

38164

1938

38164

C0533/494
KENYA

Local Government

CLOSED
UNTIL

1970

Lands and Settlement Dept Staff

Previous				
		M. Dawn	21.11	98
		M. Kennedy	21.11	R297
1936		Mr. Pashin	2.12	Mr. Pashin
		M. Kennedy	2/12	R298
		R298	2/12	98
Subsequent	1934	R297	5/12	R309
1939/2/3		Mr. Pashin	5	R98
see 88410/39		M. Preston	6	
see 88022/39		C.D.	6/12	
297	4/8	R299	8/12	
309	12/8	297	9/12	
Mr. Sumida	23/8	311	1	
Mr. Pashin	3/9	Pashin	16/12	
Mr. Pashin	25/x	Mr. Barton	19/12	
M. Dawn	26.10	Mr. James	2/1/35	
M. Martin	2/11	Mr. Barton		
309	2/11	R98		
Tel Section	/	R297	5/1	
297	3/11	Mr. Pashin	5/1	
309	4/11	R297	7/1	
Mr. Pashin	7/11	297	11/1	
Mr. Pashin	7/11	299	11/1	
R. Pashin	10/11	98	26/4	
Mr. Pashin	21	Mr. Pashin	27/4	

Submits proposals for reorganization of Dept. involving transfer of Local Government work to Secretariat and creation of post of Commr. of Lands and Settlement w/e from 1/11/38. Recommends G.E. Matimer for appointment to new post and requests sanction for amendment to Royal Instructions in order that he shall rank as ex officio member of Leg. Co.

Office Central Govt

The present establishment includes a Commissioner for Local Government, Lands and Settlement, at £1350 and a Commissioner for Mines at £1200 (combined cost: £2550).

Sir A.Pim recommended in his report that the former post should be abolished - see especially the passages marked in red on pages 67 and 72 of the attached copy of the report - the work previously done by this officer to be shared in future between the Provincial Commissioners and the Secretariat. Sir A.Pim's recommendation for the retention of the latter post is (as far as I have been able to discover) nowhere explicitly made in the report; but it is implicit in the seventh line from the bottom of page 114. (combined cost: £1200).

*See also
p. 313
of
his
16/8*

Subsequent to the acceptance of Sir A.Pim's report, the amalgamation of the post of Commissioner of Mines with that part of the work of the Commissioner for L.G.L. and S. not taken over by the Secretariat (i.e. that particularly relating to lands) was thought to be the most suitable course. *the salary suggested for this use*

Now the Governor wishes to have a Commissioner of Mines at £1200, as recommended by Sir A.Pim, and also a Commissioner for Lands and Settlement at £1200 (combined cost: £2400).

*post of Commr for
Mines & Land
was £1350 - See
flag in 3 on
28297/38 (Combined
cost £1350.)*

The reasons given for this recommendation are (1) that there is no one who can be recommended to take charge of a new combined Lands plus

(2) mining should not be subordinated to lands; and

(3) "the Colony's land is too valuable an asset to be left to take care of itself".

With regard to (1), it would presumably not be impossible to find someone from elsewhere to take over the combined Department. Against (2) it might be pointed out that by accepting Sir A.Pim's recommendation ^{the} subordination of mining to land would be avoided, and, as regards (3), that the point at issue is who should look after lands, etc., not whether they should be looked after at all.

It seems that, on the whole, the Governor has not made out a very strong case for the sanctioning of the new post, which will involve a further departure from Sir A.Pim's recommendations for economy. In view of the Governor's anticipation (which has been expressed frequently in other despatches) of financial difficulties to come, it might perhaps be best to reply that, before sanctioning the creation of a new post, the Secretary of State would like to be assured of the imperative necessity for departing in this respect from Sir A.Pim's recommendations.

The subject matter of paragraph 6 is primarily a matter for C.S.D. and, together with paragraph 7, will not arise for the moment if the action proposed above is decided upon.

Arthur White

12.8.38.

there will be any savings to offset this additional expenditure. If not, it would seem to be necessary to consider also the question of amalgamation with the Highlands Department which has worked well in Tanganyika Territory and is indeed no novel experiment - here point out that a amalgamation does not, in the Secretary of State's opinion, imply the abolition of existing posts but that the fact that there may be no one suitable in Kenya to take over the duties of the post should not be allowed to prejudice the choice - and ask for his further observations in this regard to be made.

*Mr. Pim will
not be able
to attend to
this matter
as he is
on leave
from 1st
Nov. to 15th
Nov.*

h.w.g.

30.8.1966

*From your proposal (this is to me
a very big question) at
present I am afraid there is little
in which I can usefully comment
at this stage. So far as
C.S.D. is concerned no immediate
need has been taken with relation
proposed, but it is more a
matter of organization at
present and we shall like to
see later what this has been
settled.*

*S.J. James
3/9*

(30005/38)

I regret that I have been so long in dealing with this file, but it has been very difficult to find time to get down to it. It is now necessary to come to a decision because the time is approaching when it will be necessary to issue the Order-in-Council defining the Highlands; and it is proposed that one of the members of the Highlands Board to be created by that Order should be the "Commissioner for Lands and Settlement."

(para 6)

A curious feature of this business is that while, in this despatch, the Governor has recommended the creation of this appointment, it is stated in the Kenya Sessional Paper summarising the action taken on Sir Alan Pim's report, and again in the Governor's despatch on the subject of the Land Commission legislation (No. 20 on 30005/38), that it has been decided that a new post of Commissioner of Lands and Settlement should be established.

*They often
achieve this
mental leap.
H.P.*

As regards the references in the previous minutes on this file to the intentions of Sir Alan Pim, I can see no room for any doubt whatever. Sir Alan Pim definitely recommended that the post of "Commissioner for local Government, Lands and Settlement," should be abolished, and that the work hitherto performed by that official should be distributed between the Provincial Commissioners and the Secretariat.

The Governor now recommends that only the work relating to local Government should be transferred to the Secretariat, and that there should be a Commissioner for Lands and Settlement at £1,200 a year, as compared with the salary of £1,350 which has hitherto been attached to the more comprehensive post. This will mean that at least £1,200 a year of the economy

economy recommended by Sir Alan Pim will not be achieved. Nevertheless I am inclined to think that the Governor's recommendation should be approved. Apart from the question of the constant agitation for closer settlement in the Highlands, which is being considered by a local Committee, it will be seen from paragraph 314 of Sir Alan Pim's report that the Commissioner has been entrusted with the work of carrying out the recommendations of the Kenya Land Commission. It might be thought that, on the eve of the enactment of the legislation designed to give effect to those recommendations, his functions in this connection would by now have been completed. It will however be seen from minutes on 38005/11/38 that this is by no means yet the case, and in the future there will also be a good deal of work in connection with the utilisation of the areas in which natives are to have prior claims. There is also the very troublesome question of the land titles in the Coast Province, which is mentioned in the first paragraph on page 188 of Sir Alan Pim's report. We have just heard that Sir Ernest Dowson is on the point of producing his preliminary review of this problem, and I can well imagine that it will provide plenty of work for the Lands Department for some years to come.

On the whole, therefore, I am inclined to think that there is a good case for the continuance of the post of Commissioner for Lands and Settlement.

On the question whether it would be practicable to combine this post with that of Commissioner for Mines, I am inclined to think that, in approving the Governor's recommendation, it will be sufficient to draw his attention to the fact that the two Departments are combined in Tanganyika, and suggest

to

to him that he should enquire into the working of the combined Department in that Territory, with a view to further consideration as to the practicability of combining them in Kenya.

If the proposal to create the post of Commissioner for Lands and Settlement is approved, I ~~think~~ agree that Mr. Martin should have the appointment; but C.S. Dept. will have to be consulted on this.

J. Paskin
25/11/38

[P.S. I send on - red, because, if the new Post is not created, it will be necessary to consult the Gov. as to who sh. be substituted, - the O.-C. as a member of the Highlands Board].

I agree with Mr Paskin that there is a good case for creating the appointment.

We must now have the views of the C.S. D. on the Gov's proposal for filling it.

We must not overlook

The point in para. 7 about amending the Royal Instructions (N.B. Have the Instruments yet been brought up to date to cover all recent changes of nomenclature etc?).

H-JM
26.10

See on Form 11453

Governor Tel 176

1/11/38

DESTROYED UNDER STATUTE

Requests very early approval of para 5-4 of No 1

Dpt L with.

Recommends vide further action advised

of dept.

A.R. Thomas

2/11
B. Thomas

To Gov. Tel No 179 - 2 and - 2/11/38

DESTROYED UNDER STATUTE

Mr. Mason

As a result of proposals submitted by the Gov in No. 1 and approved by the S. of S. in No. 2, it becomes necessary to amend cl. 13 of the R.I. of the 29th March 1934 by

the deletion of the words "of Commissioners for local Govt. hands & Settlement," in lines 4-5 & of the word "and" in line 8, and by the insertion of the words "and of Commissioners of hands & Settlement" at the end of line 8.
(See para 7 of 1)
Can you please advise as to the correct procedure?

A.R. Thomas

4/11

Dr. amended R.I. referred

Print for submission to the Council Office

Hennery

7/11 A.R. Thomas 2/11

S. J. Bush

There is nothing in this but you may like to see

10/11

11/11

Mr. Dore

Submitted for authority to print. While this is being done, the file should be sent to E.A. Dept. for Dept. copy to be sent to P.D. 89 for sp. to be returned
J.P. Mason

at the
11/11

To: Ceylon Council (Res. of Council) {W. G. ...} 2/12/38

m - Res. of Council

In view of m: Grossmith's note on 21.12.38, there does not seem any point in suggesting to Kenya (as proposed in m: Grossmith's minute of 22/8) that they should reconsider the question of amalgamating the Lands & Mines Dept., after shedding the working of the T.P. arrangement. I suggest my view without making any suggestion.

P. P. ...
1/11
B. ...
6/11

5 To: Kenya 236 - 1 (Kenya) (Res. of Council) 8.12.38

6 As to the status of the new post, see W. G. ... note at 6 offwrite.

No action is necessary except to note for deletion of the post of Commissioner of Local Lands Settlement from the C.A. 5 Schedule

W. G. ...
2/1/39

7 Priority Office 21.12.38
(Reg. & Trans. Div. approving Adm. Encls)

8 The Additional Instructions have now been signed by H. M. and sent to you
Draft 4/10

about 5/1/39
H. M. ...
5/1/39

9 To: Kenya 21 (-/Additional Instructions & 6 P. ...). Com. 11.1.39

Pro. ...
draft 4/10
C.A. 4/10 5

The C.A.'s have not been informed of Mr. Markham's promotion, approved at (5), from his P.F.

? As in draft version 4/10
W. G. ...
16.5.39

10 To: C.A. 22.5.39

Recd. ...
4/10
C.A.

The point in para. 7 about amending the Royal Instructions (N.B. Have the Instruments yet been brought up to date to cover all recent changes of nomenclature etc?).

Yes.
J.P.
3/1/38

H.J.M.
26.10

See on Form 1453

DESTROYED UNDER STATUTE

Governor Tel 175
Requests very early approval of para 5-7 of No. 1
Dpt. L with.
Recommends wide further action done

of aft.
A.R. Thomas
2/11/38

3 To Gov. Tel No 179 - 2 and - 2/11/38

DESTROYED UNDER STATUTE

Mr. Mason

As a result of proposals submitted by the Gov in No. 1 and approved by the S. of S. in No. 2, it becomes necessary to amend Art. 16 of the R.I. of the 29th March 1934 by

the deletion of the words "of Commissioners for local Govt. lands & Settlement," in lines 4-5, & of the word "and" in line 8, and by the insertion of the words "and of Commissioners of lands & Settlement" at the end of line 8.
(See para 7 of 1)
Can you please advise as to the correct procedure?

A.R. Thomas
4/11

Dr. Alexander R.I. Lewis
Print for submission
to the Comul Office

Kennedy
7/11/38

S. J. Butler
There is nothing in this but you may like to see

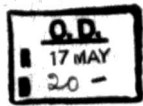
To J. Butler
10/11/38
H.J.M.
10/11/38

See proposal by
to Kennedy
A.R. Thomas
21.11

M. Dave.
Submitted for authority to print. while this is being done, the file should be sent to E.A. Dept. for the Dept to Kenya, & to P.D. 89 for op. to P.C. Office.
J.P. Thomas
21/11

C. O.

- Mr. Blackburne. 16/5/39.
- Mr. Baker. 17/5
- Mr.
- Mr. A. J. Dune.
- Sir H. Moors.
- Sir G. Tomkinson.
- Sir J. Shackburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- ary of State.



10

DOWNING STREET.

May, 1939.

DRAFT.

**THE CROWN AGENTS
FOR THE COLONIES.**

Gentlemen,

I am etc. to inform you
that he has approved the creation of
the post of Commissioner of Lands and
Settlement in substitution for the
post of Commissioner for Local
Government, Lands and Settlement in
Kenya at a salary of £1,200 per annum.

2. Mr. C.E. Mortimer, Lands
Secretary, has been ^{appointed} ~~promoted~~ to fill
the new post with effect from the
1st of November, 1938.

I am, etc.

Lt. Y. P. ...

FURTHER ACTION.

Copy to go on file of
Mr. C.E. Mortimer.

479

30104/50.

C. O.

- Mr. A. W. A. Smith.
- Mr. Kennedy.
- Mr. Paskin.
- Mr. A. J. Dawe.
- Sir H. Moore.
- Sir G. Tomlinson.
- Sir J. Shuckburgh.
- Permi. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

371
571 f.s.
Annot. 1 on 28/11/39
38032/39



// January, 1939.

DRAFT.

KENYA.

No. 21.

GOV.

(Additional Instns. and 6 Prints.)

(R. 297 will supply.)

Sir,

~~have to refer~~ to para. 2

(S) of my despatch No. 736 of the 3th December, 1938, ^{have to} ~~and~~ to transmit to you ^{from} Additional Instructions under the Royal Sign-Manual and Signety dated the 4th of January, 1939, to the Governor and

Commander-in-Chief of Kenya, amending Clause XVI of the Instructions of the 29th March, 1934.

2. ^{It} ~~You~~ ^{is} ~~will~~ ^{be} ~~observed~~ that this Instrument is to come into operation on a date to be fixed by the Governor by notification in the Official Gazette of Kenya. I have to request you to take action accordingly, and to inform me in due course of the date so fixed.

(Signed) MALCOLM MacDONALD.

FURTHER ACTION.

Mr. Gordon to
Mr. G. C. ...
Copy for R.S.A.
14/1/39

GEORGE VI

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twenty-ninth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1938, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

Replaces Instructions of 29th March, 1934, and Additional Instructions

And whereas We are minded to make other provision in regard to the constitution of the said Council:

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

Replaces Clause XVI of Instructions of 29th March, 1934

" XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement "

" Ex officio Members of Legislative Council "

Given at Our Court at Saint James's, this fourth day of January, 1939, in the Third year of Our Reign.

In any communication on this
subject please quote No. *125657*
and address—

THE CLERK OF THE COUNCIL,
PRIVY COUNCIL OFFICE,
WHITEHALL, LONDON, S. W. 1.

PRIVY COUNCIL OFFICE,

21st December 1938

22 DEC 1938

SIR,

I am directed by the Lord President of the Council to
transmit to you the accompanying Order of His Majesty in
Council of the *20th* instant *Additional Instructions*
to the Genl. Commandant-in-Chief of the
Colony of Kenya.
and I am to request that you will lay the same before the
Secretary of State for *Colonies.*

2 Seals
2 Orders
and 6 copies.

I am,

Sir,

Your obedient Servant,

Enclosure

The Under Secretary of State,

Secy. & Co., &c.
Colonial Office

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

Present

THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

Rupert B. Howorth.

2

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

Recites Instructions of 29th March, 1934, and Additional Instructions.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twenty-ninth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1935, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

And whereas We are minded to make other provision in regard to the constitution of the said Council:

Replaces Clause XVI of Instructions of 29th March, 1934.

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

“ Ex officio Members of Legislative Council.”

“ XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement.”

Given at Our Court at Saint James's, this
day of _____, in the _____ year of Our Reign.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

Recites Instructions of 29th March, 1934, and Additional Instructions.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twenty-ninth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1935, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

And whereas We are minded to make other provision in regard to the constitution of the Council:

Replaces Clause XVI of Instructions of 29th March, 1934.

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

" XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement."

Given at Our Court at Saint James's, this
day of , in the year of Our Reign.

" Ex officio Members of Legislative Council."

14

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

Present

THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

Rupert B. Howorth.

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

Present

THE KING'S MOST EXCELLENT MAJESTY
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HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

Rupert B. Howorth.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twenty-ninth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1935, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

And whereas We are pleased to make other provision in regard to the constitution of the said Council:

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

" XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement."

Given at Our Court at Saint James's, this
day of _____, in the _____ year of Our Reign.

Recites Instructions of 29th March, 1934, and Additional Instructions.

Replaces clause XVI of Instructions of 29th March, 1934.

Ex officio members of legislative council."

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

Present

THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

Rupert B. Howorth.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Colony for the time being administering the Government of Our said Colony.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twenty-ninth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1935, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

And whereas We are minded to make other provision in regard to the constitution of the said Council:

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

"XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement."

Given at Our Court at Saint James's, this
day of _____, in the _____ year of Our Reign.

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

Present

THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL

WHEREAS there was this day read at the Board a letter to the Lord President of the Council from the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, transmitting the Draft of Additional Instructions to be given to the Governor and Commander-in-Chief of the Colony of Kenya:

HIS MAJESTY, having taken the same into consideration, was pleased, by and with the advice of His Privy Council, to approve thereof, and to order, as it is hereby ordered, that the Right Honourable Malcolm MacDonald, one of His Majesty's Principal Secretaries of State, do prepare the said Additional Instructions (which are hereunto annexed) for His Majesty's Royal Signature.

Rupert B. Howorth.

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

Recites Instructions of 29th March, 1934, and Additional Instructions.

Whereas by certain Instructions under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony) bearing date the Twentieth day of March, 1934, as amended by Additional Instructions bearing date the Twentieth day of June, 1935, and the Twenty-sixth day of May, 1938, provision is made amongst other things for the constitution of the Legislative Council of the Colony:

And whereas We are minded to make other provision in regard to the constitution of the said Council:

Replaces Clause XVI of Instructions of 29th March, 1934.

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

" Ex officio Members of Legislative Council."

" XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement."

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AT THE COURT AT BUCKINGHAM PALACE

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Robert B. Howarth

AT THE COURT AT BUCKINGHAM PALACE

The 20th day of December, 1938

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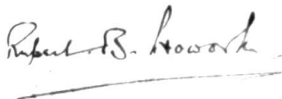
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Given at Our Court at Saint James's, this
day of _____, in the _____ year of Our Reign.

In cases where "land" posts have required of their holders the possession of legal qualifications they have been scheduled in the Colonial Legal Service. A number of "Commissioner of Lands" posts appear in the Colonial Survey Service Schedule; the duties of such posts are composite, and their holders are required to possess survey qualifications. For a similar reason the present Kenya post, if it had been combined with "Mines", would doubtless have gone into the Colonial Mines Service. As it is, the post calls for no professional qualifications upon the part of its holder.

why?
P.D.

When the question of a unified Lands Service was being considered, it was finally decided that the Kenya post of "Lands Secretary" (Mr. Mortimer's former post) and the Nigeria post of Assistant Commissioner of Lands should be left over for consideration in connection with the suggested "Unclassified" or Miscellaneous Unified Service.

The question arises whether Mr. Mortimer's post should be scheduled in the Colonial Administrative Service or not. It is a highly-paid post (£1200), but the test is (I think) whether Kenya proposes that it should be filled, in future, by an officer of administrative calibre or not. So far as Mr. Mortimer himself is concerned, he is not of administrative standing and there is no particular reason why he should be admitted to the Colonial Administrative Service.

I think that the best plan would be to delete the now non-existent post of "Commissioner of Local Government Lands and Settlement" from the Colonial Administrative Service Schedule, and wait for the Governor to raise the question of whether Mr. Mortimer's new post should be scheduled or not (in accordance with the procedure laid down in Circular despatch (2)

Why?
9.1.0

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of 5th May, 1937. If and when he does, we can ascertain his views as to the status of the post. If it is decided that the post is of "administrative" standing it can then be scheduled, and, in those circumstances, there would ~~be no~~ be no objection to Mr. Mortimer being admitted to membership of the Service if he so desires, and if he is prepared to accept the liability to compulsory transfer. (It is doubtful whether he desires transfer outside Kenya, and whether he would incur the risk (however small) of being compulsorily transferred merely to acquire membership of the Colonial Administrative Service).

W. Mortimer
31.12.38

5.46

C. O.

38164/38.

S.A.

Mr. Custley-White. 11/11/38.

Mr. Paskin. 5/7/38 (v. minute)

Mr. ~~Frederick~~ *6/3/38*

Mr. A. J. Dawe.

Sir H. Moore.

Sir G. Tomlinson.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

Downing Street,

November, 1938.

8 D.L.C. 1938



Sir,

I have etc. to refer to my

- (3) telegram No. 179 of the 2nd November in which my approval was given to the proposals contained in your despatch
- (1) No. 435 of the 28th July, for the creation of the post of Commissioner of Lands and Settlement and for the appointment to that post of Mr. C. E. Mortimer.

2. Steps are being taken

to effect the amendment of the Royal Instructions of the 29th of March, 1934, on the lines indicated in the last paragraph of ^{your} ~~that~~ despatch.

3. I have noted from the third, fourth and fifth paragraphs of your despatch that, while the combination

of

DRAFT.

KENYA
NO. 736.
GOVERNOR.

FURTHER ACTION.

Return file to
Mr Kennedy
after this has
issued.

of the Department of Mines with that of
Lands was at one time contemplated by your
Government, you do not consider that the
amalgamation of the post of Commissioner
of Mines with the new post of Commissioner
of Lands and Settlement is at the moment
advisable. [As you are aware, these two
of Lands & Mines
Departments have been combined in Tanganyika].
I would suggest that enquiries should be made
as to the working of the combined Department
in that Territory, with a view to the further
consideration of the practicability of their
combination in Kenya.]

I have, etc.

Handwritten signature

*To read [] it is true that
in Tanganyika the Chief Inspector of
Mines (L 1000) is subordinate to the
Director of Land & Mines (L 1000), but
we are now considering a proposal to
change the title of the Ch. Inspector
of Mines to "Commissioner of Mines" with
a salary of £200, & also a proposal for
the reorganisation of the Land & Mines
Dept. with the Administrative General
Dept. - It will be absorbed into
a combined Land & Mines Dept, but in view of the
changes the Administrative General
Dept. might still be
[] maintained.
C. R. []*

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[Handwritten signature]

38164/38 Kenya Lt

22

DRAFT

For Mr. Davis signature
Downing Street,

Mr. Swinburn 28/11
Mr. Kennedy 28/11
Mr. Parkin 29/11 f.t.

Nov. 1938
S.S. 2 DL 1111
Answer

My Lord

I have the honour to transmit to your Lordship the draft of Additional Instructions to be passed under the Royal Sign Manual and Request to the Governor and Commander-in-Chief of the Colony of Kenya in regard to the Legislative Council thereof.

I have to request that your Lordship will submit this Draft for the approval of the King in Council, and that ~~two~~ sealed copies and ~~two~~ plain copies of the Order in Council may be supplied for the use of the Colonial Office.

Draft and Instructions
(RGA will supply)

Approving the Additional Instructions

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

(Sgd) A. J. Davis

The Lord President

of the Council.

(For the Secretary of State.)

(Copy for RGA)
Remitted to Mr. Parkin
(Answers have to be sent to the Council)

38164/38 Kenya Lt

DRAFT

For Mr. Davis signature

Downing Street,

Mr. Buxton 28/11

Mr. Kennedy 28/11

Mr. Parkin 29/11 ft.

S.S. Nov. 1938
A. J. Davis

My Lord

I have the honour to transmit to your Lordship the draft of Additional Instructions to be passed under the Royal Sign Manual and Request to the Governor and Commander-in-Chief of the Colony of Kenya in regard to the legislation to be made there.

I have to request that your Lordship will submit this Draft for the approval of the King in Council, and that ~~two~~ sealed copies and ~~two~~ plain copies of the Order in Council approving the Additional Instructions may be supplied for the use of the Colonial Office.

Draft and Instructions
(RSA in supply)

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant,

(Sgd) A. J. Davis

The Lord President

of the Council.

(For the Secretary of State.)

(Copy for RSA)
Remitted to Mr. Parkin
(Answer to be taken to the Council)

as submitted
to the office

24 NOV 1938

COLONY OF KENYA.

Additional Instructions passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the Colony of Kenya in regard to the Legislative Council thereof.

Dated _____

ADDITIONAL INSTRUCTIONS to Our Governor and Commander-in-Chief in and over Our Colony of Kenya, or other Officer for the time being administering the Government of Our said Colony.

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Recites Instructions of 20th March, 1934, and Additional Instructions

And whereas We are minded to make other provision in regard to the constitution of the said Council:

Now, therefore, We do, by these Our Additional Instructions under Our Sign Manual and Signet, as from a date to be fixed by the Governor by notification in the Official Gazette of the Colony, revoke, without prejudice to anything lawfully done thereunder, the Sixteenth Clause of the said Instructions of the Twenty-ninth day of March, 1934, as set out in the said Additional Instructions of the Twenty-sixth day of May, 1938, and We do hereby direct and enjoin and declare Our will and pleasure that from the date so fixed, the said Instructions of the Twenty-ninth day of March, 1934, shall be construed as if the following Clause had been inserted therein instead of the Sixteenth Clause thereof:—

Replaces Clause XVI of Instructions of 20th March, 1934

XVI. The *ex officio* Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs, and of Commissioner of Lands and Settlement.

Ex officio Members of Legislative Council

Given at Our Court at Saint James's, this _____ day of _____ in the _____ year of Our Reign



28 July 1938.

Sir,

I have the honour to address you concerning the future arrangements in respect of the Department of Local Government, Lands and Settlement, and the Mining and Geological Department, in relation to general reorganization proposals which have already formed the subject of previous correspondence.

2. Sir Alan Pim recommended the abolition of the post of Commissioner for Local Government and the absorption of the work in the Secretariat, and, his recommendation having been accepted by this Government, it is the intention that the work shall be under the direct control of the Financial Secretary.

As regards the post of Commissioner of Lands, Sir Alan left this point somewhat vague, but I am satisfied that some officer in the position of a Commissioner of Lands is necessary, since the Colony's land is too valuable an asset to be left to take care of itself.

Sir Alan contemplated a continuance of the post of Commissioner of Mines, to be filled by a senior officer of the Administration.

3. In November, 1936, the Standing Finance Committee of the Legislative Council "strongly recommended that so soon as circumstances permitted... .. the Departments of Land and Mines should be combined under one Commissioner". This report was

accepted/

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON. S.W. 1.

3829/38

Handwritten signature (5)

accepted by the Government and it has therefore been since then the Government's declared policy to combine the two departments.

4. The matter has, however, recently received further consideration in the light of which it appears that in present circumstances this combination is undesirable. Apart from the question of personnel, which is difficult as there is no-one whom I could recommend as qualified to take charge of the combined Departments, I am convinced that it would not be in the interests of mining to put the Mining and Geological Department in a subordinate position. Mineral exports are at present third in the list of the Colony's exports, and there is some reason to believe that before long they may be first.

5. My Executive Council whom I have consulted is in agreement with this view and has accordingly recommended the creation of the post of Commissioner of Lands and Settlement, in substitution for the post of Commissioner for Local Government, Lands and Settlement, and that no action be taken at present to amalgamate this post with that of Commissioner of Mines.

The salary attached to the post of Commissioner for Local Government, Lands and Settlement was £1,350 per annum. Executive Council advises that for the new post of Commissioner of Lands and Settlement £1,200 per annum will be adequate and with this advice I am in agreement.

6. Subject to your sanction being accorded to these proposals I recommend Mr. C.E. Mortimer for appointment to the new post of Commissioner of Lands and Settlement as from 1st November, 1938, the date on which it is proposed that the transfer to the Secretariat

of the work in connection with Local Government will become effective.

Mr. Mortimer joined the Land Department in February, 1917, and in 1920 was appointed Land Assistant and Assistant Land Officer; in 1928 on the decentralisation of Land Administration and the establishment in the Secretariat of a Local Government and Lands Division he was appointed to the newly created post of Lands Secretary of which post he is still the substantive holder. Since Mr. Logan's departure on transfer in November last, Mr. Mortimer has filled, in an acting capacity, the position of Commissioner for Local Government, Lands and Settlement, and his services have been satisfactory in every way.

7. I am of opinion that, if these proposals are accepted, the Commissioner of Lands and Settlement should replace the Commissioner for Local Government, Lands and Settlement as an ex officio member of the Legislative Council, ranking, for the purpose of precedence, immediately after the Commissioner of Customs. I take this opportunity, therefore, of asking that His Majesty's sanction may be sought to the necessary amendment to Clause XVI of the Instructions passed under the Royal Sign Manual and Signet, dated the 29th day of March, 1934.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

H. B. Cooke-Popham
AIR CHIEF MARSHAL

GOVERNOR.