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KENYA

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DATE

14th January, 1924

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CIRCULATION

Mr. E. Schmitt
Mr. Bottrill

U.S. of S.

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Secretary of State

Previous Paper

200
2105
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19 FEB 1924

Mr. Schmitt

Subsequent Paper

21947

The Fish Protection (Amendment) (Order)
No. 29 of 1923

Enclosed 2 authenticated & Ken printed copies together with legal report.

These copies to Library

MINUTES

If section 2 were limited to "the taking or killing of any species of trout", there might be some justification of this ordinance in view of the statement of objects and reasons, but I cannot see any justification for the wider terms. It will be seen from the volumes put up by Library that licenses have to be taken out by non-natives to fish in Victoria Nyanya, and there appears to be no reason for paying to this Association 70% of these licenses.

But quite apart from that I think the whole method of proceeding by ordinance is objectionable and

unnecessary. What the Governor should have done is to give the annual amount received by Govt. from trout licenses & to ask permission to provide (of expenditure) in the annual estimates a sum of estimated at 90% of that amount for the more effectual protection and improvement of fish for the public benefit generally. As it is, the P. of S. is virtually asked to sanction the annual expenditure of a sum, the amount of which is not even hinted at.

? Reply on these lines adding that meanwhile no advice will be tendered to H.M.

W.C.
" 23 24

It might also be pointed out that the Ord^r does not indicate how the H. Profy Ass^y is to

be identified. There does not seem any thing to prevent any group of persons from forming themselves into an association with this title & claiming the subsidy & usurping the functions.

The matter dealt with in the Ord^r may not be very important but from an administrative point of view it wd seem imprudent to transfer to an amateur ass^y the duty of administering & enforcing the rules made by the Govt. under the principal Ord^r. No provision is made for checking the Ass^y in the discharge of the duties imposed on it & the subsidy will remain payable to it though the service may be inefficient & wasteful, so long as the Ord^r remains unrevoked.

W.C.

Personally I object to principle & all ord^rs. pertaining to various portions of general revenue, which

is charged with the service of
loan; and any other charges
on revenue should be
provided by annual
appropriation in the regular
way.

Yours have & aff to answer

U.S. 12.2.24.

Wm

Wm

KENYA.

No. 40.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

January 14th, 1924.

My Lord Duke,

I have the honour to transmit herewith two authenticated and ten printed copies of "The Fish Protection (Amendment) Ordinance, 1923", together with a statement of objects and reasons and a comparative table prepared by the Acting Attorney General.

2. This Ordinance passed its third reading in Legislative Council on the 9th of November, 1923, and on the 23rd of November, 1923. I assented to it in the name of His Majesty.

I have the honour to be,

My Lord Duke,

Your Grace's most devoted
and most obedient servant,

G O V E R N O R .

GRACE

THE DUKE OF DEVONSHIRE, K.G., P.C., G.C.M.G., G.C.V.O.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.,

Ordinance.

Statement.

Comparative Table.

is secured under Section 3. In these circumstances and in view of the fact that the Ordinance deals with a small portion of the public revenues and amends the Fish Protection Ordinance, 1908, - an Ordinance of public application - it does not appear to fall within the provisions of Article XXIV of the Royal Instructions relating to Private Bills.

Nairobi.

10th November, 1923.

MR. IVON L. O. GOWER

ACTING ATTORNEY-GENERAL.

THE FISH PROTECTION (AMENDMENT) ORDINANCE, 1923.

Comparative Table of Sections.

234

| No. | Remarks. |
|-----|--|
| | Short title. |
| | To enable the Treasurer to dispose of a portion of the fees collected from licences. |
| | Accounts of expenditure to be kept. |

Nairobi,

10th November, 1923.

64. IVON L. D. GOWER

ACTING ATTORNEY-GENERAL.

THE FISH PROTECTION (AMENDMENT) ORDINANCE, 1923.

Comparative Table of Sections.

231

| on. | Remarks. |
|-----|--|
| | Short title. |
| | To enable the Treasurer to dispose of a portion of the fees collected from licences. |
| | Accounts of expenditure to be kept. |

Nairobi.

30th November, 1923.

64 IVON L. O. GOWER

ACTING ATTORNEY-GENERAL

Gov. / 6028 / Kenya

235

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188

Handwritten initials

Amud
379427

19 Feb 1924

Sir,

I have etc. to acknowledge the

receipt of your despatch No. 40

of the 14th of January transmitting

copies of "The Fish Protection (Amendment)

Ordinance 1923."

2. That Ordinance sanctions

the payment to the Kenya Angling

Association of ninety per cent of

all fees received in respect of

licenses for the taking or killing

of any species of fish. I observe

from the statement of objects and

DRAFT.

Kenya

No. 226.

Gov. Comptroller

MINUTE.

Mr. Calder 15.2.24

Mr. Botherly 15

Mr.

Sir C. Davis.

Sir G. Grindle.

+ Sir H. Read.

Sir J. Masterion Smith.

Mr. Ormsby-Gore.

Duke of Devonshire.

(For comment.)

at once.
Mr. J. R.

reasons that the aim is to enable the Association to assist the Government in the improvement and protection of trout fishing by breeding and stocking in the streams, and in the circumstances I should have expected that the most the Association could have claimed from the Government by way of grant would be the amount received from trout licences. There appears ^{for example,} to be no reason for diverting the moneys received from licences under the Victoria Wyanza Fish Protection Rules to stocking Wyanza streams with trout. In any case I shall be glad to learn what are the estimated annual receipts from ~~trout~~ trout licences, such as have been issued pursuant to Rules under the Fish Protection Ordinance and what

proportion of the total comes from trout licences.

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3. I must also point

out that the Ordinance does not indicate how the Wyanza Angling Association is to be identified, and that from an administrative point of view it seems imprudent to transfer to an amateur association the duty of administering and enforcing rules made by the Governor under the principal Ordinance. No provision is made for checking the Association in the discharge of the duties imposed on it.

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Sir C. Davis.

Sir G. Grindle.

Sir H. Road.

Sir J. Masterion Smith.

Mr. Ormsby Gore.

Duke of Devonshire.

the liability will remain payable to it
although the service may be inefficient
and wasteful.

4. But apart from such minor
points, however, it is objectionable in
principle that any ordinance should
be put to earmark portions of Kenya
public revenue which is charged with the
service of loans. Any other charges or revenue
should be provided by annual appropriation
in the regular way. In the present case
the normal procedure would have been
for you to suggest the inclusion in
the annual estimates of a ^(grant) grant from

Govt. to the Kenya Angling Association.

You would have reported the ~~amount~~
full details in support of your proposal, proposing the
annual amount received by Govt. from trout

licences, ~~and~~ the ~~amount~~ ~~received~~ ~~from~~ ~~trout~~
the duties which the ~~Association~~ ~~is~~ ~~entitled~~ ~~to~~
could undertake in return for a grant and
the ~~amount~~ ~~received~~ ~~from~~ ~~trout~~ ~~licences~~ ~~is~~ ~~not~~ ~~at~~ ~~all~~

whether ~~the~~ ~~amount~~ ~~received~~ ~~from~~ ~~trout~~ ~~licences~~ ~~is~~ ~~not~~ ~~at~~ ~~all~~
amount should be invested
in expenditure would result from
annually ~~the~~ ~~estimate~~ ~~to~~
the proposed arrangements
with the Association - ~~and~~ ~~it~~ ~~is~~ ~~not~~ ~~clear~~

237

Further notes.

5. ~~Grant~~ ~~from~~ ~~Govt.~~

DRAFT.

MINUTE.

Mr.

Mr.

Mr.

Sir C. Davis.

Sir G. Grindle.

Sir H. Road.

Sir J. Maclean Smith.

Mr. Ormsby Gore.

Duke of Devonshire.

I consider that that procedure
in case of any objection to such
should be adopted, and
a procedure and I consider

that Ordinance No. XXIX of 1923

repealed or
should be disallowed by His
Majesty. I shall, however,

defer tendering my advice on
the subject until I receive
your reply to this despatch.

(SIGNED) J. H. THOMAS.