

1931

Kenya

No. 17098

SUBJECT

CO 533/408

Write Offs.

Previous

16116/30.

Subsequent

18003/32.

DESTROYED UNDER STATUTE

of Gov. Moore 75

5 February 1931

Requests authority to write off sum of the 250/-
fraudulently withdrawn from a Kenya Savings Bank
Account at Nairobi last office.

Subject to Secy's observations, I approve

G. S. Hambrook G/S

Not necessary to trouble

SCA

As proposed

J. W. Allen

6/3

at once

So. Gov. 1174 - 1. Approved - 12 MAR 1931

DESTROYED UNDER STATUTE

3 Gov. Byrne 114

26 February

Requests approval to write off sum of £29.15.0
misappropriated from public funds by an private club.
J. S. Lamb. Includes particulars of amounts involved
and states as to further amounts for which other
officers are held responsible.

Action to prevent recurrence of this kind of
misappropriation seems to have been taken. The
criminal has been caught and the officer responsible
for the loss has had to pay up part of the
amount. I approve the write off as in draft
herewith.

G. S. Hambrook 27/3

J. C. A.

How are you my dear
please? acc. B. Hambrook

100 20-5-31

Mr. Parkinson.

The Auditor reported these misappropriations to me in March 1930. In his report he wrote:-

"Although not actually discovered by this department the irregularities were brought to light as a result of an audit visit of inspection in April, 1929. The Clerk in question, hearing that the Auditor with two clerks had arrived in the station was so alarmed that he went to the Resident Magistrate and confessed that he had been using the Government cash for his own purposes. The Magistrate at once communicated with me and started an investigation of his own, as a result of which the clerk paid in a cheque for £16.9.7. This was at first dishonoured by the Bank, but the clerk succeeded in borrowing funds from his friends and the cheque was met on being again presented.

"The audit inspection resulted in the collection of a further £17.9.6, being revenue which had not been brought to account. The unsatisfactory state of the accounts was brought to the notice of the Chief Justice, and eventually the clerk was prosecuted for Criminal Breach of Trust, and, on the 10th of February, sentenced to nine months R.I.

"So far as can be definitely ascertained the loss to Government amounts to £80.18.1 and the Registrar, Supreme Court

has

has proposed to the Colonial Secretary that this be written off. If the proposal is approved (so far as I can discover the advice of the Treasurer has not yet been sought) it is probable that only a sum of £44.15.0 will appear in the accounts, being legal deposits embezzled, which have to be repaid to members of the public. The balance of £36.3.1 represents court fees not brought to account, which had probably been misappropriated without being paid in to Government at all.

"I will inform you later how the matter is settled and whether the responsibility of any officer is called in question. The case in its main features appears to have been one of common theft, but it is likely that the misappropriation of court fees would have been discovered earlier if these had been collected by miscellaneous receipts instead of by stamps. As you are aware, the introduction of this system is under consideration."

I agree that the write off of £29.15.0 should be approved.

J. P. Fisher
Director of Colonial Audit.
APR 14 1931

J.P. passed.
Recd
15.4.31
Almeida

D.C.A.
14.4.31
14. No. Gov. 256 - 3. Approved — 18 APR 1931

DESTROYED UNDER STATUTE

Gov. Dep. Moore 1141 11 March
requests authority to write off sum of £156.6.0,
hospital fees incurred by Mr. C.D. George in
European Hospital, Harubi and Nombasa, as result of
motor accident. Unlikely that Mr. George
will be able to pay this balance of fees.

Gov. Dep. 198 8 April
requests authority to write off sum of £140.5.0,
part of hospital fees incurred by Mrs. Olive
Wackelich in European Hospital, Nombasa, during
period August 1930 - April 1931.

Gov. Dep. 228 24 April
requests authority to write off sum of £104.7.48,
fees incurred by Mr. Von Suedgen in European
Hospital, Nombasa.

In all the three cases there is no
prospect of the payment of the outstanding hospital
fees. I approve the writes-off, subject to
any views which the D.C.A. may have to make.

G. Sutherland 27/5

Es - has it seem reasonable
in the circumstances to assume that the
Sgt & soldiers that the works of in
the cases are unavoidable - in
1577/3.

J.M. Allen
30/5/31

Gov. Dep. No. Director, J.M. Allen
10.6.31

Then? approve
J.M. Allen
5/6/31

Acc'd
5.6.31
advance
10 JUN 1931

DESTROYED UNDER STATUTE

Gov. Dep. 391 (5,6,7 Annual) 10 JUN 1931
See No. 4
J.M. Allen
15.6.31

DESTROYED UNDER STATUTE

Gov. Dep. Moore 372 14 July
Enclosed copy memorandum by Dir. Medical and
Sanitary Services requesting authority to write off
sum of £2258/50 incurred by Mr. S. Gray at
European Hospital, Harubi and requests sanction
for write-off.

? as is Sh. Dec. to see later
G. Sutherland
b. 8.31
J.M. Allen
6/8

DESTROYED UNDER STATUTE Gov. 559 - 9. Approved - 12 AUG 1931

See
J.M. Allen
10.6.31

11 4/10/31 Martin 481
Reports has authorized write off of sum
of Rs. 121/30 due to bank branches local
native council by the breach of trust of one
of its clerks.

I don't quite know the procedure
here, as no previous case of loss of Native
Council money has apparently been
reported. The write off is duly
checked, but is it necessary to refer it
to the D.C.A.?

I should be inclined to reply to
the Gov. approving his action and not to
trouble the D.C.A.

G. B. Manderlin 14/9

Cap. 129 § 29 provides that "The accounts
of local native funds ... shall be subject
to audit by the auditor of the Colony".
D.C.A. shd. see later.

The offender got off lightly; under
§ 409 of the I.C. the maximum sentence
is imprisonment for 10 years and
fine.

? Approve

The Clerk was in the
Council's employ
M. Allen
14/9
stace

12. Gov. 658 - 11. Bernard - 19 SEP 1931

J.C.A.
20. 20. 20.
RETURN TO GOV. OFFICE
10. 10. 10.

Gov's Dep Martin No. 499 28.8.31

Encloses memorandum relative to responsibility
of various officers in connection with a case
of misappropriation. Requests sanction for
writing off further sum of £33.8.60

DESTROYED UNDER STATUTE

Gov Byrne No. 511 28.8.31

Encloses results of enquiry into loss of rice
valued at £64.9.50 from the Supply and Transport
Store and requests sanction to write off
£34.9.50 being the balance after recovery of
certain amounts from Officers involved

DESTROYED UNDER STATUTE

Gov. 866 18. Sept. 31

Requests authority to write off sum of £29
total loss of £34 paid to an ex. admiral for
loss of personal property. Balance of £6 being
recovered from the Asst. Supdt. concerned.

I have no comment on any of
these, after reading as to the
impression left is that Mr Porter shd pay
more than the other cost of the Gov. shd
not recover this & it is not Gov
to offset it.

? approve proposals (3 separate
departments)

10. 10. 31
(Approved for 20/9/31 which has been
with D.C.A.)

Raye Cde

Have you any comments on (14)?

G. B. Manderlin
12/11

In the absence of the proceedings of the two Audit
 Engineers, it is difficult to arrive at any useful
 opinion in this matter. The evidence which led the
 Audit Committee to find that the discrepancy was due
 to the Income account would have been interesting
 I agree with Mr. Lockwood in his own view, on the
 information available, Mr. Pule's proportion of the sum
 to the pair of individuals might have been greater, and
 possibly, Mr. Pule's loss, but the former is in the
 best position to assess the degree of responsibility and the
 circumstances equal payments of his loss.

as proposed.

P. V. Coe.
 13. 11. 31.
 C. H. ...
 15/11

No 70 Cor 790 (13 Answer)
 DESTROYED UNDER STATUTE 791 (14 - - -) } 24 NOV 1931
 DESTROYED UNDER STATUTE 792 (15 - - -)

DESTROYED UNDER STATUTE 622 28th October, 1931
 Gov. Kenya

Requests authority to write off an amount of
 Shs. 10,581/- owing by a Mr. R.A. Langenberg in respect
 of Stand Premium and rent on land granted for
 sisal cultivation. In view of Mr Langenberg's
 inability to pay, Governor has agreed to accept
 surrender of the grant.

~~On the assumption that the~~
 Gov. has accepted the surrender
 of the grant, it is probable
 that the entry of 6 (iv) of the
 Cross Lands Act (copy her.)

The DCA
 Recommendations
 These are
 28/11/31
 Shall be
 have been
 25/11

In the case... in view of the date of
 1923 referred to - this may be
 approved as a copy her.

J. Hartman
 28. 10. 31.
 A. ...
 30. 11.

DESTROYED UNDER STATUTE 802 (19 Answer) 2 DEC 1931

Mr. Freeston,
 No. 11. Unless the S. of S. has other-
 wise directed, it does not appear that reference
 to the S. of S. is necessary for writing off
 losses of this nature, which do not appear to
 fall under Colonial Regulation 293. I expect
 it was referred to the S. of S. in error and
 that it will be an isolated case.

A. J. Harding
 Director of Colonial Audit.

15/12/31
 Th. Allen

I note that the Gov. merely reported the
 write-off; the S. of S.'s approval was gratuitous.
 But there is no need to explain, unless a similar
 case arises in future.
 Kenya seeks approval
 1/12

Little habit of reporting how they
share "salinity" so perhaps I did
not attach sufficient importance
to the point.

The Secy's other notes
carefully note in case of
similar point areas in
future.

Notes precedents in
C.I.

Pat J
10/11/31
16/12/31
atance

J. M. Kenya — 673 — 2570/31

Requests covering sanction to the
writing off of Shs. 2232/50 owing by a
Mrs. Cameron in respect of arrears
of boarding & tuition fees for the education
of his two sons in 1929 & 1930.

RESTRICTED UNDER STATUTE

"The amount" is only just
over of 100, which is the limit of write-off
2 as in the authority

Gardner
6.1.32
L.A. Austin
11/11/32

~~22~~ To Col 33 (21 answered) 13 JAN 1932

RESTRICTED UNDER STATUTE

See G... to see
the... with...

C. O.

17098/31 Kenya

12.8

Mr. Chamberlain

16/9
16/12

Mr. Dewart

Mr.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Sir G. Grindle.

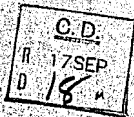
Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Downing Street,

19. September, 1931.



Sir,

DRAFT.

KENYA

No. 658

(11)

Gov.

I have etc., to ack. the receipt of your despatch No. 481 of the 21st of August, and to ^{advise you} inform you that ^{my approval of} I approve your action

in authorising the writing off of a sum of Shgs. 1121.30 due to the North Kavirondo Local Native Council.

In the circumstances explained in your despatch.

I have, &c

(SIGNED) J. H. THOMAS.

D.A. to see.

KENYA.

No. 481



9/11
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
-7 SEP 1931
COL. OFFICE

21st AUGUST, 1931.

My Lord,

I have the honour to inform Your Lordship that with the advice and consent of my Executive Council I have authorised the "writing-off" of a sum of Shgs. 1,121/30 due to the North Kavirondo Local Native Council in the following circumstances:-

A clerk in the Council's employ was entrusted with the duty of collecting the Local Native Council cess at Shgs.2/- per head of the able-bodied male population. He signed a receipt for 10 counterfoil books of the nominal value of Shgs.200/- each. He issued 852 tickets and produced no cash to account for them. He was tried and found guilty of "Criminal Breach of Trust by a "Servant" under the Indian Penal Code, and was sentenced to 1 years rigorous imprisonment and a fine of Shgs. 1,704/- and 9 months in default. Of the fine Shgs. 592/70 was recovered leaving the sum of Shgs.1,121/30 which is irrecoverable.

I have the honour to be,
My Lord,
Your Lordship's most obedient,
humble servant,

W H. T. Martin
BRIGADIER-GENERAL,

G O V E R N O R .

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W.1.

Amount 658 - 10 SEP 1931

17098 / 30 Kenya

10
H.

C. O.

Mr. *Chamberlain* 27/3
Mr. *Parkinson* 5/4
Mr. *[Signature]*

- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Permit. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

recd 13

C. O.	
R	16 APR
D	<i>[Signature]</i>

18 APR 1961
[Signature]

DRAFT. *Lawson*

Kenya
No. 256.
Sir,

③
[Signature]

I have etc. to cite the receipt of your despatch No. 117 of the 26th February and to inform you that I approve the writing off of a sum of Ksh. 15,000 part of an amount misappropriated by the bank clerk at ^{KISUMU} Kisumu.

I note that the question of the repayment of the remainder of the misappropriated monies is being pursued with the officers ^{who may be traced} responsible for its loss, and that the system of accounting in the office of the Resident Magistrate, Kisumu, has been revised to the Treasury set in factum

*W.C.A. to see
of the records*

I have etc.

KENYA.

No. 117



113
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
23 MAR 1931
C.O.L. OFFICE

26 FEBRUARY 1931.

My Lord,

I have the honour to address Your Lordship on the subject of a misappropriation of public monies by the Court Clerk at Kisumu, an Asiatic named J.S.Lamb, and to request Your Lordship's approval to write off a sum of £29.15.0.

2. The full amount misappropriated by Lamb was £80.18.1d. and was composed of Court Fees £36.3.1d and Legal Deposits £44.15.0. I enclose for Your Lordship's information a note shewing particulars of each of the transactions in question, numbered, for facility of reference, from A to S.

These irregularities were brought to light by the Resident Magistrate, Kisumu and eventually Lamb was prosecuted for criminal breach of trust. He was convicted on four charges under Section 409 of the Indian Penal Code, and sentenced to nine months rigorous imprisonment.

3. The matter has been carefully investigated by the Treasurer who is of opinion that the greater part of the total sum misappropriated should be made good by various officers whose neglect to comply with accounting regulations facilitated the embezzlements. This matter is being pursued with the officers concerned.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON S.W.1.

4./

Amud - 256 - 1 PAF 1931

4. The Treasurer, however, recommends that of the full amount misappropriated a sum of £29.15.0. should be written off as irrecoverable, and with this recommendation I concur. In explanation of the items composing this total of £29.15.0:-

Item A. Under the system in force at the time, receipts were not issued for such payments which were recorded by means of stamps on the file. In this case the attachment order was not signed by the Magistrate, and he cannot, therefore, be held responsible for seeing that the stamps were affixed.

Item B. Lamb obtained a receipt in this case by promising to pay the money immediately afterwards. It is the normal Government procedure to require a receipt before paying over money and although Government may not be legally liable there remains a moral obligation.

Items C In these cases cheques were paid in to G & K. Government and it was due to the faulty system in force at the time (which has since been remedied) that Lamb was able to withdraw equivalent sums from his cash without being at once detected.

Item H. Lamb gave a receipt, though an informal one.

Item J. (10/-) & N. It might be argued in these cases, as well as in the other cases already cited, that the public were at fault, but I consider that it would be in advisable, in all the circumstances, for Government to repudiate liability.

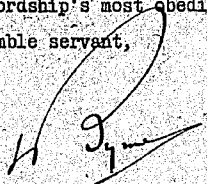
Item Q. The money came into Lamb's possession by an accident for which no Government officer can properly be held liable.

5. I may add that the system of accounting in the Resident/

Resident Magistrate's office has been revised by a Treasury representative and the Treasurer has stated he is satisfied with it.

6. With regard to the question of refunds by the officers concerned, this, vide paragraph 3 above, is still under consideration; should any of the officers concerned be able to shew good reason why recovery should not be made from them I will address a further communication to Your Lordship.

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



BRIGADIER GENERAL,
GOVERNOR.

14

Defalcations of Mr. J.S. Lamb while holding
the appointment of Court Clerk at Kisumu.

A.

Civil Case 298/28 - Mr. Dhanwant Singh, Advocate, Kisumu, paid Shs. 22/- to Mr. Lamb on account of attachment fee. No fees have been stamped on the file. .

B.

Civil Case 68/28 - Mr. Karim Jivraj of Kisumu was requested by Mr. Lamb to give him a receipt for Shs. 105/- which were payable to Mr. Karim Jivraj on account of expenses deposited for bringing a witness to Kisumu. He gave the receipt on Mr. Lamb's undertaking to send him the money the same day, but Mr. Lamb did not send the money.

C.

Civil Case No. 604/27 - Mr. Devchand Khimchand gave Mr. Lamb a Cheque for Shs. 100/- as a deposit to meet the charges of arresting the judgement debtor. The arrest was not made. The Cheque was credited to Revenue but the proceeds of the Cheque, instead of being kept in deposit, were misappropriated.

D.

P. & A. No. 6/29. - The Administrator Mr. Karmali Bhinji of Oyugi, Kisii, paid a sum of Shs. 95/- to Mr. Lamb on account of Court fees. These fees have not been stamped on the file.

E.

Civil Case No. 255/28 - A sum of Shs. 150/- which had been realised from the ~~from~~ Judgment debtor was sent to this Court by the District Commissioner, Kericho. The money ought to have been credited to Legal Deposits, but it was in fact misappropriated by Mr. Lamb.

F.

Civil Case No. 110/89 - Mr. Dhanwant Singh, Advocate, paid Shs. 84/- to Mr. Lamb on account of attachment fees. These fees have not been stamped on the file.

G.

Civil Case No. 94/89 - Mr. Dhanwant Singh, Advocate, gave to Mr. Lamb a Cheque for Shs. 100/- on account of the expenses of arrest. This Cheque was dealt with in the same way as the Cheque referred to in Item G.

H.

Civil Case No. 61/89 - An attachment on Salary of one Khuda Bux was sent to the Manager, Nyansa Oil Mills. He paid Shs. 115/18 to Mr. Lamb who gave an informal receipt. Mr. Lamb did not credit the money to Legal Deposits but misappropriated it.

I.

Probate and Administration Cases No. 4/89 - Mr. Dhanwant Singh, Advocate, paid Shs. 125/- to Mr. Lamb on account of Court fees. These fees have not been stamped on the file.

J.

Probate and Administration Cases No. 5/89 - Mr. Mulji Madhavji paid Shs. 65/10 on account of Court fees, and Shs. 10/- on account of the Official Gazette Notice to Mr. Lamb.
No fees were stamped, and the Notice was not sent to the Gazette.

K.

Civil Case 5/87/88 - Mr. P.L.Pandya, Court Broker, sent to this Court a Cheque for Shs. 119/18 obtained by an attachment. Mr. Lamb signed an acknowledgement for the Cheque. The amount ought to have been credited to Legal Deposits, but the Cheque was in fact dealt with in the same manner as the Cheque referred to in Item G.

L.

- 3 -
L.

Civil Case No. 5/188/28 - The judgment debtor - Robert Hughes - sent a sum of Shs. 50/- (fifty) which ought to have been credited to Legal Deposits. The letter was addressed to the District Commissioner, Kisumu, and was delivered to him. The letter and Cash was passed to this Office and the Office boy to whom it was actually handed, believes that he gave it to Mr. Lamb. The latter accepts liability for the money.

M.

Civil Case No. 83/28 - Mr. Dhanwant Singh, Advocate, paid Mr. Lamb a sum of Shs. 11/- on account of Court fees due on a Notice to show Cause. These fees have not been stamped.

N.

Civil Case 5/67/28 - A sum of Shs. 2/- paid into Court on accounts of an Attachment, was misappropriated by Mr. Lamb.

O.

(Particulars not given, as this item was not admitted by Mr. Lamb, and the person concerned was told that he must sue Mr. Lamb if he wished to recover the money).

P.

On 26.10.28 a sum of Shs. 250/- was received by the Resident Commissioner's Office from the District Commissioner, Kakamega. This money was sent by mistake to this Office, and Mr. Lamb signed for it. The money was really intended for the District Commissioner, Central Kavirondo, on account of a fine in Location Criminal Case 31/28, and Mr. Lamb ought not to have accepted it. Instead of passing it to the District Commissioner, Central Kavirondo, he misappropriated it.

Q.

P. & A. Cause No. 8/27 - A sum of Shs. 19/70 was sent to Kapsabet by Registered Letter addressed to Yusuf Duale, The Administrator of the Estate of Ali Hoor Issa, deceased. It was undelivered and returned, and on or about 11.12.28 Mr. Lamb signed a receipt for the amount in the Inward Letter

Register of the Resident Commissioner's Office. He then misappropriated it.

Re.

P. A. A. 7/22 - The Administrator, Khāli Han, paid the Court fees (Shs. 91/-) to Mr. Lamb. These fees were not stamped on the file.

Re.

Civil Case 3/201/22 - A registered letter containing Shs. 122/- was sent by the District Commissioner, Kakamega, to the Resident Magistrate, Kisumu. The money had been realised by an Attachment. By mistake the Post Office sent it to the Resident Commissioner, who forwarded it to my Court. A clerk who was temporarily working in my Office took receipt of the letter and passed it to Mr. Lamb. The latter states that he does not remember the incident, but he accepts liability.

Certified true copy. Sd/. M.O. Mwakhar.