

DESPATCH

EAST AFR. PROT.
No 41290

41290
20 NOV 05

575

1905

Oct 3

Journal Paper.

(Subject.)

Mombasa Electric Lighting

Since orig draft agreement was drawn up, management of Mombasa Trading & Revel^e Syndicate has changed hands. Present Director has agreed that concession should be abandoned. It is thought in future it would be preferable to invite tenders rather than negotiate with would be concessionaire.

(Minutes.)

Mr. Read

I understand the Syndicate is now preparing to introduce a new system of spraying at lighting

Patby M. 23/11

at once
H. J. R.
23/11

Crown Agents to see

See M. 1-12

Journal Paper.

C O
41290

539

Commissioner's Office,

20 NOV 75

Mombasa,

No. 1000 1995.

APPEAL No. 1000/1995.

Sir,

With reference to Forester Office despatch No. 7A of 19th August requesting a further report on the subject of lighting Mombasa by electricity before proceeding in the matter further, I have the honour to inform you that since the original draft agreement was drawn up the management of the Mombasa (S.E.A.) Trading and Development

Company has changed hands, and that the present Director

on learning that the contract as at present drafted must necessarily involve a loss to the Company, has agreed that

the concession could be considered as abandoned.

It is noted that it would be advisable in the

event of any future proposals being made for the

electric lighting of Mombasa, to refer to the

resolutions

report of

Yours,

Commissioner

negotiations as take place with Mr. Pierson, the
 former Director of the Mombasa Trading and Development
 Company, Ltd. It is desirable that any agreement should be
 made with the Mombasa, and it is suggested that the
 conditions of the agreement should be such as to
 ensure that the Mombasa Trading and Development Company
 should be in a position to supply the power. The
 enclosed revised draft agreement, drawn up by Mr. Gosling
 practically outlines the essential conditions which would
 have to apply if Mombasa were to supply electricity, and it
 might be taken as a basis for any further contract. If
 this were done tenders might be invited for the supply
 of current for the lighting of the station, and should
 the Mombasa Trading and Development Company be able to
 supply the power, it would be necessary to consider
 the possibility of the Mombasa Trading and Development
 Company being able to supply the power for the station
 and the possibility of the Mombasa Trading and Development
 Company being able to supply the power for the station
 and the possibility of the Mombasa Trading and Development
 Company being able to supply the power for the station

negotiations as have taken place with Mr. Anderson, the former Director of the Mombasa Trading and Development Syndicate. If it is desirable at any time to secure the electric lighting of Mombasa, and it is thought that the necessary expense would be sanctioned, it might be preferable to invite tenders by public advertisement rather than negotiate with would-be-concessionaires. The enclosed revised draft agreement, drawn up by Mr. Gosling practically embodies the essential conditions which would have to apply if Mombasa were lit with electricity, and it might be taken as a basis for any future contract. If this were done tenders might be invited for the supply of current for street lighting. The contractor should also be permitted to supply private consumers subject to the conditions contained in the draft agreement and to such other conditions regarding the duties of, and the maximum charges to be imposed by the contractor in relation to such supply as may be deemed necessary.

I have the honour to return herewith the enclosure in Sir J. Stewart's despatch No. 738 of November

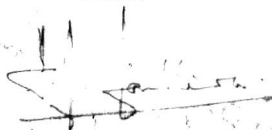
22nd 1904.

It is a pleasure to be,

Sir,

Your most obedient,

humble servant,



Acting Commissioner.

MOMBASA ELECTRIC LIGHTING

An Agreement made the _____ day of _____ 190 _____ between Sir Donald Stewart, K.C.M.G., His Majesty's Commissioner for the East Africa Protectorate and his successors in Office (hereinafter referred to as "the Commissioner") of the one part, AND the Mombasa (British East Africa) Trading and Development Syndicate Limited whose registered address is at 123 Bishopsgate Street Within in the city of London (hereinafter referred to as "the Company") of the other part:-

Whereas the Company has submitted to the Commissioner a proposal for the Public Lighting of the Town of Mombasa to be accomplished in part by Electricity and in part by Gas, it is hereby agreed as follows:-

**COMPANY TO HAVE GENERAL LIGHTING CONTRACT
SUBJECT TO PROVISION OF ELECTRIC PLANT.**

Clause 1. The Commissioner hereby undertakes and agrees to give to the Company the contract for the Street Lighting of Mombasa subject to the Company having within _____ months of its receipt of notification of

approval

approval of the plans referred to in Section (a) of Clause 2 of this Agreement at its own cost built supplied and completed to the satisfaction of the Commissioner the following works, and provided everything requisite for the supply of Electricity for Street Lighting purposes to the extent hereinafter defined, that is to say:-

**PARTICULARS OF ELECTRIC INSTALLATION
REQUIRED.**

Section (a) The supply and erection of One Hundred and Sixty Incandescent Electric Lamps of sixteen candle power each, Fifty Electric Incandescent Lamps of 32 candle power each and Eight Electric Arc Lamps of Four Hundred and Fifty Candle Power each, together with the necessary standards, cables, wires, leads and other appliances requisite for the supply of electric current to the said lamps from an electric generating station. The said lamps to be erected upon such sites or in such places in the streets and public places within that part of the town of Mombasa embraced by the line marked "A" upon the plan annexed hereto as may be required by the Commissioner.

Section (a) The building and equipment of an electric generating station to be erected upon the site shown upon the plan annexed hereto, to be equipped with efficient modern and satisfactory plant for the supply of electric current. The said electric plant to be capable of generating a sufficient output of electricity and to be otherwise suited to the purpose of efficiently lighting the whole of the aforesaid street installation of Two Hundred and Eighteen Electric Lamps.

and

Section (b) The provision at the aforesaid electric generating station of a reserve set of machinery, consisting of a boiler, engine, dynamo and the usual and necessary accessories of sufficient power and output, and in all other respects suitable to efficiently light at least one half of the aforesaid 50 Arc lamps and one half of the aforesaid 60 incandescent lamps of 16 candle power each, and one half of the aforesaid 100 incandescent lamps of sixteen candle power each in case of accident or injury to plant defined by section (a) of this clause, which latter plant shall ordinarily be used for the supply of electric current to the aforesaid 218 lamps.

PLANS TO BE SUBMITTED.

CLAUSE

2.

Section

(a)

The Company shall prepare at its own expense and submit to the Commissioner for approval plans, drawings elevations and specifications of the main installation and of all other works to be done in connection with erection of the aforesaid electric plant and street lamps and the supply of electric current to the said lamps. Such plans to be received by the Commissioner not later than the

Section

(b)

The Company shall not enter into or upon any street, public place or Crown Lands in the Island of Mombasa for the purpose of erecting any electric installation, wire fitting pole or other fixture either for the purpose of carrying out this agreement or any contract agreement or concession subsidiary hereto without having first submitted to the Commissioner complete plans drawings and descriptions of the proposed undertaking and obtained his approval of the same. And in the event of the Company erecting such fixtures without such approval it shall be considered

as having committed a trespass, and be subject to proceedings therefor.

COMMENCEMENT, WAY LEAVE, AND

CONDITIONS OF ERECTION.

CLAUSE

Section

(a) On receipt of the aforementioned approval of its plans the Company shall at once commence and proceed to carry out in a proper and workmanlike manner the works enumerated and described therein, for which purpose the Company may on paying compensation for any injury caused thereby erect and maintain on all public roads and Crown Lands in the Island of Mombasa, not being lands upon which there are any buildings or fixtures, the necessary poles, wires, and plant requisite for the overhead transmission of electrical energy and erect and lay and maintain in under or upon such public roads or Crown Lands the necessary pipes, wires, cables and transformer boxes for the underground transmission of electrical energy, for the lighting of the aforesaid Two Hundred and Eighteen Street Lamps and of any further electric lamps provided under the terms hereof, also the requisite standards and fixtures for

carrying

carrying the said Electric Lamps: And it is further agreed that the circuit shall be a complete metallic circuit, and no Earth return is to be used:— AND if any property, or any member or members of the Public shall be injured from any cause whatsoever connected with the running, erecting or working of the said electrical installation, or any part of the works, machinery or plant; the Company shall be liable, in so far as any liability can legally attach thereto, for such injuries:— Provided that the Company shall repair and make good all damage caused to the aforesaid lands, streets, public places or otherwise by the erection or maintenance of the aforesaid pipes, cables, wires, poles and transformer boxes; and Provided that the erection of such works shall be done under the supervision and in accordance with the requirements of such Officer as the Commissioner may appoint.

Section (b) It is agreed that the way leave referred to in the preceding section (a) of this clause shall terminate on the termination of the Contract hereinafter detailed.

WORKS SUBJECT TO "ELECTRICITY ACT"

Clause 4. The erection and maintenance of the electric

Lighting

Lighting Installation provided for in this Agreement, or by any Agreement conditional upon or subsidiary hereto, shall be subject to the provisions of the Indian Electricity Act of 1887 (XIII of 1887) as applied to the East Africa Protectorate by the Electricity Act Application Ordinance 1903 and to the rules thereunder published in the Gazette of the 15th of September 1903 and to any other rules for the time being published thereunder.

WORK MUST COMMENCE WITHIN 3 MONTHS OF

APPROVAL PLANS.

Clause

5. If the Company shall have failed within three months of receipt of approval of its plans to produce some tangible evidence that it is diligently proceeding

to erect the electric light installation in accordance with this Agreement then the Commissioner may if he so please cancel this Agreement, and the contract and subsidy Agreement made hereunder, and the Company shall thereupon become liable for all costs, legal charges expenses and wholly incurred by the Commissioner acting as aforesaid, and in connection with this Agreement and Contract, or anything which has been necessarily or properly done, or any or loss, in the preparation furtherance or pursuance thereof.

COMMENCEMENT OF CONTRACT-PENALTY FOR DELAY.

Clause 4. The contract granted in pursuance of the terms hereof shall commence upon such date as the electrical generating plant, lamps and accessories herein described shall be in readiness for the public electric street lighting of Bombay. Provided that in the event of the aforesaid electrical generating plant and installation and lamps not being in readiness within twelve calendar months of the receipt by the Company of the approval of its plans as aforesaid then the contract shall only be granted to the Company on its paying the Commissioner as liquidated and ascertained damages and not by way of a penalty at the rate of Rs5 per

calendar month for every lamp not ready for lighting at, and remaining unlit after such last mentioned date, and if within fifteen calendar months of the receipt by the company of notification of approval of its plans the number of the lamps which are not ready for lighting the Commissioner may if he so please cancel this Agreement and any similar Agreement made hereunder.

OLD STANDARDS TEMPORARILY USED FOR
ELECTRIC LAMPS.

Article 7. For purpose of erecting the electric lamps to be provided in accordance with Section (a) of clause 1 hereof the Company shall be allowed to make use of a portion of the structures used for the existing oil lamps (other than telegraph poles) as may be available for that purpose until, regard to the requirements for continued oil lighting. Such temporary use shall be for a period not exceeding two years from the date of commencement of the Contract, at the end of which time the Company shall restore the standards to the Commissioner in the same condition as that in which they are received, or make good any damages occasioned

by such temporary user.

TERMS OF LICHTING CONTRACT.

Clause 8. The terms of the contract for the Street Lighting of Bombays shall be as follows:-

DIVISION OF TOWN INTO AREAS.

Section (a) For purposes of this Contract the Town of Bombay shall be divided into three areas, herein referred to as first, second, and third areas. The first area shall be that included in the line "A" upon the plan annexed hereto. The second area shall be that between the lines "A" and "B" and the third area that outside the line "B" upon the said plan.

In the event of the said plan being found incorrect it is further agreed that all streets, places, houses or other buildings whatsoever delineated thereon in the said first electrical area shall be deemed to be in such area and also that in the center of the second electrical area shall be a circle whereas the centre of the place or parcel of land situate on the Bombay-Malabar Road let to G.W. Anderson by an agreement dated the 1st day of April 1903 and made between Sir Charles Elliot, K.C.B. Commissioner for the East Africa Protectorate of the one part and the said

G.W. Anderson of the other part and endorsed "Tramway Concession" on the plan annexed hereto, shall be the centre, and from thence to the point where the boundary of the first electrical area meets Mombasa Harbour shall be the radius. Such circle shall be continued inland until it again meets the boundary of the first electrical area.

Section (b)

LIGHTING OF FIRST AREA.

The street lighting of the first area shall (excepting as hereinafter provided) be by the 215 electric lamps described in section "a" of clause 1 hereof, and by 25 per cent of the oil lamps at present existing therein, the other 75 per cent of the existing oil lamps in the first area being discarded. The decision as to which of the existing lamps in the first area are to be discarded shall (subject to the provision placed) rest with the Commissioner or such Officer as he may appoint. The Commissioner may further require the Company at its own expense to make such alterations in the positions of the 25 per cent of the existing oil lamps to be retained as may be necessary

or

NOTE It is stated by the present Lighting Authority that there are some 315 Oil Street lamps now used. Of these approximately 250 are within the first area.

or desirable for the better lighting of the town, Provided, however, that the said lamps shall not be removed to places outside the first area.

LIGHTING OF 2nd AND 3rd AREAS.

Section (c) The lighting of the second and third areas shall (excepting as hereinafter provided) be by oil and the company shall from the date of commencement of this contract (excepting as hereinafter provided) continue and maintain the system of oil lighting as at present existing in the second and third areas, and also continue and maintain the lighting of the oil lamps to be retained in the first area as described in section "b" of this clause at a brilliancy equal to that of eight standard candles. It shall also light and maintain the aforesaid 218 electrical lamps at a brilliancy equal to that of their respective candle power. The whole of the aforesaid oil and electric lamps to be effectively lighted at their standard luminosities between the hours of sunset and sunrise; PROVIDED ALWAYS that the Commissioner may on the occasion of bright moonlight or otherwise permit or direct all of the aforesaid 218 electric lamps, (or any other electric street lamps erected by the Company in accordance with this Agreement,

or desirable for the better lighting of the town, provided, however, that the said lamps shall not be removed to places outside the first area.

LIGHTING OF 2nd AND 3rd AREAS.

Section (c) The lighting of the second and third areas shall (excepting as hereinafter provided) be lighted and the Company shall from the date of commencement of this Contract (excepting as hereinafter provided) continue and maintain the system of oil lighting as at present existing in the second and third areas, and also continue and maintain the lighting of the oil lamps to be retained in the first area as described in paragraph of this clause at a brilliancy equal to that of eight standard candles. It shall also light and maintain the aforesaid 218 electrical lamps at a brilliancy equal to that of their respective candle power: The lamps of the aforesaid oil and electric lamps to be effectively lighted at their standard luminosities between the hours of sunset and sunrise: PROVIDED ALWAYS that the Commissioners may on the occasion of bright moonlight or otherwise permit or direct all of the aforesaid 218 electric lamps, (or any other electric street lamps erected by the Company in accordance with this Agreement

or any group of such electric lamps not exceeding ten, as he thinks fit, to be extinguished at any time, or times, and to be re-lighted.

FAILURE OF ELECTRIC LIGHT-FACILITY.

Section (d) The Company shall maintain the said duplicate set of machinery described in section (a) of this agreement hereof in a state of readiness for use in the event of a breakdown to the machinery ordinarily used for the lighting of the aforesaid lamps; and in the event of an accident or breakdown to the plant or fault occurring, or if for any reason whatsoever any or all of the said electric lamps shall fail to give light then the said duplicate machinery shall at once, or as soon as may be practicable, be utilized to replace such broken-down, and in the event of the said duplicate machinery being incapable of utilization being so the fault or flaw being local, or for any other reason, then and on every such occasion the Company shall without any delay cause efficient oil-lamps to be lighted and kept lighted in the place of the electric lamp or lamps so ceasing to give light; AND for any negligence or unnecessary delay herein the Company shall be liable to

pay the sum of Rs.1 as liquidated and ascertained damages for each lamp per night, failing to give light as herein provided until such lamp shall be re-lighted.

FAILURE OF OIL LAMPS-PENALTY.

Section (e) In the case of any oil lamp not giving light continuously between the hours of sunset and sunrise, saving by the consent of the Commissioner, the Company shall be liable for and pay to the Commissioner as liquidated and ascertained damages the sum of four annas for every hour (or period of time exceeding fifteen minutes and less than one hour) during which time such lamp remains unlighted; Provided always that the Company shall not be liable for a greater sum than Two Rupees in respect of the failure of any one lamp for any single night.

COMPANY TO HAVE USE OF EXISTING

OIL LAMPS.

Section (f) For the purpose of partially continuing the system of oil lighting as required by this Contract the Company shall have the use of as many of the existing oil lamps and standards as it is required to light and maintain under the terms hereof, the said

lamps and standards to be handed over to the Company in a good and serviceable condition. Provided that such use shall give the Company no property in the aforesaid lamps and standards. And Provided that the Company shall maintain and keep the said oil lamps and standards in a good and serviceable condition and at its own cost provide for any repairs or removals which may become necessary during the period of this Contract and on the termination of this Contract by effluxion of time or otherwise it shall hand over the same in good and serviceable condition, and for any failure or default hereof re-imburse the Commissioner for any expenditure involved or incurred in consequence of such failure or default.

PAYMENT.

Section (G) For the satisfactory lighting, supply of oil, maintenance in good repair of all the oil lamps to be continued under the terms of this Contract, and for the supply, erection, satisfactory lighting, supply of electricity and maintenance of the aforesaid 218 electric lamps the Commissioner shall pay to the Company the sum of Rs. 583.3 (Five Hundred and Eighty Three and one third rupees) per mensem.

LATER SUBSTITUTION OF ELECTRICITY

FOR OIL.

section (1) At any time after two years from the date of receipt by the Company of notification of approval of its plans as provided in clause 1 hereof the Commissioner may by written requisition require the Company at its own expense to provide and do everything requisite for the substitution (either partially or entirely) of electricity for oil as the illuminant of those parts of the Town of Mombasa for which oil lighting is to be continued under the terms hereof, and if such substitution has not been accomplished to the extent demanded and to the satisfaction of the Commissioner within 9 months from the date of delivery of such requisition, then the Company shall pay to the Commissioner as liquidated and ascertained damages, and by way of a penalty, the sum of Three Rupees for every lamp for which the substitution of electricity for oil lighting has not been satisfactorily accomplished, for every calendar month, or part of a calendar month exceeding three days, of such period as the substitution of electricity for oil, as the illuminant of such lamps, remains unaccomplished.

and that nothing in this

clause shall give the Company any title or right to demand that any such extension of the area to be lighted by electricity shall be made.

PAYMENT IN RESPECT OF LAMP SUBSTITUTION

OF ELECTRICITY FOR OIL.

Section (1). For the satisfactory lighting, supply of oil and maintenance of any electric lamps substituted for oil lamps in accordance with the preceding section "h" of this clause the Commissioner shall pay to the Company the sum of 4 annas per Board of Trade Unit for all electric current supplied to such substituted Electric Street Lamps within the first electrical area, five annas per Board of Trade Unit for all current supplied to electric street lamps within the second electrical area, and six annas per Board of Trade Unit for all current supplied to all Electric Street Lamps outside and beyond the first and second Electrical areas. Such payments to be in addition to the payment prescribed in section (g) of this Clause and to be subject to no deduction in respect of the saving of oil effected by the substitution of electric for oil street lamps.

PHOTOMETERS &c, TO BE PROVIDED.

Section (k) Photometers, standard lamps or candles and other appliances, requisite and necessary for testing

the illuminating power of the said electric lamps shall be provided by the Company and at its own expense; and shall, at all times, when so required by the Commissioner, be applied by the Company for the purpose of the said testing, and in the presence of the Commissioner or his representative or agent.

COMMISSIONER'S RIGHT OF PRE-EMPTION.

Section (l) In the event of the Company being liquidated or from any cause failing to perform its part of this contract, according to the spirit and intent thereof or refusing to perform the same at any time during the said term; or in the event of the same being determined by notice as is in clause hereof provided:— Then in any such case the Commissioner shall have a right of pre-emption over the buildings, lands, ways, works, machinery, plant and other things connected with the aforesaid lighting of Mombasa; the sum to be paid for the purchase thereof shall be determined by valuation as provided in clause hereof.

PLANT TO BE REMOVED IF CONTRACT NOT

RENEWED.

Section (m) On the determination of this contract by

effluence

effluxion of time, notice, or otherwise then unless the said parties shall have entered into a fresh contract as hereinbefore provided:- The Company shall restore all public places used by it for any of the purposes, the subject of this Contract, or connected therewith either directly or indirectly, to the same state and condition as they were prior to the commencement of any works in connection with the said electric lighting installation:- And the Company shall make good any loss or injury occasioned by the installation working maintenance or removal of said works or otherwise in connection with the premises howsoever.

PERIOD OF CONTRACT-SALE OF PLANT.

Section (a) This Contract shall remain in force for 19 years from the 1st of January 1905. Provided that it may be determined by the Commissioner at the end of 7 years, or at the end of 14 years, by his giving three months notice in writing to the Company, and provided that at the termination of this Contract by notice or otherwise the Company shall sell to the Commissioner the lamp wires and other street works then in use, or any part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever at a valuation to be made by a valuer appointed by both parties hereto at the time of such sale. And PROVIDED that nothing herein contained shall prevent the said parties at any time entering into a fresh contract for such further term as they shall think fit.

"COMMISSIONER" & "COMPANY"

 COMPANY NOT TO SUELET AGREEMENT.

Clause 9. The term "Commissioner" hereinbefore used shall, unless such interpretation would be inconsistent with

with the context include his successors in title and his and their assigns: AND the term "Company" hereinbefore used shall, unless such an interpretation is inconsistent with the context include its assigns: PROVIDED that the Company shall not assign its rights, licenses, liabilities, or powers under this Agreement without the consent in writing of the Commissioner.

COMPANY PRELIMINARY COSTS.

Clause 10. It is also agreed that the Company shall pay all the costs of and incidental to the preparation of this Agreement.

DISPUTE - ARBITRATION:

Clause 11. In case any difference or dispute arises between the Commissioner and the Company touching these presents or the construction thereof or of the rights, duties, or liabilities of either party hereunder the question in dispute shall be referred to a single Arbitrator to be nominated by the parties hereto or in default of Agreement by the Board of Trade.

AS WITNESS the hand of the parties.

C. O.
41290
20 NOV 25
562

AN AGREEMENT made the day of 190 BETWEEN Sir Donald Stewart K.C.M., H.M. Commissioner for the East Africa Protectorate (hereinafter called "the Commissioner") of the one part and the Mombasa (British East Africa) Trading and Development Syndicate Limited whose registered address is at 123 Bishopsgate Street Within in the City of London (hereinafter called "the Company") of the other part.

Whereas by an agreement dated the day of 190 and made between the aforesaid parties hereto the Company has entered into a Contract with the Commissioner for the Public Street Lighting of the township of Mombasa AND WHEREAS the Company has applied for the right to supply electrical energy to private Consumers within the said township AND WHEREAS the Commissioner has agreed to grant such right subject to the agreements, covenants and conditions herein contained.

Now therefore it is hereby agreed by and between the parties hereto as follows:-

- (1) The Commissioner shall grant to the Company free of charge the right to supply electrical energy for lighting and power for use by private consumers for a term of 20 years from the date hereof PROVIDED always that the Commissioner may terminate this agreement and the rights exercisable hereunder at the end of 7 or 14 years from such date by giving to the Company 3 calendar months previous notice in writing

And

Anderson
ably to own Concernedly
Anderson
I consider this clause
incompatible and contrary to the
of the past three years
I cannot believe that
will insist on such a
in regard to the past

The foregoing is null.
in view of the fact that the
draft contract (enclosed) was for five years only vide article 8

C.O.
41290
No. 20 NOV 25
562

AN AGREEMENT made the 1st day of Dec 190 BETWEEN Sir Donald Stewart

K.C.M., H.M. Commissioner for the East Africa Protectorate (hereinafter called "the Commissioner") of the one part and the Mombasa (British East Africa) Trading and Development Syndicate Limited whose registered address is at 123 Bishopsgate Street Within in the City of London (hereinafter called "the Company") of the other part:

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- (1) The Commissioner shall grant to the Company free of charge the right to supply electrical energy for lighting and power for use by private consumers for a term of 20 years from the date hereof PROVIDED always that the Commissioner may terminate this agreement and the rights exercisable hereunder at the end of 7 or 14 years from such date by giving to the Company 3 calendar months previous notice in writing

And

Anderson
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Anderson
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enable and contrary to the
of the past three years
then between the Administration
myself I cannot believe N/M
will stand on such a
in regard to the past

The foregoing is rather
in view of the fact that the
draft contract (enclosed) was for five years only vide article 8

And provided that at the termination of this agreement by notice or otherwise the Company shall sell to the Commissioner if he so desire the whole of the plant used for the generation and distribution of electrical energy, or any part thereof, exclusive of any allowance for past or future profits of the undertaking, or other consideration whatsoever, at a valuation to be made by a valuer appointed by both parties hereto at the time of such sale.

And provided that nothing herein contained shall prevent the parties at any time entering into a fresh agreement for such further term as they shall think fit.

(2) The said rights hereunder shall be exercised subject to the provisions of the Electricity Act 1887 (Indian Act No. 13 of 1887) as applied to the East Africa Protectorate by the Electricity Act Application Ordinance 1905 and to any rules for the time being published thereunder.

(3) The said rights hereby granted shall not prevent any person or undertaking generating or using electrical power for the purposes of such person or undertaking.

(4) The said rights hereby granted shall be exercised only subject to and after the installation of electric light for the lighting of the public street of Mombasa as provided in the within recited agreement to the reasonable satisfaction of the Commissioner.

herein contained the Commissioner may serve a notice on the Company pointing out the deficiencies and calling upon it to make them good. If within six months from the date of the receipt of such notice the Company shall have failed to comply with the aforesaid conditions then the Commissioner may cancel the right of way to run pipes, wires cables and erect poles through under and upon the streets public places and Crown lands as aforesaid and the Company shall remove its plant within a reasonable time thereafter.

(8) On the termination of this agreement by effluxion of time, notice or otherwise then unless the said parties shall have entered into a fresh contract as hereinbefore provided the Company shall restore all public places used by it for any of the purposes the subject of this agreement or connected therewith either directly or indirectly to the same state and condition as they were prior to the commencement of the said electric lighting installation. And the Company shall make good any loss or injury occasioned by the institution, working, maintenance or removal of the said works or otherwise in connection with the premises howsoever.

(9) In case any difference or dispute arises between the Commissioner and the Company touching these presents or the construction thereof, or of the rights duties or liabilities of either party

hereunder

herein contained the Commissioner may serve a notice on the Company pointing out the deficiencies and calling upon it to make them good. If within six months from the date of the receipt of such notice the Company shall have failed to comply with the aforesaid conditions then the Commissioner may cancel the right of way to run pipes, wires cables and erect poles through under and upon the streets public places and Crown lands as aforesaid and the Company shall remove its plant within a reasonable time thereafter.

(8) On the termination of this agreement by effluxion of time, notice or otherwise then unless the said parties shall have entered into a fresh contract as hereinbefore provided the Company shall restore all public places used by it for any of the purposes the subject of this agreement or connected therewith either directly or indirectly to the same state and condition as they were prior to the commencement of the said electric lighting installation. And the Company shall make good any loss or injury occasioned by the institution, working, maintenance or removal of the said works or otherwise in connection with the premises howsoever.

(9) In case any difference or dispute arises between the Commissioner and the Company touching these presents or the construction thereof, or of the rights duties or liabilities of either party

hereunder

hereunder the question in dispute shall be referred to a single arbitrator to be nominated by the parties hereto or in default of agreement by the Board of Trade.
As Witness the hands of the parties.