

1931

Kenya

No. 17308

SUBJECT

CO 533/415

Veterinary Services in Native Reserves.

Native Livestock.

Previous

16324/30.

See 17145/31. (Meat Factory)

• 17009/31 (Stock Trade in N.E.P.)

• 16384/30. (Stock Form in
Mara + Kamba Res.)

Subsequent.

No. XX

Local Government (Municipalities) 1931

- (ii) for providing for the vesting in any such Committee of such powers as may, in his opinion, be necessary or desirable for the proper management and control of any such hospital or dispensary by such Committee, including the power to sue in any competent court for the recovery of all debts of whatsoever description due to such hospital or dispensary; and for regulating the exercise of the powers so conferred;
- (iii) for prescribing and regulating the financial relations between the local authorities concerned and such Committee, and the control to be exercised over such Committee by such local authorities.

Passed in the Legislative Council the eighteenth day of June, in the year of Our Lord one thousand nine hundred and thirty-one.

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

G. BERESFORD STOOKE.

Acting Clerk of the Legislative Council.

12
END

LEGAL REPORT

THE LOCAL GOVERNMENT (MUNICIPALITIES) (AMENDMENT) BILL, 1931.

Neither the Local Government (Municipalities) Ordinance, 1928, nor the Local Government (District Councils) Ordinance, 1928, gives power to Municipal Boards and Councils or Districts Councils to amalgamate together for the purpose of establishing and maintaining a hospital. It has become evident from arrangements contemplated between the Eldoret Municipal Board and the Uasin Gishu District Council that they should be enabled jointly to establish and maintain a hospital for Europeans. The Bill makes this provision and further provides for the Governor to make rules in regard to the practical working of such joint ownership.

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

Nairobi,

8th July, 1931.


ATTORNEY GENERAL.

No. XX of 1931.

An Ordinance to Amend the Local Government (Municipalities) Ordinance, 1928.

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

1. This Ordinance may be cited as "the Local Government (Municipalities) (Amendment) Ordinance, 1931," and shall be read as one with the Local Government (Municipalities) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance." Short title
No. 19 of 1928.

2. Paragraph (b) of sub-section (31) of section 52 of the Principal Ordinance is hereby repealed and the following substituted therefor:— Amendment of
section 52 of
the Principal
Ordinance.

" (b) Subject to the consent of the Governor, to acquire, establish and maintain, either by itself or jointly with any one or more local authorities appointed under this Ordinance or under the Local Government (District Councils) Ordinance, 1928, hospitals and dispensaries within or without the municipality, and to provide treatment free of charge for indigent patients who are inhabitants of the municipality: No. 21 of 1928.

Provided that, where any hospital or dispensary shall be maintained by the Council jointly with one or more local authorities as aforesaid, the Governor may, notwithstanding any of the provisions of this Ordinance or of the Local Government (District Councils) Ordinance, 1928, make Rules for the following purposes—

- (i) for providing for the appointment of a Committee of Management, for prescribing and regulating the constitution of such Committee and the appointment and removal of the members thereof, and for regulating the proceedings of such Committee;

No. XX.

25
1931.



Colony and Protectorate of Kenya.

IN THE TWENTY SECOND YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., O.B.,
Governor

Assented to in His Majesty's
name this 10th day of July,
1931

J. BYRNE

Governor

AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (MUNICIPALITIES)
ORDINANCE, 1928

LEGAL REPORT
THE LOCAL GOVERNMENT (DISTRICT COUNCILS)
(AMENDMENT) BILL, 1931.

The Uasin Gishu District-Council has been a party in recent negotiations with the Eldoret Hospital Trustees in regard to the taking over of the Eldoret European Hospital from the Trustees. The Local Government (District Councils) Ordinance, 1928, empowered the Councils to adopt a special method of rating for the purpose of making grants to any hospitals or dispensaries for the benefit of Africans.

It is not at present feasible for the Council to utilise either of the three methods of rating land, as to which the Principal Ordinance confers powers upon Councils, in order to make grants towards the maintenance of the Eldoret European Hospital, and it is proposed at the instance of the District Council to empower it to impose a special hospital rate not exceeding Shs.50/- for this purpose. The rate is payable by all adult male Europeans resident in the district, but provision is made for the Governor, on the application of the Council, to grant to any person or body of persons power to remit the rate wholly or in part in cases where it is proved that payment will impose undue hardship.

Opportunity is also being taken to substitute the words "the Governor" for the words "the Governor in Council" in sub-section (7) of section 57.

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

Nairobi.

8th July, 1931.

[Signature]
ATTORNEY GENERAL.

413 PUBLIC WORKS OFFICE, LONDON

No. XIX

Local Government (District Councils) 1931

Passed in the Legislative Council the eighteenth day of June, in the year of Our Lord one thousand nine hundred and thirty-one.

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

W. BAREFORD STOOKE

Acting Clerk of the Legislative Council.

18B

No. XIX

Local Government (District Councils)

1931

Passed in the Legislative Council the eighteenth day of June, in the year of Our Lord one thousand nine hundred and thirty-one.

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

W. BEREKSTORD STOOKE

Acting Clerk of the Legislative Council.

Repeal and replacement of section 101 of the Principal Ordinance.

Power of Council to impose rate.

4. Section 101 of the Principal Ordinance is hereby repealed and the following substituted therefor:—

101. (1) (a) For the purpose of establishing and maintaining hospitals or of making grants towards the establishment and maintenance of hospitals for the reception of European patients, the Council may, as an additional method of rating, by resolution passed by a majority of at least two-thirds of the elected members of the Council and approved by the Governor, impose for each financial year on every male person of wholly European origin or descent residing within the district a rate of such amount, not exceeding fifty shillings, as may be fixed by such resolution.

(b) Notice of such resolution shall be given and advertised in the same manner and for the same periods as if such resolution were a resolution to adopt a method of rating for the purposes of a district rate under section 73 of this Ordinance.

(c) The rate imposed by the Council shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the Council shall give at least thirty days' notice by advertisement in the Gazette and in a newspaper circulating in the district.

Provided that the rate shall become due and payable within the financial year for which it is imposed.

(d) The following persons shall be exempted from the payment of the rate:—

- (i) Every person under the age of twenty-one years.
- (ii) A person on a temporary visit to the district not exceeding six months in duration.

(e) The burden of proof of exemption from the rate shall lie on the party claiming the exemption.

(f) Notwithstanding the provisions of sub-section (1) (c) of this section, any male person of wholly European origin or descent who is not residing in the district on the first day of January or who, although residing in the district on that day, leaves the district before the date on which the rate becomes due and payable under sub-section (1) (c) of this section, shall pay the rate within one month after his arrival in or return to the district, as the case may be.

Exemptions.

(g) The rate shall be recoverable from persons in default in the manner provided in this Ordinance for the recovery of rates.

Provided that the Governor may, on the application of the Council, grant to any person or body of persons power to remit the rate wholly or in part in respect of any person liable for the rate who satisfies him that the payment thereof will impose undue hardship upon such person.

(2) (a) For the purpose of making grants to any hospital or dispensary for the benefit of Africans employed within the district, which the Council is empowered by this Ordinance to make, or for meeting the cost of treatment of such Africans in hospitals and dispensaries established by the Council under the provisions of this Ordinance, the Council may, by resolution passed by a majority of at least two-thirds of the elected members of the Council, adopt as an additional method of rating a flat rate per head of Africans employed within the district.

(b) Notice of such resolution shall be given and advertised in the same manner and for the same periods as if such resolution were a resolution to adopt a method of rating for the purposes of a district rate under section 73 of this Ordinance.

(c) When such method of rating has been adopted as aforesaid the Council may, from time to time by resolution passed by a majority of the elected members of the Council, impose a rate upon employers of African labour of such amount per head of Africans employed by them as the Council shall determine.

(d) For the purpose of this section "Africans" shall include any casual native labourers and any natives residing on farms under the provisions of the Resident Native Labourers Ordinance, 1925, or any law amending or replacing the same.

(3) The Council may exercise the powers conferred upon it by this section in respect of either—

- (i) the district as a whole; or
- (ii) any part of the district.

Provided that such powers shall not be exercised in respect of part only of the district without the consent of the Governor.

Repealed 8/10/25
of 1925

No. XIX

Local Government (District Councils) 1991

Repeal and
replacement of
section 101 of
the Principal
Ordinance

Power of
Council to
impose rate

4. Section 101 of the Principal Ordinance is hereby repealed and the following substituted therefor:

101. (1) (a) For the purpose of establishing and maintaining hospitals or of making grants towards the establishment and maintenance of hospitals for the reception of European patients, the Council may, as an additional method of rating, by resolution passed by a majority of at least two-thirds of the elected members of the Council and approved by the Governor, impose for each financial year on every male person of wholly European origin or descent residing within the district a rate of such amount, not exceeding fifty shillings, as may be fixed by such resolution.

(b) Notice of such resolution shall be given and advertised in the same manner and for the same periods as if such resolution were a resolution to adopt a method of rating for the purposes of a district rate under section 73 of this Ordinance.

(c) The rate imposed by the Council shall become due and payable upon a day to be fixed by it, of which day and of the amount of which rate the Council shall give at least thirty days' notice by advertisement in the Gazette and in a newspaper circulating in the district:

Provided that the rate shall become due and payable within the financial year for which it is imposed.

(d) The following persons shall be exempted from the payment of the rate:

(i) Every person under the age of twenty-one years.

(ii) A person on a temporary visit to the district not exceeding six months in duration.

(e) The burden of proof of exemption from the rate shall lie on the party claiming the exemption.

(f) Notwithstanding the provisions of sub-section

(1) (e) of this section, any male person of wholly European origin or descent who is not residing in the district on the first day of January or who, although residing in the district on that day, leaves the district before the date on which the rate becomes due and payable under sub-section (1) (e) of this section, shall pay the rate within one month after his arrival in or return to the district, as the case may be.

Exemptions

No. XIX of 1931.

**An Ordinance to Amend the Local Government
(District Councils) Ordinance, 1928.**

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

1. This Ordinance may be cited as "the Local Government (District Councils) (Amendment) Ordinance, 1931," and shall be read as one with the Local Government (District Councils) Ordinance, 1928, hereinafter referred to as "the Principal Ordinance." Short title.
No. 21 of 1928.

2. (1) Sub-section (7) of section 57 of the Principal Ordinance is hereby amended by substituting the words "the Governor" for the words "the Governor in Council." Amendment of
section 57 of
the Principal
Ordinance.

(2) Sub-section (7) of section 57 of the Principal Ordinance is hereby further amended by the addition of the following paragraph, to be numbered (d):—

(d) to acquire, establish and maintain, either by itself or jointly with any other Council or any Municipal Council or Municipal Board, hospitals and dispensaries within or without the district, and to make such charges in connexion therewith as shall be fixed by by-law."

3. Sub-section (8) of section 57 is hereby repealed.

Repeal of
sub-section (8)
of section 57
of the
Principal
Ordinance.

No. XIX.

1931.



Colony and Protectorate of Kenya.

IN THE TWENTY-SECOND YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 14th day of July
1931.

J. BYRNE.

Governor.

AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (DISTRICT COUNCILS)
ORDINANCE, 1928

LEGAL REPORT

THE LOCAL GOVERNMENT (ELDORET EUROPEAN HOSPITAL RATE) BILL, 1931.

Negotiations have recently been in progress between the Eldoret Municipal Board and the Eldoret Hospital Trustees for the handing over of the hospital by the Board of Trustees to the Municipal Board.

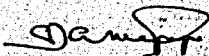
It is not feasible for the Municipal Board, which has not yet compiled a valuation roll, to make contributions towards hospital revenue from its ordinary municipal revenues. It is therefore proposed, at the instance of the Municipal Board, to empower that Board to impose a special rate for the purpose of establishing and maintaining a hospital for European patients on the basis of a poll tax for every male European residing within the municipality.

The Bill empowers the Board to impose a rate not exceeding Shs.50/-; provides for two classes of exemption, and further enables the Governor, on the application of the Board, to grant to any person or body of persons power to remit the rate either wholly or in part in cases where it is proved that payment will impose undue hardship.

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

Nairobi,

8th July, 1931.


ATTORNEY GENERAL.

Public Office LONDON

thirty days' notice by advertisement in the Gazette and in a newspaper circulating in the Municipality:

Provided that the rate shall become due and payable within the financial year for which it is imposed.

Proceeds of rate to be used for hospital purposes.

5. The proceeds of the rate shall be applied for and towards the cost of establishment, erection, equipment or maintenance by the Board of hospitals for the reception of European patients.

Exemptions.

6. (1) The following persons shall be exempted from payment of the rate:—

(a) Every person under the age of twenty-one years.

(b) A person on a temporary visit to the Municipality.

(2) The burden of proof of exemption from the payment of the rate shall lie on the party claiming the exemption.

Persons absent on due date to be liable on return.

7. Notwithstanding the provisions of section 4 of this Ordinance, any European who is not residing in the Municipality on the first day of January or who, although residing in the Municipality on that day, leaves the Municipality before the date on which the rate becomes due and payable under section 4 of this Ordinance, shall pay the rate within one month after his arrival in or return to the Municipality, as the case may be.

Payment of rate.

8. Whenever the Board shall have given notice as aforesaid of the day upon which the rate shall become due and payable, and of the amount of the rate, it shall be the duty of all persons liable for the rate to pay the amount thereof at the offices of the Board on the day so fixed as aforesaid.

Procedure for recovery.

9. If any person shall make default in the payment of the rate due and payable by him, the amount of such rate may be recovered in the manner provided in sections 21 and 22 of the Local Government (Rating) Ordinance, 1928:

Provided that the Governor may, on the application of the Board, grant to any person or body of persons power to remit the rate either wholly or in part in respect of any person liable for the rate who satisfies him that payment thereof will impose undue hardship upon such person.

Passed in the Legislative Council the eighteenth day of June, in the year of Our Lord one thousand nine hundred and thirty-one.

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

G. BERESFORD STOOKE

Acting Clerk of the Legislative Council.

No. XVIII of 1931.

An Ordinance to make Provision for the Imposition by the Eldoret Municipal Board of a Rate for Purposes Connected with the Eldoret European Hospital.

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

1. This Ordinance may be cited as "the Local Government (Eldoret European Hospital Rate) Ordinance, 1931." Short title.

2. In this Ordinance, unless inconsistent with the context— Interpretation

"the rate" means the rate prescribed by this Ordinance.

"the Board" means the Municipal Board having jurisdiction over the Municipality of Eldoret declared to be a municipality in accordance with the provisions of the Local Government (Municipalities) Ordinance, 1928. No. 19 of 1928

"European" means a male person of wholly European origin or descent;

"temporary visit" means a visit to the Municipality not exceeding six months in duration.

3. The Board may, by resolution passed by a majority of the Councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Board, impose for each and every financial year on every European residing within the Municipality a rate of such amount not exceeding fifty shillings as may be fixed by such resolution. Imposition of hospital rate

4. The rate imposed by the Board shall become due and payable upon a day to be fixed by the Board, of which day and of the amount of which rate the Board shall give at least Date on which rate becomes payable.



Colony and Protectorate of Kenya.

IN THE TWENTY-SECOND YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.

Governor

Assented to in His Majesty's
name this 14th day of July
1931.

J. BYRNE.

Governor.

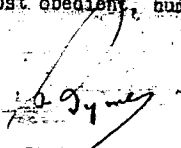
AN ORDINANCE TO MAKE PROVISION FOR THE
IMPOSITION BY THE ELDORET MUNICIPAL
BOARD OF A RATE FOR PURPOSES CON-
NECTED WITH THE ELDORET EUROPEAN
HOSPITAL

disallowance in respect of them.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,



BRIGADIER-GENERAL.
GOVERNOR.

under section 52(31b) of the Local Government (Municipalities) Ordinance, 1928 to establish and maintain this Hospital. The fact that the Hospital is a European Hospital and that the Municipal Board's normal resources from rates, which are not very extensive, should not, as it were, be hypothecated for this purpose, constrained both the Board and Government to agree to the introduction of a special rate for Hospital purposes chargeable on each European resident in preference to the imposition of a site value rate under the Local Government (Rating) Ordinance, 1928. A similar rate was agreed to in the District Council area where there would have been much opposition to a land rate for this purpose. Consequently it was necessary to introduce special legislation to enable the imposition of this rate in each area.

The first two Bills referred to in paragraph 1 above achieve this object.

6. The special difficulty in the arrangement contemplated was that the bulk of the revenue from taxation on a Poll Tax basis must come from the District Council, and it was therefore considered imperative to devise a means to bind that Council to its obligation, and to the continuation of those obligations. That means is contained in the third Ordinance transmitted, which enables the local authorities actually to become joint owners of a Hospital. Various details in regard to the procedure to be adopted by joint owners will have to be worked out, and Your Lordship will observe that power is reposed in the Governor to deal with such matters by way of Rules.

7. These measures will, it is hoped, enable the Hospital to be carried on at Eldoret, and I trust that His Majesty will be advised not to exercise his power of

disallowance

itself, last year, unable to defray its liabilities.

4. The Company discussed the position with the Eldoret Municipal Board and Uasin Gishu District Council, and these Authorities, on the figures given to them, expressed their willingness to take over the hospital subject to certain assistance from Government in meeting the outstanding liabilities, and to impose a rate for the support of the Hospital. The position was discussed in Executive Council in December last, and it was decided that, subject to the Company going into voluntary liquidation and the Hospital being taken over by the Eldoret Municipal Board, Government should make a free grant of £1,250 and a loan of £1,250 in respect of the Hospital liabilities, on an assurance from the Board that it would accept full responsibility for seeing that the monies were applied for the purposes in respect of which they were granted, and for taking the necessary steps, at the earliest opportunity, for raising a rate to cover future commitments for loan charges and for the proper maintenance and operation of the Hospital in conjunction, if possible, with the District Council. This appeared to be the only alternative to shutting down the Hospital which, from every point of view, would have been most regrettable.

A further detailed examination of the financial position disclosed larger liabilities than had been at first anticipated, and it has now been agreed to increase the grant and the loan referred to above to £1,608 in each case, and further, that Government should make an annual grant towards Hospital revenues in lieu of the liability hitherto accepted, of contributing the cost of the treatment of indigent patients.

5. Both the Municipal Board and the District Council have agreed to impose a Hospital rate, and an application was made by the Board for the consent of the Governor,

under

KENYA.

No. 435



GOVERNMENT HOUSE,
NAIROBI,
KENYA

RECEIVED
21 AUG 1931
COL. OFFICE

29th July, 1931.

My Lord,

I have the honour to transmit two authenticated copies of Ordinances Nos. XVIII, XIX and XX entitled respectively, the Local Government (Eldoret Hospital Rate) Ordinance, the Local Government (District Councils) (Amendment) Ordinance, 1931 and the Local Government (Municipalities) (Amendment) Ordinance, 1931 which passed their third reading in Legislative Council on the 18th June, 1931 and to which I assented in His Majesty's name on the 14th July, together with legal reports thereon prepared by the Attorney General. Ten printed copies of each Ordinance will be sent under separate cover.

2. It will be within Your Lordship's knowledge that, in 1922, the European Hospital at Eldoret was handed over by this Government to a Hospital Company, and that this Company has been responsible, from that year, for the finances and management of the Hospital.

3. In 1929 the Company wished to extend the Hospital buildings and commenced a building programme in respect of which this Government would have been liable for one-half of the cost in accordance with the resolutions in regard to non-Government European hospitals, passed in Legislative Council in June, 1928, subject to its approving the programme. The Company, however, did not obtain Government's prior approval to its complete programme and found

itself

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,

L O N D O N. S.W.1

Answer (3)

18

17306/31

21



THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
No. S. 1000 1/2/5/39.
AND DATE

31st July, 1931.

RECEIVED
24 AUG 1931
COL. OFFICE

No. 1

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No. 435 of the 29th July, 1931 has the honour to transmit ten printed copies of each of the undermentioned Ordinances.

No. XVIII/1931 entitled "the Local Government (Eldoret Hospital Rate) Ordinance, 1931".

No. XIX/1931 entitled "the Local Government (District Councils) (Amendment) Ordinance, 1931".

No. XX/1931 entitled "the Local Government (Municipalities) (Amendment) Ordinance, 1931".

17306/31



THE SECRETARIAT,
NAIROBI,
KENYA.

31st July, 1931.

WHEN REPLYING
PLEASE QUOTE
No. and DATE
1/2/5/39.

RECEIVED
24 AUG 1931
COL. OFFICE

no. 1

The Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No.435 of the 29th July, 1931 has the honour to transmit ten printed copies of each of the undermentioned Ordinances

- No. XVIII/1931 entitled "the Local Government (Eldoret Hospital Rate) Ordinance, 1931".
- No. XIX/1931 entitled "the Local Government (District Councils) (Amendment) Ordinance, 1931".
- No. XX/1931 entitled "the Local Government (Municipalities) (Amendment) Ordinance, 1931".

sent

of inspection contemplated in the
fifth of the Resolutions passed
by the Legislative Council on the
25th June, 1928. The Resolution

reads as follows:-

"That the acceptance of Govt.
contributions towards capital or
recurrent expenditure when the
latter is to be devoted to a
general reduction of hospital
fees should involve inspection
by Government."

I note that the age
on which a person becomes liable
to pay rates has been fixed at
21 in this particular case. This
should not be regarded however as
embodying any general principle
that taxation should be confined
to persons over the age of 21.

I have, etc.,

(Sgd.) P. CONLIFFE-LISTER.

17306/31.

3

C. O.

Mr. Eastwood.

Mr. Freeston.

Mr.

Mr. Parkison.

Mr. Tomlinson.

Sir C. Bellomley.

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.

C. D.
9-JAN
1932

DOWNING STREET,

13 January, 1932.

Sir,

I have, etc., to acknowledge the

receipt of your despatch No.435 of the

29th July and to inform you that

His Majesty will not be advised to

exercise his power of disallowance in

respect of ~~the~~ Ordinances Nos. ~~XXIII~~ ~~XXIV~~

and ~~10~~ of 1930 of the Legislature of

Kenya entitled respectively, The

Local Government (Eldoret Hospital

Rate) Ordinance¹⁹³¹ The Local Government

(District Councils) (Amendment)

Ordinance, 1931, and The Local Government

(Municipalities) (Amendment) Ordinance

1931.

DRAFT.

KENYA

NO. 335

Gov. Byrne.

4.
1932

2. I assume that under the

new arrangements the Central Govt.

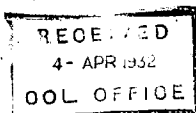
will retain and exercise the powers

KENYA.

No. 108



45
GOVERNMENT HOUSE,
NAIROBI,
KENYA.



9th March, 1932.

Sir,

No. 3.

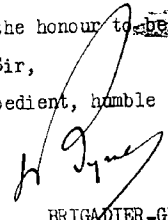
With reference to paragraph 2 of your despatch No. 35 of the 13th January, 1932 on the subject of the Local Government (Eldoret Hospital Rate), the Local Government (District Councils) (Amendment) and the Local Government (Municipalities) (Amendment) Ordinances, 1931, I have the honour to refer to paragraph 7 of the Resolution of Legislative Council quoted in your despatch, from which you will observe that the terms of the resolution do not cover hospitals maintained by Local Governing bodies. The Authority for inspection of hospitals so maintained is contained in Section 98 (3) of the Local Government (Municipalities) Ordinance, 1928, and the Director of Medical and Sanitary Services inspects the hospital from time to time.

2. Paragraph 3 of your despatch has been duly noted.

I have the honour to be,

Sir,

Your most obedient, humble servant,


BRIGADIER-GENERAL.
GOVERNOR.

THE RIGHT HONOURABLE,
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.
SECRETARY OF STATE FOR THE COLONIES,
LONDON... S.W.1.

The main point is that there does
appear to be a basis for the inspection
of this hospital

? Publicly

H.S. P. 11/13/32

9/14/32

L.B. Friedman

9/14/32

I cannot see that it would serve any useful purpose to probe the past history of this matter, and I agree as to the action proposed subject to the further suggestion at "A" below.

But there are two points of interest which might be specially recorded:-
(1) Ordinance 19 provides for the imposition of a hospital rate not exceeding 50/- on Europeans in Eldoret and Uasin Gishu, and the Local Government Commissioner stated in his speech that:-

"I think it is just as well perhaps to recognise fairly and state frankly that this is the first time in which rating of this sort for such a specific purpose has been suggested in respect of District Councils. I think, Sir, that the local bodies are to be congratulated on themselves coming forward and suggesting financial responsibility of this rather novel sort."

This is a point of real interest.

(2) It was originally proposed that the rateable age should be twenty-one. This was altered when drafting the Bill to eighteen, ^{the normal} tax age, but after discussion in committee the original age of twenty-one was restored. ^{official} arguments in favour of the higher age are not very convincing, particularly that of Lieutenant-Colonel Durham, who said that he had never been able to understand why a man should be taxed at the age of eighteen when he is not given the rights of citizenship until the age of twenty-one. In view of the controversy as regards the age discrimination

(Page 262 of Debate of 18th June, flagged "A".)

(See Page 268 of Debate of 18th June, flagged "A".)

discrimination between natives and Europeans in the matter of taxation, I think it would be advisable in replying to enter some caveat on this point, and this might take the form of noting the point, but saying that while the Secretary of State is prepared to acquiesce in the age fixed for the purpose of this particular rate, he must not be regarded as having accepted any principle that taxation should be confined to persons over the age of twenty-one.

J. H. Allen

5/1/32

*It can be a little more informal: ...
with the S. H. act, ...
but that this should not be regarded as
embodying any general principle ...*

W. S. J.

5/1/32 close

*Noted
19.1.32
to
note*

to Sec 35 (1 amended) 13 JAN 1982

*4. For Kenya - 108 - 9/2/32
Points out that the authority for inspection
of hospitals maintained by local governing
bodies is Sect 98 (3) of the Local Govt
(Municipalities) Act 1928, & that the District
of M.V.S. collects the hospital
Para 3 of No 8 has been duly noted*

7/10

The funds available from subscription were not described and there is no record of the expected financial position of the hospital. Now the Hospital Trustees have become involved because, one gathering they embarked upon a building programme without the Government's prior approval. Is it to infer that this private body, were incapable of independently engaging upon a building programme? Or did they inquire the "must be" There are points upon which I think information is desirable. Furthermore what is the amount to pay and what the Govt has made a grant of £1600 and a loan of equal amount? Is he to pay the same to non-officials?

The Govt has been involved in expenditure apparently by somebody's willful or fault. No information available is most inadequate. In signifying non-disallowance I suggest that we ask for information on the points I have mentioned above.

Logan Cunningham
21. 1. 28

* I've allowed for Govt's 50% liability

I don't think we need pursue this point.

I attach

A) the Report of the Debates in Legislative Council when these three Ordinances were passed. It adds little to the despatch except that the annual contribution from Government (the end of para. 4 of the despatch) is fixed at \$300.

B) the Legislative Council Resolutions referred to at the beginning of para. 2 of the despatch.

C) the District Councils Ordinance of 1928. The effect of Ordinance No. XIX hereto is (as marked in the enclosed copy) to insert a new sub-section into Section 11 of the principal Ordinance - the original Section 11 being reproduced intact as the second sub-section.

As Mr. Mackenzie suggests, there is a deficiency of information regarding the failure of the late trustees to carry out their functions; but it must be presumed that the Kenya Government is satisfied that no action is called for in that direction. Subject to legal observations, we may signify non-disallowance of the three Ordinances, and add that it is presumed that under the new arrangements Government will retain and exercise the powers of inspection contemplated in the fifth of the Resolutions passed by Legislative Council on June 20th 1928. I am sorry for the delay in sending this on.

Some of it was due to my having asked to investigate the accounts (4/2/28) as requested by Mr. Mackenzie.

No legal observations

J. C. Stewart 22/1/28

Dr. Stewart should see in case of any arrears of the 24/1/28

1. Hon. Dyne #35 _____ 29 July
 Enclose authenticated copies of Local Govt. (Baldwin Hospital Sati) Order, no. 18 of 1931; Local Govt. (District Council) (Amend.) Order no. 19 of 1931 and Local Govt. (Municipalities) (Amend.) Order no. 20 of 1931. State that Company which had been responsible for management of Baldwin Hospital was unable to defray liabilities and present ordinances enable Baldwin Municipal Board and Main Bishi District Council to take over and run the Hospital

2. Col. Sec 3/10 _____ 31st July
 Two printed copies of Ordinance no. 18, 19 & 20 of 1931
 In _____

Here to
 Library

As noted by /
 Baldwin Hospital
 to Govt 30062/23
 M-

This is a somewhat obscure history. So far as the ordinances sent here and are concerned, they appear to empower the District Council of Vashi and the Municipal Council of Sion to carry on jointly the administration of the Sion European Hospital now that the Municipal Board has proved itself unable to administer it. They are necessary and subject to legal comments may. I think the approved the people concerned, as represented in the District & Municipal Councils agree to the necessary rate.

But we know little of the history of the affair. In 30062/23 we were told that the Hospital had been handed over to a Board of Trustees. The Govt. promises to send some the details but we have not been told it.

Vasvi Byrre 435

29 July

Enclosed authenticated copies of local board (Baldwin Hospital
Hospital Ltd) Order no. 18 of 1931; local board (District
Council) (Amend.) Order no. 14 of 1931 and local board
(Municipalities) (Amend.) Order no. 20 of 1931. State that
company which had been responsible for management
of Baldwin Hospital was unable to satisfy liabilities
and present ordinance enable Baldwin Municipal board
and their friends District Council to take over and
run the Hospital

Share to
Library

col see 3 for

31st July

two printed copies of Ordinance nos. 18, 19 & 20 of 1931.

has been

This is a somewhat obscure
matter. So far as the ordinances
sent here and are concerned, they
appear to empower the District
Council of Vasvi Order & the Municipal
Council of District to carry on jointly
the administration of the Baldwin
Emergency Hospital now that the
management board has proved itself
unable to administer it. They are
necessary and subject to legal
comments may. I think be approved
The people concerned, as represented
in the District & Municipal Councils
agree to the necessary rate.

But we know little of the
history of the affair. In 39962/23
we were told that the Hospital had
been handed over to a Board of Trustees
The Gov. promises to send home the
Board but we have never had it