

1933

KENYA

1933

3006/1/2

CO 533/429

3006/1/2

Goldfields in the Highlands Districts.

Marion Barker Commission interim Report

Previous

Main file
41046/10 Land Commission

Subsequent

Ky 233	1/4
M. J. Gardner	21/10
Th. Ward	24/4
Sir C. Bottrill	25/4
Sir S. Wilson	25/4
Land Commission	"
P. J. G.	1/5
Mr. Director	"
Mr. Ward	"
Sir C. Bottrill	"
Sir S. Wilson	"
Board of Works	1/5
H. 237	

3006/33

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Draft 3006/33

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END

TELEGRAM from the Secretary of State for the Colonies to the Governor of Kenya.

(Sent 12.10 p.m. 24th February, 1933)

No. 65.

Secret.

My telegram No. 40 Secret.

(1) Announcement that H.M. Government has decided to accept recommendations in the report will be made in London on a date which I will communicate to you later. You may publish simultaneously in Nairobi.

(2) Areas 2 and 5 should not be thrown open until you are fully satisfied that staff is available to cope with the situation and until you have taken such of the precautionary measures suggested in my telegram No. 62 as may prove possible.

(3) As regards areas 1, 3 and 4, any application for exclusive prospecting licence or other concession that may be received here will be referred to you in order that preliminary stages of negotiation may be conducted by your Government.

(4) It is essential to ensure that a process of development which may possibly assume great significance should be conducted on soundest possible lines from the outset. You should therefore regard it as a definite instruction from me that in negotiations for areas 1, 3 and 4 no commitment of any kind should be entered into by your Government without prior reference to me. Such reference should be accompanied by your recommendation based upon the best local advice available to you, but in view of possibility that I may wish to modify it in the light of wider experience available here your recommendation must be kept secret.

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to apply them to these areas. It is a question whether they should be applied to the area selected eventually by the Tanganyika Concessions Limited. I do not think that such action would involve any breach of faith and should be glad to have your views. It is clearly necessary that very early action should be taken to give legislative sanction to any scale of fees with which you would be prepared to agree, and if you consider that the proposals merit consideration I should be grateful if you would take an early opportunity of having them examined by your advisers and acquaint me by telegraph at an early date of your views: and of your decision on my recommendation in paragraph 6 above.

I have, etc.

(Sgd.) J. Byrne.

BRIGADIER-GENERAL.

GOVERNOR.

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The intention would be to apply these fees to certain proclaimed areas. Areas 1, 3 and 4 would be proclaimed areas but clearly in less-known parts of the country such a system would be wholly inapplicable.

10. A second proposal has been made, designed for the individual prospector, that a special fee of £10 should be charged for permission to prospect in a proclaimed area. The ordinary fee of £1 for a prospecting right covers the whole of the Colony, subject to any reservations made under Section 13 of the Mining Ordinance, 1931 and, while it is not unreasonable to require a special fee to prospect in an area on the ground that such prospecting demands special expenditure by Government, the imposition of special fee would serve as an additional weapon to keep out impetuous persons from these native reserves. Such a fee would not entail any hardship in the case of persons of a reasonable financial competence though its imposition would no doubt evoke some opposition.

11. It is not readily ascertainable here whether such a system has any counterpart elsewhere or, in the absence of such precedent, is basically sound. The fee of \$5 per square mile for exclusive prospecting licenses which is in force in Tanganyika Territory is, in my opinion, too high and too inelastic; and it has, I believe, effectually precluded applications. As regards the special fee proposal for prospecting rights, although conditions in the Sudan are not identical with those in Kenya, I believe that a fee of \$10 is charged there for annual prospecting licenses.

12. To sum up, I strongly recommend that approval be not given to the opening of Areas 1, 3, 4 and 5 and, if the suggested changes for exclusive prospecting licenses are considered to be desirable, I would desire

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taxation or at the expense of other services. I am also satisfied that the serious companies and others desirous of obtaining exclusive prospecting licenses consider that they are asking for an asset for which they should be required to pay, and that reasonable charges will not deter such companies from exploring the mineral possibilities.

9. Four modes of charging for exclusive prospecting licenses have been suggested.

- (a) A fee of £50 for an area of 8 square miles plus a fee of £2 per square mile in excess of 8 square miles.

This would be specially applicable to applications for comparatively small areas, but might be unacceptable to applicants for large areas.

- (b) In the case of an application for a large area (e.g. 1,000 square miles) a maximum fee of £1 per square mile for a license to explore the geological features. A map to be delivered to Government and before the end of the year say two areas of specified shape not exceeding a total area of 200 square miles to be the subject of a further exclusive prospecting license on payment of £2 per square mile.
- (c) In the case of important alluvial workings in large rivers, a fee not exceeding £100 per running mile of river frontage.
- (d) In the case of scree or lake frontage, no fixed fee could be assessed, and this would have to be the subject of negotiation in each particular case.

Geological section has been created as part of the Colony's normal equipment. In the Kakamega area alone a sum of £5,000 has been specially voted for road improvements and as prospecting extends further afield, similar demands will arise for improvements elsewhere. Moreover, a topographical survey of an area of approximately 300 square miles in the Kakamega area has been completed and extensive work of this character will be necessary in other areas. The appointment of Inspectors, the creation of a Headquarters organization, the special secondment of an Administrative Officer and of a Police Officer, and the usual concomitants of such appointments, e.g. housing, travelling, etc. have involved special expenditure due to the discovery of gold. In all the total of expenditure directly attributable to mining development amounted in 1932 to over £10,000 as against a direct revenue of £5,094. In 1933 the present Expenditure Estimates amount to £6,448, but this figure will have to be materially increased and I anticipate that the revised Estimates will be approximately £10,000 against an estimated revenue of £5,000.

8. While I agree that there is much to be said for the argument that a Government must expect to be out of pocket in the initial stages of mining development and hope to recoup itself at a later stage principally out of Royalties; and that a Government should not set out to make money out of the special urge which the possibility of gold discovery inevitably engenders, there is on the other hand the cold fact that we are already sufficiently hard put to it to balance our budget, and that without some adventitious aid additional money, spent in connection with mineral development, must either be met from additional

these considerations, to urge that approval of the Kitson recommendation may be given and acted upon in respect of areas 1, 3, 4 and 5. So far as technical staff is concerned, this would involve the addition to the Estimates of one post of Assistant Inspector, and I am addressing a separate despatch to you in regard to the Mining Inspectorate Staff.

7. In this connection, however, proposals which I will now adumbrate for the raising of additional revenue as a set off against the expense to which this Government has been and will be put in its efforts to foster the development of the Colony's mineral resources have recently been submitted to me: and, before you come to a decision on the above recommendations for the opening of areas 1, 3, 4 and 5, I think I should explain them to you.

When the Mining Ordinance, 1931, was under consideration, no minerals of value had been discovered in the Colony, and the general principle regarding fees and charges was that as few financial obstacles as possible should be placed in the way of prospecting. The view taken at that time was that in a terra incognita every encouragement should be given to the discovery of minerals, and that in the event of discovery and working Government would recover its dues by way of Royalties. It was, however, stated when the Bill was at the Select Committee Report stage that, if and when our geological knowledge was supplemented, this policy would be brought under review. Since then Government has incurred an expense of approximately £5,500 on Sir Albert Kitson's visit and subsidiary geological and mining investigations, and a

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administrative difficulties will arise, and that on the technical side the existing inspectorate cadre will be able to cope with the position, since the companies, syndicates or individuals who will apply for exclusive prospecting licences will, as a prerequisite to the grant of such a licence, have to show financial stability and technical competence. I note in this regard that you desire that all such applications should be forwarded to you before any grant is made.

No step can, however, be taken to entertain any applications until it becomes certain that the preference proposed to be given to the Tanganyika Concessions Ltd. is agreed to and until that Company has exercised its option over one of these three areas.

5. Area 5, as you are aware, is much less heavily populated than area 2 and indeed it is not unlikely that the development of reef mining will take place in that part of this area which is quite uninhabited by natives. For this reason it is not anticipated that an administrative officer will have to be detailed especially for work in this area: the normal complement of administrative officers for the South Kavirande district will be able to undertake the supervision of relationships between the prospectors and the natives. Should it transpire, however, that additional assistance is required, there will be no difficulty in making suitable dispositions.

The appointment of a Mining Inspector with clerical assistance and temporary housing accommodation will, however, be required.

6. I should wish, therefore, in view of

these

3. I am naturally fully appreciative of the reasons for delaying the published acceptance of the Kitsen recommendations in full, but these reasons apply with particular force to area. 2. It is also the case that the adequate staff arrangements for dealing with this area will be the most expensive. I am advised that for this area, on the assumption that it is thrown open to general prospecting, one Inspector on the grade \$500 - \$540 and one Assistant Inspector on the grade \$480 - \$500 will be required. An additional Administrative Officer and some extra Police provision will be necessary and, in order to safeguard fully the public health position, it will be incumbent on Government to devise special control measures since a part of this Lake shore is infected with Trypanosomiasis. In any event, therefore, I am not yet in a position to advise you that staff arrangements to deal with the situation adequately in all its aspects are in train: and for the present I am of the opinion, in which my Executive Council concurs, that, notwithstanding the disappointment which will undoubtedly be felt and forcibly expressed by those prospectors who are now awaiting the date of opening, no precipitate action should be taken to open this area.

4. It is, however, felt by my Executive Council and I agree with their view that the same considerations do not apply to areas 1, 3 and 4 at all, and only in a modified degree to area 5. If areas 1, 3 and 4 are opened for applications for exclusive prospecting licenses, I am advised that few

administrative

COPY.

KENYA.
No. 176

GOVERNMENT HOUSE,

NAIROBI

KENYA.

14th March, 1933.

Sir,

Certain considerations in connection with the announcement of a decision on the Kitson Report and the application of the Tanganyika Concessions Ltd. for an exclusive prospecting licence in Kavirondo have recently been receiving my close attention.

2. During the last few months, there has been ample evidence that reputable mining companies and financiers with genuine support are taking serious interest in the prospects of mining in Kenya. On the assumption that the Kitson recommendations will be accepted, their attention has centred on areas 1, 3 and 4 and efforts have been made to keep their interest alive since it has not of course been possible to entertain applications pending the publication of your decision on the Tanganyika Concessions Ltd.'s application.

It is clearly desirable that advantage should be taken as soon as possible of this opportunity for further prospection of these areas, and for the working of alluvial deposits on a large scale if such proves feasible in areas 3 and 4: this is, of course, a definite feature of area 1.

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

3.

Mr. Crook has already been furnished with these documents. Perhaps you would be so good as to see that the second set enclosed herein is passed to Mr. McNair.

Sir Philip Cunliffe-Lister has decided to refer these matters to the Committee for advice, and they are accordingly being asked to meet on Thursday next at 3 p.m. in Sir John Campbell's room at 2 Richmond Terrace.

Yours sincerely,

P.P.

P.S. I have just learnt by telephone from Mr. Crook that you will be unable to attend this meeting. If you should feel able to express any views on the papers I should be happy to lay them before the Committee when it meets. Two copies of the Kenya Mining Laws are also enclosed.

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Colonial Office,
Downing Street, S.W.1

31 March, 1933.

Dear Sir Richard Redmayne,

The Secretary of State for the Colonies has decided to appoint an informal Committee to advise him on matters which may, from time to time, be referred to them in connection with gold mining concessions in Kenya. He very much hopes that you will be willing to serve on this Committee yourself, and that it may also include Mr. Crook and Mr. McNair. The other members are:-

Sir John Campbell (Chairman)
Sir Albert Kitson
Mr. J. P. H. Green (of the Colonial Office)
The ^{Secretary} (C.A.)
with myself as Secretary.

I enclose copies of Kitson's second report (the decision on which has not yet been published), and of a recent despatch from the Governor, from the last sentence of which you will see that a very early expression of the Secretary of State's views are required on the matters raised in paragraphs 7 - 11.

Mr. Crook

SIR RICHARD REDMAYNE, K.C.B., M.Sc.

refer these matters to the Committee for advice and they are accordingly being asked to meet on Thursday next at 3 p.m. in Sir John Campbell's room at 2 Richmond Terrace. I understood from you on the telephone that this time would be convenient to yourself.

Yours sincerely
R.A.

P.S. Copy of Henry Thiry Laws also enclosed

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The Colonial Office,
Downing Street, . . . 1

30 March, 1937.

Dear Ezechiel,

The Secretary of State has appointed an informal Committee to advise him on matters which may, from time to time, be referred to them in connection with gold mining concessions in Kenya.

The Committee will include, besides yourself,

Sir John Campbell, (Chairman)

Sir Albert Kitson

Sir Richard Redmayne

Mr. Crook

Mr. McNair

Mr. J. F. N. Green,

} (Ramon Kennedy Brown)

with myself as Secretary.

I enclose a copy of Kitson's second Report (the decision on which has not yet been published), and of a recent despatch from the Governor, the last sentence of which asks for a very early expression of the Secretary of State's views on the matters raised in paragraphs 7 to 11.

Sir Philip Cunliffe-Lister has decided to refer

P. H. EZECHIEL, ESQ., C.M.G.

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Colonial Office,
Downing Street, S.W. 1
31 March, 1933.

Dear Sir Albert,

The Committee which we have discussed is being asked to meet next Thursday at 3 o'clock in Sir John Campbell's room at 2 Richmond Terrace. The Secretary of State has decided that Sir Richard Redmayne should be asked to serve in addition to those of whom you already know.

I am sending to each member of the Committee a copy of your second Report and of the Governor's recent despatch asking for an early decision from the Secretary of State. A copy of each of these is enclosed herein for your use.

Yours sincerely,

R.D.

I also enclose a copy of the Kenya Trust Laws.

SIR ALBERT KITSON, C.M.G., C.B.E.



3rd April, 1933.

Dear Mr. Freeston,

I am this morning in receipt of your communication of the 31st ultimo and have to say in reply thereto that it will give me pleasure to serve on the Committee you refer to.

I had arranged some time ago, at the request of the Ministry of Labour, to be in North Yorkshire from Wednesday night to Saturday evening of this week, but I will study the papers you have sent to me and will write you fully thereon before Thursday.

Yours sincerely,

R. A. S. Rodriguez

A. B. Freeston, Esq.,
Colonial Office,
Downing Street,
S.W. 1.

Downing Street.

April, 1933.

Dear Sir Richard,

I have to thank you for your letter of the 4th of April (R.A.S.R./F.N.E.) about the Kenya Gold Mining Concessions. Your suggestions were placed before the Chairman of the Committee, who asks me to thank you, but to explain that the proposal for altering the basis upon which prospecting licences are granted would involve more drastic amendment of the existing legislation than ~~seems~~ practicable at present.

I hope shortly to circulate a note of the conclusions reached by the Committee.

Yours sincerely,

SIR RICHARD REDMAYNE, K.C.B.

3006/33.

TELEGRAM from the Secretary of State for the Colonies
to the Governor of Kenya.

(Sent 3.50 p.m. 7th April 1933).

No. 95.

Secret.

Your despatch 18th March 1933. I am asking expert advice on matters raised in paragraphs 7 - 11 and hope to telegraph result very shortly. I accept your recommendation in paragraph 6 and shall be glad if you will telegraph

- (a) text of announcement to be made in Nairobi in order that simultaneous announcement may be made here;
- (b) date of such announcement which will presumably be some weeks in advance of date which you may decide upon for opening of area 5.

I consider also that it would be very advisable if you announced at the same time or in advance that Government was going to add 1500 acres to North Kavirondo Reserve as recommended by Carter Commission. This should be announced here also.

L.B. Freeston Esq.

4.4.1933.

opinion as to the amount of the Royalty which should be chargeable on the gold? Am I correct in the presumption that this is 5% of the value of the gold produced.

5. The holder of a general prospecting licence should deposit at the end of the year a sketch map of the area prospected by him, with, marked thereon, notes as to his discoveries, if any, and the holder of a working licence should do likewise on the termination of his licence - if not sooner - indicating the position of his trial pits, trenches, drives etc. and the results generally of his prospecting work. ^{as adopted} If only one form of licence, then the same items thereon.

I hope these notes may prove of some service to you.

Yours sincerely

R.A.S. Redmayne

P.S. In the above connection see also Draft Fiji Ordinance and Regulations which I am asking Mr Crook to hand to you.

L. B. Freeston Esq.

4.4.1933.

say, £2 per annum. There should be the right to take several such working licences, up to a specified limit.

- (c) The result of the working licence would, or might be, the selection of claims and the entering into a lease in respect thereof. The fee payable is, I think, already determined at 5/- per acre.

The terms of the lease should require, amongst other things, the imposition of a dead, fixed, or certain rent, into which royalty merges. ~~This~~ supposing for the sake of example, ^{The} royalty amount to 2/- per ounce (5% would give more than this) of gold recovered and the certain rent were £100 per annum, 1000 ozs of gold per annum would be royalty free. All gold over and above this figure being chargeable at 2/- per ounce. The effect of the certain rent is to assure active working of a property.

^{Next time} The number of claims leasable to one concern would be a matter for consideration.

2. I note that no differentiation is made in the Governor's despatch as between alluvial prospecting and prospecting for lodes or veins. The areas will, of course, insofar as leases are concerned, be different ^{in the two cases} by reason of the nature of the respective deposits. The superficial area of an alluvial concern being much more extensive than that of a lode mining proposition. I note, from the Mining Ordinance, that 2/- per 10,000 square feet is chargeable in the case of an alluvial proposition.

3. If no variation of the Mining Ordinance is permissible, I think we could not do better than advise the adoption by S. of S. of the Scale of Charges etc. set out in paragraph 9 of the Governor's despatch.

4. I take it we are not called upon at the moment to give an

34, VICTORIA STREET

WESTMINSTER, S.W.1.

LONDON 4th April, 1933.SIR RICHARD REDMAYNE K.C.B.
Consulting Engineer.

Your Reference _____

My Reference RASR/FMEIMPERIAL INSTITUTE.

Dear Mr Freeston,

I very much regret that my promise, made some days ago, to attend a meeting in North Yorkshire of an Arbitration Board as Independent Chairman (to which I was appointed by the Ministry of Labour) will preclude my being present at the meeting on Thursday of the Colonial Office Informal Committee to discuss matters relating to the Gold Mining concessions in Kenya. Please make my apologies to the Chairman.

I have read with interest the papers which you sent to me and would like to make some comments thereon which you may deem advisable to bring to the notice of Sir John Campbell, the Chairman of your Committee.

I am not quite clear whether we are at liberty to make recommendations which may (a) go beyond, or (b) be in conflict with any of the requirements prescribed in the Mining Ordinance. If we were I would put forward for discussion the following. But I would state, at the outset, that in my opinion it appears only right and proper that the Government of Kenya should recover from the Gold Mining Industry of that Colony in its early stages, a part, at any rate, of the funds which it has expended and is expending towards the inauguration of such an industry, i.e. in

L.B. Freeston Esq.,
Colonial Office,
Downing Street,
S.W.1.

a note of the conclusions
reached by the Committee.

Yours sincerely,

A handwritten signature, possibly initials, consisting of two stylized, overlapping characters.

Mr. Freeston 7/4 (For Mr. Freeston's signature)

Mr.

Mr.

Mr. Parkinson Sir Campbell 7/7/33

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Handwritten initials and dates: "BP 7/7/33"

Stamp: "C. O."

Handwritten mark: "2" with a diagonal line through it

Handwritten numbers: "7 7 7"

7 April 1933

DRAFT.

SIR RICHARD REDMAYNE, K.C.B.

Dear Sir Richard,

I have to thank you for your letter of the 4th of April (R.A.S.R./F.N.E.) about the Kenya Gold Mining Concessions. Your suggestions were placed before the Chairman of the Committee, who asks me to thank you, but to explain

that the proposal for altering the basis upon which prospecting licences are granted would involve more drastic amendment of the existing legislation than the ~~feasible at present~~ Committee were prepared to recommen

I hope shortly to circulate

already covered by an exclusive prospecting licence, the fee should not exceed £50 per annum per running mile of river frontage.

8. A special fee should be charged for the grant of a prospecting right in any one of the 5 Kitson Areas; this, however, should not exceed £5.
9. The terms recommended in paragraph 6 above should be applied to the area selected by Tanganyika Concessions Limited under their option. No charge of breach of faith could be sustained.
10. If acceptance of the above recommendations involves legislation, the Committee strongly urge that the opportunity be taken to consolidate the existing mining Ordinances of Kenya, and to eliminate certain drafting ambiguities which may give rise to difficulties in the practical application of the law.

COLONIAL OFFICE.

7th April, 1933.

now contemplated (see paragraph 6 below).

- 5. The Governor should be reminded of the instructions in the telegram of February the 24th and should be asked to send home the draft exclusive prospecting licence proposed to be granted to Tanganyika Concessions Limited, which should be examined by the Committee.
- 6. As regards the scale of charges proposed in paragraph 9 of the despatch, the Committee, after reviewing such precedents as were available, considered that they were too high. It is generally admitted that, in opening a new gold field, the primary object of Government should be the ascertainment and development of potential assets, rather than the immediate realization of revenue; any departure from this principle would be difficult to justify, except on the basis of well established practice in reasonably comparable circumstances elsewhere.

After considering various alternative scales, the Committee decided to recommend the following:-

For each square mile of an exclusive prospecting licence, up to 8	£3 p.a.
For each square mile in excess of 8	£2 p.a.
" " " " " " " " 100	30/- p.a.
" " " " " " " " 300	£1 p.a.
" " " " " " " " 600	10/- p.a.

(Under this scale, the fee for an exclusive prospecting licence over 1000 square miles would be slightly in excess of £1000.)

- 7. As regards large scale alluvial workings, in areas not

already

At their meeting yesterday the Kenya Gold Concessions Committee decided to tender the following advice on the matters raised in the Governor's despatch of the 18th of March, No.176:-

1. In view of the fact that the southern boundary of Area No.5 is the Kenya-Tanganyika frontier, ample notice should be given to Tanganyika of the date of opening that Area.
2. The subsidiary and hitherto secret report, rendered by Sir Albert Kitson to the Kenya Government, detailing the indications of gold in the 5 closed Areas, should now be published.
3. The Representative in Nairobi of Tanganyika Concessions Limited should be given access to that report (if necessary in advance of actual publication), and the Company should be allowed one month, from the date of such access, within which to exercise their option over Areas 1, 3 and 4.
4. Tanganyika Concessions Limited should be invited to suggest their own terms for the desired exclusive prospecting licence, but it should be made plain to them that its duration should not exceed 3 years and that a definite programme of development should be proposed showing, inter alia, the minimum local expenditure contemplated on field operations. They should be informed that the proposals in this respect made in their original application are entirely inadequate. They should also be informed of the scale of charges

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On such an understanding the Lyndhurst Company would expend some reasonable sum on surface prospecting over an area, provided always that it could have an option of an Exclusive Prospecting Licence over a larger area for the period of the sinking of the trial shaft or shafts.

In the choosing of the location for the sinking of the shaft or shafts, this could be left to the Kenya Government Mines' Department which would have the most up-to-date information as to the most likely position for favourable results.

Thanking you for your kind and careful consideration.

I have etc.,

(Sgd.) K. Williams.

British Public would be saved - and if proved to be wrong in fact, then the way is paved for converting Kenya into a thriving hive of industry in the course of a couple of years or so.

In view of the advices the Directors of the Lyndhurst Company have received, they do not feel justified in going into the development of Kenya wholeheartedly, after the manner for example they intend pursuing in West Africa.

My personal impression is, that even though their attitude is justified by the discouraging reports received from other mining Houses those representatives have visited the field, yet nevertheless these experts are wrong in their theory.

Arrangements could be made to prove or disprove the theory within twelve months and the costs of shafts' sinking, crosscutting and driving would be approximately £25,000. This could be done under the advice and guidance of the most experienced technical gold mining staff in the world: that of the Consolidated Gold Fields of South Africa Ltd. The Lyndhurst Company could make arrangements for the cost and could carry through the work: but in the event of the theory being proved to be right, then it is suggested for your consideration that the money expended exclusively in the shafts' sinking be refunded - or this cost made up to the Company in some other manner. Should the theory be wrong, then the Company or I, will undertake to provide a minimum sum to be expended in developing the mineral resources of Kenya over a given period.

Circular 20/7/33

3066/16/33 Kenya 40.

55-61, Moorgate,
London, E.C.2.

The Under Secretary of State,
Colonial Office,
Downing Street.
S.W.1.

17th July, 1933.

Sir,

RE KENYA GOLD MINING DEVELOPMENT.

I have the honour to communicate with you in connection with the development of the Gold Fields of Kenya.

As a large shareholder in the Lyndhurst Deep Level (Gold and Silver) Limited, and also an ex-resident of Kenya, I am interested in the prospecting and development of the Colony's gold resources: and in the course of the last few months I have endeavoured to interest more than one large and wealthy mining group in it also; but without success.

The reason given in each case is the same; viz:- that the formation existing throughout the country is one of surface enrichment only and that beneath the surface layer, the values in the reefs at depth would be so low as to render their working to be an uneconomic proposition: thus entailing a great loss to the pioneer concern.

I venture to suggest for your consideration, that it probably would be advantageous to the Colony of Kenya to have this theory proved to be right or wrong at the soonest possible. If proved to be right, then much money of both settlers in Kenya and the

British

down-stream to its intersection with the eastern boundary of the Malakisi and Mumia's Road;

thence south-westward along the course of the Nzoia River from a point two hundred and fifty feet southward from the left (southern) bank of that river on the eastern boundary of the Malakisi and Mumia's Road and continuing by a line parallel to and at two hundred and fifty feet distance from the left bank of that river to a point two hundred and fifty feet due southward of the centre course of the Nzoia River, opposite to the confluence of the Kabola River with the Nzoia River;

thence by a straight line about eastward to Nigumbé beacon;

thence generally southward through Akarra beacon to the confluence of the Otodo River with the Yala River, thence west-south-westward to the mouth of the unnamed stream on the map at the northern end of Kadim Bay as more particularly delineated on the plan attached hereto and thereon bordered red.

Given under my hand at Nairobi

this day of 1933.

ACTING GOVERNOR.

Fee Shs.

Conveyancing fee Shs. 150/-

Registration fee Shs. 10/-

Stamp Duty Shs. 1/-

such that the Swamp area is divided into rectangles of five hundred feet by one hundred feet.

For the work of testing the Yala River and the Yala Swamp, the engineer-geologist to be given additional staff consisting of one qualified alluvial engineer and two Europeans experienced in Banka drilling. The native complement to be a minimum of sixty and a minimum number of six drills to be used.

- (g) The Company further undertakes to engage the services of a Medical Officer who will be in permanent charge of the health of both European and African employees.

SCHEDULE II.

The area of approximately One thousand five hundred and fifty square miles being the area commonly called Area-No. 1 in the Report of Sir Albert Kitson dated 2nd November, 1932, and described as follows:-

Commencing at the mouth of the Sio River;

thence bounded by the Kenya-Uganda boundary to its intersection with the northern boundary of the Tororo-Malakisi Road;

thence by the northern boundary of that road eastward to Malakisi;

thence in a generally eastward and southward direction by the generally northward and eastward boundary of the main road to where it crosses the Nzola River, near Broderick Falls, and onwards for about a quarter mile from the centre course of that river;

thence by a line parallel to and at a quarter mile distance from the centre course of the Nzola River

down

continued by means of approved geophysical methods or diamond drilling or by prospecting shafts, drives and cross-cuts.

- (e) All the above work to be under the supervision of a competent engineer-geologist under whom will be employed a minimum of five engineer-prospectors, with a minimum complement of one hundred and forty Africans.
- (f) The Yala River to be tested forthwith by Banka drilling on a skeleton grid which shall commence from the Eastern boundary of the area. The grid shall consist of traverse lines spaced approximately at one thousand feet intervals, the drill holes spaced on each line at sixty feet apart. In the event of this preliminary testing justifying further work for valuation purposes, the above grid will be filled by intermediate drill holes spaced at thirty feet on the original lines and by additional traverse lines at five hundred feet apart with drill holes spaced at sixty feet apart.

The Yala Swamp to be drilled from pontoons on initial traverse lines spaced two thousand five hundred feet apart, the drill holes to be spaced five hundred feet apart on each line.

For valuation work, this skeleton grid to be filled by intermediate holes on the original lines spaced one hundred feet apart and by additional traverse lines at five hundred feet intervals with drill holes one hundred feet apart. The whole of this work to be

transfer this Licence or any portion of the rights granted hereunder without the consent of the Governor signified by an endorsement hereon.

3. Mining shall be allowed under this Licence
- (a) for alluvial in accordance with Clause 8 of the Mining (Amendment) Ordinance 1932.
 - (b) for reef after pegging and registration of claims as prescribed by law.

4. The Company shall systematically examine the said area along the following lines:-

- (a) A general topographical plan to be made by means of compass and plane table traverses tied into the existing triangulation as far as possible and showing the river and road systems.

This map, to form the basis for a geological map to be prepared by the Company. The legend and colouring of the map shall conform with those laid down by ^{the} Survey and Mining and Geological Departments.

- (b) The river and stream sections to be prospected systematically for both alluvial and rock formations and in the case of the former, systematic pitting and Banka drilling to be performed where the preliminary prospection justifies same.
- (c) Where the over-burden between streams and water courses is deep and no outcrops are exposed, the ground to be examined in detail by systematic trenching and auguring.
- (d) On the completion of the above work, further investigation of promising areas to be

continued

THE MINING ORDINANCE 1931.

EXCLUSIVE PROSPECTING LICENCE NO.

THIS EXCLUSIVE LICENCE (subject to the provisions of the Mining Ordinance 1931 and of the Regulations thereunder now in force or which may come into force during the continuance of this Licence or any renewal thereof and under the Mining in Proclaimed Areas Ordinance 1933) for one year from the day of One thousand nine hundred and thirty-three (Subject to the Special Conditions contained in Schedule I hereto) is hereby granted to TANGANYIKA CONCESSIONS LIMITED a Limited Liability Company having its registered office at (hereinafter called the Company which expression where the context so admits shall include its successors and assigns) to prospect for precious metals over an area of approximately One thousand five hundred and fifty square miles in North Western Kavirondo as more particularly described in Schedule II hereto EXCEPTING the lands excluded by virtue of Clause 13 of the said Mining Ordinance 1931.

SCHEDULE I.

SPECIAL CONDITIONS.

1. The Company shall expend during the said term of one year a sum of not less than ten thousand pounds upon bona fide prospecting the said area of which sum a minimum of nine thousand five hundred pounds will be paid out in Kenya.
2. By virtue of Clause 21 of the said Mining Ordinance 1931 it is inter alia a condition of this Licence (but in order to emphasise the same it is expressly herein declared) that the Company shall not transfer

production.

7. The above is all we can at present commit ourselves to as an initial expenditure. However, if the work as it develops, shows promise of success, then of course we would naturally expand our programme of operations, entailing an increased expenditure.

G. Barnard.

Representative,
Tanganyika Concessions Limited (Kenya).

Rent to Government	£110	per month
Engineer-in-charge	50	" "
8 Europeans @ £35	280	" "
200 Natives (with overhead)	150	" "
Housing and camp equipment depreciation.	20	" "
Banka drill depreciation (six drills)	30	" "
Various tools and stores	20	" "
Motor transport.	20	" "
Proportion Kakamega Office Expenses.	100	" "
Passage Money, travelling Expenses etc.	20	" "
	<u>£800</u>	" "

Say £10,000 per annum.

4. There would have been three more prospectors available on the above expenditure had there been no rent, (of which there was no question when I made my original application).

The rent is seen to be a considerable item, when it is considered large Exclusive Prospecting Licences in the neighbouring territory of Tanganyika can be obtained in known auriferous country at 2/- per square mile per annum.

5. We would be willing to spend a further £5,000 per annum if we are granted an Exclusive Prospecting Licence over the Yala river in Area No. 2, on that Yala area defined in my letter.

6. The expenditure on the above items of clauses 4 and 5, £10,000 and £500 per annum, together with our expenditure on the Kakamega area, east of the Mumias-Kisumu road, (it is only in this latter area that the Eldoret Mining Syndicate Ltd. is in partnership with us), which for the next twelve months is estimated at £35,000, would give total expenditure, (not including our London Expenses), of £50,000 per annum in this country; and it should be noted that this is pure exploration and development money with no returns from production.

PROGRAMME OF WORK AND EXPENDITURE.

As the original programme for the 5,900 miles was deemed inadequate, we propose to apply roughly the same programme that I proposed for that area to this smaller No.1 Area, 1,550 square miles, with approximately the same expenditure.

2. The staff for this area would be thus: one engineer in charge, three European Banka drillers working 6 Banka drills for alluvial prospecting, five Europeans on reef prospecting; (over a period of three years, this would give each reef prospector an area of only 10 miles by 10 miles to cover per annum, which is a very much closer prospecting than any of the Northern Rhodesian concessions enjoyed). The above staff would come under our Kakamega Office Management, which office would also do the accountancy, assaying, geological work, and would share its medical officer.

The employees on reef prospecting will be housed in tents, but those on alluvial work in portable steel mosquito proof huts, owing to health conditions near the swamps. (With regard to the question of sleeping sickness in this area, we understand that there has recently been a Medical Officer reporting on this area, and we would be glad to know to what extent sleeping sickness precautions are likely to interfere with our work of investigation, to what extent the swampy areas are free from the trouble, and can we be assured that we shall not be subjecting our men to special danger on this account?).

3. The cost distribution is estimated as follows:-

Rent

COPY.

TANGANYIKA CONCESSIONS LIMITED.

KENYA.

Postal Address c/o Postmaster, Kisumu,

29th May, 1933.

The Honourable The Colonial Secretary,
The Secretariat,
P.O.Box 621,
NAIROBI.

Sir,

Referring to your letter No. S/Min. 3/2/3/1/66 of the 20th ultimo, I have the honour to inform you that we are pleased to exercise the Option of an Exclusive Prospecting Licence over the whole of the Area No. 1 in Kavirono Nyanza Province, (as defined in the published Report by Sir Albert Kitson dated 2nd November 1932); I wired you to the above effect on the 27th instant, and enclose confirmation copy of telegram herewith.

2. I note that the subsequent granting of an Exclusive Prospecting Licence is subject to the several conditions you make in your letter.

3. I attached hereto programme of the proposed prospection of this area, with estimated expenditure.

4. As the grant of the original area asked for by us has been roughly cut down to one quarter of its size, and as my original application specifically asked for alluvial rights on the large rivers thus bringing them to the notice of the general public, we hereby apply for an Exclusive Prospecting Licence over the river alluvial of the River Yala for a distance of 750 feet on either side of the centre of its waterway throughout its length in the Area defined as No. 2 Area by Sir Albert Kitson.

I am etc.,
(Sgd.) G. Barnard.
Representative,

Tanganyika Concessions Ltd. (Kenya)

the river alluvial of the River Yala in Area 2, is outside the terms of the option given to the Company and will be dealt with separately.

5. I should be glad to learn as early as possible whether you see any objection to the grant of an exclusive prospecting licence as in the accompanying draft.

I have etc.,

(Sgd.) H.M.M. MOORE.

ACTING GOVERNOR.

Enclosed 20/7/33

3006/33 Kenya

29

AIR MAIL

KENYA
NO. 488

GOVERNMENT HOUSE,

NAIROBI,

KENYA.

8th July, 1933.

Sir,

With reference to my despatch No. 406 of the 1st July, I have the honour to transmit a copy of a letter dated the 29th May addressed by the local representative of Tanganyika Concessions Limited to the Colonial Secretary, intimating that the Company exercises its option for an exclusive prospecting licence over Area 1, together with a copy of the programme of work and development accompanying that letter.

2. I enclose a copy of the draft exclusive prospecting licence proposed for issue to the Company. The special conditions contained in Schedule I of the licence have been discussed with the Company's local representative and appear to be satisfactory. A copy of the plan referred to in Schedule II is also enclosed.

3. The Mining in Proclaimed Areas Ordinance, 1933 has been brought into operation with effect from the 1st July last and the area described in Government Notice No. 185 of the 19th March, 1932 (i.e. the whole area of approximately 5900 square miles) has been declared to be a proclaimed area under section 2 of this Ordinance. The fee payable for an exclusive prospecting licence over Area 1 will be £1,283 per annum.

4. The last paragraph of the letter enclosed, referring to an exclusive prospecting licence over

THE RIGHT HONOURABLE,
HAROLD AIR MAIL OFFICE-LISTER, F.C., G.B.E., M.C., M.P.
SECRETARY OF STATE FOR THE COLONIES.

the

I enclose papers about each.

Yours sincerely

L.P.

To 4 only) P.S. Will you be so
kind as to pass ^{on} this information
and our set of papers, to
Mr. P. Nain. I am writing
direct to Sir Richard Redman.

To 3 only) P.S. I hope this time will
be convenient to you. I tried
unsuccessfully to consult you by
telephone.

C. O.

3006/11/33

Kenya

- Mr. Justice 19/7/33
- Mr.
- Mr.
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

4 to for me
W.A.

20 July

Dear Sir Albert
Sir Richard
Ezekiel
Crosk

DRAFT.

1. Sir A. Wilson C'ra.
2. Sir Richard Redman KCB. P.Sc. &c.
3. P.H. Ezekiel Esq. C'G.
4. T. Crosk Esq. ARCS FGS &c.

A meeting of the
Kenya Field Commsn C'ra
is being arranged for
Tuesday next (July 25th)
at 3.0 pm. in Sir John
Campbell's room at 2,
Richard Terrace. There are
two matters for discussion;



Sir J. Campbell
 Sir R. Redman
 Sir A. K. K. K.
 Mr. E. E.
 Mr. C. C.
 Mr. M. M.
 Mr. H. H.

warned for meeting

3-0 pm 25 July

Sir J. Campbell room

BA

20/7

(Mr. J. P. Green cannot come)

Extract from Northern Rhodesia Draft Mining Ordinance.

x

x

x

x

The holder [of an exclusive prospecting permit] shall keep to the satisfaction of the Secretary [for Mines] full and accurate records of his prospecting operations showing bore holes put down, strata penetrated, minerals discovered, number of persons employed and work done and shall supply quarterly copies of such records to the Mines Department.

x

x

x

x

Clause 2 of Model Oil Exploration Licence.

The Licensee shall with all reasonable despatch commence to examine geologically the said lands and shall during the subsistence of this Licence continue to examine geologically the said lands to the satisfaction of the Governor.

He shall furnish a quarterly report to the Director of Lands and Mines showing the true cadastral position of the land geologically surveyed examined and mapped and shall from time to time at the request of the Governor submit to him true and full copies of all geological maps on a scale to be fixed by the Governor and reports (which he hereby undertakes to have prepared) showing the result of such examination.

thence generally southward through Akarra
beacon to the confluence of the Otodo River with the
Yala River, thence west-south-westward to the mouth
of the unnamed stream on the map at the northern end
of Kadim Bay as more particularly delineated on the
plan attached hereto and thereon bordered red.

Given under my hand at Nairobi
this day of 1933.

ACTING GOVERNOR.

Fee Shs.
Conveyancing fee Shs. 150/-
Registration fee Shs. 10/-
Stamp Duty Shs. 1/-

called Area No.1 in the Report of Sir Albert Kitson dated 2nd November, 1932, and described as follows:-

Commencing at the mouth of the Sio River;
thence bounded by the Kenya-Uganda boundary to its intersection with the northern boundary of the Tororo-Malakisi Road;

thence by the northern boundary of that road eastward to Malakisi;

thence in a generally eastward and southward direction by the generally northward and eastward boundary of the main road to where it crosses the Nzoia River, near Broderick Falls, and onwards for about a quarter-mile from the centre course of that river;

thence by a line parallel to and at a quarter mile distance from the centre course of the Nzoia River down-stream to its intersection with the eastern boundary of the Malakisi and Mumia's Road;

thence south-westward along the course of the Nzoia River from a point two hundred and fifty feet southward from the left (southern) bank of that river on the eastern boundary of the Malakisi and Mumia's Road and continuing by a line parallel to and at two hundred and fifty feet distance from the left bank of that river to a point two hundred and fifty feet due southward of the centre course of the Nzoia River, opposite to the confluence of the Kabola River with the Nzoia River;

thence by a straight line about eastward to Niahumbe beacon;

thence

lines at five hundred feet apart with drill holes spaced at sixty feet apart.

The Yala Swamp shall be drilled from pontoons on initial traverse lines spaced two thousand five hundred feet apart, the drill holes to be spaced five hundred feet apart on each line. For valuation work, this skeleton grid shall be filled by intermediate holes on the original lines spaced one hundred feet apart and by additional traverse lines at five hundred feet intervals with drill holes one hundred feet apart. The whole of this work shall be such that the Swamp area is divided into rectangles of five hundred feet by one hundred feet.

For the work of testing the Yala River and the Yala swamp, the engineer-geologist shall be given additional staff consisting of one qualified alluvial engineer and two Europeans experienced in Banka drilling. The native complement shall be a minimum of sixty and a minimum number of six drills shall be used.

- (g) The Company further undertakes to engage the services of a Medical Officer, who will be in permanent charge of the health of both European and African employees.

SCHEDULE II.

The area of approximately One thousand five hundred and fifty square miles being the area commonly called

the former, systematic pitting and Banka drilling shall be performed, where the preliminary prospection justifies it.

- (c) Where the over-burden between streams and water courses is deep and no outcrops are exposed, the ground shall be examined in detail by systematic trenching and boring.
- (d) On the completion of the above work, further investigation of promising areas shall be continued by diamond drilling or by prospecting shafts, drives and cross-cuts or by geophysical methods, or by a combination of these systems.
- (e) All the above work shall be under the supervision of a competent engineer-geologist under whom shall be employed a minimum of five engineer-prospectors, with a minimum complement of one hundred and forty Africans.
- (f) The Yala River shall be tested forthwith by Bankadrilling on a skeleton grid, which shall commence from the Eastern boundary of the area. The grid shall consist of traverse lines spaced approximately at one thousand feet intervals, the drill holes being spaced on each line at sixty feet apart. In the event of this preliminary testing justifying further work for valuation purposes, the above grid will be filled by intermediate drill holes spaced at thirty feet on the original lines, and by additional traverse

2. By virtue of Section 21 of the said Mining Ordinance 1931 it is inter alia a condition of this Licence (but in order to emphasise the same it is expressly herein declared) that the Company shall not transfer this Licence or any portion of the rights granted hereunder without the consent of the Governor signified by an endorsement hereon.

3. Mining shall be allowed under this Licence

(a) for alluvial, subject to the provisions of Section 20 of the Mining Ordinance 1931 as amended by Section 8 of the Mining (Amendment) (No.2) Ordinance 1932.

(b) for reef, after pegging and registration of claims as prescribed by law.

4. The Company shall systematically examine the said area by pursuance of the following general plan of operations:-

(a) A general topographical survey shall be made by means of compass and plane table traverses, tied into the existing triangulation as far as possible, and showing the river and road systems.

This survey shall form the basis for a geological map to be prepared by the Company. The legend and colouring of the map shall conform with those laid down by the Survey and Mining and Geological Departments.

(b) The river and stream sections shall be prospected systematically for both alluvial and rock formations, and in the case of

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THE MINING ORDINANCE 1931.

EXCLUSIVE PROSPECTING LICENCE NO.

THIS EXCLUSIVE LICENCE which is subject to the provisions of the Mining Ordinance 1931, the Mining (Amendment) Ordinance 1932, the Mining (Amendment) (No. 2) Ordinance 1932, the Mining in Proclaimed Areas Ordinance 1933 and the Regulations thereunder now in force or which may come into force during the continuance of this Licence or any renewal thereof for one year from the day of One thousand nine hundred and thirty-three (Subject to the Special Conditions contained in Schedule I hereto) is hereby granted to TANGANYIKA CONCESSIONS LIMITED a Limited Liability Company having its registered office at (hereinafter called the Company which expression where the context so admits shall include its successors and assigns) to prospect for precious metals over an area of approximately One thousand five hundred and fifty square miles in North Western Kavirondo as more particularly described in Schedule II hereto EXCEPTING the lands excluded by virtue of Section 13 of the said Mining Ordinance 1931 as amended by any subsequent Ordinance.

SCHEDULE I.

SPECIAL CONDITIONS.

1. The Company shall expend during the said term of one year a sum of not less than ten thousand pounds upon bona fide prospecting in and over the said area of which shall a minimum of nine thousand five hundred pounds will be expended in Kenya.

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license, or a clause which it is proposed to incorporate in the revised Mining Law of Northern Rhodesia (copies of these clauses are enclosed).

4. You may also think it advisable to add to the license a clause by which the Company definitely undertakes to pay to the occupiers of the area in question compensation for surface disturbances, at the approved rates. The liability is, of course, provided under the Ordinance.

5. Subject to your consideration of the above suggestions, I approve the grant of the license as re-drafted, to Sengwaya Concessions Limited. You will no doubt transmit to me in due course copies of the license in its final form.

6. I note that you propose to address me separately in regard to the request for a license for the river lake in area No. 2.

I have the honour to be,
Your most obedient,
humble servant,

(Sgd.) P. CUNLIFFE-LISTER

3000/33 Kenya

Copy to all members (except Mr. [unclear])
3/3/33

591

Downing Street.

2 August, 1933.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 42 of the 8th of July, on the subject of the exclusive prospecting licence to be granted to Tanganyika Concessions Limited.

2. The draft licence enclosed in your despatch has been examined by a Committee of experts in mining law and practice, whom I convened for the purpose. They had little comment to make on the general terms of the draft, and, as you will see from the enclosed re-draft, the amendments which they desired to suggest were, for the most part, verbal only and designed to make the terms of the licence more definite.

3. The Committee felt some doubt, however, whether paragraph 4 of the draft licence would prove adequate in practice to safeguard the interests of Government and in particular, they anticipated that it would prove to be beyond the powers of the Company, with the personnel provided for in the licence, to provide topographical and geological data as envisaged in section 4(a) of sufficient accuracy to be of permanent value to Government. They suggest that the Government of Kenya might care to incorporate in paragraph 4 a sub-paragraph drafted on the lines of Clause 2 of the Model Oil Exploration

THE OFFICER ADMINISTERING
THE GOVERNMENT OF

License

SUITABLE ADDITIONS TO ROYALTY PROPOSALS.

- (a) Should the total value of output gained by the holder of
 - (1) a reef claim not exceed £100
 - (2) an alluvial claim not exceed £20 in any one month, the holder shall retain such output for his own benefit.
- (b) Should the value exceed £100 in the one case or £20 in the other and not exceed £1500, the holder shall pay 2½% of the total value.
- (c) Should the value exceed £1500 and be the product of ore yielding not more than one ounce, the holder shall pay 4%.
- (d) Should the value exceed £1500 and be the product of ore yielding more than one ounce, the holder shall pay 5%.
- (e) Should the value exceed £1500 and be the product of not less than 5,000 tons of ore yielding a net greater value than 5 dwts. (or Shs. 30/- worth of mineral), the rate to be 3½% of the total value.
- (f) Should the value exceed £1500 and be the product of not less than 10,000 tons of ore of less than 3½ dwts. value (or Shs. 2/- worth of mineral) the rate to be 2½%
- (g) Proposals b, c, d, e, and f to be subject to a reduction of ½% if the ore is drawn from a shaft the depth of which is greater than 1,000 feet and to a reduction of 1% if ore is drawn from a shaft the depth of which exceeds 2,000 feet.

Where a Company's operations can be shown to be substantially prejudicially effected by the royalties as laid down above, application may be made to the Governor for a revision of the terms.

Such application must be accompanied by a certified statement showing -

- 1. Capitalization.
- 2. Working profit per ton.
- 3. Annual tonnage treated.
- 4. Estimated life of mine.

A redemption factor of 4% will be allowed in the final decision made.

The scheme that appeals most strongly to the Committee, though as yet it has reached no final decision, is a graduated scale of royalty adjusted to the grade of ore produced and to the depth from which it is extracted.

It is suggested, too, that the Governor in Council should have the power to reduce even this royalty in cases where it was found to operate against production of exceptionally low grade ore. Monthly returns of production are required, but doubt is felt in certain quarters as to whether complete control can be exercised or a proper assessment arrived at without a greatly increased staff.

The attached scheme of graduated royalties has been propounded by Mr. Murray-Hughes, the Kenya Government's adviser on technical mining matters. He is fully satisfied that the scheme is practicable and that the fears expressed as to the difficulty of assessment are unfounded. The scheme is based on that which now prevails in Northern and Southern Rhodesia, information is lacking as to whether it proves difficult or costly to administer.

3033 Kenya
Considered at meeting of 12 Oct

A Committee has been appointed by the Government of Kenya "to examine local mining legislation and to make recommendations for any amendments which may be deemed necessary to facilitate development of the Colony's mineral resources", and after sitting during the last two months will shortly report to the Governor. One of the most vexed questions is that of royalty.

At present a 5% royalty on all gold won is collected in Kenya, Uganda and Tanganyika Territory. The Ordinances in the three territories are practically identical and are all based on the Tanganyika Mining Ordinance of 1929. The royalty, however, is prescribed by regulations and not by the Ordinance. The evidence given before the Committee is mainly from mining managers and engineers who are, naturally, anxious to make the royalty as low as possible or even to suspend royalty for a period of years in order to foster the infant mining industry in the Colony.

A flat rate of royalty on all gold won is generally held to be undesirable as it may keep out of production low grade ores and ores which are only extracted at depth or with costly process. If the royalty is too high a Company may pick the eyes out of a mine and leave behind low grade ore which, by itself, is not a commercial proposition.

One of the alternatives recommended is a profits tax, as in South Africa, but this appears to be difficult of assessment and to tend to put a premium on inefficient working.

with the business side of the enterprise;
it is an illusive and a retrospect tax.

2. For the sake of brevity the writer must
avoid giving his reasons for preferring -

A. An average flat rate (say 5%) should be
specified in the law itself followed by a proviso
delegating to regulations the remissions, rebates and
increases of that average flat rate. The flat rate
could if necessary, be demanded (pending difficult
decisions to be made on the basis of the regulations)
subject to any rebate, etc. which the regulations may
subsequently admit.

B. A code of regulations of remissions, rebates
and increases of the flat rate on the lines of
Mr. Murray-Hughes' graduated rates plus his final
proviso giving power to make fine adjustments.

This is nearly pure Northern Rhodesia
practice restated as for government ownership of
minerals. The Northern Rhodesia royalty system is
one of the few points in the mining code which the
writer finds unassailable.

A. C. Vivian.
late secretary for Mines.
Northern Rhodesia.

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Graduated Mining Royalties.

The writer who has had some opportunity of studying graduated mining royalties in Northern Rhodesia submits as follows:-

- i. A flat rate scheme for royalties is too inflexible to be practicable.
- ii. By improving the flexibility of the flat rate, the graduated rate or sliding scale is obtained but even a sliding scale will not always apply.
- iii. The graduated rate on the lines propounded by Mr. Murray-Hughes is as flexible as any useful scheme of the kind could be made but it falls sadly short of perfection without the saving clause with which it terminates.
- iv. The graduated rate plus this proviso is the best system. It must be administered by mining technical men in close touch with the mining properties above and below ground. For this purpose the staff of the government mines department is usually available. No extra returns worth mentioning need be called for and the extra expense would be quite trifling if the administration were as suggested.
- v. The alternative profits tax is not recommended on its arbitrary basis, the "life of the mine" is a bad one commonly forgotten once it has been wrongly guessed at, argued over and finally fixed; tax is administered by Tax Department officials who are in occasional contact only

with

with the business side of the enterprise;
it is an illusive and a retrospect tax.

2. For the sake of brevity the writer must avoid giving his reasons for preferring -

A. An average flat rate (say 5%) should be specified in the law itself followed by a proviso delegating to regulations the remissions, rebates and increases of that average flat rate. The flat rate could if necessary, be demanded (pending difficult decisions to be made on the basis of the regulations) subject to any rebate, etc. which the regulations may subsequently admit.

B. A code of regulations of remissions, rebates and increases of the flat rate on the lines of Mr. Murray-Hughes' graduated rates plus his final proviso giving power to make fine adjustments.

This is nearly pure Northern Rhodesia practice restated as for government ownership of minerals. The Northern Rhodesia royalty system is one of the few points in the mining code which the writer finds unassailable.

A. C. Vivian.
late Secretary for Mines.
Northern Rhodesia.

5033/1/11/11
(Distributed & considered at meeting of 12 Oct) 10

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- v. The alternative profits tax is not recommended on its arbitrary basis, the "life of the mine" is a bad one commonly forgotten once it has been wrongly guessed at, argued over and finally fixed; tax is administered by Tax Department officials who are in occasional contact only with

If you should be any where in
presented from attending next Thursday
meeting, the Chairman would welcome
an expression of your views in writing

Yours sincerely

Mr. Fisher 5/10/33

Mr.

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Simcburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

45 for me

DRAFT.

- 1. Sir Albert Kilson CBE. M. *etc.*
- 2. Sir Richard Redgrave KCB. MSc. M.
- 3. P. H. Egeckel Esq. CBE.
- 4. F. Cook Esq. ARCS. Esq. M.
- 5. J. D. Mann Esq. CBE. LL.D.
- 6. J. D. H. Green Esq.

Sir Albert
 Sir Richard
 Egeckel,
 Cook
 Mann
 Green

Oct. 1933

I enclose the memorandum

from Kenny which it is hoped
 to discuss at the meeting of
 the Kenny-lydd Concurrence
 Committee, now arranged for
 Thursday next, Oct. 12th in
 Sir John Campbell's room (2,
 Richmond Terrace) at 2-30 pm.

You will also find heren
 a copy of the pamphlet describ-
 ing the sub-divisions of
 Areas N-3 and 4.

(With me)

Mr. Jackson 5/10/33

Mr.

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

4 to for me

DRAFT.

- 1. Sir Albert Kilson C.H.F. re. *26/33*
- 2. Sir Richard Redgrave K.C.B. T.S.C. re.
- 3. P. H. Egechud Esq. C.T.G.
- 4. T. Crook Esq. A.R.C.S. F.R.S. re.
- 5. A. J. McMan Esq. C.B.E. LL.D.
- 6. J. J. M. Green Esq.

Sir Albert
 Sir Richard
 Egechud,
 Crook
 McMan
 Green

Oct. 1933

I enclose the memorandum from Kenya which it is hoped to discuss at the meeting of the Kenya- held Concurrence Committee, now arranged for Thursday next, Oct. 12th in Sir John Campbell's room (2, Richmond Terrace) at 2-30 pm.

You will also find herein a copy of the pamphlet describing the sub. divisions of areas Nos 3 and 4.

(With me)

8
51 Alexandra Grove. N 12.

6 October, 1933

My dear Freeston

Thanks for Kenya Gold Concessions Committee papers. I hope to look in on Thursday morning in order to skim any reports on Kenya gold which you can place at my disposal.

I hope the Committee will discuss the alternative of a profits tax. The Kenya statement "it appears to be difficult of assessment" is a corollary to abandonment of income-tax, since profits would normally be assessed by income-tax authorities, and are notoriously easier of determination than in most industries. "Tend to put a premium on inefficient working" is pure bosh.

I note this because possibly Campbell might like the Committee to have advice from the Income-Tax pundits on the point -- though no doubt he knows all about it.

The reference at the end of the memorandum to Northern and Southern Rhodesia must relate to the British South Africa Co scale of royalties. Rowan had all the material about this in connection with the N. Rhodesian Mining Law negotiations, and the person who has had the ill-luck to succeed him in that capacity should be able to give you all particulars.

Yours sincerely
J. W. M. G. M.

(given approximately by the above formula) not unreasonably high. The existing remission to the small man of half the rate should, of course, be preserved.

(4) If such a system as the foregoing is adopted, it will be necessary to retain the present arrangement whereby the royalty is prescribed, not in the Ordinance itself, but in the Regulations thereunder; and this brings me to a final point.

(5) All our advisers are agreed that the time is much too early to attempt to lay down a permanent system or scale of taxing the Kenya gold industry. Whatever is now adopted should be provisional only, and liable to modification in the light of fuller knowledge of the field, and greater experience by the Mines Administration. For this reason it is essential to avoid, in the course of negotiation with concessionaires, any semblance of an undertaking by Government to maintain the existing scale of taxation for any length of time. We are assured that this uncertainty does not in fact deter the investor - he is familiar with it in similar circumstances all over the world.

I hope the foregoing advice, with which we, as laymen, cannot but agree, will prove of some assistance to your Committee.

Yours sincerely,

(sgd) W.C.Bottomley

differentiate between reef and alluvial gold in favour of the former is contrary to modern practice. In many countries alluvial gold is actually subject to a lower royalty; widespread alluvial prospecting in an undeveloped field is one of the best ways of discovering the distribution of the reefs, if any.

(3) We are, therefore, left with a flat rate of royalty, irrespective of the nature or origin of the ore won. But a modification has been suggested which I think deserves very careful consideration by your Committee in Kenya.

A flat rate of 5 per cent is common to many mining countries. It was fixed, however, in most cases when sterling was on a parity with gold. In consequence of the recent rise in the sterling price of gold, the profits of gold mining companies have been enormously increased; and in the Union of South Africa, New Zealand and the Gold Coast, Government has secured to itself by special taxation a high proportion of this increment. In the Union it is said that over 70 per cent of the "premium" has been taken by Government. In the Gold Coast the tax on premium is 15 per cent.

Gold now stands at about 133/- per ounce; the price is still erratic, and it is of course impossible to predict its future movement. Hence the suggestion that the needs of the next few years may best be met by making the rate of royalty a function of the current market price of refined gold. The following is an example:-

When the sterling price of gold is	£4	royalty might be	4½%	-	5%
do.	do.	£5	do.	5½%	- 6½%
do.	do.	£6	do.	6½%	- 7½%
do.	do.	£7	do.	7½%	- 8½%

Our experts agreed in thinking that, with gold at its present price, 5 per cent is too low and 8½ per cent

(given

Downing Street,

24 October, 1951.

My dear Moore,

Your letter of the 23rd of September raises in concrete form an important question which we have long seen to be looming ahead - taxation of the Kenya mining industry. We have referred it, as you suggested, to a Committee of the best experts available, and what follows is based upon their advice, tendered after a thorough discussion.

(1). Although in many of the principal gold mining countries (where income tax machinery is already in existence, and where mining is largely in the hands of a few big concerns) the tendency has been to abandon royalties in favour of a profits tax, it would in present circumstances be expensive and extremely difficult for the Government of Kenya to administer such a tax, especially perhaps in relation to large gold mining companies domiciled outside the Colony. The idea of a profits tax should therefore be abandoned for the present.

(2). A system of royalties, graduated according to depth and quality of ore, possesses many advantages; but its adoption in Kenya would be premature, because (a) the field is at present so lightly developed that discrimination based on depth is uncalled for; (b) the exact determination of gold-content in samples etc., would throw an obligation upon the Mines Department which it is not at present constituted to sustain; (c) to differentiate ✓

H.M.Moore, Esq., C.M.G.

P.C.
7.5

3006/11

W. Johnston 27/10/55

- Mr. [unclear]
- Mr. [unclear]
- Mr. [unclear]
- Mr. Parkinson.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Perms. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

L.C. / P. [unclear]

C.7
R 280CT
D 31.

DRAFT.

1. Sir Albert Kilian C.M.G.
2. Sir Richard Redgrave K.C.B. T.D.S.
3. P.H. Fitzgerald Esq. C.M.G.
4. I. G. [unclear] Esq. A.D.C. F.C.S. [unclear]
5. A.J. T. Nain Esq. [unclear] C.A.E. L.D.
6. J.W. Green Esq.

Dear Sir Albert
Sir Richard
Esq. [unclear]
Esq. [unclear]
Mr. Nain
Green

With reference to the meeting of the Kenya Gold Commission Committee on the 12th of October, I now enclose for your information, a copy of the letter sent to the Acting Governor of Kenya on the questions raised in the Memorandum which was before the meeting.

No. 30 on 30/3/55
Kenya

P.P. Let me have
[unclear] copies of

Yours sincerely

C. O.

3006/11

P.C. 75

4

Mr.

W. H. ... 27/10/11

Kenya

Mr.

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir I. Shuckburgh

From: U.S. of S.

To: U.S. of S.

Secretary of State

L.H. / P me

C O
R 28OCT
D 31.

DRAFT.

1. Sir Albert Kilian C.M.G.
2. Sir Richard Redman K.C.B. P.S.
3. P.H. Eggehoel Esq. C.M.G.
4. T. Crook Esq. A.R.C.S. F.C.S.
5. A.J. D'Nain Esq. Hon. C.A.E. LL.D.
6. J.N. Green Esq.

Dear Sir Albert
Sir Richard
Eggehoel
Crook
D'Nain
Green

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Yours sincerely

No. 30 on 30/3/33
Kenya

C.D. Pl. Let me have six additional copies of each.

C. O.

3006/11

PC
Pis
4

W.D. Jackson 27/10/33

Kenya

Mr.
Mr.
Mr.
Mr. Parkinson.
Mr. Tomlinson.

Sir C. Bottomley.
Sir J. Shuckburgh
Perms. U.S. of S.
Parly U.S. of S.
Secretary of State

L. E. / for me

97
R 28 OCT
D 31.

DRAFT.

1. Sir Albert Wilson C.M.G.
2. Sir Richard Redgrave K.C.B. P.S.C.
3. P.H. Egechiel Esq. C.M.G.
4. T. Cook Esq. A.R.C.S. F.R.S.
5. A.J. T. Nain Esq. F.R.S. C.A.E. LL.D.
6. J.W. Green Esq.

Dear Sir Albert
Sir Richard
Egechiel
Cook
T. Nain
Green.

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which was before the meeting.

Yours sincerely

No. 30 on 30/3/33
Kenya.

C.D. Pl. let me have
six additional copies of
encl.

The addition of Ben R. Coleman
and ~~Mr~~ Mr. H. F. Russell I
think the Committee is already
large enough

J. H. G.

50.5.45

W. R. R. R.

M. F.

241-2

Extract from minutes
22.06/58

As regards the minutes and drafts on 3006, the Secretary of State accepted in principle the proposed instructions to the Governor in regard to dealing with applications for areas 1, 3 and 4, and he also agreed that such applications, when received from the Governor, should be referred to a small Committee to be established for the purpose.

L.B. Freeston
22/2.

The Flood

It is premature (and indeed at present impossible, without a breach of confidence) to write anyone outside the C.O. to serve on the proposed Committee. The following list is sent on merely for comment, so that we shall know whom to write to when the time comes (i.e. when Sept. decision on the Second Wilson Report is published).

Sir A. Kitson

Mr. Egechiji

Mr. J. N. Green

Mr. D. D. N'Nani, LL.D. CBE.

(Legal Adviser Consultant to the Inup Inst.
Mineral Resources Dept.).

Prof. Truscott

(Inup. College of Science & Technology)

The last two names have been suggested by Mr. Green. Mr. President or I could be Secretary; & the C'tee could appoint its own Chairman.

L.B. Freeston
4/5

The Flood

3

Gov's despatch of 18th March (pages 7-11) affords immediate material for the Committee - to which (once) and that of The Cook (Soc.) Trust Reserve Sir J. Campbell's name should be added, and

Prof. Truscott's removed (he is in Canada)

I am going to see The Cook at 11-30 tomorrow. Meanwhile Sir J. Campbell

shd. be asked to join

L.B. Freeston
29/3

Sir C. Bottomley

The Committee may have some work to do. I am sure Sir J. Campbell ought to be on it. (His name was only omitted from the panel opposite by accident) He would, of course, preside.

L.B. Freeston
29/3

Sir S. Wilson

For approval of the list.

I put this list up as the Governor (as Mr. Freeston indicates) has asked for very early consideration as to the arrangements to be made with Tanganyika Concessions Ltd.

Sec of State W.E.B. 29.3.33

? As proposed.

L.B. Freeston

30.3.33

Shd. be asked to join

If para. 4 of the telegram is accepted, the papers should be recirculated for further consideration of the sources from which advice could best be sought in London. Possibly a small ad hoc Committee could be formed, to include Sir A. Kitson and one or more Imperial Institute representatives.

L.B. Freeston
16/2.

On the point of applications for 'concessions' i.e. E.P.L.s. and Mining Leases, it is necessary to be adamant and refuse to entertain any at this end. By all means advise on them after the Colonial Government has had a chance of considering, but that is another story. I rather like the idea of a small advisory Committee but as a good deal will turn on the financial status of applicants who in the areas in question (1,3, and 4) may well be large Companies. I think one of the C.A. should be added - Mr. Ezechiel or Sir W.Gowers. Mr. Ezechiel has had experience of such matters.

Extract from minutes
on 2806/33.

J.E.W. Flood.
16.2.33.

As regards a Committee, I should have no hesitation, in ordinary circumstances, in suggesting Mr. H.H. Marriott, Govt. Director of Magadi Soda, Ltd., and a Governor of the Imperial Institute. But he is the very militant President of a gold Company which is only now establishing its position, and I am not sure.

Panama
Corporation.

W.C.B.
16.2.33.