

1924

KENYA

336

23485

Date

24th April 1924.

16 MAY

MEMORANDUM, CONT  
100KENYA AND UGANDA RAILWAY, HARBOR, AND LAKE SERVICES  
BILL, 1924.

The copies of bill as drafted by General Manager, and further copies of same bill with amendments as suggested by Attorney General. Requests provisions of bill be discussed with Peeling and Gower.

## MINUTES

The bill was discussed with the Attorney General and the General Manager. It was found that the bill was not in accordance with the wishes of the Government and it was impossible to carry out the objects of the bill by amendment. Legislation in Kenya and Uganda was found to be in accordance with the wishes of the Government and it was decided to refer the bill to the Kenya Legislative Council. The bill was found to be in accordance with the wishes of the Government and it was decided to refer the bill to the Kenya Legislative Council.

27 AUG 1924

8/2/29/1924

with the High  
Commission Administration  
in a Council

We have no proper title  
to show what the various  
members of the administration are  
in the form and that makes  
examination difficult. I am  
more than doubtful about the  
propriety of repeating the  
names of the members, and  
trying to include the  
names in this

the study, but in both  
regards having, left copy  
of the bill with me before  
the council so that I  
will suggest in the  
future to be left to

the study, but in both  
regards having, left copy  
of the bill with me before  
the council so that I  
will suggest in the  
future to be left to

in this is the High  
Commission Administration  
and Council

We have no proper title  
to show what the various  
sections of the resolution are  
which form and that under  
examination difficult to  
understand but that the  
probability of referring to  
the next day and  
trying to understand  
how it is done.

For the purpose of the  
regarding the bill, I am  
of the bill with no letter  
the Council but that  
with regard to the  
the Council is left to

Yours truly  
[Signature]

Mr. [Name]

We will discuss whether  
concerned by you. As the draft  
Order stands, the High Commission  
~~proposes~~ recommends that both  
I.H. for decision. The S.H.  
would (if the proposed) then  
decide that certain <sup>other</sup> parts should  
be voted by the High Commission  
but both the Legislative Council of  
the High Commission, & so long as we  
have official majorities we  
cannot do what we want with a  
majority of the High Commission  
power of the local legislation  
by the High Commission.

Something more would

containing for the purpose of the High  
Commission an official majority of  
the Council, and we should  
for that contingency also -

if it were, railway matters  
would certainly have been  
"reserved" in some way?

Wed 8/9/24

Mr. B. C. C. C.

I explained to S. H. Lambert that the original  
draft of this clause had been much more precise. It  
should be made good by the Government  
of general average in such proportion as the  
Secretary of State might decide. I went on to  
say, however, that some objection difficulty was  
being interfering quite so clearly with the  
functions of the Legislative Councils as the  
present draft would be. and like all com-  
mittees are very particular. If, however,  
with an explanation of what it is in-  
tended to do, it is easy to put a vote through  
the Official's Office, it is quite  
quite possible. My only objection it does  
not seem to me to be so much as to  
the fact that the Government are ministered to by  
the Secretary of State. It will be our leading function  
to be able to deal with the Government about the  
draft clause before the Legislative Councils, and  
I have been talking largely political, because of  
the fact that the Government are ministered to by  
the Secretary of State.

H/S  
4/5

Sir H. Lambert

I take  
I took Mr. Bush's suggestion at "A" to mean  
that unless the local Councils raise the matter we  
should do nothing. If it is essential that the  
point should be taken up I should much prefer that  
we should take it up now and by telegram.

It would be simple to add to the clause a  
statement to the effect that the Secretary of State  
would direct the Governors to propose to their  
Legislative Councils a vote of the amount necessary,  
but, this would really take us no further, and I  
should not be inclined to recommend anything more  
definite.

The Kenya Council has shown an inclination  
to take up points on which members have considered  
that its privileges have been over-ridden. It  
seems to me undesirable that we should use the  
power of legislating by Order in Council to give  
express orders as to what the Kenya Council should  
do in the exercise of its functions. As I noted  
in my previous minute, there is no difficulty in  
getting the votes through so long as we have an  
official majority and from the point of view of  
public <sup>interest</sup> ~~definiteness~~ the main consideration, the  
security of loans, is satisfied by the addition in  
the draft order that no loans shall be issued  
without legislation, in which of course the necessary  
provision for floating debt charges will also be  
inserted.

Subject to your views therefore, I should  
prefer to leave the point untouched.

(The H.C. Committee have decided to  
refer the Council's proposals)

T.P.



Mr. McHenry,

I have accordingly detached one  
of the amended copies for consideration  
prior to the meeting proposed

At  
12/6

See on next sheet

I have drafted a letter  
speaking with Sir H. Lowndes,  
who writes the attached copy of  
the attachment of cl. 24. His  
reply has concurred in it.

I have made a verbal alteration  
("civil Government") & have suggested  
one alternative phrase: to wit

"with that proportion of the deficit"

implies two shares amounting together  
to the whole deficit, but the H.C.

and the Railway Council being also

recommended that the whole deficit

(rounded any of it) should be made  
good in a particular year.

W.C.S. 16. 7. 24

Mr. H. H. H. H.

I have accordingly detached one  
of the enclosed copies for consideration  
pursuant to the early proposal

M.  
12/6

See on next sheet

---

N.A. 715

The Hon. Mr. G. A. ...

Legislative Council  
 has decided to  
 transfer the  
 railway system  
 from the East of  
 Africa to the  
 Government. It is  
 proposed to  
 transfer the  
 railway system  
 from the East of  
 Africa to the  
 Government.

L.S.

2. 11. 24

As a result of discussion  
 during several meetings of the  
 draft Ordinance submitted  
 by the Government of Kenya  
 and Uganda for the setting up  
 of a High Commissioner for Transport  
 it has been decided to substitute  
 for the Ordinance

(a) a draft Order-in-Council  
 providing for the establishment of  
 the High Commissioner and his  
 equipment with such of the  
 necessary powers as may be  
 conferred upon him  
 by the Legislature of either of the

(b) a draft Bill to serve as a  
 model for the enactment of  
 similar Ordinances in  
 each of the territories, vesting the  
 High Commissioner with powers for  
 the working of the Railways and  
 the Department and appointing  
 the various members of the  
 staff.

to the dependency. I annex  
copies of the D. C. of the Bill  
revised up to date.

[The meetings have been  
attended by  
Mr. B. Stanley  
Mr. Collins (General Manager)  
Mr. Dwyer  
Mr. Thibault  
Mr. Sauer (Secretary General.  
Kansas (was meeting))  
Mr. Calder  
Mr. Seel ]

It is as follows:

Understand that the  
the issue of the Union withdrawal

(in the form of the same relations  
to the preparation of a draft  
of a Bill) and the  
revised Bill shall be referred

to the Board of Directors, with  
the idea that the D. C. shall

be laid before the Legislature  
as soon as the Kansas Legislature

opens its session, and arrange  
the matter to be handled to

the satisfaction of the  
Board of Directors.

The Board of Directors shall forward the

and they have  
taken up more  
time than any of  
us could well spare  
C.C.S.

Not as I suppose I should be  
his suggestion of the  
Committee like of the  
from a group of  
C.C.S.

referrals to the D. C. or 341  
recommendations of the Council  
On the enactment of the D. C.  
the Bill will be introduced  
simultaneously to the two  
legislatures.

The present form of both  
instruments embodies  
most of the suggestions which have  
been accepted at the meetings,  
but certain points require  
to be specially mentioned  
in connection with the Bill

1. § 17. This provides that  
where there exists 15 acres of  
land for railway etc. purposes,  
but a servitude is over the land  
would suffice. The High Commission  
may take the servitude in  
of land out the other. It was  
suggested that the Government  
should be asked to consider  
whether it would not be more  
equitable to give the owners the

option of being expropriated  
and paid out in full if they  
so desire, rather than be compelled  
to retain the ownership of the  
land and suffer the railway  
to use it for its own purposes.

2. F34 and F35, providing

that the High Commissioner  
shall be responsible for affairs  
concerning the title of the  
land and the rights of the  
owners. That no undue  
preference shall be given  
to any one. They are based  
on the wishes of the members  
of the Council. Ordinances  
concerning hunting, for  
example, will not be given  
unless they are in the  
interest of the land.

2. F36 and F37, providing  
for penalties in the case  
of certain offences.

The General Manager  
explained that these clauses

were based on the law in force in  
South Africa, and that they  
had been found of service in  
discouraging hostile strikes  
on the railways there. It was  
further stated that a hostile  
strike on the U.S. and a railway  
would be more than ordinarily  
serious on the whole <sup>of the</sup> both of  
Kenya and Uganda, and  
be thrown out of gear and  
the whole population of country  
would be placed at the mercy  
of a native rising if such  
occurred. In B. B. Mombasa  
divided that the attention of  
the S. of S. should be specially  
called to this section.

and provide more  
generally. The Secretary

see a minute

2. F38 2. F39, 2. F40, 2. F41, 2. F42, 2. F43, 2. F44, 2. F45, 2. F46, 2. F47, 2. F48, 2. F49, 2. F50, 2. F51, 2. F52, 2. F53, 2. F54, 2. F55, 2. F56, 2. F57, 2. F58, 2. F59, 2. F60, 2. F61, 2. F62, 2. F63, 2. F64, 2. F65, 2. F66, 2. F67, 2. F68, 2. F69, 2. F70, 2. F71, 2. F72, 2. F73, 2. F74, 2. F75, 2. F76, 2. F77, 2. F78, 2. F79, 2. F80, 2. F81, 2. F82, 2. F83, 2. F84, 2. F85, 2. F86, 2. F87, 2. F88, 2. F89, 2. F90, 2. F91, 2. F92, 2. F93, 2. F94, 2. F95, 2. F96, 2. F97, 2. F98, 2. F99, 2. F100

2. F38 2. F39, 2. F40, 2. F41, 2. F42, 2. F43, 2. F44, 2. F45, 2. F46, 2. F47, 2. F48, 2. F49, 2. F50, 2. F51, 2. F52, 2. F53, 2. F54, 2. F55, 2. F56, 2. F57, 2. F58, 2. F59, 2. F60, 2. F61, 2. F62, 2. F63, 2. F64, 2. F65, 2. F66, 2. F67, 2. F68, 2. F69, 2. F70, 2. F71, 2. F72, 2. F73, 2. F74, 2. F75, 2. F76, 2. F77, 2. F78, 2. F79, 2. F80, 2. F81, 2. F82, 2. F83, 2. F84, 2. F85, 2. F86, 2. F87, 2. F88, 2. F89, 2. F90, 2. F91, 2. F92, 2. F93, 2. F94, 2. F95, 2. F96, 2. F97, 2. F98, 2. F99, 2. F100

were based on the laws in force in  
 South Africa, and that they  
 had been found of service in  
 discouraging hasty strikes  
 on the railways there. It was  
 further deemed that a hasty  
 strike on the Uganda railway  
 would be most <sup>injurious</sup> to the  
 interests of the <sup>colony</sup> ~~State~~ <sup>Government</sup>.  
 It was also suggested that  
 a measure of this kind  
 would be of great service  
 in the event of a strike  
 on the railway, and that  
 the Government should  
 be empowered to call out  
 the police in the event of  
 a strike on the railway.

It is, perhaps, more  
 necessary to have

See the ...

£75 ...

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

It was suggested that the Governor should be asked to consider the omission of this chapter except the first part of § 83 (1); but that they should be asked to consider the point very carefully with regard to the ~~possibility~~ possibility of retaining the whole for application to any existing private rail ways.

6. A clause suspending the operation of the Bill until a date to be fixed by Proclamation will be inserted.

I have seen the draft of Bill & will be both for drafting in the lines of the above schedule.

8th 2/8/24

I agree generally, at request that the words "History of Mysore" be added to "History and Constitution of Mysore" in section 9 & 12.

W.C.S.

of the Code is - Committee  
and that the words "or further"  
introduced in section 4, 9, 14, 15 of  
the Bill. It is quite wrong that  
by the Bill the H. Comm. should have  
in the form of the law proposed  
for - for - & in section 6 "or further"  
proposed is unnecessary.

W.C.  
25. 11

Mr. Stewart

Chambers

Sir H. Ross (instruct)

As we hope that the  
Bill will have been passed  
(though we get in operation)  
when in mind of our  
importance & necessity of  
possible need to be settled  
in our hands as in  
various parts of the Bill  
I will therefore, and  
I think, shall have to  
explain (as I hope I do  
to S. 4, before he leaves  
for South Africa - his  
dealing with the  
Appropriation of 10,000,000

Mr. Stewart might  
consider in draft  
stage. If we think of  
the law as regards  
it should be something  
like "or any other person  
connected with the  
administration"



of the Code is - Council  
and that the words "or public"  
be deleted in section 4, 5, 6, 7, 8, 9  
of the Bill. It is quite wrong that  
by under the H. Comm. should have  
- it the form of the law for public  
- purpose & in actual "public"  
- purpose is meaningless.

Mr. Sturges might  
consider in Bill  
stage. If any kind of  
the law is required  
it should be something  
like "or any public body"  
connected with a public  
administration

W.  
28. 29

Mr. Sturges

Memorandum

Sir H. Sturges

We hope that the  
Bill will have been passed  
(though as yet in operation)  
when in mind of me,  
importance & necessity of  
provision must be taken  
into account in any  
revision. point - details  
I will discuss, and  
I think you will have to  
specify (as to 4, 5, 6, 7, 8, 9)  
the Bill before the House  
for each of these. The  
policy requires the  
approval of the Government

of the Order in Council:

and that the words "or public" be deleted in sections 4, 9, 10, 11 & 12. It is quite wrong that the Hon. Secy. should have in the form of the paper for public purposes & in actual "or public" purposes is meaningless.

W  
28-29

Mr. Sturges might consider in draft stage. If any part of the bill is agreed it should be written like "or any person" & consulted with a writing "abandon"

Mr. Sturges

Chamberside

Sir H. Sturges

As we hope that the Bill will have been passed (though not yet in operation)

where in mind of our important & numerous of principle must be established in our hands as you should point - be direct

I am to thank you, and I think that we have to explain that to you. I to the 5th of the 1st of the year.

To Sir H. Sturges, his feeling towards the affairs of the Government

The original intention of the Legislature  
 was to provide, as it now does, for  
 the best - a bill which should be  
 considered the very valuable and  
 I am well prepared to put the same  
 on my own responsibility.

That is the way about the  
 had to do about

Cal  
 2. D. 2  
 1. J. R.  
 4 / 111 / 24

Mr. Thomas.

Clause 57 of this legisla-  
 tion provides that any <sup>employee</sup> servant who  
 refuses to serve or absents himself  
 from duty may be fined \$20. or in  
 default of payment be imprisoned  
 up to six months or suffer both  
 fine and imprisonment: and in  
 clause 60 it is provided that  
 "if a number of servants during  
 the period which they have engaged  
 to serve, and not being duly  
 discharged, desert, or refuse to  
 serve, or absent themselves from  
 duty without lawful cause or  
 reasonable excuse, or resign with-  
 out giving the notice required by

...and ... Salt ...  
... and ...  
... the ...  
... the ...  
... the ...

That is the only point you  
had to talk about

601  
2. D. 2  
1. J. R.  
4 / 11 / 24

Mr. Thomas.

Clause 57 of this legisla-  
tion provides that any <sup>employee</sup> servant who  
refuses to serve, or absents himself  
from duty may be fined £50, or in  
default of payment be imprisoned  
up to six months or suffer both  
fine and imprisonment: and in  
clause 60 it is provided that  
"if a number of servants during  
the period which they have engaged  
to serve, and not being duly  
discharged, desert, or refuse to  
serve, or absent themselves from  
service, or neglect their duties, or  
commit any offence, or  
resign with-  
out giving the notice required by  
any

any regulation or contract, they shall be deemed to have absconded from the service and no refund of contributions shall be made to such servants.

Both these clauses are directly based on South African precedents. There are also precedents to be found for the first in West Indian legislation. There are no precedents apparently for clause 60, though the Jamaica Railway Employees Law says that persons who leave the Service or who are absent without leave or without subsequent approval will not be entitled to any pension or other allowance.

The circumstances of Kenya are, of course, quite peculiar. There is, I believe, no road by which motor cars could get through from Nairobi to the Lake or from Nairobi to the sea and the railway is therefore the very backbone of the administration, so that a complete strike would paralyse the Government.

In the special circumstances of the Colony somewhat unusual provisions are I think justifiable.

W. 4/8/4

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

Rec 6/8

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

S.P. ... .. the whole  
question

at once.

H. J. R.

07/08/4

H. J. R.

It was suggested that  
 the Government should be asked  
 to consider the mission to  
 this charter except the first  
 part of § 30, but that  
 they should be asked to  
 consider the point very carefully  
 with regard to the ~~possibility~~  
 possible necessity of retaining  
 the whole for application to any  
 execution; pen also suit ways

6. A clause suspending  
 the operation of the Bill  
 until a date to be fixed by  
 Proclamation will

I have seen the draft  
 of the Bill in the  
 drafting room and of  
 the above nature

I agree generally at present  
 that the words "by the  
 be that to the  
 substitute of the

10/2/21







W. H. C. Committee  
and the words "or public"  
in the title of the act of 1910 of  
the House shall have  
the force of the law for public  
purposes and shall be  
subject to amendment  
W. H. C.  
20 29

W. H. C. Committee  
considered in  
stage. It is  
the law is regarded  
it should be  
law or any other  
congressional  
committee

W. H. C. Committee

Chairman

Sir,

It is my hope that the  
bill will have been passed  
(though I do not know)

and I am sure that  
the committee of  
the House will be able to  
pass the bill in  
the near future.

I am sure that the  
bill will be passed in  
the near future.

I am sure that the  
bill will be passed in  
the near future.

I am sure that the  
bill will be passed in  
the near future.

804

the very important South African  
provisions, and to see what  
the Act - in the Seal shows to  
consider the very valuable and  
I was not prepared to put them out  
on my own responsibility.

That is the only point you  
had to make about

Col.

2. D. 24

J. R.

4 / VIII / 24

Mr. Thomas.

Clause 57 of this legisla-  
tion provides that any <sup>employee</sup> servant who  
refuses to serve, or absents himself  
from duty may be fined £50, or in  
default of payment be imprisoned  
up to six months or suffer both  
fine and imprisonment: and in  
clause 58 it is provided that  
"if a number of servants during  
the period which they have engaged  
to serve, and not being duly  
discharged, desert, or refuse to  
serve, or absent themselves from  
any of their lawful cases or  
reasonable employments, or resign with-  
out giving the notice required by

any regulation or contract, they shall be deemed to have absconded from the service and no fund of contributions shall be made to such servants.

Both these clauses are directly based on South African precedents. There are also precedents to be found for the first in West Indian legislation. There are no precedents apparently for clause 60, though the Jamaica Railway Employees Law says that persons who leave the Service or who are absent without leave or without subsequent approval will not be entitled to any pension or other allowance.

The circumstances of Kenya are, of course, quite peculiar. There is, I believe, no road by which motor cars could get through from Nairobi to the Lake or from Nairobi to the sea and the railway is therefore the very backbone of the administration, so that a complete strike would paralyse the Government.

In the special circumstances of the Colony some unusual provisions are I think justifiable.

W2 4/8/49

36  
The way it will be quite right to go for him to defect from the force.

See 6/8

Then the local authorities should be left that, except the provisions in question, the S. P. is unable to agree to them.

S.P. - the whole question

at once  
H. J. R.  
6/10/49

H. J. R.

any regulation or contract, they shall be deemed to have absconded from the service and no refund of contributions shall be made to such servants.\*

Both these clauses are directly based on South African precedents. There are also precedents to be found for the first in West Indian legislation. There are no precedents apparently for clause 60, though the Jamaica Railway Employees Law says that persons who leave the Service or who are absent without leave or without subsequent approval will not be entitled to any pension or other allowance.

The circumstances of Kenya are, of course, quite peculiar. There is, I believe, no road by which motors could get through from Nairobi to the Lake or from Nairobi to the sea and the railway is therefore the very backbone of the administration, so that a complete strike would paralyse the Government.

In the special circumstances of the Colony somewhat unusual provision I think justifiable.

H2 4/8/24

*P. H. ...*  
... be quite satisfied  
to go for him to defend them in the  
forum.

See 6/8

Then the local authorities should be left that, except the provisions in question, the S. P. is unable to refer to their situation.

S.P. ... the whole question

at once.

H. J. R.

09/07/24

H. J. R.

Dr. [unclear]

As I regretted to be quite out of  
the way for him to defend them in the  
forum.

See 6/3

Then the local authorities should  
be left that, as regards the  
provisions & question, the S. of S.  
is unable to agree to their  
retention.

Dr. [unclear] - the whole  
[unclear]

at once.

W. J. R.

07/10/24

Mr. [unclear]

Notes on Sections 57, 60 (2nd proviso) and  
61 of the Kenya and Uganda Railways Bill

These sections are respectively taken  
from

(1) (Section 57) Section 19 of the Railway and  
Harbour Service Act, 1912 of the  
Union of South Africa.

(2) (Section 60) Section 47 of the Railway and  
Harbour Service Act, 1912 of S. Africa

(3) (Section 61) This is a reproduction  
of Section 104 (1) and (2) of the  
existing Railway Ordinance of Kenya

The difficulty is therefore only as regards  
(1) and (2)

(1) (Section 57) I have not been able to  
find a Railway Ordinance in any Colony  
which has a similar provision. Provision  
for penalties for referring to signs or  
obscure without leave or permission, however,  
is a number of ~~Colonial~~ Colonial  
Masters and Servants Ordinances.

Section 47

Kenya (No ~~1~~<sup>11</sup> of 1910), as amended  
by No 233 of 1918.)  
Penalty, Sh. 100, or one month  
or more imprisonment.

Antigua (No II of 1922, Sections 3 and 5)  
Penalty, Sh. 40 or one month.

British Guiana (No 26 of 1909, Section 1).  
Penalty, \$ 48 dollars or  
imprisonment up to six months.

↳ Rhodesia (No 1 of 1917, Sec 10).  
Penalty, 5/- or <sup>not exceeding</sup> one month,  
or subsequent conviction,  
10/- or not exceeding  
three months.

(The penalty provided to be provided  
under the Kenya & Uganda Railways  
Bill is a fine not exceeding £ 50 or  
imprisonment not exceeding 6 months  
or both such fine and imprisonment)

(2) (Section 231 (a)).

The only provision at all comparable  
to that is in Section 4 of the Jamaica  
Railways Employees Law, 1912, which



Kenya (No. <sup>TU</sup> 1910) <sup>Section 47</sup> as amended  
(No. 228 of 1918).  
Penalty, \$ 100, or one month  
or more imprisonment.

Trinidad (No. 11 of 1922, Sections 3 and 5)  
Penalty, \$ 40 or one month

British Guiana (No. 26 of 1909, Section 1)  
Penalty, \$ 48 dollars or  
imprisonment up to six months

N Rhodesia (No. 1 of 1917, Sec 10)  
<sup>not exceeding</sup>  
Penalty \$1 or 1/2 the month,  
or subsequent conviction,  
10/- or not exceeding  
three months.

(The penalty proposed to be provided  
under the Kenya Uganda Railway  
Bill is a fine not exceeding \$ 50 or  
imprisonment not exceeding 3 months  
or both such fine and imprisonment)

(2) (Section 42, proviso)

The only provision at all comparable  
to this is in Section 4 of the Jamaica  
Railway Employees Law, 1912, which

says that persons who leave the Service  
or are absent without leave or without  
subsequent approval will not be entitled  
to any pension or other allowance. This is  
not quite in parallel, as in the Kenya Uganda  
Railway Bill the question is of forfeiture  
of contributions to the Provident Fund  
already made by the employee. (On the  
Uganda Railway the bulk of the employees  
are not pensionable but are required to  
contribute to the Provident Fund)

810 18-20



Notes of a meeting held on Wednesday, June 1st  
on the Kenya and Uganda Transport  
Administration Bill.

Present: Mr. B. Stanley, Mr. Johnston, Mr. Burke, Mr. Seal.

Mr. A. S. Northcott, Mr. Hillier, Mr. Keenan  
attended the first part of the meeting.

On the suggestion of Mr. Burke  
it was agreed that it was desirable to split  
up the Bill, as submitted by the Governor, into  
two parts, one that he part dealing with  
the constitution of the new railway authority  
and the consolidation of railway services in  
Kenya and Uganda - to be dealt with  
by an Ordinance Council, the remainder of the  
Bill, ~~part~~ relating to the ordinary  
railway law of the colony, remaining to  
be dealt with by local Order and.

The question of the amendment of the  
Constitution was discussed. It was  
decided that it was not necessary to  
provide for the vesting of the property of  
the railways in any ~~one~~ individual  
or corporation - that the present position



and § 5, towards for construction,  
 § 23 (K) (I will be falling what is  
 intended by this.) Possibly there  
 would be unnecessary, especially  
 if a clause or others were added  
 to § 23 (j) and he shall have  
 such for the power as may be  
 conferred upon him ~~under the~~  
 MS as the ~~power~~ ~~of~~ ~~the~~ ~~High~~ ~~Commissioner~~  
 being

11. Provision for a General Manager  
 to be appointed by the High Commission  
 the General Manager shall have  
 power, as may be delegated to  
 him by the High Commission.

N.B. It will be necessary to  
 provide that in the case of any  
 action taken by the High Commission  
 it shall be competent for the High  
 Commission whether he shall be  
 authorised

111. Provision for an Advisory  
 Council, generally as in

paras and more both up to between  
18 and 19.

IV Provision for the Kikuyu Port  
Advisory Board as in § 21 - 23

N.B. a question of mandating for a  
of an ad hoc member by Uganda  
when Uganda interests are involved.

2. Also the Kellins what it  
is proposed shall be the functions  
of the Board.

V Financial Provisions

(§ 5 - 10 of the Bill)

1. § 5 - see note under I above in § 23

2. § 6 - this to go in the O.C.

3. § 7 - All necessary

4. § 8 - do

5. § 9 - do

6. § 10 - This may be incorporated  
in the O.C.

7 § 10 (2) This to go in the O. & A.  
but ~~therefore~~ to be redrafted so as  
to provide that if in any year  
the <sup>fund's position</sup> ~~fund~~ is insufficient to meet  
the authorized estimated expenditure  
then the sum must by which it is  
insufficient shall be made good  
by the Govt. in such proportions  
as the S. D. S. after considering the  
recommendations of the Rly  
Committee & the High Commissioner  
shall decide.

It is considered that  
the provisions of the Bill which  
relate to the railway  
and building should be  
submitted as a separate Bill  
to the Council. A similar Bill  
is required for the roads.

4. The Services shall be known as the Kenya and Uganda Railway.

5.—(1) The High Commissioner may appoint a General Manager who shall have such of the authority and powers of the High Commissioner as may be delegated to him by the High Commissioner or may be conferred upon him by any Ordinance of Kenya or Uganda.

In any act done by the General Manager in pursuance of his duties it shall be presumed that he was duly authorized thereto.

(2) The High Commissioner may appoint in addition to the General Manager such servants as may be necessary for the efficient working of the Services.

3) Persons so appointed or deemed to be appointed as herein-after provided shall be servants of the High Commissioner, but shall be and remain in the service of the Crown and shall be deemed to be in the public service of Kenya and Uganda.

6. All persons who at the date of the Order in Council are employed in the Services shall as from the date hereof be deemed to be appointed servants of the High Commissioner upon the terms and conditions of their existing employment so far as is consistent with the provisions of this Order and without prejudice to the continuity of their existing rights and obligations.

7. The High Commissioner may make, and when made may vary or revoke regulations with regard to all or any of the following matters:

(a) The appointment, discharge, and discipline of servants, the minimum and maximum rates of pay, incremental rates, grading and classification of employees, leave of absence and all other conditions of service in any department, office or branch of the Services.

(b) The security to be given by servants and the standard thereof.

(c) The general provisions or conditions in contracts of service, the establishment of a fund, provision and expenditure of funds, provision for the award of contributions and benefits, and the methods of administration and control thereof.

(d) The terms and conditions of service of any person employed by servants in relation to their own personal property and the manner in which such property may be dealt with.

8. (1) There shall be constituted a Kenya and Uganda Railway Advisory Council consisting of members of the Council, which shall consist of—

(a) Not more than two official members representing the Colony and Protectorate of Kenya.

(b) Not more than two official members representing the Protectorate of Uganda.

(c) Not more than two unofficial members representing the Colony and Protectorate of Kenya.

(d) Not more than two unofficial members representing the Protectorate of Uganda.

The official members representing the Colony and Protectorate of Kenya shall be appointed by the Governor of Kenya, and the official members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda. The unofficial members shall be appointed by the Governor in Council of Kenya or Uganda as the case may be.

(2) The General Manager may be present at all meetings of the Council and take part in the discussion, but shall not be entitled to vote.

9. The names of all members appointed to the Council shall be forthwith notified in the Official Gazette of Kenya and Uganda, and any number of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

10. Each official member shall hold office during the pleasure of the Governor by whom he is appointed, and each unofficial member shall hold office for a period of two years from appointment subject to such conditions as may be laid down by the Governor in Council by whom he is appointed.

11. The senior official member representing the Colony and Protectorate of Kenya shall be the chairman of the Council, provided that when meetings are held in Uganda the senior official member present representing the Protectorate of Uganda shall preside.

12. If any member of the Council shall be prevented by absence or other cause from acting, the Governor by whom he is appointed may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

13. The High Commissioner may make, and when made may vary or revoke regulations prescribing—

(a) The fees and expenses which may be paid or allowed to members of the Council;

(b) The quorum necessary to constitute a meeting;

(c) The intervals at which meetings shall be held, the manner in which the business of the Council shall be conducted, the method of voting, and the form in which the minutes shall be kept.

14.—(1) The High Commissioner may consult the Council upon any matter concerning the administration and working of the Services, and shall consult the Council upon the following matters:

(a) Any substantial alteration in the kind of rates, fares and charges of the Services.

- (b) All estimates of revenue and expenditure, including Loans Services.
- (c) All Government Bills relating to the Services prior to submission to the Legislative Council of Kenya or Uganda, as the case may be.
- (d) The expenditure of any sum exceeding £2,500 in respect of any one railway or harbour work or service other than a work or service covered by sectional working estimates or carried out under an authorized construction, betterment or renewal programme.
- (e) Alterations in the scales of salaries, wages or hours of employment or other important conditions of employment.
- (f) Substantial reduction of staff.
- (g) The abolition of any office in the Services carrying a salary of £1,000 per annum or over.
- (h) Substantial changes in the organization of the Services.
- (i) All questions of general policy in connection with the administration, control, working or management of the Services.

15. (a) All Government Bills relating to the Services shall prior to submission to the Legislative Council of Kenya or Uganda, as the case may be, be submitted to the High Commissioner by the Government introducing the Bill.

(b) The Railway Council shall be entitled to submit to the High Commissioner within a reasonable time of receiving a copy of the proposed Bill a minute containing the Council's comments on the proposed Bill, and it shall be the duty of the High Commissioner to forward such memorandum to the Government concerned.

16. The minutes of the Council shall be submitted to the High Commissioner through the General Manager. The High Commissioner shall, as soon as may be after the receipt of any minute, and after considering any minute in connection therewith which may be represented to him by the General Manager, either act upon the minute or refer it back to the Council for further consideration or reserve the matter for submission to the Secretary of State.

17. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues derived from the administration of the Services, and from which all disbursements shall be made.

Estimates of receipts and of expenditure on revenue and on revenue accounts and from betterment and renewal funds or other funds established by contributions from revenue shall be prepared by the General Manager before the commencement of the financial year in which the expenditure is to be incurred, and supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration, and shall thereafter

be transmitted with the recommendations of the Council to the High Commissioner for approval and transmission to the Secretary of State for his approval.

As soon as may be after approval by the High Commissioner and before sanction by the Secretary of State, such estimates shall be submitted to the Legislative Councils of Kenya and Uganda, which may by resolution approve or disapprove of the estimates or propose modifications. The resolutions of the Legislative Councils shall be submitted for the consideration of the Secretary of State. Sanction of the estimates by the Secretary of State shall be sufficient authority for the expenditure specified therein.

18. No money shall be withdrawn from the Railway and Harbour Fund except to satisfy a judgment of a Court of Law or except as approved on estimates sanctioned by the Secretary of State pursuant to Article 17, but the High Commissioner may authorize the withdrawal of such moneys as may be necessary for the Service pending such sanction. Subject to such regulations as may be prescribed by the High Commissioner, the General Manager may authorize expenditure in excess of the provision under the individual heads of the estimates, provided that such excess expenditure is covered by savings under other heads.

19. The Railway and Harbour Fund shall be liable for all debts involving all charges connected therewith advanced by His Majesty's Government and raised or borrowed or to be raised or borrowed by the Government of Kenya or the Government of Uganda or by both Governments jointly for the purposes of the Services and expended for those Services. The High Commissioner shall pay out to the Treasurer of Kenya or Uganda, as the case may be, such interest and sinking fund contributions as may be required to meet the obligations of the Fund to His Majesty's Government or of Kenya or Uganda under the Ordinances raising the loan.

20. The High Commissioner shall not be required either by the Government of Kenya or the Government of Uganda to provide transport facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such transport facilities unless the Government concerned undertakes to pay the amount of loss incurred by reason of the provision of such transport facilities.

21. No loan shall be raised for the construction of new railways or for addition to the capital assets of the Services except by the Government of Kenya or the Government of Uganda, or by both Governments jointly in such proportions as the Secretary of State may determine; and any loan so raised shall be authorized and approved by Parliament.

22. If any railway is constructed by either the Government of Kenya or the Government of Uganda or both against the

of the High Commissioner, the High Commissioner, with the approval of the Secretary of State by Order in Council, that such railway shall be included in the Services and in each case the fees, if any, upon the working of such railway shall be made good to the Railway and Harbour Fund by the Government or Governments concerned.

23. Accounts relating to the Services shall be kept as directed by the High Commissioner. Such accounts shall be subject to audit under the direction of the Director of Colonial Audit, and shall be published annually.

24. The High Commissioner shall forward to the Secretary of State all regulations made by him under this Order and any such regulations may be disallowed by the Secretary of State, in which case such regulation shall cease to have effect from the date as the Secretary of State shall determine.

25. Nothing in this Order shall limit the rights of the Legislatures of Kenya and Uganda to pass laws, not being inconsistent with the provisions of this Order relating to the Services.

26. All contracts entered into by or with the authority of the Government of Kenya or the Government of Uganda on behalf of the Uganda Railway prior to the date of this Order shall be deemed to be contracts entered into by or on behalf of the High Commissioner.

27. The Legislatures of Kenya and Uganda may by Joint Proclamations in the Gazette of Kenya and Uganda at any time within two years from the date of this Order, and provided that the approval of the Secretary of State has been previously obtained, vary, amend, or add to the provisions of this Order in order to carry out the purposes of the same.

28. His Majesty, His Heirs and Successors in Council may from time to time revoke, alter, add to or amend the Order and nothing in this Order shall limit the rights of the Legislative Council of Kenya or Uganda, as between His Majesty through the Secretary of State for the termination of this Order or any provisions of this Order.

29. This Order may be cited as the Kenya and Uganda Transport Order in Council, 1925, and shall come into force on such date as may be fixed by Proclamation, made jointly by the Government of Kenya and Uganda and notified in the Official Gazette of Kenya and Uganda.

And the Right Honourable Lord Lugard Secretary of State, do hereby give the necessary directions accordingly.

*M. P. A. Hankey*



of the High Commissioner, the High Commissioner, with the approval of the Secretary of State by Order in Council that such notices shall be included in the Service and as such also the book, if any, upon the working of such railways shall be made good to the Railway and Harbour Fund by the Government or Government concerned.

23. Accounts relating to the Service shall be kept as directed by the High Commissioner. Books and other things shall be subject to audit under the direction of the Director of Colonial Audit, and shall be published annually.

24. The High Commissioner shall forward to the Secretary of State all regulations made by him under this Order and any such regulations may be amended by the Secretary of State, but no such amendment shall come into force until the Secretary of State shall so direct.

25. Nothing in this Order shall limit the rights of the Legislature of Kenya and Uganda to pass laws, and being inconsistent with the provisions of this Order relating to the Service.

26. Any contracts entered into by or with the authority of the Government of Kenya or the Government of Uganda, in behalf of the Uganda Railway prior to the date of this Order shall be deemed to be contracts entered into by or on behalf of the High Commissioner.

27. The Government of Kenya and Uganda may by Joint Proclamations in the Gazette of Kenya and Uganda at any time within two years from the date of this Order, and provided that the approval of His Majesty of that has been previously obtained, vary, amend, or add to the provisions of this Order in order to carry out the purposes of the same.

28. His Majesty, His Heirs and Successors in Council may from time to time revoke, alter, amend or suspend the Order and nothing in this Order shall limit the rights of the Legislative Council of Kenya or Uganda to petition His Majesty through the Secretary of State by the revocation of this Order or any provisions of this Order.

29. This Order may be cited as the Kenya and Uganda (Incorporation) Order in Council, 1922, and shall come into force on such date as may be fixed by Proclamation, made jointly by the Government of Kenya and Uganda and notified in the Gazette of Kenya and Uganda.

And the Right Honourable Lord Balfour of Burgh, one of His Majesty's Principal Secretaries of State, do to give the Statute effect hereby signifying.

R. P. A. Hankey

KENYA

NO 389

CONFIDENTIAL



U. J. 485  
10 MAY 1944

GOVERNMENT HOUSE  
NAIROBI,  
KENYA

24th April, 1924.

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24399  
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Sir,

With reference to Colonial Office Confidential despatch of the 19th June, I have the honour to transmit for your information three copies of the Kenya and Uganda Railway, Harbour and Lake Services Bill, 1924, as drafted by the General Manager, Uganda Railway, and to enclose a further two copies of the same Bill with certain amendments in red ink by the Attorney General indicating points of divergence from the Bill submitted by the General Manager.

3 copies  
(original)  
1 copy  
(amended).

2. Similar concurrent legislation has not been known elsewhere, e.g. the Orange River Colony and the Transvaal each passed an Ordinance to Regulate Railways (No. 45 of 1903 and No. 60 of 1903), but in the opinion of my legal advisers a perusal of these Ordinances shows that legislation was confined to the respective jurisdictions.

Here the position appears somewhat more complicated having regard to the nature of the Control of the Railway Administration and the Inter-Colonial Railway Council.

3.

THE RIGHT HONOURABLE

J. H. THOMAS, F.R.S., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

3. It is with the advice of my Executive Council that I refer this Bill to your consideration, and I trust that you will see fit to discuss its provisions with Mr. Felling on his arrival in the latter half of June, when Mr. Gower, whose amendments are enclosed, will also be in England.

4. A copy of this despatch has been forwarded to the Governor of Uganda who has been asked to address his comments thereon direct to you.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*R. W. Thomson*

GOVERNOR.

3. It is with the advice of my Executive Council that I refer this Bill to you for consideration, and I trust that you will see fit to discuss its provisions with Mr. Felling on his arrival in the latter half of June, when Mr. Sewer, whose amendments are enclosed, will also be in England.

4. A copy of this despatch has been forwarded to the Governor of Uganda who has been asked to address his comments thereon direct to you.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*R. A. Courtenay*

GOVERNOR.

5

Recommends resolutions for the preparation  
of a Draft Order in Council

~~SECRET~~

WHEREAS the Colony of Kenya is a British settlement within the meaning of the British Settlements Act 1897 and

WHEREAS by treaty grant usage custom and other lawful means His Majesty has power and jurisdiction within the Uganda Protectorate and the Protectorate of Kenya,

NOW therefore His Majesty, by virtue and in exercise of the power in this behalf by the British Settlements Act, 1897, the Foreign Jurisdiction Act 1890 or otherwise by His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:

1. (1) There shall be established the office of High Commissioner for Transport for the Colony and Protectorate of Kenya and the Protectorate of Uganda;

(2) The High Commissioner for Transport shall be a Corporation sole under that name with perpetual succession and an official seal, and may sue and be sued under that name.

2. The person holding the office of High Commissioner for Transport shall, unless it is otherwise directed by one of His Majesty's Principal Secretaries of State (hereinafter referred to as the Secretary of State) be the Officer administering the Government of

5

Recommendation for the preparation of  
 Draft Order in Council  
~~SECRET~~

WHEREAS the Colony of Kenya is a British settlement within the meaning of the British Settlements Act 1897 and

WHEREAS by treaty grant usage custom and other lawful means His Majesty has power and jurisdiction within the Uganda Protectorates and the Protectorate of Kenya,

NOW therefore His Majesty, by virtue and in exercise of the power in this behalf by the British Settlements Act, 1897, the Foreign Jurisdiction Act 1890 or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows:

1. (1) There shall be established the office of High Commissioner for Transport for the Colony and Protectorates of Kenya and the Protectorates of Uganda;

(2) The High Commissioner for Transport shall be a Corporation sole under that name with perpetual succession and an official seal, and may sue and be sued under the name aforesaid.

2. The person holding the office of High Commissioner for Transport shall, unless it is otherwise directed by one of His Majesty's Principal Secretaries of State (hereinafter referred to as the Secretary of State) be the Officer administering the Government of

3. The control, working and management of all railways, ports, harbours and steamer services (hereinafter referred to as "the Services") which are now, or hereafter may be declared by the High Commissioner, <sup>in Transport</sup> with the approval of the Secretary of State to be, owned, controlled, worked or managed by the Government of Kenya or by the Government of Uganda shall rest in the High Commissioner for Transport (hereinafter referred to as "the High Commissioner").

4. The High Commissioner shall have <sup>all</sup> the powers necessary for and incidental to the control, working and management of the Services, and for the control, working and management of any railway, port, harbour or steamer service, the ownership or control of which he may hereafter acquire by construction purchase or agreement, and any such railway, port, harbour, or steamer service <sup>shall be deemed</sup> shall as from the date on which it is so acquired, <sup>be deemed</sup> be deemed in the Services in the last preceding article mentioned.

5. The Services shall be known by the name of the Kenya and Uganda Railways.

6. (1) The High Commissioner may appoint a General Manager who shall have such of the authority and powers of the High Commissioner as may be delegated to him by the High Commissioner or may be conferred upon him by any Ordinance of Kenya or Uganda.





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(1) The... to... to... for the...

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3. The control, working and management of all railways, ports, harbours and steamer services (hereinafter referred to as "the Services") which are now, or hereafter may be declared by the High Commissioner, with the approval of the Secretary of State to be, owned, controlled, worked or managed by the Government of Kenya or by the Government of Uganda shall vest in the High Commissioner for Transport (hereinafter referred to as "the High Commissioner").

4. The High Commissioner shall have <sup>all</sup> the powers necessary for and incidental to the control, working and management of the Services, and for the control, working and management of any railway, port, harbour or steamer service, the ownership or control of which he may hereafter acquire by construction purchase or agreement; and any such railway, port, harbour, or steamer service shall as from the date on which it is so acquired be deemed to be included in the Services in the last preceding article mentioned.

5. The Services shall be known by the name of the Kenya and Uganda Railways.

6. (a) The High Commissioner may appoint a General Manager who shall have such of the authority and powers of the High Commissioner as may be delegated to him by the High Commissioner or may be conferred upon him by any Ordinance of Kenya or Uganda.

In any act done by the General Manager in pursuance of his duties, it shall be presumed that he was duly authorized thereto.

(2) The High Commissioner may in addition to the General Manager appoint <sup>persons</sup> servants as may be necessary for the efficient working of the Service.

(3) Persons so appointed or deemed to be appointed as hereinafter provided shall be servants of the High Commissioner but shall be and remain in the service of the Crown and shall be deemed to be in the Public Service of Kenya and Uganda.

7. All persons who at the date of this Order-in-Council are employed in the Service shall as from the date hereof be deemed to be appointed servants of the High Commissioner upon the terms and conditions of their existing employment so far as is consistent with the provisions of this Order, and without prejudice to the continuity of their existing rights and obligations.

8. The High Commissioner may make, vary, or revoke regulations with regard to all or any of the following matters;

(a) the appointment, discharge and discipline of servants, the minimum and maximum rates of pay, ~~incremental scales~~, grading and classification of appointments, leave of absence, and all other conditions of service in any department, office or branch of the Service,

(b) the security to be given by servants and the

amount thereof.

- (c) The grant of pensions or gratiation to servants now or hereafter holding pensionable posts in the Service, the establishment of sick funds, pension and superannuation funds, provident funds, the scale of contributions and benefits and the methods of administering such funds.
- (d) The circumstances in which and the persons to whom appeals by servants shall lie and the manner in which such appeals shall be made, and generally for the better carrying out of the objects and purposes of this Article.

9. There shall be constituted a Kenya and Uganda Railways Advisory Council (hereafter referred to as "the Council") which shall consist of:-

- (a) Not more than two official members representing the Colony of Kenya.
- (b) Not more than two official members representing the Protectorate of Uganda.
- (c) Not more than two unofficial members representing the Colony of Kenya.
- (d) Not more than two unofficial members representing the Protectorate of Uganda.

The members representing the Colony of Kenya shall be appointed by the Governor of Kenya, and the members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda.

amount thereof.

- (c) The grant of pensions or gratuities to servants now or hereafter holding pensionable posts in the service; the establishment of sick funds, pension and superannuation funds, provident funds, the scale of contributions and benefits and the methods of administering such funds.
- (d) The circumstances in which and the persons to whom appeals by servants shall lie and the manner in which such appeals shall be made, and generally for the better carrying out of the objects and purposes of this Article.

9. There shall be constituted a Kenya and Uganda Railways Advisory Council (hereafter referred to as "the Council") which shall consist of:-

- (a) Not more than two official members representing the Colony of Kenya.
- (b) Not more than two official members representing the Protectorate of Uganda.
- (c) Not more than two unofficial members representing the Colony of Kenya.
- (d) Not more than two unofficial members representing the Protectorate of Uganda.

The members representing the Colony of Kenya shall be appointed by the Governor of Kenya, and the members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda.

10. The names of all members appointed to the Council shall be forthwith notified in the Official Gazette of Kenya and Uganda, and any number of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

11. Each official member shall hold office during the pleasure of the Governor by whom he is appointed, and each unofficial member shall hold office for a period of two years from appointment, but may be re-appointed.

12. The senior official member representing the Colony of Kenya shall be Chairman of the Council.

13. If any member of the Council shall be prevented by absence, or other cause, from acting, the Governor by whom he is appointed may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

14. The High Commissioner may make, vary or revoke regulations prescribing

(a) the fees and expenses which may be paid or allowed to members of the Council,

(b) the intervals at which meetings shall be held,

the manner in which the business of the Council shall be conducted, the method of voting, and

the form in which the minutes shall be kept,

and generally such matters as may be necessary for the effective carrying out of the objects and purposes of Articles 8, 9, 10, 11 and 12.

15. (1) The High Commissioner may consult the Council upon all matters concerning the administration and working of the services.

(2) The following matters shall be submitted to the Council for advice:-

(a) any substantial alteration in the tariffs of rates, fares and charges of the services,

(b) the estimates of revenue and expenditure which are from time to time to be submitted to the High Commissioner

(c) all Government Bills relating to the services prior to submission to the Legislative Council of Kenya or Uganda as the case may be.

(d) the expenditure of any sum exceeding £1,000 in respect of any one railway or harbour work or service, other than a work or service expressly authorised in approved estimates.

(e) alterations in the scales of salaries, wages or hours of employment, or other important conditions of employment.

(f) substantial reductions of staff

(g) the abolition of any office in the Services carrying a salary of not less than £1,000 per annum

(h) substantial changes in the organisation of the services.

(i) generally all questions of policy in connection with the administration, control, working or management of the services.

16. The minutes of the Council shall be submitted to the High Commissioner through the General Manager. The High Commissioner shall as soon as may be after the receipt of any minute, and after considering any matter in connection therewith which may be represented to him by the General Manager, either approve the minute or refer it back to the Council for further consideration or

(2) The following matters shall be submitted to the Council for advice:-

(a) any substantial alteration in the tariffs of rates, fares and charges of the services.

(b) the estimates of revenue and expenditure which are from time to time to be submitted to the High Commissioner

(c) all Government Bills relating to the services prior to submission to the Legislative Council of Kenya or Uganda as the case may be.

(d) the expenditure of any sum exceeding £1,000 in respect of any one railway or harbour work or service, other than a work or service expressly authorised in approved estimates.

(e) alterations in the scales of salaries, wages or hours of employment, or other important conditions of employment.

(f) substantial reductions of staff

(g) the abolition of any office in the services carrying a salary of not less than £1,200 per annum

(h) substantial changes in the organisation of the services.

15. generally all questions of policy in connection with the administration, control, working or management of the services.

16. The minutes of the Council shall be submitted to the High Commissioner through the General Manager. The High Commissioner shall as soon as may be after the receipt of any minute, and after considering any matter in connection therewith which may be represented to him by the General Manager, either approve the minute or refer it back to the Council for further consideration or



reserve the matter for submission to the Secretary of State. The approval by the High Commissioner of any minute of the Council shall be sufficient authority for the General Manager to act thereon.

17. (1) There shall be constituted for the port of Kitiimi a Port Advisory Board (hereinafter referred to as "the Board") which shall consist of

- (a) the Port Captain
- (b) a senior official of the Services
- (c) two official members representing the local authority of Mombasa
- (d) two members representing shipping interests and
- (e) if the High Commissioner so directs two members representing the lighterage interests

(2) All appointments to the Board shall be made by the High Commissioner and shall be held during his pleasure

3. The Chairman of the Board shall be appointed by the members. If at any meeting the Chairman is not present such other member as may be chosen by those present shall preside

4. The Secretary of the Board shall be an official of the Services

18. The officers for the time being performing the duties of General Manager of the Kenya and Uganda Railways and Commissioner of Customs of Kenya and Uganda shall be entitled to attend the meetings of the Board

19. The High Commissioner may make regulations prescribing

- (a) the duties of the Board and the matters which shall be submitted to the Board for advice,
- (b) the manner in which the meetings of the Board shall be convened and when meetings shall be held,
- (c) the quorum necessary to constitute a meeting,
- (d) and generally as to all such matters as may be necessary for the effective carrying out of the object and purposes of Article 17.

2. There shall be formed a railway and harbour fund, into which shall be paid all revenues derived from the administration of the services.

Estimates of revenue and of expenditure, ~~and~~ ~~the~~ ~~annual~~ (revenue and net revenue accounts) from betterment and renewal funds or other funds established by contributions from revenue, shall be prepared by the general manager before the commencement of the financial year in which the expenditure is to be incurred and supplementary and additional estimates may be required from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration and shall thereafter be transmitted with the recommendations of the Council to the High Commissioner for his approval and transmission to the Secretary of State for his consideration as soon as may be after approval by the High Commissioner and before sanction by the Secretary of State. The estimates shall be submitted to the legislative Councils of Kenya and Uganda, which may by resolution approve or disapprove of the estimates or propose modifications. The resolutions of the legislative Councils shall be submitted for the consideration of the Secretary of State.

Sanction of the estimates by the Secretary of State shall be sufficient authority for the expenditure specified therein.

21. No money shall be withdrawn from the Railway and Harbour Fund except as approved on estimates submitted to the Secretary of State as provided in Article 20, but the High Commissioner may authorize the withdrawal of such moneys as may be necessary for the services pending such approval. Subject to such regulations as may be prescribed by the High Commissioner, the General Manager may authorize expenditure in excess of the provision under individual heads of the estimates and provided such excess expenditure is covered by savings under other heads.

22. The services shall be administered with due regard to agricultural and industrial development in the region and to the needs of such transport. So far as may be practicable, subject to such provisions as may be considered necessary to meet contingencies, the total earnings shall be not more than sufficient to meet,

(a) the necessary outlay for working and maintenance;  
(b) contributions to reserve funds, for reserves, stores or other purposes, and  
(c) interest and sinking fund charges due on capital not being so contributed out of railway or harbour revenue.

23. The High Commissioner shall not be required either by the Government of Kenya or by the Government of India to provide any transport facilities other than such as

Sanction of the estimates by the Secretary of State shall be sufficient authority for the expenditure specified therein.

11. No money shall be withdrawn from the Railway and Harbour Fund except as approved on estimates submitted to the Secretary of State as provided in Article 10, but the High Commissioner may authorize the withdrawal of such moneys as may be necessary for the services pending such approval. Subject to such restrictions as may be prescribed by the High Commissioner, the General Manager may authorize expenditure in excess of the provision under any of the heads of the estimates and provided such excess expenditure is covered by savings under other heads.

12. The services shall be administered with due regard to agricultural and industrial development in the region and to the needs of inland transport. So far as may be practicable, subject to such provisions as may be considered necessary to meet contingencies, the total earnings shall be not more than sufficient to meet,

- (a) the necessary outlays for working and maintenance;
- (b) contributions to reserve funds, for reserves, stores, etc., or other purposes; and
- (c) interest and sinking fund charges due on capital not being or to be contributed out of railway or harbour revenue.

13. The High Commissioner shall not be required either by the Government of Kenya or by the Government of Uganda to provide any transport facilities other than those

at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Government concerned undertake to pay the amount of loss incurred by reason of the provision of such services and facilities.

24. If the working of the services results in a loss for any financial year, the Council shall consider whether, and in what proportions, such loss shall be made good by the Colony and Protectorate of Kenya and the Protectorate of Uganda, and shall make recommendations accordingly to the High Commissioner. After consulting the Governments of Kenya and Uganda the High Commissioner shall submit the proposals of the Council for the decision of the Secretary of State.

25. No loan shall be raised for the construction of new railways or for additions to the capital assets of the services except by the Government of Kenya and the Government of Uganda in such proportions as the Secretary of State may determine; and any loan so raised shall be authorized and appropriated by ordinance.

26. If any railway is constructed by either the Government of Kenya or the Government of Uganda or both against the advice of the High Commissioner, the High Commissioner may declare that such railway shall be included in the services and in such case the loss, if any upon the working of such railway shall be made good to the Railway and Harbours Fund by the Government or Governments

at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Government concerned undertake to pay the amount of loss incurred by reason of the provision of such services and facilities.

34. If the working of the services results in a loss for any financial year, the Council shall consider whether, and in what proportions, such loss shall be made good by the Colony and Protectorate of Kenya and the Protectorate of Uganda, and shall make recommendations accordingly to the High Commissioner. After consulting the Governments of Kenya and Uganda the High Commissioner shall submit the proposals of the Council for the decision of the Secretary of State.

35. No loan shall be raised for the construction of new railways or for additions to the capital assets of the services except by the Government of Kenya and the Government of Uganda in such proportions as the Secretary of State may determine; and any loan so raised shall be authorized and appropriated by ordinance.

36. If any railway is constructed by either the Government of Kenya or the Government of Uganda or both against the advice of the High Commissioner, the High Commissioner may declare that such railway shall be included in the services and in such case the loss, if any upon the working of such railway shall be made good to the Railway and Harbours Fund by the Government of  
Governments

• Instruments of Government

2. The public relations of the Government shall be kept as free as possible from the influence of any special interest, and the disclosure of the details of internal proceedings shall be published in accordance with the public interest.

3. The Government shall be free to disclose to the public any information which it may possess regarding the activities of any person or organization which is engaged in the commission of a crime or in the preparation of a crime.

4. The Government shall be free to disclose to the public any information which it may possess regarding the activities of any person or organization which is engaged in the commission of a crime or in the preparation of a crime.

5. The Government shall be free to disclose to the public any information which it may possess regarding the activities of any person or organization which is engaged in the commission of a crime or in the preparation of a crime.

6. The Government shall be free to disclose to the public any information which it may possess regarding the activities of any person or organization which is engaged in the commission of a crime or in the preparation of a crime.

7. The Government shall be free to disclose to the public any information which it may possess regarding the activities of any person or organization which is engaged in the commission of a crime or in the preparation of a crime.

• Announcements

21. The Annual Report of the Board of Directors for the year ending December 31, 1914 is now ready for distribution. It contains a full and complete statement of the financial condition of the Corporation and of the operations of the same during the year. It is published in the form of a book of 100 pages and is available to all stockholders on request. It is also available to the public on request.
22. The Annual Meeting of the Shareholders of the Corporation will be held on Monday, May 10, 1915, at 10 o'clock A. M. in the Board Room of the Corporation, 100 Broadway, New York City. The Business to be transacted at the meeting will be the election of Directors and the election of Officers for the year ending December 31, 1915. It is requested that all stockholders who are entitled to vote at the meeting, please attend in person or by proxy. The Proxy may be obtained from the Secretary of the Corporation on request.
23. The Annual Meeting of the Shareholders of the Corporation will be held on Monday, May 10, 1915, at 10 o'clock A. M. in the Board Room of the Corporation, 100 Broadway, New York City. The Business to be transacted at the meeting will be the election of Directors and the election of Officers for the year ending December 31, 1915. It is requested that all stockholders who are entitled to vote at the meeting, please attend in person or by proxy. The Proxy may be obtained from the Secretary of the Corporation on request.
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Government concerned.

27. Accounts relating to the Service shall be kept as directed by the High Commissioner. Such accounts shall be subject to audit under the direction of the Director of Colonial Audit, and shall be published annually.
28. The High Commissioner shall forward to the S of S all regulations made by him under this Ordinance Order and any such regulation may be disallowed by the S of S.
29. Nothing in this Order shall limit the right of the Legislatures of Kenya and Uganda to pass laws, not being inconsistent with the provisions of this Order, relating to the Service.
30. The provisions of this Order may, provided that the approval of the S of S has been personally obtained, be varied and altered by the Legislature made jointly by the members of Kenya and Uganda and published in the Official Gazette of Kenya and Uganda.
31. The Order may be cited as the Kenya and Uganda (Transport) Order, 1962, and shall come into force on such date as may be fixed by a Proclamation made jointly by the Governors of Kenya and Uganda and published in the Official Gazette of Kenya and Uganda.
32. The Governor, the High Commissioner and the S of S may, in their respective capacities, do all such things as may be necessary to give effect to the provisions of this Order.

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and the right honorable

and the right honorable

and the right honorable

and the right honorable

and the right honorable

amend this Order.

And the Right Honourable  
James Henry Thomas, one of His  
Majesty's Principal Secretaries of  
State, is to give the necessary  
directions herein accordingly.

amend this Order.

And the Right Honourable  
James Henry Thomas, one of His  
Majesty's Principal Secretaries of  
State, is to give the necessary  
directions herein accordingly.

for 20045  
20~~Notes~~

NAME

COLONY

Notes, etc relating  
to Draft Rly Ord-C

(Minutes within)

STAT

## Order-in-Council

## Recitals.

1. (1) There shall be established the office of <sup>High</sup> Commissioner <sup>for</sup> Transport for the Colony <sup>and Protectorate</sup> of Kenya and the Protectorate of Uganda.

(2) The <sup>High</sup> Commissioner of Transport should be a Corporation <sup>shall</sup> ~~solely~~ under that name with perpetual succession and an official seal, and may sue and be sued under the above name.

2. The person holding the office of Commissioner of Transport shall, unless it is otherwise directed by ~~His Majesty's Government~~ <sup>the</sup> ~~one of His Majesty's Principal Secretaries of State~~ <sup>for</sup> ~~the Colonies~~ <sup>the</sup> ~~Colonies and the Eastern Africa Affairs~~ <sup>be</sup> the Officer Administering the Government of Kenya.

3. The control, working and management of all railways, <sup>ports, harbours, and</sup> ~~steamship services and harbours~~ <sup>(being a reference to the</sup> ~~now being~~ <sup>controlled, worked or managed by the Governments of</sup> Kenya or Uganda shall vest in the <sup>High</sup> Commissioner of Transport (hereinafter referred to as the <sup>High</sup> Commissioner). <sup>Business shall be done by the means of the Kenya and Uganda Railway</sup> The Commissioner may appoint a General Manager

who shall have such authority and powers as may be delegated to him by the Commissioner or may be conferred



upon him by any Ordinance of Kenya or Uganda.

In any act done by the General Manager

shall be presumed that he was duly authorized thereto.

6. The Commissioner shall have power [such powers at present contained in Section 23 of the Draft as are considered proper.]

7. There shall be constituted a Transport Advisory Council (hereinafter referred to as "the Council") which shall consist of

- (a) two official members representing the Colony of Kenya,
- (b) two official members representing the Protectorate of Uganda,
- (c) two unofficial members representing the Colony of Kenya,
- (d) two unofficial members representing the Protectorate of Uganda.

The members representing the Colony of Kenya shall be appointed by the Governor of Kenya and the members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda.

8. The names of all members appointed to the Council shall be forthwith notified in the Gazette of Kenya and Uganda and any number of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

9. Each official member shall hold office during <sup>the</sup> pleasure and <sup>of the Gov<sup>y</sup> by whom he is appointed</sup> each unofficial member shall hold office for a period of two years from appointment, but may be re-appointed.

10. The senior official member representing the Colony of Kenya shall be Chairman of the Council.

~~10. Five members of the Council shall form a quorum.~~

11. If any member of the Council shall be prevented by absence, or other cause, from acting, <sup>the Governor by whom he is appointed</sup> ~~the Commissioner~~ may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

12. <sup>of the</sup> The Commissioner may make regulations prescribing

(a) the fees and expenses which may be paid or allowed to members of the Council.

(b) the intervals at which meetings shall be held, the manner in which the business of the Council shall be conducted, the method of voting, and the form in which the minutes shall be kept,

and generally such matters as may be necessary for the effective carrying out of the object and purposes of Articles 8<sup>7</sup> - (2)

13. The <sup>1/10/2</sup>Commissioner shall forward all such regulations to the Secretary of State who may disallow the same.

14. (1) <sup>1/10/2</sup>The Commissioner may consult the Council upon all matters concerning the administration and working of the services.

(2) The following matters shall be submitted <sup>for advice</sup> to the Council ~~and it shall be the duty of the Council to give advice upon them~~

(a) any substantial alteration in the tariffs of rates, fares and charges in the railways, harbours or inland services.

(b) the estimates of revenue and expenditure which are from time to time to be submitted to the

(b) the intervals at which meetings shall be held, the manner in which the business of the Council shall be conducted, the method of voting, and the form in which the minutes shall be kept,

and generally such matters as may be necessary for the effective carrying out of the object and purpose of Article 87 (2)

13. The <sup>1/10/72</sup>Commissioner shall forward all such regulations to the Secretary of State who may disallow the same.

14. (1) <sup>1/10/72</sup>The Commissioner may consult the Council upon all matters concerning the administration and working of the services.

(2) The following matters shall be submitted to the Council <sup>for a decision</sup> ~~and it shall be the duty of the Council to deal with and advise upon them~~

(a) any substantial alteration in the tariffs of rates, fares and charges in the railways, harbours or inland services.

(b) the estimates of revenue and expenditure which are from time to time to be submitted to the

*Hyp* Commissioner.

(c) all Bills relating to <sup>the railways</sup> ~~railways or~~ harbours prior to submission to the Legislative Council.

(d) the expenditure of any sum exceeding £1,000 in respect of any one railway or harbour work or service, other than a work or service expressly authorised in approved estimates.

(e) alterations in the scales of salaries, wages or hours of employment, or other important conditions of ~~service of railway and harbour servants.~~

(f) substantial reductions of staff.

(g) the abolition of any railway or harbour office <sup>in the service</sup> carrying a salary of not less than £1,000 p.a.

(h) substantial changes in organisation of the <sup>services</sup> ~~railways or harbours.~~

(i) generally all questions of policy in connection with the administration, control, working, or management of the railway or harbour services.

19. The minutes of the Council shall be submitted

~~To the High Commissioner through the General Manager,  
to the Commission and to the General Manager:~~

The <sup>High</sup> Commissioner shall as soon as may be after the receipt thereof, and after considering any matter in connection therewith which may be represented to him by the General Manager, either approve the minute or refer it back to the Council for further consideration or reserve the matter for submission to the Secretary of State. The approval <sup>by</sup> of the <sup>High</sup> Commissioner of any minute of the Council shall be sufficient authority for the General Manager to act thereon.

16. (1) There shall be constituted for the port of Milidindi a Port Advisory Board (hereinafter referred to as "the Board") which shall consist of

(a) the Port Captain,

(b) a senior <sup>in</sup> official <sup>of the Services</sup> of the harbour services

(c) two official members representing the

~~Government and District Committee, Nombasa, or~~

~~same local authority constituted therefor by the~~

~~Committee,~~

(d) two members representing shipping

interests, and

and if the A.C. so directs,

(e) two members representing the lighterage interests.

(2) All appointments to the Board shall be made by the Commissioner and shall be held during his pleasure.

(3) The Chairman of the Board shall be appointed by the members. If at any meeting the Chairman is not present such other member as may be chosen shall preside. The Secretary of the Board shall be an official of the Service.

shall be the Board and the small committee be working in line with

18. The Commissioner may make regulations prescribing

(a) the manner in which the meetings of the Board shall be convened and when meetings shall be held.

(b) the attendance of any Govt. officials.

(c) the quorum necessary to constitute a meeting.

(d) and generally as to all such matters as may be necessary for the effective carrying out of the object and purposes of Article 17.

19. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues derived from the administration of the services.

Estimates of revenue and of expenditure on working account (revenue and net revenue accounts) and from betterment and renewal funds or other funds established by

18. In my report to the Board of Directors for the fiscal year 1914  
 I have stated that a report as prepared by the Finance Committee  
 of the P. O. S. as provided <sup>with</sup> for the 11th of May, 1914, in  
 which a proposal of such a nature as to be of the nature of  
 for the services provided in the month of May, 1914, was  
 submitted to the Board of Directors.

~~and the same was approved by the Board of Directors.~~ Subject to such  
 conditions as may be prescribed by the Board of Directors, the  
 same is under a dividend to all of the stockholders, and the  
 same is under a dividend to all of the stockholders, and the  
 same is under a dividend to all of the stockholders.



*H. Council Budget*

by contributions from revenue, shall be prepared before the commencement of the financial year in which the expenditure is to be incurred and supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration and shall thereafter be transmitted with the recommendations of the Council to the <sup>Chief</sup> Commissioner for approval and transmission to the Secretary of State for his sanction. As soon as may be

after approval by the <sup>Chief</sup> Commissioner ~~such estimates shall~~ *before approval by the S & S*

be submitted to the Legislative Council ~~and if approved by resolution of the Council or disapproved by the Executive Council or modified or modified, as the case may be, such estimates shall be submitted to the S & S.~~ *The resolutions of the Council shall be submitted to the S & S.*

*of the Council by the S & S shall be authority for the expenditure specified and appropriated to the purpose of the services accordingly.*

20. (1) If the Administration shall be required

under any Ordinance to provide any facilities either gratuitously or at a rate of charge which is insufficient

to cover the costs involved in the provision of such services or facilities, the Administration may at the end of each financial year present to the Legislative Council an account showing as nearly as can be ascertained,

the amount of loss incurred by reason of the provision of such services and facilities, and such amount shall be

paid

*See next page*  
*of the Council by the S & S shall be authority for the expenditure specified and appropriated to the purpose of the services accordingly.*  
*of the Council by the S & S shall be authority for the expenditure specified and appropriated to the purpose of the services accordingly.*

13. **Ports and Harbours** - The East African Railways Construction and Management Ordinance No. 13 of 1910. 1909 - 9 No. VIII. The Railway Board Act, 1916. Union of South Africa No. 22 of 1916. The Railway Appropriation of Lands Ordinance, 1903. Union of South Africa No. 20 of 1903.

1. Short title.

2. Cf. Section 2 Cf. 2

3. Cf. 125

4. Cf. 126

5. An adaptation of Section 2 Railways Construction Act, 1913, Union of South Africa No. 23 of 1913.

6. A combination and modification of Sections 117 and 150.

7. The original draft of this section followed closely Section 120 but has been somewhat extensively amended by the General Manager.

A modification of Section 127.

11. **Railway and Harbour Control and Administration Ordinance No. 13 of 1910.** The East Africa Railways 1909 - 9 ad. VII. The Railway Board Act, 1916, Under name, 1903, of South Africa in Transvaal No. 20 of 1903. The Railway Board Act, 1916, Under name, 1903, of South Africa in Transvaal No. 20 of 1903.

9. The original draft followed Section 126 but has been modified by the General Manager.

10. Cf. Section 131 Sub-clause (2) has been added by the General Manager.

11. Nov.

12. Dec.

13. Nov.

14. Nov.

15. Nov.

16. Nov.

17. Nov.

18. Nov.

19. Nov.

20. Cf. Section 41.

21. G.P. Section 126.

Cf. Section 3.

the most striking railway in the South Africa Act  
 Ordinance No. 13 of 1913. 1913 - 9 ad. 11.  
 The Railway Board  
 Act, 1916. Union  
 of South Africa No.  
 of 17 of 1916.

- 22. See.
- 23. Cf. Section 3.
- 24. Cf. Section 4 Railways Construction Act, 1913, Union of South Africa, No. 25 of 1913.
- 25. Cf. Sections 3 (1) (2) and (3).
- 26. Cf. Section 7.
- 27. Cf. Section 5 (4)
- 28. Cf. Section 6.
- 29. Cf. Section 15.
- 30. Cf. Section 9.
- 31. Cf. Section 9 (1).
- 32 - 36. Cf. Sections 11 - 15.
- 37. Cf. Section 7 (2).
- 38 - 43. Cf. Sections 16 - 23.
- 44. Cf. Section 5.
- 45. Cf. Section 6.
- 46. Cf. Section 7.



Railway and Harbours  
Control and Management  
Act, 1916. Order of  
Local Division No. 22 of  
1916.

The Local Division No. 13 of 1910. Ordinance No. 13 of 1910.

at 5.00 p.m. on 1909 - 9 m. 111.

at Railway Extension  
Act, 1916. Order  
of Local Division No. 20 of  
1916.

The Railway Board  
Act, 1916. Order  
of Local Division No. 17 of 1916.

68.		Of Section 60.
69.		Of Section 71.
70.	Of Section 29.	
71.	Of Section 31.	
72.	" " 30.	" " 76.
73.	" " 33.	" " 76.
74.	" " 32.	" " 77.
75.	" " 27.	" " 76.
76.		" " 60.
77.		" " 81.
78.	" " 69.	" " 82.
79.		" " 83.
80.	" " 69.	" " 84.
81.	" " 66.	" " 68.
82.	" " 30.	
83.	" " 36.	
84.	" " 37.	

8111. **Section 47 of the Railway and Harbour Services Act, 1912.** - Union of South African No. 28 of 1912.  
 The Railway Express-  
 tion of Lands Ordina-  
 nance, 1903.  
 Transvaal No. 20 of  
 1903.

- 85. Cf. Section 99.
- 86. . . . . 99.
- 87. . . . . 100.
- 88. Section 49 of the Railway and Harbour Services Act, 1912, - Union of South African No. 28 of 1912.
- 89. Cf. Section 102.
- 90. . . . . 103.
- 91. Section 47 of the Railway and Harbour Services Act, 1912, - Union of South African No. 28 of 1912.
- 92. Cf. Section 104.
- 93. . . . . 105.
- 94. Section 13 of the Railway and Harbour Services Act, 1912, - Union of South African No. 28 of 1912.
- 95. Cf. Section 106.
- 96. . . . . 107.
- 97. . . . . 152.
- 98. . . . . 153.
- 99. Cf. Section 57.
- 100. . . . . 154.
- 101. . . . . 155.

Conty, and amys and ordnans 10.13 of 1911. 19 9 - 9 11. The Union of South Africa Act, 1916, Union of South Africa No. 22 of 1916, and the Union of South Africa Act, 1916, Union of South Africa No. 20 of 1916, 1916.

- 112. Cf. Sections 41 - 56.
- 113. Cf. Sections 63 and 63.
- 114. Cf. Section 136.
- 115. Rev.
- 116. Cf. Sections 137 - 149.
- 117. Cf. Section C.
- 118. Cf. Section 22 of the Railway and Harbour Service Act, 1912, - Union of South Africa No. 29 of 1912.
- 119. Repeal.

(Signed) Ivan L. O. Coover  
Acting Attorney General.

Repeal.  
1916 Repeal, 1924.



Bill. Railway and Harbours Control and Management Act, 1916 Union of South Africa No. 22 of 1916.

The East Africa Railways Ordinance No. 13 of 1910. 1909 - 9 Ed. VII.

The South Africa Act 1909 - 9 Ed. VII. The Railway Expropriation of Lands Ordinance, 1903. Union of South Africa. Transvaal No. 20 of 1916, 1903.

3. Short title.

4. Cf. 2

5. Cf. Section 2

6. Cf. 125

7. Cf. 126

8. An adaptation of Section 2 Railways Demolition Act, 1917, Union of South Africa No. 23 of 1913.

A combination and modification of Sections 117 and 130.

The original draft of this section required closely section 130 but was then somewhat extensively amended by the General Manager.

A modification of section 127.

## Recitals.

1. (1) There shall be established the office of High Commissioner for Transport for the Colony and Protectorate of Kenya and the Protectorate of Uganda.

(2) The High Commissioner of Transport shall be a Corporation solely under that name with perpetual succession and an official seal, and may sue and be sued under the above name.

2. The person holding the office of Commissioner of Transport shall, unless it is otherwise directed by His Majesty's Secretary of State for the Colonies (hereinafter referred to as the Secretary of State) be the Officer Administering the Government of Kenya.

3. The control, working and management of all railways, ports, harbours and steamer services (hereinafter referred to as "the Services") which now are or hereafter may be declared by the High Commissioner to be controlled, worked or managed by the Government of Kenya or by the Government of Uganda shall vest in the High Commissioner of Transport (hereinafter referred to as "the High Commissioner").

4. The Services shall be known by the name of the Kenya and Uganda Railways.

5. (1) The Commissioner may appoint a General Manager who shall have such authority and powers as may be delegated to him by the Commissioner or may be conferred upon him by any Ordinance of Kenya or Uganda.

In any act done by the General Manager in pursuance of his duties, it shall be presumed that he was duly authorized thereto.

(2) The High Commissioner may appoint such

service as may be necessary for the efficient working of the Services. (U.S. Provision for existing appointments to remain in vigour).

~~6. The High Commissioner shall have power~~

~~[Such power at present contained in Sections 24, 25, & 26 of the Bill - as are considered necessary]~~

~~The H.C. may in addition to the C.P. and C.S. have~~

5(3)

~~servants appointed or deemed to be appointed on her Majesty's service shall be servants of the H.C. but shall be deemed to be in the service of the H.C. shall be deemed to be in the service of the H.C. of law and legal aid.~~

6-2

~~(4) Servants of the H.C. - shall be subject to the H.C. from time to time, and the H.C. may with the concurrence of the H.C. to alter or amend such Regulations with relation to such servants.~~

6. All persons who at the date of the commencement of this Order are employed in the service of the H.C. shall be deemed to be servants of the H.C. upon the terms and conditions of their existing employment so far as is consistent with the provisions of this Order without prejudice to any other rights and obligations.

7

4429-10-11

Insert provision A amended

7

The High Commissioner may make, vary, or revoke regulations with regard to all or any of the following matters -

(a) the appointment, discharge and discipline of servants, the minimum and maximum rates of pay, incremental scales, grading and classification of establishments, leave of absence, and all other conditions of service in any department, office or branch of the service,

(b) the accounts to be given by servants and the amount thereof,

(c) the establishment of sick funds, pension and superannuation funds, provident funds, the scale of contributions and benefits and the methods of administration of such funds,

(d) the manner in which and the persons to whom all appeals by servants shall lie and the manner in which such appeals shall be presented.

and generally for dealing with all such matters as are specifically so provided, and for the better carrying out of the objects and purposes of this section.

records of  
to servants  
after  
operational  
service

8. There shall be constituted a Transport Advisory Council (hereinafter referred to as "the Council") which shall consist of

- (a) Not more than two official members representing the Colony of Kenya.
- (b) Not more than two official members representing the Protectorate of Uganda.
- (c) Not more than two unofficial members representing the Colony of Kenya.
- (d) Not more than two unofficial members representing the Protectorate of Uganda.

The members representing the Colony of Kenya shall be appointed by the Governor of Kenya, and the members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda.

9. The names of all members appointed to the Council shall be forthwith notified in the Gazette of Kenya and Uganda and any member of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

10. Each official member shall hold office during the pleasure of the Governor by whom he is appointed, and each unofficial member shall hold office for a period of two years from appointment, but may be re-appointed.

11. The senior official member representing the Colony of Kenya shall be Chairman of the Council.

12. If any member of the Council shall be prevented by absence, or other cause, from acting, the Governor by whom he is appointed may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

13. The High Commissioner may make regulations

8. There shall be constituted a Transport Advisory Council (hereinafter referred to as "the Council") which shall consist of

- (a) Not more than two official members representing the Colony of Kenya.
- (b) Not more than two official members representing the Protectorate of Uganda.
- (c) Not more than five unofficial members representing the Colony of Kenya.
- (d) Not more than two unofficial members representing the Protectorate of Uganda.

The members representing the Colony of Kenya shall be appointed by the Governor of Kenya, and the members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda.

9. The names of all members appointed to the Council shall be forthwith notified in the Gazette of Kenya and Uganda and any number of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

10. Each official member shall hold office during the pleasure of the Governor by whom he is appointed, and each unofficial member shall hold office for a period of two years from appointment, but may be re-appointed.

11. The senior official member representing the Colony of Kenya shall be Chairman of the Council.

12. If any member of the Council shall be prevented by absence, or other cause, from acting, the Governor by whom he is appointed may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

13. The High Commissioner may make regulations

(g) the abolition of any office in the Service carrying a salary of not less than £1,000 per annum.

(h) substantial changes in organization of the Services.

(i) generally all questions of policy in connection with the administration, control, working or management of the services.

15. The minutes of the Council shall be submitted to the High Commissioner through the General Manager. The High Commissioner shall as soon as may be after the receipt thereof, and after considering any matter in connection therewith which may be represented to him by the General Manager, either approve the minute or refer it back to the Council for further consideration or reserve the matter for submission to the Secretary of State. The approval by the High Commissioner of any minute of the Council shall be sufficient authority for the General Manager to act thereon.

16. (1) There shall be constituted for the port of Kilindini a Port Advisory Board (hereinafter referred to as "the Board") which shall consist of

- (a) the Port Captain,
- (b) a senior official of the Services,
- (c) two official members representing the local authority of Mombasa.

- (d) two members representing shipping interests, and
- (e) if the High Commissioner so directs, two members representing the lightage interests.

(2) All appointments to the Board shall be made by the High Commissioner and shall be held during his pleasure.

(3) The Chairman of the Board shall be appointed

by the members. If at any meeting the Chairman is not present any other member as may be chosen shall preside.

(4) The Secretary of the Board shall be an official of the Services.

17. It shall be the duty of the Board to advise (7 the Council) on all matters connected with the workings of Kilindini port.

18. (3) The High Commissioner may make regulations prescribing

- (a) the manner in which the meetings of the Board shall be convened and when meetings shall be held,
- (b) the attendance of any Government officials,
- (c) the quorum necessary to constitute a meeting,
- (d) and generally as to all such matters as may be necessary for the effective carrying out of the object and purposes of Article 17.

20. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues derived from the administration of the services.

Estimates of revenue and of expenditure on working account (revenue and non-revenue accounts) and from betterment and renewal funds or other funds established by contributions from revenue, shall be prepared by the General Manager before the commencement of the financial year in which the expenditure is to be incurred and supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration and shall thereafter be transmitted with the recommendations of the Council to the High Commissioner for approval and transmission to the Secretary of State for his sanction.



by the members. If at any meeting the Chairman is not present any other member as may be chosen shall preside.

(4) The Secretary of the Board shall be an official of the Services.

17. It shall be the duty of the Board to advise (7 the Council) on all matters connected with the working of Kilimindi port.

18. (2) The High Commissioner may make regulations prescribing

(a) the manner in which the meetings of the Board shall be convened and when meetings shall be held,

(b) the attendance of any Government officials,

(c) the quorum necessary to constitute a meeting,

(d) and generally as to all such matters as may be necessary for the effective carrying out of the object and purpose of Article 17.

20. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues derived from the administration of the services.

Estimates of revenue and of expenditure on working account (revenue and non-revenue accounts) and from betterment and renewal funds or other funds established by contributions from revenue, shall be prepared by the General Manager before the commencement of the financial year in which the expenditure is to be incurred and supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration and shall thereafter be submitted with the recommendations of the Council to the High Commissioner for approval and transmission to the Secretary of State for his sanction.

22. The High Commissioner shall not be required either by the Government of Kenya or by the Government of Uganda to provide any facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Government concerned undertakes to pay the amount of loss incurred by reason of the provision of such services and facilities.

23. If, notwithstanding the provisions of Section 21, the working of the services results in a loss for any financial year, the Council shall consider whether, and in what proportions, such loss shall be made good by the Colony and Protectorate of Kenya and the Protectorate of Uganda, and shall make recommendations accordingly to the High Commissioner. After consulting the Governments of Kenya and Uganda the High Commissioner shall submit the proposals of the Council for the decision of the Secretary of State.

24. No loan shall be raised for the construction of new railways or for additions to the capital assets of the services except by the Government of Kenya and the Government of Uganda in such proportions as the Secretary of State may determine, and any loan so raised shall be authorized and appropriated by ordinance.

25. If any railway is constructed by either the Government of Kenya or the Government of Uganda or both against the advice of the High Commissioner, the High Commissioner may declare that such railway shall be included in the services and in such case the loss, if any, upon the working of such railway shall be made good from the Railway and Harbour Fund by the Government or Governments concerned.

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2. The High Commissioner shall not be required either by the Govt. of Kenya or the Govt. of Uganda to provide any facilities either gratuitously, or at a rate of charge which is insufficient to meet the costs incurred in the provision of such services or facilities, unless the Govt. concerned undertakes to bear the amount of loss incurred by reason of the provision of such services and facilities.

(20) The services shall be administered ~~in accordance with~~ with due regard to agricultural and industrial development ~~within Kenya and Uganda~~ by means of cheap transport. So far as may be practicable subject to such provisions as may be considered necessary to meet contingencies, the total cost shall be not more than sufficient to meet the necessary outlays for working and maintenance.

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21. The High Commissioner shall not be required either by the Gov<sup>t</sup> of Kenya or the Gov<sup>t</sup> of Uganda to provide any facilities either gratuitous or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, unless the Gov<sup>t</sup> concerned undertakes to pay the amount of loss incurred by reason of the provision of such services and facilities.

22. The services shall be administered ~~in accordance with~~ with due regard to spiritual and industrial development ~~in Kenya and Uganda~~ by means of cheap transport. So far as may be practicable, subject to such provision as may be deemed necessary to meet emergencies, the total earnings shall be not more than sufficient to meet the necessary outlay for working and maintenance.

The provision for renewals, betterments  
and contingencies by means of  
~~standing funds~~ contributions to funds,  
and the payment of interest and  
sinking fund charges due on capital  
not being capital contributed out  
of railway or revenue account.

23. If, not withstanding the provisions  
of Section 21, the working of the accounts results  
in a loss for any financial year, the Council  
shall consider it their duty, and in that regard  
such loss shall be made good by the Govt.  
and the P.W.D. of Kenya and the P.W.D. of  
Uganda and shall make recommendations  
accordingly to the High Commission. After  
consulting the Govt. of Kenya & Uganda  
the High Commission may recommend the  
provision of the Govt. for the decision  
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The assistance of Government  
 24. No loan shall be raised for ~~any~~  
~~addition~~ or for addition to <sup>the</sup> capital  
~~assets~~ <sup>of the service</sup> except by the Gov<sup>ts</sup> of Kerala & the  
 Gov<sup>t</sup> of Mysore in such ~~both~~ <sup>both</sup> amounts as  
 the S. of S. may determine; and any  
 loan so raised shall be authorized  
 and appropriated by Ordinance.

25. If any railway is constructed  
 by either the Gov<sup>t</sup> of Kerala or the Gov<sup>t</sup> of Mysore  
 or both ~~after~~ against the order of the  
 High Court, the High Court may  
 declare that such railway shall be  
 included in the services and in  
 that case the loss, if any, upon the  
 working of such railway shall be  
 made good to the Railway and Harbours  
 Fund by the Gov<sup>t</sup> or Gov<sup>ts</sup> concerned.

paid out of the general revenue of the colony to the  
Railway and Harbour Fund.

(2) If in any year the Railway and Harbour  
Fund is insufficient to meet the approved estimates of  
expenditure the amount by which it is insufficient shall  
be made good by the Governments of Kenya and Uganda in  
such proportions as the Secretary of State, after  
considering the recommendations of the Council and the  
Commissioner shall decide.

20. All moneys for the construction of new railways  
or for additions to capital assets shall be raised by the  
Government of Kenya and the Government of Uganda in such  
proportions as the Secretary of State may decide and  
appropriated by Ordinance.

In Draft of clause 24 of the Order seems  
 to be very loose - It is not clear how a  
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 As to the Draft is gone I think that we  
 should consider whether the wording cannot  
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 H.C. will have power to pay out of the  
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W. 21/8/14



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Rongh (Kiny)

To read with Sec 23485/24 Kenya

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## A Bill

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An Ordinance to Provide for the Regulation, Control and Management of Railways, Ports, Harbours and Lake Services in the Colony and Protectorate of Kenya and in the Protectorate of Uganda, and for matters incidental thereto. Steam

A Bill

intituled

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

PERLIMINARY

*The Kenya and Uganda Railways and Lake Services Ordinance, 1952*

- 1. This Ordinance may be cited as ~~The Kenya and Uganda Railways, Harbours and Lake Services Ordinance, 1952~~ *The Kenya and Uganda Railways and Lake Services Ordinance, 1952*
- 2. In this Ordinance, unless there is something repugnant to the subject of the Ordinance:
  - 3. ~~Administration shall mean the administration, control, working and management of the railways, harbours and lake services of the Colony and Protectorate as defined by this Ordinance.~~
  - 4. ~~Administration a jurisdiction shall mean and include the railways, railway land and other assets and all ports and harbours on the coast or inland lakes of the Colony, together with such further areas of jurisdiction as may from time to time be assigned to the Administration by the High Commissioner.~~
  - 5. "Animals" includes domestic fowls of every kind and other domestic animals.
  - 6. "Board" means the Harbour Advisory Board established in the Ordinance.
  - 7. "Colony" means the Colony and Protectorate of Kenya and Protectorate of Uganda.
  - 8. "Commissioner" means the High Commissioner for Kenya and Protectorate of Uganda.
  - 9. "Goods" means the goods carried or to be carried, except of the kind, in accordance with paragraph 10, or being carried in any other manner.
  - 10. "Goods" includes a bulk of goods, packages of goods, consignments, a heavy bridge and a temporary bridge and the approaches to, and loading places of, a ship.
  - 11. "Provisions" includes goods, articles, materials and equipment of a class specified by the High Commissioner or other person.

Free pass shall mean an authority in writing given by the Administration or by an officer thereof representing the person authorized to give, to travel as a passenger on Railways or on a ship without the payment of any fare.

Freight shall include all sums received or receivable charged or chargeable, for the transport of goods.

General Manager shall mean the officer responsible for the management of the railways, harbours, ports, lake services and motor transport or other services of the Administration exercising the authority of the Administration.

Goods shall mean goods, baggage or other movable property of any description, and shall include animals and birds, whether alive, or dead.

Harbours shall mean and include all the ports on the coast or on the lake 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 pertaining thereto.

High Commissioner shall mean the officer for the time being administering the Government of the Colony.

Improvement means improvement of either description.

Inland water means any canal, river, lake or navigable water.

Inspector shall mean an inspector of railways appointed under the Ordinance.

Luggage shall mean such articles of necessity for personal use and convenience as, being deposited in some kind of package or 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.

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

Perishable goods shall mean goods liable to rapid deterioration, and shall include fish, fruit, vegetables, potatoes, plants, bread, meat, game, butter, eggs, milk, cheese, 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.

Prohibited shall mean prohibited by this Ordinance or any regulations framed thereunder.

Private railways shall mean all lines of railway within the Colony that are now or may hereafter be constructed for a private person or corporation by virtue of any law, and all lands, buildings, bridges, buildings, lines, machinery, rolling stock, and all other movable and immovable property and servitudes used in connection therewith.

Railway shall mean the whole or any portion of the railway.

Railways shall mean and include all lines of railway under the control of the Administration and all lands, stations, sidings, buildings, plant, machinery, rolling stock, and all other movable and immovable property and servitudes used in connection therewith.

Regulation shall mean any regulation made under any law in connection with this Ordinance.

Rolling stock shall mean locomotives, engines, tenders, coaches, motor wagons, trucks and trailers of all kinds.

Services shall mean any services rendered by the Administration.

Ship shall mean any steam or sailing vessel of any kind whatsoever, whether or not registered in the Colony, and whether or not engaged in trade, and shall include any motor launch, tug, barge, and any other vessel propelled by steam or other mechanical power, and any motor launch, tug, barge, and any other vessel propelled by steam or other mechanical power, and any motor launch, tug, barge, and any other vessel propelled by steam or other mechanical power.

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Through traffic shall mean traffic which is carried over the railway lines administered or controlled by more than one Railway Administration.

Train shall mean 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 shall include a single ticket, if return ticket, a season ticket, a trip-tourer ticket (when distinguished as a booking office) and any other written authority (not being a free pass) for a person to travel as a passenger on the railway.

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

CHAPTER I

ADMINISTRATION AND FINANCE

1. Subject to the provisions of this Ordinance all railways, ports, harbours and lake services (in this Ordinance referred to as the services) belonging to the Colony shall from the commencement of this Ordinance vest in the High Commissioner.

2. Subject to the authority of the High Commissioner the control and management of the services shall be exercised by the General Manager who shall be governed by the provisions of this Ordinance and such regulations as the High Commissioner may from time to time approve on the advice of the Council.

3. All sums for the construction of new railways or for additions or improvements to capital assets shall be raised by the Colony and appropriated to the Administration. The Administration's assets and revenues shall not be pledged as security for such loans except with the consent of the Administration.

4. If any railway is constructed by the Colony against the advice of the Council then the loan, if any on the working of such railway shall be made good to the Administration by the Colony.

5. There shall be formed a Railway and Harbour Fund, into which shall be paid all receipts derived from the management of the services.

6. Estimates of receipts and of expenditure in working accounts (operating and the various accounts) and from investment and interest of funds to other funds, shall be submitted by the General Manager to the Council in the form of a statement of the financial year in which the expenditure is to be incurred. Supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration and shall thereupon be transmitted with the recommendations of the Council to the High Commissioner for approval and transmission to the Secretary of State for the Colonies. (As soon as may be after approval by the High Commissioner such estimates shall be submitted to the Legislative Council for consideration. The Legislative Council may by resolution approve or disapprove of the estimates or propose amendments thereunto. The resolution of the Legislative Council shall be transmitted to the Secretary of State.)

7. The General Manager shall be responsible for the financial management of the services and shall be bound to render accounts to the Council and to the Secretary of State for the Colonies. He shall also be bound to render accounts to the Council and to the Secretary of State for the Colonies.

8. The General Manager shall be responsible for the financial management of the services and shall be bound to render accounts to the Council and to the Secretary of State for the Colonies.

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be subject to such provisions as may be considered necessary to meet requirements. The total earnings shall be not more than sufficient to meet the necessary outlays for working and maintenance, the provision for renewals, betterments and contingencies by means of contributions to funds, and the payment of interest and sinking fund charges due on capital not being capital contributed out of railway or harbour revenue.

9. The Administration may establish a fund out of railway and harbour revenue to be used for maintaining as far as may be uniformity of rates notwithstanding fluctuations in traffic, and ~~contingencies arising in the event of any serious emergency in the absence of working capital, or any serious strike of stevedores and material in its business, or any calamitous happening leading to the ruin of essential industrial establishments.~~

10. (1) If the Administration shall be required under any Ordinance or resolution of the Legislative Council or other authority, to provide any facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Administration may, at the end of each financial year present to the Legislative Council an account showing as nearly as can be ascertained, the amount of loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the general revenues of the Colony by the Railway and Harbour Fund.

11. ~~It is notwithstanding the provisions of section 9, the work of the stevedores, and the work of the railway, shall be carried out in such a manner as to be consistent with the public interest, and the Government shall be responsible for the maintenance of the railway and harbour works. After consulting the representatives of the Colony and Uganda, the High Commissioner shall submit the proposals of the Council for the decision of the Secretary of State.~~

CHAPTER II

ADVISED COUNCIL AND PROCEDURE

11. There shall be constituted an Advised Council (in the Ordinance referred to as "the Council") which shall consist of

- (a) not more than two official representatives of the Colony and Deputy-Commissioner, and
- (b) not more than two official representatives of the Uganda Protectorate,
- (c) not more than two representatives of the Colony and Deputy-Commissioner, and
- (d) not more than two representatives of the Uganda Protectorate,
- (e) nominated as aforesaid to represent the agricultural, commercial or other public interests of the respective Colonies.

12. The names of all members appointing to the Council shall be notified in the Gazette and any member of the Council receiving a notice of any such appointment shall be deemed sufficient reason thereof for all purposes.

13. Each official member shall hold office during the pleasure of the Government by which he is appointed and each public representative shall be appointed for a period of two years, but may be re-appointed.

14. The senior official representative of the Colony and Deputy-Commissioner shall be Chairman of the Council. The Council shall have a deliberative but not a casting vote in all matters.

15. The Secretary of the Council shall be appointed as soon as possible after the Council shall commence its proceedings, and he shall be appointed by the Council, or if the Council is not yet formed, by the Government. He may be re-appointed, and he shall be a member of the Council.

16. If the Secretary of the Council shall be absent from any meeting of the Council, the Council may elect a member to act as Secretary for that meeting, and the member so elected shall be deemed to be a member of the Council.

17. The High Commissioner may make regulations prescribing

- (a) the fees and expenses of members of the Council;
- (b) the intervals at which meetings shall be held, the manner in which the business of the Council shall be conducted, the places of meeting, the number of members that shall form a quorum, the method of voting and the form in which minutes shall be kept;
- (c) the matters to which the General Manager may not attend intervals between meetings of the Council on matters which would or could be submitted to the Council, subject to such matters being reported to the Council at its next meeting; and generally as to all such matters as may be necessary for the effective carrying out of the objects and purposes of this section.

18. The General Manager shall submit to the Council all subjects which are to be considered by the Council and be present at all meetings and take part in discussions, but he shall not be entitled to a vote.

19. The minutes of the Council shall be submitted to the High Commissioner by the General Manager who shall be the medium of communication between the Council and the High Commissioner and between the Council and the public and the High Commissioner of the Colony. The High Commissioner shall in any case be after the receipt thereof, advise each member and (a) approve thereof or (b) consult the General Manager and thereafter give such decision thereon as he may think fit or (c) refer the matter back to the Council for further consideration or (d) refer the matter to the Secretary of State. The minutes of the High Commissioner shall be submitted to the Council and be submitted to the Secretary of State.

20. The High Commissioner may consult the Council upon all matters concerning the administration and working of the services.

21. As far as practicable the General Manager shall submit to the Council and it shall be the duty of the Council to deal with and advise upon the following matters:

- (a) any substantial alterations in the tariffs of rates, fares and charges on or at the railways or harbours and lake services;
- (b) the estimates of revenue and expenditures, which are from time to time to be submitted to the High Commissioner;
- (c) the general principles of all bills relating to railways and harbours proposed for submission to the Legislative Council;
- (d) the expenditure of any sum exceeding £1,000 in respect of any one railway or harbour, such as to exceed, other than if work is carried out expressly authorized in approved estimates;
- (e) the general policy regarding distribution of expenditures;
- (f) alterations in the system of labour, system of wages, hours of employment or other important conditions of service of railway and harbour servants;
- (g) substantial reduction of staff;
- (h) the abolition of any office carrying a salary of £1,000 per annum or over;
- (i) substantial changes in organization; and
- (j) generally all other questions of policy in connection with the administration, working and management of the services.

CHAPTER III

22. There shall be constituted an Advised Council (in the Ordinance referred to as "the Council") which shall consist of

*Handwritten notes:* The Railway and Harbour Fund

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*Handwritten notes:* 21. As far as practicable the General Manager shall submit to the Council and it shall be the duty of the Council to deal with and advise upon the following matters: (a) any substantial alterations in the tariffs of rates, fares and charges on or at the railways or harbours and lake services; (b) the estimates of revenue and expenditures, which are from time to time to be submitted to the High Commissioner; (c) the general principles of all bills relating to railways and harbours proposed for submission to the Legislative Council; (d) the expenditure of any sum exceeding £1,000 in respect of any one railway or harbour, such as to exceed, other than if work is carried out expressly authorized in approved estimates; (e) the general policy regarding distribution of expenditures; (f) alterations in the system of labour, system of wages, hours of employment or other important conditions of service of railway and harbour servants; (g) substantial reduction of staff; (h) the abolition of any office carrying a salary of £1,000 per annum or over; (i) substantial changes in organization; and (j) generally all other questions of policy in connection with the administration, working and management of the services.

(a) two official members to represent the local Govern- ment and District Committee, Mombasa, or other local authority substituted herefor;

(d) two representatives of the shipping interests, and

(e) two representatives of the lighterage interests, if any.

(f) The Secretary to the Board shall be a Railway or Harbour official and shall be appointed by the General Manager.

(4) Any member of the Board may at any time be removed by the High Commissioner. Upon removal or retirement of a member the High Commissioner may appoint another person to be a member, always observing the method of representation hereinbefore provided.

(5) There shall be a Chairman of the Board, who shall be appointed by the members at the first meeting of the Board. If at any meeting the Chairman is not present at the time appointed for holding the same, the members present shall choose some one of their number to be the Chairman of the meeting.

(6) The High Commissioner may make regulations pro- viding—

(a) the period during which members of the Board shall hold office;

(b) the manner in which the meetings of the Board shall be convened, when meetings shall be held and the notice to be given for such meetings;

(c) the attendance of members at meetings, the quorum necessary for conducting a meeting, the procedure at meetings, the manner in which minutes of meetings and other records shall be kept, and the manner in which the results of the meetings shall be conveyed to the Administration and the High Commissioner.

(d) the powers which shall be vested in such Board to enable it to obtain such information and to perform such acts as may be necessary for the determination of any matter under consideration or for the due and proper fulfilment of the duties and obligations such Board may have.

and generally as to all such matters as may be necessary for the effective carrying out of the objects and purposes of this section.

22. The General Manager and the Commissioner of Customs shall be entitled to attend any meeting of the Board, but shall not be entitled to vote.

*Board Official to be removed and its representative members shall be appointed by the High Commissioner*

*The Chairman Official to be elected and the President to be appointed*

*Section 22 and 23 of the Harbour and Lightage Act, 1911*

CHAPTER IV

*Chapter I Power of the Board*

*32. In addition to the powers of the Board, the Board shall have power to—*

(1) to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

(2) to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

(3) to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

Administration's jurisdiction in persons working or otherwise engaged therein to enforce the provisions of this section and persons arriving at or departing from the port, and, if deemed necessary, to search the ships to land or to receive, deliver, or ship any goods within any harbour.

(c) to regulate, limit, stop, transmit or deliver goods to regulate and manage lightages within any harbour, and to warehouse, deliver, and collect any such goods and to land on ship persons, either by land or as duly constituted agents;

(d) to acquire or to construct any lines of railway or any roads or any other works, whether or to be connected 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 from 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 buildings or other works or premises, or for other purposes;

(e) to undertake the control, management and working of any railway other than those the construction of which is under consideration or construction at the time when the Board is established;

(f) to erect, maintain, and regulate signal-lights between port lights and signal stations and to provide the necessary staffs for the same;

(g) to construct and maintain adequate weighing apparatus and up to their ports institutions or appliances or other works which may be necessary for the requirements of any harbour or other place;

(h) to fix and stop both limits to lower the wheel down rates, level, level, or to alter down and charges on the railways and ships if it is the duty, or for such traffic as may be required by the Administration;

(i) to transport and carry upon the railways and ships or upon any road all such traffic as may be allowed for the transport and conveyance, but subject to the regulations and to the by-laws of any such road or railway, having control of the roads over which such traffic is transported or conveyed, and other than to and from the railways, ships, or other means of conveyance, and to the regulations and to the by-laws of any such road or railway, having control of the roads over which such traffic is transported or conveyed, and other than to and from the railways, ships, or other means of conveyance, and to the regulations and to the by-laws of any such road or railway, having control of the roads over which such traffic is transported or conveyed.

(j) to determine in the charge for wharfage of goods imported into a harbour between goods as imported by persons who are entitled to have an order of the Board, and goods which are not so imported, and to determine in the charge for wharfage of goods as imported by persons who are entitled to have an order of the Board, and goods which are not so imported, and to determine in the charge for wharfage of goods as imported by persons who are entitled to have an order of the Board, and goods which are not so imported.

(k) to use or to have used any land, building, or other property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

(l) to use or to have used any land, building, or other property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

(m) to use or to have used any land, building, or other property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

(n) to use or to have used any land, building, or other property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board, and to acquire, appropriate, take, lease, purchase, work, use, lease, license, transfer or otherwise lawfully dispose of property, whether movable or immovable, including immovable property, ships and other vessels for the use or further purposes and for the use of the Board.

*Control - The High Comm*

*regulated and controlled*

*High Comm*

*17/11/11*







10. The Administration may require any work or other to be done which is necessary for the purposes of this Act.

- (a) From any river, stream, pond or other natural source.
- (b) From any dam, barrage or artificial works used for the storage or distribution of water from any payment of contribution by the owner of such dam or barrage or artificial works, provided that a sufficient supply of water is left to the owners or occupiers of land situated in the case of such water for household and agricultural purposes and for entering their stock.

11. (1) The Administration 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 drainage, drainage, culverts, bridges, drains, watercourses, paths, roads, ways or by-ways, as may be required or deemed necessary by the High Commissioner, for the purpose of leading off any surface water which may accumulate near the railway or the lands through which the railway is to pass;
- (b) all necessary works, tunnels, culverts, drains, watercourses or other passages, over or under or by the side of the railway, of such dimensions as well as in the opinion of the High Commissioner be sufficient to drain off any water or free from it the lands lying near or adjacent to the railway, as before the making of the railway, or as nearly as may be;
- (c) subject to the other provisions of this Ordinance the works specified in (a) and (b) of this 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 disturbance as possible to persons interested in the lands so affected by the works.

12. The foregoing provisions of this section are subject to the following provisions, namely:-

13. The Administration shall not be required to make any works specified in section (1) of this section (1) if it is shown that the carrying out of such works would be a waste of money and that the carrying out of such works would be a waste of money and that the carrying out of such works would be a waste of money.

14. Where the Administration is prevented or hindered by any person from carrying out any work specified in section (1) of this section (1) the Administration may apply to the High Commissioner for an order requiring that person to carry out such work.

15. Where the Administration is prevented or hindered by any person from carrying out any work specified in section (1) of this section (1) the Administration may apply to the High Commissioner for an order requiring that person to carry out such work.

16. The Administration may require any work to be done which is necessary for the purposes of this Act.

17. If at any time or on any day any land affected by a railway is in a state of emergency the Administration may require any work to be done which is necessary for the purposes of this Act.

18. The Administration may require any work to be done which is necessary for the purposes of this Act.

19. Boundary marks or fences to be provided or removed by the Administration for a railway or any part thereof and for roads constructed in connection therewith.

20. Suitable gates, chains, bars, slides or handrails to be erected or removed by the Administration at places where a railway crosses a public road or the level.

21. Powers to be conferred by the Administration to open and close such gates.

22. (1) Where the Administration has constructed a public road or a public road on the level, the High Commissioner may at any time, if it appears to him necessary for the public safety, require the Administration to close such road or to alter the level of such road either under or over the railway by means of a bridge or arch, with convenient access and drainage 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.

23. The High Commissioner may require the Administration to make any works specified in section (1) of this section (1) and the local authority or any, which maintains the road, shall undertake to pay the whole of the cost of such works.

24. In either of the following cases, namely:-

- (a) where there is danger that a tree standing near a railway may fall on the railway or on a district traffic;
- (b) when a tree obstructs the view of a level crossing;

25. The Administration may cut down such tree or deal with it in such other manner as will in the opinion of the Administration prevent the danger or remove the obstruction of the road.

CHAPTER VI

26. (1) The Administration may require any work to be done which is necessary for the purposes of this Act.

27. (1) The Administration may require any work to be done which is necessary for the purposes of this Act.

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31. (1) The Administration may require any work to be done which is necessary for the purposes of this Act.

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(a) that he has made a careful inspection of the railway and rolling stock;

(b) that the moving and fixed dimensions authorized have not been infringed;

(c) that the weight of rails, strength of bridges, general structural character of the works, and the size and maximum gross load upon the rails of any rolling-stock are such as have been authorized;

(d) that the railway is sufficiently supplied with rolling stock;

(e) that general rules for the working of the railway when opened for the public carriage of passengers, animals or goods have been made, considered and published under this Ordinance; and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers, animals or goods without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the High Commissioner and the High Commissioner may thereupon order the Administrator to postpone the opening of the railway.

(3) An order under the last foregoing sub-section shall set forth the requirements to be complied with as a condition precedent to the opening of the railway being discontinued and shall direct the performance of the opening of the railway until those requirements have been complied with or the High Commissioner is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sections given under this section may be either in whole or subject to such conditions as the High Commissioner thinks necessary for the satisfaction of the public.

When sections for the opening of a railway are given subject to conditions and the Administrator fails to fulfil those conditions the sections shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the High Commissioner.

42. The High Commissioner may if he thinks fit cause the provisions of Sections 39 and 41 with respect to the opening of a railway and the opening of the works mentioned in the section (2) which those works form part of or are directly connected with a railway used for the public carriage of passengers, animals or goods and have been constructed after the commencement of this Ordinance to be applied to the railway.

3. The works referred to in Sub-section (2) are additional works of railway, including lines, stations, sidings and crossings in the level, and any alteration of pre-existing structures affecting the structural character of any work to which the provisions of Sections 39 and 41 apply as so extended by this section.

43. (1) When the provisions of Sections 39, 40 and 41 are complied with, the opening of a railway may and shall be deemed to be opened under the provisions of Section 39 (1) as to the works mentioned in Section 42 (2), in either

(a) When an accident has occurred resulting in a temporary suspension of traffic, and within the original line and works have been rapidly restored to their original standard, or a temporary diversion has been laid for the purpose of restoring communication, the works referred to in the original line and works mentioned in the temporary diversion, or the new line, may be opened for the public carriage of passengers, subject to the following conditions, namely:-

(i) That the railway section in charge of the works authorized and notified of giving that the opening of the original line and works or of the temporary diversion, will not in the opinion of the High Commissioner be dangerous to the public using the line and works or the diversion.

44. The High Commissioner may make rules, defining the terms in which, and the signs upon the signal to which, the provisions of Section 39, 40 and 41 (both inclusive) may be applied.

45. (1) When, after inspecting any open railway used for the public carriage of passengers, animals or goods or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion, together with the grounds therefor, to the High Commissioner, and the High Commissioner may thereupon order that the railway be closed for the public carriage of passengers, animals or goods or that the use of the rolling-stock so specified be discontinued, or that the railway be for the rolling-stock so specified be used for the public carriage of passengers, animals or goods on such conditions only as the High Commissioner may consider necessary for the safety of the public.

(2) An order under this section (1) must set forth the grounds on which it is founded.

46. (1) When a railway has been closed under the last foregoing section, it shall not be re-opened for the public carriage of passengers, animals or goods until it has been inspected and the re-opening sanctioned, in accordance with the provisions of this Ordinance.

(2) When the High Commissioner has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the High Commissioner has sanctioned its use.

(3) When the High Commissioner has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the High Commissioner.

47. (1) The High Commissioner may by general or special order authorize the discharge of any of his functions under this chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any conditions which the High Commissioner might have imposed if the sanction or order had been given by himself.

(2) A condition imposed under Sub-section (1) shall, for all the purposes of this Ordinance, have the same effect as if it were attached to a sanction or order given by the High Commissioner.

CHAPTER VII - RAILWAYS

WORKING OF THE RAILWAYS - Carriage of Passengers

48. A copy of the timetable for the time being in force relating to the conveyance of passengers shall be posted up in a conspicuous place at each railway station and may read as follows:-

49. (1) Fares shall be deemed to be accepted and tickets to be issued subject to the condition of their being returnable in the train or ship and, in the train, a compartment of the train 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, or in the compartment for which the ticket was issued, may, at the earliest opportunity, be carried in a train or ship as provided.

(3) A person for whom there is no room available in the train or ship, or in a compartment for which he has purchased a ticket, and who claims to have a right to a berth in the train, shall, on delivery of his ticket, be carried in the train or ship, on delivery of his ticket, in a berth reserved for the benefit of the person for whom he has purchased a ticket, if the difference between the fare paid by him and the fare paid by the person for whom the berth is reserved exceeds one-third of the fare paid by the person for whom the berth is reserved. Provided that a refund shall not be made at the first opportunity the passenger so travelling occupies the station of the train in charge of the train in the fact that he is obliged to travel in a class of compartment inferior to that mentioned on his ticket and has received from the railway authorities showing that he is entitled to the refund.



Any further fine recovered under this section or any further fine or amount recovered under Sections 21 to 25 inclusive shall be paid into the revenue of the Administration.

#### Passenger's Luggage

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

(1) When passenger's 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 such number. Provided that the Administration shall not be liable for luggage left with a servant or otherwise deposited at any railway station unless registered in the sub-section is provided or deposited in a chest.

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

Checkpoints provided by the Administration shall be located to be convenient established for the sole convenience of passengers and the public.

The Administration shall not be liable for the loss, injury or destruction of or damage to any article or package deposited as a chest, when which exceeds in value the sum of five pounds unless at the time of deposit the value of the article is declared and an additional charge paid for excess value in accordance with the regulations.

13. The Administration shall have a lien upon the luggage of a passenger for the payment of any toll or other charge to which it is entitled from him.

#### Carriage of Property

The Administration shall determine the maximum load for every wagon or truck in its possession and shall exhibit the words or figures representing the load so determined in a conspicuous position on the outside of every wagon or truck.

The gross weight of any such wagon or truck bearing on it shall not exceed such limit as may be fixed by the Administration for the class of axle under the weight or truck.

The Administration may, from time to time, fix such special conditions and rules and impose conditions, not inconsistent with the Regulations or with any general rule then in force, as to the carrying, forwarding or delivering of any goods.

The Administration shall have at each station, office or place a notice of the conditions and rates for the time being in force under this section (1) and shall allow any person to inspect it free of charge at all reasonable times.

The Administration shall not be bound to carry any goods unless they are free from any infectious or contagious disease.

If a person fails to pay any amount due by or on behalf of the Administration, any toll, special or other charge or to do so in respect of any animals or goods, the Administration may detain the whole or any of the animals or goods or if they have been removed from the railway, any other animals or goods of such person then being in or otherwise coming into its possession.

When any animals or goods have been taken under this section (1) the Administration may sell by public auction or by any other mode of sale, or may cause to be sold or disposed of, at least fifteen days notice of the intention to do so to be given to the owner or person to whom the animals or goods belong, and may sell, or cause to be sold, the animals or goods by public or private sale, or may sell, or cause to be sold, the animals or goods by public or private sale, or may sell, or cause to be sold, the animals or goods by public or private sale, or may sell, or cause to be sold, the animals or goods by public or private sale.

(2) Out of the proceeds of the sale the Administration may recover a sum equal to the charges and the expenses incurred in retaining the animals or goods in any of the premises and the sale of the animals or goods if any so remain liable to the person entitled to them.

(3) If a person, on whom a demand for any toll, terminal or other charge has been made, has been liable to remove from the railway a train or a vehicle or any animals or goods which have been detained under this section (1) or any animals or goods which have been taken under this section (2) the Administration may sell the whole or any part of the animals or goods in any of the premises or elsewhere.

Notwithstanding anything to the contrary contained in this section (1) the Administration may recover by sale any such animals or other charge as aforesaid or balance thereof.

(4) When any animals or goods have come into the possession of the Administration in the exercise of its powers, it may sell the same or any part thereof by public auction or otherwise, and may require the person to whom the animals or goods are sold to pay the toll or other charge to which they are liable.

(5) If such owner or person is not known, or the notice cannot be served upon him or he does not comply with the regulations in the notice, the Administration may, within a reasonable time, sell the animals or goods as aforesaid as may be done by the provisions of the last foregoing section, including the surplus, if any, of the proceeds of the sale to any person entitled thereto.

When any animals, goods or other proceeds of the sale are sold by the Administration, the proceeds of the sale shall be applied in the first instance to the payment of any toll or other charge to which the animals, goods or other proceeds are liable, and the residue, if any, shall be paid to the person to whom the animals, goods or other proceeds are sold.

(1) The owner or person liable for charge of any goods which are delivered to the Administration 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 Administration, deliver at such servant as aforesaid 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 Administration is entitled to charge in respect thereof.

If such owner, person or consignee refuses or neglects to give such a bill of lading, and refuses to open the parcel or package containing the goods in order that such a description may be ascertained, the Administration 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 fixed according to the highest rate which may be in force at the time of the carriage of goods or (b) in respect of goods which have been transported, charge a special rate exceeding such highest rate.

If an animal, delivered under this section (1) is not taken away with respect to the transportation of any goods, or when it is proposed to take, and which has been transported, the Administration may charge in respect of the carriage of the animal a special rate exceeding the highest rate which may be in force at the time of the carriage of goods.

If any difference arises between the Administration and the owner or person liable for charge of any goods which have been transported for the purpose of being transported, or between the Administration and the consignee of any goods which have been transported under this section, the owner or person liable for charge of the goods shall be bound to pay to the Administration the amount of such difference.

If it appears from the circumstances that the consignee of the goods is a person to whom the goods have been delivered under this section (1) and the owner or person to whom the goods have been delivered is not known, or the notice cannot be served upon him or he does not comply with the regulations in the notice, the Administration may, within a reasonable time, sell the animals or goods as aforesaid as may be done by the provisions of the last foregoing section, including the surplus, if any, of the proceeds of the sale to any person entitled thereto.



the cost of the detention and examination of the goods, and the Administration shall be exempted 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 Administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any loss as aforesaid.

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

(8) No person shall take any such goods with him upon a train or ship without giving notice of their nature to the nearest stationmaster in charge of the place where he brings the goods upon the train or ship, or shall deliver 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 nearest stationmaster to whom he brings or delivers them.

(9) Any servant of the Administration may refuse to receive such goods for carriage and when such goods have been received without such notice as is mentioned in Sub-section (8) having by his knowledge been given, may refuse to carry them or may alter their nature.

(10) If any servant of the Administration has caused or is believed to have caused or to be about to cause or to be about to cause any such goods to be subjected to a process which is not a process which he has seen to his knowledge being given, he may demand the goods to be opened for the purpose of ascertaining the contents.

(11) Nothing in this section shall be construed to require any servant of the Administration to be present at the receipt or receipt of any goods, and nothing in Sub-sections (8), (9) and (10) shall be construed to apply to any goods handed to any servant of the Administration by or on behalf of the Government or any person employed in a Government or statutory service, or any person employed in the ordinary course of his employment or duty as such.

(12) At every station, traffic depot or post at which the Administration operates a line to any other station, traffic depot or post, for the carriage of traffic other than passengers and their baggage, the services appointed by the Administration by goods train, or at the request of any person thereon, shall be of such nature, and without payment of any fee for the carriage of such traffic, as the Administration may determine.

CHAPTER VIII  
SECTION 12

LIABILITIES OF THE ADMINISTRATION AS CARRIER

(1) The responsibility of the Administration for the loss, destruction or deterioration of goods delivered to it for carriage for the purpose of being transported shall be subject to the special provisions of this Chapter, in that of which, Sections 13, 14 and 15 of the Indian Contract Act, 1872, as applied by the Contract, or any law substituted therefor.

(2) An agreement purporting to limit the responsibility of the Administration for loss, destruction or deterioration, shall be void.

(3) It is hereby declared that in the event of any such goods being lost, destroyed or deteriorated, the amount of compensation shall be ascertained by the Administration.

Provided that nothing in any sub-section contained shall be deemed to apply to any condition, stipulation or agreement of carriage, regarding the responsibility of the Administration in respect of any loss, destruction or deterioration of animals or goods which may happen during carriage by ship.

(4) 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 Administration.

(5) (1) The responsibility of the Administration under the last foregoing section for the loss, destruction or deterioration of animals delivered to the Administration 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 ponies, twenty pounds or, in the case of mares, geldings or female cattle, five pounds a head or, in the case of steers, sheep, goats, dogs or other animals, one pound a head, unless the person sending or delivering them to the Administration caused them to be declared or declared to be, at the time of their delivery for transport, to be respectively of higher value than fifty pounds, twenty pounds or one pound a head, as the case may be.

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

(3) In every proceeding against the Administration 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.

(6) The Administration 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 of the Administration.

(7) (1) When any articles mentioned in the Second Schedule are contained in any parcel or package delivered to the Administration for transport, and the value of such articles in the parcel or package exceeds ten pounds the Administration 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 Administration caused its value and contents to be declared or declared thereat the time of the delivery of the parcel or package for transport, and, if so required by the Administration, 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 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 Contract Act, be on the person claiming the compensation.

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

(8) In any suit against the Administration for compensation for loss, destruction or deterioration of goods delivered to the Administration for transport, it shall not be necessary for the plaintiff to prove how the loss, destruction or deterioration was caused.

(9) A person shall not be entitled to a refund of an over-charge in respect of passengers' animals or goods transported by the Administration for the loss, destruction or deterioration of animals or goods delivered to the Administration for transport, if the amount of compensation for such loss, destruction or deterioration is less than the amount of the over-charge which would have been payable to the Administration, with interest, on the date of carriage of the passenger or of the delivery of the animals or goods for transport.

Section 12  
Sub-section (1)  
The Administration  
as a carrier of  
animals

Section 12  
Sub-section (6)  
The Administration  
as a carrier of  
luggage

Section 12  
Sub-section (7)  
The Administration  
as a carrier of  
goods

Section 12  
Sub-section (8)  
The Administration  
as a carrier of  
goods

Section 12  
Sub-section (9)  
The Administration  
as a carrier of  
goods

75. Notwithstanding anything in the foregoing provisions of this chapter, the Administration shall not be responsible for the loss, destruction or deterioration of any articles or goods which have been delivered under this section (1) if the Administration is 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 where an actual exceeding the value of the goods if such value were calculated in accordance with the description contained in the false account.

76. Notwithstanding anything in any agreement purporting to limit the liability of the Administration, it shall be liable while on the railway for the death or personal injury to a passenger or for loss, destruction or deterioration of articles or goods which the passenger was or the articles or goods were taken to or through over the railways of two or more railway administrations, may be brought either against the railway administration through which the passenger obtained his pass or purchased his ticket, or against the railway administration by which the goods were delivered by the consignor thereof, or the railway administration at which the goods were delivered, or against the administration at which the loss, destruction or deterioration occurred.

77. Where the Administration is liable to carry passengers, articles or goods wholly by ship or partly by land and partly by ship, it shall, excepting the Administration from responsibility for any loss of life, personal injury or loss of or damage to articles or goods which may happen during the carrying by ship, remain liable for and for the consequences of any loss, destruction, injury, damage and personal injury to and loss of or damage to articles or goods which may happen during the carrying by land, and shall, without being deemed to be a part of the contract, and subject to the provisions of this section, be deemed to be a part of the contract, and subject to the provisions of this section, shall, irrespective of the nationality or register of the ship, be responsible for any loss of life, personal injury or loss of or damage to articles or goods which may happen during the carrying by ship to the extent to which it would be responsible under the Merchant Shipping Act, 1924, if the ship were registered under that Act and the Administration were owner of the ship.

78. The liability of providing food or drink and injury or damage to passengers or goods which may happen during the carrying by land shall be the responsibility of the Administration.

CHAPTER 20

ACCIDENTS

79. Where any of the following accidents occurs in the course of a railway journey or in a harbor or ship, namely—

- (a) any accident attended with loss of human life or with personal hurt as defined in the Penal Code or with serious property;
- (b) any collision between trains or ships of which one or both trains or ships 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 serious personal hurt or attended with serious property;
- (e) any accident attended with serious property which the High Commissioner may think fit to include in the list.

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 High Commissioner appoints in this behalf.

80. The Administration subject to the approval of the High Commissioner may make rules consistent with this Ordinance and any other enactments for the time being in force for all or any of the following purposes, namely—

- (a) for prescribing the forms of the notices aforesaid to be sent to the magistrate and the police officer of the district in which the accident occurred;
- (b) for prescribing the time of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;
- (c) for prescribing the duties of servants of the Administration police officers, inspectors and magistrates in the event of an accident;
- (d) for prescribing the duties of servants of the Administration in the event of an accident occurring upon a railway or ship or at the harbor, whether attended with personal injury or not, and with loss of or damage to articles or goods;
- (e) for prescribing the duties of servants of the Administration in the event of an accident occurring upon a railway or ship or at the harbor, whether attended with personal injury or not, and with loss of or damage to articles or goods;
- (f) for prescribing the duties of servants of the Administration in the event of an accident occurring upon a railway or ship or at the harbor, whether attended with personal injury or not, and with loss of or damage to articles or goods;

CHAPTER 21

ORDNANCE REGULATIONS MADE BY THE HIGH COMMISSIONER

81. All things which are done in pursuance of any of the following provisions, namely—

- (a) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (b) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (c) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (d) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (e) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (f) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (g) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (h) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (i) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (j) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (k) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (l) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (m) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (n) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (o) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (p) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (q) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (r) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (s) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (t) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (u) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (v) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (w) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (x) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (y) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;
- (z) any provision of this Ordinance relating to the carrying of passengers or goods by rail or by ship;



10. 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;

(6) 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.

Section 88

88 Any servant who, during the time which he has engaged to serve and not being duly licensed from duty without lawful excuse or reasonable excuse shall be liable on conviction to a fine not exceeding five pounds or, in default of payment, to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Section 89

89 If a stationmaster or a servant in charge of a section of a railway fails to give such notice of an accident as is required by section 87 and the rules for the time being in force under section 87 he shall be liable on conviction to a fine not exceeding five pounds.

Section 90

90 If a railway servant obstructs or impedes any public way which is closed across a place where the railway crosses a public road on the level or a public way or level crossing closed against the public he shall be liable on conviction to a fine not exceeding two pounds.

Section 91

91 A servant shall be entitled to sue the railway for breach of contract or tort if he is injured or his property is damaged by the railway or its servants in the course of his employment. The railway shall be liable to pay to the servant or his personal representatives the amount of his own contributions only by way of gratuity, pension or superannuation fund controlled by the railway. Provided that, in case of a member displaced for fraud or dishonesty the railway may deduct from any sums payable to such member under this section the amount of any loss which the railway may have sustained by reason of such fraud or dishonesty. Damages recoverable shall not be limited by any rule of law which limits the amount of damages recoverable in respect of personal injuries or property damage. The railway shall be liable to pay to the servant or his personal representatives the amount of any loss which the railway may have sustained by reason of such fraud or dishonesty.

Section 92

92 If a servant, while acting in the course of his employment, is guilty of an offence under section 87 or 88, he shall be liable to be punished as if he were a member of the public. The railway shall be liable to pay to the servant or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.

Section 93

93 A railway servant shall be liable to be punished as if he were a member of the public if he is guilty of an offence under section 87 or 88. The railway shall be liable to pay to the servant or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.

Section 94

94 A railway servant shall be liable to be punished as if he were a member of the public if he is guilty of an offence under section 87 or 88. The railway shall be liable to pay to the servant or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.

Section 95

95 Any servant who, with intent to defraud, uses or receives a greater sum or a lesser sum than is allowed by law and is provided by the tariff (this is here for the convenience of passengers or transport of goods or for any other service rendered by the railway) shall be liable on conviction to imprisonment of either description for a period not exceeding two years, or to a fine not exceeding twenty pounds or to both such fine and imprisonment.

Section 96

96 If a person requested under section 95 to give an account with respect to any goods lawfully given 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.

Section 97

97 If in contravention of section 95 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.

Section 98

98 If a person obstructs any officer mentioned in section 97 or 98, he shall be liable on conviction to a fine not exceeding five pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Section 99

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

Section 100

100 If a person obstructs any officer mentioned in the provisions other than section 98, he shall be liable on conviction to a fine not exceeding five pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Section 101

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

Section 102

102 If the person named in section 101 and his true name and address are not ascertained, he shall, with the least possible delay be taken before the nearest magistrate having jurisdiction.

Section 103

103 The High Commissioner may appoint as many persons as may be deemed necessary for the duty of assisting the railway police and constables and when they shall be appointed in carrying out that duty he shall be entitled to exercise all such powers and shall perform all such functions as may be required to be done by him in the course of his duty. The High Commissioner may also appoint as many persons as may be deemed necessary for the duty of assisting the railway police and constables and when they shall be appointed in carrying out that duty he shall be entitled to exercise all such powers and shall perform all such functions as may be required to be done by him in the course of his duty.

Section 104

104 A person appointed under section 103 shall be liable to be punished as if he were a member of the public if he is guilty of an offence under section 87 or 88. The railway shall be liable to pay to the person or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.

Section 105

105 A person appointed under section 103 shall be liable to be punished as if he were a member of the public if he is guilty of an offence under section 87 or 88. The railway shall be liable to pay to the person or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.

Section 106

106 A person appointed under section 103 shall be liable to be punished as if he were a member of the public if he is guilty of an offence under section 87 or 88. The railway shall be liable to pay to the person or his personal representatives the amount of any loss which the railway may have sustained by reason of such offence.



Harbours

108. From and after the commencement of this Ordinance, subject to such exceptions as may be prescribed by the High Commissioner, the harbours of the Colonies shall be controlled and managed by the Administration subject to the provisions of this Ordinance and such regulations as the High Commissioner may from time to time appoint.

109. The harbours of Elizabeth and Newcastle are hereby declared to be compulsory pilotage harbours (together with such other harbours as may from time to time be declared by the High Commissioner by proclamation in the Gazette) to be compulsory pilotage harbours save and except in respect of such ships as may be exempted by regulation: Provided that the Administration will a pilot who is a person thereof shall be exempted from liability for any loss or damage that may arise or be caused through the act, omission, or default of such pilot.

110. The master of every merchant ship arriving in a harbour shall upon demand produce and show the ship's register and ship's papers to the port captain or other authorized officer for his inspection, and shall deliver a list of his passengers with a description of their rank sex and occupation together with a list of any deaths of persons that may have occurred during the voyage and shall report in writing if any person has died on board or been committed to the custody of any constable without the knowledge or consent of the master and any master not fully accounting for every individual disembark, or failing to account for any of them or refusing to deliver the list when demanded required as aforesaid shall be liable on conviction to a fine not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding three months.

111. The Commissioner or other proper officer of Customs at any of the harbours of the Colonies may refuse to give the master of any ship in a harbour clearance outward until he has paid the duty on the goods or other duties or charges of any kind which may be payable by him or the ship at the harbour at which the ship is lying and has received from the authorized officer a certificate setting forth that he has complied with the requirements of this Ordinance and with the regulations of the harbour and every such ship shall be subject to a lien in favour of the Administration in respect of the amount so due.

112. In the case of any contravention of this Ordinance or of any regulation made thereunder within a harbour, the master of the ship may be proceeded against in respect thereof and may be held liable for the contravention.

113. If at the time of landing or delivery at a harbour of goods to the Administration for transit or delivery to the consignee, the shipowner notifies the Administration in writing that he has no objection to the amount specified in the Notice being retained in respect of those goods, the Administration is hereby authorized to retain such charge delivery of the goods to the consignee on any other day.

114. Retention of a charge by the amount notified in a Notice as aforesaid shall be binding on or on behalf of the shipowner.

115. The retention of a charge from payment of the amount notified as aforesaid shall be binding on or on behalf of the shipowner.

116. The amount of the charge retained according to any Notice as aforesaid in respect of the said goods shall have been paid to the Administration.

117. (1) If the Administration in possession of a vessel or goods in a port, as aforesaid, deliver the goods to the port pilot and the vessel is not to be used for the purposes of the Ordinance, the vessel shall be liable for the amount of the charges in respect of the vessel, as if the vessel had been used for the purposes of the Ordinance.

118. If the payment of an amount in respect of goods is provided for by the Ordinance, the goods shall be retained by the shipowner until the amount of such goods has been paid, and the goods shall be liable for the amount of such goods as if the goods were retained by the shipowner until the amount of such goods has been paid, and the goods shall be liable for the amount of such goods as if the goods were retained by the shipowner until the amount of such goods has been paid.

119. Before effecting the sale the Administration shall give reasonable notice thereof by advertisement in the Gazette or in any daily newspaper published at the harbour of discharge, or in the town in which the harbour is situated, and shall also, if the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the possession of the Administration, or if the said address is otherwise known to it, send notice of the sale to the owner of the goods by registered letter.

120. The title of a bona fide purchaser of the goods shall not be invalidated by reason of the provision to end the notice required by this section nor shall any such purchaser be bound to enquire whether the notice has been given.

121. The proceeds of the sale shall be applied by the Administration in the following manner and order:

- (a) in payment of any Customs duties owing in respect thereof;
(b) in payment of the expenses of the sale and advertising;
(c) in payment of the port dues and other charges payable by the shipowner in respect of the said goods;
(d) in payment of the amount due to the shipowner as due for freight or other charge in respect of the said goods and the surplus if any shall be paid to the owner of the goods.

122. Whenever any goods are placed in the custody of the Administration under the authority of Section 113, the Administration shall be deemed to have taken charge of the goods and shall have power in the exercise of the duties of the goods to do all such reasonable acts as in the judgment of the Administration are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for the port and charges.

123. Nothing in this chapter contained shall be construed as obliging the Administration to take charge of any goods which it would not have been liable to take charge of if this Ordinance had not passed, or as making the Administration liable in respect of the validity of any lien for freight or other charges made by any shipowner.

124. Wherever this Ordinance gives the Administration the right to take charge of any goods, the Administration shall be deemed to have taken charge of the goods and shall have power in the exercise of the duties of the goods to do all such reasonable acts as in the judgment of the Administration are necessary for the proper custody and preservation of the goods and shall have a lien on the goods for the port and charges.

125. Nothing in this chapter contained shall be construed as obliging the Administration to take charge of any goods which it would not have been liable to take charge of if this Ordinance had not passed, or as making the Administration liable in respect of the validity of any lien for freight or other charges made by any shipowner.

126. The Administration shall be deemed to have taken charge of any goods which it would not have been liable to take charge of if this Ordinance had not passed, or as making the Administration liable in respect of the validity of any lien for freight or other charges made by any shipowner.

127. The Administration shall be deemed to have taken charge of any goods which it would not have been liable to take charge of if this Ordinance had not passed, or as making the Administration liable in respect of the validity of any lien for freight or other charges made by any shipowner.

128. The Administration shall be deemed to have taken charge of any goods which it would not have been liable to take charge of if this Ordinance had not passed, or as making the Administration liable in respect of the validity of any lien for freight or other charges made by any shipowner.

(2) loss of or damage to animals arising from negligent or from any cause other than that arising from the negligence of the Administration or its servants;

(3) loss of or damage to goods caused from maintaining too high or too low a temperature in road chambers or failure of machinery or plant and loss to navigation on the part of the Administration or its servants;

Provided that this section shall not apply to goods delivered to and accepted by the Administration in manner prescribed by regulation for transport and so long as the contract for transport of such goods is not fully performed.

CHAPTER VIII  
Private Railways

Private Railways

120 11. Save as to this chapter is provided, all private railways shall continue to be governed by the law or other authority which at the date of their construction and working were authorized.

The provisions of Chapters VI and VII and Sections 10 to 12 inclusive and 14 to 16 inclusive shall apply to private railways.

125 12. Any railway which is not a High Commission railway shall be subject to the provisions of this chapter and to the provisions of the Statute in that behalf made in respect of any of the matters referred to in Section 11 of this Ordinance in so far as they apply to the railway and in respect of the duties and obligations of the railway in respect of any of the matters referred to in that section.

130 13. Notwithstanding anything to the contrary in any law or contract, the provisions of this section shall apply to private railways.

135 14. The Administration may, by law and as if it were a body corporate, acquire and take possession of any land or other property which is necessary for the purposes of this chapter.

140 15. If the Administration is authorized by law to acquire any land or other property which is necessary for the purposes of this chapter, it may, in connection with the acquisition of such land or other property, do all such things as may be necessary for the purpose of giving effect to the provisions of this chapter, and it may, in connection with the acquisition of such land or other property, do all such things as may be necessary for the purpose of giving effect to the provisions of this chapter, and it may, in connection with the acquisition of such land or other property, do all such things as may be necessary for the purpose of giving effect to the provisions of this chapter.

145 16. The provisions of this chapter shall apply to private railways which are not High Commission railways, and to the persons who are authorized to manage or control such railways, and to the persons who are authorized to manage or control such railways, and to the persons who are authorized to manage or control such railways.

150 17. Nothing in this section shall be construed as authorizing the Administration to take possession of any land or other property which is necessary for the purposes of this chapter, or to do any of the things which are authorized to be done by the Administration in connection with the acquisition of such land or other property.

CHAPTER VIII  
Supplementary Provisions

Supplementary Provisions

155 18. Notwithstanding anything to the contrary in any law or contract, the provisions of this section shall apply to private railways.

160 19. The Administration shall not be liable to pay any tax in all of the funds of any local authority unless the High Commission railway is authorized by the Government to be liable to pay the tax.

165 20. While a notification of the High Commission railway under Clause (1) of this section is in force the Administration 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 High Commission railway, having regard to all the circumstances of the case, from time to time determines to be fair and reasonable.

170 21. The High Commission railway at any time liable to pay a notification under Clause (1) of this section.

175 22. Nothing in this section is to be construed as deterring the Administration 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.

180 23. 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.

185 24. No compensation shall be payable by the Administration to any owner or occupier of any land or building on railway land adjoining a railway in respect of fire caused by sparks from locomotives to the land of such owner or occupier or to any property thereon unless he shall prove that—

(a) prior to such fire he had on his land contiguous to railway land adjoining a railway a fire-brick or other work less than two feet wide

(b) at the time such fire originated he had such fire-brick or other work in good condition

(c) within six months prior to such fire he had notified the Administration to construct a screen or fire-brick on railway land and contiguous to his fire-brick

(d) that after receiving such notification the Administration failed to construct such fire-brick

(e) at the time such the original fire such property was not within a distance of two hundred feet from the railway

190 25. None of the following shall be deemed to be a fire:— (a) any fire used or permitted by the Administration for the purpose of the traffic on its railways and ships, or of its stations, yards or workshops, shall be deemed to be taken in connection of any degree or order of any court or of any authority or person having by law power to attach or distress property or otherwise to execute a judgment or to take in execution within the meaning of this Ordinance.

(b) Nothing in Sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

195 26. Every person of the Administration shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code.

200 27. The definition of "local authority" in Section 21 of this Ordinance shall be deemed to include any committee or sub-committee of the Administration as such.

(3) A servant of the Administration shall not—

(4) purchase or bid for, either in person or by agent in his own name or in that of another, or jointly or in concert with others, any property put up to auction under Section 87 or Section 88 or Section 89.

(5) in contravention of any direction of the Administration in this behalf, engage in trade.

87. (1) When the immediate arrest of a servant, either with or without restraint, would be likely to endanger the safety of any person travelling or being upon any railway, ship, or to cause serious inconvenience to the Administration, 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 release such servant, and shall arrange so to watch him that he does not escape, and on such servant being released such police officer shall arrest him and proceed according to law.

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

87A. If a servant of the Administration is discharged or suspended from the office or from, temporarily or absolutely, or is removed from the office or any of his family or representatives, or is removed from any office in writing for that purpose, or is removed from the office or to a person appointed by the Administration in this behalf, any station, dwelling house, office or any building with its appurtenances, any books, papers or other matters belonging to the Administration, and in the possession of such servant at the commencing of any such discharge, suspension, or removal, any receipts of any such servant, shall, in and to the behalf of the Administration, (a) have the right to enter upon the building and take possession of any such papers, books, or other matters, and (b) have the right to take possession of the books, papers or other matters belonging to the Administration, and a person appointed by the Administration in this behalf.

88. Any order, instruction, direction, requisition, or other order, approval or opinion, approved or sanctioned to be issued by the High Commissioner, for any purpose or in connection with the Ordinance or any of the provisions contained therein, contained, shall be sufficient and binding if in writing signed by the officer or servant deputed by the High Commissioner to promulgate his directions in respect of the matter to which the same may relate, and the High Commissioner shall not in any case be bound in respect of any such order, instruction, direction or other document, in manner aforesaid.

89. Any notice or other document required or authorized by the Ordinance to be served on the Administration may be served on the General Manager or—

- (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.

90. Any notice or other document required or authorized by the Ordinance to be served on any person by the Administration 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.

91. Where a notice or other document is served by post, it shall be deemed to have been served on the date when the letter containing it would be delivered in the ordinary course of post, had it been so delivered, and it shall be sufficient to prove that the letter was duly posted, and that the notice or other document was properly addressed.

92. (1) No action shall be brought against the Administration of this Ordinance, except by or on behalf of the Administration, unless the same be commenced within twelve months after the cause of action arose.

(2) No action shall be commenced against the Administration until one month at least after written notice of intention to commence the action has been served upon the Administration in plain copy by its attorney or agent. In that notice the nature of action and details of the claim shall be clearly and explicitly stated.

(3) In any action against the Administration, no execution or attachment or process in the nature thereof shall be issued against the Administration or against any property of the Ministry but it shall be lawful for the General Manager to pay out of the funds of the Administration such sums of money as shall be the judgment of the Court in respect of the plaintiff.

(4) A person authorized by the General Manager to conduct proceedings on behalf of the Administration shall be entitled to conduct such proceedings without the permission of the Magistrate.

93. The High Commissioner may by notification in the Gazette extend this Ordinance at any portion thereof to any territory worked by steam or other mechanical power.

94. All legal proceedings in which the Administration is a party shall be brought by or against the Administration in the name of the General Manager, and the necessary services thereon may be effected as the General Manager may direct.

CHAPTER III REGULATIONS AND ORDERS

95. Subject to the approval of the High Commissioner, the Administration may make regulations and instructions with respect to any of the following matters that it may think proper to—

- (1) the mode in which and the speed at which trains or other vehicles or conveyances, or also the duties of servants in connection with the working of trains and other vehicles or conveyances;
- (2) the loading and unloading of rolling-stock and the weights of locomotives and goods to be transported on any rolling-stock;
- (3) the collection, storage, delivery and delivery of goods transported by the rolling-stock; or
- (4) the accommodation and attendance of passengers on any train or other conveyance, or also the duties of servants in connection with the working of trains and other vehicles or conveyances.

96. Any regulation or instruction made or issued by the Administration under this Chapter shall be binding on all persons employed by the Administration in connection with the working of trains and other vehicles or conveyances, and shall be enforceable as if it were a contract made between the Administration and the person so employed.

97. Any regulation or instruction made or issued by the Administration under this Chapter shall be enforceable as if it were a contract made between the Administration and the person so employed.

98. Any regulation or instruction made or issued by the Administration under this Chapter shall be enforceable as if it were a contract made between the Administration and the person so employed.



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 Administration 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.

The Administration may also, in addition to the powers conferred by the regulations, be empowered to inspect the same free of charge.

Whenever the Port Captain or other authorized officer boards or goes alongside of any ship arriving at a harbour he shall cause to be delivered to the master of the ship a copy of the Ordinance and of such harbour and quarantine regulations as may be in force in the harbour. Provided that it shall not be necessary more than once in each year to deliver a copy of this Ordinance and of the said regulations to the masters of ships which regularly trade with that harbour and which have agents resident thereat and then only on the request of the master.

All bye laws and regulations in force at the commencement of this Ordinance having reference to the railways, ships and harbours and not inconsistent with this Ordinance, shall, until altered or amended by the Administration, with the approval of the Governor, continue in force as if made and shall until altered or amended remain in full force and effect.

122. The Administration may also, subject to the approval of the High Commissioner, make regulations with regard to all or any of the following matters:

(a) the appointments, discharge and discipline of servants, the minimum and maximum rates of pay, incremental scales, grading and classification of establishments, leave of absence, and other conditions of service in any department office and branch of the service;

(b) the security to be given by officers and employees and the manner thereof;

(c) the establishment of such funds, pensions and superannuation funds, provident funds, the scale of contributions and benefits and the methods of administering such funds;

(d) the discipline of working and disciplinary powers of officers of the police;

(e) medical examinations, the evidence of age or disability to be required from any person or the evidence that may be required as to a person's death before any such benefits may be claimed in respect of that person from any fund;

(f) the circumstances in which and the persons to whom all appeals by servants shall lie, and the manner in which such appeals shall be prosecuted;

(g) the persons to be deemed to be such persons as are specially to be provided for by the better carrying out of the Ordinance and regulations thereunder.

123. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the second column thereof.

(2) The enactments specified in the first schedule and appointments made under the said enactments, which have not been previously approved, provided, confirmed or renewed by the High Commissioner, shall, on the expiration of the period specified in the second column of the said schedule, be deemed to have been so approved, confirmed or renewed, as far as they are consistent with this Ordinance, as if they had been so approved, confirmed and published under this Ordinance.

(3) The enactments specified in the first schedule and appointments made under the said enactments, which have not been previously approved, provided, confirmed or renewed by the High Commissioner, shall, as far as they are consistent with this Ordinance, or to the corresponding portion thereof.

THE FIRST SCHEDULE

THE SECOND COLUMN

Title	Extent of repeal
The East Africa Railways Ordinance, 1910	The whole
The East Africa Railways (Amendment) Ordinance, 1911	The whole
The East Africa Railways (Amendment) Ordinance, 1919	The whole
The Port Ordinance, 1925	The whole

Handwritten notes: 1937, 1961, 1911, 1919, 1925, 1930, 1935

THE SECOND SCHEDULE

ARTICLES TO BE UNCLASSIFIED AND INCLASSED

THE SECOND COLUMN

- Gold and silver plated or decorated manufactured or manufactured
- Plated articles and
- Cloths and linens and lace of which gold or silver forms part and being the uniform or part of the uniform of an officer, soldier, sailor, police officer or person employed as a workman or of any public officer, British or Foreign, entitled to wear uniform
- Antique prints, pictures, sketches, paintings and tracings
- Watch-like clocks and timepieces of any description
- Compressed securities
- Stamps
- Bills of exchange, promissory notes, bank notes and orders or other securities for payment of money
- Maps, plans, drawings and blue-prints
- Printings, engravings, lithographs, pictures, photographs, drawings, plans, maps and other works of art
- Art posters and all articles of that kind
- Books in a micro-film or micro-cassette form, and whether brought up to date with the original
- Grammophones and phonographs, gramophone records, including discs
- Leads, lines and fishing lures
- Optical and scientific instruments
- Stamps, seals and postmarks
- Maps, plans, drawings and blue-prints of any kind in the possession of a public officer
- Medals and decorations
- Any other articles of value which the High Commissioner may, by notification in the Gazette, add to this Schedule

36. (1) The High Commissioner shall, according to his powers, afford all reasonable facilities for the review, forwarding and delivery of traffic matter  
 Series

(2) The High Commissioner shall not make or give any undue or unreasonable preference or advantage to or in favour of any particular person or trading administration or any particular description of traffic in any respect whatsoever, nor shall he, in any particular person or trading administration or any particular description of traffic to any undue or unreasonable preference or advantage in any respect whatsoever.

37. (1) Whenever it shall appear to the High Commissioner that any person or class of persons or the business of any person or class of persons is or may be engaged in or about to engage in any trade or business which is or may be in competition with the business of any person or class of persons or the business of any person or class of persons, the High Commissioner may, if he is satisfied that it is in the public interest so to do, direct that the person or class of persons shall be licensed to engage in such trade or business, and may impose such conditions as to the carrying on of such trade or business as he may think fit.

(2) It shall be the duty of any person or class of persons licensed under the provisions of section 37 to carry on such trade or business in accordance with the conditions imposed by the High Commissioner, and any person or class of persons who fails to do so shall be liable to be dealt with as if he were a person who has failed to comply with the provisions of section 37.



## COLONY OF KENYA.

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**LETTERS PATENT** passed under the Great Seal of the United Kingdom, constituting the Office of Governor and Commander-in-Chief of the Colony of Kenya and providing for the Government thereof.

*Letters Patent dated 15th  
September 1920.*

George the Fifth, by the Grace of God, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India: To all to whom these Presents shall come, Greeting.

*Successive Orders in Council of 11th August 1901, 22nd October 1906, 2nd November 1907, 1st March 1911, 17th January 1912, 2nd March 1914, 2nd March 1915, 16th May 1919 and 20th April 1920.*

WHEREAS by Orders in Council bearing date the Eleventh day of August 1902, and the Twenty-second day of October 1906, as added to, altered or amended by further Orders in Council bearing date the Second day of November 1907, the Seventh day of March 1911, the Seventeenth day of January 1912, the Ninth day of March 1914, the Second day of March 1915, the Thirtieth day of May 1919, and the Twentieth day of April 1920, provision was made for the Administration of the Government of certain territories of Africa under Our protection and known as the East Africa Protectorate.

*Kenya (Annexation) Order  
in Council, 1920.*

And whereas by an Order in Our Privy Council bearing date the Eleventh day of June 1920, and known as the Kenya (Annexation) Order in Council, 1920, it is provided that the territories comprised in the East Africa

LETTERS PATENT constituting the Office of  
Governor and Commander-in-Chief,  
Colony of KENYA.

save in so far as any provision of any such Order in Council may be repugnant to any of the provisions of these Our Letters Patent, and of such Commission as may be issued to him under the Royal Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under the Royal Sign Manual and Signet, or by Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and to such laws as are now, or shall hereafter be in force in the Colony.

IV. Every person appointed to fill the Office of Governor shall, with all due solemnity, cause the Commission appointing him to be Governor to be read and published at the seat of Government in the presence of the Chief Justice, or of some other Judge of Our High Court of East Africa, or if there be no Judge of the said Court who is able to attend, in the presence of such other of Our officers in the Colony as can conveniently attend, which being done, he shall then and there take before him or them the Oath of Allegiance, in the form provided by an Act passed in the Session holden in the Thirty-first and Thirty-second years of the Reign of Her Majesty Queen Victoria, intitled "An Act to amend the Law relating to Promissory Oaths" and likewise the usual Oath for the due execution of the Office of Governor and for the due and impartial administration of Justice; which Oaths the said Chief Justice or Judge, or if they be unavoidably absent, some other of Our Officers then present is hereby required to administer.

V. The Governor shall keep and use the Public Seal of the Colony for sealing all things whatsoever that shall pass the said Seal: Provided that until a Public Seal shall be provided

Publication of Governor's Commission.

oath to be taken by Governor

Imperial Act 31 & 32 Vict.

Public Seal



Legislative Council.

VIII. There shall be a Legislative Council in and for the Colony constituted in such manner as We shall direct by any Instructions under Our Sign Manual and Signet and as may be provided by the Ordinance entitled "An Ordinance" to provide for the election and nomination of Members to the Legislative Council of the East Africa Protectorate," passed by the Legislative Council of the East Africa Protectorate on the Tenth day of July 1919, or by any law adding to, amending or substituted for the same by the Legislative Council of the Colony and for the time being in force therein:

Provided that the Members of the Legislative Council of the East Africa Protectorate as constituted at the date of the coming into operation of the Kenya (Annexation) Order in Council, 1920, shall be and be deemed to be Members of the Legislative Council of the Colony, but subject always to any conditions, provisions, and limitations prescribed by any Instructions under Our Sign Manual and Signet or by Us through one of Our Principal Secretaries of State.

Suspension of Members of the Legislative Council.

IX. The Governor may by an Instrument under the Public Seal suspend any Member other than an *ex officio* Member of the Legislative Council from the exercise of his functions as a Member of the Council. Every such suspension shall be forthwith reported by the Governor to Us through one of Our Principal Secretaries of State, and shall remain in force unless and until it shall be either removed by the Governor by an Instrument under the said Seal, or disallowed by Us through one of Our Principal Secretaries of State.

If the suspension is confirmed by Us through one of Our Principal Secretaries of State the Governor shall forthwith by an Instrument under the Public Seal revoke the appointment of such

Member and thereupon his seat in the Council shall become vacant.

X. The persons who shall, from time to time, compose the said Legislative Council shall have full power and authority, subject always to any conditions, provisos, and limitations prescribed by any Instructions under Our Sign Manual and Signet, to establish such Ordinances, not being repugnant to the law of England, and to constitute such Courts and Officers, and to make such provisions and regulations for the proceedings in such Courts and for the administration of justice, as may be necessary for the peace, order and good government of the Colony.

The Governor shall have a negative voice in the making and passing of all such Ordinances.

XI. We do hereby reserve to Ourselves, Our heirs and successors, full power and authority, and Our and their undoubted right, to disallow any such Ordinances, and to signify such disallowance through one of Our Principal Secretaries of State. Every such disallowance shall take effect from the time when the same shall be promulgated by the Governor in the Colony.

XII. We do also reserve to Ourselves, Our heirs and successors, Our and their undoubted right, with the advice of Our or their Privy Council, from time to time to make all such Laws or Ordinances as may appear to Us or them necessary for the peace, order, and good government of the Colony.

XIII. When a Bill passed by the Legislative Council is presented to the Governor for his assent he shall, according to the direction, but subject to any Instructions addressed to him,

Power of Legislative Council

Laws not to take effect until assented to.

Approved Bills

Governor's veto

Disallowance of Ordinances

Qualities and Legislative Council to observe Instructions

Power of Legislature, As reserved to the Crown.

Instructions addressed to make good of laws.

Assent to Bills

under the Royal Sign Manual and Signet or through one of Our Principal Secretaries of State declares that he assents thereto, or refuses his assent to the same, or that he reserves the same for the signification of Our pleasure.

No law shall take effect until either the Governor shall have assented thereto in Our name and on Our behalf, and shall have signed the same in token of such assent, or until We shall have given Our assent thereto by Our Order in Our Privy Council or through one of Our Principal Secretaries of State.

XIV. The Governor may reserve for the signification of Our pleasure thereon any Bill passed by the Legislative Council, and shall so reserve any such Bill which is in any way repugnant to or inconsistent with any of the provisions of any Instructions addressed to him under the Royal Sign Manual and Signet. A Bill so reserved shall take effect so soon as We shall have given Our assent thereto, either by Our Order in Our Privy Council, or through one of Our Principal Secretaries of State, and the Governor shall have signified such assent by Proclamation in the Official Gazette of the Colony of Kenya.

XV. In the making of any Ordinances the Governor and the said Legislative Council shall conform to and observe all rules, regulations, and directions in that behalf contained in any Instructions under Our Sign Manual and Signet.

XVI. The Governor, in Our name and on Our behalf, may make and execute, under the Public Seal, grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us. Provided that every such grant or disposition be made in conformity, either with some Order in Council or law now or hereafter in force in the Colony, or with some Instructions addressed to the Governor under Our

Member and thereupon his seat in the Council shall become vacant.

X. The persons who shall, from time to time, compose the said Legislative Council shall have full power and authority, subject always to any conditions, provisos, and limitations prescribed by any Instructions under Our Sign Manual and Signet, to establish such Ordinances, not being repugnant to the law of England, and to constitute such Courts and Officers, and to make such provisions and regulations for the proceedings in such Courts and for the administration of justice, as may be necessary for the peace, order, and good government of the Colony.

The Governor shall have a negative voice in the making and passing of all such Ordinances.

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XIII. When a Bill passed by the Legislative Council is presented to the Governor for his assent he shall, according to his discretion, but subject to any Instructions addressed to him,

Power of Legislative Council

Governor's vote

Disallowance of Ordinances

Power of Legislature, As reserved to the Crown

Assent to Bills

Laws not to take effect until assented to

Approved Bills

Qualities and Legislative Council to observe Instructions

Reserve reserved to make general laws

under the Royal Sign Manual and Signet or through one of Our Principal Secretaries of State declare that he assents thereto, or refuses his assent to the same, or that he reserves the same for the signification of Our pleasure.

No law shall take effect until either the Governor shall have assented thereto in Our name and on Our behalf, and shall have signed the same in token of such assent, or until We shall have given Our assent thereto by Our Order in Our Privy Council or through one of Our Principal Secretaries of State.

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Sign Manual and Signet, or through one of Our Principal Secretaries of State, or with some regulation in force in the Colony.

XVII. The Governor may constitute and appoint all such Judges, Commissioners, Justices of the Peace and other necessary Officers and Ministers, as may be lawfully constituted or appointed by Us, all of whom, unless otherwise provided by law, shall hold their offices during Our pleasure.

and to appoint Judges and other Officers.

XVIII. The Governor may, upon sufficient cause to him appearing, dismiss any public officer not appointed by virtue of a Warrant from Us, whose pensionable emoluments do not exceed one hundred pounds sterling a year, provided that in every such case the grounds of intended dismissal are definitely stated in writing, and communicated to the officer in order that he may have full opportunity of exculpating himself, and that the matter is investigated by the Governor with the aid of the head of the time being of the Department in which the officer is serving.

Dismissal and suspension of Officers.

The Governor may, upon sufficient cause to him appearing, also suspend from the exercise of his office any person holding any office in the Colony whether appointed by virtue of any Commission or Warrant from Us or in Our name, or by any other mode of appointment. Such suspension shall continue and have effect only until Our pleasure therein shall be signified to the Governor. If the suspension is confirmed by one of Our Principal Secretaries of State, the Governor shall forthwith cause the office to be so informed, and thereupon his office shall become vacant. In proceeding to any such suspension, the Governor is strictly to observe the directions in that behalf given to him by Our Instructions.

XIX. When any crime or offence has been committed within the Colony, or for which the

Grant of pardon.

Sign Manual and Signet, or through one of Our Principal Secretaries of State, or with some regulation in force in the Colony.

XVII. The Governor may constitute and appoint all such Judges, Commissioners, Justices of the Peace and other necessary Officers and Ministers, as may be lawfully constituted or appointed by Us, all of whom, unless otherwise provided by law, shall hold their offices during Our pleasure.

and to appoint Judges and other Officers.

XVIII. The Governor may, upon sufficient cause to him appearing, dismise any public officer not appointed by virtue of a Warrant from Us, whose pensionable emoluments do not exceed one hundred pounds sterling a year, provided that in every such case the grounds of intended dismissal are definitely stated in writing, and communicated to the officer in order that he may have full opportunity of exculpating himself, and that the matter is investigated by the Governor with the aid of the head for the time being of the Department in which the officer is serving.

Dismissal and suspension of Officers.

The Governor may, upon sufficient cause to him appearing, also suspend from the exercise of his office any person holding any office in the Colony whether appointed by virtue of any Commission or Warrant from Us or in Our name, or by any other mode of appointment. Such suspension shall continue and have effect only until Our pleasure therein shall be signified to the Governor. If the suspension is confirmed by one of Our Principal Secretaries of State, the Governor shall forthwith cause the officer to be so informed, and thereupon his office shall become vacant. In proceeding to any such suspension, the Governor is strictly to observe the directions in that behalf given to him by Our Instructions.

Execution of Oaths.  
Provision. Management prohibited.  
Suspension. Political offences.

Suspension to the Governor.

Order to be signed by Administrator.

Orders and resolutions of Administrator.

Grant of pardon.

...should may be tried thereby, the Governor may, as he shall see occasion, in Our name and on Our behalf, grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one; and further, may grant to any offender convicted of any crime or offence to any Court or before any Judge or other Magistrate within the Colony, a pardon, either free or subject to lawful conditions, or any remission of the sentence passed on such offender, or any respite of the execution of such sentence for such period as the Governor thinks fit, and may remit any fines, penalties, or forfeitures due or accrued to Us. Provided always, that the Governor shall in no case grant where the offence has been of a political nature unaccompanied by any other gross crime, make it a condition of any pardon or remission of sentence that the offender shall be banished from, or shall absent himself, or be removed from the Colony.

XX. Whenever the Office of Governor is vacant, or if the Governor becoming incapable or being absent from the Colony, or if from any cause prevented from acting in the duties of his Office, then such person or persons as may be appointed under the Royal Sign Manual and Signet, and in case there shall be no person or persons within the Colony so appointed, then the senior Member of the Executive Council then resident in the Colony, and capable of discharging the duties of Administration, shall during Our pleasure administer the Government of the Colony, first taking the Oath herein-before directed to be taken by the Governor, and in the manner herein prescribed, which being done, We do hereby authorize, empower, and command any such Administrator as aforesaid, to do and execute, during Our pleasure, all things that belong to





~~Charlotte~~

Will you please look at the "Director's minutes" of 20th Dec. on the "us" topics? and effect "some amendments necessary in Clauses 5, 6, 7, 10 of both parts of the Bill."

Ed. G. G.

Done.

4/1/24

Ed. G.

1/8

I hope that the effect of hearing this or technical & unprecedented stuff out as "recommendations" will not be as alluring as it appears - because it is not capable of effecting

~~Elizabeth~~

Will you not point to Eden's account  
of 2000 in the 'us' paper and effect  
"since amendment necessary in clauses  
5, 6, 7, 10 of both sides of the Bill"

Eden

done

REC.

1/8

4/18/24

Hope that the effect of sending this  
of technical & unprecedented nature  
out as "recommendation" will not  
be a serious obstacle - because  
it is not capable of attention



DRAFT.

MINUTE

Receipt - detail.

Could it not somehow (printed or  
Newspaper) be explained <sup>to the</sup> public  
in this cause & that the Trust is  
meant for disbursement?





DRAFT.

KENYA CONFIDENTIAL.  
Sec. Secretary.UGANDA CONFIDENTIAL.  
Gov. Agent.

DOWNING STREET,

27 August, 1924.

MINUTE.

Sir,

I have the honour to acknow-

\* To Kenya only lodge the receipt of your Confidential

Despatch No. 100 of the 21st of May  
1924transmitting copies of the "Kenya  
a copy

and Uganda Railway, Harbour and Lake

Services Bill, 1924"

2. The Bill has been very

carefully considered by my advisers

in conjunction with the General Manager

of the Uganda Railway. In addition,

Mr. I. L. O. Gower, the Solicitor General

of Kenya, was present on one

occasion

Mr. Seel 11.8.24.

Mr. Harcourt 11/8.

Mr. Bushe 11/8.

Mr. Jeffries 19/8

Mr. O. Jones

Mr. G. G. G.

Mr. H. H. H.

Mr. Arnold

Mr. Thomas

30229/34

CONFIDENTIAL.

No. 100 of the 21st of May 1924

transmitting copies of the "Kenya

and Uganda Railway, Harbour and Lake

Services Bill, 1924"

2. The Bill has been very

carefully considered by my advisers

in conjunction with the General Manager

of the Uganda Railway. In addition,

Mr. I. L. O. Gower, the Solicitor General

of Kenya, was present on one

occasion

To be read to Mr. Seel to check

the accounts

SD 26-8

occasion when it will have been discussed.

3. In the course of the discussions my legal advisers explained to the General Manager their view (in which I concur) that the creation of the office of High Commissioner, exercising certain functions concurrently in both Kenya and Uganda, would more properly be effected by an Order of His Majesty in Council, rather than by Ordinances concurrently enacted by the Legislatures of Kenya and Uganda. In accordance with this view, it has been decided that an Order-in-Council should be prepared, providing for the establishment of the High Commissioner and for his equipment, with such of the necessary powers as cannot properly be conferred upon him by the Legislature of either Dependency. In addition, the provisions relating to the setting up of the Railway and Harbour Fund, the Railways Advisory Council and the Port Advisory Board, appear to fall more appropriately within the scope of an Order-in-Council than of Local Ordinances.

4. I enclose, for your consideration, a copy of the recommendations which have been made as to the provisions to be embodied in the Order-in-Council.

Yours

as redrafted by Mr. Gower in consequence  
of these amendments is enclosed herewith.

I have, in addition to invite your attention  
to the following observations on the Bill  
as it now stands.

(a) Clause 7. This Clause provides  
that where power exists to expropriate land  
for railway purposes, but a servitude in or over  
the land would suffice, the High Commissioner  
may take such servitude instead of buying out  
the owner of the land. I shall be glad if you  
will consider whether it would not be more  
equitable to give to the owner the option of  
being expropriated, if he so desires, rather  
than be compelled to retain the ownership of  
the land and to suffer the High Commissioner  
to use it for railway purposes.

(b) Clauses 34 and 37, providing  
respectively that the High Commissioner  
shall be responsible for offering reasonable  
facilities for traffic, and that no undue  
preference shall be given, have been inserted.

private railway will require separate legislation, it may be unnecessary to retain this Chapter in the Bill, with the exception of the first half of Clause 82(1). Provision for the control and inspection of a private railway could be embodied in the special legislation authorising the construction of such a railway. I shall be glad, however, if you will consider this point with reference to the possible necessity of retaining the whole chapter for application to any existing private railways.

(f) It will be necessary to add a clause to the Bill suspending its operation until a date to be notified by the Governor of Kenya and the Governor of Uganda in a joint Proclamation, in order that it may come into force simultaneously in both Dependencies after the issue of the Order in Council.

6. A similar despatch is being addressed to the Governor of Uganda. You will no doubt discuss with him any matters arising out of the Recommendations for the preparation of an Order in Council on the Bill

W. H. H. H. H. H.  
23/9/20

437

~~Handwritten scribbles~~

and

~~Handwritten signature~~

Codes & Sent

2.5 pm

17<sup>th</sup> Sep<sup>r</sup> '20

Ⓟ

C. S.  
17 SEP

17<sup>th</sup> September Confidential

Capt. Code

DRAFT.

Governor

Nairobi

MINUTE.

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

Mr. ...

My despatch of 27 August  
confidential after further  
consideration I am of opinion  
that subject to your views  
and those of Governor of  
Uganda and Railway Council  
of recommendations for Draft  
Railway Order in Council  
should be made more definite  
by omitting last eight words  
and substituting by  
to the Secretary of State who  
shall decide

~~Handwritten text~~  
The draft shall fall to be

92



Made good by both  
Government and voters  
accordingly shall be submitted  
to the Legislative Councils and

This will set out the procedure  
completely without overriding the  
powers of the Legislative Councils

Refer to Education agenda

is by means of an Order  
in Council, the local  
legislatures being left  
to provide by Ordinance  
for such matters as are  
undoubtedly within their  
provinces.

It is however felt  
here that the <sup>provision</sup> local legislatures; but in the <sup>present</sup> <sup>case</sup> <sup>of</sup> <sup>the</sup> <sup>provision</sup>  
to provide them with a <sup>provision</sup> <sup>of</sup> <sup>the</sup> <sup>provision</sup>  
~~should be considered as to~~  
~~approval of the measure would not~~  
~~the form which the~~  
~~be merely &~~  
~~Order in Council should take,~~  
and the course has therefore  
been adopted of sending  
you the material prepared  
here with a view to the  
legislative Council sending  
it back in the form of  
its own recommendation as

except in detail. The full &  
frank discussion which we  
have had with Felling  
and Gower should show  
that local conditions &  
local points of view have  
received adequate consideration.

I am sending a  
similar letter to Werner  
Coryman

Yours sincerely

(Signed) H. J. READ

except in detail. The full &  
frank discussion which we  
have ~~to~~ had with Felling  
and Bowser should ensure  
that local conditions &  
local points of view have  
received adequate concern.

I am sending a  
similar letter to Mr. Cuyler

Yours sincerely

(Signed) H. J. READ

except in detail. The full &  
frank discussion which we  
have so had with falling  
and bones shall ensure  
that local conditions &  
local points of view have  
received adequate concern.

I am sending a  
similar letter to         
Coyner

Yours sincerely

Signed: H. J. READ