

1933

3006/4

CO 533/429
KENYA

1933

3006/4

Goldfields in the Highlands Districts
Statement for publication

Previous

from file

Subsequent

by 2/1
of Director 2/1
by 2/1
of Director 2/1
207

CIRCULAR
No. 22 OF
1932.
(N.M.A. D.)

CHIEF SECRETARY'S OFFICE,
ENTEBBE, UGANDA,
1ST DECEMBER, 1932.

17
END

PECUNIARY INTERESTS OF PUBLIC OFFICERS: KAKAMEGA GOLDFIELDS.

His Excellency the Governor has recently had under consideration the desirability of permitting Uganda Officials to participate either pecuniarily or otherwise in enterprises connected with the Kakamega Goldfields. The vicinity of Kakamega to the Uganda border renders it possible that such participation might lead, in certain instances, to a conflict of private interests with public duties, and in the circumstances His Excellency has decided that the most equitable arrangement will be to place a general embargo upon any such applications.

2. Officers, accordingly, are notified that, in accordance with the provisions of paragraph 29 of the Regulations for His Majesty's Colonial Services (1928 Edition), as amplified in Standing Order No. 190, they are prohibited from speculating in the shares of, or being connected with, any company, occupation or undertaking relating to the Kakamega Goldfields.

3. Applications to participate in mining interests in contiguous territories, apart from Kakamega, should be submitted separately, for consideration on their merits.

4. A note of this Circular should be made against Standing Order No. 190.

A. E. WEATHERHEAD,
for Chief Secretary to the Government.

To,

ALL HEADS OF DEPARTMENTS:
PROVINCIAL COMMISSIONERS:
OFFICER COMMANDING, 4TH K.A.R.:
DISTRICT COMMISSIONERS.

(560)

-2-

forty-five miles from Kakamega) might find himself unduly influenced by his private interests to afford exceptional assistance during the course of his official duties in such matters as labour or transport for the goldfields. In all the circumstances, I have considered it desirable to issue a general warning in the terms of the accompanying circular.

I have the honour to be,

Sir,

Your most obedient, humble servant,

B. H. Brindley

GOVERNOR.

Copy regd. on 3503/

by order



GOVERNMENT HOUSE,
UGANDA.

Uganda Protectorate.

No. 464.

RECEIVED
- 7 JAN 1933
COL. OFFICE

14 December, 1932.

Sir,

I have the honour to inform you that I have received an application from Mr. D. W. Robertson, District Officer, to be permitted to take up a share in a syndicate being formed in Uganda to exploit a claim in the Kakamega goldfields in Kenya. Mr. Robertson, who reported an early decision, was informed that, while I had no fear that the investment proposed would in fact interfere with the proper performance of his duties, I felt that permission given in one case would be difficult to withhold in others, and that, if such permission were widely given, it might lead, in some instances, to a conflict between private financial interests and public duty. The application was accordingly refused.

2. I am aware, strictly speaking, that Uganda officials would not necessarily be debarred by the provisions of Colonial Regulation No. 29 from participating in investments in Kenya and that the Kakamega goldfields do not come within the purview of Section 96 of the Mining Ordinance of 1910. At the same time, it is not outside the range of possibility that an officer posted to a district contiguous to the Kenya border (which is only some

forty-five

The Right Honourable
THE SECRETARY OF STATE FOR THE COLONIES,

&c., &c., &c.

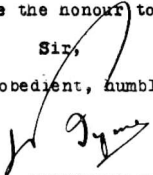
Native Reserves, I could not advocate any relaxation of the present rule. A reasonable case for such relaxation may arise at some later date when mining development is on a firmer basis and when Kenya mining shares figure in share quotations side by side with similar quotations in respect of South African and Rhodesian mines.

4. I should be glad to know what reply you desire should be given to the representations to which I have referred.

I have the honour to be,

Sir,

Your most obedient, humble servant,


BRIGADIER-GENERAL,
GOVERNOR.

contained in Section 138 of the Code of Regulations. Moreover the Mining Ordinance 1931 in Section 93 prohibits the acquisition or holding of any mining interests by persons in the service of the Colony or of the Kenya and Uganda Railways and Harbours Administration.

In view of these considerations I caused a further circular on this subject, a copy of which I enclose for facility of reference, to be issued in November last (No.41 of November 10th) and I observe that in its Circular No.22 of 1932 the Uganda Government has prohibited its servants from holding any interests in the Kakamega goldfields.

Circular.

Encl. & No 1

3. As I understand it, the guiding rule is the avoidance of a conflict of private interests with public duties and of the use of information officially acquired for private purposes. Although in the case of very many officers the possibility of such conflict may be indeed remote, the general interests of the service require that public servants as a whole should stand aloof from local mining development in the Colony in which they serve since in some cases conflict between private interests and public duties would indubitably occur.

I have explained the position to Lord Francis Scott in Executive Council and in the early stages of prospecting and mining in Kenya, particularly having regard to the fact that all the promising gold discoveries happen to be in

35



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

KENYA.

No. 49

RECEIVED
- 6 FEB 1933
COL. OFFICE

16th January, 1933.

Answered (4)

Sir,

I have the honour to inform you that some public attention has recently been given to the question of the holding by public servants of this Colony of shares in mining ventures in the Colony. The Council of the European Civil Servants' Association has asked that this matter should receive consideration and has represented that such a concession would give Civil Servants a greater interest in the development of Kenya. A question was asked in Legislative Council in December last and I have since been desired by the Elected Members of Council to inform you that they favour the grant of permission to public servants to acquire pecuniary interests in mining ventures in the Colony.

2. It will be remembered that in 1924, when there was a mining rush to the Lolgorien area, a number of Civil Servants acquired interests in claims and that this action was subsequently discountenanced. The present position is that the acquisition of mining interests and interests of a commercial nature are not regarded as being within the scope of the concession concerning local investments which is

605 820/25

contained

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CHIFFE-LISTER, F.C., C.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
HUNTERS HOUSE,
LONDON, E.C.

only a real but an apparent conflict of interests is to be avoided.

3. In the interpretation of this *principle*

I must naturally rely on a Colonial Government for advice whether any particular investment may bring about a real or apparent conflict of interests, *and*

Having regard to the present position of gold mining in Kenya, I have no hesitation in ^{expressing} ~~fully~~ ^{my full agreement} agreeing with your ~~opinion~~ ^{opinion} that it would be ~~most undesirable~~ ^{most undesirable} ~~impossible to allow Government servants to have~~ ^{any amount of} ~~any interest in it.~~ ^{any}

I will omit this para 4. W.L. 3.3

5. I shall be glad if you will cause the Council of the European Civil Servants Association to be informed that I am not prepared to approve a modification of Circular No. 41.

4. You anticipate that I note that you expect that a reasonable case for relaxing the rule may arise at some later date. As at present advised, I am unable to see my way to relax this present rule and I would wish to consult before any such relaxation is approved.

I have, etc.,

having regard to all the circs,

C. O.

C.D.
R 4-MAR
D 6

Mr. Priestman, 2/3/33.

Mr. Jackson 4/5

Mr. Hunt 3

Mr. [unclear] 3.3 93

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

6 March, 1933.

Stu

Sir,

DRAFT. DESPATCH.

I have etc. to ack. the

KENYA.

receipt of your despatch, No.49 of

NO. 157

(3)

the 16th January, on the question of

GOVERNOR.

the holding by public servants in Kenya of shares in mining ventures in the Colony.

2. The guiding principle is, as stated by you in para.3 of your despatch under acknowledgment, the avoidance of a conflict of private interests with public duties, and of the use of information officially acquired for private purposes, with, of course, the condition that not

only

Copy required
9/20/33/enclosed

is not prepared to approve
a modification of Circular 55241.

On Joint letter
after return.

S.W. Kent.
20/2

I agree fully with para 3 of the despatch. Whatever may
be the case elsewhere with gold mining as it is in Kenya
it would be impossible to allow Govt. servants to have
any interest in it. There is too much risk of conflict
between official duty and self interest.
as proposed J.E. G. Ford 20.2.

To C.S. 20.2.33.

I entirely agree. The attitude of
the Elected members is remarkable.

The No. 4 in 7/222/30 & the
minutes leading up to it are
pertinent in this connection.

S.J.P.P.
22.2.33

Jague.

J.H. 6
at once

1.3.33

Proceed
to file

H To Gov. 154 (3 Annod) 6 MAR 1933

copy of those reqd on 9203/33 Annod.

3. Governor Byrne 49 _____ 16 Jan 35

States that the Council of the European C.S. Assocn. has asked that a concession permitting public servants from holding shares in mining ventures on the island may be considered, enquire what reply should be made.

Little weight need be attached to the representations of the elect members seeing that they may be concerned with the flotation of mining ventures. (See issue of Escot Africa of the 12 Jan page 417) Comments adversely on the flotation of a ^{mining} company of which Lord James Scott is Chairman).

The ruling in the despatch of 3/2/1925

is 820/25 clearly applies and it is only a question of providing the Governor with a formula.

? Reply that fully agreeing with the action taken by the Governor and ruling that local mining ventures clearly come within the prohibition in Col Reg 29 and that the Governor should reply that the S. G.S. has no objection.

H.S. Parnis
16/1/35

It should be noted to add a demurral against the possibility foreseen by Governor at the end of para. 3.

16

The guiding principle is as stated by the Gov in para 3 (first sentence) with of course, the condition that not only a real but an apparent conflict of interests is to be avoided.

But I hope that we shall not attempt to be too rigid in the application of the principle. In Portugal

in Hong Kong, for instance, civil servants European & Asiatic customarily possess investments in the most substantial Eastern companies in a still more developed country like the U.K. the Civil Servant can be left to rely on his own discretion.

It is really a matter in which the local Govt must be trusted to advise the Govt as to the any particular investment may bring about a real or apparent conflict of interests. and in the reply I will tell the

Bureau No. 14 in
7/22/30
21.7.7

the Assocn may be informed that the S.G.S.

3. Governor Byrnes 449 _____ 16 Jan 33

States that the Council of the European C.S. Assn. has asked that a concession permitting public servants from holding shares in mining ventures on the colony may be considered, enquire what reply should be made.

Little weight need be attached to the representations of the elect members seeing that they may be concerned with the flotation of mining ventures. (See issue of Execot affrs of the 12 Jan page 467 comments adversely on the flotation of a ^{mining} company of which Lord Francis Scott is chairman).

The ruling in the despatch of 3/2/1920 is 820/25 clearly applicable and it is only a question of providing the Governor with a formula.

? Reply that fully agreeing with the action taken by the Governor and ruling that local mining ventures clearly come within the prohibition in Col Reg 29 and that the Governor should reply that the S. G.S. has so ruled.

J. S. P. Smith

16/1/33

It should be noted to add a demurral against the possibility foreseen by Governor at the end of para. 3.

J. S. P. Smith
16.

General Legation 26/11
14 December 33
Report that an application from G. D. B. Chatterjee,
Protect Office to be permitted to take a share in a
syndicate to collect a claim on the Lakemaya goldfields
has been refused. Enclo. a copy of a circular regarding
such interests.

This seems to be entirely a matter
for Uganda - but I do not see
how a Uganda official could assist
as regards labour of which there
is abundance in Kenya or much
as regards transport (which presumably means
camels)

H. S. P. Mitchell
9/1/33

297

The Kenya Dept. have already issued
a similar circular. Please enter it on their
file.

A. P. Mitchell
9/1

2. Copy Enc. NOW: Acquisition of Pecuniary Interests
by Public Officers in Company Ventures.

I think this is all right, although on the
strict side: but we should consider if we can
we can consider further.

? Party.

A. P. Mitchell
9/1/33

I do not think that
anything less strict could be justified.
A. P. Mitchell (12.1.33)

~~Presented
in 1933~~