

1937

38068

CO 533/479

38068

3

KENYA

3

REPATRIATIONS

~ MR. HASSAN ALI

Previous				
	297	4/9	298	11/11
	R 50	7/9	297	5/11
	R 297	7/9	297	19/11
	R 309	27/9	309	19/11
	Mr Pasikin	28	Mr Pasikin	20
Subsequent	Mr Roberts - Wray	28	Mr Roberts - Wray	22/11
	Mr Pasikin	29		
1938	298	5/10	298	11/12
	297	7/10	297	2/12
R 297	R 309	8/10	303	3/12
R 309	Mr Pasikin SDC	9/10	299	7/12
Mr Pasikin	Mr Flood	9/10	297	
296	Mr Roberts - Wray	11/10		
297	Mr Flood	11		
309	R 309	12/10		
Mr Pasikin	Mr Pasikin	11/11		
R 299	298	13/10		
297	297	26/10		
R 309	309	24/10		
Mr Pasikin	Mr Pasikin	26/10		
295	Mr Roberts - Wray	28/10		
297	Mr Flood	28		
303	R 309			
299				

C.I.

to leave U.K.

& MOORHOUSE... 6.8.37. 2
which Mr. Hassan Ali desires
to and stresses urgency as his
is U.K.

REPATRI-
Nominal

Draft

I submit draft after speaking
to Mr. R. H. Gray, on whose
suggestion I asked Messrs
Wilkinson Howlett if they
could confirm that Hassan
Ali is a native of Kenya
& not an Indian.

C. H. Rowlands
6/8/37

Rec'd for
despatch to
Kenya

To Wilkinson, Howlett & Moorhouse (wends no draft) / send
brochure was 6/11/37

DESTROYED UNDER STATUTE

Mr. Cook's telephoned on behalf of a
client of theirs who had brought
a Kenya native to this country as
a chauffeur in May this year
having entered into a contract
of service with the native in
Kenya. Cook's wanted to
know whether the employer was
bound to provide the cost of the
servant's repatriation. I read
to them Cook's the terms of
Section 6 of the Employment of
Natives Ordinance. Having heard this
they thought it best to advise
the employer to arrange for the
servant's repatriation. C. H. Rowlands
7/8

I spoke to Messrs Wilkinson
(Howlett & Co, without mentioning
the telephone conversation with
the Cape etc, & asked if
by any chance they had heard
anything further from Hassan
Ali or Lt. Phillips. They have
had no news & proposed to
await the further communication
furnished in No 2.

Do you write to the firm in
drafts herewith.

C. Ross with
9/18

2 To Kenya - 650 - (9/14/37) Com - 11/8/37

4 Messrs Wilkinson, Howlett & Moorhouse - 10.8.37
Request assistance to enable their client to be repatriated

Messrs Wilkinson, Howlett & Moorhouse - 16/9/37

State that Messrs S.F. Miller & Co
& Co of 187 Piccadilly act for
Lt Phillips.

Ms 4145: ? We can't write
to Messrs S.F. Miller & Co on
incomplete info. If we have
to write to them, the firm's
representative will provide the material.

Draft reply to Ms 4145
herewith. C. Ross with
9/18

To Messrs Wilkinson
Howlett and Moorhouse (4+5 ansd) 20.8.37

Qualify with
draft (B)

To Kenya - 702 (ansd. 4.5.37) 30 AUG 1937
(ansd. No. 8)

RECEIVED UNDER STAMP

8. GOV. KENYA.....655..... 20-9-37.
States that there is no evidence that Hassan Ali is a
Kenya Somali and in view of the fact that he is in
possession of a Uganda passport copies of corres. are
being sent to Uganda for information.

? We might now try the effect
of sending the gist of (B) to
Lt. Phillips's agents - Messrs
S.F. Miller, Matthew & Co - (see (5))
asking that their client be
repatriated Hassan Ali
country of origin (Uganda)

Mr. Ross with
27-8.

Are we entitled to write to these
people, on Lt. Phillips's affairs, merely
on the strength of the information given
in No 5 by the Solicitor to the other
party?

(It was said in No 1 that Lt. Phillips
was about to leave this country on
a world tour on a yacht, so it wd.
not be easy to communicate
with him otherwise.)

C. Ross with
27/8

If you are going to write to the firm in draft
C. Ross with

I don't see
why we shouldn't
but before going
with the matter in hand
better say the S.F.
writes to communicate
with the matter (or
with the matter) as
an independent
- Ross
has with the
easy, even if we
write to his
Solicitor, to get
the necessary information
at least for
long term
come
C. Ross with

DESTROYED UNDER STATUTE

To Messrs. M. Mathews & Co.

5.10.37

10. S.F. MILLER, MATHEWS & CO. — 6.10.37

Cable (9) with comments and state that they are ready to deal with the matter on behalf of their client.

Now ask his Uncle or Auntlet Moorhouse if Hassan Ali had anything to say in rebuttal.

of the charges laid in para 2 of 4.10.

If Hassan Ali has cheated Phillips it seems rough and that someone should be brought upon Phillips to pay for Hassan Ali's repatriation. But if it were his fault clear that Hassan Ali owed Phillips more, it is surprising that Phillips took no steps to retrieve it.

Colony Office 9/10

There is no doubt that Phillips is liable to prosecution. Section 9 of the Employment of Natives Ordinance (of 1910; it has not since been amended) makes illegal the inducement of any native to leave his (or) her usual place of employment unless a foreign contract of service has been made. This makes clear that Phillips was aware of this.

It seems true that the responsibility of this office in this case should be limited to doing whatever may be possible to ensure that the law of the Col. or Protectorate is not flouted with impunity, and we should not have to do solicitors' work for them. The law is red herring which we discuss in no. 10 do not so to speak make a white. If it is true that Hassan Ali broke a contract then his employer has his own legal remedy (if he had had a good deal more).

and a coloured servants' delinquencies have nothing to do with a breach of a Kenya law by a white employer.

We have by 6 virtually dismissed Hassan Ali's solicitors to consider the position further in receipt of Gov. Kenya's views and having got them I suggest that we should now adopt Mr. McDougall's line in his communication of 27 September and let them and Messrs. Miller, Mathews get on with fighting it out. But in doing so we should limit, in embodying (8), para 5 to the reference in the second clause of para 6 first sentence to the impracticality of getting anything done & say that Gov. Kenya has suggested because being brought to law in N Phillips to carry out his obligation as at end of para 6. And suggest in 7 communicate with Messrs. Miller, Mathews.

And ask 10 saying that a letter has been addressed to Messrs. W. H. and M. This communication with whom it is suggested they should communicate.

And await developments before asking (8) Sir Caswell 9.10.37

Unless Mr. Phillips goes back to Kenya, he could be got at.

Hassan Ali may be a Somali but his father from Kenya or Uganda & should have been retained. He will very likely come on the radio.

For we proceed as proposed & will pay 20 cents?

S. W. Kent 9.10.

I do not think we come into this at all except so far as we are able to do anything to help Kenya to avoid having to bear the cost of repatriation, as eventually they will probably have to do. It is ^{in my view} only as a means to this end that it is worth while giving any further thought to the breach of the Kenya Ordinance, and I do not suppose it will do much in that direction unless there is a good chance of Mr. Phillips' returning to Kenya in the near future. I am not sure whether the Fugitive Offenders Act, 1881, (which enables a person accused of an offence in a Colony to be sent back there for trial) applies to this offence. That in Section 9 means imprisonment depends upon whether imprisonment of the kind mentioned in Section 9 of the Act. In any case, however, I very much doubt whether proceedings under the Act would be appropriate or worth while.

It seems to me hardly necessary to give Messrs. Miller & Co. very much of 8 especially as I do not think it gives all the relevant facts. Those related do not appear to be sufficient to support the conclusion in paragraph 6 that Mr. Phillips is the offender. The suggestion seems to be that the villain of the piece was Mr. Galton-Fenzi - a point which Mr. Phillips' solicitors would not be slow to observe. I expect, however, that Mr. Galton-Fenzi was acting as Mr. Phillips' agent in the matter.

Would

Would it not be sufficient to say that the Secretary of State has received from the Governor of Kenya a report on the case, from which it appears that Hassan Ali was knowingly ^{erogated} induced to come from the Colony to this country in contravention of the provisions of Section 9 of the Ordinance (enclosing copy), and then say the allegations contained in their letter cannot, of course, affect the question of Mr. Phillips' liability under the Ordinance, and request that they will reconsider the question of his providing for Hassan Ali's repatriation?

T. G. Galton-Fenzi
11/10/37.

We can get this
J. G. W. Ford
" 10 am

The draft based on my original letter like an attempt at (a) summarizing the ~~offence~~ and (b) blackmail. I have therefore ~~modified~~ it considerably.

T. G. Galton-Fenzi
12/10

11 To Messrs. M. M. & Co. (w/c cap 139) - (10 and) - (8.10.37)

Rae: ~~Act No. 8.~~

and this was done!

The copy of letter from which it appears that the Ordinance has never been amended or substituted with Hassan Ali and Phillips v. The Collector, dated 21.3.1910, is enclosed for your reference.

This does not advance the position much. The Ordinance has never been amended. And Section 2 makes clear that Costs are being incurred only for natives of Kenya. If by any chance Hassan Ali possessed a foreign contract of some kind signed by Lieut. Phillips, he would of course have produced it long ago. So, repeat the sense of No 11 as emphatically as possible, mentioning these points, to Messrs Matthews & Co.

Clothe, White. 28/10

I see no reason to doubt the statement that Mr Phillips left the arrangements for engaging Hassan Ali in the hands of Messrs Cooks; & the letter enclosed is evidence that he personally was ignorant of the requirements of the law.

Para 4 of No 8 merely establishes that Mr Fallon, Junr, and Mr Phillips, were not aware of these requirements.

Nevertheless someone ought to be held responsible for the return passage of this man; & technically Mr Phillips is the man.

Except that the letter enclosed in it seem to suggest that Cooks thought, at least, that he might have done some job arranging himself.

Very slight evidence that it shows merely what Cooks was in a hurry.

What about the letter from No 8? They seem to be both under 29.

But we must from No 8 that to admit. 11.8

?? See below. [Signature]

So I am inclined to pursue it in relation to him, & to leave it to Mr. Gallant's opinion to square up matters with him in due course.

I do not see why it is not to be included to reply that the Ordinance as amended in No 11 is still in operation, repeat and a small amendment for the purpose of the Ordinance, and the evidence that at any rate one member of the party was not aware of the requirements of the law, I do not think that the statement of Messrs Phillips & Co. is correct.

But can we rather say that the party was not aware of the requirements of the law? I gather he was not. [Signature]

J.P. [Signature] 26/10

No doubt Mr. Costley-White took from an authoritative source his statement that the Ordinance has never been amended, but on going into the matter myself I find that it is far from correct, see Ordinances of 1926, 21 of 1927, 51 of 1930 (Section 106) and 55 of 1924. Note especially the last of these, Sections 2 of which repeal the definition of "natives" in the amending Ordinances including Cap. 139 and substitute a definition which excludes Arabs and Somalis. This may be what Thomas Cook & Sons are relying upon, but, if so, they have apparently overlooked Section 8 in the second schedule, the effect of which is that "native" in Cap. 139 is still to be construed as including Somalis. It is therefore surprising to say the

least

at least that paragraph 3 of B unquestionably implies that the definition in the Ordinance is still in force.

I presume Thomas Cook & Sons honestly thought that the Ordinance did not apply to natives, but it may be worth pursuing the question whether, if the arrangements were in fact made by them, the Company or one of their representatives is liable under Section 9 of Cap. 139. It occurred to me that perhaps Mr. Galton-Fenzie was acting for them, but this seems unlikely. It appears (see the 1936 edition of a Kenya, Uganda, etc. directory) that he was employed Nestlé's Swiss Milk Company.

The only question actually raised by 12 is whether the Ordinance has been altered, and I think we should reply that on further enquiry it has been ascertained that it has been amended as stated above (the Library might be asked to ^{verify} ~~certify~~ that there are no later amendments), but that it will be observed that under Section 8 of Ordinance 55 of 1934 it still applies to ^{Somalia} ~~Kenya~~. I see no objection if you wish also to give the substance of paragraph 4 of 8, which I agree is some indication that at least one of the persons concerned ^{was} ~~is~~ aware of the legal position. I suggest also that we should send a copy of the correspondence to the Governor by air mail inviting his attention to the possibility that Cook's are liable.

Robert Cook

28/10/37.

I have verified in the Library the amendments to the Ordinance they are as set out in the minute of 28/10/37. There are no amendments recorded subsequent to that of 1934. The statement in the minute of 28/10, that the Ordinance has not been amended, has no foundation whatsoever, and must have been due to a misreading of the (correct) statement in the minute of 2/10, that section 9 of the Ordinance had not been amended.

Clotie White
28/10

Yes: and in sending it to the Gov. attention should be called to the conflict between the info in the enclosure - which is derived apparently from Cook's memo - & para 3 of No 8.

J. S. G. Hunt
28.10.

13. To Messrs. S. F. Miller / Fenello adj. (Harard) - 11 11 37
Mathews & Coy. dt. Cons.

1st. Vol. Kenya 982. (7e. 9, 10, 11, 12 + 13) - 8 Amend. 12 Nov 1937

15. J. F. MILLER, MATHEWS & CO. — 11.37

(B. Chas.) States that they are taking their clients' instructions with reference to last para. + states that they do not understand how cases with Galton-Fenye affect him. Return balances.

It is taking a long time to get settled how Hawaiian A's repatriation is to be arranged; but to suppose some is destined to be done over No. 15 but to wait for a further letter.

Clarks, which. 19/11

In the meantime, send - copy of No. 15 to secure it.

J. J. Parsons 22/11

I thought it should set para 2.

Seeing " " 9/11/10. I am beginning to see whether there are two sources concerned - one for Mr. Phillips & the other Mr. Galton-Fenye's. Both the word "apparently" in para 4 of 8.

J. J. Parsons 22/11

Dr. J. J. Parsons 28/11

To Messrs. M. M. & Coy. (Barad) - 1-12-37

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4 to Kingd of 16

11/17 No. Kenya 1069. (Cp. 15 (1/11/37) + 16.) - 7 DEC 1937

15. S. F. MILLER, MARSHALL & CO. 15. 11. 37

(Blair) States that they are telling their clients' instructions will refer to last para. & state that they do not understand how come with Gallon-Tenji affects him. Return enclosed.

It is taking a long time to get settled how Hassan Ali's repatriation is to be arranged; but to suppose some thing to be done over No. 15 but to wait for a further letter.

Clothes club.

19/11

In the meantime, send a copy of No. 15 to Messrs J. J. Cassin

J. J. Cassin
22/11

I thought we should get para 2.

See my minute of 11/10. I am beginning to wonder whether there are two documents concerned - one for Mr Phillips & the other one for Gallon-Tenji's. Both the word "affinity" in para 4 of P.

J. J. Cassin
22/11

Sh.

J. J. Cassin
28/11

To Messrs. M. M. & Coy. (Isard) - 1. 12. 37.

DESTROYED UNDER STATUTE

46 Kenya 4/16

17 Kenya 1049 (15/11/37) & (16) - Ann. A/1. - 7 DEC 1937

S. F. MILLER, MATHEWS & CO
SOLICITORS

NORMAN H. MATHEWS

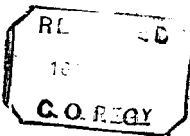
TELEPHONE REGENT 5955 (2 LINES)

15
187, PICCADILLY.

LONDON, W 1

15th November 1937

Enclosures



Sir,

Mr. H.P. Phillips and Hassan Ali.
Your Ref. 38068/3/37

13
We duly received your letter of the 11th instant. It certainly seems from the Ordinances you have sent us that the Employment of Natives Ordinance (Chapter 139) still applies to Somalis and Messrs. Thos. Cook & Sons appear to have misled our client.

We are taking our client's instructions with reference to the last paragraph of your letter. We do not at present understand how any communications between the District Commissioner and Mr. Galton-Fenzie on behalf of Lady Louis Mountbatten can affect our client's position in the matter. It was our client and not Lady Louis Mountbatten who engaged Hassan Ali and, as we understand the position, our client left the arrangements for his engagement in the hands of Messrs. Thos. Cook & Sons.

We return herewith, as requested, the Ordinances enclosed in your letter now under reply and the main Ordinance enclosed in your letter of the 13th ultimo.

We are, Sir,

Yours faithfully,

Norman Mathews & Co

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

ansd 16
Copy sent to Congo (D)

C. O.

- Mr. Costley-White. 29/10/37.
- Mr. Roberts-Wray 2/11 (recd. today)
- Mr. Baskin 3/11
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

October, 1937.

12 NOV 1937

Sir,

DRAFT.

KENYA.

NO. 982.

Governor.

I have etc. to refer to your despatch No. 555 of the 20th of September, regarding the repatriation of Mr. Hassan Aly to , and to transmit for your information copies of correspondence on the subject between this Office and Messrs. S.F. Miller, Matthews and Company, Solicitors, acting on behalf of Lieutenant Phillips, the employer of the said Mr. Hassan Aly.

With regard to
2. ~~From the enclosure to the~~

letter from Messrs. S.F. Miller,

Matthews and Company of the 23rd of

it will be observed that
October the possibility arises that

Messrs. Thomas Cook and Sons (are

Mr. Matthews 5th Oct
Mr. Matthews 9th Oct
to Mr. Matthews 10th Oct
Mr. Matthews 11th Oct
Mr. Matthews 23rd Oct
12 + enclosure
to Mr. Matthews 12.11.37.

FURTHER ACTION.

You may wish to consider

or their representation has infringed

liable

13

C. O.

Mr. Costley-White. 29/10/37. *Amend (5)*
 Mr. Roberts-Wray 2/11 (received today)
 Mr. Pasbun 3/11 P.
 Sir H. Moore.
 Sir C. Tomlinson.
 Sir C. Bottomley
 Sir J. Shuckburgh
 Perms. U.S. of S
 Parly. U.S. of S.
 Secretary of State



11th NOV 1937

Gentlemen.

DRAFT.

MESSRS. S. F. MILLER, MATTHEWS AND COMPANY.

I am etc. to acknowledge

the receipt of your letter of the 23rd of October concerning the repatriation of Mr. Hassan Kenya.

With regard to the question,

raised in your letter, whether the Employment of Natives Ordinance of 1910 has since been altered, I am to inform you that, on further enquiry,

it has been ascertained that the Ordinance has ~~four times~~ been amended. Copies of the amending Ordinances are enclosed for your information, and I have to request that they may be returned together with the copy

Kenya Ordinance No 7 of 1926

21	1927
57	1930
56	1934

copy to Kenya

FURTHER ACTION.

*Copy to Kenya/Amend
S/F. Pasbun*

*By Ordinance
7 of 1926, 21
7 of 1927, 57
1930 (am
resection 106)
and 55 of 1934*

the person of *settling*
 liable for the breach of the
 Employment of Natives Ordinance
 committed in the ringing of
 Mr. Hassan Ali to England without
 a contract of foreign service.

It also appears from the enclosure to this

same enclosure that there is *incomplete*
 agreement in conflict with the
 conflict between the view held as

to the definition of native by
 Messrs. Thomas Cook and Son and the

view expressed in paragraph 3 of your
 despatch under reference, *it has*

been observed and communicated to Messrs.
 S. F. Miller, Matthews and Company that
 the relevant clauses of the Employment

of Natives Ordinance, 1910, have been
 amended, but in such a way that,

under Section 8 of the Ordinance No. 55
 of 1934, *the definition of native still covers*
 of 1934, *it will apply to Somalis.*

I have, etc.

(Signed) W. ORMSBY GORE.

*that a signed agreement
 is unnecessary in the
 case of a Somali,*

*which, apart from the
 fact that the definition
 of "native" in the Ordinance
 has been superseded by
 the Interpretation (Definition
 of "native") Ordinance,
 1934, appears to be correct.*

*If the statement in question
 is derived from Government
 sources, I would suggest
 that steps should be
 taken to clarify any
 further misunderstanding.*

and that as the departure of the party
was imminent the District Commissioner
informed Mr. Gallin-Fungie that
there was insufficient time to carry out
the formalities necessary to complete
a foreign contract of service and made
certain suggestions for the purpose of
~~suggesting that they should do~~
~~arranging the difficulty~~
~~later by Mr. Gallin-Fungie, it was~~
~~being reported with him for that~~
~~purpose~~ This suggestion was not
adopted ^{however} and before the party left
Kenya, Mr. Gallin-Fungie informed the
District Commissioner that he
discussed the matter with
that there was no necessity for the
District Commissioner to consider it
further.

I am etc.

(Signed) J. E. W. FLOOD

S. F. MILLER, MATHEWS & CO
SOLICITORS

NORMAN H. MATHEWS

TELEPHONE RESIDENT 5905 (LONDON)

12
187, PICCADILLY,

LONDON, W. 1

RECEIVED
C C

23rd October 1937

1 Enclosure

Sir,

Mr. H.P. Phillips and Hassan Ali.
Your Ref. 38068/3/37.

We duly received your letter of the 18th instant enclosing a print of the Employment of Natives Ordinance which caused us considerable surprise. Our client left all the arrangements in connection with Hassan Ali with the Agent in Nairobi of Messrs. Thomas Cook & Sons Ltd. When this question first arose our client told us that he had no recollection whatever of signing an Agreement but, to make quite sure, he had an interview with Messrs. Cook & Sons Ltd. at their Head Office and they had been communicated with their Nairobi Office. We think we can do better than send you a copy of Thomas Cook & Sons' letter to our client of the 24th August 1937, which they incorporate the reply received from their Nairobi Office. Is it quite clear that the Employment of Native Ordinance, which appears to be dated the 21st March 1910, has not since been altered?

The form of foreign contract referred to in Messrs. Thomas Cook & Sons' letter is in the same form as the form in the schedule to the Ordinance.

We are, Sir,

Yours faithfully,

Arthur Matthews

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

copy to Kenya (14)

THOS. COOK & SON LTD.

Berkeley Street,
London W.1.

August 24th 1937

H.P. Phillips Esq.,
Hamble Meads,
Warsash,
HANTS.

Dear Sir,

Further to previous correspondence we have duly
communicated with Nairobi office, and we will do better
than give you an extract of their reply.

"I have enquired at the District Commissioner's office,
Labour office and Native Registration office and informed
that there is no record at either of these offices. Mr. Phillips
signed any contract or undertaking with this Somali car
driver before he left Nairobi. I enclose herewith a form
of Foreign Contract, but this is only necessary for Kenya
African Natives. Hassanali is an Arab or Somali and as
such it is not necessary for him to have any signed
engagement in order to leave the Colony, and I suggest
that if Mr. Phillips signed any undertaking the document may
be in Hassanali's possession: there does not appear to be
any copy with the Authorities here"

The form in question is enclosed.

We trust this will be of assistance to you,

Yours faithfully,
THOS. COOK & SON LTD.

PER

(Sgd) L.G. Rogers.

Communications on this subject
should be addressed to—

UNDER SECRETARY OF STATE,
COLONIAL OFFICE,
LONDON, S.W.1.

The following
number quoted: 38068/3/37.



11 15
Downing Street.

18 October, 1937.

Gentlemen,

I am directed by Mr. Secretary Omsby Gore to
acknowledge the receipt of your letter of the 6th of
October from which it is noted that you are in a position
to act on behalf of Mr. H. P. Phillips in the matter of the
repatriation of Hassan Ali to Kenya.

I am to inform you that Mr. [redacted] has
received a report on the case from the [redacted] of Kenya,
from which it appears that Mr. Hassan Ali was [redacted] of the
Colony without the execution of a "foreign contract of
service", brought in contravention of the provisions of
Section 9 of the Employment of Natives Ordinance, a copy of
which is enclosed for your information. It will be
observed that a Somali is a "native" for the purposes of
the Ordinance, and that a foreign contract of service
provides that the employer will provide the employee with
means of returning to the place at which he was hired.

It appears that Mr. Phillips was aware of the
requirements of the Ordinance, and in the circumstances

Copy to Kenya (12)

26-10-37

I am to request that the question of his making provision
for the repatriation of Hassan Ali may be reconsidered.

I am, Gentlemen,

Your obedient servant,

Signed: J. E. W. FLOOD

Contravention of the provisions of
Section 9 of the Employment
Natives Ordinance, a copy of
which is enclosed for your
information.

~~The allegations~~
of ~~the~~ Cardinal ~~in the fact of~~
~~Hassan Ali's~~ ~~conduct~~ ~~in your~~
~~letter~~ ~~concerning~~, ~~as you are of~~
~~course aware~~, ~~affect~~ ~~Mr Phillips'~~
~~integrity~~ ~~under~~ ~~the~~ ~~Ordinance~~

^{therefore}
I am ^{therefore} ~~pleased~~ ^{pleased} to request
that the ~~reparation~~ ^{reparation} of ~~Mr Phillips~~ ^{his}
~~position~~ ^{may} ~~be~~ ^{be} ~~reconsidered~~ ^{reconsidered} for the reparation of
Hassan Ali ~~shall~~ ^{may} ~~be~~ ^{be} ~~reconsidered~~ ^{reconsidered}.

Employment of Natives Ordinance

a Somali
is a "native"

It will be
observed that
for the purposes
of the Ordinance,
~~"native"~~
~~"Somali"~~, and

that a foreign
contract of service
provides that the
employer will
provide the with
employee of means
of returning
to the place at
which he was
born.

Annex

Section

It appears that Mr
Phillips was aware of
the requirements of
the Ordinance, and
in the circumstances

S. F. MILLER, MATHEWS & CO
SOLICITORS.
NORMAN H. MATHEWS.
TELEPHONE REGENT 5055 (2 LINES).

187, PICCADILLY.

10.

LONDON, W. 1.

6th October 1937

RECEIVED

7 - OCT 1937

C. O. REGY

*Checked PC
D/10*

3c

Sir,

re Mr. H. P. Phillips.
Your Ref. 38068/3/37.

We duly received your letter of yesterday's date and we have to inform you that we are in a position to deal with the matter to which you refer on behalf of our client, Mr. H. P. Phillips.

9.

Hassan Ali absented himself from our client's employment on the 25th July last. On the 5th August last our client had an interview with him and requested him to return to his service. He declined to do so and, in the circumstances, our client is unable to accept any further responsibility for him. He has broken his service agreement and has disobeyed our client's lawful order to return to work. Furthermore, he owes our client £11 which is the balance of an advance of wages.

We think perhaps we should mention in case you are not already aware of the fact, that Hassan Ali is a Somali and not a Kenya-African native.

Yours faithfully,

H. Miller Mathews & Co

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

*Ans'd 11.
copy to Kenya*

38068/3/37

C. O.

Mr. Passin 29/9
Mr. Roberts Wray 2/9

(10)
(pe fr. if you agree). 5.10.37.

- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

D
 R 29 SEP
 11 12-60

Gentlemen,

3C

I am so. to inform you that it is desired to communicate with Lt. H.P. Phillips in regard to the arrangements for the repatriation to Kenya of a Mr Hassan Ali who, it is understood, was brought to this country as a servant by Lt. Phillips.

It has been stated that Hassan Ali's Solicitors

who is understood to be abroad.

that you act for Lt. Phillips, & I am to enquire whether you are in a position to ~~would be prepared~~ deal with the matter on his behalf.

I am

Signed J. ...

DRAFT.

Messrs S.F. Niles, Matthews & Co
187 - Piccadilly.
W. 1

FURTHER ACTION.

Copy to Kenya

KENYA.

No. 555



8
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED

27 SEP 1937

O. O. REGY

20 September, 1937.

Sir,

7.
I have the honour to acknowledge the receipt of your despatch No. 702 of the 30th August, regarding the desire of one Hassan Ali to be repatriated to Kenya.

2. Hassan Ali's passport (No. 2345, issued at Entebbe, Uganda on the 25th April, 1930) was renewed on the 15th April last for one year. He was then understood to be proceeding to England in the employ of Lieutenant H.P. Phillips and was granted the necessary visa. The Passport Control Officer reports that in view of the fact that Hassan Ali and not a Kenya born native no foreign contract of service under the Employment of Natives Ordinance was called for.

3. The definition of 'servant', however, in that Ordinance includes a Somali and the provisions relating to foreign contracts of service apply to a Somali. A foreign contract should therefore have been required in this case before the visa was granted.

4. The District Commissioner, Nairobi, reports that in April the late Mr. L.D. Galton-Fenzi approached him on behalf of Lady Louis Mountbatten, who was at that time touring East Africa in company with Lady Milford Haven and Lieutenant Phillips

and

THE RIGHT HONOURABLE
W. ORMSBY GORE, F.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

and who desired to take to England with her a Somali chauffeur. This chauffeur was apparently Hassan Ali, and the District Commissioner understood that the intention was that Hassan Ali should act as chauffeur to Lady Mountbatten at the Coronation. The District Commissioner informed Mr. Galton-Fenzi that in the few hours available before the party were due to leave for England by air on Monday morning (April 12th) it would be impossible to carry out the formalities necessary to complete a foreign contract of service and that a deposit of £100 would be required. He further suggested that, as the chauffeur was precluded from accompanying Lady Mountbatten and her party to England by air, Galton-Fenzi should endeavour to persuade the chauffeur to leave him in the Colony, or, failing that, to provide £100 with Mr. Galton-Fenzi who would on their behalf subsequently carry out the necessary formalities and send Hassan Ali to England by sea.

Later, but before the party left Kenya, the District Commissioner was informed by Mr. Galton-Fenzi that he had discussed the matter with them and that there was no necessity for the District Commissioner to consider it further. So far as the District Commissioner was concerned, the matter concluded there.

5. I am not aware whether Lieutenant Phillips is a serving officer, but it appears possible that he is Lieutenant H.P.J. Phillips of the Supplementary Reserve, Colustram Guards.

6. Lieutenant Phillips has rendered himself liable to prosecution under section 9 of the Employment of Natives Ordinance, but in view of his absence from the Colony it appears that no action in this direction would be practicable. It seems, however, that the offence was committed not in ignorance of the law but in the light of full information as to what the law required him to do. I therefore suggest that some pressure should be brought upon him, through any available official channels, to carry out his obligations as an employer and repatriate Hassan Ali to his country of origin.

7. There is no evidence that Hassan Ali is a Kenya Somali. He appears to have entered the Colony with Lieutenant Phillip, and the possession of a Uganda passport indicates that Kenya is not his country of origin. In the circumstances copies of your despatches of the 11th August and 30th August and of this despatch are being sent to the Government of Uganda for information.

(3) & (6)

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

H Brooke-Blpam

AIR CHIEF MARSHAL
 GOVERNOR.

38768/3/3

C. O.

Mr. *Spence* 2/8
Mr. *Harkin* 18/8

- Mr.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permi. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

C. O.
R 18 AUG
D-1A

20 August, 1957

Gentlemen, ~~Sir~~

DRAFT.

Messrs *Wells*,
Horsfield & Moorhouse
4.5

I am able to acknowledge the receipt of your letters of the 10th and 16th of August regarding *Tur Hassan Ali* and to inform you that copies are being sent to the Governor of Kenya, who has already been asked to furnish his views on the question of the repatriation of *Hassan Ali*.

Copies to Gov

2. It will be appreciated that the I.P.S. has no funds at his disposal for which assistance could

FURTHER ACTION.

Copy of copy of copy for Kenya Mr. Kelly

Could be granted to Hassan Ali,
and that pending the receipt
of a ~~report~~^{communication} from the
prison, no ~~step~~ can
be taken it is not possible
to take any steps ^{in regard to} ~~to~~
~~for~~ his repatriation.

Sam Ali

(Signed) J. F. W. FLOOD

4

14, BEDFORD STREET

STRAND,

LONDON, W.C.2.

TELEPHONE NOS
LONDON OFFICE 6932 TEMPLE BAR (3 LINES)
KINGSTON OFFICE 0271 KINGSTON (4 LINES)
WILKINSON, HOWLETT & MOORHOUSE

201, 1008
V. MOORHEAD
K. THORNTON
P. BARKER
J. W. GIBBY
W. A. LUNN
and at
KINGSTON ON THAMES

RECEIVED
11 AUG 1937
C. O. REGY

10th August 1937.

LC. 345/E/W.

Dear Sir,

Ref: 38068/3/37. Mr. Hassan Ali.


We have received your letter of the 6th instant, with enclosures, for which we are obliged.

We note the provisions of Sections 3 - 9 of the Kenya Employment of Natives Ordinance, and in view of the fact that there was no written agreement for client's employment, it would appear that Lieut. Philip had himself liable to the penalties mentioned in Section 3.

Copy 6/5/37

It is urgently necessary that some steps should be taken for our Client's repatriation to Kenya in view of his bad state of health, and pending the receipt of the observations of the Governor of Kenya on our letter, we shall be glad to know whether you can assist us in the matter. Our Client is without employment or means, and at the moment is being assisted by friends, who cannot continue that assistance indefinitely.

Yours faithfully,

Duck 

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

3

C. O.

Mr. Grossmith.

Mr. Paskin

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.



DOWNING STREET.

11 August, 1937.

Sir,

I have etc. to transmit to you a copy of correspondence with Messrs. Wilkinson, Howlett, and Moorhouse regarding the position of one, ⁸ Husan Ali, who is said to be an African and a native of Kenya, and was brought to this country as a servant by a Lieut. H. Philip in May this year. I should be interested to learn whether ^{Shaa} any foreign contract of service was entered into between Lieut. Philip and Husan Ali, and what reply should be returned to Messrs. Wilkinson, Howlett and Moorhouse regarding the question of the repatriation of Husan Ali.

I have, etc.

(Signed) W. ORMSBY GORE

DRAFT.

KENYA

NO. 640

GOVERNOR

up.

From Wilkinson, Howlett & Co. (2)
 To (2)

FURTHER ACTION.

6th August 1937.

the alternative of either going with him on this tour - which he is totally unfit to do - or of going his own way.

Our Client desires to be repatriated to Kenya as soon as possible, but Lieut. Philip refuses to assist in any way in repatriating him. His wages have apparently been paid up to date, but a promise to give him pocket money has not been performed.

We imagine that before our Client left Hairobi, Lieut. Philip was obliged to give some undertaking to the Local Authorities to repatriate him as and when neces.

We shall be glad if you can assist our Client in this matter, and if there is any further information desired, please telephone to this office, and we will arrange for our Client to attend upon you.

We would impress upon you the urgency of the matter, having regard to Lieut. Philip's impending departure from this Country at the end of this week.

Yours faithfully,

Wilkinson Howlett & Co.

The Under Secretary of State for the Colonies,
East Africa Department,
Colonial Office,
Whitehall,
S.W.

Urgent.