

DESPATCH

EAST AFR. PROT.

123  
28279

*cop.*  
*4989*

28279

23 AUG 09

Governor. No.

1909

9 July.

of Previous Paper.

*15165/9*

Instructions to Troops.

To copy of instructions slightly modified with memo by O/C Troop

*Col. Smith*  
Will you kindly minute this in the first instance?

H. J. R.

*24/100*

*Mr. Read.*

*Minute attached.*

*14. 21. 9. 09.*

~~Col. Thayer~~ *177*

~~Mr. Read.~~

In view of the circumstances mentioned in my minute on E.A./W.A. 26467/09, I think it is probable that the military members of the C.D.C. will insist upon the C.D.C. Memorandum No. 404/M

*Chief Conf. - 30 sent*

A.S.E.W. 2500-11-08

of subsequent Paper

77

being referred back to the Committee of Imperial Defence, in order that an authoritative ruling may be obtained on the policy of the employment of armed forces, before they will express an opinion on the regulations.

As the regulations really concern the C.O. alone, I suggest that, in the circumstances, it will probably be more convenient for the C.O. to proceed without consulting the C.D.C.

J.R.C.

9.12.

Spoke to Mr Read Col. Theriger. It was arranged that the C.O. should proceed as suggested above.

J.R.C.

9.12.

In view of the fact that Rules regarding the employment of Services have already been sent out, <sup>C.O. 61756</sup> that the "Duties in aid of Civil Power" is legislated for in H.A.R. Regulations and that as regards the other points, although approved on general principles, their application might tend to confuse the minds of both civil & military officers as pointed out in Colonel Gough's minute on this file. I suggest that these Draft Instructions be withdrawn and forwarded E.A.P. as required.

11/12/15

W. Fielder. So proceed?

1.12.15/16

Yes: see min  
on 26/4/17  
along

1) Although I am in thorough agreement with nearly every word of Mr. Lobb's memorial (C.O. 15165). I do not think the "Instructions and Rules for the Control of Expeditions, Patrols etc." are likely to assist at arriving at the happy state of affairs that Mr. Lobb wishes to see in our African Protectorates.

2) The section dealing with "Duties in Aid of Civil Power" are unnecessary, as this subject is already amply legislated for in the K.A.R. Regulations. Further instructions would be only apt to confuse Officers (both Civil & Military) as to their duties and responsibilities. The calling out of the military forces to aid Civil Power is always a ~~preliminary~~ <sup>preliminary</sup> proceeding and to be successful requires tact and firmness. The personal of the officers concerned is the really important factor, no amount of rules and instructions can replace the personal element. The existing regulations (K.A.R.) are quite sufficient.

3) With reference to the "Definition of Duties." I cannot see that the nomenclature proposed serves any useful purpose. The only exception ~~therein~~ is in the definition of the term "Expedition", I certainly think that this definition could be accepted with advantage, as there is a tendency in our African Protectorates to magnify every primitive affair into an "Expedition."

4) In any case the difference between an "Armed Insurrection" and a "General Disturbance" is so slight that it almost requires a legal mind to detect it. The same might be said of Punitive Patrol (a) and Punitive Patrol (b). I cannot see any object in attempting to ~~find~~ find suitable names for the different circumstances. The main thing to arrive at, is that these duties are carried out properly and above all that the local Governments make a proper use of the troops. ~~The~~

5) Before troops are employed, the Governor (or in cases of emergency the local Civil Officer) issues "Instructions" to the Officer commanding the troops to be employed. It makes no difference whether the duty comes under the name of "Punitive Patrol (a)" or "Punitive Patrol (b)" or even "Patrol", the Military Officer should be given his instructions laying down clearly the object, and scope of the duty and in some cases even the detailed method of procedure to be adopted. Now these "Instructions" ~~are~~ <sup>are</sup> ~~not~~ <sup>not</sup> ~~needed~~ <sup>needed</sup> and I do not think it is

and be most careful not to inflict unnecessary hardship upon them. But to lay it down as a hard and fast rule that an ultimatum is to be repeated seems to me to be going too far altogether.

10 Also at the end of sect III para 8, it is stated the responsible chiefs are to be promised their lives and that they will not be secured as prisoners. As a general rule or no doubt this procedure should be adopted, but on the other hand the whole object of employing the troops may be to effect the capture of certain the chiefs and possibly even to try them for their lives.

11. Para 9. deals with the relations between the civil & military officers, this subject has already been legislated for in the K. A. R. Regulations and I do not think any further instructions are required.

12. Para 19. states that prisoners are not to be retained after military operations. I agree with this also as a general principle but not as a hard and fast rule. It might be necessary to keep some prisoners as a pledge that the tribe will carry out the terms of peace agreed upon or it might be advisable to detain certain fiery spirits who would only stir up further trouble if released at once.

13 I much prefer the Instructions re the use of Native Devices contained in the D. of S. despatch no. 611 dated 4.12.08 to that contained in the paper under consideration. The Governor of E.A. has incorporated the former in his Modified Draft.

Although let

by the K.A.R.

31. 8. 09.

Captain Chancellor

I assume that the C.D.C. should now have their say on this, especially as it deals with the question of the use of Native Devices - a matter which has recently been under the cover of the C.D.C.

H. J. R.

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8279  
1893 AUG 09  
126

Governor's Office,  
Nairobi,  
July 16th 1908.

EAST AFRICA PROTECTORATE.  
Confidential (67).  
(Incl. 2.)

*4/2  
15/6/5*  
Amended  
Instructions.  
for Kirkpatrick  
June 1898

My Lord,

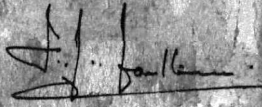
I have the honour to acknowledge the receipt of Your Lordship's Confidential despatch of May 14th enclosing a copy of Instructions as to the duties of troops in specified circumstances.

2. The instructions with some light modifications, which are embodied in the amended copy submitted herewith, can be readily adapted to the needs of this Protectorate.

3. I enclose a memorandum by the Officer Commanding Troops dealing with the considerations on which such alterations as have been made are based, and trust that Your Lordship will concur as to their desirability in view of local conditions.

I have the honour to be,  
With the highest respect,  
My Lord,

Your Lordship's most obedient,  
humble servant,



H.M. Principal Secretary of State  
for the Colonies,  
Downing Street,  
LONDON, S.W.

C. O.  
827127

INSTRUCTIONS FOR THE CONTROL OF EXPEDITIONS,  
PATROLS AND ESCORTS.

23 AUG 09

—00000—

I. DUTIES IN AID OF CIVIL POWER.

For "High Commissioner" read "H.E. The Governor" and  
for "Resident" read "Civil Officer".

\*7. It shall be the duty of a Resident to take such  
measure for the preservation of good order in his Province  
and to exercise such diplomatic or administrative functions  
therein as may be practicable in the circumstances of the  
case, and in execution of such general instructions as  
he may from time to time receive verbally or in writing  
from the High Commissioner. In the performance of all or  
any of such duties as aforesaid a Resident shall have the  
right to call upon all persons including the Military  
Forces of the Protectorate to assist him, "but except in  
cases of emergency, before troops are employed in aid of  
the civil power, the civil officer will obtain the sanction  
of superior authority. It is left to his discretion to  
decide whether the emergency exists".

8. In the exercise of the powers given to him by the  
foregoing sections, a Resident *and others*  
(a) shall not interfere with the interior economy or  
discipline of any body of troops, or the actual conduct  
of any Military operations; or with the formation or  
details of the force.

(b) In the event of armed insurrection or general  
disturbance in a Province rendering the use of Troops  
necessary



to denote military operations carried out with the sanction of the Secretary of State, and denoted as such by the High Commissioner, who will give orders as to the object and extent of operations.

Other operations where the assistance of troops is required will be classified as follows:-

- (a) Suppression or armed insurrection.
- (b) Suppression of general disturbance.
- (c) Punitive Patrols.
- (d) Patrols.
- (e) Escorts.

5. Armed Insurrection. This will be taken to mean a state of rebellion, or of open active interference with the execution of the Law by a large proportion of the community under arms, within districts under settled administrative control.

When armed insurrection actually occurs it is for the Resident to determine the extent to which troops are to be employed in its suppression. He will consult with the Officer Commanding Troops, who will state whether he has any military objection to the manner in which the Resident proposes that the troops should be employed; but the ultimate responsibility for their employment rests on the Resident, the Military Officer's responsibility being limited to seeing that proper military precautions are taken. It is for the Resident to determine whether "armed insurrection" necessitating the use of troops exists in his Province and whether the emergency is such that it is necessary to act without delay or prior reference to the High Commissioner; but the latter contingency should be of rare occurrence, now that the telegraph has been extended to nearly every province.

4. General disturbance. This will be taken to mean such a state of riot or lawlessness by a considerable proportion of the Community in districts under settled administrative control as to necessitate the employment of troops for its suppression. The regulations set forth above for the suppression of "armed insurrection" are equally applicable to "general disturbance".

5. Punitive Patrols. A "Punitive Patrol" may be :-

(a) A patrol sent into a settled country for the purpose of inflicting punishment.

(b) A patrol sent into an unsettled country with the definite object of inflicting punishment and when there is no intention of following such action by bringing the district under immediate administrative control.

Before sending a punitive patrol into a settled country, the sanction of the <sup>Government</sup> High Commissioner will, when practicable, and provided the case is not of great urgency, be obtained. In the case of punitive patrols into an unsettled country, the prior authority of the <sup>Government</sup> High Commissioner will invariably be obtained. It is for the <sup>Chief Officer</sup> Resident to determine (subject to the approval of the <sup>Government</sup> High Commissioner) in the case of a punitive patrol, the extent to which punitive action shall be taken.

6. Patrols. A "Patrol" will be taken to mean operations where no actual punitive action is intended; but where opposition may be met with.

"Patrols" will always be accompanied by a Political Officer, and the prior sanction of the <sup>Government</sup> High Commissioner must be obtained. The proximate cause of his permission for a patrol being given may be that the tribe inhabiting the district has made continued raids upon its neighbours who are under Government protection, but no one village may be more

immediately



immediately responsible for these raids than another, and the ignorance of the tribe of the prohibition of such raids renders their action ( which is in accord with their savage traditions ) far less reprehensible than similar outrages by tribes who well understand the liabilities they incur.

Permission may also be accorded when no outrages have occurred, in the endeavour to peaceably open up a district hitherto closed to civilising agencies. In both cases, but more especially of course, in the latter every possible effort will be made to avoid any friction or hostilities. The patrol will march slowly, and not alarm the people by a sudden appearance in their midst. The Political Officer will always send peaceable and conciliatory messages ahead; but, if hostilities should take place, he will exercise the greatest leniency, and any fine he may consider necessary will be nominal in amount. No patrol will be sanctioned unless the Resident in charge of the Province is prepared to leave one of his staff to effectively administer the district. The Resident with the approval of the High Commissioner, will arrange with the O.C. Troops for occasional "patrols" through districts thus newly brought under administrative control.

7. Escorts. This word will be used when no opposition is expected, and may be used of any number of Troops. When constabulary are not available, a Resident may requisition troops as an escort for himself or other Civil Officers or for specie or prisoners. Except in cases of urgency or emergency, the prior authority of the High Commissioner

will

will be obtained for the use of troops.

### III. PROCEDURE.

8.) Procedure when force is to be used. Before force is actually resorted to, an ultimatum should be delivered, with a clear intimation that its disregard beyond the time limit assigned will result in forcible measures. The ultimatum should consist of a demand for the due performance within a specified time of a specific act or acts capable of being performed within that time by the Chief or Headman to whom the ultimatum is sent. The greatest care must be taken that he and as many of his people as possible clearly understand what it is they are required to do or to refrain from doing and which has given rise to the ultimatum being sent, and also that they understand the nature of the punishment which it is intended to inflict should the ultimatum be disregarded, e.g. when police sent to effect arrest have been fired upon or threatened and, as a consequence, have failed to effect their object the ultimatum should consist of a demand for the surrender within a specified time of the accused and of the persons who have shielded him or who fired upon or threatened the police, and the consequences of failure to comply with the demand should be plainly stated.

If the demands of the Political Officer are refused the troops will at his request, be despatched to the immediate locality concerned, the ultimatum will be repeated, and if still disregarded, the O.C. Troops will be directed to take action. Time having been allowed for the non-combatants to escape, the troops would then advance, but no fire should be opened until the troops are attacked

attacked or it is evident that an attack is imminent. Every effort should be made to avoid bloodshed.

An Officer or experienced British Non-Commissioned Officer will always be personally in command of troops when action has to be taken. If a British Non Commissioned Officer is in command he must have definite orders in writing, especially as to the circumstances under which he is justified in opening fire. Should such written instructions be impossible, his oral orders will be most definite and precise. Under no circumstances will operations be conducted by native troops without a European, nor will they be sent to effect an arrest or carry out any other object which will probably involve opposition, unless accompanied by a European. In the event of resistance being met with, as soon as this has been broken down, the first object will be to secure some individuals as messengers to the defeated people. These will be sent to call the responsible Chiefs with a promise that their lives will be safe and that they will not be secured as prisoners.

8. Political Officer not to interfere with Military Detail.

9 The Resident or other Civil or political Officer is not authorised to interfere in any way with the formation or details of the force, the Military Officer being held responsible for the success of the operations to be undertaken; and it is for the latter, and for him alone, to judge in what manner the troops can effect the object which the Civil Officer has indicated and to direct the force in the execution of the service in which he is engaged.

10 If, however, the Military Officer should consider

his

his force inadequate for the performance of the service required, or the service itself impracticable or likely to end in disaster on purely military grounds, it would be competent for him to decline to accede to the requisition; but, in so doing, he must be prepared to justify his refusal to the satisfaction of the <sup>Governor</sup> ~~High Commissioner~~.

It is for the <sup>Chief Officer</sup> ~~Resident~~, and for him alone, subject to the approval of the <sup>Governor</sup> ~~High Commissioner~~ to judge of the policy, the justice, or the necessity for calling upon the military Commander for the service of the troops under his command; and he is not called upon in duty, either to justify his conclusions, or to communicate his reasons to the military officer to whom he may address the requisition for troops. Although such manifestations of confidence and cordiality are always to be desired, he is only required by strict duty to state distinctly (in writing) the service he desires to see performed, and the necessity of troops for the purpose, and to afford such further information as may be necessary to enable the officer in command efficiently to perform the service he is called upon to execute.

10. Prisoners not to be retained. After military operations no prisoners of war will be retained, except for a few hours, or at most, a day, for the purpose of sending them as messengers to their people in their hiding places, or for a day or two, as temporary guides.

11. Despatches and Reports. (other than "Progress Reports") will be furnished as set forth.

12. Returns will be furnished as set forth in <sup>an</sup> Intelligence Officer will be detailed. This only refer to "Expeditions."

*Employment of*

Native Levies.

- position numbers. (1) When an expedition is to be undertaken the Officer Commanding Troops will receive instructions from H.E. The Governor prior to the commencement of operations regarding the number of levies to be employed and the tribes from which they are to be drawn. The number of levies with a Field Force will be kept as low as possible and they will not ordinarily exceed  $1/3$  of the Military Force employed.
- es. (2) The duties of levies will be principally reconnaissance work and the guarding and driving of captured stock.
- oyed (3) Natives required to act with an expedition as guides or messengers or for intelligence purposes (such persons being necessarily inhabitants of or acquainted with the sphere of operation) shall be under the control of the Intelligence Officer.
- Intelligence ment. (4) All levies (other than those mentioned in Rule 2) shall be in charge of a Military Officer specially detailed for that duty or of a Political Officer, and if required for fighting shall be composed of ex-soldiers and ex-policemen of good character and persons accustomed to discipline to such an extent as may be available.
- employ- or other es ing ng. (5) Natives, employed in the manner indicated in Rules 3 & 4 shall be paid for their services at an authorised rate and their numbers shall be limited to the strength laid down in orders.
- nt etc. (6) Looting in any form is absolutely forbidden.
- (7) Special rewards shall only be given on the recommendation of Column Commanders and shall be:-

to natives mentioned in rule 3 in the form of money only; to those mentioned in rule 4 either in money or out of the proceeds of capture, stock as may be considered advisable under the existing circumstances.

13. Progress Reports. Officers in command of military operations, irrespective of whether they are classed as an "Expedition" or otherwise, will report as fully and frequently as circumstances demand or admit of, to the Commandant, for the information of the High Commissioner.

The Political Officer will similarly report to the Resident of the Province invariably repeating any telegraphic report direct to the High Commissioner

15. Opponent's casualties. As precise an estimate as the circumstances admit of will be made of the casualties on the side of the opponents in every case where the troops are actively employed. The Officer in Command will furnish this report through the proper channel to the Commandant for the information of the High Commissioner, and the Political Officer will furnish a similar report to the Resident in charge of the Province, repeating such as above, to the High Commissioner.

14. Political Officer to accompany troops. The Resident in charge of a Province wherein troops are engaged in military operations should, when practicable, accompany the troops. When this is impracticable he will give instructions (in writing) to one of his staff to act for him. Patrol must always be accompanied by a Political Officer.



136A

INCLOSURE No. 2

In Despatch No. 64 of July 1889

Enclosure

MEMORANDUM.

—0000—

I enclose a copy of the Instructions for the control of Expeditions, Patrols and Escorts with such additions, omissions and alterations made as I consider advisable in order to meet local conditions.

In explanation of such additions I beg to make the following remarks:-

For "Resident" read "civil officer" throughout. It is possible a district might be in charge of an official under the rank of "resident" and occasion arise for him to call upon the services of the Military to assist him in the execution of his duties.

3. Duties in aid of Civil Power,

Section 7. Residents Proclamation 1800.

See my additional sentence at end of paragraph. This sentence is taken from the King's African Rifles Regulations and should I think be inserted to guard against a junior civil official possibly making an injudicious use of his powers.

4. Section 8.(a) The addition here made defines more clearly the duties of each power civil and military.

5. Section 8.(b) The addition here, also taken from the King's African Rifles Regulations, although contained in paragraph 9 of these instructions viz "Political Officer not to interfere with Military Detail" should I think be inserted in this paragraph as what applies to a Political Officer should also apply to any Civil Officer

officer when calling on the Troops to assist him in carrying out his duties. 133

As the paragraph now stands, a Military Officer, though he may consider, that orders given him are open to military objection, is bound to obey them, and in the event of a disastrous result, such as the loss of his life or those of his men, it is not of much material use to him that the responsibility for such disaster rests with the Civil Officer.

6 Para:7 Escorts. I would recommend the deletion of the words " as escorts .....less than twelve", as I consider it better that any Military escort, no matter what its strength. should first receive His Excellency the Governor's sanction except in cases of emergency. I do not think it right that a junior civil officer should have the power to call upon the Military to supply even small escorts on any occasion on which he may see fit. Such is likely to lead to an abuse of power.

7 Para:10 - Prisoners not to be retained.

I do not understand this.

Surely the advisability of the retention or non-retention of prisoners depends upon the situation and it should rest entirely with the Political Officer to say whether prisoners are to be retained or not.

8 Para:11. Native Levies.

I have inserted the conditions under which native levies may be employed, as sanctioned by H.M. Secretary of State for the Colonies in his despatch No.611 dated 4th December 1908.

Sd/- H.F. KIRKPATRICK MAJOR  
Officer Commanding Troops, E.A.P.

Nairobi, 23rd June 1909.

for East

set

30 Dec 07

Long

Sir

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I have the honor

DRAFT.

Capt. Giffard  
to Mr. P. Giffard

to ask the receipt of  
to Jackson's <sup>no 67</sup>  
~~your~~ Capt. Giffard of the  
19th July, and to inform

MINUTE.

- Mr. ~~W.B.~~ <sup>W.B.</sup>
- Mr. Butler 23
- Mr. <sup>W.P.</sup> Fiddes
- Mr. Just.
- Mr. Cox.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely.
- Lord Crewe.

you that, in consideration  
I am of opinion that there  
is no need to adopt a  
Capt. Giffard's instructions for the  
Control of Expeditions  
Reports on the lines of

These were  
framed by Sir  
P. Giffard,  
so he will no  
doubt press for  
their adoption  
in the G.P.  
staffs.

these which were drawn  
to my <sup>attention</sup> of the 14th  
May last.

Speaking  
of Butler  
with the  
staff  
of the  
G.P.  
staffs

I have the