

1938

38179

8

C0533/494
KENYA

38179

8

KENYA - UGANDA RAILWAY & HARBOURS

~ ASIAN STAFF

C0533/
494

Previous			
	309		24/5
	Mr Dawe		27.5
1937	Mr James		7/6
	Mr Jeffries		3/6
	Mr Dawe		8/6
Subsequent	Sir G. Tansim		14/128
1939	Sir C. Bottomley		6/6
	Sir C. Parkin		12/6
	Lara Duffin		20
297	Sigs.		26
Mr. Parkin	Sir C. Parkin		27/6
Mr. Dawe	C. D. 308		=
Sir C. Bottomley	297		6/7
Mr Cream	Precedents		13
Mr Parkin	297		14/7
309	311 (head)		15/2
R. 299	R. 297		10/10
297	309		11/10
Mr Dawe	Mr Parkin		18
297	297		✓
298	H 342		8/7
297	Mr S. C. Read		25/7
298	H 302		
297			

to send copies of the S. of S.'s letter
of 4/12, & of note on this file, with
enc. to the H.C. by imp.
answering for his obs.

J. Paskin
14/1

A. J. Maw

12-1

Yes - I am afraid that is the
diff. to be in it. It is made
rather a bad batch of the Governor's
hand: 8, but it is a wide circle.

Mr. Paskin

If a letter can be sent
to the H.C. as above, we will send
off a despatch. W.P.S.
12-1-37.

DESTROYED UNDER STATUTE

Reply sent to Mr. McEntee.

R. 14/1/38.

A. L. C. to Transport of (1/19 in 1937 file & 1 on this). bms. 22/1/38.

DESTROYED UNDER STATUTE

(8 in 1937 file forwarded)

W.P.S.
12-1-37

Mr. Paskin.

5

I attach a further letter from Mr. McEntee, M.P.,
regarding the Asian staff on the K.U.R. I do not
know whether it will be necessary to refer again to
the High Commissioner on the particular points
mentioned in this letter, but the further reply for
the S. of S. to send must, I presume, await the
report for which the High Commissioner has been asked
on the receipt of Mr. McEntee's last letter.

J. Paskin

5/2/38.

DESTROYED UNDER STATUTE

1298-6.

6. To Mr. T. McEntee (S. of S.) 5-2-38

7. High Comm. for Transport 46 6-16-38
(S. of S.) comment on letter of 23/12/37 addressed to Mr. Paskin by
the K.U.R. same then

Mr. Paskin spoke about this. A draft of
Mr. McEntee is now submitted for con-
sideration on his (the sense of Mr. T. II
also covers the points in No. 6.

Clarks White 29/5

Mr. James.

Before we go further I should be glad to
have the comments of the C.S.D. on para. 13 of the
High Commissioner's despatch.

The Governor suggests that Mr. McEntee
should be informed of the Secretary of State's

disapproval

disapproval of the Union's action in
troubling him regarding their conditions of
service. The High Commissioner also states
that the "Colonial Regulations are explicit"
on the question of staff associations enlisting
the aid of M.P.s.

I am not clear what the High
Commissioner means by this. So far as I
know, the Colonial Regulations do not touch
on the question of communications to M.P.s from
public officers in the Colonies. It may be
that the Governor is referring to the
regulation relating to the proper manner of
addressing petitions to the Secretary of State
(C.R. 78): but this only provides that if they
want to address the Secretary of State they
should do so through the Governor. If they
choose to address a Member of Parliament I do
not see that this regulation is in point. In
fact, I think that the Governor's military
training has led him to misconceive the
position. It seems clear that there would
be, in principle, grave objection to any
attempt by the Secretary of State to restrict
the liberty of British subjects in the
Colonies - whether Civil Servants or not - to
communicate with Members of the British
Parliament.

A
A. J. Dawe

27.5.38.

Mr. Jeffries.

The point raised by Mr. Dawe came up in the
minutes on No. 9 on file 18326 C.R. - R.E. Caradine -
where the view taken was ^{that} there was not much in the
disciplinary point.

The first sentence of Colonial Regulation 77
reads "Every officer who has any representations of
a public or private nature to make to the Government
should address them to the Governor through the
Colonial Secretary", and under this, I suppose the
High Commissioner's view is right. It might even be
right under Colonial Regulation 79. But it is all
a matter of convenience and not of principle (cf. the
penultimate sentence of Colonial Regulation 78),
and there is really no suggestion to restrict the
liberty of British subjects to communicate with
anybody.

Mr. McEntee has been the spokesman of the
K.U.K. Asians for many years (see Mr. Flood's minute
of 2.4.35 on the 1935 file) and we have for long
condoned their using him as another channel to
the Secretary of State. I should not therefore say
anything to him on the specific point. The most we
^{think}
~~can~~ do is to agree with the High Commissioner that
the practice is to be deprecated and to suggest that
the Union's attention may be drawn to Colonial
Regulation 77.

W. B. ...
2.6.38.

Something on the following lines
might be said to the H.C. :-

" I quite agree with you
that the presentation of such
complaints to Members of Parliament
serves no useful purpose and

"To the Govt."
This has nothing
to do with
representations
to M.P.s.
A.J.D.

disapproval of the Union's action in troubling him regarding their conditions of service. The High Commissioner also states that the "Colonial Regulations are explicit on the question of staff associations enlisting the aid of M.P.s.

I am not clear what the High Commissioner means by this. So far as I know, the Colonial Regulations do not touch on the question of communications to M.P.s from public officers in the Colonies. It may be that the Governor is referring to the regulation relating to the proper manner of addressing petitions to the Secretary of State (C.R. 78): but this only provides that if they want to address the Secretary of State they should do so through the Governor. If they choose to address a Member of Parliament I do not see that this regulation is in point. In fact, I think that the Governor's military training has led him to misconceive the position. It seems clear that there would be, in principle, grave objection to any attempt by the Secretary of State to restrict the liberty of British subjects in the Colonies - whether Civil Servants or not - to communicate with Members of the British Parliament.

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Mr. McEntee has been the spokesman of the K.U.R. Asians for many years (see Mr. Flood's minute of 2.4.35 on the 1935 file) and we have for long condoned their using him as another channel to the Secretary of State; I should not therefore say anything to him on the specific point. The most we ~~can~~ ^{will think} do is to agree with the High Commissioner that the practice is to be deprecated and to suggest that the Union's attention may be drawn to Colonial Regulation 77.

W. H. ...
2.6.38.

Something on the following lines might be said to the H.C. :-
" I quite agree with you that the presentation of such complaints to Members of Parliament serves no useful purpose and

"to the Govt."
This has nothing to do with representations to M.P.s.
WJ

should not replace submission
through the authorized
channels. It is, however,
impossible in my judgment
to lay it down that any
person or body of persons in
a Colony should be forbidden
to approach a M.P., and
it is clearly impracticable to
suggest that a Member should
feel himself to be precluded
from interesting himself, if
he sees fit to do so, in
any matter which may be
brought to his notice.

J. P. [Signature]

3.6.38.

This question leads us up into the
high pastures of constitutional theory. I
think that the right view of the matter is
that it would be constitutionally improper for
the Secretary of State to attempt in any way
to restrict the liberty of a civilian servant
of a Colonial Government to approach Members
of the British Parliament. The only authority
which

5

which could impose such restrictions would, in my
opinion, be Parliament itself. But I do not want
to elaborate the general issue as it is quite clear
that in practice the Secretary of State would not
attempt to prevent Colonial Civil Servants from
addressing representations to M.P.s. The only
sanction to any such restrictions would be
disciplinary action against the officers concerned;
and that, it seems to me, would raise grave issues
and be clearly out of the question.

I am not quite sure about the phraseology
of the first sentence of Mr. Jeffries' suggested
reply. Is it either true or expedient to say that
the presentation of complaints to M.P.s "serves no
useful purpose"? Also I am not sure about the
expression "authorized channels" which perhaps
carries some suggestion that in making representations
to an M.P. a Colonial Civil Servant would be using
unauthorized channels. I should say that although
the latter channel may not be specifically authorized
in the mere administrative instructions laid down
by the Secretary of State, it is fully authorized by
the practice of the Constitution.

Draft submitted.

A. J. Dawe

8.6.38.

I agree generally with Mr.
Dawe. Nevertheless the practice
of involving the help of M.P.s
has many disadvantages & I have
strongly advised that the [unclear] [unclear]

total
16638

Sms. of Bates

I am quite sure that the line taken in the left. reported to the H.C., is right. Naturally Coe, Galt, tend to be hostile as the "interference" of P.P.'s in matters of this kind; we indeed does the C.O. welcome it. But when it is said we must deal with it.

19.5.38

Dot
M.M.
26.6.38

- 8 To L. J. McEntee 5 July '38.
- 9 To L. J. McEntee (Mc 8) - 7 Aug. 6 JUL 1938

10 To L. J. McEntee sp. — 6/7/38

DESTROYED UNDER STATUTE

Partly
done
around 197/26

11 To L. J. McEntee % — 7/10/38

DESTROYED UNDER STATUTE

Partly forwards copy of locally published booklet.

12 To McEntee % (11 ackd) 4/8/38.

DESTROYED UNDER STATUTE

The pamphlet enclosed in (11) is very rude; and it merely goes over old ground. Mr McEntee no doubt realises there is not very

much substance in it, as he refrains from asking for further investigation.

The Govt High Comm. will no doubt have seen the pamphlet.

? Put by
Clothier White
11/38

Two further copies have been received direct from the source, and have been sent to the Library.

19 factory
24/10

J.P. Bacon
18/11

*With the Compliments
of
The Manager,
The Colonial Times,
Nairobi.*

FOR FAVOUR OF TRANSMISSION TO
MR MCENTEE.

Leave Privileges of K.U. Railway Asian Staff

Being a reply to the Rt. Hon.
Malcolm Macdonald's letter
dated the 5th July, 1938
addressed to Mr. McEntee,
M. P., and published
in Press.

By: G. L. VIDYARTHI

*Reprinted from the "Colonial
Times" of the 6th and the
13th August, 1938.*

Notrubi,
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PUBLISHERS' NOTE.

The following article by the Editor of the *Colonial Times*, is published in a convenient size in the hope that it will serve some useful purpose.

Nairobi,
1st September, 1938.

Kenya and Uganda Railway Asian Staff

I

The "East African Standard" is to be congratulated on bringing to light what can only be called a scandal since it concerns the lives of several thousand of His Majesty's most loyal subjects. If the arguments of the Secretary of State contained in his recent letter to Mr. Mc Entee, M. P., published on page 7 of the "East African Standard" dated the 21st July, 1938, are to be taken as a fair sample of the "just and full consideration" that is generally given to the representations from the staff, nobody can envy the poor lot of the staff.

Let me make it clear that I am no advocate of the continuance of those official privileges which are granted in addition to fat salaries, and which the Colony at its present stage of development can ill afford, and, lastly, which the vast non-official population cannot secure even in their dreams. But no one will deny that, while the privileges of the high Railway and Government officials are out of all proportion to the capacity of the Colony, the low grade staff get no more than a mere pittance. To realise the truth of this statement, one need only compare the remuneration of an Asian

Clerk, (£90) with the salary of the General Manager (£2500). This state of affairs makes it essential that the low grade staff should be kept contented.

The attitude of the High Commissioner for Transport to the claims of the Asian staff does not, however, seem to be one that can lead to contentment. Admitted, no railway in the world can hope to meet all the fantastic claims of Trade Unions, but there are ways of replying to the claims. This is specially important in East Africa, because the Railway Trade Union officials are subordinate to the General Manager whose decisions they cannot challenge for fear of landing into trouble. Otherwise, I cannot see what reason is there for the Union's not coming forward to contradict the numerous wrong statements contained in the Secretary of State's letter.

The Right Honourable Gentleman is the final arbiter of the fate of the Railway staff, and if he is to be so unfair as his letter shows him to be to the requests of the staff, it is most unfortunate. The staff must certainly expect from the Secretary of State a sympathetic attitude. It appears that the Union stated in one of their letters that the religious holidays were given to only a small portion of the staff and they could not therefore be considered as equivalent to so many days casual leave. The Secretary of State has no hesitation in assuming the role of a partisan and saying "the High Commissioner has little doubt that were the privilege abolished, strong representations against its abolition would be made by the Asian staff". Again, the Union appear to have been told that their

request for increased leave could not be agreed to because they had already been given a concession viz the permission to accumulate leave up to 180 days. The Union presumably replied that this could not be considered a concession in the direction of improvement because the rate of leave had been increased and because the Railway had incurred no additional cost. The Secretary of State now states, "the High Commissioner assures me that great objection would be taken to any abolition of the permission to accumulate leave up to 180 days". No greater non-sense could emanate from Whitehall! The Minister ought certainly to have been more polite and tactful in his reply. The fact that he has tried to place a most unsympathetic construction on, and to ridicule, apparently simple and unconceited statements of a representative body of the staff indicates the weakness of the official side of the case. And to this aspect of the matter we now turn.

II

To examine this product of the Colonial Office intellect, one does not require any information that is not available to everybody in Kenya. The Railway Annual Estimates, the Annual Reports of the General Manager and the Kenya Hansard contain among them more than is known to average railwayman. During the last three or four years, every detail of the leave conditions has been exposed in the Legislative Council, where several long speeches have been made bearing on this question. Even apart from these, the letter under review contains plenty of materials for a reply.

One need not fear therefore that one will misinterpret the views of the Railway Asian staff on this question.

To appreciate the demands of the Railway Union, it is necessary to keep in mind four main facts:—

(1) As the following table will show, the leave conditions of the Railway Asians compare most unfavourably with those of any other Railway or Government group:

	Leave in days per annum.	
	Overseas.	Local.
Railway Europeans		
Officers with nine years' service or over.	48	
Officers with less than nine years' service.	36	
Government Asians.		18
Officers with 11 years' service or over.	39	
Officers with less than 11 years' service.	33	
Railway Asians.	25	14

(2) While the leave conditions of the European Officers of the Railway are the same as those of the European Officers of the Government of Kenya, there is a marked difference between the conditions applicable to the corresponding categories of the Asians. This has been the cause of a great discontent.

(3) The Asian Officers of the Railway were getting a little better leave some years ago, and the present request of the staff is for the restoration of that leave, not for equality with either their European colleagues or the Government Asians.

(4) While the Government of Kenya has introduced special conditions of service for European Local Civil Service, the Railway has all along kept away the idea of a Local Service. When, therefore, comparisons are to be made, the conditions of the Railway Europeans must be compared with those applicable to European Officers of the Government of Kenya other than those in the Local Civil Service. Similarly, the group of the Government Asian Officers that can be compared with Railway Asian Staff is the group outside the Asian Local Civil Service.

With these four facts in view, we can proceed with our examination of the Secretary of State's letter.

111

The reference to the engagement of local youth, in which each one of us is interested, cannot but confuse the present issue. The Secretary of State seems to be of the opinion that the amount of leave allowed to the Railway Asian Staff is adequate for persons born and bred up in Kenya, and he is not prepared to authorise an increase in that amount of leave, because the Railway Administration has adopted a policy of employing local youth and because, *some time in the future*, the whole Asian personnel of the Railway will consist of persons who, having been born and brought up in Kenya, will not need to go to India except for short periods. This does not meet the Union's contention which is that, as the Secretary of State agrees, the Railway Asian staff "practically all are Indian born", and therefore require about the same leave as is allowed to the corresponding section of the staff

of the Government of Kenya. Now, if the Right Hon'ble Macdonald reads his reply again, he will find that it needs revision.

Paragraph 4 of the Secretary of State's letter states a half-truth. The Union's contention is this: The Railway is owned by the Government and serves both Kenya and Uganda. The Railway staff consequently work in both territories side by side with Government employees whom the Governments of both territories allow better leave conditions. Is this not some ground for the belief that the leave granted to the Railway staff is inadequate? The Right Hon'ble Macdonald states that "Asian staff employed at ports on Lakes Kioga, Kavania, and Albert, and on the River Nile, and at Masindi Town, are eligible for extra accumulative leave." But he should know that this is not even the whole of Uganda, leaving aside Kenya.

The argument in regard to health is interesting. The Secretary of State omits deaths from his figures. In any case, one fails to see what is the correlation between the amount of leave and invaliding statistics. If the latter are doubled, will the staff get double the present leave? The Secretary of State requires a statistically-minded person in his office. From the fact that only 3 persons, say, were invalided out last year, how is it possible to come to the conclusion that 25 days' leave per annum is adequate? Statistics of this nature cannot, by any stretch of imagination, be made to yield a conclusion except by comparison with other similar statistics.

What is required is a table something of the following lines for a number of years:—

	Deaths Otherwise than by accident	Persons invalided	Number of days leave per annum.
Railway Asian Staff.			
Railway European Staff.			
Government Asian Staff.			

Now, here is a challenge. Such a table, if prepared, will convince the Secretary of State, if he is sincere in his contention that invaliding statistics are a guide to the adequacy or otherwise of leave, that the Railway Asian staff get less than is their due.

The Secretary of State's statement that "the Union's case, that the leave is inadequate from a health point of view, will require the support of further evidence before it will carry conviction" is not at all fair. First, mortality and ill health cannot on the average, be less among the Railway Asian, than among other officials, and, in view of this, it is for the Secretary of State himself to show why one section of his staff should get less leave than other sections with the same mortality and ill health. Secondly, the poor Union officials will try in vain to find statistics of ill health to support their case. The Medical Department has, so far as the welfare of Asian communities is concerned, more

politicians than any other and it does not see fit to publish Asian health statistics separately from those for Africans lest some inquisitive M. P. should ask why the health of Asians is being ignored, or lest the Asian employees of the Railway and the Government of Kenya should ask, on grounds of health, for an improvement in the conditions of service. The General Manager's Annual Report also contains a large data which do not interest anybody outside the Colonial Office and could easily be submitted to it in the form of a letter, so that the space thus saved could be utilised for some statistics bearing on the health of staff.

All evidence bearing on the health of the staff is in the possession of the Medical Department. But the Minister thinks that "To obtain full statistics over a long period of time would be laborious and expensive." Is it not unfair, then, to ask the staff to submit more evidence in support of their claim when it is known perfectly well that such evidence is not available to them? Is it not still more unfair, in this state of doubt and darkness, to assert that, from the point of health, the present leave is adequate?

And, after all why this fuss about health? Can the Secretary of State honestly state that recuperation of health is the only purpose of leave?

RELIGIOUS HOLIDAYS

From the nature of things, it must be clear to any thinking person that the Union cannot be behind

anybody in appreciating the amount of railway work which may not render it possible for the Administration to grant leave of absence to each member of the staff on any particular day. The Union can never have asked that the whole of the Asian staff should be released from duty on religious holidays. They know this is impossible. The position, as has been analysed on various occasions in Kenya Legislative Council, is this. The Railway Asian staff get at the moment 14 days' local leave. This they find inadequate and ask for an increase of 4 days. In support, they quote the cases of Asian employees of the Government of Kenya and their European colleagues. It appears the Secretary of State told the Union that the Railway Asians were in effect getting 19 days' casual leave (14 casual leave plus 5 religious holidays) against 18 days given to other sections of the staff. When the Union challenge the truth of this statement, Mr. Malcolm Macdonald comes with his lecture on the peculiar position of the Railway in regard to releasing staff on any particular day, a position they already appreciate. Their contention is that it is only a very small percentage of the Asian staff who can and do take advantage of religious holidays, and that it is unfair that the whole of the Asian staff should be deprived of 4 days' casual leave simply because a negligible percentage of them get five religious holidays.

It is to be remembered that the Christian Asian staff do not get any of these so-called religious holidays. Nor do the station masters, signallers, goods

clerks, guards, drivers and Loco Shed and Engineering Department staff get them. The conditions of railway work are such that these members of the staff cannot be spared. But the fact remains that they do not get the religious holidays. Then, there are the office clerks. Even these do not all get 5 religious holidays. No wonder the Union says "that only a few office clerks enjoy religious holidays".

Why, then, say that they should get 4 days less casual leave, because the compensation exists in the form of 5 religious holidays. It was in reply to this that the Union requested that those employees who could not be spared for religious holidays should be allowed extra leave.

The Secretary of State also forgets that another section of his staff i.e. the Asian officers of the Government of Kenya, receive 18 days casual leave in addition to 5 religious holidays.

The position can be briefly summarized. The challenge from the staff side, in the memorable words of Dr. Desouza, is that "Not 5% of the Railway Asian Staff have religious holidays. I make that statement, and I should like the Hon'ble Member to tell me it is a wrong statement". Is the Secretary of State prepared to take up this challenge?

"CONCESSIONS"

To turn now to the "Concession" of allowing the staff to accumulate privilege leave up to 180 days. The Railway Asian staff are entitled to one free passage for 100 days leave.

If an employee, under some circumstances, can not proceed to India until he becomes entitled to 180 days' leave, it means in effect that the Railway Administration saves the cost of one passage. It was in this sense that Union said that the permission to accumulate leave was not a concession that should be set off against increased leave privileges. The permission is useful in certain cases but it does not cost the Railway anything and there is no reason why every time an application for increased overseas leave is made, the Union should be told that one "concession" has already been sanctioned.

LENGTH OF TOUR.

The normal tour on the Railway is four years. If an officer postpones going on leave, it must be on account of some unavoidable circumstances, e.g. inability to pay the difference between the passage money granted by the Railway and the actual cost of passage. The suggestion that he can have a deck passage practically without any extra cost shows that the Colonial Office is not aware of two facts. One is that deck passengers on the boats to and from India have to travel under conditions which are most insubstantial, the passengers being herded together like cattle. One would avoid travelling under such conditions if at all possible. The second fact is that generally it takes an Asian from ten to twelve years to become entitled to second class passage.

This period is spent by the staff, anxiously looking forward to the time when they will be able to travel in a little more comfort, removed from the horrible

conditions on the staff. Some persons may not be aware that about five years' service is necessary to secure second class travel facilities even on the Railway. The high subjective value of second class travel to the Railway Asian staff can be imagined.

There is another reason why some employees postpone their leave. That is that the amount of leave granted at present is very inadequate. If one goes to India after a number of years one must have a fair leave.

We should not have thought that any body would deny that continuing to work without rest impairs health. But we note the Secretary of State refers to "the High Commissioner's view that the length of tour is not injurious to the health of the staff". It is difficult to say what criterion has been used for determining the state of health and its relation to the length of tour. And, why cannot this criterion be applied to other staff?

The Secretary of State mentions another "concession". The sick leave has been increased from 60 to 90 days a year locally and the same period overseas. This, it is stated, has been done at the Union's request; and the Union is, no doubt, grateful to the Administration. But in order legitimately to use this as an argument against increasing the leave, it is necessary for the Administration, if they are sincere, to establish that the concession benefits, if not the whole of the staff, at least a substantial portion of them. Apparently, the Railway cannot establish this. The concession is immensely helpful to one or two persons every year—persons who have had the misfortune of lying in the sick-bed for two months.

It is wrong to infer from anything the Union may have written or said that it does not appreciate even such "concession" as the permission to accumulate leave to 180 days and the full pay sick leave for 90 days in one or two most unfortunate cases of illness. But what does not appear fair and reasonable is that these "concessions" should find a prominent place in the reason for declining the claim for increased leave which affects each and every member of the Asian staff.

The last paragraph of the letter is more interesting than all the arguments that have been referred to above. The Union is said to be satisfied with the "just and full consideration" that is always given to its representations. A bold guess. Let the Secretary of State think so, if this satisfies his own mind. The Union has been fighting for decades to obtain "just and full consideration" and when it gets it, it will not fail to say so.

It may be made clear again that the Union does not ask for any special privileges for the Railway Asian Staff. All it asks for is justice and fairplay. It asks for much less than is given to the European Staff. It does not even ask for as much as is given to the corresponding category of the Asians in the Government Department, although there is no reason why they should not get as much. To be exact, the Union's demand is that the leave conditions, that were in force some years ago, be restored.

"SURMISE"

If this very modest demand can be said to be based on "Surmise", there must be many more "Surmises" in the whole structure of Staff privileges. But the word "Surmise" appears to have been unwittingly used,

because it would imply that the leave of the Asian Staff of the Government of Kenya was only this very year a greater surmise, and the basis on which the leave of the European staff is assessed a still greater surmise. In this atmosphere of "surmises", is it asking too much if the Union request that another "surmise" be given consideration?

IV.

DEMAND FOR ENQUIRY

These considerations, it seems to the present writer, are so weighty that the Railway Administration and the Secretary of State will be guilty of a grave error of justice by continuing to ignore the requests of the Railway Asian staff on grounds which are one-sided, which are flimsy, which in effect are no grounds at all. Kenya in the past few years, has been flooded with Commissions of Enquiry, some of which only produced a crop of Suggestions which were sown not to be reaped but to be allowed to rot. Let us have another Enquiry. It is not necessary to invite an expert from Overseas. Let us have a local Enquiry Committee to examine the grievances of the Railway Asian staff. These grievances are heavy and of long standing. The Railway staff have a large weight of precedents on their side. The General Manager has the weight of authority. The public has a right to demand that justice, nothing but justice, shall govern the relations of the two. The Secretary of State cannot be allowed any longer to shut down the staff, simply because he has the power so to do. He has no authority from His Majesty, whose government he is there to carry on, to treat two sections of people—even two sections of his own staff—differently. He must not be allowed to bully 2200 members of the Railway

staff into silence by his authority by telling them all sorts of lies, knowing that these "dumb-driven cattle" of his will not contradict the lies.

An Enquiry carried out by a group of officials will apparently be useless. The Committee appointed must be presided over by a Judicial man and must give proper representation to the Railway Union as well as to unofficial community.

Is the Railway Administration prepared to face such an Enquiry?

Appendix

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The following is the text of the letter from Secretary of State for the Colonies, to Mr. McEntee, to which the foregoing is a reply.

COLONIAL OFFICE,
DOWNING STREET, S. W. 1.
5 July, 1938.

Dear Mr. McEntee.

In his letter of the 14th January Lord Harlech stated that he was communicating with the High Commissioner for Transport, Kenya-Uganda, about the questions raised in the enclosure to your letter of the 8th January regarding the conditions of service of the Railway Asiatic staff. The High Commissioner's report has now been received, and I am able to give a fairly full reply to the questions raised in your letter and its enclosure.

The second paragraph of the letter from the Kenya and Uganda Railway Asian Union of the 23rd December, 1937, clears up a misstatement which was inadvertently made in Lord Harlech's letter to you of the 4th October, 1937. It is much regretted that this misunderstanding which was due to an error in drafting, should have occurred. The position is that, although the Asian staff have been recruited locally for many years, practically all are Indian born. Local recruitment will continue and it is expected principally from Asians who were born in East Africa, many of whom may very likely never have been to India.

As regards paragraph 3 (1), (2), (3), and (4), of the Union's letter, the High Commissioner observes that the arguments reiterated therein have already been fully considered, and he sees no reason for altering his

views on the adequacy of the leave at present granted as set out in Lord Harlech's letter of the 4th October 1937.

With regard to the comparison with the Uganda Government's terms of service, the High Commissioner explains that officers of the Asian staff employed at ports on Lakes Kioga, Kwana, and Albert, and on the River Nile, and at Masindi Town, are eligible for extra accumulative leave at the rate of seven days per annum in respect of periods of service at these places.

"SURMISE"

In paragraph 3 (5) of its letter the Union suggests for the first time that inadequacy of leave affects the health of the staff. No evidence is submitted by the Union to support the statement which appears to the High Commissioner to be no more than surmise. To obtain full statistics over a long period of time would be laborious and expensive; but although conclusions based on invalidating statistics for two or three years only may be unreliable, the following figures for the last three years are sufficient to support the opinion that the health of the Asian staff is comparatively good:—

1935—Invalided 3—Gastro-Enteritis Cerebral Stroke Arthritis.

1936—Invalided 3—Tumor Tuberculosis Mental. Leave in India recommended 3—All Neurasthenia or nervous complaints.

1937—Invalided 2—Angina Pectoris, Tuberculosis. Leave in India recommended 1—General debility.

In addition there were one or two cases of invalidating as the result of injury through accidents, but these of course do not come into the picture. During the past three years the number of Asian staff entitled to the general leave conditions has been more than 1,000; you will observe from the Medical Board records given above that the invalidating cases were due to diseases which are not

peculiar to East Africa. It would seem, therefore, that the Union's case, that the leave is inadequate from a health point of view, will require the support of further evidence before it will carry conviction.

With regard to leave for religious holidays, to which reference is made in the fourth paragraph of the Union's letter, Railway servants have in the first place to apply for such leave. Circumstances at times make it impossible to grant leave, particularly at places where only a small staff is employed, and where several members of the same department or office are of the same religious denomination. Similarly, staff such as Drivers, Firemen, and Guards cannot generally be spared during the heavy traffic periods, but this class of staff would generally prefer to forgo that holiday rather than lose the running allowance. "Key" men, whose absence would seriously interfere with the work of a number of other employees, are also at times refused the privilege. In so far as staff at small stations is concerned, such staff, owing to the difficulty of providing relief, the distance between the station and the nearest large centre as well as the lack of sufficiently rapid means of transport, are rarely able to enjoy the privilege; consequently applications from staff at these stations are infrequent.

Applications for this leave are, nevertheless, treated as generously as possible, and the bulk of the Administration's Asian staff is employed at depots where considerable numbers can and do enjoy these religious holidays.

The Union's suggestion that such of the staff as are unable to avail themselves of the five religious holidays should have their local leave extended by five days cannot be entertained. Such a concession, if granted, would necessarily have to be extended to the European and African staff who frequently have to work on Christian holidays. The inference from the Union's statement that only a few office clerks enjoy religious holidays is that, in effect, these holidays

do not represent a privilege, but the High Commissioner has little doubt that were the privilege abolished, strong representations against its abolition would be made by the Asian staff.

The High Commissioner assures me that great objection would be taken to any abolition of permission to accumulate leave up to one hundred and eighty days, which the Union has stated in its letter to you not to be a concession of improvement in the terms of service, but which was nevertheless granted as a result of representations from the Union.

LENGTH OF TOUR.

You are aware of the High Commissioner's view that the length of tour is not injurious to the health of the staff, and the Union's statement that some of the staff are quite willing to accept the injurious effects of a prolonged tour for pecuniary reasons is inconsistent with their previous arguments. In point of fact there is no need for the majority of the Asian staff to incur any expenditure whatever in connexion with passages since, provided the servant is prepared to accept deck passages instead of the second class passage to which the majority of the Asian staff is entitled the amount granted by the Administration in respect of a married servant is sufficient to cover the cost of passages for himself, his wife, and four children aged ten, eight, six and four respectively.

The High Commissioner has recently agreed that in cases of prolonged serious illness, Asian servants shall receive full pay for the first ninety days of local sick leave, and half pay for any subsequent period up to a further ninety days, a total of one hundred and eighty days' sick leave with pay in any year. Cases of serious illness necessitating absence from duty for periods exceeding ninety days are, however, very rare. Under existing regulations both local and overseas sick leave is combined when considering the grant of pay for sick leave overseas. But as the effect of this regulation might mean hardship

in cases of serious illness, it has now been agreed that the staff regulations shall be amended to provide, in the case of leave in India, recommended by a Medical Board in Kenya or Uganda, full pay for ninety days, including any accumulative leave that may be due, and half pay for any subsequent period up to a further ninety days, and, where an extension of leave is necessitated through duly certified illness whilst overseas, full pay up to a maximum of ninety days; each case to be decided on its merits.

You are already in possession of the High Commissioner's views on the points raised by the Union in the seventh, eight and ninth paragraphs of its letter, and I do not think that anything can usefully be added to what was said in Lord Harlech's letter of the 4th October, 1937.

There is one other point which I should like to mention. As of course you will be aware, full machinery exists in Kenya for representations from the staff of the Railway to be heard and dealt with there. The High Commissioner has written that, at a recent interview which the General Manager gave to the Executive Committee of the Railway Asian Union, he was assured that the Union was satisfied that the representations which it put forward always received just and full consideration by the Administration. The concession mentioned above, for example, was made as the result of facts related to the General Manager by the Asian Union quite independently of any action on Lord Harlech's or my own part.

Yours sincerely,

MALCOLM MACDONALD

TRANSPORT.

KENYA-UGANDA.

NO. 41.

Downing Street,

6. July 1938.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 46 of the 5th April, and to transmit to you a copy of a letter which I have sent to Mr. McIntee, M.P., in reply to his letter to Lord Harlech of the 8th January regarding the conditions of service of the Asian staff of the Kenya and Uganda Railways and Harbours Administration.

S. T. 22.
2. I did not feel that I could add to my communication to Mr. McIntee a passage in the sense suggested in the last paragraph of your despatch. While it is true that Colonial Regulations Nos. 77 - 80 deal with the question of the channel of communication which should be adopted by public officers addressing His Majesty or the Secretary of State, the Regulations nowhere contain a provision purporting to restrict the liberty of the officers to whom they apply to address representations to Members of the United Kingdom Parliament. Whatever may be the disadvantages of the practice, from the point of view of the Administration concerned, there would, in my view, be grave objection to any attempt to lay it down that any civilian officer or body of civilian officers in a Colony should be forbidden to approach a Member of Parliament, and it is clearly impracticable for me to suggest to a Member that he should refrain from interesting himself, if he sees fit to do so, in any matter which may be brought to his notice.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

HIGH COMMISSIONER FOR TRANSPORT.

38179/8/38 Kenya

9 23

C. O.

Mr. Daws 8. 4.38.

Mr.

Mr.

Sir H. Moore.

X Sir G. Tomlinson. 16.6.38

X Sir C. Bottomley. 16.6

Sir J. Shuckburgh.

U.S. of S

U.S. 29/6/38

X Secretary of State 26.6.38

Downing Street.

6 JUL 1938

June 1938.

RECEIVED
D 47

O. D.
28 JUN
D 47

Sir,

I have etc. to acknowledge

DRAFT.

TRANSPORT
KENYA-UGANDA.

NO. 41.

HIGH COMMISSIONER.

To Mr. McEntee, M.P. 5/7/38
dft. h. int.

(7)

the receipt of your despatch No. 46 of the 6th April, and to transmit to you

a copy of a letter which I have sent to

(1)

Mr. McEntee, M.P., in reply to his letter

to my predecessor of the 8th January

regarding the conditions of service of

the Asian staff of the Kenya and Uganda

Railways and Harbours Administration.

2. ~~I did not find that I~~
~~I fear that it was not possible~~

~~could~~
~~for me to add to my communication to~~

Mr. McEntee a passage in the sense

suggested in the last paragraph of your

despatch. While it is true that

Colonial Regulations Nos. 77 - 80 deal

with the question of the channel of

communication which should be adopted

by public officers addressing His Majesty

2 dfts.

FURTHER ACTION.

Note for
Precedents?

38179/8/38 Kenya

9 13

C. O.

Mr. Dawe. 8. 8. 38.

Mr.

Mr.

Sir H. Moore.

X Sir G. Tomlinson. 16.6.38

X Sir C. Bottomley. 16.6

Sir J. Shuckburgh.

+ Perm. U.S. of S. 15.6.38

X Parly. U.S. of S. 20/6/38

X Secretary of State. 26.6.38

Downing Street.

6 June 1938

June 1938.

RECORDED
D 47.

O. D.
28 JUN
D 47

Sir,

I have etc. to acknowledge

(7)

the receipt of your despatch No. 46 of the 6th April, and to transmit to you

a copy of a letter which I have sent to

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Mr. McEntee, M.P., in reply to his letter

to my predecessor of the 8th January

regarding the conditions of service of

the Asian staff of the Kenya and Uganda

Railways and Harbours Administration.

~~I had not gone that I~~

2. ~~I fear that it was not possible~~

~~could~~ for me to add to my communication to

Mr. McEntee a passage in the sense

suggested in the last paragraph of your

despatch. While it is true that

Colonial Regulations Nos. 77 - 80 deal

with the question of the channel of

communication which should be adopted

by public officers addressing His Majesty

DRAFT.

TRANSPORT
KENYA-UGANDA.

NO. 41.

HIGH COMMISSIONER.

To Mr. McEntee, M.P. 27/38.
dft. h. with.

2 dfts.

FURTHER ACTION.

Note for
Precedent?

OR

or the Secretary of State, the Regulations nowhere contain a provision purporting to restrict the liberty of the officers to whom they apply to address representations to Members of the United Kingdom Parliament. There would, in my view, be grave objection to any attempt to lay it down that any civilian officer or body of civilian officers in a Colony should be forbidden to approach a Member of Parliament, and it is clearly impracticable for me to suggest to a Member that he should refrain from interesting himself, if he sees fit to do so, in any matter which may be brought to his notice.

I have, etc.

(Signed) H. ROBERT MACDONALD.

Whatever may be the disadvantages of this practice, from the point of view of the Administration concerned,

C. O.

38179/8/38

Mr. Costley-White 25/5/38

Mr. Dawe 85

Mr.

Sir H. Moore.

Sir G. Tomlinson.

X Sir C. Bottomley 16.6

Sir J. Stuchbury.

Perm. U.S. 6.58

Perh. U.S. 20/6/38 (S)

Secretary of State 26-6-38

For the Secretary of State's signature

5th July

James,

1938.

DRAFT.

V. LA T. MCENTEE, ESQ., M.P.

(1)

2 dfe.

FURTHER ACTION.

(encl. to No. 1)

In his letter of the 14th January Lord Harlech stated that he was communicating with the High Commissioner, Transport, Kenya-Uganda, about the questions raised in the enclosure to your letter of the 8th January regarding the conditions of service of the Railway's Asiatic staff. The High Commissioner's report has now been received, and I am able to give a fairly full reply to the questions raised in your letter and its enclosure.

The second paragraph of the letter from the Kenya and Uganda Railway Asian Union of the 23rd December, 1937, clears up a misstatement which

which was inadvertently made in

Lord Harlech's letter to you of the

4th October ¹⁹⁴⁷ ~~last~~. It is much regretted

that this misunderstanding, which was due to an error in drafting, should have

occurred. The position is that, although

the Asian staff have been recruited

locally for many years, practically all

are Indian born. Local recruitment will

continue and it is expected, principally

from Asians who were born in East Africa,

many of whom may very likely never have

been to India.

(No. 9 on 1937
file)

TRANSPORTKENYA-UGANDA

NO. 141

C.H. April, 1958.

Sir,

with reference to your despatch, No. 4 of the 22nd of January, 1958, regarding the conditions of service of the Asian staff of the Kenya and Uganda Railways and Harbours Administration, I have the honour to make the following comments on the letter of the 23rd of December, 1957, addressed to Mr. McEntee by the Kenya and Uganda Railway Asian Union.

2. In the second paragraph of that letter a misunderstanding is cleared up: it is regretted that the statement made to Mr. McEntee in the first paragraph of your letter of the 4th of October is not strictly in accordance with paragraph 8 of my despatch, No. 85, of the 14th of September, 1957. Although the Asian staff have been recruited locally for many years, practically all are Indian-born. Local recruitment will continue, and it is expected will be principally from Asians who were born in East Africa.

3. ^{as regards} In paragraph 5 (1), (2), (3), and (4) of the Union's ^{the Union's demands that the} letter, ^{retained in Union} arguments already advanced by the Union are reiterated. ^{his} These arguments have already been fully considered, and ^{no} there is no reason for altering the views on the adequacy of the leave ^{at present granted, which were set out in my despatch of the 14th of September, 1957.} at present granted, which were set out in my despatch of the 14th of September, 1957.

4. With regard to the comparison with the Uganda Government's terms of service, ^{the A.G.} I should explain that officers of the Asian staff employed at ports on Lakes Kioga, Kwania, and Albert, and on the River Nile, and at Masindi Town, are eligible for extra accumulative leave at the rate

of seven days per annum in respect of periods of service at these places.

5. In paragraph 3 (5) of its letter the Union suggests for the first time that inadequacy of leave affects the health of the staff. No evidence is submitted by the Union to support the statement which appears to me to be no more than wild surmise. ^{the High Comm.} Obtain full statistics over a long period of time ^{laborious and} to ~~refute~~ ^{refute} such a baseless statement would be expensive, ~~and, I think, unjustifiable~~; but although it is admitted that conclusions based on invalidating statistics for two or three years only may be unreliable, the following figures for the last three years are sufficient to support ^{the} opinion that the health of the Asian staff is comparatively good:-

- 1955 - Invalided 5 - Gastro-Enteritis
Cerebral Stroke
Arthritis
- 1956 - Invalided 3 - Tumour
Tuberculosis
Mental
- Leave in India - All Neurasthenia or nervous
recommended 3) complaints
- 1957 - Invalided 2 - Angina Pectoris
Tuberculosis
- Leave in India)
recommended 1) - General debility

In addition there were one or two cases of invaliding as the result of injury through accidents, but these of course do not come into the picture.

6. During the past three years the number of Asian staff entitled to the general leave conditions has been more than 1,000; you will observe from the Medical Board records given above that the invaliding cases were due to diseases which are not peculiar to East Africa. ^{I would see,} I cannot therefore, ^{just} consider the Union's case, based on statements unsupported by sound evidence, that the leave is inadequate from a health point of view, ^{will} require ^{the support of further evidence before it will} carry conviction. _{get}

7. With regard to leave for religious holidays, to which reference is made in the fourth paragraph of the Union's letter, Railway servants have in the first place to apply for such leave. Circumstances at times make it impossible to grant leave, particularly at places where only a small staff is employed, and where several members of the same department or office are of the same religious denomination. Similarly, staff such as Drivers, Firemen, and Guards cannot generally be spared during the heavy traffic periods, but this class of staff would generally prefer to forego the holiday rather than lose the running allowance. "Key" men, whose absence would seriously interfere with the work of a number of other employees, are also at times refused the privilege. In so far as staff at small stations is concerned, such staff, owing to the difficulty of providing relief, the distance between the station and the nearest large centre, as well as the lack of sufficiently rapid means of transport, are rarely able to enjoy the privilege; consequently, applications from staff at these stations are infrequent.

8. Applications for this leave are, nevertheless, treated as generously as possible, and the bulk of the Administration's Asian staff is employed at depots where considerable numbers can and do enjoy these religious holidays.

9. The Union's suggestion that such of the staff as are unable to avail themselves of the five religious holidays should have their local leave extended by five days cannot be entertained. Such a concession, if granted, would necessarily have to be extended to the European and African staff who frequently have to work on Christian holidays. The inference from the Union's statement that only a few office/

office clerks enjoy religious holidays is that, in effect, these holidays do not represent a privilege, but ^{the H. C. has} I have little doubt that were the privilege abolished, strong representations against its abolition would be made by the Asian staff.

10. ^{The A.C. assures me} I am also assured that great objection would be taken ~~by~~ ^{the} abolition of the permission to accumulate leave up to ^{stated in it} ~~two~~ ^{and} eighty days, which the Union has ^{Code} informed ~~the~~ ^{the} committee is not a concession or improvement in the terms of service, but which was nevertheless granted as a result of representations from the Union.

11. ^{On A.C.'s view} You are aware of ~~opinion~~ ^{opinion} that the length of tour is not injurious to the health of the staff, and the Union's statement that some of the staff are quite willing to accept "the injurious effects of a prolonged tour" for pecuniary reasons is inconsistent with their previous arguments. In point of fact there is no need for the majority of the Asian staff to incur any expenditure whatever in connexion with passages since, provided the servant is prepared to accept deck passages instead of the second-class passage to which the majority of the Asian staff is entitled, the amount granted by the Administration in respect of a married servant is sufficient to cover the cost of passages for himself, his wife, and four children aged ten, eight, six and four respectively.

12. ^{The A.C. has} ~~I have~~ recently agreed that in cases of prolonged serious illnesses, Asian servants shall receive full pay for the first ninety days of local sick leave, and half pay for any subsequent period up to a further ninety days, a total of one hundred and eighty days' sick leave with pay in any year. Cases of serious illness necessitating absence from duty for periods/

periods exceeding ninety days are, however, very rare. Under existing regulations both local and overseas sick leave is combined when considering the grant of pay for sick leave overseas. ^{But} As the effect of this regulation may lead to ^{might} hardship in cases of serious illness, ^{it has} ~~been~~ ^{been} agreed that the staff regulations shall be amended to provide, in the case of leave ~~of more than~~, recommended by a Medical Board in Kenya or Uganda, full pay for ninety days, including any accumulative leave that may be due, and half pay for any subsequent period up to a further ninety days, and, where an extension of leave is necessitated through duly certified illness whilst overseas, full pay up to a maximum of ninety days; each case to be decided on its merits.

16. You are already in possession of my views on the points raised by the Union in the seventh, eighth, and ninth paragraphs of its letter, and I do not think that anything can usefully be added to what I have already written. ^{was said in Lord Maclellan's letter of the 14th October 1957} I feel bound, however, to express my views on the matter ^{as they are} adopted by the Asian Union to bring their grievances to your notice. I consider the practice of staff associations enlisting the aid of Members of Parliament is to be deprecated. Colonial regulations are explicit on this point, and the public interest is in no way served by such attempts at intervention. Representations from the staff, when submitted through the proper channels, receive all possible attention from the Administration. At a recent interview which the General Manager gave to the Executive Committee of the Railway Asian Union, he was assured that the Union had no desire to, and in fact did not, enlist the sympathies and assistance of politicians, and was satisfied that the representations which

6.

12

it put forward always received just and full consideration by the Administration. The concessions mentioned in paragraph 9 of this despatch, for example, were made as the result of facts related to the General Manager by the Asian Union on the 7th of January, quite independently and before the receipt of your despatch of the 22nd of January. I therefore suggest for your consideration that Mr. McEntee should be informed of your disapproval of the Asian Union's action in troubling him with a matter which, contrary to the statements made in the last paragraph of the Union's letter, has received and is receiving the constant consideration of this Administration.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R. BROCKENFORTHAM

HIGH COMMISSIONER

C. O.

Mr.

Mr.

Mr.

Sir H. Moore.

Sir O. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

There is one other point which I should like to mention.

As of course you will be aware, full machinery exists in Kenya for representations from the staff of the Railway to be heard and dealt with ~~there~~

The High Commissioner has ^{written} ~~pointed out~~

that, at a recent interview which the General Manager gave to the Executive Committee of the Railway Asian Union, he was assured that the Union was satisfied that the representations which it put forward always

received just and full consideration by the Administration. The

concession mentioned above, for example, was made as the result of facts related to the General Manager

by the Asian Union quite independently of any action on my ^{predecessors or my own} part.

FURTHER ACTION.



32

TRANSPORT
KENYA-UGANDA
NO. 46

OFFICE OF THE HIGH COMMISSIONER FOR TRANSPORT,
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
14 APR 1938
C.O.

6th April, 1938.

Sir,

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With reference to your despatch, No. 4 of the 22nd of January, 1937, regarding the conditions of service of the Asian staff of the Kenya and Uganda Railways and Harbours Administration, I have the honour to make the following comments on the letter of the 23rd of December, 1937, addressed to Mr. McEntee by the Kenya and Uganda Railway Asian Union.

(2) on 30/7/37

Sumner (9)

2. In the second paragraph of that letter a misunderstanding is cleared up: it is regretted that the statement made to Mr. McEntee in the first paragraph of your letter of the 4th of October is not strictly in accordance with paragraph 3 of my despatch, No. 85, of the 14th of September, 1937. Although the Asian staff have been recruited locally for many years, practically all are Indian-born. Local recruitment will continue, and it is expected will be principally from Asians who were born in East Africa.

3. In paragraph 3 (1), (2), (3), and (4) of the letter, arguments already advanced by the Union are reiterated. These arguments have already been fully considered, and I see no reason for altering the views on the adequacy of the leave at present granted, which were set out in my despatch of the 14th of September, 1937.

4. With regard to the comparison with the Uganda Government's terms of service, I should explain that officers of the Asian staff employed at ports on Lakes Kioga, Kyania, and Albert, and on the River Nile, and at Masindi Town, are eligible for extra accumulative leave at the rate

THE RIGHT HONOURABLE
W.G.A. ORMSBY GORE, M.P.,
SECRETARY OF STATE FOR THE COLONIES.

of/

of seven days per annum in respect of periods of service at these places.

5. In paragraph 3 (5) of its letter the Union suggests for the first time that inadequacy of leave affects the health of the staff. No evidence is submitted by the Union to support the statement which appears to me to be no more than wild guess. To obtain full statistics over a long period of time in order to refute such a baseless statement would be expensive, and, I think, unjustifiable; but although it is admitted that conclusions based on invalidating statistics for two or three years only may be unreliable, the following figures for the last three years are sufficient to support my opinion that the health of the Asian staff is comparatively good:-

1935 - Invalided 3	-	Gastro-Enteritis Cerebral Stroke Arthritis
1936 - Invalided 3	-	Tumour Tuberculosis Mental
Leave in India) recommended 3)	-	All Neurasthenia or nervous complaints
1937 - Invalided 2	-	Angina Pectoris Tuberculosis
Leave in India) recommended 1)	-	General debility

In addition there were one or two cases of invaliding as the result of injury through accidents, but these of course do not come into the picture.

6. During the past three years the number of Asian staff entitled to the general leave conditions has been more than 1,000: you will observe from the Medical Board records given above that the invaliding cases were due to diseases which are not peculiar to East Africa. I cannot therefore consider the Union's case, based on statements unsupported by sound evidence, that the leave is inadequate from a health point of view.

7. With regard to leave for religious holidays, to which reference is made in the fourth paragraph of the Union's letter, Railway servants have in the first place to apply for such leave. Circumstances at times make it impossible to grant leave, particularly at places where only a small staff is employed, and where several members of the same department or office are of the same religious denomination. Similarly, staff such as Drivers, Firemen, and Guards cannot generally be spared during the heavy traffic periods, but this class of staff would generally prefer to forego the holiday rather than lose the running allowance. "Key" men, whose absence would seriously interfere with the work of a number of other employees, are also at times refused the privilege. In so far as staff at small stations is concerned, such staff, owing to the difficulty of providing relief, the distance between the station and the nearest large centre, as well as the lack of sufficiently rapid means of transport, are rarely able to enjoy the privilege: consequently, applications from staff at these stations are infrequent.

8. Applications for this leave are, nevertheless, treated as generously as possible, and the bulk of the Administration's Asian staff is employed at depots where considerable numbers can and do enjoy these religious holidays.

9. The Union's suggestion that such of the staff as are unable to avail themselves of the five religious holidays should have their local leave extended by five days cannot be entertained. Such a concession, if granted, would necessarily have to be extended to the European and African staff who frequently have to work on Christian holidays. The inference from the Union's statement that only a few office/

office clerks enjoy religious holidays is that, in effect, these holidays do not represent a privilege, but I have little doubt that were the privilege abolished, strong representations against its abolition would be made by the Asian staff.

10. I am also assured that great objection would be taken to any abolition of the concession to accumulate leave up to one hundred and eighty days, which the Union has informed Mr. McEntee is not a concession or improvement in the terms of service, but which was nevertheless granted as a result of representations from the Union.

11. You are aware of my view that the length of tour is not injurious to the health of the staff, and the Union's statement that some of the staff are quite willing to accept "the injurious effects of a prolonged tour" for pecuniary reasons is inconsistent with their previous arguments. In point of fact there is no need for the majority of the Asian staff to incur any expenditure whatever in connexion with passages since, provided the servant is prepared to accept deck passages instead of the second-class passage to which the majority of the Asian staff is entitled, the amount granted by the Administration in respect of a married servant is sufficient to cover the cost of passages for himself, his wife, and four children aged ten, eight, six and four respectively.

12. I have recently agreed that in cases of prolonged serious illnesses, Asian servants shall receive full pay for the first ninety days of local sick leave, and half pay for any subsequent period up to a further ninety days, a total of one hundred and eighty days' sick leave with pay in any year. Cases of serious illness necessitating absence from duty for periods

periods exceeding ninety days are, however, very rare. Under existing regulations both local and overseas sick leave is combined when considering the grant of pay for sick leave overseas. As the effect of this regulation may lead to hardship in cases of serious illness, I have now agreed that the staff regulations shall be amended to provide, in the case of leave in India, recommended by a Medical Board in Kenya or Uganda, full pay for ninety days, including any accumulative leave that may be due, and half pay for any subsequent period up to a further ninety days, and, where an extension of leave is necessitated through duly certified illness whilst overseas, full pay up to a maximum of ninety days; each case to be decided on its merits.

15. You are already in possession of my views on the points raised by the Union in the seventh, eighth, and ninth paragraphs of its letter, and I do not think that anything can usefully be added to what I have already written. I feel bound, however, to express my concern at the methods adopted by the Asian Union to bring their grievances to your notice. I consider the practice of staff associations enlisting the aid of Members of Parliament is to be deprecated. Colonial regulations are explicit on this point, and the public interest is in no way served by such attempts at intervention. Representations from the staff, when submitted through the proper channels, receive all possible attention from the Administration. At a recent interview which the General Manager gave to the Executive Committee of the Railway Asian Union, he was assured that the Union had no desire to, and in fact did not, enlist the sympathies and assistance of politicians, and was satisfied that the representations which

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it put forward always received just and full consideration by the Administration. The concessions mentioned in paragraph (9) of this despatch, for example, were made as the result of facts related to the General Manager by the Asian Union on the 7th of January, quite independently and before the receipt of your despatch of the 22nd of January. I therefore request for your consideration that Mr. McEntee should be informed of your disapproval of the Asian Union's action in troubling him with a matter which, contrary to the statements made in the last paragraph of the Union's letter, has received and is receiving the constant consideration of this Administration.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R Brooke-Popham

HIGH COMMISSIONER

4th February 1938.

Dear Mr. Dunsby-Jones

You were good enough some little time ago to deal with communications I forwarded to you with regard to the working conditions of the Kenya and Uganda Railway Asian staff.

Since then I have heard from Nairobi and for this reason I venture to send some supplemental guidance in support of the appeal of the staff for increased overseas leave.

The Government of Kenya (vide the Secretariat Circular No. 35, S.E. 28/2/1/ Vol. IV dated the 23rd December 1937) have with effect from the 1st January, 1938, increased the rate of overseas leave allowed to their "Asian officers appointed on terms of service which carry leave privileges at overseas rates" i.e. that section of the Government Staff whose position is strictly analogous to that of the K U.R.A. staff.

Prior to the 1st January 1938, Government Asian employees used to get 30 days' overseas leave per annum. Henceforth "Senior Officers", (i.e. employees who have completed eleven years' continuous service) will be allowed 39 days' overseas leave per

annum and the "Junior" Officers", (i.e. employees who have not completed eleven years' continuous service) will be granted overseas leave at the rate of 33 days per annum. Compared with this, the Asian workers on the Railway are allowed the following leave:

- Clerical staff 25 days per annum
- Non-clerical staff 20 days per annum

The same differentiation between the Railway Staff privileges and those of the Government employees exists in respect of local leave. The Government Asian officers get 18 days per annum, while the Railway Staff get only 14.

I understand that there has been a recent interview with the General Manager on the question of leave conditions and perhaps, when you are communicating with Nairobi, you might mention that I have again ventured to approach you, because I think that on this particular issue, the Asian staff have quite a sound claim for consideration.

Yours faithfully
T. L. M. Orntee

Major Rt. Hon. W.G.A. Ormsby-Gore, M.P.,
Colonial Office,
S.W.1.

40
3-1-38
8th January, 1938.

W.G.A. Ormsby Gore.
(9) Nov 28, 1938 / 8/3

On the 4th October you sent to me a long letter dealing with the various complaints and criticisms of the Asiatic Staff belonging to the Kenya and Uganda Railways.

I forwarded the communication to my correspondents, and I have now received from them a letter of which I send you a copy. I apologise for its length, which is due, I think, to the fact that the different points raised in your communication are argued.

I do hope that you will submit these representations to the Authorities, in the hope that something further can be done, because I know, as does everybody, that the Railway is experiencing far better times.

Yours Faithfully
T.L.M. - Ormsby

Copy to H. G. Ormsby Gore

The Right Hon. W.G.A. Ormsby Gore, M.P.,
Colonial Office,
S.W.1.

CONFIDENTIAL

23rd December, 1937.

Dear Sir,

I thank you for your letter of the 12th October, 1937, enclosing copy of letter received by you from the Colonial Office on the subject of Leave Terms of Asian staff in force on the Kenya and Uganda Railways and Harbours Administration.

Information given by the Administration to the Colonial Office to the effect that the Asian Staff of this Railway is composed of people born in East Africa, many of whom have never gone to India is entirely incorrect. The position is that although most of the existing Asian staff are locally engaged, very few of them have been born in the Colony. In fact almost all have been born and educated in India and have repeatedly been on leave there and many of them have previously been allowed leave at the rate of one month for every 11 months of service. The statement that staff have repeatedly been on leave can be corroborated from the number of staff proceeding on leave each year.

b. The Union's grounds for increased overseas leave for existing Asian Staff (who are not serving on local civil service terms) are based on the following: -

- 1) That the existing leave of 25 days per annum to Clerical and 20 days per annum to non-Clerical staff is inadequate considering that Railway work is arduous to a great extent.
- 2) That this statement of inadequacy of leave is borne out by the fact that Government Asian staff who are not locally born are allowed overseas leave at 30 days per annum and that even better leave terms than those granted by the Kenya Govt. obtains in Uganda.
- 3) That this Administration staff is serving in both the Territories of Kenya and Uganda whereas their leave terms are inferior to those of the staff of those Territories.

- 4) That prior to 1st July, 1924, the Kenya and Uganda Railways and Harbours Administration used to allow its Asian Staff one month's leave for every eleven months' residential service.

That the inadequacy of leave greatly affects the health of the staff and the premature retirement on Medical Grounds of the number of Staff during recent years and premature death testifies this contention.

4. The Union observes that their request for increase in Local Leave from 14 to 18 days has been turned down on the grounds that practically the whole of the Asian staff receive 5 religious holidays per annum. In this connection it is pointed out that there is no truth whatsoever in the statement. With the exception of a few Office Clerks the majority of the Asian staff are never allowed to avail of religious holidays. Moreover Christian and Staff working on the Line such as Station Staff and the like, are not granted any religious holidays and the latter are not even allowed to avail of Gazetted Holidays. As a gesture we would like it to be asked as to whether the Railway Administration would be prepared to grant such Asian staff who are not allowed to avail of religious holidays and those who get no religious holidays to add 5 days to their local leave.

5. The permission to accumulate leave up to 180 days instead of 150 days is not a concession or improvement in the Terms of Service. The request to accumulate leave up to 180 days was made in order to allow staff who having large families were unable to proceed on leave at the expiry of 150 days as they had not sufficient saving to meet the cost of passages of their families to and fro and this concession greatly assists such staff.

The accumulation of 180 days leave moreover means that Clerical staff have to put in approximately 86 months service and Non-Clerical staff 108 months. It is a pity that the High Commissioner should consider the suggestion of the Union as a gross exaggeration. It is an admitted fact in all quarters that prolongation of the tour is certainly injurious to the health of the Staff many of whom have to work long hours and the Union is unable to follow how their statement is an exaggeration.

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The accumulation of 180 days leave moreover means that Clerical staff have to put in approximately 86 months service and Non-Clerical staff 108 months. It is a pity that the High Commissioner should consider the suggestion of the Union as a gross exaggeration. It is an admitted fact in all quarters that prolongation of the tour is certainly injurious to the health of the Staff many of whom have to work long hours and the Union is unable to follow how their statement is an exaggeration.

6. As regards sick leave, the Regulation now amended allows an Asian member of the Staff sick leave either locally or overseas up to 120 days on full or half pay. In practice full salary is allowed for 60 days only and thereafter half salary for a further period of 60 days. Cases exist where staff have actually been laid up in Hospital exceeding the maximum of 120 days and although the Regulation allows discretion to the General Manager to grant further full or half salary, this discretion has never been exercised in the case of Asian staff, although in the case of European staff invariably full salary has been allowed for the full period of sickness exceeding 90 days. The Union will, therefore, be obliged if representations are made that the local sick leave should not be confused with sick leave overseas and the period of sick leave be extended as follows which is allowed to Government staff:-

- Local sick leave - 3 months full pay.
- " " " - 3 " half "
- Overseas " " - Same as above.

The request is made on the grounds that it would be a hardship to one who is laid up in bed for 120 days and recommended for medical leave overseas by the Medical Board in the Colony to receive no salary on leave overseas. While the Hon'ble the General Manager has been informed of the hardship suffered by the Staff in not being granted sick leave overseas with pay, we regret that the rule has been so drafted as to still leave some hardship.

7. At present locally engaged staff are not entitled to a free passage to India on termination of their services unless they have completed a tour of service, but in cases where through no fault of their own they are not allowed to complete a tour, it is considered only equitable that they should be given a free passage, since they returned to the Colony on the expectation of completing a tour and they are being thrown on the streets through no fault of their own. Moreover this point of view is accepted in the Government Service and there seem to be no reason for dis-similarity in treatment more so when it is contended that staff returning from leave who fail to complete a year's service and leave the service should be required to repay the cost of their return passages to the Colony, inspite of the fact that they have been locally engaged. During the last depression Asian staff with 15 to 30 years service were retrenched and were not given a passage out of the Colony while European locally engaged staff not only were allowed a free passage home but also other concessions. We trust you will agree that our request is reasonable and press this point further.

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8. As regards the comment that the Union's request that existing staff should be given the conditions which were formerly in force under Government and which are still applicable to such staff, we consider that the decision arrived at by the Railway Administration and repeated by the Secretary of State for the Colonies is most illogical. We have previously stated that the majority of Asian staff have long service and were previously eligible for one month leave for every 11 months service and since 1924 are being granted 25 days leave for 12 months service to Clerical and 20 days leave for 12 months service to Non-Clerical Staff. Had not the depression set in soon after our memorial was sent to Lord Passfield, the Railway Administration would have brought us in line with Government staff. During the depression, Government agreed to reduce the leave of their staff to one month for each year of service with a touch of 48 months whereas previous to 1st January 1935 they received 5 months leave for 43 months service.

9. The request of the Union that now that the financial position has improved the old staff should receive the terms applicable to old staff in Government services and the new staff the new terms is far from being unreasonable, in accordance with the Railway Administration's own policy, as will be seen in the case of the European staff, who with 9 years' service are allowed better privileges with shorter tours while staff with less than 9 years' service have longer tours with less leave. But while the European staff with less than 9 years' service has the advantage of expecting the better terms of the older staff on completion of 9 years service, the Asian staff, after completing 20 years service are being offered by the Railway Administration local Civil Service terms just introduced for new entrants to the Local Civil Service.

We consider our demands are most reasonable and free from exaggeration and we trust that you will see your way to place both the present and previous comments before the Secretary of State for the Colonies with a request that, if he cannot intervene in the matter a Committee similar to the Civil Service Commission should be appointed to investigate our case and that on the Committee, the Union should be allowed adequate representation.

As you know, the Union holds annual session of Delegates Conference of the members of the Asian staff and I give below copy of Resolution passed at the Fifth Delegates Conference held at Nairobi on 12th December, 1937, copy of which has been forwarded to Hon'ble the General Manager: -

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"The Conference regrets to note that the assurance given by Lord Passfield while Secretary of State for the Colonies that the general revision of Leave Rules for the Asian staff would be considered when the financial position of the Railway improved has not been implemented, the efforts of the Central Executive to discuss this matter at the interview with the Hon'ble the General Manager have failed and resolves that a Deputation should wait upon the Hon'ble the General Manager and explain to him the great dissatisfaction prevailing amongst the staff on this question."

Yours faithfully,