. When any act or omission punishable under this Ordinance is also punishable under any other law for the time being in force the offender shall be liable to be prosecuted and punished either under this Ordinance or under such other law but shall not be liable to be punished twice for the same offence.

CHAPTER VII.

PRIVATE RAILWAYS.

68. (1) Save as in this chapter is provided, all private railways shall continue to be governed by the law or other authority under which their construction and working were authorised, and no private railway shall be built or constructed in the Colony unless enabled in that behalf by legislation.

Conditions applicable to private railways.

The provisions of Chapter III, and sections nine to twelve, both inclusive, and sections forty-five, forty-seven, sixty-three and sixty-four shall apply to private railways *mutatis mutandis*.

(2) Subject to the approval of the High Commissioner, the owner of a private railway may make regulations not inconsistent with this Ordinance with respect to any of the matters referred to in section eighty-three of this Ordinance in so far as they relate to railways, and in respect of the duties and conduct of servants in the employment of any owner of a private railway, and for that purpose section eighty-three of this Ordinance shall *mutatis mutandis* apply to private railways.

(3) Sections fifty-six to fifty-nine, both inclusive, and section fifty-two shall *mutatis mutandis* apply to private railways.

69. (1) The High Commissioner may, when and so often as he thinks fit, upon information received, cause an inspection to be made by one or more competent engineers, of the lines and works of any private railway, and if from the report of any such inspection it appears that any part of such line or works is in a condition dangerous to the safety of public passenger or goods traffic, the High Commissioner may, by written notice, require the owner of the private railway to put that part in a state of repair satisfactory to the High Commissioner within a period to be fixed in the notice. If the terms of the said notice be not complied with in every respect the High Commissioner may, by order under his hand, direct that the working of the said private railway for public passenger and goods traffic shall be stopped pending the completion of certain repairs to be specified with reasonable accuracy in the order: Provided that the owner may before the expiration of the written notice, make such representation and produce such evidence to the High Commissioner as he may think fit for the purpose of obtaining the withdrawal of the notice or a reduction of the expenditure which it may involve. After the order has been served upon the owner or his representative traffic upon the part of the said private railway which is the subject of the order shall be stopped and shall not be resumed until the order has been withdrawn in writing by the High Commissioner.

Inspection of private railways by the High Commissioner, and stoppage of traffic if same be not put in repair to satisfaction of High Commissioner.

(2) The owner, and, in the event of the owner being a company, every director as well as the manager or person acting as manager of the private railway, who during the currency of the order, transports or causes or permits to be transported either passenger or goods traffic upon a part of a

private railway in respect of which an order under subsection (1) has been issued, shall each be liable on conviction to a fine not exceeding two hundred pounds for every day during which such traffic is so transported, or, in default of payment, to imprisonment for a period not exceeding twelve months. 5

(3) Nothing in this section contained shall be construed as rendering the High Commissioner liable for loss or damage caused on or in respect of a private railway nor shall the absence of an inspection by the High Commissioner exempt the owner of a private railway from liability. 10

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

70. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes, in respect of the railways and harbours in aid of the funds of local authorities, namely:— 15

(1) The High Commissioner shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay the tax. 20

(2) While a notification of the Governor in Council under clause (1) of this section is in force the High Commissioner shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable. 25 30

(3) The Governor in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring the High Commissioner from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control. 35

(5) "Local authority" in this section means a municipal corporation or committee, district board or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund. 40

71. No compensation shall be payable by the High Commissioner to any owner or occupier of any land contiguous to railway land adjoining a railway in respect of fires caused by sparks from locomotives to the land of such owner or occupier or to any property thereon unless he shall within fourteen days of such fire give notice to the High Commissioner in writing of his intention to make a claim in respect thereof and unless he shall prove that:— 45 50

(a) Prior to such fire he had on his land, contiguous to railway land adjoining a railway, a firebreak not less than ten feet wide; 55

Taxation of railways by local authorities.

Restriction of liability for compensation for fires caused by sparks from locomotives.

(b) At the time such fire originated he had such firebreak in good condition;

(c) Not less than three months prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak; 5

(d) In the case of a building and any property therein damaged or destroyed by fire, such building was not within a distance of two hundred feet from the railway.

72. None of the rolling-stock, ships, machinery, plant, tools, fittings, materials or effects used or provided by the High Commissioner for the purpose of the traffic on its railways and ships or of its stations, ports or workshops, shall be liable to be taken in execution of any decree or order of any court, or of any local authority or person having by law power to attach or distraint property or otherwise to cause property to be taken in execution without the previous sanction of the High Commissioner. 10 15

Restriction on execution against railway property.

73. (1) Every servant shall be deemed to be a public servant for the purposes of chapter nine of the Indian Penal Code. 20

Railway servants to be public servants.

(2) A servant shall not:—

(a) Purchase or bid for, either in person or by agent in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section twenty-nine or thirty; or 25

(b) In contravention of any direction of the High Commissioner in this behalf, engage in trade.

74. (1) When the immediate arrest of a servant, either with or without warrant would be likely to endanger the safety of any person travelling or being upon any railway or ship, or to cause serious inconvenience to the High Commissioner, the police officer whose duty it is to make such arrest shall at once apply to the head of the department to which the servant belongs to relieve such servant, and shall arrange so to watch him that he does not escape, and on such servant being relieved such police officer shall arrest him and proceed according to law. 30 35

Arrest of railway servant.

(2) The relief of a servant under the preceding subsection shall be effected with the least possible delay.

75. If a servant is discharged or suspended from his office, or dies, absconds or absents himself and he or his wife or widow or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner, and in the possession or custody of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the High Commissioner or a person appointed by the High Commissioner in that behalf. 40 45 50 55

Procedure for summary delivery to High Commissioner of property detained by railway servant.

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(a) Prior to such fire he had on his land, contiguous to railway land adjoining a railway, a firebreak not less than ten feet wide; 55

(b) At the time such fire originated he had such firebreak in good condition;

(c) Not less than three months prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak; 5

(d) In the case of a building and any property therein damaged or destroyed by fire, such building was not within a distance of two hundred feet from the railway.

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Arrest of rail-
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(2) The relief of a servant under the preceding subsection shall be effected with the least possible delay.

75. If a servant is discharged or suspended from his office, or dies, absconds or absents himself and he or his wife or widow or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner, and in the possession or custody of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the High Commissioner or a person appointed by the High Commissioner in that behalf. 40 45 50 55

Procedure for
summary
delivery to
High Commis-
sioner of
property
detained by
railway
servant.

Mode of signifying communications from the High Commissioner.

76. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the High Commissioner for any of the purposes of, or in relation to, this Ordinance or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to communicate his directions in respect of the matters to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any of the matters aforesaid unless by 10 some writing signed in manner aforesaid.

Service of notices on the High Commissioner.

77. Any notice or other document required or authorised by this Ordinance to be served on the High Commissioner may be served on the General Manager :—

(a) By delivering the notice or other document to 15 the General Manager or agent; or

(b) By leaving it at his office; or

(c) By forwarding it by post in a prepaid registered letter addressed to the General Manager or agent at his office. 20

Service of notices by the High Commissioner.

78. Any notice or other document required or authorised by this Ordinance to be served on any person by the High Commissioner may be served :—

(a) By delivering it to the person; or

(b) By leaving it at the usual or last known place of 25 abode of the person; or

(c) By forwarding it by post in a prepaid registered letter addressed to the person at his usual or last known place of abode.

Presumption where notice is served by post

79. Where a notice or other document is served by post, 30 it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other documents was properly addressed and registered. 35

Limitation of actions.

80. (1) No action the cause of which shall have arisen after the commencement of this Ordinance shall be brought against the High Commissioner unless the same be commenced within twelve months after the cause of the action arose.

(2) No action shall be commenced against the High 40 Commissioner until one month at least after written notice of intention to commence the action has been served upon the High Commissioner by plaintiff or by his attorney or agent. In that notice the cause of action and details of the claim shall be clearly and explicitly stated. 45

(3) In any action against the High Commissioner no execution or attachment or process in the nature thereof shall be issued against the High Commissioner or against any property of His Majesty, but it shall be lawful for the General Manager to pay out of the Railway and Harbour Fund such 50 sums of money as shall by the judgment of the court be awarded to the plaintiff.

51. (1) The High Commissioner may authorise the General Manager to act for or represent him, or to appoint any other person to act for or represent him in any proceeding before any civil, criminal or other court.

Representation of High Commissioner in court.

5 (2) The General Manager, or any person appointed by him to conduct prosecutions, shall be entitled to conduct such prosecutions without the permission of the magistrate.

82. The High Commissioner may, by notification in the Gazette, extend this Ordinance or any portion thereof to any 10 tramway worked by steam or other mechanical power.

Power to extend Ordinance to steam tramways.

CHAPTER X.

REGULATIONS AND REPEAL.

83. The High Commissioner may, in addition to the powers conferred upon him by the Order-in-Council, make, 15 vary or revoke regulations, not inconsistent with this Ordinance with respect to any of the following matters, that is to say, with respect to :—

Regulations.

(1) The mode in which and the speed at which trains are to be propelled or moved, and the times of arrival and departure of any trains, or other conveyances, as also the duties of servants in connection with the working of trains and ships;

(2) The loading or unloading of rolling-stock and the weights or dimensions of goods to be transported on any 25 rolling-stock;

(3) The collection, receipt, cartage, and delivery of goods transported or to be transported by rail, ships or road or at the harbours;

(4) The accommodation and convenience of passengers, the manner in which they shall travel, the exclusion of short-distance passengers from long-distance or express trains, the manner of conveying the luggage of passengers, the use of bedding, lavatory accommodation, urinals, and other like conveniences on the trains, ships, 35 or at stations, and the charges which may be fixed for the conveyance of luggage;

(5) Fares, freight, or other charges, the amount thereof, and the time when and the place where they shall be paid;

(6) The reservation of railway premises (including conveniences), or of any railway coach or ship or of any portion thereof, for the exclusive use of males or females, or of persons of particular races, or of different classes of persons, and the restriction accordingly of the use of the premises, coach, ship, or portion thereof so reserved;

(7) The proper control and management of any anchorage, dock, basin or harbour within his jurisdiction, and the entrance thereto, the removal of any obstruction therein, and the preservation from injury of any works, buoys, dredgers, ships or other property connected there- 50 with;

(8) The erection of buildings or other structures, or the planting of posts or poles that may interfere with the proper working of any harbour or the signals or beacons thereat;

(9) The licensing or other authorisation of admission to any trains, ships, or railway premises, at any special times of any hotel representatives, or other persons soliciting patronage from passengers, at any railway station or railway premises;

(10) The prohibition of smoking in or on wharves, jetties, quays, buildings or rolling-stock;

(11) The prevention of obstructions and the preservation of good order on railway premises, wharves, jetties, landing places, breakwaters, and other works within his jurisdiction, or the approaches to the same;

(12) The duties and conduct of carmen, draymen, carriers and persons, other than servants, who ply for hire to or from any station, building, or other place which is under the control of the High Commissioner;

(13) The admission of the public to, or their exclusion from any of the railways, harbours, docks, wharves, jetties and landing places and the charges (if any) to be made for admission, and the closing to the public for such period as the High Commissioner may think fit of any stations, harbours, docks, wharves, jetties, sheds, roads, or landing places under his jurisdiction;

(14) The prevention of damage or injury to any railway station, harbour, dock, slip, wharf, jetty, landing place or other works and premises, ships, railways, rolling-stock, or any property whatever;

(15) The prevention of the commission of any nuisance in or upon the railways harbours, docks, wharves, jetties or landing places, and generally the promotion and ensuring of good sanitation, cleanliness and decency;

(16) The charges to be made for warehousing goods and for their care or custody, and the terms and conditions upon which they shall be received, and provision for the disposal of unclaimed goods;

(17) The issue of free passes and concession tickets and the prevention of abuse thereof;

(18) The definition for the purposes of this Ordinance of dangerous or offensive goods and the conditions under which and the times when those classes of goods shall be transported, and the prohibition of the transport of those classes of goods, and provision for or sanctioning of the removal or destruction of the same;

(19) The use of railways or railway or harbour land for coal stands, depositing or forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead or underground;

(20) The crossing and the manner of approaching any street, road or thoroughfare by a train;

(21) The construction, use, and maintenance of private sidings and branch lines connected with the railways, and the construction, opening and inspection of new railways, sidings, or branch lines within his jurisdiction;

(22) Advertising, and bookstalls on the railway and at the harbours, and the fixing of the hours and days during which any such bookstall may remain open for the use of the public;

(23) The use of stamps as prepayment upon parcels or goods;

(24) The insurance of persons travelling on the railways;

(25) The sale of liquors and refreshments in refreshment rooms at railway stations and in refreshment cars and on ships;

and generally with respect to the travelling or traffic upon or the use or working of the railways, ships or harbours and for the good government thereof, and the maintenance of order thereon and therein.

The regulations may provide penalties for any contravention thereof or failure to comply therewith, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed a fine of fifty pounds or, in default of payment, imprisonment for a period of six months, or to both such fine and imprisonment.

As often as the contravention of or failure to comply with any such regulation causes damage to any property under the management or control of the High Commissioner the person causing the damage shall, in addition to any penalty which may be imposed under the regulation, be liable to make good the same.

A copy of all regulations for the time being in force shall be kept at each station on the railways and at the principal office at each harbour, and any person shall be allowed to inspect the same free of charge.

All by-laws and regulations in force at the commencement of this Ordinance, having reference to the railways and not inconsistent with this Ordinance, shall, until altered or rescinded, be deemed to be regulations made under this section and shall be construed as if so made, and shall, until so altered or rescinded, remain in full force and effect.

84. (1) The East Africa Railways Ordinance (Chapter 115 of the Revised Edition) is hereby repealed.

Provided that all rules, regulations, declarations, and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under the said Ordinance or under any other Ordinance or Order in Council relating to Railways shall, so far as they are consistent with this Ordinance, be deemed to have been respectively made, given, approved, conferred and published under this Ordinance.

(2) All references in any enactment or document to the Ordinance hereby repealed shall be construed as references to this Ordinance.

THE SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See Section 39.)

- (a) Gold and silver, coined or uncoined, manufactured or unmanufactured;
- (b) Plated articles, coins;
- (c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer, or person enrolled as a volunteer or of any public officer, British or foreign, entitled to wear uniform;
- (d) Amber, pearls, precious stones, jewellery and trinkets;
- (e) Watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Stamps;
- (h) Bills of exchange, promissory notes, bank notes and orders or other securities for payment of money;
- (i) Maps, plans, writings and title-deeds;
- (j) Paintings, engravings, lithographs, pictures, photographs, carvings, statuary, sculpture and other works of art;
- (k) Art pottery, glass, china and marble;
- (l) Silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- (m) Cameras and cinematograph apparatus (including films);
- (n) Lace, furs and feathers;
- (o) Opium and narcotic preparations;
- (p) Ivory, ebony and sandalwood;
- (q) Musk, sandalwood oil and other essential oils used in the preparation of perfumes;
- (r) Musical and scientific instruments;
- (s) Any article of special value which the High Commissioner may by notification in the Gazette add to this schedule.

Mr Allen.

I regret that from lack of leisure & owing to the absence of relative pp. I have not been able to write before.

The Bill is to be considered by the Leg^l Council & presumably there is no action to be taken as yet. The following may be added however :-

a. A Bill was previously submitted at the time of the establishment of the High Commissionships. (Gov. 24385/24) However when that Bill was considered, however it was decided that the change in administration would be required to be effected by an Order in Council. This has now been done, hence the old Railway Ordinance to be revised and brought up to date by a new Ordinance.

X. 48/26.

It is unfortunate that Gov. 24385/24 cannot even now be found, but there is a jacket, below, of notes in connection with it, including ^{amongst} the original Bill of 1924.

b. The Bill, as compared with

Chap. 115 of the Muns of the Laws, is generally re-arranged & brought up to date, in many cases follows) S.A. legislation. I have indicated in pencil on this copy the corresponding sections of the old law, & the Comparative Table furnished with the 1924 Bill (see inside the Office jacket mentioned above) will also act as a guide.

c. Generally, when the time comes to vet. the Ordinance, I presume that in the main the G.O.'s alterations in this technical work will, subject to legal errors, be accepted. But I do draw attention to the following.

d. Section 13. The services are to be "administered on business principles" (though the total earnings are not to be more than sufficient to meet necessary outlays, etc. - i.e. there is to be no profit!)

This provision was originally inserted in the draft Order in Council, but was not approved for retention there. (Para 54) of des. to O.M. of 30/1/25).

See also the S.S. telegram of 25/7/25 on 33310/25, in which

36666/25.
* And the opening sentence of 13 is a copy of the passage marked X in the speech
M.P.

33310/25

while further deprecating this clause, the S.G.S. said that if, on record, the Govt. considered that something was absolutely essential, S.G.S. did not propose to insist.

The Govt. accepted the omission of the clause from the O.W.C. in his let. of 8/8/25.

In his speech in the debate on the draft O.W.C. (passed on 4/8/25) the General Manager sincerely trusted that the policy, the expression of which was thus excluded from the O.W.C., would be laid down in the supplementary legislation necessary. The report of the M. Secy's speech at the time (pt. A of the extract from the Kenya Observer on the same paper) says that the G.M. had made it a condition that the matter of that clause should be laid down definitely under another form.

In the event, it will perhaps not be considered necessary to exclude this provision from the Ord. though I think it should be made clear that S.G.S. still holds the views expressed in the let. of 25/7/25, & only acquiesces in reference to local matters.

(e).

The powers of the H.C. & his responsibilities as a carrier are "made clear by the substitution of new clauses (35 et seq.) for section 72 of the old Ordinance. In this connection it should be stressed that the provisions in the old Sections 42 & 43 against the granting of undue preferences by the railway are not reproduced.

When the ¹⁹²⁴ original Bill was under consideration it was apparently considered that these should be retained - see the red ink under to page 18 of the draft Bill in the copy with ~~the~~ from Gov. 23485/24.

The provisions in question were taken originally from the Indian Railway Act. See the Comparative Table on 18375/10.

(v. Statement
of Object and
Reasons)

see the
journal
reference
above

G. Heel

~~20~~
2.5.27.

(2).

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(v. Statement
of Object and
Reasons)

x ce
jacket
referred
etc

G. Heel

~~20.5.27~~
2.5.27.

KENYA.

No. 135



RECEIVED
25 MAR 1927
COL. OFFICE
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

24th February, 1927

Sir,

With reference to paragraph 2 of my Despatch No. 101 of the 8th of February, I have the honour to inform you that I am now advised that as the Transport Order in Council already includes provision for the High Commissioner for Transport to sue or be sued it is unnecessary to insert Section 146 of the existing Railways Ordinance in the Bill. The point raised in Executive Council specifically concerned the right of an employé of the Railway Administration to sue the High Commissioner for Transport and it is proposed to leave over for consideration in Select Committee of Legislative Council whether any further section will be required to be added to the Bill in order to cover this contingency. The Government of Uganda has been informed accordingly. I have the honour to be,

Sir,

Your most obedient, humble servant,

J. A. Smith
ACTING GOVERNOR.

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

56

KENYA.

No. 101



RECEIVED
5. MAR 1927
COL. OFFICE

GOVERNMENT HOUSE,

NAIROBI,

KENYA.

8th February, 1927.

Sir,

I have the honour to transmit, for your information, twelve copies of the draft Kenya and Uganda Railway Bill as revised at the recent meeting of the Kenya and Uganda Railway Council.

Not received

A handwritten signature in dark ink, appearing to be 'R. J. ...'.

15 MAR 1927

Ans. d

2. This Bill was considered in Executive Council on February the 4th and it was then agreed that an amendment should be moved in Select Committee with a view to embodying in the Kenya and Uganda Railway Ordinance as enacted the provisions regarding actions against the Railway at present included in Section 146 of the East Africa Railways Ordinance (1910), which is contained in Chapter 13 of the Revised Edition of the Laws of Kenya.

3. I propose that the Bill should be introduced at the Session of the Legislative Council beginning on March the 8th. After second reading the Bill will presumably be referred to a Select Committee of the Council.

4. I have sent copies of the Bill to the Government of Uganda and have suggested that it will be found convenient if Select Committees of the Uganda and Kenya Legislative Councils meet to consider the provisions of

- the -

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

the Bill jointly in order that an identical measure may be passed simultaneously by the two Legislatures.

I have the honour to be,

Sir,

Your most obedient, humble
servant,

J. C. Holt
for ACTING GOVERNOR.

56



THE
OFFICIAL GAZETTE
 OF THE
COLONY AND PROTECTORATE OF KENYA.
 (SPECIAL ISSUE.)

Published under the Authority of His Excellency the Governor of the
 Colony and Protectorate of Kenya.

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NAIROBI, February 7, 1927

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Colony and Protectorate of Kenya.

GOVERNMENT NOTICE No. 76.

HIS EXCELLENCY the Acting Governor has approved of the following Bill being introduced into Legislative Council:—

G. R. SANDFORD,

Clerk to the Legislative Council.

THE KENYA AND UGANDA RAILWAY BILL.

STATEMENT OF OBJECTS AND REASONS.

The Bill, in the main, reproduces the East Africa Railways Ordinance (Chapter 115 of the Revised Edition). Certain alterations and modifications necessitated by the creation of the office of High Commissioner for Transport have been made.

Provision is made for the working and management of the Kenya and Uganda Railway including the Lake Services. The Bill, apart from certain provisions relating to private railways, does not deal with railways generally.

The responsibility of the High Commissioner as a carrier has been made clear by the substitution of new clauses for section 72 of the East Africa Railways Ordinance by which the responsibility of a railway administration was that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.

It is also laid down, following the lines of a provision in the South Africa Act, 1909, that the services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport, and that the earnings of the services shall not be more than sufficient to cover necessary outlay for working and maintenance, and to make provision for reserve funds, renewals and betterments, and interest and sinking fund charges.

Certain restrictions are imposed in respect of claims for damage by fire caused by sparks from locomotives.

A Bill to Provide for the Regulation, Control and Management of Railways, Ports, Harbours and Steamer Services in the Colony and Protectorate of Kenya, and for matters incidental thereto.

PRELIMINARY.

1. This Ordinance may be cited as "The Kenya and Uganda Railway Ordinance, 1927," and shall come into force on such day as the Governor shall by Proclamation prescribe. Short title and commencement.
2. In this Ordinance, unless there is something repugnant Definitions in the subject of the context:—
 - "Animals" includes animate things of every kind except human beings.
 - "Colony" means the Colony and Protectorate of Kenya. New.

"Fare" includes all sums received or receivable, charged or chargeable, for conveyance of passengers upon or along the railways or on any ship.

New

"Firebreak" means a strip of land cleared and maintained in a clean state by burning, ploughing or any similar or other method.

New
dive on the
border railway

"Free pass" means an authority in writing given to any person to travel as a passenger on the railways or on any ship without the payment of any fare.

"Freight" includes all sums received or receivable, charged or chargeable, for the transport of goods.

New

"General Manager" means the officer appointed by the High Commissioner as such pursuant to the provisions of the Order-in-Council.

New

"Goods" means goods, luggage, or other movable property of any description, and shall include animals and birds, whether alive or dead.

New

"Harbours" means and includes all the ports on the lakes of the Colony, and shall include the relative areas thereto, together with the wharves, slips, docks, and breakwaters, and the machinery, plant, tools, and other property appertaining thereto.

New

"High Commissioner" means the High Commissioner for Transport established by the Order-in-Council.

"Imprisonment" means imprisonment of either description.

"Luggage" means such articles of necessity of personal use and convenience as, being enveloped in some kind of package, are usually carried by passengers for their personal use, but shall not include merchandise or other valuables, which, though carried in the trunks of passengers or otherwise, are not designed for any such use, but are for sale or other like purposes.

New

"Master" in relation to a ship, means any person (other than a pilot) having charge of that ship.

New

"Order-in-Council" means the Kenya and Uganda Transport Order-in-Council, 1925.

"Perishable goods" means goods liable to rapid deterioration, and shall include fish, fruit, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, dogs, small animals, birds, poultry, and any other thing which may hereafter be declared by the High Commissioner by proclamation in the Gazette to be perishable goods.

"Private railways" means all lines of railways within the Colony that are now or may hereafter be constructed for a private person or corporation by virtue of any law, and all land, stations, sidings, buildings, plant, machinery, rolling-stock, and all other movable and immovable property and servitudes used in connection therewith.

"Railway" means the whole or any portion of the railways.

60

"Railways" and "the railways" means and includes all lines of railway of which the High Commissioner has the control, working and management, and all lands, stations, sidings, buildings, plant, machinery, rolling-stock, and all other movable and immovable property and servitudes used in connection therewith.

New

"Railway and Harbour Fund" means the fund established by the Order-in-Council.

New

"Regulation" means any regulation made and in force in accordance with this Ordinance.

New

"Rolling-stock" means locomotive engines, tenders, motors, coaches, wagons, trucks and trolleys of all kinds.

✓

"Servant" means any person employed in the services.

New

"Services" means the services as defined in the Order-in-Council.

New

"Ship" includes any ship, vessel, or boat of any kind whatsoever, whether propelled by steam or otherwise, or towed, and the term shall include any steamer, tug, lighter or boat used by the services for the conveyance of passengers, animals or goods.

Altered

"Traffic" includes not only passengers and their luggage and goods conveyed by the High Commissioner, but also rolling-stock.

New

"Train" means a locomotive engine or motor by itself, or any rolling-stock that is drawn or propelled along a railway or is in course of being drawn or propelled along a railway by a locomotive engine or motor.

Altered

"Ticket" includes a single ticket, a return ticket, a season ticket, a trip-bearer ticket (when date-stamped at a booking office) and any other written authority (not being a free pass) for a person to travel as a passenger on the railways.

Altered

"Warehouse" means any building or place provided or used by the High Commissioner or by any railway servant in charge of a station for the purpose of storing or depositing goods. Where it is more convenient to the High Commissioner that the goods to be warehoused shall remain in trucks, those trucks when placed in a siding shall, for the purposes of this Ordinance, be deemed a warehouse.

New

CHAPTER I.

POWERS OF THE HIGH COMMISSIONER.

3. In addition to the powers conferred on him by the Order-in-Council, the High Commissioner shall have power as follows:—

Powers of High Commissioner.

(a) In so far as is not inconsistent with the provisions of any law to acquire, hire, purchase, work, sell, lease, deliver, transfer, or otherwise lawfully dispose of property, whether movable or immovable, including water, ships, and other rights for railway or harbour purposes, and turn the same to account.

New

"Fare" includes all sums received or receivable, charged or chargeable, for conveyance of passengers upon or along the railways or on any ship.

New

"Firebreak" means a strip of land cleared and maintained in a clean state by burning, ploughing or any similar or other method.

5

"Free pass" means an authority in writing given to any person to travel as a passenger on the railways or on any ship without the payment of any fare.

New omitted -
bordered -
New

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✓

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New

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Altered

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Altered

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New

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45

New

(b) To enter into agreements with any person whether in the Colony or elsewhere in connection with matters affecting or incidental to the control, working and management of the services, including contracts for the supply of water or electric energy to ships or to persons; and to grant powers of attorney and like authorities; 5

(c) To construct any lines of railway or any roads or any other works whatever, or to negotiate with any person for the construction of lines of railway, roads or works of any kind, and to complete agreements concerning the same. No railway for the conveyance of public traffic and no port or harbour or similar work shall be constructed without the sanction of the Legislative Council, and no such sanction shall be given without a prior report thereon or on any alternative railway line, port or harbour by the Council, but the sanction of the Legislative Council shall not be necessary for the construction of sidings or short branch lines to mines, stores, warehouses, or other works or premises, or for other purposes; 10 15 20

(d) To erect, maintain and regulate lighthouses, beacons, port lights and signal stations within his jurisdiction, and to provide the necessary staffs for the same;

(e) To establish and maintain lifeboats, life-saving apparatus and such other works, institutions or appliances as may be necessary for the requirements of any harbour or other place; 25

(f) To transport and convey upon the railways and ships or upon any road all such traffic as may be offered to it for transport and conveyance, but subject to the regulations and to the by-laws of any local authority having control of the roads over which such traffic is transported or conveyed; 30

(g) To delegate to the General Manager any of the powers conferred upon him by this Ordinance; 35

(h) Generally to execute and do all such acts, deeds and things as may be necessary for the control, working, management and construction of railways, harbours and ships.

CHAPTER II.

CONSTRUCTION AND MAINTENANCE OF WORKS. 40

4. Subject to the provisions of this Ordinance and, in the case of immovable property, to the provisions of any enactment for the time being in force for the acquisition of land for public purposes the High Commissioner may, for the purpose of constructing a railway or the accommodation of other works connected therewith, and notwithstanding anything in any other enactment for the time being in force:— 45

(a) Make or construct in, upon, across or over any lands, or any streets, roads, railways, tramways, or any rivers, canals, streams, or other waters, or any drain-pipes, water-pipes, gas-pipes, or telegraph or electric power lines, such temporary or permanent arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, ways, passages, conduits, drains, piers, cuttings and fences as the High Commissioner may think proper; 50

Authority of the High Commissioner to execute all necessary works.

(b) Alter the course of any rivers, streams, or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over and under them, and divert or alter, as well temporarily as permanently, the course of any rivers, streams or water-courses, or any roads, streets, or ways, or raise or sink the level thereof, in order the more conveniently to carry them over or under or by the side of the railway, as the High Commissioner may think proper; 5 10

(c) Make, alter or repair drains or conduits into, through or under any lands for the purpose of conveying water from or to the railway; 10

(d) Erect and construct such houses, warehouses, offices and other buildings, and such yards, stations, engines, machinery, apparatus, and other works and conveniences as he may think proper; 15

(e) Alter, repair or discontinue such buildings, works, and conveniences as aforesaid or any of them, and substitute others in their stead; 20

(f) Take, carry away and use any earth, stone, timber, gravel or sand, or any other materials or things out of any land contiguous to or adjoining such railway and other works and which may be proper or necessary for making, maintaining, altering, repairing, or using such railway or works; 25

(g) Sink wells, construct dams and all other works necessary for providing a water supply; and

(h) Do all other acts necessary for making, maintaining, altering or repairing and using the railway. 30

5. The High Commissioner may, for the purpose of exercising the powers conferred upon him by this Ordinance, alter the position of any pipe for the supply of gas, water, or compressed air, or the position of any electric wire, or of any drain not being a main drain: 35

Provided that—

(a) When he desires to alter the position of any such pipe, wire or drain, he shall give reasonable notice of his intention to do so, and of the time at which he will begin to do so, to the local authority or company having control over the pipe, wire or drain, or when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is; 40

(b) A local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the High Commissioner shall execute the work to the reasonable satisfaction of the person so sent, and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air, or electricity, or the maintenance of the drainage, as the case may be. 45 50

New

New

88

61

Powers in case of accident.

6. It shall be lawful for the High Commissioner or any person authorised by him in case of any accident from whatever cause happening or being apprehended to any cutting or embankments or other works connected with any railway to enter upon any land adjoining such railway for the purpose of repairing any damage caused by such accident or of guarding against any apprehended accident and to do such work as may be necessary for the purpose.

7. (1) The High Commissioner shall do as little damage as possible in the exercise of the powers conferred by sections 4, 5 and 6, and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation but in case of dispute the amount thereof shall be determined and paid in accordance, so far as may be, with the provisions of sections 11 to 15 both inclusive, sections 18 to 34 both inclusive, and sections 53 and 54 of the Indian Land Acquisition Act, 1894, and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation.

8. The High Commissioner may take, or cause to be taken, water for the purposes of the services:—

(a) From any river, stream, pan or other natural source:

(b) From any dam, furrow or artificial works used for the storage or distribution of water upon payment of compensation to the owner of such dam or furrow or artificial works: Provided that a sufficient supply be left to the owners or occupiers of land entitled to the use of such water for household and agricultural purposes and for watering their stock.

9. (1) The High Commissioner shall make and maintain the following works for the accommodation of the owners and occupiers of lands adjoining the railway, namely:—

(a) Such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from the railway, as may, in the opinion of the High Commissioner, be necessary for the purpose of making good any interruptions caused by the railway to the use of the lands through which the railway is made; and

(b) All necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway of such dimensions as will, in the opinion of the High Commissioner, be sufficient at all times to convey water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as nearly so as may be.

(2) Subject to the other provisions of this Ordinance the works specified in clauses (a) and (b) of subsection (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

High Commissioner may take water for railway purposes.

Accommodation works

(3) The foregoing provisions of this section are subject to the following provisions, namely:—

(a) The High Commissioner shall not be required to make any accommodation works in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to which the owners and occupiers of the lands have agreed to receive and have been paid compensation in consideration of their not requiring the works to be made;

(b) Save as hereinafter in this chapter provided, the High Commissioner shall not be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) Where the High Commissioner has provided suitable accommodation for the crossing of a road or stream and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the High Commissioner shall not be compelled to provide other accommodation for the crossing of the road or stream.

10. If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the Government or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the High Commissioner to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the High Commissioner, or as, in the case of difference of opinion, may be decided by the Governor in Council.

11. (1) Where a railway has been constructed across a public road on the level, the High Commissioner may at any time, if it appears to him necessary for the public safety, carry the road either under or over the railway by means of a bridge or arch, with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the High Commissioner to be best adapted for removing or diminishing the danger arising from the level crossing.

(2) In the absence of agreement the High Commissioner may require that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost of such works, or such portion of the cost as the High Commissioner thinks just.

12. In either of the following cases, namely:—

(a) Where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic;

(b) When a tree obstructs the view of any fixed signal;

the High Commissioner may cause the tree to be cut down or deal with it such other manner as will, in his opinion, avert the danger or remove the obstruction, as the case may be.

Power for owner, occupier or local authority to cause additional accommodation works to be made.

Over and under bridges.

Removal of trees dangerous to or obstructing the working of a railway.

89(1) Mounted

810

100

811 (1100-1100)

62

12

New 814

New 815 altered

CHAPTER III.

WORKING OF THE SERVICES.

13. The Services shall be administered on business principles, due regard being had to agricultural and industrial development in Kenya and Uganda by means of cheap transport. So far as may be, subject to such provisions as may be considered necessary to meet contingencies, the total earnings of the Services shall not be more than sufficient to meet:—

- (a) The necessary outlays for working and maintenance;
- (b) Contributions to reserve funds for renewals, betterments, stores and other purposes;
- (c) Interest and sinking fund charges due on capital not being capital contributed out of railway or harbour revenue;
- (d) Such costs, compensation or damages as may be awarded against the High Commissioner.

Conveyance of Passengers.

Time-tables and fares to be posted up.

14. A copy of the time-table and of the fares and conditions for the time being in force relating to the conveyance of passengers shall be posted up in a conspicuous place at each railway station so as to be visible and accessible.

Conditions upon which tickets are issued.

15. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of there being room available in the train or ship, and, on the train, in a compartment of the class for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is no room available in the train or ship for which the ticket was issued, shall, upon returning the ticket at the earliest opportunity, be entitled to have his fare refunded.

(3) A person for whom there is no room available in the class of compartment on a train for which he has purchased a ticket, and who elects to travel in a compartment of a lower class shall, on delivering up his ticket and receiving the certificate hereinafter in this section referred to, be entitled to a refund of the difference of the fare paid by him and the fare payable for the class of compartment in which he travelled: Provided that a refund shall only be made if at the first opportunity the passenger so travelling has called the attention of the servant in charge of the train to the fact that he is obliged to travel in a class of compartment inferior to that mentioned on his ticket, and has received from that servant a certificate showing that he is entitled to the refund.

(4) A servant in charge of a train may, for the purpose of better utilising the accommodation on a train, require a passenger to move from one compartment to another compartment of the same class.

(5) The class of coach or compartment shall be from time to time fixed by the High Commissioner, and shall be legibly marked on the outside of each coach or compartment.

*See also...
On Class*

New

*The...
not in...
Class*

q f 652

67

New

63

(6) Subject to the provisions of this Ordinance or any other law or any regulation, the High Commissioner shall not refuse to carry a passenger who has tendered the proper fare for the journey which he desires to make and the class in which he desires to travel.

7 New

(7) The provisions of subsections (2) and (3) shall not apply to season tickets.

16. The High Commissioner may refuse to carry, except in accordance with the regulations, a person who appears to be a lunatic or suffering from any contagious or infectious disease, or who appears to be under the influence of liquor, whether or not such person has a ticket or free pass.

Conveyance of lunatics or infectious persons.

f. 71(1)

17. (1) The High Commissioner shall only be liable for loss of life or personal injury to any passenger when the loss of life or personal injury is caused by the want of ordinary care, diligence or skill on the part of the High Commissioner or of his servants, and shall in no case be liable for loss of life of, or personal injury to, a passenger who is travelling by special permission, whether verbal or written, in any part of a train other than in a passenger coach, or who is travelling on a free pass, or a passenger who is travelling by permission of the Resident Engineer, or any person appointed by him, over any construction line.

Liability in respect of loss of life or personal injury to passenger.

*7 New
cf. 879*

(2) For the purposes of this section the term "passenger" shall include every person lawfully travelling upon a train.

18. No person shall enter any coach on a railway or upon any ship for the purpose of travelling therein as a passenger unless he has with him an available free pass or ticket.

Travelling without a free pass or ticket prohibited.

68

19. (1) If a passenger travel in a train or ship without having an available free pass or ticket with him, or being in or having alighted from a train or ship fails or refuses to present for examination or to deliver up his free pass or ticket immediately on requisition being made therefor, he shall be liable to pay on the demand of any authorised servant, the excess charge hereinafter in this section mentioned in addition to the ordinary fare for the distance which he has travelled or is travelling or, if there be any doubt as to the station or harbour from which he originally started, the fare from the station or harbour from which the train or ship originally started, or, if the tickets of passengers have been examined since the original starting of the train or ship, the ordinary fare from the place where the tickets were examined, or, if they have been examined more than once, the place where they were last examined.

Travelling without free pass or ticket or with insufficient pass or ticket or beyond authorised distance.

New

(2) If a passenger travel or attempt to travel in a compartment or portion of a ship of a higher class than that for which he has obtained a free pass or ticket, or travels in a compartment or ship beyond the place authorised by his free pass or ticket, he shall be liable to pay on the demand of any authorised servant the excess charge mentioned in subsection (1), in addition to any difference between any fare paid by him and the fare in respect of such journey as he has made.

New

(3) The excess charge referred to in subsections (1) and (2) shall be:—

(a) Where the passenger has immediately after incurring the charge and before being requested to produce his free pass or ticket as aforesaid, notified to a servant on duty with the train or ship the fact of the charge having been incurred, two shillings, one shilling, or twenty cents, according as the passenger is travelling or has travelled or has attempted to travel in a compartment or portion of a ship of the first class, or in a compartment or a portion of a ship of the second class, or in a compartment or vehicle or a portion of a ship of any other kind or class; and

(b) In any other case twelve shillings, six shillings or two shillings, according as the passenger is travelling or has travelled or has attempted to travel in a compartment or a portion of a ship of the first class, or in a compartment or a portion of a ship of the second class, or in a compartment or vehicle or a portion of a ship of any other class or kind:

Provided that the excess charge shall in no case exceed:—

(i) If the liability to pay it arise under subsection (1), the amount of the ordinary single fare which the passenger incurring the charge is liable to pay under that subsection; or

(ii) If the liability to pay arise under subsection (2), the amount of the difference between the fare paid by the passenger incurring the charge and the fare payable in respect of such journey as he has made.

(4) If any person wilfully refuse to pay the amounts due by him under this section to any servant demanding the same, it shall be lawful for any stationmaster or other authorised servant or police officer to arrest that person without warrant and detain him in custody and bring him as speedily as possible before a court having jurisdiction to be dealt with according to law on a charge of such wilful refusal; and he shall be liable on conviction to a fine not exceeding five pounds, or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment: Provided that no person shall be arrested or detained without warrant unless there shall exist reasonable ground for believing that except by the arrest of the person offending he could not be found or made answerable to justice without delay, trouble or expense.

(5) The sum payable by a passenger under this section shall, on application made to any magistrate by any servant appointed by the High Commissioner in this behalf, be recovered by the magistrate from the passenger as if it were a fine imposed on the passenger by the magistrate and shall, as it is recovered, be paid to the High Commissioner.

20. (1) If a passenger wilfully alter, obliterate, or deface a free pass or ticket with intent to render the date, number or any material portion thereof illegible, he shall be liable to a fine not exceeding ten pounds, or, in default of payment, to imprisonment for a period not exceeding one month, and shall in addition be liable to a further fine equal to the amount of a single ticket for the journey performed by the class in which he was travelling; and any such altered, obliterated, or defaced free pass or ticket shall be confiscated.

(2) Any person who obtains by false pretences or other fraudulent means or who counterfeits, forges, or alters any ticket, order, receipt for fare or free pass issued by the High Commissioner designed to entitle the holder to travel in the coaches or ships of the High Commissioner, or who utters, publishes, or puts into circulation any counterfeit or false ticket, order, receipt for fare or free pass, with intent to defraud the High Commissioner or any other person, or any person who attempts to do any of the foregoing acts, shall be liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

21. If a person sell, or attempt to sell, or part or attempt to part with the possession of a season ticket, free pass or any half of a return ticket in order to enable any other person to travel therewith or purchase or receive a season ticket, free pass or half of a return ticket so sold or parted with he shall be liable to a fine not exceeding ten pounds, or in default of payment, to imprisonment for a period not exceeding one month, and if the purchaser or receiver of the season ticket, free pass or half of a return ticket travel or attempt to travel therewith, he shall be liable to pay a further fine not exceeding the amount of the single fare for the journey authorised by the ticket, or to imprisonment for a further period not exceeding one month.

22. If a person, with intent to defraud the High Commissioner:—

(a) Enter any coach or other rolling-stock on a railway or any ship; or

(b) Use or attempt to use a single free pass or single ticket which has already been used on a previous journey, or in the case of a return ticket or pass, a half thereof which has already been so used;

he shall be liable to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, in addition to the amount of the single fare for any distance he may have travelled, together with the excess charge or booking fee described in section twenty-seven.

23. It shall be the duty of the court passing any sentence under section nineteen to impose, in addition to the sentence, a further fine equal to the amount payable to the High Commissioner for the fare and excess charge payable or due by the accused in respect of the journey performed by him in the class in which he was travelling, and to order that if, on the payment of the fine or at the expiration of the sentence, the further fine has not been paid, the person convicted shall be imprisoned for a further period not exceeding one month.

Any further fine recovered under this section or any further fine or amount recovered under sections nineteen to twenty-two, inclusive, shall be paid into the Railway and Harbour Fund.

Passengers' Luggage

24. The High Commissioner shall convey without charge such amount of luggage as may be prescribed by regulation or by public notice for each class of passenger.

International
Regulations for
the Protection
of the
Rights of
Passengers

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Transferring
season tickets or
any half of
return tickets.

New

Fraudulent
travelling or
attempting to
travel.

New

Recovery of
fare, etc.

New

Conveyance of
passengers'
luggage.

Altering or
defacing free
pass or ticket

New

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Registration of luggage.

25. (1) When passengers' luggage is handed to a servant for conveyance in the luggage van or hold of a ship he shall cause the same to be registered, and shall affix to every package a registered number and shall give to the passenger a duplicate of that number: Provided that the High Commissioner shall not be liable for luggage left with a servant or otherwise disposed of at any railway station unless registered as in this subsection is provided or deposited in a cloakroom.

(2) Whenever a passenger fails to have his luggage so registered and conveyed in the luggage van or hold of a ship, it is carried at his own risk.

(3) Cloakrooms provided by the High Commissioner shall be deemed to be warehouses established for the sole convenience of passengers and the public.

(4) The High Commissioner shall not be liable for the loss, misdelivery or detention of, or damage to any article or package deposited in a cloakroom which exceeds in value the sum of five pounds unless at the time of deposit the value of the article be declared and an additional charge paid for excess value in accordance with the regulations.

Lien on luggage.

26. The High Commissioner shall have a lien upon the luggage of a passenger for the payment of any fare or other charge to which he is entitled from him.

Carriage of Property

Maximum load for wagons

27. (1) The High Commissioner shall determine the maximum load for every wagon or truck in his possession, and shall exhibit the words or figures representing the load so determined in a conspicuous manner on the outside of every wagon or truck.

(2) The gross weight of any such wagon or truck bearing on the axles when the wagon or truck is loaded to such maximum load shall not exceed such limit as may be fixed by the High Commissioner for the class of axle under the wagon or truck.

Power for the High Commissioner to impose rates and conditions for working traffic.

28. (1) The High Commissioner may, from time to time, fix rates, classify animals and goods, and impose conditions, not inconsistent with this Ordinance or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The High Commissioner shall not be bound to carry any animal suffering from any infectious or contagious disorder.

Lien for rates terminals and other charges

29. (1) If a person fails to pay on demand made by or on behalf of the High Commissioner any rate, terminal or other charge due from him in respect of any animals or goods, the High Commissioner may detain the whole or any of the animals or goods or, if they have been removed from the railway, or from any ship or harbour, any other animals or goods of such person then being in or thereafter coming into his possession.

(2) When any animals or goods have been detained under subsection (1), the High Commissioner may sell by public auction, in case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the High Commissioner may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any, of the proceeds, and such of the animals or goods, if any, as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, terminal or other charge due from him has been made fails to remove from the railway within a reasonable time any animals or goods which have been detained under subsection (1) or any animals or goods which have remained unsold after a sale under subsection (2), the High Commissioner may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of subsection (3).

(5) Notwithstanding anything in the foregoing subsection the High Commissioner may recover by suit any such rate, terminal or other charge as aforesaid or balance thereof.

30. (1) When any animals or goods have come into the possession of the High Commissioner for carriage or otherwise and are not claimed by the owner or other person appearing to the High Commissioner to be entitled thereto, the High Commissioner shall, if such owner or person is known, cause a notice to be served upon him requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the High Commissioner may, within a reasonable time, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

31. Where any animals, goods or sale-proceeds in the possession of the High Commissioner are claimed by two or more persons, or the ticket or receipt given for the animals or goods is not forthcoming, the High Commissioner may withhold delivery of the animals, goods or sale-proceeds until the person entitled in his opinion to receive them has given an indemnity, to the satisfaction of the High Commissioner, against the claims of any other person with respect to the animals, goods or sale-proceeds.

32. (1) The owner or person having charge of any goods which are delivered to the High Commissioner for the purpose of being transported, and the consignee of any goods which have been transported, shall, on the request of any servant appointed in this behalf by the High Commissioner, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the High Commissioner is entitled to charge in respect thereof.

Disposal of unclaimed things on a railway.

Power for the Administration to require indemnity on delivery of goods in certain cases.

Requirement for written accounts of description of goods.

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(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the High Commissioner may (a) in respect of goods which have been brought for the purpose of being transported, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time for any class of goods, or (b) in respect of goods which have been transported, charge a rate not exceeding such highest rate.

(3) If an account delivered under subsection (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been transported, the High Commissioner may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time for that or any other class of goods.

(4) If any difference arises between a servant and the owner or person having charge, or the consignee, of any goods which have been delivered for transport, or have been transported, respecting the description of goods of which an account has been delivered under this section, the servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under subsection (1), the person who delivered the account, or if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the High Commissioner the cost of the detention and examination of the goods, and the High Commissioner shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under subsection (1), the High Commissioner shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such losses aforesaid.

Dangerous or offensive goods.

33. (1) No person shall be entitled to take with him, or to require the High Commissioner to carry, any dangerous or offensive goods on a train or ship.

(2) No person shall take any such goods with him upon a train or ship without giving notice of their nature to the servant in charge of the place where he brings the goods upon the train or ship, or shall tender or deliver any such goods for carriage upon a train or ship without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the servant to whom he tenders or delivers them.

(3) Any servant may refuse to receive such goods for carriage, and, when such goods have been so received without such notice as is mentioned in subsection (2) having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in subsection (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

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(5) Nothing in this section shall be construed to derogate from any law in force in the Colony relating to the possession or transport of explosives, and nothing in subsections (1), (3) and (4) shall be construed to apply to any goods tendered for carriage by order or on behalf of the Government or to any goods which a member of His Majesty's naval, military or air forces, or a member of any force established by Ordinance for the defence of the Colony, or a police officer or a person employed as a volunteer or volunteer reservist may take with him upon a railway in the course of his employment or duty as such.

34. A copy of the conditions and rates for the time being in force under subsection (1) of section 33 shall be kept at every station, traffic depot, or harbour and the servant appointed by the High Commissioner to quote the rate shall, at the request of any person show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the conditions and rates are authorised by the High Commissioner.

Exhibition to the public of rate-books, and other documents and rates.

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CHAPTER IV.

RESPONSIBILITY OF THE HIGH COMMISSIONER AS CARRIER.

35. (1) Unless the owner or consignor or his representative accompany goods and retain control thereof, the High Commissioner shall, subject to the provisions of this Ordinance and the regulations, be liable for loss of or injury to goods transported from any cause whatsoever from the time the goods are accepted in accordance with the regulations until delivery of the goods to the consignee or his representative or until the same are placed in a warehouse pursuant to this Ordinance or the regulations, except in the case of—

Measure of general responsibility of the High Commissioner as a carrier of animals and goods.

- (a) an inherent defect, vice or weakness, or some action of the property itself;
- (b) the act of God;
- (c) inevitable accident;
- (d) the act of the King's enemies or any inevitable superior force;
- (e) the act of the law.

(2) The High Commissioner shall be liable even in the cases excepted by subsection (1), if the negligence of his servants expose the property to the cause of the loss.

(3) The High Commissioner shall be liable for loss arising from delay only when it is caused by want of ordinary care and diligence.

36. (1) The liabilities and obligations of the High Commissioner shall not be limited by general notice but may be limited by special contract.

(2) An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void unless it—

- (a) is in writing signed by or on behalf of the person sending or delivery to the High Commissioner the animals or goods, and

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(b) is otherwise in a form approved by the Governor in Council:

Providing that nothing in this subsection contained shall be deemed to apply to any condition, expressed in a contract of carriage, regarding the responsibility of the High Commissioner in respect of any loss, destruction or deterioration of animals or goods which may happen during carriage by ship.

(3) Nothing in the common or statute law of England, regarding the responsibility of common carriers with respect to the carriage of animals or goods, shall affect the responsibility as in this section defined of the High Commissioner.

37. (1) The responsibility of the High Commissioner under the two last foregoing sections for the loss, destruction or deterioration of animals delivered to the High Commissioner for the purpose of being transported shall not in any case exceed, in the case of horses, fifty pounds a head or, in the case of mules, twenty pounds, or, in the case of ostriches, camels, or horned cattle, five pounds a head, or, in the case of donkeys, sheep, goats, dogs, or other animals, one pound a head, unless the person sending or delivering them to the High Commissioner caused them to be declared or declared them, at the time of their delivery for transport, to be respectively of higher value than fifty, twenty, five or one pound or pounds a head, as the case may be.

(2) Where such higher value has been declared, the High Commissioner may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid.

(3) In every proceeding against the High Commissioner for the recovery of compensation for the loss, destruction, or deterioration of any animal, the burden of proving the value of the animal, and, where the animal has been injured, the extent of the injury, shall lie upon the person claiming the compensation.

38. The High Commissioner shall not be responsible for the loss, destruction or deterioration of any parcels, luggage or goods unless they shall have been accepted, booked and a receipt granted therefor by a servant.

39. (1) When any articles mentioned in the Schedule are contained in any parcel or package delivered to the High Commissioner for transport, and the value of such articles in the parcel or package exceeds ten pounds, the High Commissioner shall not be responsible for the loss, destruction or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the High Commissioner caused its value and contents to be declared or declared them at the time of the delivery of the parcel or package for transport, and, if so required by the High Commissioner, paid or engaged to pay a percentage on the value so declared by way of compensation for increased risk.

(2) When any parcel or package of which the value has been declared under subsection (1) has been lost or destroyed or has deteriorated, the compensation recoverable in respect of such loss, destruction or deterioration shall not exceed the

value so declared, and the burden of proving the value so declared to have been the true value shall, notwithstanding anything in the declaration, lie on the person claiming the compensation.

(3) The High Commissioner may make it a condition of carrying a parcel declared to contain any article mentioned in the Schedule that a servant authorised in this behalf has been satisfied by examination or otherwise that the parcel actually contains the article declared to be therein.

40. In any suit against the High Commissioner for compensation for loss, destruction or deterioration of goods delivered to the High Commissioner for transport, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

41. (1) A person shall not be entitled to a refund of an overcharge in respect of passengers, animals or goods transported or to compensation for the loss of animals or goods delivered to be transported, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf to the High Commissioner within six months from the date of the carriage of the passenger or the delivery of the animals or goods for transport.

(2) A person shall not be entitled to compensation for damage to or the deterioration of animals or goods delivered for transport unless his claim has been preferred in writing by him or on his behalf to the High Commissioner within one month from the date of the delivery of the animals or goods to the consignee.

42. Notwithstanding anything in the foregoing provisions of this chapter, the High Commissioner shall not be responsible for the loss, destruction or deterioration of any animals or goods with respect to the description of which an account materially false has been delivered under subsection (1) of section thirty-two or in respect of which a wrong or improper or insufficient address for delivery has been given, if the loss, destruction, or deterioration is in any way brought about by the false account or by giving a wrong or improper or insufficient address, nor in any case for an account exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

43. Notwithstanding anything in any agreement purporting to limit the liability of the High Commissioner with respect to traffic while on a railway not included in the Services, a suit for compensation for loss of life, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods, may be brought against the High Commissioner where the passenger was or the animals or goods were booked through by the High Commissioner over a railway not included in the Services.

44. (1) When the High Commissioner contracts to carry passengers, animals or goods solely by ship or partly by train and partly by ship, a condition exempting the High Commissioner from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by ship from the act of God, the King's enemies, fire, accidents from machinery, boilers, and steam

Burden of proof in suits in respect of loss of goods.

Notification of claims to refunds of overcharges and to compensation for losses.

Exemption from responsibility in case of goods falsely described or wrongly addressed.

Suits for compensation for injury to through booked traffic.

Limitation of liability of the High Commissioner in respect of accidents on ship.

Further provision with respect to the liability of the High Commissioner as a carrier of animals.

Further provision with respect to the liability of the High Commissioner as a carrier of luggage, etc.

Further provision with respect to the liability of the High Commissioner as a carrier of articles of special value.

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and all and every other dangers and accidents of the seas, lakes, rivers, and navigation of whatsoever nature and kind, and shall, without being expressed, be deemed to be part of the contract, and subject to that condition, and to any conditions expressed in the contract of carriage, the High Commissioner shall, irrespective of the nationality or ownership of the ship, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by ship, to the extent to which he would be responsible under the Merchant Shipping Act, 1894, if the ship were registered under that Act and the High Commissioner were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in subsection (1) happened during the carriage by ship shall lie on the High Commissioner.

CHAPTER V.

ACCIDENTS.

45. When any of the following accidents occurs in the course of working a railway or in a harbour or ship, namely:—

- (a) Any accident attended with loss of human life, or with grievous hurt as defined in the Penal Code or with serious injury to property;
- (b) Any collision between trains or ships of which one is a train or ship carrying passengers;
- (c) The derailment of any train carrying passengers or of any part of such a train;
- (d) Any accident of a description usually attended with loss of human life or with such grievous hurt as aforesaid or with serious injury to property;
- (e) Any accident of any other description which the Governor may notify in this behalf in the Gazette;

the General Manager shall, without unnecessary delay, send notice of the accident to the Governor, and the station-master or pier-master nearest to the place at which the accident occurred, or, where there is no station-master or pier-master the railway servant in charge of the section of the railway, or, in the case of a ship, the master of such ship on which the accident occurred shall, without unnecessary delay, give notice of the accident to the magistrate of the district in which the accident occurred, and to the officer in charge of the police station within the local limits of which it occurred, or to such other magistrate and police officer as the Governor appoints in this behalf.

46. The Governor may make rules consistent with this Ordinance and any other enactment for the time being in force for all or any of the following purposes, namely:—

- (a) For prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;
- (b) For prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- (c) For prescribing the duties of servants, police officers, inspectors and magistrates on the occurrence of an accident.

Report of railway accidents.

Power to make rules regarding notices of and inquiries into accidents.

47. The General Manager shall send to the Governor a return of accidents occurring upon the railways or ships or at the harbours, whether attended with personal injury or not, in such form and manner and at such intervals of time as the Governor directs.

Submission of return of accidents

48. Whenever any person injured by an accident on a railway or ship or at the harbours claims compensation on account of the injury, any court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the cost of the examination as it or he thinks fit.

Provision for compulsory medical examination of person injured in railway accident.

CHAPTER VI.

15 GENERAL OFFENCES IN RESPECT OF RAILWAYS, HARBOURS AND SHIPS AND BY SERVANTS.

49. Any person who does or causes or procures to be done any of the following acts, namely:—

Penalties for certain classes of offences.

- (a) Trespasses upon a railway and refuses to leave after being warned to leave by any servant;
- (b) Wilfully gives a false name or address to a servant or constable for the purpose of avoiding prosecution;
- (c) Is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of others on the railways or upon any ship;
- (d) Does or attempts to do anything which may cause injury to persons employed or travelling on the railways or upon any ship;
- (e) Commits any nuisance or act of indecency or uses profane, obscene, indecent or abusive language on the railways or upon any ship;
- (f) Writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation, or character upon the railways or upon any ship;
- (g) Wilfully and without lawful excuse interferes with the comfort of any passenger, or extinguishes any lamp or light on a train or railway or upon any ship;
- (h) Defaces the writing on any board or any notice authorised to be maintained on any railway or train or upon any ship;
- (i) Damages or attempts to damage any railway rolling-stock or any material used upon or belonging to any railway;
- (j) Being a passenger, enters a coach or a compartment or a cabin of a ship which is reserved by the High Commissioner for the use of another passenger of which already contains the maximum number of passengers authorised to be carried therein, and refuses to leave it when required to do so by a servant;

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109 (k) Being a passenger, resists the lawful entry of another passenger into a coach or a compartment not reserved by the High Commissioner for the use of the passenger resisting, or not already containing the maximum number of passengers to be carried therein or thereon;

(l) Being a passenger, refuses or neglects to obey the lawful request of a servant, acting under section fifteen (4), within a reasonable time;

109 (m) After having been refused admission to a ship by a servant on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;

109 (n) Having gone on board a ship at any place, and having been requested on account of the ship being full by a servant to leave the ship before it has quitted that place and had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request;

109 (o) Smokes in any part of any ship or any compartment or other part of a coach on a train when smoking is prohibited in that compartment or part;

110 (p) Enters or attempts to enter or leaves or attempts to leave any railway coach on a train while it is in motion, or elsewhere than at the side of the coach adjoining the platform or other place appointed by the High Commissioner for passengers to enter or leave the coach, or opens any outer door of any railway coach on a train while it is in motion;

110 (q) Travels or attempts to travel on or in any part of a train not intended for the use of passengers;

(r) In the absence of a gatekeeper, omits to shut and fasten any gate on the railway so soon as such person and the animal, vehicle or other things (if any) under his charge have passed through the gate: Provided that the gate is furnished with a practical latch or fastening easily applied;

(s) Being a driver or conductor of a tramcar, omnibus, carriage or other vehicle, disobeys while upon the premises of the railways, the reasonable directions of a servant or police officer or constable;

shall be liable on conviction to a fine not exceeding ten pounds or to imprisonment for a period not exceeding one month, or to both such fine and imprisonment.

50. Any person who does, or causes or procures to be done, any of the following acts, namely, who:—

(a) Being a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by the High Commissioner for communication between passengers and a servant in charge of or concerned in the running of a train;

Penalties for certain other classes of offences

69 (b) Knowing or being in a position to know that a railway coach, compartment, or other place is reserved for the exclusive use of males or females, or persons of particular races, or different classes of persons, or natives, enters that coach, compartment or other place in contravention of a regulation and without lawful excuse, or having so entered it remains therein after having been desired by a servant to leave it;

119 (c) Knowing or having reason to believe that an engine or train is approaching along a railway, opens or attempts to open any gate, chain or bar set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes or attempts to drive or take any animal, vehicle or other thing across the railway;

7 new (d) Pulls down or attempts to pull down or wilfully injures or attempts to injure any board or document set up or posted by order of the High Commissioner on a railway or ship or on any rolling-stock;

131 (e) Gives or offers to a servant any money or anything of value for the purpose of evading payment of any sum due under this Ordinance;

117 (f) Being a passenger who to his knowledge is suffering from an infectious or contagious disease, enters or travels upon a railway or ship in contravention of the regulations;

117 (g) Being a servant and knowing that a person is a lunatic or suffering from an infectious or contagious disease, wilfully causes that person to travel upon a railway or ship without arranging for his separation from other passengers;

(h) Fails to deliver at the earliest possible opportunity to a servant any property found on any railway or in any railway coach or on any ship or removes any property so found from a railway or ship or railway coach or compartment;

(i) Wilfully obstructs or impedes a servant in the discharge of his duty;

(j) Discharges any firearm, or throws stones, metal, bricks, gravel, timber, glass, bottles, or other articles likely to obstruct or injure anyone engaged in working on or near the railway, or discharges any firearm from a ship, or attempts to do any of the foregoing acts;

(k) Removes or attempts to remove from a railway or ship or any railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind, or permits any such rolling-stock, tarpaulins, tools, appliances, or property to be unlawfully in his possession or on his premises;

(l) Permits or allows any animal to stray on a railway provided with fences, subject to such fences being in a proper state of repair;

125 (m) Drives or knowingly permits any animal to be on any railway otherwise than for the purpose of lawfully crossing the railway, whether he be the owner of the animal or only in charge thereof, provided that such railway be properly fenced;

shall be liable on conviction to a fine not exceeding twenty pounds, or to imprisonment for a period not exceeding three months, or to both such fine and imprisonment.

Penalties for grave offences.

51. Any person who does, or causes or procures to be done any of the following acts, namely, who:—

(a) Does any act which obstructs or might obstruct the working of a railway or ship or endangers or might endanger the lives of persons travelling thereon;

(b) Without lawful authority, moves any part of the rolling-stock on a railway or leaves the same on any part of a railway;

(c) Without lawful authority moves any signals, points, wires, sleepers, rails, stop-blocks, or machinery on a railway, or shows any signal likely to mislead;

(d) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift, or otherwise causes damage to any ship, or causes any damage to sheds or piers;

(e) Without lawful authority cuts down, breaks, removes, destroys or injures any fence, building or bridge, or other property in or upon any railway;

(f) Attempts or counsels the doing of, or assists or aids in doing, any of the acts mentioned in this section;

shall be liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

52. If any return which is required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable on conviction to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

53. If a person requested under section thirty-two to give an account with respect to any goods wilfully gives an account which is materially false, he shall be liable on conviction to a fine not exceeding seventy-five pounds, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

54. If in contravention of section thirty-three a person takes with him any dangerous or offensive goods upon a railway or ship, or tenders or delivers any such goods for transport, he shall be liable on conviction to a fine not exceeding fifty pounds and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway or ship.

Offences by Servants.

55. If a servant whose duty it is to comply with the provisions of section thirty-four negligently or wilfully omits to comply therewith, he shall be liable on conviction to a fine not exceeding two pounds.

56. If a servant is in a state of intoxication while on duty he shall be liable on conviction to a fine not exceeding five pounds or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway or ship, to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

New

False returns

Giving false account of goods

False entry bringing dangerous or offensive goods upon a railway

Does not duty imposed by section forty-two

Drunkenness

7

57. If a servant, when on duty, endangers the safety of any person:—

(a) By disobeying any general rule made, sanctioned, published and notified under this Ordinance; or

(b) By disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) By any rash or negligent act or omission;

he shall be liable on conviction to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

58. If a station master or a servant in charge of a section of a railway omits to give such notice of an accident as is required by this Ordinance he shall be liable on conviction to a fine not exceeding five pounds.

59. If a servant unnecessarily:—

(a) Allows any rolling-stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level-crossing closed against the public; he shall be liable on conviction to a fine not exceeding two pounds.

60. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed: Provided that, in case of a member dismissed for fraud or dishonesty, the High Commissioner may deduct from any sums payable to such member under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty.

61. (1) If a servant before leaving the services shall fail to give to the High Commissioner the notice specified in his agreement (if any) or if no notice is so specified, then one month's notice (in writing when the servant is able to write) he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from his pay and shall in addition be liable to a fine not exceeding fifteen pounds.

(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without having given the notice specified in the preceding subsection, or of absence without leave, he may be arrested by any police officer without warrant or the master or any officer may, with or without the assistance of the police, convey him on board the ship.

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant, if a native or Arab, from punishment under the Employment of Natives Ordinance (Chapter 129 of the Revised Edition), or any Ordinance amending or substituted for the same.

Endangering the safety of persons

Omission to give notice of accidents

Obstructing level crossings

Dismissal from the service

Leaving service without having given the requisite notice

100

102

103

New

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Facilities for grave offences

51. Any person who does, or causes or procures to be done any of the following acts, namely, who:—

(a) Does any act which obstructs or might obstruct the working of a railway or ship or endangers or might endanger the lives of persons travelling thereon;

(b) Without lawful authority, moves any part of the rolling-stock on a railway or leaves the same on any part of a railway;

(c) Without lawful authority moves any signals, points, wires, sleepers, rails, stop-blocks, or machinery on a railway, or shows any signal likely to mislead;

(d) Damages, removes, or in any other way interferes with any lighthouse, buoy, mark or beacon, sets adrift, or otherwise causes damage to any ship, or causes any damage to sheds or piers;

(e) Without lawful authority cuts down, breaks, removes, destroys or injures any fence, building or bridge, or other property in or upon any railway;

(f) Attempts or counsels the doing of, or assists or aids in doing, any of the acts mentioned in this section;

shall be liable on conviction to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

New

False returns

52. If any return which is required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable on conviction to a fine not exceeding fifty pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment.

Giving false account of goods

53. If a person requested under section thirty-two to give an account with respect to any goods wilfully gives an account which is materially false, he shall be liable on conviction to a fine not exceeding seventy-five pounds, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

Unlawfully bringing dangerous or offensive goods upon a railway

54. If in contravention of section thirty-three a person takes with him any dangerous or offensive goods upon a railway or ship, or tenders or delivers any such goods for transport, he shall be liable on conviction to a fine not exceeding fifty pounds and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway or ship.

Offences by Servants

Breach of duty imposed by section forty-two

55. If a servant whose duty it is to comply with the provisions of section thirty-four negligently or wilfully omits to comply therewith, he shall be liable on conviction to a fine not exceeding two pounds.

Drunkness

56. If a servant is in a state of intoxication while on duty he shall be liable on conviction to a fine not exceeding five pounds or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway or ship, to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

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57. If a servant, when on duty, endangers the safety of any person:—

Endangering the safety of persons

(a) By disobeying any general rule made, sanctioned, published and notified under this Ordinance; or

(b) By disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had notice; or

(c) By any rash or negligent act or omission;

he shall be liable on conviction to imprisonment for a period not exceeding two years, or to a fine not exceeding fifty pounds or to both such fine and imprisonment.

100

58. If a station master or a servant in charge of a section of a railway omits to give such notice of an accident as is required by this Ordinance he shall be liable on conviction to a fine not exceeding five pounds.

Omission to give notice of accidents

102

59. If a servant unnecessarily:—

Obstructing level crossings

(a) Allows any rolling-stock to stand across a place where the railway crosses a public road on the level; or

(b) keeps a level-crossing closed against the public; he shall be liable on conviction to a fine not exceeding two pounds.

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60. If a servant be dismissed from the service for fraud, dishonesty or misconduct, or retire from the service in order to avoid dismissal, or be ordered to resign on account of misconduct, he shall be refunded the amount of his own contributions only to any provident, pension or superannuation fund controlled by the High Commissioner, to which he may have contributed: Provided that, in case of a member dismissed for fraud or dishonesty, the High Commissioner may deduct from any sums payable to such member under this section the amount of any loss which the High Commissioner may have sustained by reason of such fraud or dishonesty.

Dismissal from the service

New

61. (1) If a servant before leaving the services shall fail to give to the High Commissioner the notice specified in his agreement (if any) or if no notice is so specified, then one month's notice (in writing when the servant is able to write) he shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the High Commissioner from his pay and shall in addition be liable to a fine not exceeding fifteen pounds.

Leaving service without having given the requisite notice

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(2) Whenever a servant, being a member of the crew of any ship, is guilty of the offence of leaving the service without having given the notice specified in the preceding subsection, or of absence without leave, he may be arrested by any police officer without warrant or the master or any officer may, with or without the assistance of the police, convey him on board the ship.

(3) Nothing in this or the preceding sections contained shall be deemed to exempt a servant, if a native or Arab, from punishment under the Employment of Natives Ordinance (Chapter 189 of the Revised Edition), or any Ordinance amending or substituted for the same.

Penalty for demanding more than is due.

62. Any servant who, with intent to defraud, asks or receives a greater sum or a lesser sum than is allowed by law and is provided by the tariff then in force for the conveyance of passengers or transport of goods or for any other services rendered or goods supplied, shall be liable on conviction to imprisonment of either description for a period of three months or to a fine not exceeding twenty pounds, or in default of payment to such imprisonment, or to both such fine and imprisonment.

Procedure.

Arrest for offences against certain sections.

63. (1) If a person commits any offence mentioned in sections forty-nine, fifty, fifty-one, fifty-six, fifty-seven and fifty-nine, he may be arrested without warrant or other written authority by any servant or police officer or by any other person whom such servant or police officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a magistrate having authority to try him or commit him for trial.

Arrest of persons likely to abscond or unknown.

64. (1) If a person commits any offence under this Ordinance, other than an offence mentioned in the last foregoing section, and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any servant or police officer or any other person whom such servant or police officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail, or, if his true name and address are ascertained, on his executing a bond, without sureties, for his appearance before a magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest magistrate having jurisdiction.

Appointment of persons to maintain order upon the railways and at the harbours.

65. The High Commissioner may appoint so many persons as may be deemed necessary for the duty of maintaining order upon the railways and harbours and when any such person so appointed is carrying out that duty he shall be capable of exercising all such powers and shall perform all such functions as are by law conferred on or are to be performed by a police officer or constable, and shall be liable in respect of acts done or omitted to be done to the same extent as he would have been liable in like circumstances if he were a member of the police force of the Colony, and shall have the benefits of all the indemnities to which a member of the police force would in like circumstances be entitled.

Place of trial.

66. (1) Any person committing any offence against this Ordinance shall be triable for such offence in any place in which he may be, or which the Governor may notify in this behalf, as well as in any other place in which he might be tried under any law for the time being in force.

(2) Every notification under subsection (1) shall be published in the Gazette, and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations or ports as the Governor may direct.

67. When any act or omission punishable under this Ordinance is also punishable under any other law for the time being in force the offender shall be liable to be prosecuted and punished either under this Ordinance or under such other law but shall not be liable to be punished twice for the same offence.

CHAPTER VII

PRIVATE RAILWAYS.

68. (1) Save as in this chapter is provided, all private railways shall continue to be governed by the law or other authority under which their construction and working were authorised, and no private railway shall be built or constructed in the Colony unless enabled in that behalf by legislation.

The provisions of Chapter III, and sections nine to twelve, both inclusive, and sections forty-five, forty-seven, sixty-three and sixty-four shall apply to private railways *mutatis mutandis*.

(2) Subject to the approval of the High Commissioner, the owner of a private railway may make regulations not inconsistent with this Ordinance with respect to any of the matters referred to in section eighty-three of this Ordinance in so far as they relate to railways, and in respect of the duties and conduct of servants in the employment of any owner of a private railway, and for that purpose section eighty-three of this Ordinance shall *mutatis mutandis* apply to private railways.

(3) Sections fifty-six to fifty-nine, both inclusive, and section fifty-two shall *mutatis mutandis* apply to private railways.

69. (1) The High Commissioner may, when and so often as he thinks fit, upon information received, cause an inspection to be made by one or more competent engineers, of the lines and works of any private railway, and if from the report of any such inspection it appears that any part of such line or works is in a condition dangerous to the safety of public passenger or goods traffic, the High Commissioner may, by written notice, require the owner of the private railway to put that part in a state of repair satisfactory to the High Commissioner within a period to be fixed in the notice. If the terms of the said notice be not complied with in every respect the High Commissioner may, by order under his hand, direct that the working of the said private railway for public passenger and goods traffic shall be stopped pending the completion of certain repairs to be specified with reasonable accuracy in the order: Provided that the owner may before the expiration of the written notice, make such representation and produce such evidence to the High Commissioner as he may think fit for the purpose of obtaining the withdrawal of the notice or a reduction of the expenditure which it may involve. After the order has been served upon the owner or his representative traffic upon the part of the said private railway which is the subject of the order shall be stopped and shall not be resumed until the order has been withdrawn in writing by the High Commissioner.

(2) The owner, and, in the event of the owner being a company, every director as well as the manager or person acting as manager of the private railway, who during the currency of the order, transports or causes or permits to be transported either passenger or goods traffic upon a part of a

Conditions applicable to private railways.

Inspection of private railways by the High Commissioner, and stoppage of traffic if same be not put in repair to satisfaction of High Commissioner.

New

New

private railway in respect of which an order under subsection (1) has been issued, shall each be liable on conviction to a fine not exceeding two hundred pounds for every day during which such traffic is so transported, or, in default of payment, to imprisonment for a period not exceeding twelve months.

(3) Nothing in this section contained shall be construed as rendering the High Commissioner liable for loss or damage caused on or in respect of a private railway nor shall the absence of an inspection by the High Commissioner exempt the owner of a private railway from liability.

CHAPTER VIII

SUPPLEMENTAL PROVISIONS.

Taxation of railways by local authorities.

70. Notwithstanding anything to the contrary in any enactment, or in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in respect of the railways and harbours in aid of the funds of local authorities, namely:—

(1) The High Commissioner shall not be liable to pay any tax in aid of the funds of any local authority unless the Governor in Council has by notification in the Gazette declared the High Commissioner to be liable to pay the tax.

(2) While a notification of the Governor in Council under clause (1) of this section is in force the High Commissioner shall be liable to pay to the local authority either the tax mentioned in the notification, or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the Governor in Council may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The Governor in Council may at any time revoke or vary a notification under clause (1) of this section.

(4) Nothing in this section is to be construed as debarring the High Commissioner from entering into a contract with any local authority for the supply of water or light, or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a municipal corporation or committee, district board or other authority legally entitled to, or entrusted by the Government with the control or management of a municipal or local fund.

Restriction of liability for compensation for fires caused by sparks from locomotives.

71. No compensation shall be payable by the High Commissioner to any owner or occupier of any land contiguous to railway land adjoining a railway in respect of fires caused by sparks from locomotives to the land of such owner or occupier or to any property thereon unless he shall within fourteen days of such fire give notice to the High Commissioner in writing of his intention to make a claim in respect thereof and unless he shall prove that:—

(a) Prior to such fire he had on his land, contiguous to railway land adjoining a railway, a firebreak not less than ten feet wide;

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(b) At the time such fire originated he had such firebreak in good condition;

(c) Not less than three months prior to such fire he had notified the High Commissioner to construct a similar firebreak on railway land and contiguous to his firebreak;

(d) In the case of a building and any property therein damaged or destroyed by fire, such building was not within a distance of two hundred feet from the railway.

72. None of the rolling-stock, ships, machinery, plant, tools, fittings, materials or effects used or provided by the High Commissioner for the purpose of the traffic on its railways and ships or of its stations, ports or workshops, shall be liable to be taken in execution of any decree or order of any court, or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution without the previous sanction of the High Commissioner.

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73. (1) Every servant shall be deemed to be a public servant for the purposes of chapter nine of the Indian Penal Code.

(2) A servant shall not:—

(a) Purchase or bid for, either in person or by agent in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section twenty-nine or thirty; or

(b) In contravention of any direction of the High Commissioner in this behalf, engage in trade.

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74. (1) When the immediate arrest of a servant, either with or without warrant would be likely to endanger the safety of any person travelling or being upon any railway or ship, or to cause serious inconvenience to the High Commissioner, the police officer whose duty it is to make such arrest shall at once apply to the head of the department to which the servant belongs to relieve such servant, and shall arrange so to watch him that he does not escape, and on such servant being relieved such police officer shall arrest him and proceed according to law.

(2) The relief of a servant under the preceding subsection shall be effected with the least possible delay.

75. If a servant is discharged or suspended from his office, or dies, absconds or absents himself and he or his wife or widow or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the High Commissioner, or to a person appointed by the High Commissioner in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the High Commissioner, and in the possession or custody of such servant at the occurrence of any such event as aforesaid, any magistrate may, on application made by or on behalf of the High Commissioner, order any police officer with proper assistance to enter upon the building and remove any such person found therein and take possession thereof, or to take possession of the books, papers, or other matters, and to deliver the same to the High Commissioner or a person appointed by the High Commissioner in that behalf.

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Mode of signifying communications from the High Commissioner.

76. Any notice, determination, direction, requisition, appointment, expression of opinion, approval or sanction to be given or signified on the part of the High Commissioner for any of the purposes of, or in relation to, this Ordinance or any of the powers or provisions therein contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to communicate his directions in respect of the matters to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any of the matters aforesaid unless by some writing signed in manner aforesaid.

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Service of notices on the High Commissioner.

77. Any notice or other document required or authorised by this Ordinance to be served on the High Commissioner may be served on the General Manager :-

(a) By delivering the notice or other document to the General Manager or agent; or

(b) By leaving it at his office; or

(c) By forwarding it by post in a prepaid registered letter addressed to the General Manager or agent at his office.

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Service of notices by the High Commissioner.

78. Any notice or other document required or authorised by this Ordinance to be served on any person by the High Commissioner may be served :-

(a) By delivering it to the person; or

(b) By leaving it at the usual or last known place of abode of the person; or

(c) By forwarding it by post in a prepaid registered letter addressed to the person at his usual or last known place of abode.

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Presumption where notice is served by post

79. Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other documents was properly addressed and registered.

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Limitation of actions.

80. (1) No action the cause of which shall have arisen after the commencement of this Ordinance shall be brought against the High Commissioner unless the same be commenced within twelve months after the cause of the action arose.

(2) No action shall be commenced against the High Commissioner until one month at least after written notice of intention to commence the action has been served upon the High Commissioner by plaintiff or by his attorney or agent. In that notice the cause of action and details of the claim shall be clearly and explicitly stated.

(3) In any action against the High Commissioner no execution or attachment or process in the nature thereof shall be issued against the High Commissioner or against any property of His Majesty, but it shall be lawful for the General Manager to pay out of the Railway and Harbour Fund such sums of money as shall by the judgment of the court be awarded to the plaintiff.

146 (C)

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81. (1) The High Commissioner may authorise the General Manager to act for or represent him, or to appoint any other person to act for or represent him in any proceeding before any civil, criminal or other court.

Representation of High Commissioner in court.

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(2) The General Manager, or any person appointed by him to conduct prosecutions, shall be entitled to conduct such prosecutions without the permission of the magistrate.

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82. The High Commissioner may, by notification in the Gazette, extend this Ordinance or any portion thereof to any tramway worked by steam or other mechanical power.

Power to extend Ordinance to steam tramways.

CHAPTER X.

REGULATIONS AND REPEAL.

83. The High Commissioner may, in addition to the powers conferred upon him by the Order-in-Council, make, vary or revoke regulations, not inconsistent with this Ordinance with respect to any of the following matters, that is to say, with respect to :-

Regulations.

(1) The mode in which and the speed at which trains are to be propelled or moved, and the times of arrival and departure of any trains, or other conveyances, as also the duties of servants in connection with the working of trains and ships;

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(2) The loading or unloading of rolling-stock and the weights or dimensions of goods to be transported on any rolling-stock;

(3) The collection, receipt, cartage, and delivery of goods transported or to be transported by rail, ships or road or at the harbours;

New.

(4) The accommodation and convenience of passengers, the manner in which they shall travel, the exclusion of short-distance passengers from long-distance or express trains, the manner of conveying the luggage of passengers, the use of bedding, lavatory accommodation, urinals, and other like conveniences on the trains, ships, or at stations, and the charges which may be fixed for the conveyance of luggage;

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(5) Fares, freight, or other charges, the amount thereof, and the time when and the place where they shall be paid;

(6) The reservation of railway premises (including conveniences), or of any railway coach or ship or of any portion thereof, for the exclusive use of males or females, or of persons of particular races, or of different classes of persons, and the restriction accordingly of the use of the premises, coach, ship, or portion thereof so reserved;

New

(7) The proper control and management of any anchorage, dock, basin or harbour within his jurisdiction, and the entrance thereto, the removal of any obstruction therein, and the preservation from injury of any works, buoys, dredgers, ships or other property connected therewith;

New

(8) The erection of buildings or other structures, or the planting of posts or poles that may interfere with the proper working of any harbour or the signals or beacons thereat;

(9) The licensing or other authorisation of admission on to any trains, ships, or railway premises, at any special times of any hotel representatives, or other persons soliciting patronage from passengers, at any railway station or railway premises;

(10) The prohibition of smoking in or on wharves, 10 jetties, quays, buildings or rolling-stock;

(11) The prevention of obstructions and the preservation of good order on railway premises, wharves, jetties, landing places, breakwaters, and other works within his jurisdiction, or the approaches to the same; 15

(12) The duties and conduct of carmen, draymen, carriers and persons, other than servants, who ply for hire to or from any station, building, or other place which is under the control of the High Commissioner;

(13) The admission of the public to, or their exclusion from any of the railways, harbours, docks, wharves, jetties and landing places and the charges (if any) to be made for admission, and the closing to the public for such period as the High Commissioner may think fit of any stations, harbours, docks, wharves, jetties, sheds, roads, 25 or landing places under his jurisdiction;

(14) The prevention of damage or injury to any railway station, harbour, dock, slip, wharf, jetty, landing place or other works and premises, ships, railways, rolling-stock, or any property whatever; 30

(15) The prevention of the commission of any nuisance in or upon the railways harbours, docks, wharves, jetties or landing places, and generally the promotion and ensuring of good sanitation, cleanliness and decency; 35

(16) The charges to be made for warehousing goods and for their care or custody, and the terms and conditions upon which they shall be received, and provision for the disposal of unclaimed goods;

(17) The issue of free passes and concession tickets 40 and the prevention of abuse thereof;

(18) The definition for the purposes of this Ordinance of dangerous or offensive goods and the conditions under which and the times when those classes of goods shall be transported, and the prohibition of the transport of those classes of goods, and provision for or sanctioning of the removal or destruction of the same; 45

(19) The use of railways or railway or harbour land for coal stands, depositing, or forwarding sites, pipe lines, power lines and the like, and whether the same shall be overhead or underground; 50

(20) The crossing and the manner of approaching any street, road or thoroughfare by a train;

(21) The construction, use, and maintenance of private sidings and branch lines connected with the railways, and the construction, opening and inspection of new railways, sidings, or branch lines within his jurisdiction;

(22) Advertising, and bookstalls on the railway and at the harbours, and the fixing of the hours and days during which any such bookstall may remain open for the use of the public;

(23) The use of stamps as prepayment upon parcels or goods;

(24) The insurance of persons travelling on the railways;

(25) The sale of liquors and refreshments in refreshment rooms at railway stations and in refreshment cars and on ships;

and generally with respect to the travelling or traffic upon or the use or working of the railways, ships or harbours and for the good government thereof, and the maintenance of order thereon and therein.

The regulations may provide penalties for any contravention thereof or failure to comply therewith, and may also impose different penalties in case of a second or subsequent contravention or non-compliance, but no such penalty shall exceed a fine of fifty pounds or, in default of payment, imprisonment for a period of six months, or to both such fine and imprisonment.

As often as the contravention of or failure to comply with any such regulation causes damage to any property under the management or control of the High Commissioner the person causing the damage shall, in addition to any penalty which may be imposed under the regulation, be liable to make good the same.

A copy of all regulations for the time being in force shall be kept at each station on the railways and at the principal office at each harbour, and any person shall be allowed to inspect the same free of charge.

All by-laws and regulations in force at the commencement of this Ordinance, having reference to the railways and not inconsistent with this Ordinance, shall, until altered or rescinded, be deemed to be regulations made under this section and shall be construed as if so made, and shall, until so altered or rescinded, remain in full force and effect.

84. (1) The East Africa Railways Ordinance (Chapter 115 Repeal of the Revised Edition) is hereby repealed:

Provided that all rules, regulations, declarations, and appointments made, sanctions and directions given, forms approved, powers conferred and notifications published under the said Ordinance or under any other Ordinance or Order in Council relating to Railways shall, so far as they are consistent with this Ordinance, be deemed to have been respectively made, given, approved, conferred and published under this Ordinance.

(2) All references in any enactment or document to the Ordinance hereby repealed shall be construed as references to this Ordinance.

THE SCHEDULE.

ARTICLES TO BE DECLARED AND INSURED.

(See Section 39.)

- (a) Gold and silver, coined or uncoined, manufactured or unmanufactured; ✓
- (b) Plated articles, coins;
- (c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer, or person enrolled as a volunteer or of any public officer, British or foreign, entitled to wear uniform;
- (d) Amber, pearls, precious stones, jewellery and trinkets;
- (e) Watches, clocks and timepieces of any description;
- (f) Government securities;
- (g) Stamps;
- (h) Bills of exchange, promissory notes, bank notes and orders or other securities for payment of money;
- (i) Maps, plans, writings and title-deeds;
- (j) Paintings, engravings, lithographs, pictures, photographs, carvings, statuary, sculpture and other works of art;
- (k) Art pottery, glass, china and marble;
- (l) Silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials;
- (m) Cameras and cinematograph apparatus (including films);
- (n) Lace, furs and feathers;
- (o) Opium and narcotic preparations;
- (p) Ivory, ebony and sandalwood;
- (q) Musk, sandalwood oil and other essential oils used in the preparation of perfumes;
- (r) Musical and scientific instruments;
- (s) Any article of special value which the High Commissioner may by notification in the Gazette add to this schedule.

THE SCHEDULE.

ARTICLES TO BE DECLARED AND ISSUED.

(See Section 39.)

- (a) Gold and silver, coined or uncoined, manufactured or unmanufactured ;
- (b) Plated articles, coins ;
- (c) Cloths and tissue and lace of which gold or silver forms part, not being the uniform or part of the uniform of an officer, soldier, sailor, police officer, or person enrolled as a volunteer or of any public officer, British or foreign, entitled to wear uniform ;
- (d) Amber, pearls, precious stones, jewellery and trinkets ;
- (e) Watches, clocks and timepieces of any description ;
- (f) Government securities ;
- (g) Stamps ;
- (h) Bills of exchange, promissory notes, bank notes and orders or other securities for payment of money ;
- (i) Maps, plans, writings and title-deeds ;
- (j) Paintings, engravings, lithographs, pictures, photographs, carvings, statuary, sculpture and other works of art ;
- (k) Art pottery, glass, china and marble ;
- (l) Silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials ;
- (m) Cameras and cinematograph apparatus (including films) ;
- (n) Lace, furs and feathers ;
- (o) Opium and narcotic preparations ;
- (p) Ivory, ebony and sandalwood ;
- (q) Musk, sandalwood oil and other essential oils used in the preparation of perfumes ;
- (r) Musical and scientific instruments ;
- (s) Any article of special value which the High Commissioner may by notification in the Gazette add to this schedule.

No. 10220

SUBJECT

Local Government of Nairobi Town

Commission of Enquiry

Previous

X.F. 4446/26

Subsequent

15033/28

1937 CO 533 Kenya.

No. 10220

SUBJECT

Local Government of Nairobi Town.

Commission of Enquiry.

Previous

X.F. 4446/26

Subsequent

15033/28

K

102

1927

KENYA

X 10220

1927²

Local Government of Nairobi Town: Commission
of Enquiry

XF. 446/26

(Apr 1925, 9.10.26)

J. H. A. (K. H. A.)

15033/28

R 207

Entry proposed ~~in~~ ^{HOUSE OF COMMONS} ~~in~~ ^{House of Commons}
Sub-File "F"

X. 10110/1

8 March 27
3

(Question by Col. Wedgwood)

(w/3 ^{not available} ~~available~~)

Part 107 All

(273 stage)

2 ——— Dutton, Major ——— 12 March, 1917

Report Explains position as to Local Govt Commission

Refs to with 107 All 14/3 stage

3 To Commission Agents "111" 15 March, 1917

Had Copy of no 3 to Major Dutton (no 2 used) 15 March, 1917

5 ——— to Agents ——— 24 March, 1917

6 ——— to Agents ——— 30 March, 1917

When No.5 was received, I asked the C.As. whether they had any instructions, and they said not, but that Mr. Logan had given them a copy of the Acting Colonial Secretary's note No.6. As the tender in No.5 seemed very extravagant and as regards the binding not in accordance with Mr. Logan's authority in the above mentioned ~~letter~~ ^{note}, I asked the C.As. to ascertain what would be the cost of binding in accordance with that authority, and it now appears from No.6 that the cost is £60 as compared with £122 14s.0d. When Mr. Logan called, I pointed out to him that he had gone beyond his authority, and that I thought that the Governor ^{had} of Kenya should take this opportunity of saving no less than the sum of £62. Mr. Logan then

said

said he was going to see the Governor that morning, and seemed to think that my point of view was rather stingy, an opinion which I had ^{to} butted with some humility, and ventured to say that we should never be allowed by the Treasury or S.O. to go in for extravagancies of this nature, and that even in the case of volumes for distribution to Members of Parliament, the Imperial Govt. would never go to the expense of half calf binding. After seeing the Governor, Mr. Logan returned and said that the Governor agreed that the main bulk of the copies should be bound in common boards, but that ^{the Governor} he would be glad to have 30 copies of each volume in some better binding than that of the whole blue ^{all} twelve. In these circumstances, there is nothing to do but acquiesce, and I informed the C.As. by telephone that they should authorise the printing of the Report ^{the} binding of 140 copies in common boards, the exact nature of the binding of the remaining 60 copies to be left over for the moment. I also told them that there was no authority for the cutting of a special ^{die} in order to have the Kenya seal on the volumes; another piece of quite unwarrantable extravagance. When we get the information as to the binding of the remaining 30 copies, a confirming letter should be sent to the C.As. and the necessary corres. should go to the A.S. pointing out that delay and inconvenience would have been avoided in this case if the wishes of the Colonial Govt. in the matter had been notified direct either to the S. of S. or to the C.As. in the usual way.

recd
 4/16/20
 et hcc

said he was going to see the Governor that morning, and seemed to think that my point of view was rather stringy, an opinion which I had^{had} butted with some humility, and ventured to say that we should never be allowed by the Treasury or S.O. to go in for extravagancies of this nature, and that even in the case of volumes for distribution to Members of Parliament, the Imperial Govt. would never go to the expense of half calf binding. After seeing the Governor, Mr. Logan returned and said that the Governor agreed that the main bulk of the copies should be bound in common boards, but that ^{the} ~~he~~ would be glad to have 30 copies of each volume in some better binding than that of the whole blue ~~twelve~~. In these circumstances, there is nothing to do but acquiesce, and I informed the C.As. by telephone that they should authorise the printing of the Report ~~the~~ binding of 1140 copies in common boards, the exact nature of the binding of the remaining 60 copies to be left over for the moment. I also told them that there was no authority for the putting of a special ~~die~~ in order to have the nerya seal on the volumes, another piece of quite unwarrantable extravagance. When we get the information as to the binding of the remaining 30 copies, a confirming letter should be sent to the C.As. and the necessary corres. should go to the ~~the~~ pointing out that delay and inconvenience would have been avoided in this case if the wishes of the Colonial Govt. in the matter had been notified direct either to the S. of S. or to the C.As. in the usual

was
 H. Allen
 4/4/27
 27/11/27

~~DESTROYED UNDER STATUTE~~

Logan DM ——— 4 April, 1927

State no. of copies now required.

Mr. Cliffe.

Please ring up Mr. Darroch of the Crown Agents and give him the substance of this letter, some of which, however, he knows already. He should also be asked to let us know what is the final estimate of cost. ~~It might~~ ^{it might} be interesting to know, if it would not be too much trouble ^{any} the difference in cost between binding 30 copies in blue twill and half calf! A confirming draft to the Crown Agents should ~~then~~ be prepared for consen.

Done
to Darroch
in copy
in Cliffe
5.11.27

I don't know why it is so
many as 12 for 30 use.

J.H. Allen
P/2
ctace

staff sent to
J.H. Allen

8 To C.A. (w/ original to 5) and C Rules

18 APR 1927

9 To Gen 324 (w/ copy 3-7+9)

13 APL 1927

~~DESTROYED UNDER STATUTE~~

11 April, 1927

Ask P.A. to instruct to confirm the order for 30 copies in half calf binding, and request that we set out at once to Henry Britton typed indexes to recommendations draft tel as marks.

Keep 003, the necessary

cannot be taken care of the

CA (see 105). The Encl also be

attached to the copy of the report

When I see the
document - B. 11. 3. 27

X Y

X. 10220
27
11 Tel. to Gov. } 14 April 1927
CESTREES UNDER REPORTS (12 ans.) }
EK

Sir S. Wilson,

I send this to you as an illustration of the way they do things in Kenya. As you know, the Governor obtained the services of Mr Feetham as Chairman of a Commission on local Government in Kenya, which Commission has now reported. They only had two towns to deal with, Mombasa and Nairobi. The result is two considerable volumes (with 560 pages and 9 maps in colours) which are of purely local interest and which no human being - it may safely be said - will ever read through, though doubtless the conclusions will be of value and the record of evidence useful for reference. Mr Logan, the Secretary to the Commission, comes home with instructions to get 500 copies printed (which are to be sold at £1 each) and it was only Mr Allen's intervention that prevented him from committing the Kenya Government to paying £550, by cutting down the style of the bindings from £122.14.0 to £60. Mr Logan seems to have exceeded his instructions, and I hope therefore that this will not be brought up by the Governor as another example of Colonial Office interference. I wonder how many copies will be sold, but we shall never know.

in the matter of the bindings

(Intd) C.S.
25.4.27.

*In sympathy for
Rep. of State.*

I should like you to see the above minute, as only a few days ago Sir E. Frye complained to me

of O.C. interference. The case he
mentioned was that of the amount
of subsistence allowance paid to
Colonial Officers on duty in this
year. The O.C. grant in fact
represented certain daily allowances
granted to the Officers. The
allowance was as there were
considerably in excess of the
scale approved for the Colonies
Generally. The Board had been
informed that the Department notified that
the allowance was granted according
to the usual scale. But E. J. J. J.
told me that the Board had detailed
matters of this kind ought to be
left to the discretion of the

6
Y 0220/17
of C.O. interference. The case he mentioned was that of the amount of subsistence allowance paid to Colonial Officers on duty in this country. The C.O. of course in favor approval of certain daily allowances being paid to the Indian, Lal, Walker etc, and as there were considerably in excess of the scale approved for the Colonies generally (when land values were

low), the Department replied that the allowances should be according to the usual scale. Sir E. Grey told me that he thought a detailed matter of this kind ought to be left to the discretion of the

7
X 10220/17
Governor. I entirely agree in principle; and as you know one of the things I have been consistently working for since you appointed me to my present post is to limit as far as possible any interference by C.O. especially in matters of detail. I feel, however, there is one thing in which the Govt. should on occasion interfere, and that is expenditure on an unnecessarily extravagant scale: and expenditure which commits the Governor's successors to doing the same, and at the same time "spoils" the market for other Colonies.

I know it is a very small point

will doubtless receive a fuller
expression of the OAG's views when
he next has time further
available

It is anticipated by the OAG that
the subject in general will be
discussed with Sir Edward Gigg;
and attach a tabular statement
of the points in the report on which
the OAG's Executive Council have
made observations which may be of use in
any connection beyond this. Do not see
that any action is called for at the
moment

322 Cliffe

30.6.27

Logan, W. 7 June, 1927

Usks tel. re sent to Kenya regarding
depth of reports leads us to delay.

See Herts. G.L. re info. to Logan -
I will be in as soon as possible.

W.S. Hornum

10.6.27

RECEIVED UNDER STATUTE No. 110th June 1927

To Logan (no. 15 and) 11 JUN 1927

RECEIVED UNDER STATUTE

X. 10220/27

shall doubtless receive a fuller expression of the O.A.C.'s views when the matter has been further elaborated.

It is anticipated by the O.A.C. that the subject in general will be discussed with Sir Edward Grigg and attach a tabular statement of the work in the report on which the O.A.C.'s Executive Council have had views which may be of use in the connection beyond this. Do not see that any action is called for at the moment.

J.A. Cliffe

50.1.27

Logan

7 June, 1927

Usks tel re sent to Kenya regarding despatch of reports leads us to delay

Send Mr. G. L. ... info. re Logan

... ..

W.S. ...

10.6.27

110th June 1927.

To Logan (no. 15 and) 11 JUN 1927

X. 10220/27

11/8

I attach some notes which I have received from Mr. Martin as a result of the talk which Sir E. Grigg wished us to have on the question of Nairobi. I am chiefly interested in the financial side of the matter, and you will notice that for the present, at all events, little or no additional expenditure on Government is involved. The additional expense on the public is very considerable, but if the Town is better cared for than at present it will be worth the money.

Neither this scheme nor the Government Loan Scheme provide in any way for Nairobi Town Planning. This is expected to pay for itself in the form of increased rents, and it will therefore be financed by a special fund, the initial resources of which will no doubt be met by an advance of Government money on a small scale. There is no present intention of increasing the amount (£50,000 or £60,000) which the Government is to lend to the Municipality out of the money which the Government itself will borrow from the forthcoming Loan.

It is proposed (page 90) that the sanction of the Governor to the Municipal Annual Estimates shall no longer be required, but that the Estimates and Supplementary Estimates and proposed change of rates shall be communicated to him, so that a check on any extravagance can be imposed. If the Legislative Council agree to this, I do not think we should object, but I am afraid that the results of any extravagance will have to be faced by the Government itself.

As regards the future endowment of the

Municipality

Municipality with ~~above~~ land within the Municipality. I think that this must be left over as the Committee propose for consideration in a few years. We shall then know better what is at issue as the Town Planning Scheme should be well on the way.

On the question of the extension of the Municipal area, ^{into lands} division of ~~wharves~~ etc., this is a matter I think on which we should ventilate local public opinion before anything is definitely decided. ~~cannot be able to judge from here~~ ^{cannot well} ~~as to what people concerned will feel about it.~~

This Nairobi question is the only part of the work which Sir E. Brigg has put down for the subjects for discussion and if possible, ^{settled} ~~settled~~ before he returns, and I think it is desirable to limit consideration to it as the report, ^{a memorandum} ~~report~~ requires study at least of the kind which is text of the central officer. ^{best work} ~~as to Sir E. Denham's despatch,~~ but as the despatch is less a matter of this particular scheme of local government than of the general scheme of the Colonial Secretary and the Secretary of the scheme of Government. What we have to do is to decentralise work, as far as possible ^{from} ~~from~~ the Secretary, but at the same time to centralise the position of the Colonial Secretary ^{in the Executive,} who must be the central figure in all Departments, but ~~not~~ ^{not} the policy of all. I think that it is a very important question at present as it is connected with the still larger question of the ~~reorganisation~~ of Kenya.

Sir E. Brigg's ~~view~~ ^{view} is very ~~important~~ ^{important} in connection with the appointment of Town Clerk.

and

and I think that, although we cannot settle all the details of the new municipal arrangements in Nairobi, we can assume that a really good Town Clerk ~~will~~ ^{will} ~~would~~ be necessary to keep the place and the Council in order. For this purpose we have to look for somebody who has municipal experience in this country, and if possible, legal qualifications as a solicitor. What we want is the Town Clerk of some small town or still better a Deputy Town Clerk of a larger town. We should, I suppose, have to offer about £1,000 a year, but (Mr. Martin thought) he should be left to provide himself with quarters.

I think that if Sir John Risley agrees, it might be well for the Appointments Branch to get into touch with the Ministry of Health (I suppose) for a preliminary consideration as to how we should proceed. This first step might be taken before our discussion with Sir E. Brigg takes place.

W. S. O'Malley
14.6.27
17/6

I agree. I should like to have Sir J. Risley's views.

J. A. G.
15.6.27

*See Mr. ...
No longer holding
Suggested £1000
What better
pay it would
17/6*

*Not now
as yet
MEX 27/6*

There was a P. M. candidate (policy) named McQuinn who has had considerable experience of municipal work and was very keen - years ago to get a colonial post, but he may be too old or not otherwise suitable for this Nairobi Town Clerkship - on the whole I

agree that by an insight will proceed as at
"A" if the Appointments Branch have no
really good candidates already on their books
for this class of work

J.S.R.
16/6/27

Mr. Pennington,

I think we might now
proceed as at "A".

R.H.L.

6.6.27
40, at one
July 10 1927

[Mr. Logan was with me yesterday when I was
told that Mr. Woodhouse had called & asked
for a copy of a report that although the
whole would be undertaken very immediately
and would that you would do all the
preliminary work. He agreed with me
however that it would be better to have a copy
of the report before the whole of the
preliminary work was being undertaken
and would be the end of them. This being
done.

17/6/27

I received these before two further talks
with Mr. Hunter on the 22nd. Details
of Logan's notes attached.

(17)

(1) Tom Clark Minister.

Make out a v.f. and release the
papers for circulation in the courts.
Mr. Logan's £1200 per annum loan
allowance or free medical
treatment should be adopted on
starting point. Mr. Hunter considers
it unnecessary to consult the Minister
Council.

L.S. before sent
G.P. Sec - Mr. Eakin
& agreement or protestation
is being laid out
the to what
decision - the 100
to what attached

J.M.R.
13/7

(2) Municipal Engineer, Korbora.

Mr. Hunter considers that, in view of
the difficulty of having had in getting an
Assistant Engineer (Jost) with the
provision of the Municipal post, & the
probability that the Municipal Engineer
would be started, C.A. should try to get,
instead,
[a Municipal Engineer at £800 +
quarters - they to have no expenditure
but to say in the agreement that the
contract will be the affair of the

10220/27

Municipality is some other
is one.

Get out from papers, enter
this with out, & ask Cd for
their views.

Mr Skilton Re: Inter agreement

it is a matter of urgency & get

Mr Skilton if possible. Put up a

bill to Sir C. Sturley - tel: to King &

authorizing them to establish the

Transatlantic Provincial Administration

at £800 plus quarterly on a basis of

2 years' recording.

W.C. Sturley
25.6.27.

through the
Gov. Sec. Spence

17th 18th Tel to only Kya & — 28 June 1927

To C. A. Cons. 8 JUL 1927 on X. 10012

X Mr B. Sturley

if taken:
I doubt if we have any suitable
candidates.
Before I write to Min. of Health
can you see if it is possible
whether part is to be an
appointment or agreement.

Mr Hall
to do

Extract of
minutes.
in 10220/27
10012/27
[Signature]

X. 10220/27
I have explained to Mr. Furse who thinks
best that a few points to be made after
discussion can be taken.

J.M. Allen
15/7/27

Entry paper
on Sub.
file A.

18

H. of Comms

18 July, 1927

in by Col. Wedgwood

19

H. of Comms

18 July, 1927

in by Col. Wedgwood.

Entry paper on
Sub. file A.

20 W. M. Logan
DESTROYED UNDER STAT.

22nd July 27

Copy letter from Treas. Waterloo regarding
break up of type & enquiring whether further
copies are required.

Col had a similar letter which I
sent to Mr. Logan. He dealt with it
& before he had sent him returned.

Prody W.C. Sturley

20.8.27

Dr C. Sturley

I attach the record of my last talk
with Mr. Logan, when it was agreed
that he must make use of local opinion
before taking any steps to establish a
Club.

Sir C. Sturley is due to arrive on

X. 10220/27

new Mombasa Municipal Board - though it seems that only the former is really in question.

? the substance of the representations from the Government of India should be communicated to the Governor, and he should be asked to telegraph direct to that Govt. as desired, and also to send copies of the Commission's Report to India as soon as possible. If so, the telegram might take the form of the draft herewith, and it will be sufficient to send a copy of the telegram ^{to the S.O.} for their information, together with a copy of the Report of the Commission drawing attention to the fact that Kenya has been asked to send copies direct to India.

(The draft telegram does not make any mention of the fact referred to ^{at x} above that the S. of S. did not definitely approve of the recommendations of the Commission, since we have only got the briefest possible reference to what the Governor said, and ^{to} the full statement (to get a new complexion on the matter).

H.M. Allen
12/9/27

Indian objection is not based on the continuance of communal election in Nairobi, since they have accepted the communal principle in Cap. 60. His objection based on the Indian membership due to the proposed inclusion in Nairobi of the European

X. 10220/27

submitter. See No. 47-51 of the
Interim Report - Vol. I.

I agree that we are all agreed to the Governor that he has granted the reference to public opinion in our letter of 10.9.27, but I think that a copy of that telegram should go to the S.O. in the letter which he Allen proposes. This question of boards has from the first been regarded here as one for local opinion to express itself on.

W.D. Manning

12.9.27.

13.9.27

23 Tel. to Govt. Kenya — 13 Sept. 1927

24 To India Office (28 para) (49 copies) } 2 SEP 1927
21 + 23 + 2 not kept

~~W.D. Allen~~

Right me to terminal Kenya
as to 21?

been have to
a letter in
1927 were H.M. Allen 23/9/27
C.D. Allen

X. 10220/27

15 India Office 30 Sept, 1927
Lomb's comments on the Comm. Report and adds that it is considered that final decision should be deferred until Report has been considered by Govt. of India.

Mr. Wiseman

I now annex a copy of the "East African Standard" of September 3rd (containing on page 2 of the Supplement Sir E. Grigg's announcement of Secretary of State's approval of the Nairobi recommendations) and a note showing the chronological order of events in connection with this announcement. We have not yet received the letter of August 12 from the East African Indian National Congress, referred to by the India Office in paragraph 2 of No. 25, but Mr. Walton (who has promised to send over a copy) tells me it is a letter of protest against the recommendations. No doubt the original was sent in the proper way through the Governor, and has missed a mail.

It seems clear that the letter was on record locally before either Secretary of State's telegram of 26 August (No. 21) was sent, or Sir E. Grigg announced Secretary of State's approval of the Nairobi recommendations, and this reinforces the observations made in paragraph 1 of Mr. Allen's minute of 12.9.27. There seems no good ground for refusing to accede to the suggestion now made by the India Office, the only difficulty being that Sir E. Grigg publicly expressed the hope, on August 30th, that the recommendations would be put into

S. W. X 15033/28

X. 10220/27

effect as soon as possible. If, however, there is difficulty, it is of his own creation.

Perhaps action might take the form of a telegram to Sir E. Grigg, saying that Secretary of State understands from India Office that a letter was sent to him by the East African Indian National Congress on the 12th August regarding the report of Commission, that Secretary of State has not yet received the letter but understands that it contained a protest against the Commission's recommendations, and in the circumstances it appears somewhat doubtful whether the conditions mentioned in the telegram of 26th August as attaching to Secretary of State's approval of the recommendations are actually fulfilled.

Say that the India Office have now suggested that action to implement the recommendations regarding the Nairobi Municipal Council should be postponed so as to give the Government of India an opportunity to make representations after studying the report, and that Secretary of State considers their request should be acceded to; and ask for Governor's views by telegram.

P. B. Furse

Major Furse has pointed out that no action can be taken as regards the selection of a Town Clerk until his minute of 14.7. is answered: i.e. will the new Town Clerk be on probation or on agreement? As to this, see paragraph 2 of the type Notes above No. 20, and also the telegram of 26th August (No. 21)

? We should add to the telegram proposed above that in the meantime there seems no reason why the

24

X. 10220/27

the selection of a Town Clerk should not be proceeded with, but that Secretary of State is awaiting Governor's views on the terms proposed in the telegram of August 26th before proceeding with this.

A reply to the India Office can await the Governor's reply.

8 Dec
4.10.27

It is a pity that the Governor has stirred up this hornet's nest, but as we knew of Indian opposition before the telegram of the 27th of August (No. 21 on this file) was sent - see paragraph 9 of the C.A.G.'s despatch of the 20th of April (No. 14 on the file) he may have assumed that the S. of S. had already discounted the Indian opposition. I send on draft telegram for consideration herewith.

A copy of this telegram might go to the India Office, ...

... about whether we need say anything about the Town Clerk in this telegram. Our telegram of the 27th of August put the matter to the Governor, and it is hardly the ~~time~~ ^{occasion} to stir him up.

(I am afraid this must be ~~sent~~ ^{sent} - ~~after~~!)
R.W. Wiseman
5.10.27

* I do not see that the demand of the Indian Member of the Commission & Co. indicates "public opinion".

I think that action must be taken up, but it is unnecessary to strengthen the telegram as the Governor is probably of the same opinion by now.

6.10.27

X

sed

X. 10220/27

25
15

B.A. 6.
8.10.27.
10.10.27

26. Oct. to Gov. ^{34/6} 11 Oct. 1927
To I.O. (w/ copy above) 14 OCT 1927 B
I.A.

Walter J.C.
S.O. (India Office) 12 Oct, 1927

Delayed for J.P. ^{34/6}
Two extracts from Kenya Daily Mail reporting an Indian meeting in Nairobi.

Part 3
(No need to remind Gov as ...)

21 at present)

above R.W.
20/10/27

[Dept. will bear in mind that a reply to our ltr of 26/8 (No 21) is still outstanding]

India Office 31 Oct, 1927

Two copies extracts from Indian newspapers

Part 3
above R.W.
1/11/27

30 ——— P.S. to ——— 13 Oct, 1927.
Lyn Grogg (Secret)

Two copy tels. sent to the Viceroy
of India regarding report of
Seetham Commission.

I still think it was a pity
he dragged the S.P.S. into this
matter.

? P.S. 27

Rt Wiscam

sketch 207 in P.S. 10., 8/11/27

have a copy of this?

Recd. 27.11.27

~~sent to Carter (20) 23 Nov 27 (with copy 30)~~
~~DESTROYED UNDER STATUTE~~

~~21 ——— J. of Common. ——— 9 November, 1927~~

Question by Col. Wedgwood.

Getting broken in
Sub file A

32 ——— India Office ——— 18 Nov., 1927.

Send ~~to~~ extracts from Indian
newspapers

Mr. Tompkins

You will like to see 30

116

W.S.
22.11.27

30 — P.S. to — 13 Oct, 1927.
Gen. Gigg (Secret)

Two copy kls. sent to the Vicary
of India regarding report of
Seetham Kumar.

I still think it was a pity
he dragged the S. of S. into this
matter.

2 P.S. by
R. W. Wilson

Should not the P.S. to, 8/11/27

have a copy of this?

W.C.B. 29/11/27

~~DESTROYED UNDER STATUTE~~

To Carter (20) 23 Nov 27 (with copy 30)

H. of Comm. — 9 November, 1927.

Question by Col. Wedgwood.

31 — India Office — 18 Nov., 1927.

Send ~~to~~ extracts from India
newspapers

Mr. Campbell

You will like to see 30

R.W. Wilson
25.11.27

Nothing further in
Sub. file A

in reply

N. Mac
R.W.

? 32 should be seen by Mr. B. ...
It can then perhaps be put by

8 Dec
28. "

W. Allen

23/11/27

at once to

29/11/27

33 To Kenya (with copy 31 and answer) 22 Nov 27
on Sub. file A

34 — H. of Comm. — 2nd Dec., 1927.

Question by Col. Wedgwood.

Nothing further in
Sub. file A

35 Copy L. & A. to Kenya - 15th Dec., 1927 1/2 on
Sub. file A.

36 — H. of Comm. — 12th Dec., 1927.

Question by Mr. Rennie Smith.

Nothing further in
Sub. file A

37 r/s to Hya. - 20 Dec., 1927 on sub. file
"A"

38 — H. of Comm. — 19th Dec., 1927.

Question by Mr. Stephen

Nothing further
Sub. file A

39 r/s to Hya. - 29 Dec., 1927 on sub
file "A"

32
17

Reference to previous correspondence :

Letter ^{to} the India Office of the 31. 10. 27,
from No. H. & O. 7919/27.

Ho. 24

INDIA OFFICE,

10226/27 18th November, 1927.

Communications on this subject should be addressed to—

THE UNDER SECRETARY OF STATE,
Economic & Overseas DEPT.,
INDIA OFFICE,
LONDON, S.W. 1.

and the following number quoted—

H. & O. 7981/27.

The Under Secretary of State for India presents his compliments to the Under Secretary of State for the Colonies extracts from the news and begs to transmit to him copy of the papers noted below.

The Under Secretary of State,
Colonial Office.

Origin.	Date.	Subject.
"Pratidinam" (Kottayam).	16. 9. 27.	Indians in Kenya.
"Satyagrahi", (Ellore).	5. 9. 27.	" "
"Telaga", (Rajamundry).	9. 9. 27.	" "
"Swarajya" (Madras)	19. 9. 27.	" "
"Andhra Patrika" "	23. 9. 27.	" "
"Ind. National Herald" (Bombay)	19. 9. 27.	" "
"Servant of India" "	22. 9. 27.	" "

Copy also sent to—

Indians in Kenya.

18

Pratidinam (Kottayam) 16th Sept. 1927.

The Pratidinam observes that it is deplorable that just when the conflict between Indians and Europeans in South Africa has begun to die away there should appear signs of a conflict between them in East Africa. Just as the terms of agreement are beginning to come into operation in South Africa, it is surprising that the whites of East Africa should exhibit displeasure at the Indians of that place . . . The Government of that place appointed a committee called the Feetham Committee to recommend municipal reforms and it submitted a report making recommendations injurious to Indians. This report makes it impossible for Indians, who are in a majority, from getting adequate representation in the two municipalities of the colony, viz: Mombassa and Nairobi. The Indians of that place are strongly protesting against it. In the meantime, however, the Governor Sir Edward Grigg has expressed opinions mostly favouring the Feetham Committee's report.

Wherever Indians may go misfortune pursues them at their heels. The trouble caused by the white settlers in regions like South Africa, East Africa and the Fiji Islands to the Indians that migrated to those parts is indescribable and it is gratifying that the agreement concluded by the Government of India with the South African Government has brought some pacification to the minds of the Indians living in South Africa. But the Indians living in Kenya (East Africa) have not had any such felicity. Of the African natives, Arabs, the whites and Indians inhabiting this region, the Indians are the largest in number, but yet they lack adequate representation in municipal institutions . . . Sir Edward Grigg is the Governor of Kenya. Either pressed by the European populations or on his own initiative, he went to England, conferred with the Secretary for the Colonies and coming back to Kenya, issued a communique on Wednesday last. This communique relates to representation and elections. According to the communique in the Kenya legislature, besides the official members, there will be a majority of unofficial Europeans while only a minority of seats will be allotted to Indians. Representation will not be by constituencies but by communities. Communalism has already been rampant in elections. Now that it is specifically stated that representation would be communal it may be said that good days are over for the Indian settlers. The Indians in Kenya are raising an uproar. The Indian members of the Nairobi Municipal Council walked out of the Council Chamber to indicate their disapproval thereof. This is not enough. Strenuous opposition and

and serious agitation must be resorted to
The Government of India promised/^{to}do something in connection
with this question. We do not know what they will
do and what will happen. But until Indians come to
rely upon their self-exertion, they will have no
salvation.

We are sorry to hear that the condition of the Indians in Kenya is once again becoming critical The report of the Feetham Commission removes even the small rights secured already by the Indians in the municipalities with much difficulty. - It recommends that the Indians should not enjoy^{even} these small privileges. There is no doubt that all this is intended to leave no standing place for them in Kenya. No more harm could be done to the Indians who helped to make a heaven of Kenya than this. The desire of the whites for authority cannot go further That they should take to this unjust course makes us entertain the suspicion that they intend making slaves of Indians permanently The Government of India will do well to take the necessary interest in the matter before conditions become more critical. We urge them to endeavour in this direction with resoluteness as they did in solving the South African problem and safeguard the interests of the Indians in Kenya.

Swarnaiva (Madras). 19th September 1927.

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The white paper published in July 1927 gave room for some anxiety. Since then, the political and civic rights of the Indians are being questioned and action is being taken in England in this connection without the knowledge of the Indians. For some reason or other, the Government of India are indifferent in regard to this matter. It appears that the report of the Feetham Committee contains recommendations which are mostly prejudicial to the interests of the Indians and the latter are entirely ignorant of them. Our representatives have requested that the Viceroy should evince great interest in this matter and urge the British Government not to agree to any final settlement with regard to Kenya without consulting India. The Viceroy evades the issue as usual and wipes our eyes. It will be seen in a few days that all this is vain talk. The Government of India will not be capable of doing anything against the interests of the whites in Kenya. The condition of the Indians in Kenya will become precarious. It will then become patent that it will be all the more essential to find out other means for redressing the grievances of the Indians without seeking the assistance of the Government of India.

The complete speech delivered by Sir Edward Grigg, Governor of Kenya, now received, only strengthens the suspicion entertained by Indians. It shows, in unequivocal language, that the chief object of Sir Edward Grigg is to extend the white sway and minimise the rights of the Indians and the natives of Kenya . . . H. E. the Viceroy's utterances on the Kenya question have given rise to much dissatisfaction among the Indians in Kenya, and it is no wonder that they feel dissatisfied and hopeless of getting succour from any quarter.

The representative deputation which waited on the Viceroy, on Saturday, referred with grave anxiety to the fresh menace in Kenya and earnestly demanded the energetic intervention of the Viceroy and the Government to prevent the extermination of Indians or their virtual reduction to slave-status from a colony for whose prosperity they have made no small sacrifice and in which they have established a far greater right to consideration than interlopers of the Delamere species. The deputation categorically demanded action from the Government along certain lines and we trust that they will receive the most earnest attention of the Viceroy and the Government. There was no need for the tone of apology or timidity exhibited by the deputation, in the face of the coup de main of the White Imperialists with the connivance, it appears, of the Colonial Office. Indeed it would seem from the manner in which the whole campaign has been launched for the trampling of Indian rights that there has been some sort of conspiracy between the Colonial Office and the Kenya Europeans to rob Indians of every vestige of freedom in the colony which by their labour and industry they have made highly prosperous, and make their position entirely untenable.

. . . Mr. Andrews, in the goodness of his heart, and a generous impulse of his pious soul, pins his faith to the fact that Lord Irwin, while he was an Under-Secretary at the Colonial Office, a long while ago, was the author or what is known as the Wood-Winterton agreement, and could therefore be trusted not to betray Indian rights and Indian honour. We do not share, we regret to say, Mr. Andrews' optimism, nor are we sanguine that Indian interests

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interests are being properly looked after by the Government of India at the present moment. They have exhibited amazing indifference to the future of Kenya Indians and the very fact that the Colonial Office has been able to do everything according to its own sweet will, as though there were no Government of India to be reckoned against in any arrangement, should enjoin caution against undue optimism or the relaxation of vigilance on the part of Indians We have every reason to believe that the bombshell exploded by Sir Edward Grigg is not an isolated step, but that it is part of some concerted action between the Colonial Office and the Kenya administration engineered during the recent confabulations of Sir Edward Grigg in London . . . For almost a year an attempt has been made in this country to rouse the Government to the seriousness of the situation, and what is the result? Government have obstinately refused to stir themselves, conveniently taking shelter behind evasive and red-tape answers to Indian representations in this matter. If Lord Irwin had been actuated by that same high regard for fair-play which characterised his action at the Colonial Office or had not felt a sense of restraint by the thought of his being merely the head of a subordinate branch of Whitehall, we have no reasons to doubt that instead of pursuing a halting submissive attitude despite the demands of the Colonial Office and the Kenya Whites, he would have unhesitatingly put himself at the head of Indian opinion and exerted the full weight of his and his Government's authority to vindicate the Indian cause in Kenya and safeguard Indian rights against the impious claims of White domination. The policy of Masterly Inactivity which has been followed by him provokes the uncharitable thought among Indians that their interests and national honour are being deliberately sacrificed to propitiate

propitiate the white clamour in Kenya. If Lord Irwin ²⁰
wants to remove such an impression from the public mind,
or inspire confidence among Indians, he has got to
give stronger and more substantial proof that he and his
Government are at one with them in this question of grave
concern to them by adopting a firmer attitude and by
courageously exposing the Indian fight in Kenya.

The Viceroy in his reply assured the deputation that the Government of India were fully alive to the gravity of the situation and would do, when occasion arose, all they could to relieve it. Perhaps the reply gave satisfaction to the deputationists, too, but we for our part feel that Lord Irwin does not appreciate to the full the far-reaching implications of the new White Paper and the complete reversal it makes in the British Government's former East Africa policy. 'The only important respect' said he, 'in which the White Paper of July 1927, differed from the previous White Paper was in respect of the possibility of bringing about closer association in the discharge of the responsibilities and trusteeship of the Government'. This attempt to belittle the revolution in the East Africa policy that is now imminent as if it were a minor change would be regarded as disingenuous in anyone whose sincerity was not above question as is Lord Irwin's, but against the Viceroy we have a right to make this complaint, that he has not as yet paid sufficient attention to the new orientation of policy, familiar as he undoubtedly is with the broad lineaments of the problem. The concentration of native trusteeship in His Majesty's Government and a rigorous exclusion of all immigrant communities from it are the keystone of the colonial policy as it has been in force. The British Government evolved, and at any rate enunciated, this policy in 1923 and, with the help of it, negated the just claims of Indians. There was really no logical connexion between the trusteeship doctrine and the rejection of the Indian demands. But the Government could plausibly argue that, because they held native interests supreme, they could not

concede

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concede all that the Indians were asking for. Now however Indian agitation has been successfully countered, and they can afford to throw on the scrap heap the doctrine of native trusteeship and give rein to the white exploitation policy which had temporarily to be put into the background. An Indian can legitimately contend that the theory of the trusteeship of the natives was from the beginning a deliberate pretence set up for no other purpose than that of putting a good face on an ugly policy. Lord Irwin stated, in order to assuage the feelings of the deputation, that Mr. Amery still held by the terms of the White Paper of 1923 inasmuch as self-government was not being conferred; but that White Paper had ruled out an unofficial majority just as sternly as responsible self-government, and yet the first thing Sir E. Grigg, the Governor of Kenya, does since returning to Kenya after his confabulations with the Colonial Secretary is to discuss with his Council what rearrangements will be necessitated in the constitutional machinery after an unofficial majority is conceded! It is best in the interest of all that this pretence of native trusteeship is given up once for all. Lord Irwin, if he cannot set matters right, should at least try to persuade the British Government to abj^ute cant. If he succeeds in doing this, he will have performed a service of real value in the interest of truth.

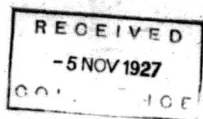
29 30
GAI
KENYA.

No.
SECRET.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

13th October, 1927.



The Private Secretary to His Excellency the
Governor of Kenya Colony conveys his compliments
to His Majesty's Under Secretary of State for the
Colonies and begs to forward copies of telegrams
sent by His Excellency to His Excellency the
Viceroy of India.

Copy to Carter, (No.) 23/10/27. 20.

50

PARAPHRASE OF CYPHER TELEGRAM
SENT TO HIS EXCELLENCY THE VICEROY

23rd September, 1927.

With reference to and in continuance of my telegram of the 19th September.

Judge Feetham came to Kenya as the chairman of a Commission to make recommendations regarding the municipal government in Nairobi and in Mombasa; he was further asked to examine the future steps towards local government in settled areas. He arrived this time last year. Nairobi was the most urgent problem owing to the lack of co-operation between city and suburban districts and other striking faults in municipal organisation. These conditions have led to prolonged neglect of essential services such as sanitation and water supply. As a result of this neglect the situation was such as to be admitted by all to be highly dangerous to public health. As I have found it impossible to obtain agreement on urgently needed reform among the local authorities, I therefore decided to take the advice of the best impartial authority obtainable from outside. I selected Judge Feetham because of his wide knowledge both of Africa and India, his judicial outlook and his generally accepted reputation for practical sense and level-headedness. Owing to the fact that I could not find local representatives to accept membership for the whole range of the Commission's travels, the Commission was slightly different in Nairobi, Mombasa and the settled areas respectively. The Indian member for Nairobi was Phadke, for Mombasa Pandya and for the settled areas Abdul Wahid. Feetham reported in March,

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after spending five months in the Colony. With regard to Nairobi he proposed enlargement of municipal area to include all suburbs. As all suburban areas are practically European this is only practicable if European membership is raised proportionately. For this reason Feetham proposed a council composed of nine elected Europeans, five elected Indians, one nominated Goan, one Railway representative, one Government representative, and one District Council representative. The total number of the council being eighteen. The Report was signed by all members, but Phadke and the European member for Nairobi both appended dissenting minutes expressing their anxiety regarding the interest of the Indian community and regarding the incidence of the rating system. I have since pointed out to Phadke that the powers recommended for the Local Government Commissioner, who will be the Government official controlling the municipal bodies, are specially devised to safeguard the community (see pages 172 and 184 of Volume 4 of the Report which is going to you by tomorrow's mail). Phadke fully recognises this and though he is not in the position openly to agree he knows that my only course if chaos is not to continue is to accept Report as it stands. Without opening again the question of area I cannot touch the balance of representation, and if that question again becomes open everything would be thrown once more into the melting pot. Feetham recommended for Mombasa a board consisting of three official members, ten European representatives, five Indian representatives, one Arab, one Goan.

Pandya

Pandya dissented. As in this case no question of area is involved I have said that I will give consideration to any reasonable criticism of these proposals. Indian members concurred in the recommendations regarding the settled areas so no question arises in that regard. I can only add that the reforms recommended by the Commission are most urgent. If I fail to implement them I risk a new storm of agitation against "Indian interference". All moderate Indians here recognise this and admit the general wisdom of the Commission's recommendations. The only real danger is encouragement of Indian extremists by agitation and official support from India. In the long run it must prove fatal to Indian interests and aspirations. I am sending personal letter on the whole subject by to-morrow's mail.

GRIGG.

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GRIGG.

Dated 19th September, 1927.

I learn from Secretary of State that anxiety has been aroused in India by telegram from Reuter Nairobi summarizing my speech to Legislative Council on August 30th. Text of message in question as telegraphed to me makes no sense but I gather from it that what you may need is authentic version of my observations on following subjects (1) constitutional progress towards official majority in Kenya Legislative Council (2) powers to prevent deadlock (3) method of representation (4) Feetham Commission Report.

With regard to (1) I quoted text of Amery's speech in Commons on new White Paper regarding necessity of bringing settlers into "a share of responsibility". Continuing I pointed out that if Commission were to recommend transition from official to unofficial majority two cardinal problems must be faced (a) powers to enable Government to secure supply and carry on (b) representation of native interests. With regard to latter I said that "some means must be found to make the legislature a true reflection of all interests in the Colony". I added that representation in Africa must be on the communal principle and that "there is no idea on the part of Imperial Government of departing from that principle".

With regard to (4) I said that recommendations for Nairobi would be approved by Secretary of State and that legislation would be promptly introduced accordingly. I

continued

continued "with regard to Mombasa I believe that there is a certain feeling of anxiety on the part of the Indian community there and I should like to say here that the Government is prepared to give consideration to reasonable criticism. But it is intended to put the whole report into operation in due course and I hope that the time may not be long before it all receives legislative sanction". In concluding part of speech I made the following appeal to Indian community "Before I end, I would make a special appeal to the Indian Members of this Council and to the Indian Community throughout the Colony, to co-operate wholeheartedly in the work and objects of the Commission. It is time that any fear or bitterness left by the controversy of four years ago should finally disappear. Some extreme things were then said, no doubt, upon both sides, but they were spoken in the heat of controversy. They should now be forgotten for ever.

The communal principle of representation established by the White Paper of 1923 has in truth given security to Indians no less than to Europeans, and the settlement of 1923 in regard to the political status and other rights of British Indians in Kenya stands fast. They themselves have now wisely accepted it, and they can rest assured that their acceptance will strengthen the desire of this Council and the Government to provide as fully as possible for the needs of the Indian community. I have now visited the greater part of Southern and Eastern Africa, and I know no territory

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in Africa in which Indians are receiving so much practical proof as in Kenya of goodwill towards Indian education, the care of Indian women and children, and Indian welfare generally.

The recent concordat on Indian questions between the Union Government and the Government of India has shown how much more can be achieved in these stubborn problems by a spirit of co-operation than by a spirit of controversy. I hope that moral will be taken to heart by all who have, as I myself have, the welfare of Indians at heart; for nothing could more seriously prejudice Indian interests than purely racial opposition to the closer union and constitutional development of East African Territories."

Full text of speech follows by mail leaving here on 23rd. I am sending further telegram regarding Feetham Report.

GRIGG.

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Communications on this subject should be addressed to—
THE UNDER SECRETARY OF STATE,
Economic & Overseas DEPT.,
INDIA OFFICE,
LONDON, S.W. 1,
and the following number quoted—
E. & O. 7719/27.

Reference to previous correspondence :

Letter from the India Office of the 15.3.27
No.E.& O. 1451/27.

RECEIVED
- 1 NOV 1927
COL. OFFICE

INDIA OFFICE,
31st October 1927.

The Under Secretary of State for India presents his compliments to the Under Secretary of State for the Colonies and begs to transmit to him copy of the papers noted below extracts from the newspapers noted below.

The Under Secretary of State,
Colonial Office.

Origin.	Date.	Subject.
"Tamil Nadu" - (Madras) -	2.9.27	Indians in Kenya.
"Davidian" - (Madras) -	5.9.27	
"Andhra Patrika" - (Madras)	2 & 7/9/27.	
"Bombay Chronicle" - (Bombay)	6.9.27	
"Indian Daily Mail" (Bombay)	6.9.27	
"Searchlight" (Bihar and Orissa)	9.9.27.	

Copy also sent to—

Tamil Nadu, dated 2nd September 1927.

The present decision of the Kenya Government has made the position of the Indians in Kenya worse. The Governor of Kenya has, in the speech delivered by him recently given expression to sentiments which are highly reactionary. The Indians in Kenya have been trying for a long time to secure a larger number of seats than they possess now, in the legislatures and other bodies. But it appears that the Kenya Government are going to reduce even the number of seats now held by the Indians. It is unjust on their part to attempt to denigrate the Indians, by professing to protect the natives of Kenya. What are the Government of India going to do in this matter?

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Madras, Madras, 5th September 1927.

The report submitted by the Feetham Commission says that the representation given to the Indians on municipal councils, legislatures and other bodies should be reduced. Hence it is certain that the representation given to the Indians on these bodies will be reduced hereafter. If the representation of the Indians is reduced and that of the whites increased as desired by the Governor of Kenya, we ask what else than a life of slavery Indians can lead in that country. The Secretary of State for the Colonies has accepted this report which is calculated to do much harm to the Indians, without ascertaining the views of the latter. There is the Office of the Secretary of State for India in London and there is the Government of India in India. Has the Secretary of State for the Colonies ascertained their views? If he has, what are the views of the Government of India? Have they condemned the Feetham report or accepted it. If they have condemned it, has the Secretary of State for the Colonies accepted it in spite of such condemnation? Information in regard to these points should be published immediately. The influence of the whites is very great in East Africa. If the representation of the Indians in municipal councils in East Africa, where the influence, obstinacy and the racial and colour prejudice of the whites are already much in evidence, is reduced, and that of the whites increased, how can the Indians live in that country? They will have no other alternative than to come out of it bag and baggage. What are the Government of India going to do now? Are they going to sleep or are they going to fight for the rights

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of the Indians? This is the time for the Government of India and the Indian leaders to join together and fight for the rights of the Indian. Just as the Government of Lord Hardinge fought for the rights of the Indians before, the Government of Lord Irwin should fight now.

The Indian Express, dated Sat, 7th September 1929. 40

The condition of Indians in Kenya is once again becoming critical. Consequent on the acceptance by the Colonial Secretary of the Report of the Franchise Commission, the representation enjoyed by Indians as municipal bodies will also be minimized. As a protest against this, the Indian members of the municipal council of Nairobi have stopped attending the meetings thereof. Arrangements have been made to increase the number of elected members in the legislatures. But what does this signify? It means that the number of European members will increase. Already elections are based on the principle of communal representation. Hereafter this principle will gain all the more strength. It has been possible to safeguard, to some extent, the interests of the Indians through the local bodies. If even this scope is removed Indians will have no standing place in Kenya. Till now the Europeans had eleven and the Indians five seats in the Legislative Council. The number of European seats may further increase. The Europeans are trying to take the entire power into their hands and the cries of the Indians have been in vain. They did not care for the appeals made by the Government of India. The first change in the system of Government in Kenya took place in 1919, the second, four years thence, and the third is now in progress process. Though the condition of the Europeans has been improving, that of the Indians who helped to make a haven of Kenya has not at all improved. What will the Government of India do? The country is waiting to see whether or not they will use all their energy to safeguard the interests of the Indians. The Indian Express (7th) writes:- It is now necessary to consider how the critical situation that has at present arisen in Kenya is to be solved. As things

are looking at present Indian representation on local
 bodies will be reduced. There will be a greater
 preponderance of the Europeans amongst in the legislature
 and Indians will have no standing voice left for them
 in Kanya. . . There will be no good unless the
 Government of India interferes in this behalf seriously.
 This dependent country has to depend upon the
 Government alone and there appears to other go. She is not
 strong enough to retaliate. If the Government of India do
 not interfere in the matter immediately the condition of
 Indians in Kanya will become intolerable. If the condition
 of the Indians there is to be set right, they must wait
 till India attains swaraj.

[The following text is extremely faint and largely illegible due to fading and bleed-through from the reverse side of the page. It appears to be a continuation of the discussion on Indian representation and the political situation in Kanya.]

Tamil Nadu, dated 2nd September 1927.

The present decision of the Kenya Government has made the position of the Indians in Kenya worse. The Governor of Kenya has, in the speech delivered by him recently given expression to sentiments which are highly reactionary. The Indians in Kenya have been trying for a long time to secure a larger number of seats than they possess now, in the legislatures and other bodies. But it appears that the Kenya Government are going to reduce even the number of seats now held by the Indians. It is unjust on their part to attempt to denigrate the Indians, by professing to protect the natives of Kenya. What are the Government of India going to do in this matter?

Braided, Madras, 5th September 1927.

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Indians in Kanya will become intolerable. If the condition
of the Indians there is to be set right, they must wait
till India attains swaraj.

The plight of the Indian community in East Africa and the hostility with which the compilers of the Feetham Report regard its very presence in the country, are clearly brought out in the spirited protest which the Executive of the East African Indian National Congress has submitted to the Colonial Office. The memorandum of protest points out how although in 1934 the Indians agreed to accept four seats in the Nairobi Corporation as against six seats allotted to the European community, this very spirit of accommodation which they then displayed has now been their ruin. The Feetham Report coolly recommends that by including four suburbs in the present administrative area of the Nairobi Corporation it should be made possible to add three more European Councillors to that body, while the Indians should have only one more member. In the proposed new Corporation of Nairobi, therefore, out of a total strength of 18 Councillors the Asiatics obtain only 6 seats. In view of the fact that the total population strength of the Europeans in the Nairobi municipal area inclusive of suburbs is only, 3,565, while that of the Indians is 8,052, the disparity in the representation proposed for the two communities is a cruel blow to all ideas of healthy local self-government. As regards Mombasa the Indian case is much worse, as the Honourable Mr. Pande emphasises in his able minority report. The Feetham Commission makes no provision whatever for Indian representation on the District Municipal Committees except the one at Kisumu and there the Indians are offered the deliberate insult of being allowed representation by nomination instead of by election, as if the Indian community there was so backward as to be unable to know

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how to choose a representative by proper election. The scurv treatment meted out to Indians, which is to receive legislative sanction immediately in Kenya, should form the subject of an emphatic protest on the part of the Government of India. The Indians in the Colony are entitled to demand that the authorities in India should supplement their efforts to seek redress from the Colonial Office. We are afraid as matters stand there is not much hope of securing such redress because the whole spirit of Mr. Amery's conduct of affairs in regard to the Asiatic question in Africa is based on the doctrine of racial arrangement and racial exclusion. All the greater reason, therefore, why the Indians in Kenya should be untiring in their protests. In this strenuous effort of theirs they can be assured of the co-operation of the Indian public here. As regards the precise form of co-operation the Government of India propose to offer them, we hope non-official members of the Assembly will interpellate Government and persist in obtaining from them some definite reply.

The announcement made by Sir Edward Grigg, the Governor of Kenya, at the opening of the local Legislative Council a few days ago, that the Secretary of State for the Colonies had approved of the Pothman Commission's Report is a matter of grave concern to us . . . It is not possible to judge whether the Government of India were aware of the conclusions arrived at in the Report itself or of their acceptance by the Colonial Secretary. In a matter which vitally concerns the rights and privileges of a large number of Indians resident in the territory the public of this country have a right to expect the Government of India effectively to protect against any adverse decisions that might have been taken behind their back. If they have not done so it is clear dereliction of duty on their part . . . It is the plain duty of the Government of India to take the public into their confidence as to what steps they have taken, or propose to take, to safeguard the interests of our countrymen in Kenya . . . The situation is fraught with the greatest danger to Indians and the members of the Legislative Assembly must insist on the Government laying before them all available information regarding the new move in Kenya which virtually amounts to a stab in the back.

45

SEARCHLIGHT, dated September 9th 1937

The recent happenings in East Africa bode ill for the future of Indians in that colony. The proposal to create an East African Federation, the acceptance of the Footman Commission's Report, the proposal to introduce changes in the constitution of the Legislature, giving an elected majority to non-officials - all these go but to show that a serious danger threatens the Indian settlers in that land. x x Sir Edward Grigg Governor of Kenya, who returned to the colony only very recently, after having discussed various questions with the Colonial Office and after having visited South Africa and Rhodesia, declared, while opening the Legislature, that the Secretary of State had agreed to the Footman Commission Report. This report is a grossly unfair and wholly partisan document, and to quote the words of Mr. C.F. Andrews, its anti-Indian bias is obvious. It deprives the Indians of Kenya of the old representation which they have been enjoying on all the local bodies in the land. It may be stated here that in Kenya, the total population of Indians and Europeans is in proportion of 6:1. So if representation were according to population, the Indians would naturally have a fair say on the local bodies. x x x. The change, foreshadowed by Sir Edward Grigg, in the constitution of the Legislature, introducing an elected majority of non-officials, is yet another serious attempt to make the position of the Indians still more unbearable and humiliating in that colony. Mr. C.F. Andrews has done well to invite attention to the dangerous consequences. x x x. That is, this proposed elected non-official majority may include a number of Indians as well. But as Mr. Andrews very pertinently

4/6

pertinently points out that is no safeguard at all and in practical politics the Indians will find themselves always in a permanent and hopeless minority, "because the official Europeans are certain to vote with the non-official Europeans on all Indian questions and then the Colonial Office will get out of its own responsibility by saying that it does not wish to decide against the elected majority of the Kenya Legislative Council. As it is, the Colonial Office can interfere with the decision of the Legislature, as in fact it once did some four years ago, when both the official and non-official Europeans combined to pass the Immigration Bill, shutting out Indians from the colony. But under the proposed legislation, the Colonial Office can, with all show of reasonableness and decency, always refuse to go against the decision of an elected non-official majority. This is a very serious danger and it may lead to the forging of a series of oppressive and humiliating measures for the Indians and thus to further racial bitterness. In this connection, Mr. Andrews draws attention to another means with regard to the method of elections proposed to be introduced. Sir Edward Grigg pointed out that these elections would be by communities rather than by constituencies. 'This I think' says Mr. Andrews, 'implies that the whole European voters will be divided up and so many voters will be given for each membership in the Council instead of the votes taken on a territorial basis. But this is only my conjecture. In any case, the crudest communalism is clearly indicated with regard to Kenya elections in the future; and there is no hope of joint electorates such as were suggested by the present Viceroy when he was Under-Secretary of the Colonial Office and signed the Wood-

47

Winterton Agreement in 1922'.

There are undoubtedly very serious matters and they threaten to perpetuate an injustice and humiliation even greater than what was done by the White Paper of 1922. The concerted agitation which the Whites, led by Lord Delamere, have been carrying on for some time past against the Indian settlers in that colony seems to have had its effect on the Colonial Office which now appears to have yielded to their demands. But the question is if the Indians should be left to their fate to live an ignominious life and die a miserable death. Both the Government of India and the people of this country have each a duty sacred towards them at this juncture. They will be guilty of gross neglect of duty if they fail to raise their voice and do their best to ward off these terrible dangers that the above proposals undoubtedly amount to the Indian settlers in Kenya."

28
48

INDIA OFFICE,

WHITEHALL. S.W.1.

12th October 1927.

E & O. 7411/27.

RECEIVED
13 OCT 1927
COLONIAL OFFICE

Dear Mr. Seel,

With reference to the report of the Kenya Local Government Committee, the enclosed may be of interest if you have not already seen it. Somebody has recently taken to sending us mail copies of this Indian newspaper published at Mombasa.

Yours sincerely,

J. Walker

G. P. Seel, Esq.,

COLONIAL OFFICE.

RECEIVED

13 OCT 1927

COLLECTOR

September 9th 1927.

THE FEETHAM REPORT.
INDIAN MEETING IN NAIROBI.
WITHDRAWAL FROM COUNCILS.

The adjourned mass meeting of Nairobi Indians was held at the Lyric Hall on Tuesday to discuss the Feetham commission report. The Hon. Mr. Varma occupied the chair.

The resolution which was moved and seconded at the last meeting reads as under:

"That in the event of the adoption of Feetham
"or local Government commission report the Indian
"community should withdraw their members from all
"Government and local bodies and mass meetings be
"convened throughout the country to protest against the
"adoption of the said report and that immediately a
"special session of the Congress be called at an early
"date".

Mr. Dolatram said that he was in favour of the resolution and members should be withdrawn from all government bodies including the Executive Council. Their leaders had promised at the time a vote of no confidence was passed in Mr. Malik who went to the council against the wishes of the community that as long as Mr. Malik was there they would not send members. He was of the opinion that members should resign forthwith.

Mr. Annite speaking in English moved the following amendment:- "That this mass meeting of Indians held under the joint auspices of the Indian Association and the executive committee of the Congress bitterly condemns and lodges its emphatic protest against the action of the Kenya

Government in adopting the Feetham Commission report and suggests that the withdrawal of members should be postponed until the Congress session in October and the whole policy be discussed at the congress".

A point was raised as to whether this was an amendment or a separate resolution and the chairman gave a ruling that it was not an amendment but he would allow the speaker to explain his views. Mr. Amrite made it clear that the community was not going to gain anything by such measures of withdrawal, and that even if such a measure was necessary in the interests of the community it should not be decided now. Particularly was this the case because the Congress was to be called in October and a measure of such importance should not be taken before giving an opportunity to the whole country for expressing their views.

The Chairman at this stage made a stirring and impressive speech in Hindustani. He mentioned that as a result of the declaration made by His Excellency that morning regarding the adoption of Feetham Commission report for Nairobi by the Secretary of State the Indian municipal Councillors had not attended that days meeting of the Corporation and he requested Councillor Hakam Singh to read the letter they had addressed to the Town Clerk.

Mr. Hakam Singh read the letter which was signed by himself, as well as by Mr. Nauhria Ram and Mr. Usufali (Mr. Malik was not in town) to the effect that as a protest against the adoption of the Feetham Commission report they were absent that day. He further mentioned that he had heard that European members who attended the council meeting passed a resolution to call a special meeting of the Corporation to discuss the Feetham Commission report as they had not expressed any opinion on the report so far. He said

that

that as far as Municipal Council was concerned therefore the Feetham Commission report was not the last word.

The Chairman continuing his remarks on His Excellency's speech said that he was surprised to hear the statement that morning that the Feetham Commission report on Nairobi had been accepted by the Secretary of State. It was unprecedented and unconstitutional that before the views of the local people and legislature were expressed on this report the final authority, the Secretary of State, should adopt it, thus prejudicing the whole position and the expression of opinion from independent local people. He said His Excellency had also outlined a change in the Legislative Council constitution if it was considered necessary by the Hilton Young Commission. They could now see which way the wind was blowing and he was satisfied that the situation was very grave and required handling with courage and tact. He said it had been urged by the people that members should immediately resign. He could not agree with them at the last meeting as there was not at that time any necessity for that action but the circumstances were now changed and he was with the public opinion and favoured resignations. He appealed to the community that instead of criticising each other and finding faults with leaders they should act unitedly and that at the time when the fire was raging, instead of discussing how to save a fire they should find means to extinguish the fire and help wholeheartedly.

Mr. G. B. Desai supporting the original resolution said that he agreed with the resolution and was greatly pleased at the action of the municipal councillors. He however added that should it be necessary in future to consider the situation as regards sending Members to the Council the Indian public should be consulted.

Mr. M.H. Bhutt supported the original resolution but advocated immediate resignations. He said there was not a large audience of thousands of people at this meeting because the notice was circulated in English and Gujrati and there was a large section of people who did not know these languages and he therefore urged that in future notices in Gurumukhi and Urdu also should be distributed. He said the actual sufferers in all these matters were the working people, and they should take keen interest in this affair.

Mr. A.M. Jeevanjee mentioned that he was greatly disappointed at the Governor's speech that morning. It showed that there are very anxious days ahead for the Community and the situation was very grave indeed. At this stage he said the most important thing was the calling of the Congress and the whole situation should be discussed at that time. It was in their hands to withdraw their members at any time, but the large and important issues should be properly discussed and considered and for that they should sink their differences of opinion and call the Congress without any delay.

Mr. Gyansing summed up the speeches of all the speakers and read the resolution again. On putting to the vote it was carried with two dissentients. These two gentlemen afterwards explained to the secretary that they voted against under a misunderstanding and they withdrew their votes. The resolution therefore was adopted unanimously.

INDIAN MEMBERS ABSENT.

In consequence of the resolution of the Mass Meeting of Nairobi Indians reported elsewhere in this issue, Indian Members of the Legislative Council did not take their seats at Wednesday's session.

10220/27.

PARAPHRASE Telegram from the Secretary of State for the Colonies to the Governor of Kenya.

Sent 3.0 p.m., 11th October, 1927.

11th October. With reference to my telegram of 13th September I am informed by the Secretary of State for India that he has received copy of letter of 12th August from East African Indian National Congress addressed to me on the subject of the Feetham Report. As neither he nor Government of India have yet had opportunity to study report he asks for postponement of action to implement recommendations so as to give Government of India opportunity to make representations if they should desire to do so after studying report.

I trust that action will be deferred as requested as it seems undesirable to give to Indian community impression that I do not care to hear their case or allow Government of India to do so.

Copy to
1. O. 14
R/10

NOTE on events in connection with Sir E. Grigg's announcement regarding the Feetham Commission's recommendations as to Nairobi.

12th August. East African Indian National Congress write to the Secretary of State about the Commission's Report (apparently a letter of protest).

26th August. Secretary of State informs Governor that he is "prepared to approve generally recommendations of Commission regarding Nairobi and environs unless any serious obstacle from public opinion ^{has arisen?} since publication of report or appears to you likely to arise".

30th August. Governor informs the Legislative Council that the recommendations regarding Nairobi have been approved by the Secretary of State and that he hopes that legislation will be introduced promptly to give effect to these recommendations. (The Indian members of the Town Council absent themselves from a municipal meeting as a protest against this announcement).

5th September. Indian Government telegram to India Office saying the Governor's announcement will greatly increase alarm which already exists and ask for copies of report and relative parts of Sir E. Grigg's speech.

13th September. Governor asked to communicate with Government of India furnishing the information they require.

22nd September. India Office informed accordingly and furnished with a copy of the report.

30th September.

30th September.

India Office point out that neither they nor the Government of India have yet had time to make observations on the report, and suggest postponement of implementing recommendations as to Nairobi so as to give the Indian Government an opportunity of making representations if they so desire.

30th September.

India Office point out that neither they nor the Government of India have yet had time to make observations on the report, and suggest postponement of implementing recommendations as to Nairobi so as to give the Indian Government an opportunity of making representations if they so desire.

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55

any further communication on this subject should
 be addressed to—
 The Under Secretary of State for India,
Economic & Overseas Department,
 India Office, London, S.W. 1,
 and the following reference quoted—
E & O. 6893/27.



INDIA OFFICE,
 WHITEHALL,
 LONDON, S.W. 1.

RECEIVED
 30 SEP 27

Important.

20th
~~27~~ September 1927.

Sir,

Handwritten: Nairobi

I am directed by the Earl of Birkenhead to acknowledge the receipt of your letter of 22nd September, No. 10220/27, regarding certain matters arising out of the recent speech of the Governor of Kenya.

Handwritten: Nairobi

1. It is observed that the Report of the Local Government Commission recommends that the Nairobi Municipal Council should consist of 9 elected Europeans, 5 elected Indians, 1 nominated Egan and representatives of the Government, the Railway and the District Council. It is understood that the European and Indian communities are at present represented on the Council by 5 and 4 members respectively. The Secretary of State for India has received from the Executive Committee of the East Africa Indian National Congress copy of the letter of 12th August 1927, addressed to the Secretary of State for the Colonies, regarding the Report of the Commission.

Handwritten: Nairobi

3. Lord Birkenhead notes that in a telegram to the Governor of Kenya of the 27th August 1927, the Secretary of State for the Colonies stated that he was prepared to approve generally the recommendations of the Commission regarding Nairobi, unless any serious obstacle had arisen since the publication of the Report or appeared to the Governor to be likely to arise. But in his speech, to the Legislative Council on 30th August, Sir E. Grigg made the definite statement that the recommendations regarding Nairobi had been approved by the Secretary of State and that he hoped that legislation would

The Under Secretary of State,
 Colonial Office.

would be introduced promptly to give effect to them.

4. His Lordship notes that copy of the Report of the Commission is to be sent to the Government of India direct by the Governor of Kenya, but neither the Government of India nor the Secretary of State for India have hitherto had any opportunity of studying the Report, and it appears to him to be very desirable that the final decision on the recommendations regarding Nairobi, which are of obvious interest to the Indian community, should be deferred until adequate opportunity has been given for consultation with the Government of India and consideration of any representations that they may wish to make. This course seems best calculated to maintain the present improved relations of the Indian community with the Government and the Europeans and to promote this willing cooperation in the work and objects of the forthcoming Commission.

5. Lord Birkenhead would therefore suggest that the Governor should be informed by telegram that action to implement the recommendations regarding the Nairobi Municipal Council should be postponed so as to give the Government of India an opportunity to make representation should they, after studying the report, desire to do so.

I am, Sir,

Your obedient Servant,

S. Turner

London, S.W.1.

4th October 1927.

E & O. 6730/27

Dear Mr. Seel,

I send copy of the letter received here from the Executive Committee of the Eastern Africa Indian National Congress and its enclosure addressed to the Secretary of State for the Colonies about the Report of the Kenya Local Government Committee.

Yours sincerely,

J. Walton

G.F. Seel, Esq.,
Colonial Office.

London, S.W.1.

4th October 1927.

B & O. 6730/27

Dear Mr. Seel,

I send copy of the letter received here from the Executive Committee of the Eastern Africa Indian National Congress and its enclosure addressed to the Secretary of State for the Colonies about the Report of the Kenya Local Government Committee.

Yours sincerely,

J. Walton

G.F. Seel, Esq.,
Colonial Office.

THE EASTERN AFRICA INDIAN NATIONAL CONGRESS

58

Executive Committee's Office,

1, Fair Road, 12th August 1927.

The Secretary of State for India,
London.

Sir,

Re: Report of the Kenya Local Government Commission.

I have the honour to send herewith a copy of the Memorandum addressed to the Secretary of State for the Colonies, for favour of your sympathetic action.

It shows the nature position of the Indian community if the recommendations laid down in the majority report of the Kenya Local Government Commission are accepted by the Government and brought into effect.

The Executive Committee strongly hopes that you will exert your influence in favour of the rejection of the recommendations made by the Commission and guard the interests of the Colony.

I have, Sir,

Yours faithfully,

Secretary,

Executive Committee,

Eastern Africa Indian National Congress.

THE EASTERN AFRICA INDIAN NATIONAL CONGRESS

Executive Committee's Office,
Nairobi, 12th August 1927.

The Secretary of State for the Colonies,
London.

Re: Report of the Kenya Local Government Commission.

Sir,

I am directed by the Executive Committee of the Eastern Africa Indian National Congress to submit to you the following observations on the report issued by the Kenya Local Government Commission, for your favourable consideration and action.

As you must be aware, Sir, the Indian population residing in this Colony felt very sore at the decisions embodied in the White Paper of 1923 which were very unfavourable to them and which virtually relegated them to second-class citizenship. But although we were still smarting under this palpable injustice, we had decided, acting on the advice of the Government of India, to call off the boycott which we were compelled to start in 1924, and we expressed our readiness to co-operate with the Government in the hope that we will be accorded our due and legitimate share in the civic life of the Colony in due course. Thus after protracted discussions and conferences and the appointment of a commission our community had decided in 1924 ^{to accept} four seats on the Nairobi Corporation as against six seats allotted to the European community. The Local Government Commission's majority report

report is now aiming at reducing our representation on the Nairobi Corporation still further by the inclusion of certain suburbs in the Municipal area - Eastleigh, Muthaiga, Upper Parklands, and Kilimani - giving one seat to each suburb, which would mean that there will be one additional Indian Councillor as against three more European Councillors - the Asians getting only 6 seats out of a total of 18 in the proposed constitution. This, we submit, is a retrograde step.

The municipal representation ought to be, as is in all civilized communities, proportional to the taxation. The recent Commission has enunciated a very pernicious principle of extra representation to the Europeans on the grounds that it is necessary to avoid racial friction. This, my community, will have to fight to the bitter end.

The injustice of this proposal would become easily apparent if we looked at the figures of revenue and population in the Nairobi Township:-

Table of Population of the Communities.

	Municipal Area	Suburban Area
Europeans	2655	900
Indians	7741	311

Table of Land Revenue and other Taxes.

	Land Tax	Water Tax	Conservancy	Total
Europeans	Sh/ 139579	105200	87072	331851
Asians	Sh/ 108235	65800	93888	267923

Before 1924 the European Commercial and outside area was developed to the neglect of the Asian area, but since the inclusion of Asian members in the Corporation they have been able to secure a more liberal expenditure on their own area, although it was still less than what it should be. That the Corporation is better run since the advent of the Asian members resulting in a marked improvement in the condition of the town was admitted even

by the European witnesses before the Commission. The Asian members on the Corporation have invariably refrained from bringing in 'racial' considerations to bear on matters of municipal administration, and in these circumstances we are at a loss to know why it is sought to reduce the proportion of their numbers. The Asians are assuredly entitled to a larger representation than the Europeans, to judge by their number, and to judge by their respective financial contributions, they are entitled to an equal amount of representation.

A corporation should be run on strictly business lines harmonising expenditure with the revenue, the sources of which should be borne in mind when determining the former. Even at the present time the commercial area provides more revenue as derived from the Asian community, in fact to a large extent extra expenditure on account of the near-by outside areas included in the town, and if the inclusion of the suburbs as the revenue is estimated to increase, and if the Corporation cannot adequately meet the expenditure, it may sound to be much more than the income. Thus it is an absolutely unbusinesslike proposal to bring in these suburbs, which ought to be managed by themselves. This extra expenditure will have to be borne by the commercial area, which means that more Asian money will be spent on European area than is the case at present, and in return for this the Asians are put to the disadvantage of lesser representation in the Corporation. The increase in the number of European seats is to be secured even at a financial loss.

My community has had previous experience how they have been starved of all reasonable municipal services, though they were paying the highest proportion of taxes to area occupied. Till recently the most crowded areas like

River Road, Rebeiro Campos Avenue and Hazerat Estate had no lights and roads. Indian suburban development was discouraged and the only Indian suburb Eastleigh was not given a road of access, water or lights. My community is afraid that the same state of affairs will recur if the suggested preponderating European majority is obtained. My Committee therefore feels that no useful purpose will be served by the inclusion of extra suburbs in the Municipal area. Even if such inclusion were considered necessary, the basis of representation should be so arranged as to afford adequate protection of the interests of the several communities in proportion to their numbers and financial contributions to the Municipal Revenue.

As to Lombasa the case would be much worse. The hon. Mr. Pandya in his lucid minority report has discussed the situation thoroughly and my Committee agrees fully with it.

The arrangement suggested for the other District Committees, except the one in Kisumu, has no provision for Indian representation in spite of the fact that the Indian interest in those places is considerable, and even in Kisumu, the only District Committee in which Indian representation is suggested, it is given one by nomination and one by election implying thereby the inability of the Indian community to elect proper representatives.

As has ^{been} always maintained by my community a common electoral roll should be the ideal aimed for elective representation on all bodies, and Municipal Corporation and like bodies should be the first to bring this principle in practice, as they do not bring in any political issues.

In view of these facts, I am directed to express the

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the hope that you will consider the advisability of setting aside the recommendations made in the majority report of the Commission in so far as they affect the interests of the Indian residents in Kenya and grant them adequate representation, proportionate to their numerical strength and financial contribution, on the different Municipal bodies.

I have etc.,

S.D.KARVE

Secretary-

Eastern Africa Indian National Congress
Executive Committee.

X. 10220/27
Kenya

24/4

Downing Street,
September, 1927.



Communications on this subject should be addressed to—
THE UNDER SECRETARY OF STATE,
COLONIAL OFFICE,
LONDON, S.W.1.
and the following Number quoted 10220/27.

H. W. Allen 20/9
W. Wiseman 20
L. A. Stanley 20/9
Vera J. Adams a/c
W. A. Stanley's verbal
instn's

Ans'd
22
no. 75

Sir,

I am directed to acknowledge the receipt of your letter (E & O. 6410/27) of the 8th September regarding certain matters arising out of the recent speech by the Governor of Kenya on the occasion of the opening of the Session of the Legislative Council, and to transmit to you, to be laid before Secretary the Earl of Birkenhead, the accompanying copy of a telegram which has been sent to the Governor in accordance with the suggestion in your letter, together with a copy of the Secretary of State's earlier telegram of the 27th August regarding the Report of the Local Government Commission.

2. It will be observed that the Governor of Kenya has been asked to forward copies of the Report of the Commission direct to the Government of India by the first mail. A copy of each volume of the Report

is

Report.

THE UNDER SECRETARY OF STATE,
ECONOMIC & OVERSEAS DEPARTMENT,
INDIA OFFICE.

is transmitted with this letter for the Earl of
Birkenhead's information.

I am,

Sir,

Your most obedient servant,

3. It will appear from the wording
of the enclosed in your letter that the
Government of India is under some
misapprehension as to the scope of the
enquiry of the Commission proposed ^{which} ~~that~~ ^{is}
Mr Justice Pathan, ~~that~~ ^{is}
~~connected~~ ^{or municipal} solely to the affairs of
the government ^{not} & was concerned with
representation in the Local C. The
Earl of Birkenhead will no doubt think
it desirable to explain accordingly to
the Govt of India.

I am,

(Signed) R. A. WISEMAN.

Mr. Allen

12/19/27

Mr. Bostonley

12.9.27

Mr.

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

X Mr. Ormsby-Gore

12/13/27

Lord Lovat.

Mr. Amery.

DRAFT.

TOP.

For con. on.

Governor Nairati.

Handwritten: Coded sent
12/13/27

Handwritten: loc

My telegram to Mr. Allen

~~London~~ 12/13/27

Mr. Ormsby-Gore

Governor of India

Telegram received

from Reuters Nairobi dated

12/13/27. It will be noted

that a copy of recent

article(s) regarding local govern-

ment made in Peethan Commission

Report has foreshadowed elected

majority of those introduced in

Local Bill Commission, and powers

to present amendments provided

in constitution is reported

to have been discussed in the

meeting held on the basis of

election from the Agency to

communal. Peethan Commission

Report

Vertical handwritten: 22 SEP 1927
6 pm 5 J.O.

Handwritten at bottom left: 10/15/27 required

Code sent
Law. 50/13/9/27
15 SEP 1927

Mr. Allen

Mr. *Bottrill* 12-9-27

Mr.

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

X Mr. Ormsby-Gore. *13-9-27*

Lord Lovat.

Mr. Amery.

lost

My telegram 27th August

~~Local Government~~ following is extract from telegram received from Government of India begins

Telegram has been received from Reuter Nairobi, that in Legislative Council Governor announced adoption of recommendation(s) regarding local government made in Feetham Commission Report and foreshadowed elected majority would be introduced in Legislative Council, and powers to prevent deadlock be provided in constitution. He is reported to have also said that it may be necessary to alter the basis of election from constituency to communal. Feetham Commission

DRAFT.

Tel. for conson. see minute.

Governor Nairobi.

6 pm 5 J.O. 22 SEP 1927

14 SEP
15

*Codebook sent
10/13/27*

Mr. Allen

12/19/27

Mr. *Bottomley*

Mr.

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

X Mr. Ormsby-Gore

13.9.27

Lord Lovat.

Mr. Amery.

DRAFT.

Tel. for conson. see minute.

Governor Nairobi.

loc

My telegram 27th August

~~Local Government~~ following is extract from telegram received from Government of India Legation

Telegram has been received

from Reuter Nairobi, that in

Legislative Council Governor

announced adoption of recommen-

dation(s) regarding local govern-

ment made in Feetham Commission

Report and foreshadowed elected

majority would be introduced in

Legislative Council, and powers

to prevent deadlock be provided

in constitution. He is reported

to have also said that it may be

necessary to alter the basis of

election from constituency to

communal. Feetham Commission

top to J.O. 22 SEP 1927

Report has not been seen by us and we are without information on subject of latter part of announcement referred to, but it has come as a great surprise to us. Grigg's announcement following as soon after decision regarding appointment of Commission in federation question which gave rise to considerable apprehension in this country, will greatly increase the feeling of alarm which already exists. ends.

The Government of India ask for further information in order to be able to deal with possible resolutions and questions in present session of Legislature, and to make such representations as may be considered necessary. Please telegraph ^{direct} to Government of India purport of main recommendations of Local Government Commission so far as they may be of Indian interest, and also text or

summary of those portions of your speech which relate to points mentioned by Govt. of India

I have not adopted the phraseology of the Govt. of India's telegram since the wording seems to indicate some confusion of

Copies of Report of Commission should
be sent to Government of India by
first mail.

NOTE

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(A)

NAIROBI MUNICIPALITY

The composition of the present Council (see page 47 of the Report of the Local Government Commission) is as follows:- 5 Elected Europeans, 4 Asiatics and one Goan nominated by the Governor; Senior Commissioner, Nairobi; and 1 European chosen (2004/24 + 5589/42) by the other 11 members and appointed by the Governor.

The composition of the Council (see page 51) proposed by the Commission is 9 Elected European members, 5 Elected Indian members, 1 Goan member, the Senior Commissioner, and 1 representative of the Railway.

It is, therefore, proposed to increase the membership of the Council from 12 to 17, and that the European Elected members should be a majority of one whereas in the old Council there were only 5 such members out of a total of 12. In the old Council, the Indian members were nominated by the Governor, though it will be seen from page 58 of the Report that such nomination was preceded by an informal election held under the auspices of the Indian Association. The question of racial representation is discussed on page 53 of the Report: and on page 52 the Commission state that they have not discussed, and do not propose to discuss, the question of representation on the basis of a common roll, because they are all agreed that that plan, whether desirable or not, cannot to-day be regarded as within the scope of practical politics. ^{HC} on page 54, the Commission point out that the Indian community has declined to accept registration on a communal roll, but understand that their attitude on this subject is now likely

likely to be modified. The Commission's recommendation as to the holding of elections for the purpose of choosing representatives are also stated to be based on the assumption that Indians will now accept registration on a communal roll. At the bottom of page 51, the Commission refer to the agreement as to the existing composition of the Council reached by the Commission in 1924, and at the top of page 52, they state that their proposals have been prepared with due regard to this factor.

The Indian member of the Commission signed the report subject to the note which appears on pages 178 and 179. In his note he objects to the proposition that the Council (or Corporation) must be composed of a large European majority, and considers the recommendation of the 1924 Commission in so far as the balance of representation is concerned should not be disturbed either directly, or indirectly. He also objects to Railway and District Council representation on the new body. In par. 9 of his despatch (No. 14 in the File), the O.A.G. states that as regards the proposed constitution of the Council, there was general agreement by all the other members of Executive Council with the recommendation of the Commission.

(B) MOMBASA COUNCIL
The present District Committee of Mombasa, (see page 261) consists of 12 unofficial members (7 Europeans, 4 Indians, and 1 Arab), and 3 official members, 1 of whom is the Chairman

(the

the Resident Commissioner), and certain honorary members; these being (see page 20) the European Elected Members of the Legislative Council for the Mombasa and Coast Constituencies, the two Indian Members of Legislative Council, resident in Mombasa, the Arab Elected Member of Legislative Council, and the Hon. Liwali of the Coast. The official members commonly abstain from voting and the honorary members occasionally attend and take part in discussions, but do not vote. The Committee is a nominated body, but the power of nomination has been delegated by the Governor to the Resident Commissioner who, in practice, consults and accepts the local opinion on the choice of members.

The composition of the proposed new municipal body for Mombasa, to be called (see page 265) Mombasa Municipal Board, is given on pages 264 and 265 of the Report. It is suggested that the total number of members should be not less than 19, and should not exceed 23.

- A. On the minimum basis, where it consists of 19 members it will include:-
- 3 Official members;
 - 10 European representatives (5 elected, 5 nominated);
 - 4 Indian representatives (3 elected and 1 nominated);
 - 1 Arab representative - elected;
 - 1 Goan representative - nominated.
- B. On the maximum basis where it consists of 23 members, it will include:-
- 3 Official members;
 - 12 European representatives (9 elected and 3 nominated);
 - 5 Indian representatives (3 elected and 2 nominated);
 - 1 Arab representative - elected;
 - 1 Goan representative - nominated.

4. In fact the European representatives elected to the Board are in a majority of 9.

2624
Refer to 2627/25

They have the numbers for the existing municipal area / changed but the changes made in respect of the Mombasa area!
M/A

get returned
direct to the
Mombasa
M/A

The Commission, however, make it clear (6267)

that their proposals have been framed so as to leave open for adoption any variation of the composition of the new Board intermediate between the maximum and the minimum basis, and as regards racial representation, they apply to the case of Mombasa the proposition laid down in the case of Nairobi (see page 53 of the Report referred to above).

The Commission, however, make it clear ⁽²²⁷⁾
that their proposals have been framed so as to
leave open for adoption any variation of the
composition of the new Board intermediate be-
tween the maximum and the minimum basis, and as
regards racial representation, they apply to the
case of Mombasa the proposition laid down in the
case of Nairobi (see page 53 of the Report re-
ferred to above).

527
1927

Any further communication on this subject should be addressed to—
The Under Secretary of State for India,
Economic & Overseas Department,
India Office, London, S.W. 1.
and the following reference quoted—
E. & O. 6410/27.



INDIA OFFICE,
WHITEHALL,
LONDON, S.W. 1.

RECEIVED
9 SEP 1927
COL. OFFICE

8th September 1927.

IMPORTANT

Sir,

I am directed by the Secretary of State for India to forward paraphrase of a telegram from the Government of India regarding a Reuter message received in India from Nairobi relative to Sir E. Grigg's recent speech to the Kenya Legislative Council.

Paraphrase dated 5th September 1927.

2. The Earl of

Birkenhead would suggest that Sir E. Grigg might be asked to telegraph direct to the Government of India, for their information, the purport of the main recommendations of the Feetham Commission, which is referred to, so far as they may be of Indian interest, and also if there be no objection the text or summary of those portions of his speech which related to the subjects mentioned by the Government of India.

3. His Lordship would be glad if he might receive copy of the report of the Feetham Commission.

I am, Sir,

Your obedient Servant,

E. Turner

The Under Secretary of State,
Colonial Office.

22 SEP 1927

Paraphrase telegram from Viceroy, Department of Education,
Health & Lands, to Secretary of State for India,
dated 5th September 1927.

Telegram has been received from Reuter Nairobi, that in Legislative Council Governor announced adoption of recommendation(s) regarding local government made in Feetham Commission Report and foreshadowed elected majority would be introduced in Legislative Council, and powers to prevent deadlock be provided in constitution. He is reported to have also said that it may be necessary to alter the basis of election from constituency to communal. Feetham Commission Report has not been seen by us and we are without information on subject of latter part of announcement referred to, but it has come as a great surprise to us. Grigg's announcement following so soon after decision regarding appointment of Commission in federation question which gave rise to considerable apprehension in this country, will greatly increase the feeling of alarm which already exists. We request that in order to be able to deal with possible resolutions and questions in present session of Legislature and to make such representations as may be considered necessary, main recommendations of Feetham Commission and extracts from speech of Grigg which refer to decision on that Commission's report and the part of his speech about composition of Council and form of electorates may be telegraphed to us immediately. We would also welcome any other details which you can furnish with regard to political part of announcement.

first step necessary
would appear to be
appointment of ^{fully qualified} an Clerk
for this country. Suggested
salary £1200 ^{with} ^{board}
quarters reasonable.

Telegraph your views.

Sear

TD

His Majesty's Eastern African Dependencies

HJM/GA.

TRADE & INFORMATION OFFICE.

KENYA, UGANDA,
TANGANYIKA, ZANZIBAR.

TELEPHONE: REGENT, 2701/2.

ANY CORRESPONDENCE RESPECTING THIS MATTER SHOULD
BE ADDRESSED TO THE SECRETARY, QUOTING
REF.

*Royal Mail Building,
Cockspur Street,
London, S.W.1.*

NYASALAND,
NORTHERN RHODESIA.

CABLES: SAMPETERS, LONDON.
TELEGRAMS: SAMPETERS, WESTRANG, LONDON.

27th July, 1927.

Dear Mr. Bottomley,

I attach in duplicate a note of
our conversation of this morning.

If you think it is correct, and
if you think such a course not improper, would you
initial a copy for me to pass on to Sir Edward
Grigg as proof of duty done?

Yours sincerely,

H. J. Martin

W.C. Bottomley Esq., C.B., C.M.G., C.B.E.,
Colonial Office,
Downing Street,
London, S.W.1.

*Acad. 2/8 - returning (signed) the duplicate attached as
shown on the copy annexed.*

Acad. 2/8/27

See back as to the disposal of these notes

Stella n

Cropus leucurus *parvulus*

Griffiths

is with X. 10376/27

King

Stella n B. *Alcedo*

viridis

is with X. 10012/27

King

27th of July, 1927.

MURORI MUNICIPALITY.

1. It was agreed that the appointment of a fully qualified Town Clerk on a pensionable basis and on a considerable salary (say £1200) could be made in England if considered as a step in giving effect the Local Government Commissioner's proposals in respect of a new and extended Municipal area and organisation: that if, in fact, such an appointment would be required to be made first to the commencement of operations of the new Municipal corporation. The suggestion then was that the approval of the Secretary of State be sought to inform the Governor by cable (on a date to coincide with his arrival in Kenya) that unless any serious obstacle from public opinion locally had arisen and appeared to the Governor likely to arise, these proposals of the Commission in respect of Nairobi and Environs could be approved, and that the first step forward giving that effect would be the appointment of a Town Clerk.

2. This Town Clerk would be appointed on the terms usual in the case of a senior Civil Service official: i.e. without any probationary period and with pensionable status. It was agreed that it was impossible improbable that the services of any candidate of the present rank of a Deputy Town Clerk in England could be obtained on less generous conditions.

MOMBASA MUNICIPALITY.

It was agreed that a competent Town Engineer should be engaged ^{on agreement with an understanding that} with a probationary period as a ~~the question of pension rights should be considered at the next step required for immediate needs.~~

Used

with the letter of service

74
Chairson
X.100124

CENTRAL ORGANISATION PROPOSED BY FEETHAM COMMISSION.

It was agreed that necessarily involved in these proposals was the outlines of Secretariat organisation and of the functions of the Colonial Secretary himself: and that these were therefore clearly matters which must await the Governor's consideration.

BANK BUILDINGS IN NAIROBI.

It was explained that the Commissioner had expressed his approval in principle of the direct allocation of sites for new Bank plots, subject to guarantees as to ~~style~~ and ~~value~~ of buildings. It was agreed that the Banks should be informed that they might proceed in this assumption (in preparing their plans etc) but subject to a promise that their schemes did not in any way interfere with the Nairobi Town Planning Scheme as finally approved.

*This is Mr. Feetham's
writing. My house
for the use of
used*

*Not quite clear. It is not
for the Banks to satisfy
the Government that the
sites are suitable, but
for the Gov'ts secretary
used.*

Downing Street,

13th July, 1927.

Dear Mr Martin,

I am afraid that it is necessary to trouble you once more in regard to the appointment of Town Clerk, Nairobi.

The question has arisen whether the appointment should, in the first instance, be on the usual agreement for a single tour or whether it should be on two years' probation. As regards the latter alternative, you will, of course, realise that probation implies pensionable status. If, on the other hand, the appointment is to be on agreement, it will be necessary to consider what modifications are required in the usual form of agreement, which, of course, is one entered into by the Crown Agents on behalf of the Colonial Government, whereas this is a municipal post.

I should be much obliged if you would kindly let me have your views on these points.

Yours sincerely,

H. T. Martin

H. T. MARTIN, ESQ.

X/10220/27
KENYA 76

Mr. Clegg 27.VI.27
Mr. Allen 28/6

Mr.
Mr. E. J. Harding.

X Sir C. Strachey. ~~28/6~~

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

C. D.
R 29 JUN
D 1

Coded receipt
under 7.30/ 28/6/27

28. June.

DRAFT. Code Telegram.

General Nairobi.

Casa: 1. minuta

Resubmit to Vaidy

Your despatch of
29th April No: 301
Local Government.

I approve of your
approaching Transvaal
Provincial Administration
through General General
of Union of South
Africa with a view
to obtaining services
of SHILTON as
Local Government
Inspector on basis

two years ^{the} second year.

Salary £ 800 a year

and free quarters.

See

Att: to Mr. Laten

11

Mr. Seel 26 6.27.

Mr. Allen 30/6/27

Mr. 70/6/27

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

Downing Street,

June, 1927.

Dear.....

I am much obliged to you

for your letter of the 16th of June

regarding the Feetham Report on Local

Government in Kenya. I have gone

into the various points which you

mention in

DRAFT. In the 1925's signature.

^{W.C.W.}
COL J. C. WEDGWOOD, D.S.O., M.P.

As regards the question of

African votes in the municipalities.

I think that everyone will agree that

the natives are not yet ripe for direct

representation, and I do not think that

any legislation which is passed now

will close the door to amendment later

when the native has reached a stage

at which he can be entrusted with

direct representation. I agree,

however,

however, that some loophole for alteration might be left, possibly by a general statement, in any legislation which may be enacted, to the effect that a change of proportionate occupation in any area of a municipality should lead to a change in the representation of that area.

As regards the communal system, the Indians have agreed to communal representation both in the Nairobi Council and in the Legislative Council of Kenya. I think that this position should be maintained.

As regards Mombasa, with a nominated Council, the question of communal or common franchise does not arise.

I am inclined to suggest that in this case we should follow the example of the Legislative Council of Uganda, where there are neither European nominated members nor Indian nominated members.

but simply nominated members, and the Governor chooses suitable men of either race without being tied down to any hard and fast numbers of each.

I do not understand your point about the abolition of site value rating in Nairobi. What the Commission propose is that rating of land values only should be introduced now, but that rating on improvement should be held in reserve. ^{Newspaper} The reduction in rating on agricultural land does not apply where land continues to be used for agricultural purposes, although its value has been increased owing to its suitability for other purposes. In the particular case

Such as the one in mention
~~of Major Greaves~~, one must bear in mind the possibility of ^{the} ~~the~~ land being eventually acquired by the Government. ~~and~~ ^{the} case for acquiring ^{situation} on the basis of agricultural ^{prejudice} value would be ~~refused~~ if the land were admitted to have an urban value.

As regards Mombasa, may I draw your

but simply nominated members, and the Governor chooses suitable men of either race without being tied down to any hard and fast numbers of each.

I do not understand your point about the abolition of site value rating in Nairobi. What the Commission propose is that rating of land values only should be introduced now, but that rating on improvement should be held in reserve. ^{Newham} The reduction in rating on agricultural land does not apply where land continues to be used for agricultural purposes, although its value has been increased owing to its suitability for other purposes. In the particular case

Such as the one I mention of Major Grogan,

one must bear in mind the possibility of ^{the} ~~his~~ land being eventually

acquired by the Government, ~~and~~ ^{the} case for acquiring ^{site} on the basis of agricultural value would be ^{prejudiced} ~~affected~~ if the land were

admitted to have an urban value.

As regards Mombasa, may I draw your

attention

(^{"Improvement Rate"})

attention to para (1) on page 285 of

the first volume of the report, and

particularly to the sentence on

page 286 which indicates that, as

many hut holders are not in addition

(on which the huts are situated)

the owners of the land a rate on

land value alone is inappropriate.

The reference to the low limits

of the rate is another point which

should be appreciated. The limit

of two per cent appears only to apply

to the Government contribution - see

for example para.3 on page 80 of the

first volume. ^(the report) Thus, so far from a low

rate, it involves a high Government

contribution. The limitation of the

Government contribution to two per cent

where financial necessities

of the Government require it, involve

an increase in the general rate.

I am much obliged to you for

having had your views on these

points

points, and I hope the above will be sufficient to meet your criticisms.

Yours sincerely,

(Improvement Rate)

attention to para (1) on page 235 of
the first volume of the report, and
particularly to the sentence on
page 236 which indicates that, as

many hut holders are not in addition

the owners of the land (on which the huts are situated) a rate on

land value alone is inappropriate.

The reference to the low limits
to the rate is another point which
I do not quite appreciate. The limit
of two per cent appears only to apply
to the Government contribution - see
for example para. 3 on page 80 of the
first volume. (The value) Thus, so far from a low
general rate involving a high Government
contribution, the limitation of the
Government contribution to two per cent
will, if the financial necessities
of the municipalities require it, involve
an increase in the general rate.

I am much obliged to you for
letting me have your views on these

points

79

points, and I hope the above will be
sufficient to meet your criticisms.

Yours sincerely,

16-6-1927

Dear Amery,

I have been reading the Feetham Report, and beg you to consider very carefully the following points.

1. No African votes in the Municipalities. Do you remember in the Transvaal in 1904 how Milner tried to get the Municipal vote for Indians, and how it was defeated by one vote, that of Fabian Ware who has never since forgiven himself. Rule them out now and they can never get the vote.
2. No other Crown Colony has ^{the} Communal system for Local Govt. Even Palestine is not as bad as this. You might save the position in Mombassa, where most of the Councillors are ^{to} be nominated.
3. Must you abolish Site Value Rating in Nairobi? In the Transvaal, which Feetham takes as guide, all the Rand and Pretoria are on land value alone (10d. or 4.2% in Pretoria; 6½d. or 2.7% in Johannesburg). They raise nothing on improvements.
4. The half exemption of agricultural land occurs nowhere else in the Dominions, never in South Africa. It is just a gift to Grogat.
5. Why should Mombassa be treated worse than Nairobi in this

by doing the things
I've been (half) doing
I'd want to give a lot of work to 80
16-6-1927



(C.C.P.)

Dear Amery,

I have been reading the Feetham Report, and beg you to consider very carefully the following points.

1. No African votes in the Municipalities. Do you remember in the Transvaal in 1904 how Milner tried to get the Municipal vote for Indians, and how it was defeated by one vote, that of Fabian Ware who has never since forgiven himself. Rule them out now and they can never get the vote.
2. No other Crown Colony has ^{the} Communal system for Local Govt. Even Palestine is not as bad as this. You might save the position in Kombokassa, where most of the Councillors are to ^{be} nominated.
3. Must you abolish Site Value Rating in Nairobi? In the Transvaal, which Feetham takes as guide, all the Rand and Pretoria are on land value alone (10d. or 4.2% in Pretoria; 6d. or 2.7% in Johannesburg). They raise nothing on improvements.
4. The half exemption of agricultural land occurs nowhere else in the Dominions, never in South Africa. It is just a gift to Croquet.
5. Why should Kombokassa be treated worse than Nairobi in this

of the paper
matter, and be deprived/given to Nairobi to levy all
or and value-if it likes.

C. Why are such low limits to the rate insisted
upon? East London has just "gone land values",
and the rate is Is. 1½d. in the £ (5.6%); Wellington
N.Z. went ⁱⁿ last April, and the rate is likely to be
over Is. in the £ (5%). ^{in Sydney it is Brisbane it is 187d. (29%)} Why therefor insist on a
2½ if it for Kenya, especially when it will mean a
stronger demand upon the Government for cash to balance
the local Budget?

Apart from these criticisms, I only wish you would
apply Leatham to all your Crown Colonies and bring
the local powers into line and up to date. Suva
in Fiji is the only spot under your control beside
Nairobi which has the permission to do what every
Colonial does more or less, - Rate Land Values.

Yours with some apologies

Jonah P. Wedgwood

of the paper

matter, and be deprived/given to Nairobi to levy all on land value if it likes.

6. Why are such low limits to the rate insisted upon? East London has just "gone land values", and the rate is 1s. 1½d. in the £ (5.6%); Wellington N.Z. went ⁱⁿ ~~last~~ April, and the rate is likely to be over 1s. in the £ (5%). ^{in Sydney & in Brisbane it is 1s. 7d. (193)} Why therefore insist on a 2% limit for Kenya, especially when it will mean a stronger demand upon the Government for cash to balance their local Budget?

Apart from these criticisms, I only wish you would apply Feetham to all your Crown Colonies and bring their local powers into line and up to date. Suva in Fiji is the only spot under your control beside Nairobi which has the permission to do what every Dominion does more or less, - Rate Land Values.

Yours with some apologies

John C. Wedgwood

I discussed this with Mr. Martin the Commissioner of Lands yesterday. He was a member of the Commission.

In the note below the bracketed parts are not intended for communication to Colonel Wedgwood

(1) Everyone will agree that the natives are not yet ripe for direct representation and Mr. Martin does not see that to legislate now would close the door to amendment later but he agrees that some loophole for alteration ^{might} ~~should~~ be left. [It should not be too wide or there will be a storm of protest against the possibility of more Indian members.]

There might be a general statement in the legislation that a change of proportionate occupation in any area of a municipality should lead to a change in the representation of that area.

(2) The Indians have agreed to communal representation both in the Nairobi Council and in the Legislative Council of Kenya. This should be maintained.

As regards Mombasa, with a Nominated Council the question of communal or common franchise does not arise. Mr. Martin is inclined to agree that ~~there~~ the position should be adopted, as in the case of the Legislative Council, ^{of Uganda,} where there are neither European nominated members nor Indian nominated members, but simply nominated members and the Governor chooses suitable men of either race without being tied down to any hard and fast numbers of each.

Value
A

(3) The reference to the abolition of site rating in Nairobi is not understood. What the Commission propose is that rating of land values only should be introduced now but that rating on improvements should be held in reserve.

(4) As to the lower rating of agricultural land, see para.(8) on page 99 Volume I. The reduction does not apply where land continues to be used for agricultural purposes ^{through} when its value ~~has~~ ^{has been} increased owing to its suitability for other purposes. As regards Major Grogan, it is hoped to acquire his land eventually, and the case for acquiring on the basis of agricultural value would be ruined if it were admitted to have an urban value.

(5) As to Mombasa, see page 285 of Volume I para (i). Colonel Wedgwood's attention might be drawn to the paragraph and in particular to the sentence on page 285 that, as many hut holders are not also the owners of the land, a rate on land value alone is inappropriate.

(6) This is not understood, as the limit of two per cent seems only to apply to the Government contribution. ^{See e.g. para. (3) on p. 80 Vol. I.} Thus, so far from a low general rate involving a high Government contribution, the limitation of the Government contribution to two per cent will, if the financial necessities of the municipality require it, involve an increase in the general rate.

[I may mention that Colonel Wedgwood called
and

and asked for a copy of the report when Mr. Logan, the Secretary of the Commission was with me. The latter explained that the Governor did not wish the report to become public until copies had reached Nairobi but he did not object when I explained that it would be difficult to refuse Colonel Wedgwood. In the result I think something has been gained by his writing informally in this way.]

B.C.B. Howley
23.6.27

*Others of the Report
have been distributed
in the office*

Account
Expenses for a school
£500 + sundries
CA & expenses a school of
£500 with transfer
to [unclear]

I prefer the town agents with kind to pay
difficult to secure the right man at the
pay now being offered. I suggest it wd
be better to pay £400 plus quarters
than to send out a lower paid
man who would not command
confidence. B

3. Medical Officer of Health.

I think there will be a local
application for the post from one
of the present Govt. M.O.H's

Lisieux.

Municipal Engineer.

This office can I think be satisfactorily
filled locally.

Headmaster Staff.

I do not suppose that any of these appointments
will be made until the question of organization is
decided. An order to get the necessary legislation
passed for the December session of the Legislative Council
& machinery of control established in time to come
into operation in January 1928 the appointment
of Commissioner for Local Government & Local Government
Inspector ought to be made this year as soon as
possible. I think we could get Shilton as
Local Government Inspector for £500 plus quarters if
the Transvaal Provincial Administration will agree
to secure him for 2 years. The Municipal &
Town Planning Engineer (£400 plus quarters) need not
be appointed until 1928 & you know my hopes
as regards the post of Commissioner.

4. Master of the [unclear]

[Signature]
19.6.22

Local Staff.

Nairobi:

1. Town Clerk - Inclusive Salary without house allowance or free medical attention - £1200 if possible. The Nairobi Council is apt to be very "tough" and no honor be fully consulted before an appointment is definitely offered.
2. Medical Officer of Health - £1000 - year inclusive?

Kisumu:

1. Town Clerk - a young man - in view of local conditions at Kisumu, especially of having a lot of the present & future scope of the work to which he will be assigned it is advisable to offer him an administrative grade scale with a starting salary of say £600.
2. Municipal Engineer - when they received the suggestions of a fully qualified (& experienced) M.E. the Kisumu District Council has not yet had the chance to accept or reject the suggestions. But if the report is accepted & the M.E. from the outset takes over responsibility for all the usual Road Sanitation services & in addition has to carry out the Town Plan, Drainage Survey, Building Inspections & other work

Note re Kenya Local Government Staff

84

Local Staff.

Nairobi.

1. Town Clerk - inclusive Salary without

house allowance or free medical attention - £1200 if possible.

* Health Department

and that

(...)

£1200

The Nairobi Council is apt to be very "tough" and no honor or freely consulted before an appointment is definitely offered.

2. Medical Officer of Health

£1000 - year increment?

Thames

1. Town Clerk - a young man - in view of

local conditions at Thames,

especially of having - of the

present & future scope of his work

it might be advisable to offer

him an administrative post

with a starting salary of say

£600.

2. Municipal Engineer

When they resist the suggestion

of a fully qualified (& experienced) M.E.

the Thames District Committee

consists that they will have the

Asst. D. Eng. in ultimate

command. But if the Report is

accepted & M.E. from the outset

takes over responsibility for all the

usual Road Sanitation, Sewer &

in addition has to carry out the

Town Plan, Drainage Survey,

Building Inspection & other works

10th June 1927

Dear Mr. Boltanley

There are two points I should have made more clear in the note which you & you refer to in Bristol Municipal Finance.

(1) Relinquish of Common Neighbourhood £4856.

This saving to Govt must depend on any policy adopted in respect of Common Lands (in endowment Doc.) in the town.

(2) Section B. on the effect of the L.S.C. proposals on Municipal Revenue

I have not taken these items of Revenue which are affected by the proposals, & not attempted to produce a complete Budget which would include payments for services rendered.

The Commission did not, either, attempt to produce any increased Expenditure budget to meet the increased revenue figures. It contacted itself with comments on items which it considered worth of increased expenditure.

I further misled you, I fear, in my conversation

as the subject of Health Office staff. A gradual process
of complete financial responsibility for this organization,
would not, in my opinion, be entirely complete
Municipal control of the policy it is proposed
to execute: reference to the relevant pages of the
Report are inserted in the note.

I do hope that, if there are any other points still
abound which you ^{would} like me to try & elucidate,
you will give me the opportunity. You might, for
instance, like a recapitulation of the whole discussion
of yesterday. I will of course wait as you wish
in the matter.

Yours sincerely

H. J. Martin.

Item (4) in B Proposed New Figures (p 2 of Note) should read

• New Motor Taxation ~~£~~ and half percent license fees etc.

as the subject of Health Office staff. A. p. dual process
of complete financial responsibility for their organization,
would not, in my opinion, a suitable complete
Municipal control of the policy it is designed
to execute: reference to the relevant pages of the
Report are inserted in the note.

I do hope that, if there are any other points still
abuse which you ^{would} like me to try & elucidate,
you will give me the opportunity. You might, for
instance, like a recapitulation of the whole discussion
of yesterday. I will of course wait as you wishes
in the matter.

Yours sincerely

H. J. Martin.

Item (4) in B Proposed New Figures (p. 2 of Note) should read
New Motor taxation ~~£~~ and half pound license fees etc.

COCKSPUR STREET,
(ENTRANCE OPPOSITE GARDENS)
LONDON, S.W. 1. 80

11th June 1927.

Dear Mr. Bottomley,

Mr. Martin was anxious to have this
typed and to get a copy to you as soon as possible.

Yours sincerely,

E. A. J. Butler

W.C. Bottomley, Esq.
C.B., C.M.G., O.B.E.
The Colonial Office.
Westminster. S.W. 1.

COCKSPUR STREET,
(ENTRANCE OPPOSITE MARKERS)
LONDON, S.W. 1. 80

11th June 1927.

Dear Mr. Bottomley,

Mr. Martin was anxious to have this
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Yours sincerely,

E. A. Bottomley

W.C. Bottomley, Esq.
C.B., C.M.G., O.B.E.
The Colonial Office.
Westminster. S.W. 1.

A. Municipal Revenues derived from Government.

<u>Present annual liabilities of Government.</u>	<u>Proposed annual liabilities of Government.</u>
<p>(1) Grant in lieu of rates at on the new valuation (p.84)..... £ 4,853.</p> <p>(2) Crown Rents (p-84).... £ 4,856.</p> <p>(3) Road Grant made in 1925, 1926, and 1927. (p.13)..... £ 5,000.</p> <p>(4) Cost of Health Administration. (see p. 149)..... £ 6,705.</p>	<p>(1) Rates at 1% on Crown Lands (p.84)..... £ 13,139</p> <p>(2) Main Roads. Maintenance Grant. (p.85)..... £ 2,100.</p> <p>(3) Rates at 1% on suburban Crown Lands (p.86)..... £ 800.</p> <p>(4) Half cost of cer- tain Municipal Health Staff. (see p.p. 146 & 149).. £ 2,407.</p> <p>(5) One third of sal- aries of Town Clerk, Town Treasurer, and Town Engineer. (see p. 166)..... £ X.</p> <p>(6) Transfer of one half Nairobi Motor Licences (see p.87)£ Y.</p>
<p>TOTAL £21,414</p>	<p>TOTAL £18,406 + EX + EY.</p>

N.B. In addition to the proposed new Government contributions, it is recommended that a capital sum of £3,000 be made available for an extension of the suburban water supply; but it is suggested that this might be made recoverable. (see p. 73).

Say X = 1000
Y = 1500
18406

£ 20906

Present figures and sources.

Proposed new figures.

(1) Refuse Removal. (p. 188)	£	52	(1) Refuse removal. (p.85).	£	3,000.
(2) Site value rate paid by public at 3% (p.84).....	£	10,424	(2) Site value tax paid by public at 1% (p.84).....	£	12,202.
(3) Suburban revenues		Nil.	(3) Suburban revenues other than charges for services rendered and less Government contribution (p.86).	£	3,910.
			(4) New motor taxation and half present licence fees collected by Government. (not separated. p.87)...	£	4,500.
			(5) Deduct from (4) the £Y already included under A (6) right hand column.....	-	£Y
					z
TOTAL		<u>£ 10,476</u>	TOTAL	£23,612	<u>- £Y</u>

To summarise the Municipal financial position,

- I. { Present annual liabilities of Government are.... £21,414.
{ Proposed new Government liabilities are..... £18,406 + £X + £Y.
- II. { Present figures of certain other revenue
sources are £10,476.
{ Proposed new figures, and new sources amount to £23,612 - £Y
- III. An amount, not to be regarded as revenue, but as a capital sum recoverable, to be provided by Govt £3,000.

C. REMARKS.

1. Confusion might arise in one's mind in reading p.VIII (Part VI. Diminishing Grant) of the Index and then reading page 149 of the Report itself. The proposals are:-

Health Staff.

- (1) Their cost is in time to be borne wholly by the Municipality though their policy (vide p.147) is to be controlled by Government.
- (2) For the moment one third (approx) of total Health Office costs (a one half of the emoluments of certain Health officers) is to

be borne by Government and thereafter this grant to be gradually diminished, though no definite period for the process is suggested. An increase of the expenditure to the amount of £4,298 must at once be incurred by the Municipality.

2. As regards the fixed and permanent Government contribution towards the salaries of the Town Clerk, Municipal Treasurer and Municipal Engineer this is set, and for reasons given on p.166, at one third. The amount is referred to in my analysis as £X, as I do not think a definite figure can be put forward before the cost of a new Town Clerk is ascertained.

3. I have omitted any reference to the financial results of a tax on improvements, as the Report furnished no data, other than the suggestion of a principle limiting the Government's possible liability.

4. No figure has I think yet been struck as to the amount of revenue accruing to Government for present Nairobi Motor Licences, the half of which it is proposed to hand over to the Municipality. This amount is therefore referred to as £Y, though the total of this sum plus a new motor tax (at a rate ^{not} more than 50% of the existing tax) is assessed at a definite figure of £4,500 in the right hand column of B. Perhaps some accomplished mathematician might be found to give Y some numerical substance.

(ITD) H.T.M.

7/6/1927.

*Y must be between 1500 (if the full 50% addition is made) and £2250 (no addition)
WAS*

His Majesty's Eastern African Dependencies

TRADE & INFORMATION OFFICE.

*Royal Mail Building,
Cockspur Street,
London, S.W.1.*

KENYA, UGANDA,
TANGANYIKA, ZANZIBAR.

NYASALAND,
NORTHERN RHODESIA.

TELEPHONE: REGENT ST 5101/2
ANY COMMUNICATIONS RELATING TO THIS MATTER SHOULD
BE ADDRESSED TO THE SECRETARY. QUOTING N.F.

CABLES: SAMPETERS, LONDON.
TELEGRAMS: SAMPETERS, WESTRAMP, LONDON.

1st June, 1927.

Dear Mr. Bottomley,

Rec^d 3.

Thank you for your letter of the 31st May, in which you agree to see Mr. Martin about the Nairobi Municipal Government and leave and salary conditions. I have shown Mr. Martin your letter and asked him to provide for you in the information on the points you mention.

Perhaps I ought to have informed you that Waterlows have already distributed to various people and institutions the Local Government Commission Report, i.e. to the Colonial Office, the Crown Agents, libraries, this office, and a number have been sent out to the secretariat at Nairobi for distribution. When I saw the Governor this morning, he was under the impression that you wished some simultaneous date of publication to be arranged. I am sorry if there has been any error about this, but as the document is a public one and in no way private, I did not think (for Logan left the matter to me) that it was necessary. If, however, you wish me to take any steps in that direction, will you please let me know and I will wire to Nairobi.

Yours sincerely,

E. A. D. Sutton

W.C. Bottomley Esq., C.B., C.M.G., O.B.E.,
Colonial Office,
London, S.W.1.

*Rec^d. Can be seen at any
of the Municipalities
things may be done
W.C. 3/6*

His Majesty's Eastern African Dependencies

TRADE & INFORMATION OFFICE

KENYA, UGANDA,
TANGANYIKA, ZANZIBAR

*Royal Mail Building,
Cockspur Street,
ENTRANCE SPRING GARDENS*

NYASALAND,
NORTHERN RHODESIA

TELEPHONE: RESERT 5761/3.

ANY COMMUNICATION RESPECTING THIS MATTER SHOULD
BE ADDRESSED TO THE SECRETARY. QUOTING
R.E.P.

London, S.W.1.

CABLES: SAMATTERS, LONDON.
TELEGRAMS: SAMATTERS, WESTRARD, LONDON.

30th May, 1927.

Dear Mr. Bottomley.

On Sir Edward Grigg's instructions I have written to Mr. Martin asking him to discuss with you any matters which form part of the recommendations of the Local Government Commission on which some action can be taken without the necessity of going into the report as a whole.

Sir Edward particularly referred to the Municipal Government of Nairobi. He is most anxious that something shall be done to carry into effect some of the recommendations as soon as possible.

Sir Edward would be very grateful if you could see Mr. Martin sometime on this matter.

Yours sincerely,

E. A. J. Burton

W.C. Bottomley Esq., C.B., C.M.G., O.B.E.,
Colonial Office,
London, S.W.1.

Ans: 31/5. If he will ring up I will see him about this & also about the loan & salaries matter which D. (in his letter of 11/5) told me he had asked M. to discuss with me. As to which I should like to have figures as to general financial effect. W.C.B. 31/5

Committee's Recommendations.

O.A.G's observations, &
Opinion of Executive Council.

Local Authority.

A Commission for Local Government to be appointed
to be the administrative head of a local Govt. (2) & sufficient Members appointed that the officer
head of the Board.

General Secretary to be Chairman of the
Advisory & Administrative Committee

to be made for the addition of other
officers to the Committee from the 5 Air at
the Officers' discretion.

NATROB

Extension of one of Nairobi municipality and
creation of wards.

Cooperation of the Council (Municipal)

Agreed by the majority of the Council: O.A.G.
& sufficient Members considered that the officer
shall not be under the restriction

O.A.G does not consider it necessary: but does
not press the point, as if the Commission's
proposal is retained, the proposal at (2) above
might be ~~done~~ avoided.

This to be extended to other persons
if necessary if necessary may be added

Agreed by Council.

Agreed by Council.

(Narrow, inverted)

Re Government Representative on the Municipal Council

Tranmer suggested 2 Government members. OTCs consider the Council shall not be composed of any Govt. members, & that the New Commissioner (or perhaps the Resident Commissioner) shall sit as representative of the Nation's interests.

Re having representative on the Council.

No having representative similarly in Narko
No having & that representative

Edgerton of Municipal Estimates for Section of Paper - in - Council. P. 90

Subt exposed, but OTCs inclined to agree if Council (? Legislative) are in form.

1st. Policy of Tom Clark, Tranmer & Engineer to be done by OTC

Agreed by OTCs, in spite of some objections.

MUNICIPA

Municipal Council to consist of 17-23 members.

Numbers considered to large. Council opinion to be considered.

(Munich, Germany)

Government officials to be elected in their private capacity for nomination to the Board

Abolition of the Municipal Authority with the view to the re-formation of a Local Board

Establishment of a Central Local Board

Schools

General considerations

to be referred to the Local Board Council & the Advisory Board

Executive Council agreed

Consideration deferred

1495



KENYA.

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

No. 301

10220

RECEIVED
23 MAY 1927
COL. OFFICE

29th April, 1927.

Sir,

I have the honour to inform you that although the printed copies of the Report of the Local Government Commission have not yet been received typed copies were made available for the consideration of Executive Council which discussed the Report on the 22nd April.

2. It is proposed to table the printed report as soon as received, - it is hoped, at the forthcoming Session of the Legislative Council commencing on May 10th, - when it will be made public and will, no doubt, be fully discussed in the press and by public bodies.

3. In the meantime I think it may be useful to you and Sir Edward Grigg in the discussion of the Report that I should furnish you with my remarks and with opinions expressed in Executive Council on the recommendations of the Commission. The discussion was a general one and it was obvious that on many points members were desirous of obtaining the views of Heads of Departments and local bodies affected before expressing definite opinions, but the consideration of the Report enabled various points of view to be ventilated, of which it is advisable that you should be informed.

I regret that it was not possible to consider the Report earlier but the delay has been due to difficulties

THE RIGHT HONOURABLE
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWLING STREET, LONDON, S.W.1.

in/

See ed. Al. 28 6 27
*Mr. J. 26/5/27

in obtaining copies and in allowing sufficient time to members to read and digest a report of such importance and dimensions. Members desired to be given the opportunity of the Easter holidays for special study of the report.

4. Two members of the Commission were present at the discussion in Executive Council - the Attorney General and Mr. V.V.Phadke who was a member for the purposes of Nairobi.

5. The portion dealing with the Central Authority for Local Government purposes and its organisation was first discussed.

Considerable discussion ensued with regard to the recommendation that "an officer to be styled 'Commissioner for Local Government' should be appointed, who will be responsible under the Colonial Secretary for corresponding with Local Government bodies and dealing with all matters which have to be referred by them to the Central Government. The Commissioner for Local Government will according to this proposal be in the position of the administrative head of a Local Government branch of the Secretariat." It is further stated that "all grants to Municipal bodies and District Councils should, we think, be administered by him (the Commissioner for Local Government) on behalf of the Colonial Secretary."

Vol. II P 173
p.4

Vol. II P 176
p.9

Opinion in the Council was divided, the recommendations of the Commission being supported by a majority of the Members who emphasised the necessity of placing this important branch of Government within the Colonial Secretary's office.

These Members agreed that the Colonial Secretary is at present overburdened with work; but the view was expressed that this fact indicated a defect in the existing system of Government when applied to a Dependency, whose public business has attained the volume and complexity that is the case in Kenya.

and was not an adequate reason for separating the administration of Local Government from what these members regarded as its natural environment, viz: the Colonial Secretary's office. For this reason they further urged that "pari passu" with the institution of Local Government, or as soon after as possible, devolution of the Colonial Secretary's control over the Legal, Financial and Industrial Departments of Government should be brought about. They held that were this to take place it would be found that the administration of Local Government was the principal remainder of the Colonial Secretary's duties, a proof that such administration is one of his basic and essential functions. And for this reason, in their submission, the duties of the Local Government Commissioner and the questions that would come before him would, of their very nature, require the authority of the Colonial Secretary behind the decisions and actions taken by the Commissioner. In short, they considered that to set up the Local Government office as a separate Department would be an endeavour to effect an unnatural severance that before long would call for repair.

My own view, which was shared by the European unofficial members present, is that if a success is to be made of Local Government it will be necessary to secure an officer who has had very considerable experience in such work, preferably from South Africa, and that he should be given as free a hand as possible. He would be subject to the control of Government as any other head of department but he should, in my opinion, be treated as such and not brought into the Secretariat where he would be bound to become an additional Assistant Colonial Secretary for Local Government work, which would mean still further work in an overburdened office and excessive centralization, which it is most desirable to avoid.

An officer who is made "responsible under the Colonial Secretary for corresponding with Local Government bodies etc."

can never have that freedom of action nor will he be encouraged to take the initiative which it is most necessary should be exercised by all heads of departments. In respect of other branches of administration he would, whether such was actually the case or not, appear to be tied to the Secretariat, and the Colonial Secretary would be held responsible for all decisions, suggestions etc. emanating from the Commissioner. The Colonial Secretary, in my opinion, is the chief adviser to, the interpreter of and the main line of communication between heads of departments and the Governor. He would still exercise these functions in respect of the Commissioner for Local Government if the latter is given a department and office of his own, and he would be better placed to do so than in a secretariat with the new Local Government machinery running under conditions which it had much better be removed from, and which from the nature of things could not strengthen and might indeed weaken its functioning at the start.

It will of course be understood that I am in no way reflecting on the working of my own office. I believe that the Secretariat in Nairobi is as efficient as any Secretariat in the Empire but there are faults in all Secretariats, and the greatest of these is excessive centralization, and I desire to save the Local Government organization from the risk involved if the recommendation of the Commission in this regard is accepted. It will be seen that the Commission recommends that "the Colonial Secretary as the chief executive officer of Government, who is himself primarily responsible under the Governor for the supervision of Local Government activities, should be permanent Chairman of the Standing Departmental Committee on Local Government", which will give him a wide control over the working of a new department of Local Government.

Vol II P 175
p. 8.

Personally/

Personally I am not convinced of the necessity for appointing the Colonial Secretary as Chairman, and I consider that he can exercise all the control needed in his ordinary capacity as adviser to the Governor, but I do not wish to raise the point as the retention of this recommendation may be an argument in favour of dropping the proposal to make the Commissioner an "administrative head of a Local Government branch of the Secretariat," the objections to which I have already fully stated.

I feel that in making this recommendation the Commission has not had the courage of its own opinions; it has not gone far enough as it has not made a definite recommendation as to how the post of Commissioner for Local Government should be filled. I believe that if this most valuable report is to produce the results it aims at securing it is essential that the appointment of Commissioner should be filled by an officer with considerable experience in Local Government or as an alternative, though I do not regard such as entirely satisfactory, by the appointment of a senior officer from the Colony who has served on the Commission. Whoever may be appointed should be given as full powers as possible. There will be the Colonial Secretary, the Governor, the Governor in Executive Council and the Governor in Legislative Council as controlling and criticizing authorities. Should there be in the future in Kenya development on ministerial lines the Local Government Department could always be represented by the Colonial Secretary or Home Secretary or whatever he may be styled as its spokesman, but this would be merely a further argument for allowing it to function as a separate department from the start.

6. The point was raised by unofficial members that no provision is made for the appointment of unefficials to the

Standing Committee on Local Government. It was pointed out that the Committee is a Standing Departmental Committee and is intended to be an advisory Committee of experts dealing with the functions which specially affect the Departments represented in connection with Local Government.

W.C. 174

It was pointed out however that it is stated in the Report that the Committee is to consult "together for the purpose of assisting Government in prescribing a far seeing and consistent policy in matters generally affecting Local Government administration," and that the Commission suggested that the addition of one or more unofficial members for the purpose of the exercise of the present functions of the Board of Health should receive consideration.

The objection was withdrawn by the unofficial member who put it forward, on the understanding that it be recommended that in the constitution of this body provision should be made for the appointment of such other persons as the Governor may from time to time appoint, instead of for such other officers as is recommended in the Local Government Commission's report.

I support this recommendation.

7. It was suggested by Canon Britten that the Chief Native Commissioner should be appointed to the Standing Committee to represent native interests, It was pointed out that provision is made for the Committee "to call to its assistance any officer of Government who is specially qualified to advise on particular questions which may come before it" and that the Committee is in no way intended to be representative of communities as such.

The suggestion was not pressed.

8. The Report dealing with Nairobi and its environs was next considered.

9. The Council agreed with the recommendations in respect of the extension of the area of the Nairobi Municipality and the suggested Wards.

Mr. Phadke adhered to the views which he had already expressed in the Note of Dissent attached to the Report of the Commission on these points as well as on the proposed constitution of the Municipal Council.

In respect of the latter there was general agreement by all the other members of Executive Council with the recommendation of the Local Government Commission.

The Treasurer urged the necessity for the appointment of a second Government member in addition to the Senior Commissioner to safeguard Government's financial responsibilities, landed and other interests, and to act as a further check on Municipal expenditure.

It was pointed out that the intention of the Commission was to give the Municipality as free a hand as possible and that special safeguards had been introduced in Chapter IV, part VII Draft provision (2) and par. 2 to enable Government to exercise control and prevent ineffectual or wasteful or improper administration and expenditure.

I am of the opinion that if the recommendations of the Local Government Commission in respect of the Nairobi Municipality are to prove successful this body should be a popular representative assembly without any Government nominees.

The Senior Commissioner is in my opinion the representative on the Municipal Council not of Government but of the natives, who are not in a position at the present time to select a representative of their own.

It may be found advisable to appoint the Resident Commissioner, who is in closer touch with the natives in the town rather than the Senior Commissioner as the Government representative/

representative of native interests.

The arguments on the point raised by the Treasurer I consider apply with equal force to the appointment of a Railway representative, a recommendation I regret. It seems to me to be a serious departure from the principles of making the Municipal Council a body representative of the townspeople and of giving Nairobi a full municipal status to make a recommendation which provides for the representation of a single interest. If the claims of the Railway are admitted, why not those of Government or of any large body or employer who has large financial interests concerned or involved in Municipal Administration? It seems to me to be a compromise with and a concession to the General Manager of Railways, and I believe that instead of having the effect desired it is only likely to lead to undesirable influence on or interference with Municipal affairs.

It is only too likely to lead to the discussion of the Railway's claim to land being raised and fought in the Municipal Council without the representation of Government, for the Senior or Resident Commissioner can never be more than a local officer appointed to look after the natives and whose concern will be with them.

See Vol. I
p. 134

The Municipal Council can at any time take the evidence of interested parties and investigate their relations with the town authority; The Railway is one of these, just as Government is, and both should be placed in the same position and treated alike, not as members of a Municipal body but as large outside controlling agencies, who have to be reckoned with as such.

It seems a dangerous precedent to create to appoint a representative of any department or body to secure "effective co-operation between the Municipal body concerned and the administration"

administration" so represented.

These remarks apply equally and with perhaps still greater force to the recommendations made in respect of Railway and Port representatives on the Municipal Board at Mombasa, which seems to me to be likely to lead to discussions which had better be left to the Port Advisory Board or the Inter-Colonial Railway Council.

10. An objection was raised to the recommendation that Government should pay one-third of the salaries of the Town Clerk, Town Treasurer and the Town Engineer. It was felt that the contributions now to be made by Government are so considerable that Government may fairly claim a say in the appointment and dismissal of these officers without the obligation of being obliged to contribute towards their salaries. In the precedent afforded, it is believed, by contributions made in England it would seem however that the recommendation of the Commission should be followed.

11. Doubt was expressed as to whether at the start of the new Council it should be exempted from the present requirement that the Municipal estimates require the sanction of the Governor in Council. In view however of the arguments in Chapter IV, part VII par. 2, I agree that the requirements of section 25 of the Municipal Corporations Ordinance may be dispensed with, - though if there is any strong support in Council for the suggestion that this be deferred for a short period I am inclined to agree that Government should accept what would doubtless be a popular view that the new Municipal Council should at the commencement be subject to this measure of Government control.

12. The desirability of extending the franchise for Local Government bodies to aliens was questioned by Captain Schwartz, who/

who stated that he was not prepared to press the point if this recommendation followed the practice in England or other parts of the Empire.

13. The Council then considered the Report on Mombasa and its environs.

14. The large number of members proposed for the Municipal Board aroused criticism especially in view of the difficulties adumbrated by the Commission in finding a sufficient number of eligible persons likely to be willing to serve on such a Board. The recommendation that the large number suggested is necessary in view of the Committee work cannot, I consider, be regarded as an entirely sufficient reason. It was felt however that the local views should be ascertained.

15. The suggestion that Government officials should be regarded as eligible for nomination as members of the Municipal Board in their private capacity as citizens is not in my opinion a sound one and this view was shared by other members of Executive Council. In a small community like Mombasa such representation should in my opinion be carefully avoided as only likely to lead to considerable friction and possible interdepartmental ill-feeling in matters connected with the Railway, the Port and Town planning.

I believe that such representation has been abandoned where it has been tried; the reason given for its adoption would seem to be an argument rather against the size of the Board than for maintaining it by such a dangerous expedient,

16. It was considered generally that the recommendations of the Commission as affecting the relations of Municipal Authorities with the Kenya and Uganda Railway and the Port Administration/

Administration should be referred to the High Commissioner for Transport for the further consideration of the Inter-Colonial Railway Council and the Port Advisory Board and that in any case the land question as it affects the Government and the Railway should be dealt with separately as an issue between the two authorities independent of their position in respect of Municipal representation.

17. It was agreed that the report of the Commission in regard to Settled Areas could not be profitably discussed in Executive Council until the views of the administrative officers, the Heads of Departments, and the local bodies directly concerned could be ascertained which must in respect of the last named await the receipt of further copies of the Report.

Council were in agreement with the Commission's proposals regarding the constitution of a Central Roads Board.

18. I shall address you further regarding the recommendations of the Local Government Commission in respect of the Settled Areas.

19. I am sending a copy of this despatch, which should be regarded as expressing views arrived at after a preliminary discussion only and without detailed statements in respect of the financial proposals, to Sir Edward Grigg and trust that it may be useful as raising certain points which require further consideration.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. M. Sukham.

ASSISTANT GOVERNOR

Mr. Whitcombe 13/4/27
Mr. Allen 14/4 at a/c

X 10220/27 Kenya
100
Coded sent
20.14/27

Mr. Telegraph Section

Mr. E. J. Harding.

Mr. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

Joe

14 April Following from

Logan begins: - 50.

copies of report will

be despatched by post

end of April remainder

following usual way.

necessary number of

copies being retained

here. ends.

Secret

DRAFT. Tel.

Governor
Nairobi

2/4/27

Mr. *W. H. Miller* 9/14 fo.

Mr.

Mr.

Mr. E. J. Harding.

Sir C. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

9
13 Feb '27

Sy,

With ref: to the

Mr. C. S. letter to the

Com: the 18 Feb

(No. S.I.C.L.G. 9/2/127-)

I have to transmit to

you a copy of the Com's:

notes in the margin

relative to the printing

of the Report of the

Local Govt. Board.

transmission.

2. Steward

has been consulted
& some comment on

DRAFT.

St

Recd
No 324
over

To C.A. (10 March)
(No 5)

W. H. Miller 4 Apr
(No 7)

To C.A. - 13 APR 1927
(cont. of)

206

This subject has been made
direct to me or to the
Agents.

Shavery

(Signed) L. S. AMERY.

1048

Mr. Cliffe 8.4.27.
Mr. Wilkinson 9/4
Mr. Allen 9 fa.
Mr.

Mr. E. J. Harding.
Sir C. Strachey.
Sir J. Shuckburgh.
Sir G. Grindle.
Sir C. Davis.
Sir S. Wilson.
Mr. Ormsby-Gore.
Earl of Clarendon.
Mr. Amery. (No. 3.)

DOWNING STREET,

13 April, 1927.

Gentlemen,

With reference to the letter

from this Department of the 15th of
March, I am etc. to inform you that

DRAFT. for consen.

CROWN AGENTS FOR THE COLONIES.

Tender with No. 5 to
be returned - copy of
() portion to be kept.

13 APR 1927
copy to Sir J. J. J.

the total number of copies of the
Kenya Local Government Commission
Report required will be 600 of each
Volume. Of these 570 should be
bound in common boards and 30 in
half calf. It is understood that
Messrs. Waterlow have submitted a
specimen half calf binding to Sir
Edward Grigg for his approval.

2. It is now proposed that the
covers should be stamped with the
Royal

8
A 11 APR 28
D 11
107

Royal Arms and not with the Kenya

Seal.

3. Sir Edward Grigg should be consulted through Mr. Logan, as to the distribution of the report and as to the price to be charged for any copies retained by you for sale in this country. 12 copies of the report bound in common boards will be sufficient for the official use of this Department.

4. The tender which accompanied the minute from your office of the 29th March (S Kenya 2720) is returned herewith, together with the copy of the Gold Coast Code of Rules forwarded with the later minute of the 30th March.

I am, etc

H T ALLEN,

Mr. Cliffe 8/4/27
Mr. [unclear] 9/4
Mr. E. J. Harding.

Sir C. Strachey.
Sir J. Shuckburgh.
Sir G. Grindle.
Sir C. Davis.
Sir S. Wilson.
Mr. Ormsby-Gore.
Earl of Clarendon.
Mr. Amery. (No. 8)

7/5/27
for draft

Downing Street,
13 April, 1927.

DRAFT. for conson.

CROWN AGENTS FOR THE COLONIES.

Gentlemen,
With reference to the letter from this Department of the 15th of March, I am etc. to inform you that the total number of copies of the Kenya Local Government Commission Report required *bound* will be 600. Of these 570 should be in *Common* ~~the ordinary~~ boards and 30 in half calf *binding*. It is understood that Messrs. Waterlow have submitted a specimen half calf binding to Sir Edward Grigg for his approval.

*Tender with No 5 B
made - copy 1 (C) 3
from the left*

It is now proposed that the cover
2. 1/2 the cover of the Commission
copies should be stamped with the Royal Arms and not with the Kenya Seal ^o as previously proposed. *(P.P.O.)*

I am to request that you will ~~submit as early as possible~~ ^{submit} estimates of the total cost ~~of production~~ ^{of the report} *if/am, etc.*

3. ~~The amount obtained~~

through Mr Logan, the ~~books~~
S. H. Briggs
of the ~~Board~~ as to the

distribution. 12 copies of
bound
the report to be common boards
will be sufficient for the
official use of this Dept.

of the report read the
price to be charged for
any copies retained /
for for sale in this
country.

X John filled

4. The tender which

accompanied the minute

from the Office of the
(S Kenya 2720)

of Mr Ash's note herewith
together with the copy of the Gold Coast
Code & Rules forwarded with the table
minute of the Council.

(Signed) H. T. ALLEN,

X 10220

6 NO

Mr. Allen,
Colonial Office.

Report of the Kenya Local Government Commission.

30.3.27.

With reference to our conversation over the telephone I enclose a copy of a letter from Messrs. Waterlow & Sons quoting £60 for a less expensive form of binding etc, and also the Gold Coast Code of Rules which is sent to show what the proposed binding for the presentation copies looks like. Mr. Logan told Waterlow & Sons that he wished to have the "Kenya Seal" on the covers. The design of this is, I believe, rather elaborate, and to cut a die would be rather expensive, whereas Waterlow & Sons have dies of the Royal Arms which they could use. I am told that the gilt lettering is not much more expensive than black would be.

13.2.27.

I also enclose a copy of the letter from the Colonial Secretary to Mr. Logan.



30th March, 1927.

General Stores Department.

FROM MESSRS. WATERLOW & SONS LTD TO THE CROWN AGENTS.

26 & 27 Great Winchester St.,

E.C.2.

30th March, 1927.

Gentlemen,

Kenya Local Government Commission Report 1927.

In reply to your telephonic enquiry we beg to say the revised cost of binding the 580 Copies of each of Volumes I and II in cardboard covers printed on front with strip of cloth up back, and 20 Copies of each volume bound in whole blue twill cloth lettered in gilt letters on back and side would be £60.0.0d. the lot in place of £122.14.0d. as quoted in our tender dated the 23th March.

For the purpose of economy we have reckoned to print the Royal Arms on covers instead of the Kenya Seal.

A copy of the Gold Coast Code of Rules is forwarded herewith to shew the style of blue twill cloth binding, kindly return this copy when finished with.

We are, Gentlemen,

Yours obediently,

WATERLOW & SONS LTD.,

P.O.Box No. 621.

The Secretariat,
Nairobi,
Kenya.

Ho. R/C.L. 0.9/2/12/-

18th February 1927

V.M. Logan Esq.,
Secretary, Local Government Commission,
NAIROBI

LOCAL GOVERNMENT COMMISSION: PRINTING OF REPORT.

With reference to the printing of the Local Government Commission's Report, the Governor is prepared to leave arrangements in regard to the cost of printing this Report to your discretion, merely noting that the volumes for ordinary use should be bound in common boards and that twenty complimentary copies should be better bound. It is desired, however, that the Report should be printed on good paper and easily readable type. It is considered that 600 copies will suffice.

2. The Governor is prepared to leave to your discretion the computation of duty time spent during your leave at home. You will be at liberty to draw for each day of duty Shs.20/- subsistence allowance together with your first class railway expenditure when travelling in connection with your duties.

3. If it is possible to arrange for an early consignment of these reports to be sent I shall be glad if you will do so and further that you will telegraph to me when I may expect the first copies of the Report as soon as you know the date.

(Sgd) Y

for ACTING COLONIAL SECRETARY.

file
copy to C. A.
15 APR 1927 on 11833 F.A.

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X 10220

Mr. Allen,
Colonial Office.

Immediate.

Orig. encls. ret'd, copy attached 18 APR 1927

With reference to Colonial Office letter of the 15th of March and our conversation over the telephone, Messrs. Waterlow & Sons are supplying Mr. Logan with proofs of the Report of the Local Government Commission at the rate of 50 pages a day. Mr. Logan has sent us the attached tender from Waterlow & Sons for 600 copies and says that the report should be printed as soon as possible, so we shall be glad if you will let us know how many copies we should order. Please return the tender with your reply.

Without seeing the report it is not easy for us to suggest a selling price, but we should think that perhaps 10/- a volume (i.e. 20/- per copy) would be about right.

J. M. ...

29th March 1927.

Colonial Office

TENDER FOR THE SUPPLY OF

Messrs Waterlow & Sons Ltd.

26 Great Winchester Street

E.C.

Item	Quantity	Detailed description of Articles	Rate	Amount
	600	<u>KENYA LOCAL GOVERNMENT COMMISSION REPORT 1927</u> Composition, proofs and printing Copies each of two volumes numbered 1 & 11 size Super Royal octavo, containing 560 pages letterpress printed in black with 9 Maps lithographed in colours, folded and inserted		427.15. -
		Binding 1160 Copies (580 copies each of Vols 1 & 11) in whole blue twill cloth blocked on back and side in gold		122.14. -
		40 Copies (20 copies each of Vols 1 & 11) in half calf cloth sides blocked on back and side in gold		
		The cost of alterations and additions to type after the first proof is submitted will be extra to above.		
		TOTAL		£ 550. 9 -

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115

Downing Street,

15
14th March, 1927.

Dear Major Dutton,

I have received your letter of the 12th March with regard to the printing of the Report of the Local Government Commission. We have not yet received any despatch from the Government of Kenya. In such cases, the usual practice is for the Crown Agents to arrange for the printing, and an official letter, of which I enclose a copy, has, therefore, been sent to them asking them to make arrangements accordingly.

You will see that they have been informed that Mr. Logan will let them have a copy of the Report for the purpose. It has also been assumed that Mr. Logan ~~will send~~ ^{has sent} the proof.

Yours sincerely,

(Signed H. I. ALLEN.)

MAJOR E. A. T. DUTTON.

arrangements for it to be printed at
the expense of the Col. Govt.

2. The proof of the Report
should be referred to Mr. Logan, and a
further letter will be sent to you in
due course with regard to the number of
copies which may be required.

I am, etc.,

(Signed) H. T. ALLEN.

for Under Secretary of State,

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END

%
H.M. EASTERN AFRICAN TRADE & INFORMATION OFFICE,
ROYAL MAIL BUILDING

34, COCKSPUR STREET,
LONDON, S.W. 1.

14th March 1927.

Dear Mr. Allan,

As I promised, I am writing to tell you what is the position about the Local Government Commission Report.

Mr. Logan, as I told you, arrived here yesterday. He has brought with him three copies of the Report, one for the Governor, one for the Colonial Office and one for himself. The one for the Colonial Office will be sent over to you early on Monday morning.

Mr. Logan is anxious to get on with the printing of this report as soon as possible.

Before I left Kenya I asked that arrangements should be made through you for any printing to be done, i.e., that you should request the Crown Agents to pass any Bills incurred for that purpose. Mr. Logan wishes to know whether he should go to Messrs. Waterlow or H.M. Stationery Office. If you have not received this communication from the Kenya Government I am authorised by His Excellency to say that he has given instructions for the printing of the Report as soon as possible.

H.T. Allan, Esq.
Colonial Office.

Yours sincerely,

S. A. J. [Signature]

Ans'd. 15 MAR 1927 S. O