

1924

KENYA

200

C. O.
53514
14 NOV 24

FROM
GORDON, C. AND CO

DATE
13th November 1924.

CIRCULARS
Mr. *Leppin*
Mr. *Bottomley*
Mr.
Asst. U.S. of S.
W. Stanley
Perm. U.S. of S.
Part U.S. of S.
Secretary of State.

MINING LAWS.

Assert that present Ordinance is a hindrance to economical prospecting and that Ordinance contemplated is no better. Suggest Mining Law of Southern Rhodesia should be adopted as a model.

Previous Paper
300
3/302
copy come to the top (c) and in Dec 1924
4 DEC 1924

MINUTES
The criticisms made by the Kenya Mining Assocⁿ in the last enclosure to this letter as to the loose drafting of the new Ordinance appear to be justified, and it was found to be impossible to bring the draft Ordinance into line with the Model provided by the F. M. R. Bureau, but considerable amendment has now been directed in the light of Colonial advice & the Ordinance when enacted will be very different from when Mr. Lathbury and the others had an opportunity of seeing the draft.

Subsequent Paper
M. 1. 7969
125

From Mr. Latham's statement
(1st encl.) it would seem
that Kenya did originally
contemplate introducing the
Rhodesian Law and it
would be interesting to
know why they prepared
to draft their own.

The Kenya Business Assoc.
seem to think they are
in a position to dictate
the law they wish to be
governed by, and it is
doubtful if they would
have been satisfied with
the Rhodesian Law which
they admit is not perfect.

Ans. and say that
the original draft Order
to which their clients refer
has undergone considerable
change in the light of
expert ^{and scientific} legal advice
and that it is hoped
that when finally enacted
it will not be open

open to unbridled criticism

291

Say that the S. of S. is not prepared
at this stage to consider the introduction
of the Rhodesian Law but that
if their clients consider that the Order
as enacted operates harshly they will
be at liberty to recommend to the Gov.
the specific clauses which they consider
should be amended.

Copy of course to Sir L.F. for opinion

S. W. G. 28.11.24

It seems clear from the
letter to the Col. Sec. that
it is the draft in its

latest form which has
incurred their criticisms.

I think that we
should reply that the
Bill which was
drafted in 1922 has
been the subject of
careful revision by the
local Govt. & by the
S. of S. & his technical
advisers, as a result
of which it has undergone
considerable modification.

X
It is now awaiting intro-
duction into the leg. Co.,
and an opportunity will
of course be presented
for full discussion there
before it actually becomes
law. It is noted that
they have made representation
direct to the Col. Govt.,
& those representations
will no doubt receive
careful consideration. A copy
of their letter is being
sent to the Gov.

Copy comm. to Gov.

As proposed for comment

25. 11. 24.

[No trace in Gazette or Press
Cuttings of it having been
introduced]

That will serve for the present.

I am afraid that I have
not attended to S.R. law,
and cannot claim that I know
of what the complainants
referred to in the Mysore
draft it would not be
much more than 50, 000, 000
rupees

regards to Sathar's personal
letter of 22 Sept., the charge for
house fund must bear a very
small proportion to the total expenses
of the province (if that is
being done at all), & I do not see
why the Board, whose lands
being sold, should not make something
out of it.

Wed. 25/11/24

The Governor's rule making powers
in the draft Ordinances are certainly
unambiguous, but they are carefully
drawn and I can see no
reasonable ground for
suspecting that they will be
abused.

Wed.

C. S. 25/11.
it is

RCF

292A

TELEPHONE Nos. 3608
LONDON WALL 3609

HARLES NORDON & CO.

CROSS KEYS HOUSE,

SOLICITORS

56, MOORGATE, E.C.2.

HARLES L. NORDON (L.S. 2000)
EDWARD D. HUGH-JOYCE

COMMISSIONERS FOR OATHS

MEMBERS OF THE BANK OF ENGLAND

RECEIVED
6 DEC 1924
COL OFFICE

LONDON, 5th December 1924

Sir,

^{N/}
Reference 53514/24.

We have the honour to acknowledge with many thanks the receipt of your letter of yesterday's date, the contents whereof we are communicating to our clients' representative in Kenya Colony.

We are, Sir,
Your obedient Servants,

Charles Norton

Mr Jeffries

yes
6/12
Attad

6/12
24

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

TELEPHONE NOS.
LONDON WALL 3888.

CHARLES NORDBON & CO.
SOLICITORS.

(CHARLES L. NORDBON LL.B. (HONS.)
GEORGE D. HUGH-JONES,
COMMISSIONERS FOR OATHS.

BANKERS TO THE BANK OF ENGLAND.

C.O.
53514
14 NOV 24

32

LNH
Enc

GROSS KEYS HOUSE;

66, MOORCATE, E.C.2. 293

LONDON, 13th November 1924

Sir,

Kenya Gold Mining Syndicate Ltd.
Reference 34,916/24

34916
Kenya

We beg to refer to our letter of the 22nd July last and to the reply bearing the above quoted reference number dated the 30th July last relating to the proposed new Mining Ordinance for Kenya Colony.

We have recently received in this country copies of letters which have been addressed by our clients' Engineer in Kenya Colony, Major F.H. Lathbury, M.C., M.I.M.M., to our professional agents at Nairobi, Messrs. Harrison & Cresswell, and of a letter which has been addressed to the Colonial Secretary, Kenya Colony, by certain active members of the Mining Community there. We beg to enclose copies of these letters herewith for your information.

Our clients have desired us to invite your sympathetic consideration of the representations which have been made by persons having practical experience of mining and possessing first hand knowledge of the conditions in Kenya Colony. The results of the prospecting operations which our clients have been carrying on in Kenya Colony for the past twelve months have been sufficient to prove the presence of gold and a very large number of samples have been sent to this country for assay, some of which have been found to be of exceptional richness. There are indications of a reef which extends for upwards of 50 miles and it seems likely that at no distant date the existence in Kenya Colony of an exceedingly rich goldfield, which would be of enormous value to the Empire, may be definitely established.

We therefore venture to submit that it is a matter of Imperial importance that the present Mining Ordinance, which is found to be a hindrance to economical prospecting, should be amended at the earliest possible date in such a way as to encourage prospectors to invest their money in the Colony, and that it should not be replaced, as appears to be contemplated, by an Ordinance which in the opinion of practical men on the spot, gives no security to those who have invested,

F.T.O.

er who might be willing to invest, money in the industry and is so loosely drafted as to be no improvement upon the Ordinance which it is intended to replace.

We would ask to be allowed to commend to your notice the suggestion that in the present emergency the Mining Law of Southern Rhodesia should be adopted as a model for the new Mining Ordinance for Kenya Colony.

We are, Sir,

Your obedient Servants,

Charles Hudson

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

Lolgorien Private Bag,
P.O. Naivasha,
September 22nd 1924.

Messrs. Harrison & Creswell,
P.O. Box 521,
Nairobi.

Dear Sir,

On the 18th ult. I addressed a letter to The Commissioner of Mines, Nairobi, requesting the suspension of working and occupation conditions on the Mackey Area and two groups of claims. I have not received a reply to this letter.

My application is under Regulation 37 although I did not mention this in the letter (see page 3 in the small book "Information on the Mining Laws" published by the Land Department). There is not sufficient native labour available to efficiently develop even one Group of claims, also communications are very bad and the cost of Mining Stores is also very high.

I would call your attention to the terms under which Sole Prospecting Areas are occupied in the Masai Reserve, these terms have been made by the trustees of the Masai and are only temporary, roughly they are as follows:-

European Plots on which any number of Europeans may reside with their personal servants. One acre @ 12/- per month.

Asiatic Plots. One acre 6/- per month.

Native Lines. Five Acres 1/50 per month.

European Gardens 2/- per acre per year.

Native Gardens 1/- per acre per year.

Timber concession 400/- per square mile clean felling.

This is a very remote district, it is not well stocked with cattle. The timber adjacent to the mineral deposits is situated on small creeks and dongas

infested with fly which cause heavy loss to draught animals. The Macmillan Group have lost over 80% of their original draught animals. I notice that the Masai on the few occasions that they bring their cattle to graze near here keep well away from these creeks and dongas, they water their animals North of the Lolgorien Hills. Under the circumstances I consider that the above charges amount to gross profiteering.

It is generally acknowledged that the Mining Law is not at all satisfactory and some attempts are being made to bring in a new Ordinance. I have read the Report of The Select Committee and the proposed Mining Ordinance 1922, the Ordinance appears to be too vague and incomplete, I also note that there was not a professional Mining Engineer on the Select Committee.

When I arrived in this country in January I was given to understand at the Mines Office that a New Law was coming out shortly and that it was based on The Rhodesian Law, this new law seems a long way off and in the meantime the money being provided for the preliminary prospecting and development work is not being spent to the best advantage owing to the reasons which I have set out in the early part of this letter.

Having in view the probable nature of the ore deposits on this mineral belt, the Mining Law and the conditions under which timber and surface rights may be acquired for mining purposes are of first importance to mining investors.

With reference to the Mining Association I have not been able to get into touch with other members up to the present.

I feel that I have to impress the above facts upon

you on behalf of the Kenya Gold Mining Syndicate, as in due course I shall have to deliver to them a complete report on their properties and the prospects of developing deposits of commercial value. At present our resources are being sapped in fulfilling occupation conditions and we are getting little or no return for the money in the shape of prospecting and development work.

For your information I shall probably have to dispense with Captain O'Donnell's services after the end of this month owing to the shortage of native labour.

Yours faithfully,

F.H. LATHBURY

Lolgorien Gold Fields,
September 1924.

To The Colonial Secretary,
Kenya Colony.

Sir,

We the undersigned active members of the Mining Community having had an opportunity of seeing the draft of the 1924 Mining Ordinance, request that you will convey the following comments on it to His Excellency the Governor:-

1. The Ordinance appears to us to give no security of any kind to people who have invested or who might be willing to invest money in the industry.

All the principal points on which investors would like a guarantee are left out of the Ordinance altogether and the conditions under which mining can be carried on are liable to Regulations alterable at the discretion of the Governor at any time.

We have great confidence in the present Governor as we know him to have had previous experience in mining countries, but it will not always be so and such important matters should not be left to chance.

We are convinced that no Mining Engineer of any repute would recommend the financing of mining ventures in Kenya under these circumstances. The first essential necessary to encourage investment of capital is security of conditions supported by law.

2. The drafting of the Ordinance is so loose and the definitions of the terms used in it so bad, that we consider it obvious that no technical man could have had anything to do with it. It is also so full of anomalies, owing to its being made up of parts taken from Ordinance designed for totally different conditions

that it would seem quite impossible now to make it into a useful law by amending it to any extent whatever. We are therefore of the opinion that the only possible solution is to make an entirely new Ordinance.

3. For the new Ordinance we would suggest that the Government could not do better in the present emergency than copy the Mining Law of Southern Rhodesia which was designed for exactly similar conditions and which has proved quite satisfactory in practice. As the mining here is not yet on a firm footing, we would suggest that for the first few years at any rate the Governor be empowered to reduce the royalties, working conditions etc. in that law to any extent he may consider it desirable.

We know that the Rhodesian Law is not by any means perfect and might perhaps be improved if the extra lateral rights were cut out, but it is eminently workable and a law in which people at home have confidence.

It is not only because of the urgent necessity for the introduction of a practical Mining Law at once, but we believe that in the absence of technical advisers it is impossible for our legislators to make a good Ordinance, we urge the adoption of a satisfactory law from another country as the only course open to us.

We have the honour to be, Sir,

Yours faithfully,

(Signed by F.H. Lathbury and others
Members of a Committee of The Mining
Association of Kenya - see "African
Industries" 13th September 1924
p. 135)

535 1/4 Kenya

C. D.
R. 2 DEC
D.S.

4 December 1924

Dear Sir,

I am in accordance with the recd. of your letter of 13th of November regarding the proposed new Mining Ordinance for Kenya, and to inform that the Bill which was drafted in 1922 has

since been the subject of careful consideration by the Colonial Secretary & by the S. of S. and his legal & technical advisers, as a result of which it has undergone considerable change & modification. It is now awaiting introduction into the Legislative Council, and an opportunity will be presented for full discussion there before it actually becomes law.

It is noted that your clients have made representations direct

DRAFT. for min

Charles Norton & Co.

MINUTE.

- Mr. Editham
- Mr. Joffins 1.12
- Mr. Bottamley 1.12
- Sir J. Shuckburgh.
- Sir O. Davis.
- Sir G. Grindle.
- Sir J. Masterton Smith.
- Lord Arnold.
- Mr. Thomas.

since

- 4 DEC 1924

copy to Sir Long (c)

2876

direct to the Colonial Govt, and those
representations will no doubt receive
careful consideration. A copy of your letter
is being sent to the Secretary of Kenya.
His assistance.

(and cc)

(Sa) W. C. Bottanley

535 1/2 Kenya

300

11 December 1916

Sir

and previous
copies regarding
the proposed
new Mining
Order, (35839)

With reference to your very kind
predecessor's conf. despatch (2) of
the 26th of July, I have on the
fourth of August, the acc.
trans. to you, for information, the acc.
copies of correspondence with Messrs.

DRAFT. for consideration

Kenya
No. Conf. (A)

For the Record
Consolidation
MINUTE.

- Mr. Whitaker 1.11.
- Mr. Diggins 1/17
- Mr. Bottanley 1.12.20 f
- Sir J. Shackelburgh.
- Sir O. Davis.
- Sir G. Grindle.
- Sir J. Masterton Smith.
- Lord Arnold.
- Mr. Thomas.

Charles Norden & Co., Solicitors
for the Kenya Gold Mining
on the subject of certain
Syndicate C^o regarding the
complaints which have been
sent to the Mining Order
directed against the terms
of the measure.
You will doubtless take
into account the representations of
this and other Syndicates since the
Bill comes before the Legislative
Council for discussion.

/ Love etc.

(Signed) L. S. AMERY

Mr C Norden & Co. 15 Nov 16
with enclosure
To C Norden & Co
- 4 DEC 1916

2 etc.