

1921

KENYA

84

37357

DATE

A.G. NOTLEY.

TEL.

369

25TH JULY.

26 JUL 21

CIRCULATION

SUBJECT

CUSTOMS IMPORT DUTIES AT MOMBASA.

Facts are as stated by B.E.A. Sorpn but only retrospective to 28th Jan. 1921. Law Officers advised that sale of goods paid in kind must be sufficient to realise duty leviable on ad valorem basis and Commr. of Customs was authorised by Gov. in Council on 26th Jan to act accordingly.

Previous Paper

MINUTES

*B. Dwyer*

I have discussed the matter with the Law Officers and they have advised that the sale of goods paid in kind must be sufficient to realise duty leviable on ad valorem basis and the Commr. of Customs was authorised by Gov. in Council on 26th Jan to act accordingly.

Under the present provisions of the Customs Act, the importer is liable to pay the duty in cash or in kind. If he pays in kind, the value of the goods is taken as the basis for the duty. It is suggested that the duty should be payable in cash and that the value of the goods should be taken as the basis for the duty.

The fact that the existing provisions are only retrospective for 1921 is immaterial from the point of view of principle, but on the basis that importers had always been liable for the full amount they are hereby notified that they have been notified here that they have

Subsequent Paper

It is a little amusing to  
recall the Chairman  
of the T. A. Section of  
the Chamber of  
Commerce, who  
concerns the Chamber  
of which he is Secretary  
President

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Recd 27/11

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Sir Edward

No doubt it can be contended, as Mr.  
Bottomley suggests, that under the new construction  
of Ordinance 1 of 1914 now given by the local Law  
Officers the Government already had power under  
that Ordinance to collect from persons paying in  
kind the balance of the ad valorem duty in cash,  
and on this construction no question as to giving  
the new Ordinance 2 of 1921 any retrospective effect  
arises.

You are on very weak ground as regards  
Ordinance 2 of 1921 having any retrospective effect.  
The Ordinance itself contains no provision enabling  
it to be applied retrospectively and I do not know  
what power the Governor in Council has (in the  
absence of any such provision) to give an Ordinance  
retrospective effect. It was this aspect of the  
matter to which the Chamber objected whilst  
recognising the right of the Legislature to alter  
the law (if not contrary to Treaty) for the future.

It therefore seems expedient to maintain  
that what has happened is not <sup>any</sup> retrospective  
application of the new Ordinance 2 of 1921, but the  
application of the 1909 <sup>Ordinance</sup> according to the new con-  
struction with retrospective effect from the 28th  
of January last - i.e. presumably so as only to  
cover duties which have become payable since that  
date and not so as to hit goods previously imported.

This is no doubt what is meant by the  
words "but only retrospective to 28th January, 1921"  
but if you communicate these words as they stand  
in the telegram to the Chamber they will no doubt  
revert to the point about the retrospective applica-  
tion of the new Ordinance 2 of 1921.

*Handwritten note:*  
The  
had  
the  
Complication

*Handwritten note:*  
the  
the

There is also a despatch of

14th July on its way and it would seem advisable to  
await its receipt before writing to the Chamber.

XIA

29/7/21  
Yes - send the  
copy. But we had better  
info. the copy is continuation  
of our ltr of the 19<sup>th</sup> July  
that we are doing so

at once.

A. J. H.

29/7/21

37357

TELEGRAM. From the Officer Administering the Government of Kenya to the Secretary of State for the Colonies.

(Dated 25th July.)

(Received Colonial Office 6.45 a.m. 26th July, 1921.)

369 25th July.

h13  
327

Your telegram 18th July my despatch 14th July. [Case in point British East African Corporation] facts are as stated but only retrospective to 28th January 1921. Law Officers advised that sale of goods paid in kind must be sufficient to realise duty leviable on advalorem basis and Commissioner of Customs was authorized by Governor in Council on 26th January to act accordingly.

NOTLEY.



# TELEGRAM

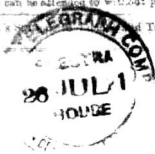
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*Via Eastern*

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ML 5.55 a.m.



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*Handwritten scribbles and initials.*

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CHAPELRIES LN =

369 JE STMONG R UNHEWN UNCATO SILVERGOD  
CANTATRIX BOTULOS CRISARGIRO FABEASER SHOWILY  
BUT ONLY RHINOSE TO JACKKNIFE YUKDROPGAS  
SILVERGOD LACTRATES ADARCIST ROBINEYS GOODS

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Doubtful words should be OFFICIALLY repeated. See Rule Book.  
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Examples, PW 3.45 p.m.  
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*Yda 93/4*

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CIPJUNALS COSTOMS WAS ARCHEUNIST GLUTTONOUS

IN JARKRUBT ANORRADO ABERRANED = NOTLEY

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21 3 August 1921  
JcDRAFT.

Sir,

Secy to the  
S.S.A. Corp. Ltd.

With reference to the letter

from the Dept. No. 35327 of the

MINUTE.

Mr.

Mr.

Mr.

Mr. Scudellie

Mr. H. Campbell

Mr. H. Bond

Mr. G. E. White

Mr. Wood

Mr. Marshall

19<sup>th</sup> of July regarding Customs

import duties at Mombasa,

I am to be inform you

in reply referring to your letter of the 18<sup>th</sup> of July  
that he proposes to ~~await the~~

pending the arrival of a despatch of ~~the~~~~the~~ of July from the ~~part~~ of

Kenya, ~~but~~ wh. he

understand ~~before~~

~~the way about~~

~~the way~~

already on its way

this country.

(Signed) M. S. S.