

1933

~~Kenna~~

No. 3006/8.

SUBJECT

CO533/429

Goldfields in the Kaverondo Districts.

- Kahamega Goldfield.

Previous

18046/32 (Kisumu Report)

18027/32 (Kahamega Goldfield)

Subsequent

32411/33 (Expulsion in  
Kahamega District)

37899/33

practically and effectively with their immediate problem of the natives on whose land gold is found. And when the Carter Commission reports they and the Government at home will be able to deal comprehensively with the wider question of the ultimate adequacy of Native Reserves.

land and money, particularly where they get compensation for disturbance and all areas of land which can be farmed at a profit.

12.

There remains the point and indeed the only point on which some critics have sought to fasten, viz. that the N.L.O. provides that if land is excluded from a Reserve, other land of equivalent amount shall be provided; and these critics have suggested that the Amending Ordinance is a breach of faith. ~~This is a criticism very easy to answer, and one to which the Local Government need hardly have been subjected.~~ The complete answer is.

The object of the Ordinance was to insure that the Native Reserves should be adequate not merely for present needs but for the future. <sup>One of</sup> The function of the Carter Commission is to report on the adequacy of Reserves.

They will take all factors into account including possible mining development <sup>which may well prove to be only a small part of the general question</sup> and the time to deal with the whole question of what are the proper areas to be allocated as Native Reserves is when the Carter Commission reports. They are

admirably qualified for their task. And as stated they have approved of the present Ordinance. Nor would it be practicable to proceed in any other way. How could a

little plot of land be added each time a small lease was granted. The native is <sup>compensated +</sup> accommodated with other land. The displacement as shown above may be very small in extent and

for a short period. Is the <sup>best</sup> Commission to add a few acres (miserable <sup>part</sup> of the Reserve) for that temporary period. The Government of Kenya have approached a difficult problem in a practical and sympathetic way. They are dealing

practically

to the mining area so that they may have opportunity of remunerative work and a market for their produce.

It need hardly be said that all these facts have been very present to the minds of the Governor and his officers (not least to C.N.C.) whose consistent policy is to secure the best interests of the natives in the Reserves.

It is fair to say too that reports show that relations between settlers in Kenya who have been prospecting for gold and the natives have been very satisfactory. Moreover the Governor has stated that he anticipates no difficulty in providing natives with land (2 of the note). *KK*

11. In the process of prospecting and mining there are two stages

(a) proving an area and finding whether there is gold in workable quantities. ~~(+)~~

(b) the ~~leasing~~ working of a proved area.

The new Ordinance deals with (b). <sup>Under the terms of the</sup> It requires every temporary exclusion from the Reserve by <sup>for the purpose of</sup> Lease to be approved by the <sup>Local Advisory</sup> Bd. (on which natives will be represented).

It requires in terms compensation in land and/or money. <sup>Local Authority may</sup> ~~The minimum of compensation~~ - perhaps partly

~~It has been stated that Governor anticipates no difficulty in finding native land~~ <sup>for every native who may be temporarily displaced</sup> ~~but it may well be~~

that it will be very much in the interest of a group of natives in a gold area to receive compensation both in

land

Kenya badly hit by slump and development of gold afford revenue, remunerative employment, market.

9. Kenya Government has given most careful consideration to the policy to be followed in development of gold areas.

(b) Advice of Kitson on ~~small scale~~ <sup>small scale</sup> ~~mining~~

(b) In framing necessary Ordinances to be ~~in~~ <sup>in</sup> ~~with~~ <sup>with</sup> ~~the~~ <sup>the</sup> ~~working~~ <sup>working</sup> ~~by~~ <sup>by</sup> ~~prospectors.~~ <sup>prospectors.</sup>

As regards letter framed after consultation with Land Trust Board, C.N.C., Carter Commission and approved by all. Also Governor taken wise step of explaining <sup>points</sup> ~~from~~ himself to natives and C.N.C. has issued simple and clear statement.

10. Particular case has been taken to safeguard the interests of the natives, both the interest of <sup>particular</sup> ~~particular~~ natives in the immediate present, and the ultimate interest of the <sup>whole</sup> ~~natives~~ as a whole in the future.

Important to appreciate the character of any development which is likely to take place.

Adapt from Kitson's letter the description of the two types of mining and the limited amount of land actually occupied by mining operations.

Show also adapting Kitson that in prospecting and alluvial mining displacement is small and temporary - and even in <sup>the</sup> ~~the~~ <sup>trade</sup> ~~trade~~ mining the actual area occupied by mining operations is relatively small and in any case reverts to the Reserve at expiration of Lease.

Important thing is that natives should get compensation for disturbance, and opportunity of working land close to

3(a) Answer given to the Hon. N. R. ...

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1. The Secretary of State for the Colonies made a full statement in reply to Questions in the House of Commons on
2. Since then some criticism has been made based largely on a misunderstanding of the position. As this cannot be replied to in Parliament, it is desirable to ~~make a further public statement.~~ *That the position should be made clear in an authoritative statement.*
  - 4.2 Object and provisions of Lands Trust Ordinance *fully.*  
*Power to exclude -*
  - 4.3 Minerals reserved and intention to work. *where stated*
5. Following on report of Joint Select Committee, appointment of Carter Commission. Object to inquire into sufficiency of Reserves and cognate questions
6. Commission has been at work in Kenya since *April 1962*
7. Particularly fortunate that Commission should be at work on the spot when prospecting in gold areas was taking place.
  - (a) Enabled them to be consulted over immediate regulation of prospecting and development.
  - (b) They will be in position to gauge future developments and make recommendations with regard to extent and adequacy of reserves.
8. Discovery of gold of great value to Kenya as a whole and not least to native population in these areas it may be found.

a small plot, possibly miles away from the Reserve, on each occasion when a lease is granted. ~~The purpose of the~~

16. The Government of Kenya have approached a ~~very~~ difficult problem in a practical and sympathetic way. They are dealing effectively with the immediate necessity of resettling <sup>& compensating</sup> the individual natives on whose land gold is found, and when the Land Commission reports the Government of Kenya and the Government at home will be able to deal comprehensively with the wider question of the ultimate adequacy of the Reserves.

*Amending Ordinance is to enable the development of the field to be carried out in a practical way which*

The new Ordinance has been framed to deal with (b). The provision of the principal Ordinance is retained that every exclusion from the reserve, (however temporary) must first be approved by the local Advisory Board on which one or more African members sit. The compensation to be awarded to the community must in no case be less than would be paid for similar land in European occupation outside the reserve: it may, of course, take the form partly of land and partly of money.

14. There remains the point, ~~and indeed the only point~~ <sup>on which some critics have sought to fasten, namely,</sup> that the Native Lands Trust Ordinance provides that if land is excluded from a reserve other land of equivalent area and value shall be substituted, and ~~these critics have suggested~~ <sup>it has been</sup> that the amending Ordinance is a breach of faith. X

15. <sup>Bel</sup> The object of the principal Ordinance <sup>is</sup> ~~was~~ to ensure that the native reserves should be adequate not merely for present needs, but for the future. The function of the Land Commission, who are <sup>will</sup> admirably qualified for their task, is to report on the adequacy of the Reserves, and, ~~as has been suggested above,~~ they will ~~no doubt~~ take all the factors into account including the requirements of possible mining

~~development. When their report has been received (and it is expected in the course of a few months), it will be possible to assess the magnitude of the problem involved and the practical possibilities of adding to the Kafirondo Reserves areas elsewhere in substitution for the land excluded.~~

<sup>with</sup> ~~Reflections show that no other course of action is practicable.~~

<sup>TP</sup> <sup>NB</sup> The area required for each lease amounts to a few acres only. Clearly, <sup>would have been</sup> it will be out of the question to substitute





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9. It will thus be seen that the total amount of land likely to be excluded from the reserves is relatively very small. Moreover, <sup>for the duration of his term</sup> the exclusion is only temporary ~~the land may be restored to the reserve on the expiration of the term.~~

10. The matter of immediate importance is to ensure that any individual native whose holding covers ground required for mining operations shall receive compensation for disturbance and an alternative piece of ground on which he may live <sup>and work</sup> in close proximity to his market. It need hardly be said that all these facts have been very present to the minds of the Governor and his officers (not least the Chief Native Commissioner) whose consistent policy is to secure the best interests of the natives in the reserves.

11. The Governor has stated that he does not contemplate any difficulty in providing individual dispossessed natives with land. In many cases they will still be able to work on part of the land which they now occupy adjacent to the plot being mined. In other cases, administrative arrangements will be made for settling <sup>them</sup> amongst <sup>their</sup> his neighbours. Dispossessed natives, and natives on whose holdings they will be settled, will be compensated out of money paid to local native funds as provided in the amending Ordinance.

12. It is fair to say that reports show that the relations between the settlers in Kenya who have been prospecting for gold and the natives of the area concerned have hitherto been very satisfactory.

13. In the process of prospecting and mining there are two stages:-

- (a) proving an area and finding whether there is gold in workable quantities, and
- (b) the working of a proved area.

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Central Native Lands Trust Board, the Chief Native Commissioner, and the Land Commission. The amending Ordinance recently passed has been approved by all these authorities. Moreover, the Governor has taken the very wise step of explaining the position to the natives themselves in their tribal gatherings, and a clear and suitable statement drawn up by the Chief Native Commissioner has been translated into the <sup>vernacular</sup> local language and widely circulated. Every care has been taken to safeguard not only the interests of individual interests in the immediate present, but also the ultimate interest of the tribes as a whole in the future.

8. It should be explained that mining in the field is of two kinds - alluvial and reef. Alluvial mining is the treatment of pebbly gravel, sand and clay in the streams; reef mining involves the treatment of quartz which occurs <sup>underground</sup> in veins, sometimes several feet in thickness. The outcrops of this quartz are few, and the reef has to be located by bores, pits and trenches. Such of the trial <sup>excavations</sup> bores, pits and trenches as prove to be unpromising are abandoned, and filled in with the soil taken therefrom.

But where the reef promises to prove of economical value it can be worked only through shafts. The surface actually required for reef mining, in the local circumstances

prevailing in Kenya, is a matter of acres only, <sup>possibly</sup> ~~possibly~~

~~possibly~~ ~~possibly~~. It may be added that in the prospecting stage no trench or pit is made on any cultivation without the consent of the native occupier, and then only after he has received compensation by mutual agreement.



is likely with further lands for native occupation

5. Following upon the Report of the Joint Committee of Parliament of 1931 a Land Commission was appointed to consider the needs (both present and prospective) of the native population of Kenya in regard to land, and to report whether <sup>or the</sup> ~~it is~~ <sup>likely</sup> ~~desirable~~ and <sup>likely</sup> ~~practicably~~ ~~to add to~~ the existing reserves. This Commission has been at work in Kenya since the beginning of August last.

6. It is particularly fortunate that <sup>the Commission's</sup> ~~its~~ presence in the Colony should have coincided with the recent gold discoveries. It has thereby been possible to consult the Commission over the immediate regulation of prospecting and development; and, in assessing the future land requirements of the natives, they will be able to include among other factors the probable effects of gold mining in native areas.

7. The discovery of gold is of the greatest importance to Kenya as a whole, which has been seriously hit by the depression in agriculture, and not least to the natives themselves. If present hopes are realised, not only will Government obtain additional revenue for necessary purposes, including the improvement of native services, but the tribesmen will have at hand a ready market for their produce and remunerative employment near their homes. The local Government is giving most careful consideration to the policy to be followed in developing the potential goldfield. On the technical aspects they have secured the advice of Sir Albert Kitson, a very eminent geologist of world-wide experience, and in framing the necessary Ordinance to deal with the immediate situation they have taken the opinion of the

GOLD MINING AND NATIVE LAND IN KENYA.

1. A full statement on the position was made by the Secretary of State for the Colonies in reply to questions in the House of Commons on the 20th December, 1932. Since then some criticism has been made, based largely on a misunderstanding of the facts. As this cannot at present be replied to in Parliament it is desirable that the position should be made clear in an authoritative statement. *for*

2. ~~Ever since the advent of British Government to East Africa, it has been a settled principle that minerals are the property not of the occupiers of the land (whether European or native) but of the Crown. (This was laid down in the East Africa Order in Council of 1902.)~~ Since that date, large areas have from time to time been set aside for the native population, but the creation of such native reserves has in no way infringed the Crown's ownership of minerals in or under the soil.

3. An ordinance passed in 1930 (The Native Lands Trust Ordinance) established the principle that the lands thus set aside (totalling nearly 51,000,000 acres) should remain for the use and benefit of the native tribes of the Colony for ever. These lands were placed under the control of a Central Native Lands Trust Board, and Local Boards were created in each district to advise the Central Board.

4. The Ordinance also provided that, with the advice and consent of the Central Board, the Governor could exclude from a Native Reserve land required for such purposes as railways, aerodromes, townships, waterworks, and for the development of the mineral resources of the Colony. Where any such exclusion was made an equivalent area of land was to be added

*to the Reserve. It is clear from the terms of the Ordinance that the exclusion so contemplated was a preliminary step to be followed by the Government.*

area & would shd. ultimately  
be added to the Reserve as additional  
compensation to the Nation as  
a whole for the temporary expropriation  
of land included in a lease &  
the disturbance of land so occupied  
& <sup>damage</sup> in working. But this  
aspect of the <sup>problem</sup> ~~problem~~ cannot be dealt with  
- price - meat.

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There is no count fairly to be  
contended that there has been <sup>any</sup>  
breach of faith either  
with the natives immediately concerned  
or with the native community as a whole

10, Downing Street,  
Whitehall.

~~Proceeds of <sup>the</sup> ~~fairly~~ <sup>is</sup> being ~~fairly~~ <sup>is</sup> being ~~fairly~~ <sup>is</sup> being  
fairly ~~paid~~ <sup>paid</sup> in the way  
of ~~the~~ <sup>the</sup> ~~land~~ <sup>land</sup> ~~with~~ <sup>with</sup>  
clear ~~and~~ <sup>and</sup> ~~decided~~ <sup>decided</sup>  
There is no ~~land~~ <sup>land</sup> ~~to~~ <sup>to</sup>~~

to him. He ~~with~~ <sup>with</sup> the fact ~~is~~ <sup>is</sup>  
stands to gain directly ~~and~~ <sup>and</sup>  
from the ~~the~~ <sup>the</sup> ~~work~~ <sup>work</sup> ~~of~~ <sup>of</sup>  
his immediate neighbours.

But the

always

X 2 // has been stated  
at ~~and~~ <sup>and</sup> ~~the~~ <sup>the</sup> ~~framing~~ <sup>framing</sup> ~~team~~ <sup>team</sup>  
that - Exclusion ~~is~~ <sup>is</sup> ~~not~~ <sup>not</sup> ~~permanant~~ <sup>permanant</sup>  
and that on ~~exp~~ <sup>exp</sup> ~~of~~ <sup>of</sup> ~~the~~ <sup>the</sup> ~~land~~ <sup>land</sup> ~~will~~ <sup>will</sup> ~~be~~ <sup>be</sup> ~~that~~ <sup>that</sup> ~~a~~ <sup>a</sup> ~~further~~ <sup>further</sup>  
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~~centrating~~ the individual natives on whose land gold is found, and when the Land Commission reports the Government of Kenya and the Government at home will be able to deal comprehensively with the wider question of the ultimate adequacy of the Reserves.

or more African members sit. The compensation to be awarded to the community must in no case be less than would be <sup>given</sup> ~~paid~~ for similar land in European occupation outside the reserve; it may, of course, take the form partly of land and partly of money.

12-14. There remains the point that the Native Lands Trust Ordinance provides that if land is excluded from a reserve other land of equivalent area and value shall be substituted, and it has been suggested that the amending Ordinance is a breach of faith. It cannot fairly be contended that there has been any breach of faith either with the natives immediately concerned or with the native community as a whole. The individual native <sup>will be provided for</sup> ~~is~~ being ~~fairly~~ treated in the way already described. In fact he stands to gain directly and indirectly from the working of gold in his immediate neighbourhood.

13 15. But the object of the principal Ordinance is to ensure that the native reserves should be adequate not merely for present needs, but for the future. The function of the Land Commission, who are well qualified for their task, is to report on the adequacy of the Reserves, and they will take all the factors into account including the requirements of possible mining development.

It has already been stated that exclusion for a mining lease is temporary and not <sup>a</sup> permanent <sup>exclusion</sup> and that on expiration of lease land reverts to the Reserves, but it may well be that a further area of land should ultimately be added to the Reserve as additional compensation to the Natives as a whole for the temporary exclusion of land included in a lease and for disturbance of land so occupied and damaged in working. But this aspect of the problem cannot be dealt with piece-meal.



for mining operations shall receive compensation for disturbance and an alternative piece of ground on which he may live and work in close proximity to his market. ~~It need hardly be said that all these facts have been very present to the minds of the Governor and his officers (not the least the Chief Native Commissioner) whose consistent policy is to secure the best interests of the natives in the reserves.~~

11. The Governor has stated that he does not contemplate any difficulty in providing individual dispossessed natives with land. In many cases they will still be able to work on part of the land which they now occupy adjacent to the plot being mined. In other cases, administrative arrangements will be made for settling them amongst their neighbours.

Back

~~Dispossessed natives, and natives on whose holdings they will be settled, will be compensated out of money paid to local native funds as provided in the amending Ordinance.~~

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11. 13. In the process of prospecting and mining there are two stages:-

- (a) proving an area and finding whether there is gold in workable quantities, and
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The new Ordinance has been framed to deal with (b). The provision of the principal Ordinance is retained that every exclusion from the reserve (however temporary) must first be approved by the local Advisory Board on which one

Central Native Lands Trust Board, the Chief Native Commissioner, and the Land Commission. The amending Ordinance recently passed has been approved by all these authorities. Moreover, the Governor has taken the wise step of explaining the position to the natives themselves in their tribal gatherings, and a clear and suitable statement drawn up by the Chief Native Commissioner has been translated into the vernacular and widely circulated. Every care has been taken to safeguard not only the interests of individuals in the immediate present, but also the ultimate interest of the tribes as a whole in the future.

3. It should be explained that mining in the field is of two kinds - alluvial and reef. Alluvial mining is the treatment of gravel, sand and clay in the streams; reef mining involves the treatment of quartz which occurs in underground veins. The outcrops of this quartz are few, and the reef has to be located by bores, pits and trenches. Such of the trial excavations as prove to be unpromising are abandoned, and filled in. But where the reef promises to prove of economic value it can be worked only through shafts. The surface actually required for reef mining, in the local circumstances prevailing in Kenya, is a matter of acres only.

4. It will thus be seen that the total amount of land likely to be excluded from the reserves is relatively very small. Moreover, the exclusion is only for the duration of the

The object of the present legislation is to ensure that the land holding covers ground required for

that the exclusion so contemplated was a permanent exclusion.

5. Following upon the Report of the Joint Committee of Parliament of 1931 a Land Commission was appointed to consider the needs (both present and prospective) of the native population in Kenya ~~in~~ in regard to land, and to report on the desirability and practicability of setting aside further lands for native occupation. This Commission has been at work in Kenya since the beginning of August last.

6. It is particularly fortunate that the Commission's presence in the Colony should have coincided with the recent gold discoveries. It has thereby been possible to consult the Commission over the immediate regulation of prospecting and development; and, in assessing the future land requirements of the natives, they will be able to include among other factors the probable effects of gold mining in native areas.

7. The discovery of gold is of the greatest importance to Kenya as a whole, ~~which has been seriously hit by the depression in agriculture, and not least to the natives themselves.~~ ~~If present hopes are realised, not only will Government obtain additional revenue for necessary purposes, including the improvement of native services, but the tribesmen will have at hand a ready market for their produce and remunerative employment near their homes.)~~ The local Government <sup>has</sup> ~~is~~ <sup>on</sup> ~~is~~ giving most careful consideration to the policy to be followed in developing the potential goldfield. On the technical aspects they have secured the advice of Sir Albert Kitson, a very eminent geologist of world-wide experience, and in framing the necessary Ordinance to deal with the immediate situation they have taken the opinion of the

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It has been stated that exclusion for a mining lease is not a permanent exclusion, but it may well be that a further area of land should ultimately be added to the Reserve as additional compensation to the Natives as a whole for the temporary exclusion of land included in a lease and for disturbance of land so occupied and damaged in working. But this aspect of the problem cannot be dealt with piece-meal.

The area required for each lease amounts to a few acres only. Clearly, it would have been out of the question to substitute a small plot, possibly miles away from the Reserve, on each occasion when a lease is granted.

14. The Government of Kenya have approached a difficult problem in a practical and sympathetic way. They are dealing effectively with the immediate necessity of resettling the individual natives on whose land gold is found, and when the Land Commission reports the Government of Kenya and the Government at home will be able to deal comprehensively with the wider question of the ultimate adequacy of the Reserves.

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themselves, compensation will also be paid to local natives.

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The new Ordinance has been framed to deal with (a). The provision of the principal Ordinance is that every exclusion from the reserve (however temporary) must first be approved by the local Advisory Board of which one or more African members sit. The compensation to be awarded to the community must in no case be less than could be given for similar land in European occupation outside the reserve.

12. There remains the point that the Native Land Trust Ordinance provides that if land is excluded from a reserve other land of equivalent area and value shall be substituted, and it has been suggested that the amending Ordinance is a breach of faith. It cannot fairly be contended that there has been any breach of faith either with the natives immediately concerned or with the native community as a whole. The individual native will be provided for in the way already described.

13. But the object of the principal Ordinance is to ensure that the native reserves should be adequate not merely for present needs, but for the future. The function of the Land Commission, who are well qualified for their task, is to report on the adequacy of the Reserves, and they will take all the

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9. The matter of immediate importance is to ensure that any individual native whose holding covers ground required for mining operations shall receive compensation for disturbance and an alternative piece of ground on which he may live and work in close proximity to his market.

The Governor has stated that he does not contemplate any difficulty in providing individual dispossessed natives with land. In many cases they will still be able to work on part of the land which they now occupy adjacent to the plot being mined. In other cases, administrative arrangements will be made for settling them amongst their neighbours. In addition to this provision of land for the individual natives

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that the exclusion so contemplated was a permanent one.

5. Following upon the Report of the Joint Committee of Parliament of 1931 a Land Commission was appointed to consider the needs (both present and prospective) of the native population in Kenya in regard to land. It has submitted a report on the desirability and practicability of setting aside further lands for native occupation. This Commission has been working in Kenya since the beginning of August last.

6. It is particularly fortunate that the Commission's presence in the Colony should have coincided with the gold discoveries. It has thereby been possible to refer the Commission over the immediate resolution of the questions of land and development, and, in assessing the future requirements of the natives, they will be able to include among other factors the probable effects of gold mining in native areas.

7. The discovery of gold is of the greatest importance to Kenya as a whole. The local Government has given most careful consideration to the policy to be followed in developing the potential goldfield. On the technical aspects they have secured the advice of Sir Albert Kitson, a very eminent geologist of world-wide experience, and in framing the necessary Ordinance to deal with the immediate situation they have taken the opinion of the Central Native Lands Trust Board, the Chief Native Commissioner, and the Land Commission. The amending Ordinance recently passed has been approved by all these authorities. Moreover, the Governor has taken the wise step of explaining the position to the natives themselves in their tribal gatherings, and a clear and suitable statement drawn up by the Chief Native Commissioner has been translated into the vernacular and widely circulated.



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GOLD MINING AND NATIVE LAND IN KENYA

1. A full statement on the position was made by the Secretary of State for the Colonies in reply to questions in the House of Commons on the 20th December 1932. Since then some criticism has been made, based largely on a misunderstanding of the facts. As this cannot at present be replied to in Parliament it is desirable that the position should be made clear in an authoritative statement.

2. In East Africa, minerals are the property not of the occupiers of the land (whether European or native) but of the Crown. Large areas have from time to time been set aside for the native population, but the creation of such native reserves in no way infringed the Crown's ownership of minerals in or under the soil.

3. An Ordinance passed in 1930 (The Native Lands Trust Ordinance) established the principle that the lands thus set aside (totalling nearly 31,000,000 acres) should remain for the use and benefit of the native tribes of the Colony for ever. These lands were placed under the control of a Central Native Lands Trust Board, and Local Boards were created in each district to advise the Central Board.

4. The Ordinance also provided that, with the advice and consent of the Central Board, the Governor could exclude from a Native Reserve land required for such purposes as railways, aerodromes, townships, waterworks, and for the development of the mineral resources of the Colony. Where any such exclusion was made an equivalent area of land was to be added to the Reserve. It is clear from the terms of the Ordinance

that

*Mr. Forster*

511

17th January 1933.

*By air mail 17/1*

My dear Byrne,

You are probably aware that the recent Ordinance to amend the Native Lands Trust Ordinance has raised a storm of criticism here. This criticism is, I need hardly say, for the most part ill-informed, and with a view to making the facts better known, I have prepared a statement which I hope to publish before long setting out the position as I see it.

The statement, of which I enclose a copy, is not yet authorised for publication; it may be altered substantially before being communicated to the London Press. I shall probably telegraph to you when it is ready for issue. In the meantime I enclose a copy with this week's air mail in order that you may see the lines on which my mind is working.

*Yours very sincerely,*

P. CUNLIFFE-LISTER.

It has already been stated that exclusion for a mining lease is not a permanent exclusion, but it may well be that a further area of land should ultimately be added to the Reserve as additional compensation to the Natives as a whole for the temporary exclusion of land included in a lease and for disturbance of land so occupied and damaged in working. But this aspect of the problem cannot be dealt with piece-meal.

The area required for each lease amounts to a few acres only. Clearly, it would have been out of the question to substitute a small plot, possibly miles away from the Reserve, on each occasion when a lease is granted.

14. The Government of Kenya have approached a difficult problem in a practical and sympathetic way. They are dealing effectively with the immediate necessity of resettling the individual natives on whose land gold is found, and when the Land Commission reports the Government of Kenya and the Government at home will be able to deal comprehensively with the wider question of the ultimate adequacy of the Reserves.

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Colonial Office.

18th January, 1933.

10. It is fair to say that reports show that the relations between the settlers in Kenya who have been prospecting for gold and the natives of the area concerned have hitherto been very satisfactory.

11. In the process of prospecting and mining there are two stages:-

- (a) proving an area and finding whether there is gold in workable quantities, and
- (b) the working of a proved area.

The new Ordinance has been framed to deal with (b). The provision of the principal Ordinance is retained that every exclusion from the reserve (however temporary) must first be approved by the local Advisory Board on which one or more African members sit. The compensation to be awarded to the community must in no case be less than would be given for similar land in European occupation outside the reserve.

There remains the point that the Native Lands Trust Ordinance provides that if land is excluded from a reserve other land of equivalent area and value shall be substituted, and it has been suggested that the amending Ordinance is a breach of faith. It cannot fairly be contended that there has been any breach of faith either with the natives immediately concerned or with the native community as a whole. The individual native will be provided for in the way already described.

13. But the object of the principal Ordinance is to ensure that the native reserves should be adequate not merely for present needs, but for the future. The function of the Land Commission, who are well qualified for their task, is to report on the adequacy of the Reserves, and they will take all the factors into account including the requirements of possible mining development.

as a whole in the future.

8. It should be explained that mining in the field is of two kinds - alluvial and reef. Alluvial mining is the treatment of gravel, sand and clay in the streams; reef mining involves the treatment of quartz which occurs in underground veins. The outcrops of this quartz are few, and the reef has to be located by bores, pits and trenches. Such of the trial excavations as prove to be unpromising are abandoned and filled in. But where the reef promises to prove of economic value it can be worked only through shafts. The surface actually required for reef mining, in the local circumstances prevailing in Kenya, is a matter of acres only.

It will thus be seen that the total amount of land likely to be excluded from the reserves is relatively very small. Moreover, the exclusion is only for the duration of the lease.

9. The matter of immediate importance is to ensure that any individual native whose holding covers ground required for mining operations shall receive compensation for disturbance and an alternative piece of ground on which he may live and work in close proximity to his market.

The Governor does not contemplate any difficulty in providing individual dispossessed natives with land. In many cases they will still be able to work on part of the land which they now occupy adjacent to the plot being mined. In other cases, administrative arrangements will be made for settling them amongst their neighbours. In addition to this provision of land for the individual natives themselves, compensation will also be paid to local native funds.

to consider the needs (both present and prospective) of the native population in Kenya in regard to land, and to report on the desirability and practicability of setting aside further lands for native occupation. This Commission has been at work in Kenya since the beginning of August last.

6. It is particularly fortunate that the Commission's presence in the Colony should have coincided with the recent gold discoveries. It has thereby been possible to consult the Commission over the immediate regulation of prospecting and development; and, in assessing the future land requirements of the natives, they will be able to include among other factors the probable effects of gold mining in native areas.

7. The discovery of gold is of the greatest importance to Kenya as a whole. The local Government has given most careful consideration to the policy to be followed in developing the potential goldfield. On the technical aspects they have secured the advice of Sir Albert Kitson, a very eminent geologist of world-wide experience, and in framing the necessary Ordinance to deal with the immediate situation they have taken the opinion of the Central Native Lands Trust Board, the Chief Native Commissioner, and the Land Commission. The amending Ordinance recently passed has been approved by all these authorities. Moreover, the Governor has taken the wise step of explaining the position to the natives themselves in their tribal gatherings, and a clear and suitable statement drawn up by the Chief Native Commissioner has been translated into the vernacular and widely circulated. Every care has been taken to safeguard not only the interests of individuals in the immediate present, but also the ultimate interest of the tribes.

6

## GOLD MINING AND NATIVE LAND IN KENYA.

1. A full statement on the position was made by the Secretary of State for the Colonies in reply to questions in the House of Commons on the 20th December 1932. Since then some criticism has been made, based largely on a misunderstanding of the facts. As this cannot at present be replied to in Parliament it is desirable that the position should be made clear in an authoritative statement.

2. In East Africa, minerals are the property not of the occupiers of the land (whether European or native) but of the Crown. Large areas have from time to time been set aside for the native population, but the creation of such native reserves has in no way infringed the Crown's ownership of minerals in or under the soil.

3. An Ordinance passed in 1930 (The Native Lands Trust Ordinance) established the principle that the lands thus set aside (totalling nearly 31,000,000 acres) should remain for the use and benefit of the native tribes of the Colony for ever. These lands were placed under the control of a Central Native Lands Trust Board, and Local Boards were created in each district to advise the Central Board.

4. The Ordinance also provided that, with the advice and consent of the Central Board, the Governor could exclude from a Native Reserve land required for such purposes as railways, aerodromes, townships, waterworks, and for the development of the mineral resources of the Colony. Where any such exclusion was made an equivalent area of land was to be added to the Reserve. It is clear from the terms of the Ordinance that the exclusion so contemplated was a permanent exclusion.

5. Following upon the Report of the Joint Committee of Parliament of 1931 a Land Commission was appointed

75  
Downing Street.

18 January, 1933

Dear Mr. Watney.

In continuation of Mr. Cliffe's letter to you of January the 16th, I enclose a copy of the authorised statement about gold-mining in the Kenya Native Reserves. The statement is being issued to the daily press tonight for publication tomorrow morning.

Yours very truly,

CPA

C. WATNEY, ESQ.



84

Downing Street,

18 January, 1933.

Dear Mr. Joelson,

I enclose a copy of an authorised statement about gold-mining in native land in Kenya. This statement is being issued to the daily press tonight for publication tomorrow morning.

Yours sincerely,

J. L. JOELSON, Esq.

C. O.

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C. O.  
19 JAN  
19

Mr. Fresson 18/

Kemp

Coded sent  
8/ 18/11/16

Mr. Parkinson.  
Mr. Tomlinson.  
Sir C. Bottomley.  
Sir J. Shuckburgh.  
Permi. U.S. of S.

The.

Private and Personal

Parly. U.S. of S.  
X Secretary of State.

P.V.

DRAFT. TELEGRAM Code

Governor  
Nairobi

I have enclosed in a letter sent to you by air mail 18th Jan. copy of a statement (1300 words) justifying our action in amending Native Lands Trust Ordinance. This statement has subsequently been authorised for issue to the press subject to omission from para. 9 of words "has stated that he". You may publish locally on receipt of my letter. If necessary I could telegraph the text.

1. Notice Statement for publication by S of S.
2. Amended Statement for publication
3. Statement amended further
4. Copy of Statement for publication
5. To Sir J. Byrom (W/S & U) \_\_\_\_\_ 17 January '33
6. Copy of statement for publication & distribution list
7. To Mr Watney (W/S No 6) \_\_\_\_\_ 18 January '33.
8. To Mr Jackson (W/S No 6) \_\_\_\_\_ 18 January '33
9. To Governor Tel (P & P) \_\_\_\_\_ 18 January '33

Put by:

*[Signature]*  
20/1/33

*[Handwritten mark]*

10. To The Archbishop of Canterbury - (W/S statement) - 18 Jan '33

DESTROYED UNDER STATUTE

✓ 11. C. Watney \_\_\_\_\_ 19 Jan. '33.  
Ackd. receipt of statement

✓ 12. F.S. Jackson \_\_\_\_\_ 19 Jan '33  
Ackd. receipt of statement & expresses appreciation of  
assurances given

Put by:

*[Signature]*  
25/1/33

*[Handwritten mark]*