

1921

KENYA

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45308

FROM
NORTNEY, SIR E.

DATE
9TH SEPTEMBER 1921

EP 21

FOR CIRCULATION:-

SUBJECT

RAILWAY COUNCIL

Strongly protests against proposal which sets up an almost independent government controlling the most important dept in the Colony.

- Mr.
- Mr.
- Mr.
- Mr. Grindle
- Sir H. Lambert
- Sir H. Read
- Sir G. Fiddes
- Mr. Wood
- Mr. Churchill

Previous Paper

MINUTES

caq
42666
liga

Minutes of the
Meeting of the Railway Council
held on 9th September 1921
by Sir E. Northey
also 44616

copy

Sir E. Nortney put this in, I understand, in order to unburden his soul, before his departure. The legal difficulties are fully appreciated here and, indeed, it is generally agreed, I think, that the Railway Council is stillborn, but we cannot decently ^{give it a further} ~~continue to exist~~ until Colonel Hammond's report has been received. The difficulty we may hope will be solved by amalgamation. Sir E. Northey knows the decision ^{in 40603} and does not expect any immediate answer. This paper should be brought up when Colonel Hammond's report is received.

Subsequent Paper.

51094

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15 x 21

9 Bruton Street,
45308 Berkeley Square,
W.1.
SEP 27 September, 1921.

Sir,

I have the honour to draw your attention to the proposals put forward by the special Commissioner for Railways for Kenya Colony with reference to the Uganda Railway and the difficulties likely to arise therefrom.

2. Last year after consultation with the Secretary of State it was decided that an Inter-Protectorate Railway Council should be created and that in order to examine into the working of the Railway, a Railway expert should visit East Africa to enquire into the need for improved administration and equipment.

3. A special Commissioner was accordingly appointed. His duties, as originally proposed, were merely to investigate and, on his return to England, to report on conditions with a view to a permanent arrangement.

4. The Special Commissioner before entering on any of his duties presented to Government a memorandum, approved of by Lord Milner proposing a scheme whereby

whereby the control of the Railway should be almost entirely removed from the Kenya Government and rested in himself assisted in an Executive Council nominated by the Governments of Kenya and Uganda.

5. He wished his scheme to be introduced on 1st April last: his proposals included the following:-

(a) The Railway Council to be responsible to the Secretary of State and not to the Local Governments.

(b) Railway Estimates not to be submitted to the Legislative Council but if objected to by the Local Government the Secretary of State to decide.

(c) The Railway Commissioner to have the right to veto any action by the Railway Council pending reference to the Secretary of State.

(d) No legislation in Kenya or Uganda affecting Railways, Ports or Marine without the concurrence of the Railway Council.

(e) All Port Authorities, Survey or Construction Parties to be under Railway Council.

(f) Property rights in the Railway to be vested in the Council as Trustees.

(g) Railway Servants to be responsible to

Railway Council only as regards duty, discipline etc. The right of appeal to the Governor allowed in this case appears to be valueless.

(h) Private railways to be under the control of the Railway Council in all matters affecting the public.

6. These proposals are so sweeping that it is difficult at first to appreciate in toto what their ultimate effect may be. In addition to setting up a second Government in Kenya, for I can call it no less, a large number of difficulties and points of friction are sure to arise e.g.-

(1) What powers has the Governor over the Railways in case of war or rebellion?

(2) How far will railway lands, railway officials and railway matters generally be subject to the control of the local courts?

(3) Who will determine the liability of the Railway to the public generally and how will such liability be enforced?

7. At present, by Ordinance, all railways are made subject to stringent control by the Governor-in-Council and the rights of the Public are thereby safeguarded. These powers affect land, access, rolling stock, permanent way, traffic, rates, accidents and

liability of railways as carriers. Under the proposed scheme all these safeguards will be abolished and I cannot see what is to take their place.

8. The scheme foreshadows very drastic alterations in the Letters Patent, Royal instructions and Kenya Protectorate Order in Council, e.g. Letters Patent Article XVI empowering the Governor to make grants of land - Article XVII empowering the Governor to appoint all officers - Article XVIII empowering the Governor to dismiss or suspend officers and lastly Article XXII requiring all officers and others to obey the Governor.

9. Royal Instructions are affected in that the Governor will no longer be able to be defined as the single and supreme authority in the Colony (Reg.4)-

The Governor will no longer exercise all His Majesty's Powers in the Colony nor will he possess a power of veto on Ordinances

10. (Article VIII) The Kenya Protectorate Order in Council will need amendment.

11.

11. The whole of these proposals are without precedent or parallel (the Inter Colonial Board in South Africa was essentially different) and I wish most strongly to protest against a proposal which sets up an almost independent government controlling the most important department in the Colony at a time when the policy of the Imperial Government is one of concentration and amalgamation rather than disruption and disunion.

Edward Morley

Kenya

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James Kanya