

1937

38132

CO 533/481

38132

83

KENYA

83

(MISCELLANEOUS ENQUIRIES)S. PAYNEDEATH OF SON IN MINING ACCIDENT

Previous

297 14/63

309 18/7

Mr. Baskin

297 24/9

R 309 11

Subsequent

R 309 24/9

I.R. 22/7

299 27/9

297 5/10

R 297 10/10 297 8/10

R 309 3/7 R 297 8/10

Mr. Baskin 3/7 309 9/10

299 8/7 Mr. Baskin 2/11

297 9/7 297 1/10

303 13/7 309 19/10

I.R. 14/7 Mr. Baskin 2/11

298 16/7 303 11/11

297 17/7 298 13/11

309 19/7 297

Mr. Baskin

298 25/7

297 26/7

303 35

299 6/8

C.I.

S. PAYNE 29.6.37.
States that he wishes, if possible, to obtain full report on mining accident in which his son was killed on 23.4.37 and enquires whether any regulation, as indicated, exists.

MISC. ENQUIRIES.
Nominal (P & R).

I have flagged in Vol. beneath the Regs dealing with safety in mines.
D. Malone

✓ Submit Drafts -
C. Brown. etc.
3/7

2 To S. Payne (1 ansd) 7.7.37

3 To Kaye - 525 - (9c to Malone + 2) Com. 8/7/37

4 To Mines Dept (w/c 1 + 2) ^B/₁₀ 16.7.37

CA ~~replied~~

S. PAYNE 8.7.37.
Acks (2) with thanks.

DESTROYED UNDER STATUTE

S. PAYNE 15.7.37.
Comments on existing Safety Regulations and suggests the inclusion of a Regulation as indicated.

Not reply
No 6. Act send a copy to the P. Dept.
for Boston.
Draft to the Payne beneath
C. Brown. etc.
17/7

~~side draft 7~~
DESTROYED UNDER STATUTE To S. Payne (6 ansd) 30.7.37

C.I.

1. S. PAYNE..... 29.6.37.
States that he wishes, if possible, to obtain full report on mining accident in which his son was killed on 23.4.37 and enquires whether any regulation, as indicated, exists.

MISC. ENQUIRIES.
Nominal (P & R).

2

I have flagged in Vols herewith
the Regs dealing with safety in mines.
Malone

✓ Submit Regs -
C. Brown. CA
3/7

2 To S. Payne (1 ansd) — 7.7.37

3 To Langa - 525 - (90 to 100 ansd + 2) Gms 8/7/37

4 To Mines Dept. (w/c 1 + 2) 9/10 - 16.2.37

CA Mining Regs

5. S. PAYNE..... 8.7.37.
Asks (2) with thanks.

DESTROYED UNDER STATUTE

6. S. PAYNE..... 15.7.37.
Comments on existing Safety Regulations and suggests the inclusion of a Regulation as indicated.

Not reply

Not. Act read a copy to the P. Langa
for J. Brown.

Letter to the Payne, herewith
C. Brown with
11/7

side draft 7
To S. Payne. (6 ansd). — 30.7.37

DESTROYED UNDER STATUTE

5/10
8 Tokama-617 - (4c 6+7) all Cons - 8/8/37

9. GOV. KENYA.....425.....3.8.37.
True copy of Magistrate's finding in the matter
together with copies of corres. with Mr. Payne and
comments thereon.

It is fairly conclusive that it was
not the bucket that jammed in the guides, but
the crosshead, which did not descend with the
bucket but fell from a height of 180 feet on
to it, causing the rope to break.

It is curious that the finding of the
inquiry does not bring out the fact that the
hoistman did, in fact, reverse the hoist,
not that it played any part in the accident.

? It might be worth while sending a copy
of the despatch to the Mines Department for their
observations

C. J. Rossmore

17.8.1937

So far as the amendment of the
Safety regulations are concerned, they
are considering what is necessary, but
I agree that it might be useful to
have my views that the Mines Dept.
may have to offer.

as regards compensation; if
an Order on the lines of the Road
Workmen's Compensation Order was
in operation in Kenya, they would
have had to pay 30 months wages
or £600 whichever is less, ~~if~~

(see para
2 of the
despatch)

No. of the dependants
etc. the relatives of the
deceased

and it seems unlikely that the
Company x should appeal against an
award of 9 months wages.

V. No. 13, 174
18 on 21/4/34 S.C.

In a case which occurred in
the S.C. in 1934 (when a rope
broke, the cage crashed & 50 natives
were killed), the Gov was told to
tell the Company that it was considered
that they should pay compensation on
the scale of w.c. if an L.D. had been enacted.
We shall have to consider whether
any similar action should be taken
in this case.

[Note: Compensation on a scale
indicated above will only be payable
under the Road Order if a dependant
left total dependants. It will be reduced
if he only left partial dependants.
No compensation will be payable if
he left no dependants.]

J. J. Brown
20/8

Q: Mining
accident
compensation Mr. Payne has had all this
he ought not to be 7-10 days in prison

11. Mince Dept 17 9 37.
states there is no regulation in this
country bearing upon this kind of accident
wishes for further information regarding the
automobile trip mentioned in no 9

Copy sent to Gov for info. (he may have
some about compensation when it is settled.)

1.24.37
20.9.37

12. To Kenya B.D. (w/c Rand) 20.9.37
(and N° 13)

W. J. G. Smith

No reply received from Kenya (ref 8)

? wait another month

W. J. G. Smith
5/11

W. J. G. Smith
5/11

2.27
2.11.37

Still no reply received from Kenya (ref 8)

2.27
8.11.37

There is no violent hurry about this; but if
Kenya is not to be allowed to forget it altogether
perhaps we had better ? Revisit

W. J. G. Smith
8/11

Give him the the and give him

W. J. G. Smith
9/11
at work

13. Ken. Kenya 663

Wishes for information & Mince Dept in answer to 11, description
and brief explanation of that Mince Dept of the automobile
trip given

? Copy of No 13. Mince Dept in original to Kenya
Lfr. P. H. No 11

W. J. G. Smith

W. J. G. Smith
x/x
at work

14 To Mince Dept (w/c Rand) B- 13.11.37
orig encl 11b

AIR MAIL

KENYA
No. 663



GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED

3 NOV 1937

3 November 1937.

Sir,

12
with reference to the correspondence terminating with your despatch no. 810 of the 20th September, on the subject of an accident which occurred at the property of the Kenya Consolidated Goldfields Company at Lolgorien, I have the honour to forward, for transmission to the mines department in answer to their letter of the 17th September, a diagram and a brief explanation by the government mining engineer, of the automatic trip-gear mentioned in connection with this matter.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

J. Brooke-Popham

AIR CHIEF MARSHAL

SECRETARY.

THE RIGHT HONOURABLE
W. ORMSBY-GORE, F.C.S., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWLING STREET,
LONDON, S.W. 1.

Copy stored and (S)

Any reply to this letter should be addressed —
THE UNDER SECRETARY FOR MINES
(and not personally to any officer of the Dept.)
and the following Reference Number should be quoted —

H/S. 5286/7.

Telephone: VICTORIA 9516.
Telegrams: MININGDEPT, BOMBAY. LOND-37



MINES DEPARTMENT,
DEAN STANLEY STREET,
MILBANK,
LONDON, S.W.1.

RECEIVED
18 SEP 1937
C. O. REC'D

17 September, 1937.

Sir,

With reference to Colonial Office letter of 3rd September (38134/83/37) and enclosures thereto, I am directed by the Secretary for Mines to say that there is no regulation in this country bearing upon the kind of accident described in the enclosure. He is advised that there is some doubt as to the wisdom of a regulation requiring the cross-head to be attached to the bucket, and in this country such is not the general practice. Further information, however, regarding the appliance with the automatic trip mentioned in paragraph 4 of the Governor's letter would be welcomed in this connexion.

I am, Sir,

Your obedient servant,

C. H. de Silva

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

MRL.

Copy to Dept. 2

AIR MAIL

KENYA

No. 425



GOVERNMENT HOUSE
NAIROBI
KENYA

3 August 1937

Sir,

I have the honour to acknowledge the receipt of your despatch no. 525 of the 5th July enclosing a copy of correspondence with Mr. S.R. Payne on the subject of an accident which occurred at the property of the Kenya Consolidated Goldfields Company at Ishi-Orien involving the death of Mr. Payne's son.

2. I enclose a copy of the Magistrate's finding in the matter. A copy of this finding was furnished to Mr. Payne on the 3rd July in response to a request addressed by him direct to this Government. Copies of this correspondence are enclosed for your information. It is understood that an appeal has been lodged by the dependants against the amount of compensation awarded by the Magistrate.

3. It will be observed that the Magistrate so that the crosshead of the cage jammed against the guides above the surface and failed to follow the rope down the bucket. Mr. Payne is mistaken in his opinion that the cause of the accident was that the cage fell as the cage jammed in the guides.

It appears that the tankman (who fired the signals), the hoistman and the occupants of the cage failed to notice that the crosshead had jammed until the bucket had descended some two hundred feet. When the hoistman saw the crosshead, apparently loosened by the vibration, slip downwards and by an error of judgment

reversed the hoist, with the result that the descending crosshead

44 Aug - 10

crosshead met the ascending bucket and snapped it off.

I understand that the rope was in excellent condition and capable of taking an extraordinary strain, but even had the hoistman not reversed it is doubtful if it could have withstood the impact of the crosshead falling two hundred feet.

4. There is no provision in the Safety Regulations requiring the crosshead to be attached to the bucket - it must be remembered that the guides do not extend to the bottom of the shaft - and although in some mines an appliance with an automatic trip is used, the practice is not general.

Consideration is being given to the advisability of introducing a regulation requiring the attachment of the crosshead to the bucket until the end of the guides is reached, and the recently formed East African Chamber of Mines is being consulted in this connection.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

J. B. Brooke-Popham

AIR CHIEF MARSHAL

GOVERNMENT

1

FINDING IN ENQUIRY
into
MINING ACCIDENT, KENYA CONSOLIDATED
GOLDFIELDS, LIMITED, LOLGORIEN.

(Despatch No. 525 of the 8th July,
1937, from the Secretary of State).

Although this enquiry has been held under the provision of the Mining Ordinance there will be no separate inquest under the Criminal Procedure Ordinance. The Medical evidence proved conclusively that all three deceased died as a result of fractured skulls. The Govt. Mining Engineer who examined the bottom cross member of the cross head is of opinion that it could not have been broken as it was, except by falling from a great height on to the suspended bucket. The force of the falling cross head broke the rope, so that the bucket and cross head dropped 140 feet to the bottom of the shaft where it landed in about 3 ft of water. I find as a fact that all three deceased were killed by the fall of the cross head which did not accompany the bucket when it left the shaft head. Witnesses 2 and 3 state on oath that the cross head went down with the bucket though witnesses 5 and 6 swear that witness No. 3 made a different statement to them on the morning of the accident just after it occurred. In coming to a conclusion on this point I am impressed by the evidence of witnesses 1 & 7. In my opinion the cross head jammed above the surface and did not descend with the bucket but slipped when the bucket had reached a depth of approximately 180 ft. The reason for this jam is not proved but might be due to a swelling of the wooden guides or the breaking arrangement to prevent over winding. There is no safety regulation to prevent the bucket/

bucket descending unintentionally without the cross head and the Government Mining Engineer states that he finds no evidence of a breach of any Mining Regulations. In considering whether any responsibility rests with the Company or an employee of the company, I have taken evidence regarding their duties of the hoist driver and lander.

The hoist driver received his instructions to lower the bucket by a signal of the hand from deceased No. 1 "the tall beana". By custom, not by regulation, the lander at the shaft head, is responsible for signalling if all is not right and should have signalled to stop the descent of the bucket if he noticed that the cross head had not followed the bucket. He did not, I believe notice this till the cross head had slipped. The Govt. Mining Engineer regards this failure to notice and stop the descent as a serious neglect on his part. The cross head is very heavy and for some long period has been held in position by the law of gravity, and is only separated from the bucket deliberately when the bucket descends below the level of the guides as the shaft is sunk deeper to a new level. There are no Company's instructions any more than there are safety regulations under the Mining Ordinance imposing a definite duty to see that the cross head descends with the bucket although witness No. 1. thought it worth mentioning to the two Europeans deceased, shortly before the accident, that it was advisable that they should watch that the cross head did descend. The fact that no regulations had been framed and that there are now being framed points to this accident being the first of its kind though it surprised me that the possibility of its occurrence had not been foreseen and arrangements made to obviate any risk. The risk has now been exemplified

work and had performed these duties for 5 and 3 months respectively prior to the accident. The Company is not guilty of any breach of safety regulations and there is abundant evidence of skilled and careful attention in the organization of the mine. Great sympathy must be felt not only for the relatives of the victims but also for the Company which has lost their services. It may be argued that Mining inevitably involves risks and that anyone who engages in Mining accepts an element of risk by the nature of his employment. It may also be argued that an employer who engages anyone to mine accepts responsibility for payment of compensation in all cases where death or injury is not due to wilful or negligent behaviour on the part of the employee. I award compensation to be paid to the representatives of each deceased amounting to 9 times the monthly salary as drawn at the time of the accident respectively.

S/D. C.E.V. Buxton.
Warden of Mines.

Narok.

19.5.37.

13
COPY.

ETHUEL LODGE,
BROADWAY,
WORCESTERSHIRE.

16/VI/37.

Sir,

Acting on the advice of the Crown Agents for the Colonies, I write to ask you for a full report of any enquiry which may be held concerning the accident which occurred on the 23rd April 1937 in the mine at Lolgorien, belonging to the Kenya Consolidated Gold-fields Limited, and in which accident my son, John Wilmot Payne was killed.

Should the enquiry not yet have taken place, might I ask you to let me know the date of the enquiry, and the place where it is to be held, as, if permissible I feel my son's widow should be legally represented.

At the same time, could you advise her as to the enquiry date and place. Her address is -

Mrs. J. W. Payne,
c/o Mrs. Stone,

KALIMSI,
Kisumu, Kenya.

Yours faithfully,

(sgd) Sidney M. Payne.

14
COPY.

AIR MAIL

C. MIN. 4/2/86.

3rd July 1937.

Sir,

With reference to your letter of the 16th June on the subject of the accident which occurred on the 3rd April at the Kenya Consolidated Goldfields, Limited, Mine at Belgorien, I have the honour to inform you that the enquiry was concluded on the 19th May, and to enclose for your information a copy of the Magistrate's finding.

It is understood that an appeal has been lodged by the dependants against the amount of compensation awarded by the Magistrate and that they are legally represented in the matter.

2. A copy of this letter and of your letter under reference are being sent to Mrs. J.W. Payne at Kaimosi for her information.

I have the honour to be,

Sir,

Your obedient servant,

(sgd) H.S. POTTER

for COLONIAL SECRETARY.

S.M. Payne, Esq.,
Bethuel Lodge,
BROADWAY,
Worcestershire.

Reference No 38182/83/37.

RECEIVED
17 JUL 7
C. O. REGY

METHUEN LODGE
BROADWAY
WORCESTERSHIRE
TEL BROADWAY 110

15/7/11/37

Sir - I have now received a copy of Major C.E.V. Beaton's findings, at the enquiry on the Lobyasen accident, held at Yasek.

I feel that in a Country Subject to heavy snow fall, & where the dangers inseparable from the use of trucks in cross head & gauge construction must be fully known; the existing safety regulations are inadequate.

It seems that views shared by Major Beaton, as a regulation applying to

copy to Kenya (E)

Cross heads is now being framed.

May I respectfully suggest
that a "Regulation" be embodied
in connection with an attempt
being made by a Native, to
haul back by rewinching a
Ship in Cais which has
pitched in the wooden guides.
Surely there is danger here.

If, as the result of this
accident, Safety regulations
are thoroughly examined, the
lives of two young Englishmen
& a Native, will not have
been sacrificed in vain.

Yours faithfully
Richard H. Payne

C. O.

Mr. Grose Smith.

Mr. *Parkin*

Mr.

Sir C. Parkinson

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh

Perm. U.S. of S.

Partly. U.S. of S.

Secretary of State.

3.7.37.

2/7 P.

36132/83/37.

Downing Street.

7 July, 1937.

Sir,

I am etc. to acknowledge the receipt of your letter of the 29th of June, and to state that he regrets to learn of the death of your son in an accident which occurred at the property of the Kenya Consolidated Goldfields Company at Lolgorien on the 23rd of April.

2. Mr. Ormsby Gore has not so far seen a copy of the report of the enquiry into the accident, but he is asking the Governor to furnish him with a copy. The Governor is also being informed of your desire to receive a copy of the report.

3. *So far as can be ascertained*
 From the information ~~by a personal inspection or record~~
 available at the Colonial Office it

would

DRAFT.

S. H. PAYNE, ESQ.

Copy to Kenya - 3
Mues. (4)

2 drafts.

FURTHER ACTION.

Copy con. to Home Dept.
LF.

would appear that the ~~Kenya Mining~~

~~(Safety) Regulations do not prohibit~~

an attempt ~~being made~~ to haul back, by

re-winding, a cage which has jammed in the

wooden guides, *is not prohibited in Kenya.*

I am, etc.

(Signed) J. E. W. FLOOD

Kenya - 1/1

PETHUEL LODGE

BROADWAY

WORCESTERSHIRE

TEL. BROADWAY 110

RECEIVED
20 JUN 1937
C.C.I.

Phy. 11/1

29/7/37

Sir, I am seeking information concerning an accident which occurred on The Kenya Consolidated Gold Fields Co's property at Lolgorien, on the 28th April 1937, in which my son was killed.

Mr. ^{Rochester} Woodhouse kindly wrote to Captain Crockshank, of the Mines Dept, on my behalf, I enclose the reply received from his Department.

I wish if possible to obtain a full report of the Mines Enquiry which I understand

copy to Mrs. G. (2) W.D.

copy 2/12 and to Kenya (3)

has, is, being held, & further I should
like to know whether any regulation
exists which prohibits an attempt
being made to haul back by
reversing, a cage which has
jammed in its overhead guides

I can find no reference
to this in the Safety in Mines
Ordinance 1902, but it is possible
it may occur in some other
regulations.

Yours faithfully

Secretary. T. Pagers.

Mines Department,
Dean Stanley Street,
Millbank, S.W. 1.

24th June, 1937.

Dear Madam.

Captain Crockshank has asked me to reply to your letter about Mining Regulations in Kenya.

We have made some inquiries as a result of which I am writing to say that I think your best course would be to apply to the Colonial Office. Your letter should be addressed to

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

Yours faithfully,

R. N. G. Smith

Private Secretary.

Miss Rodochanachi,
The Mill Cottage,
Withington,
Gloucestershire.

THE MILL COTTAGE,
WITHINGTON,
GLOUCESTERSHIRE.

21
CWO
June 26

Dear Mr Payne,
As promised I went to
Captain Brooks house,
asking him if someone
in his Department
could give me the
information I wanted
I enclose his reply.

Yours sincerely
A. W. H. Lawrence