

EAST AFR. PROT.
28602

28602
14

Governor
Belfield 538

July

NAIROBI PRISON
DEFICIENCIES IN EQUIPMENT

1914

14 July

Last previous Paper.

Reports. Estimated deficiency amounts to Rs564.91 and Supdt has been instructed to make good. Encloses copies of letters received from Mr Hinde and comments as to his responsibility. Has no desire to press for refund if it is considered amount may be written off.

~~Mr. Hinde~~

Mr. Read }
~~Mr. Hinde~~
~~Mr. Bottomley~~

Mr. Hinde's case is apparently as follows: - After the re-organization of the Prisons Service in 1911, the central control of all prisons within the Prot. passed from the Prov. Comm^r (who was ^{solely} before responsible for the prisons in their districts) to a Prisons Board, having its headquarters at Nairobi, and consisting of the Crown Advocate (Chairman), the Prov. Comm^r of Ukamba, and the Inspector General of Police.

On becoming Prov. Comm^r of Ukamba in 1912, Mr. Hinde decided, in consultation with the At. Genl, that

Hand 466 - 14 Aug 14

Next subsequent Paper.

he could not act ^{both} as a member of the Prisons Board and as Superintendent of Assara Nairobi Prison, and deputed his powers ~~as~~ as Superintendent to the Comm. of Nairobi district. He claims that his predecessor had done the same, and that the Chairman recognized the position of the Deputy-Superintendent by giving him orders direct instead of through the Prov Comm.

The deficiencies in question were discovered in Dec. 1913, and Mr. Hinde pleads that they had remained unnoted for a considerable period before that date, and that after so long a time it is impossible to allocate the responsibility. He does not deny that there had been great carelessness, chiefly in the manifested in bad book-keeping by the Gaoler; but attributes this to the exceptional circumstances which he mentions, and to insufficiency of staff. He claims that he cannot be held responsible for the action of the Deputy-Super^{to}, who was under orders of the Inspector-General & Inspector of Prisons. He places the responsibility somewhere between the Chairman & the Gaoler.

Srs H Belfield states that the delegation of duties by the Prov^{Com} of Uthmaniyah is illegal, according to the Act-General, and that

he could not act ^{both} as a member of the Prisons Board and as Superintendent of Arsona Nairobi Prison, and deputized his powers ~~as~~ Superintendent to the Comm of Nairobi district. He claims that his predecessor had done the same, and that the Chairman recognized the position of the Deputy-Superintendent by giving him orders direct instead of through the Prov Comm.

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Sir H. Belfield states that the delegation of duties by the Prov^{Comm} of Uthmanya is illegal, according to the Atty-General, and that

that the Superintendent cannot divest himself of his responsibility. I think the latter point is clear; the Superintendent must be responsible for the actions of his Deputy, whether the Deputy is legally appointed or not. In any case the Gov. is right that the Claimant & the Prison Board are not responsible for details of prison administration such as book-keeping & checking equipment.

It seems that, while the deficiencies amount to about £87, the pecuniary loss is slight, as most of the missing equipment was probably issued but not entered in the books.

The Gov. is willing to write off the loss; but I think that Mr. Hindle is responsible, especially as he became Superintendent in 1912 and the losses were not discovered till ^{Dec} 1913. He cannot have carefully checked the books once during that time, if, as he says, the deficiencies date back a long time prior to Dec. 1913.

I would suggest writing off £40 to pay about half of £80, and agreeing to write off the remainder.

A.C. 5/8/14

Mr. Hindle's defence is that he divides the matter of responsibility as to the Gov., a

members of the Board and disclaim
responsibility as a member of the Board
because the Chairman does all the
work.

Also - though I have notice the
P. Grounds, 1910 case - it is ludicrous
to pretend that because D.C. are
responsible for the premises in their
districts the Provincial Council at Toronto
has no responsibility for the preman-
ence of the two most important in the
County - at that time.

He is clearly responsible; but the amount
is small & I doubt if it is worth while
calling for a refund from an officer
who is a good deal back his hand &
will have to be returned shortly.

? Reply accordingly W.D.

My feeling is that, when his responsibility for
deficiencies can be definitely traced (and I
agree that in this case Mr. Winder is clearly
responsible) it is a bad precedent to ignore
his useful object lesson and to be over lenient.
Not reacting his full penalty, it appears
to me that it would be only right to require
a fine of at least £20.

W.D.
11/2/10

an important
to
W.D.
11/2/10

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

No. 638.

July 6th, 1914.

Sir,

I have the honour to refer to a question which has come before me in regard to certain deficiencies in the equipment of the Nairobi Prison as compared with the quantities shown in the books, the estimated value of which taking into account depreciation amounts to Rs. 564.01.

2. This sum I instructed the Superintendent to make good, as I considered that he was responsible for the internal economy of the Prison, an opinion in which my Executive Council concurred.

3. Mr. Hinde then addressed a letter, a copy of which I attach, to the Chief Secretary claiming that he had with the authority of the Prisons Department delegated the control of the

Nairobi

THE RIGHT HONOURABLE

HERBERT HARCOURT, P.C., M.P.

SECRETARY OF STATE FOR THE COLONIES

DOWNING STREET, LONDON, S.W.

Nairobi Jail to a series of deputy Superintendents, a practice which he contends had been instituted by his predecessor.

4. The Attorney General however considers, and I agree with him, that such delegation of authority was illegal and that the Superintendent had no power to divest himself of responsibility in regard to the Prison.

5. The authority vested in the Chairman and Officers of the Prisons Board has not in my opinion been of such a nature as would impose on them the obligation of investigating the details of prison administration, which duty must necessarily be in the hands of the principal officer in local charge, and I cannot therefore endorse as correct any action which might have the effect of relieving such officers of his charge.

6. On further consideration of the case in Executive Council after considerable discussion it was decided that the matter should be referred to you with an explanation of the circumstances and a request for instructions.

7. The Superintendent was informed of the action taken. It was proposed to take and address

addressed a former letter to Governor in which
I recall a similar request, though I consider that
his imputation against the disinterestedness of
the Attorney General is quite unfounded for, as
Mr. Barth did not hold his present office at the
time that the question of these deficiencies arose.

S. I would say in conclusion that I have no
wish to press for the recovery of the amount in
question from Mr. Hinde, if you are of opinion
that it may properly be written off. I believe
that in point of fact there has been little or no
pecuniary loss, the deficiencies brought to light
having in all probability been the consequence of
issues made but not duly entered owing to slack
book-keeping on the part of the Gaoler. I attach
a list of the articles from which you will per-
ceive that the principal shortages are in pris-
oners clothing which could scarcely be disposed
of outside the goal. If, however, you consider
that the amount should be recovered I can only
state that in my opinion the Superintendent is
the officer who should make it good.

I have the honour to be,

sir,

Your humble, obedient servant,

Alonzo B. B. B.

GOVERNOR.

Provincial Commissioner's Office,

Nairobi.

498

No. 97/7/26/14.

18th

May

1914.

Sir,

Deficiencies at Nairobi Prison

I have the honour to acknowledge the receipt of your No. 7386 of the 14th ultimo to the effect that His Excellency desires that I should be called upon to make payment to the amount of Rs. 564/91 being one fourth of the first cost of certain Gaol Stores and equipment found deficient by the Inspector General of Prisons in December last.

(i) With the utmost respect I would ask that my statement of the case may be submitted to His Excellency before the matter is finally closed, as I was not informed that I was likely to be held responsible and have not hitherto been asked for an explanation.

(ii) Prior to the re-organisation of the Prison Service in 1911 Commissioners of Provinces were under the Prisons Regulations, 1902, solely responsible for the control and management of the prisons within their Provinces. From April 1st 1911, the central control of all prisons within the Protectorate was vested in a Prison Board with Headquarters at Nairobi. The members of this Board, as appointed by Sir Percy Girouard, were the Hon: the Crown Advocate, Chairman, the Provincial Commissioner of Ukamba and the Inspector General of Police.

(iii) Thus the anomaly was perpetrated of appointing the Superintendent of Nairobi Prison, (gazetted as such ex officio under notice of March 11th 1907,) a member of a Board of Prison directors deputed to control among others Nairobi Prison.

The Hon'ble Chief Secretary.

Nairobi

In this capacity he would among other duties be called on to sit in judgement on his own actions as the responsible head of the Gaol.

(iv) Upon taking over charge of this Province at the end of October 1912, after consulting with the Hon: The Attorney General I decided that I could not act in this dual capacity and deputed my powers as Superintendent to the Commissioner of Nairobi District who thenceforward exercised the same under Section 2(b) Prisons Regulations, 1902.

(v) My predecessor, Mr. Hobley, acted in the same manner as I have done, occupying a seat himself on the Prisons' Board and deputing his duties as Superintendent of Nairobi Gaol to the Deputy Superintendent. Moreover he issued on October 11th 1912 a set of Rules defining the duties of the Prison Staff. "These Rules", he instructed the Commissioner of Nairobi District, "are to be read with the Prisons Regulations, 1902, and have been approved by the Inspector General of Prisons and will be applied to other prisons of this (Nairobi) class in the Protectorate." Under these Rules it is laid down that "the Deputy Superintendent is the responsible head of the Gaol and as such is empowered to issue such orders in respect of the discipline, general routine and control of the Gaol, as ordained by the Prison Regulations of 1902, or such other Ordinance as may be hereafter enacted."

It is evident therefore that from the issue of these Rules the Deputy Superintendent assumed the full control and management of Nairobi Prison and the responsibility attached thereto.

Mr. [Name] was Commissioner of Nairobi District [Name] over from Mr. Hobley and he was succeeded by Mr. [Name] in 1913.

This officer died in April of that year and Mr. Traill occupied the position for a few weeks until he was succeeded in turn by Mr. Hamilton during whose Superintendship of the Prison the deficiencies in question were discovered by the Inspector General of Prisons. This occurred in December 1913. Prior to this date the Prison Stores and Equipment had remained unchecked by the Inspector General since December, 1911.

(vii) It is obvious that the Chairman of the Prisons Board recognized the position as shown by Prison Circular No. 11 of the 21st June 1912 in which the Chairman of Prisons Board ordered District Officers in charge of Prisons to address all returns direct to himself except Ammunition and Equipment Ledger returns which should be addressed direct to the Quartermaster of Prisons.

(viii) The deficiencies in question which are mostly a matter of book entries for worn out property had without doubt remained unnoted for a long period prior to last December and I respectfully submit that it is impossible to allocate the responsibility for them after this lapse of time. That great carelessness has occurred I do not deny but as His Excellency recognized in the case of the Industries this was due to inefficiency and insufficiency of staff, followed by the peculiar circumstances of Mr. Humphery's sudden death, and Mr. Traill's temporary charge of the Prison, (he was District Commissioner for exactly one month,) account to a considerable extent for what happened.

(ix) The Deputy Superintendent having been recognized as head of the Nairobi Prison has been communicated with and been given orders direct by the Inspector General and also both by the Inspector General and Inspector of Prisons signing for the Chairman, Prisons Board, so I can hardly be

held responsible for the action of an officer who for that part of his work is under the orders of another authority, any more than in his judicial or police work which are under the authority of the Chief Justice and Commissioner of Police. I would ask therefore that due allowance should be made for those responsible and the missing articles be written off as has been done in similar cases in the past.

(x) I cannot think that His Excellency when he knows the facts of the case will hold me responsible for deficiencies which occurred owing to circumstances for which I was not responsible and over which in fact I had no control.

I have the honour to be,

Sir,

Your most obedient servant,


Provincial Commissioner.

S. 7: 6.

500

CCP 15 11.11

ENCLOSURE No 2

Doc. No. 6380 July 10th 1914

Provincial Commissioner's Office,

Nairobi,

June 11th 1914.

Sir,

Deficiencies at Nairobi Prison.

With reference to my letter No. 971/26/14 of 18th May 1914, to you, it had not occurred to me that that letter would be forwarded to the Secretary of State, as my position and action might be misunderstood, I have the honour to state that when I received the order to pay the Rs. 564/91 for Prison shortage, I informed my officers that I did not believe I was responsible for the shortage which was due to the bad book-keeping of the Gaoler responsible for the books, that the responsibility lay somewhere between him and the Chairman of the Prisons Board, that if it should be decided that one of my officers must pay instead of the amount being written off, whichever of them was made responsible, I would pay the amount, though I repudiated the responsibility, as all the Superintendents in all Provinces have always had their duties deputed to the Deputy Superintendents of all the Jails in the country, vide notice dated March 11th 1907.

2. The Chairman of the Prisons Board was given authority over all the Prison officers and supported in his action by Sir Percy Girouard, who, in his minute dated August 30th 1910 in para 7 orders, that District Commissioners are to exercise executive control over their respective prisons. The Chairman of the Prisons Board obviously recognized the responsibility of the Deputy Superintendents

ble.
The Acting Chief Secretary,
NAIROBI.

Superintendents, a secretors and other c
otions to the direct inst of through, a
Provincial Commissioner. His Excellency the Governor
recognized the responsibility of the Chairman of the
Prisons Board even so lately as April 1914, in that he
gave his orders for me to pay, through the Chairman of
the Prisons Board.

3. It seems incredible, that the Chairman of the
Prisons Board should have sat in council as Attorney
General on a question in which as Chairman of the
Prisons Board he is directly interested and that His
Excellency the Governor should accept his view as
Attorney General and forward it to the Secretary of
State.

4. When the question is referred to the Secretary of
State, I have the honour to ask that this letter may
be forwarded with the other correspondence.

5. I would suggest that the late Attorney General
Mr. Combe who will probably be at Home be consulted
as he is conversant with the position and duties of
the Prisons Board.

I have the honour to be,

Sir,

Your most obedient servant,

W. L. F. ...

Provincial Commissioner.

List

10 Dec 1914
1st
15 Dec 1914
638 of July 6th 1914

	Number
Convicts Houses	667
" Caps	1001
" Shorts	208
Blankets	27
Female skirts	20
Shirts	2
Towels	2
Great Coats	4
Buttons large	10
" Small	115
Button brass	10
Forge Bellows	1
Puckshot Ammunition	4
Jag	1
Leg Fetters	10
Iron plates	15
Plates cancelled	53
Cups and saucers	2
Table knife	1
" Forks	1
" spoons	1
Tea Spoons	2
Wooden Spoons	2
Soft hair sweep- ing brushes	2
Pass Iron	1
hair curling brush	1
Revolver Ammunition	70

Assessed value £s. 564.91 etc.

Gov. 2: 114 3

G. L.
A. J. [unclear]
B. [unclear]

JW

11th Aug 1914

DRAFT

A. P.

466

Sir H. Balfour

MINUTE

Mr. Cooke 14/8/14

Mr. B. [unclear] 14.8.14

W. Reed 14

Sir G. Fiddes

Sir H. J. [unclear]

Sir J. Anderson

Lord Emmott

Mr. Harcourt

for comm

Sir,
I have the honour
to acknowledge the receipt
of your despatch N^o 635
of the 6th of July, with
the enclosures thereto
on the subject of certain
deficiencies which have
been discovered in the
equipment of the
Naval Prison

C. Harcourt

(2) I cannot but
D. 11

I to

of [unclear] with you [unclear] in
this matter, the Superintendent
is

ident is clearly the
 responsible officer. I
 note that you consider
 the actual pecuniary
 loss to be probably
 slight, and that you
 have not taken the money of
~~the~~ ~~amount~~ ~~involved~~
 the amount involved,
 if I am of opinion that it can probably
 be written off. In a case
 of this nature however,
 I feel that
 when the responsibility
 for deficiencies can be
 definitely traced, it is
 desirable to avoid that any precedent
 of non-conviction should be avoided
 and that
 responsible officer ^{should be required}
 to ~~be~~ ~~responsible~~ ~~for~~ ~~some~~ ~~part~~ ~~of~~ ~~all~~
 be ~~to~~ ~~be~~ ~~remedied~~ ~~by~~ ~~the~~ ~~company~~
 cover ~~of~~ ~~the~~ ~~loss~~
 incurred.

~~from making good any~~
~~portion of the difference~~
 (3) I ^{strongly} ~~would~~ ~~desire~~ ~~for~~
~~voluntarily suggest for~~
~~you consider that~~
~~if it be decided in the~~
~~present instance not to~~
~~exact the full penalty,~~
~~that~~
~~it would be only right~~
~~to impose on Mr. Hinde~~
~~a fine of at least £20~~
~~should be called upon to~~
~~make good such part,~~
~~being not less than £20,~~
~~of the loss as you may~~
~~decide direct.~~

