THE

SPECIAL

OFFICIAL GAZETTE

OF THE

EAST AFRICA PROTECTORATE.

Published under the authority of His Excellency the Governor of East Africa.

Vol. XII.—No. 256*a*.] NAIROBI, JULY 13, 1910. [PRICE 20 CENTS.

His Excellency has approved of the following bills being introduced at the next meeting of the Legislative Council.

H. W. GRAY,
Clerk to the Legislative Council.

TABLE OF CONTENTS.

A Bill

Intituled.

An Ordinance to make provision for the Registration of vessels Navigating Lake Victoria.

A Bill.

Intituled.

An Ordinance to make provision for the Registration of vessels Navigating Lake Victoria.

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1. This Ordinance may be cited as "The East Africa Registration of Lake Vessels Ordinance 1910" and shall come into operation on such date as the Governor, by notification in the "Official Gazette," shall determine. Short Title.

2. In this Ordinance— Interpretation.

"Vessel" means any description of vessel used in navigation;

"Prescribed" means prescribed by any rule or order under this Ordinance;

"Master" includes every person (except a pilot) having command or charge of any vessel.

3. Every vessel employed in navigation in the waters of Lake Victoria within the Protectorate, which belongs to, or is used by any person residing in the Protectorate, or to any Company or partnership carrying on business therein, shall unless exempted, be registered, lettered, and numbered in manner hereinafter provided. Obligation to register.

4. Every application for registration of a vessel shall be in writing, and in the Form A in the Schedule hereto, or to that effect, and shall be sent or delivered to the prescribed Officer. Application for registry.

5. For purposes of registration, numbering, and lettering, vessels shall be divided into three classes:— Classes of vessels.

1st Class:—Vessels of 15 tons burthen and upwards;

2nd Class:—Vessels of less than 15 tons burthen, navigated otherwise than by oars, paddles, or poles only;

3rd Class:—Boats navigable by oars, paddles, or poles only;

Provided that the officer to whom the application to register is made may, if he thinks proper, place any small vessel occasionally navigated or propelled by sail in the 3rd instead of the 2nd class.

6. On the receipt of the application and of the prescribed fee the prescribed Officer shall, after inspecting the vessel, register her in the Register of Shipping, which shall be in the Form B in the Schedule hereto, or to that effect, and shall contain the particulars therein appearing. Registration.

7. On registration of the vessel such Officer shall issue to the applicant a certificate of registry in the Form C in the Schedule hereto. Certificate of registry.

8. Once in every year the owner of every vessel shall submit his certificate of registry for examination by the prescribed officer, who shall sign his name on the back of the said certificate, together with the date of examination, as a record of its authenticity and correctness. Annual examination of certificate.

9. On change of ownership a fresh certificate of registry must be applied for, and the former certificate be given up, in order that the same, together with the former registry, may be cancelled; and on a change of master due notice shall be given of such change, which shall be duly noted in the Register, and be indorsed on the certificate of registry. A failure on the part of the owner of any vessel to comply with the requirements of this section shall subject the owner to the same penalties as would have been incurred if the certificate of registry had never been applied for. Change of ownership or master.

10. The master of every vessel registered under this Ordinance shall have the certificate of registry on board his vessel at all times; and any master not having such certificate on board, or failing to produce the same when required, as provided by Section 20 of this Ordinance, shall, in the absence of any reasonable excuse (proof whereof shall lie on him), be liable, together with his vessel Certificate to be kept on board.

and crew, to be taken by the commander of any ship belonging to the Government of the Protectorate, without warrant, summons, or other process, into the nearest or most convenient port or place, and there to be ordered by a Court on any proceeding in a summary manner to pay a penalty not exceeding three hundred Rupees.

No change in name after registration.

11. After registration no change shall be made in the name of any vessel.

Lettering and numbering.

12. Every vessel shall be lettered and numbered.

Position and dimensions of letters and numbers.

13. The letter or letters and number shall be placed on each bow of the vessel, 3 or 4 inches below the gunwale.

The breadth of the paint of the letters and number shall be : for vessel of 1st Class, $2\frac{1}{2}$ inches ; for vessels of the 2nd and 3rd Classes, $1\frac{3}{4}$ inches.

The height of the letters and numbers shall be : for vessels of the 1st Class, 18 inches ; for vessels of the 2nd and 3rd Classes, 10 inches.

The same letter or letters and number shall also be placed on each side of the mainsails of the vessel.

Ships boats to be lettered and numbered.

14. When vessels carry, or have attached to them, small boats, as tenders or otherwise, such boats must be marked with the same numbers and letters as the vessels to which they belong.

Name on stern.

15. All vessels, of whatever class, shall have their names, and those of the ports or places to which they belong, painted on the outside of the sterns in letters which shall be at least 3 inches in height.

Letters, &c., not to be effaced.

16. The letters, numbers and names placed on vessels, and on the sails of vessels, shall be clearly painted in white paint on a dark ground, or in black paint on a light ground, and shall not be effaced, covered, or concealed in any manner whatsoever.

Penalty for non-registration, &c.

17. If any vessel required to be registered, lettered and numbered, in pursuance of this Ordinance, is not so registered, lettered and numbered, in the manner prescribed, the owner and the master shall each be liable to a penalty not exceeding Rupees 300, and the commander of any ship belonging to the Government of the Protectorate or Customs Officer may seize and detain such vessel, and prevent her from proceeding on her voyage and from being employed as aforesaid until it is duly registered, lettered and numbered; and may, for that purpose, take it back into the nearest or most convenient port or place within the Protectorate.

Names, &c., to be inserted in documents.

18. The names, letters and numbers of vessels shall be inserted on the certificate of registry or other official papers of those vessels.

Certificates.

19. The certificate of registry or other official papers of vessels shall contain the description and tonnage of each vessel, as well as the names of its owner and of its master.

Papers to be produced.

20. The master shall whenever required, exhibit his certificate of registry to the commander of any ship belonging to the Protectorate or to a Customs Officer.

Certain officer to see to the execution of the requirements of this Ordinance.

21. The execution of the requirements of this Ordinance concerning certificates of registry, the lettering and numbering of vessels, is placed under the supervision of the prescribed officer and of the commanders of vessels belonging to the Government of the Protectorate, and all other officers designated by the Governor for that purpose.

As to effect of registry.

22. In all proceedings against the owner or master of or any person belonging to any registered vessel for offences against this Ordinance, and in all actions or proceedings for the recovery of damages for injury done by any such vessel, such register shall be conclusive evidence that the persons registered at any date as owners of such vessel were at that date owners thereof, provided that—

(1) This provision shall not prevent any proceedings or action being taken or instituted against any person not registered who is beneficially interested in the vessel;

(2) This provision shall not affect the rights of the owners among themselves, or the rights of any registered owner against any person not registered who is beneficially interested in the vessel;

(3) Save as aforesaid, the registry of any vessel shall not confer, take away, or affect any title to or interest in the vessel.

23. All penalties, offences, and proceedings under this Ordinance may be recovered, prosecuted, and taken in a summary manner in any Court of the Protectorate. Mode of recovering penalties.

24. The Governor may by rule or order— Rules and orders.

(*a*) Exempt any vessel or class of vessels from the operation of this Ordinance or any part of it;

(*b*) Appoint such Officer or Officers as he may think fit to perform the duties and exercise the powers of the prescribed Officer.

(*c*) Prescribe any matter which by this Ordinance is intended to be prescribed;

(*d*) Generally give any directions necessary or expedient for carrying this Ordinance into effect; and

(*e*) Prescribe the fees to be taken under this Ordinance.

Schedule.

Form A.

Application to register a Vessel under "The East Africa Registration of Lake Vessels Ordinance, 1910.

Port of Letter

The

Port or place to which belonging

Owner

Master

Description of vessel, how rigged, what sails used, &c.

Ordinary mode of employment

Tonnage

Length of keel

No. of boats

No. of men usually employed.

No. of Boys

Signature of applicant

Residence

Form B.

REGISTRY OF VESSELS.

Under "The East Africa Registration of Lake Vessels Ordinance, 1910."

Port of

Date of Registry.	Name of Vessel.	Port or place to which belonging.	Name of Owner.	Name of Master.	Description of vessel how rigged, what sails used, etc.	Ordinary mode of employment.	Registered No.			Tonnage.	Size length of keel.	No. of crew usually employed.			Remarks.
							1st Class.	2nd Class.	3rd Class			No. of boats.	Men.	Boys.	

Form C.

CERTIFICATE OF REGISTRY.

(Under "The East Africa Registration of Lake Vessels Ordinance, 1910.)

Name
of
Owner
Master
Registered No.

Signature of Registering Officer.

Date.

A Bill

Intituled.

An Ordinance to provide for the Registration of Domestic and certain other Servants.

A Bill.

Intituled.

An Ordinance to provide for the Registration of Domestic and Certain other Servants.

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1. This Ordinance may be cited as "The Registration of Domestic Servants Ordinance 1910" and shall come into operation in such towns, districts or areas of the Protectorate, and from such date or dates as may, from time to time, be prescribed by the Governor by Proclamation published in the "Official Gazette." Short Title and Commencement of Ordinance.

2. (1) The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there be something in the subject matter or context repugnant to such construction:— Definitions.

"Master" shall include every person having servants in his employ.

"Servant" and "Servants" shall mean domestic servants, cooks, gun-bearers, safari headmen, coachmen, horsekeepers, head gardeners, messengers, rickshaw and garri boys, and such other employees as the Governor, by Proclamation in the "Official Gazette," shall declare to be included in the said term.

Provided that—

(*a*) No person who is hired for a period less than one month; and

(*b*) No person who is neither a Native of Africa not being of European race or origin nor an Asiatic shall be deemed to be included in the said term.

(2) In this Ordinance words importing the masculine may be construed as referring to females.

3. It shall be lawful for the Governor from time to time as occasion may require, to appoint for the Protectorate or for any town, district or area in which this Ordinance may be brought into operation a Registrar of Domestic Servants, who shall be under the general supervision of the Commissioner of Police. Governor shall appoint Registrar who shall be under supervision of Commissioner of Police

Existing Servants.

4. Within one month of this Ordinance coming into operation in any town, district, or area it shall be the duty of every employer of servants to cause such servants in his employment to be registered in the Register of Servants for such town, district or area and for this purpose he shall furnish to the Registrar in writing a list showing the names, capacity in which employed, and date of engagement of each of his servants. Masters to cause servants to be registered.

5. It shall be the duty of every servant to attend personally, within three months after the coming into operation of this Ordinance, before the Registrar and furnish him with information as regards his age, country, previous service and such other particulars as the Registrar may require. Servants to attend personally.

6. The Registrar shall, on such servant so attending, hand to him a pocket register, in which shall be entered the particulars of his or her present engagement and such memorandum of previous service or antecedents of the applicant as he or she may desire to have recorded in the register. Provided that the Registrar shall not make any such antecedent entry without satisfying himself of the credibility of the statements tendered to him for entry. To procure pocket Register.

7. If any servant returned by any master to the Registrar, as provided for in Section 4, shall leave the service of such master within 3 months of the Servants quitting employment before pocket registers supplied.

coming into operation of this Ordinance and before obtaining a pocket register, such master shall transmit to the said Registrar a memorandum of date and cause of such servant quitting his employment.

Intending Servants

Application for domestic service.

8. It shall be the duty of the Registrar to receive applications from persons desirous to enter service as servants. He shall satisfy himself that there are reasonable grounds to believe such applicants to be fit and proper persons to enter such service; and if so satisfied, shall register them in the general registry, recording what he has been able to learn respecting their antecedents, and the names of any persons who certify to their respectability. And he shall thereupon issue pocket registers to such applicants which shall contain the particulars of the record in the general registry.

Registrar may grant provisional registration.

9. If the applicant can produce no sufficient evidence as to his fitness for domestic service, the Registrar may grant provisional registration, to be thereafter converted into confirmed registration, according to the result of subsequent service.

Registrar may refuse, but must report refusal to Commissioner of Police.

10. If the registrar be satisfied, that the applicant is not a fit and proper person, he may withhould registration altogether; but it shall be his duty in such case to submit the same to the Commissioner of Police for his approval.

Registration to be refused to convicted offenders &c.

11. The Registrar shall not grant registration to any convicted thief or associate of thieves, or to any person known to the police to be leading a disorderly or disreputable life or who shall have been convicted of any infamous crime. Provided that the Registrar may grant registration to any person from whom it may have been so withheld, on the application of any householder who may be willing to give such person a trial; provided that the Registrar is satisfied of the respectability of such householder, and that the intention to engage such person as a servant is a *bona fide* one.

General Regulations.

Master not to engage unregistered servant.

12. After the coming into operation of this Ordinance in any town, district or area, no master resident therein shall engage a servant who shall fail to produce his pocket register in evidence of his being registered or whose pocket register shall not record the termination of his last previous service if any.

Master to enter engagement in pocket register.

13. On engaging a servant, every master shall forthwith enter in the pocket register the date and capacity in which such servant is engaged, and shall cause the servant to attend personally at the Registrar's Office to have the entry inserted in the general registry.

Master to enter discharge.

14. Every master shall, on the cessation of the engagement of a servant, thereupon insert in the pocket register, the date and cause of the cessation of the engagement and the character of the servant, and if the servant be dismissed, the cause for such dismissal. Provided that if for any reason he be unwilling to give the servant a character or to state the cause of dismissal, he may decline to do so; but in that case he shall furnish to the Registrar in writing his reasons for so refusing. Provided further that if the Master be unable to enter the cessation of the engagement through failure of the servant to produce the pocket register, he shall report the fact to the Registrar.

Servants to attend at Office of Registrar for pocket register entries to be transferred to to the general register

15. Every servant shall, within 15 days after the date of any entry in his pocket register, attend personally at the Office of the Registrar of Servants, for the purpose of having such entry recorded in the general register.

Servants to exhibit pocket registers to police.

16. It shall be the duty of every registered servant to produce his pocket register when called upon to do so by the police.

Registered servants entering service in places not brought under Ordinance.

17. Every servant registered under the provisions of this Ordinance shall, if he subsequently enter service in any place not under its operation, attend personally at the nearest police station on his entering or leaving such service, and produce his pocket register to the officer in charge of the police at such station. And the said officer of police shall record such commencement or termination of service, and communicate the same to the Registrar of Servants for the town, district or area in which such servant was originally registered.

18. It shall be the duty of any employer of domestic servants not resident in any town, district or area under the operation of this Ordinance who shall engage or discharge a registered servant, forthwith to enter the engagement or discharge of such servant in the pocket register in the manner prescribed in 13th and 14th sections of this Ordinance relating to engagement or discharge of servants in places brought within the operation of this Ordinance. Masters in places not under Ordinance.

19. It shall be lawful for the Registrar to issue duplicate pocket registers to replace the originals which may have become worn out or which may have been lost or destroyed. Duplicate pocket register.

20. The Governor may make rules for the better carrying out of the intentions of this Ordinance. Rules.

Penalties.

21. (1) Any master committing any of the following acts shall be held to be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding twenty Rupees. Liability of Master.

(*a*) Failing to furnish to the Registrar within one month after this Ordinance shall have come into operation in any town, district or area the list specified in Section 4.

(*b*) Failing to transmit to the Registrar a memorandum of date of a servant quitting his employ, as required by Section 7.

(*c*) Engaging a servant after this Ordinance shall have come into operation, who shall fail to produce his pocket register, or whose pocket register sball not record the termination of the last pervions service, if any, as provided by Section 12.

(*d*) Failing to enter in the pocket register the date and capacity in which a servant is engaged as required by Section 13.

(*e*) Failing to enter in the pocket register the date of the cessation of an engagement, and the cause of such cessation, as required by Section 14.

(*f*) Declining to give his servant a character, and failing to furnish to the Registrar his reason for so refusing.

(*g*) Declining to enter in the pocket register the cause of the dismissal of a servant, and failing to furnish to the Registrar his reason for so refusing.

(*h*) Engaging or discharging a registered servant in any town district or area not under the operation of this Ordinance, without entering such engagement in the pocket register as required by Section 18.

(2) Any servant committing any of the following acts shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding twenty Rupees:— Liability of servant.

(*a*) Failing to attend the Registrar and give him the information required by Section 5.

(*b*) Failing to produce his pocket register when requested to do so.

(*c*) Having been once registered under the provisions of this Ordinance, and yet entering or leaving service thereafter in any place not under the operation of this Ordinance. without having attended at the nearest police station and producing his pocket register as required by Section 17.

(3) Any servant who shall give false information on any matter in which he is required by this Ordinance to give information to the Registrar of Servants or to any other person shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding fifty Rupees or to imprisonment of either description for a term not exceeding 3 months. Servant giving false information.

(4) Any person committing any of the following acts shall be guilty of an offence and shall, on conviction, be liable to imprisonment of either description for a period not exceeding 12 months or a fine not exceeding five hundred Rupees or both. Other persons for injuring registration documents.

(*a*) Wilfully destroying or injuring any register book or document, or causing any such book or document to be destroyed or injured.

(*b*) Falsely making or counterfeiting or causing to be falsely made or counterfeited any part of a register book or document.

(*c*) Wilfully inserting or causing to be inserted in any register book or document or certified copy thereof, any false entry.

(*d*) Wilfully giving a false certified copy of a register book or causing such certified copy to be given.

Fees.

22. The following fees shall be levied; such fees to be paid by the master, or servant or intending servant, in stamps to be attached to the pocket register :—

	Rs.	Cts.
Fee payable by master on causing an existing servant to be registered	0	25
Fee payable by master on engaging a new servant ...	0	25
Fee payable by intending servant on provisional registration.	0	25
Fee payable by intending Servant on registration being confirmed	0	25
Fee payable by servant for the registration of previous service or antecedents	0	25
Fee payable by a servant for a duplicate pocket register ...	1	00

A Bill

Intituled

An Ordinance to amend the East Africa Marriage Ordinance 1902.

A Bill

Intituled.

An Ordinance to amend the East Africa Marriage Ordinance 1902.

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1. This Ordinance may be cited as "The East Africa Marriage Amendment Ordinance 1910" and shall be read as one with the East Africa Marriage Ordinance 1902, hereinafter referred to as the Principal Ordinance. Short Title.

2. The Principal Ordinance shall be and is hereby amended as follows :—

(1) By the deletion from Clause (*d*) of Section 11 of the aforesaid Ordinance of the words "neither of the parties to the intended marriage" and by the substitution therefor of the words ", if either of the parties is a person subject to Native law or custom, neither of the parties so subject."

(2) By inserting in Section 33 Sub-section (1) of the aforesaid Ordinance after the words "either of the parties thereto" the words ", being a person subject to Native law or custom,".

(3) By inserting in Section 35 of the aforesaid Ordinance after the words "in accordance with any native law or custom" the words "by persons subject to such law or custom,".

(4) By inserting in Section 51 of the aforesaid Ordinance after the first word of the said section the words ", being a person subject to native law or custom,".

(5) By inserting in Section 52 of the aforesaid Ordinance after the first word of the said section the words ", being a person subject to native law or custom,".

3. For the purposes of this Ordinance every Native shall be deemed to be "a person subject to native law or custom" notwithstanding that he or she may not be subject to native law or custom for other purposes. All natives to be subject to native law or custom for the purposes of this Ordinance.

A Bill

Intituled.

An Ordinance to amend the Wakf Commissioners Regulations.

A Bill

Intituled.

An Ordinance to amend the Wakf Commissioners Regulations.

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1. This Ordinance may be cited as "The Wakf Commissioners Regulations Amendment Ordinance 1910". Short Title.

2. The Wakf Commissioners Regulations (No. 29 of 1900) shall be and are hereby amended as follows :—

By the deletion from Section 3 of the aforesaid Regulations of the words "not more than three persons" and by the substitution therefor of the words "such number of persons, as the Appointed Commissioners may deem necessary,".

A Bill

Intituled.

An Ordinance to provide for the protection of persons acting in the Execution of Public Duties.

A Bill.

Intituled.

An Ordinance to Provide for the Protection of persons acting in the Execution of public Duties.

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1. This Ordinance may be cited as "The Public Officers Protection Ordinance 1910". Short Title.

2. Where after the commencement of this Ordinance any action, prosecution or other proceeding is commenced against any person for any act done in pursuance or execution or intended execution of any Ordinance or other law or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Ordinance, duty or authority, the following provisions shall have effect:— Actions etc. against public officers: provisions as to.

(*a*) The action, prosecution or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect or default complained of, or in the case of a continuance of injury or damage, within three months next after the ceasing thereof; provided that if the action, prosecution or proceeding be at the instance of any person for cause arising while such person was a convict person, it may be commenced within six months after the discharge of such person from prison.

(*b*) Whenever in any such action a judgment is obtained by the defendant, it shall carry costs to be taxed as between pleader and client.

(*c*) Where the proceedings is an action for damages, tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded. If the action was commenced after the tender, or is proceeded with after payment into Court of anv money in satisfaction of the plaintiff's claim, and the plaintiff does not recover more than the sum tendered or paid, he shall not recover any costs incurred after the tender or payment, and the defendant shall be entitled to costs, to be taxed as between pleader and client, as from the time of tender or payment; but this provision shall not affect costs on any injunction in the action.

(*d*) If, in the opinion of Court, the plaintiff has not given the defendant a sufficient opportunity of tendering amends before the commencement of the proceeding the Court may award to the defendant costs to be taxed as between pleader and client.

This section shall not affect any proceedings by the Government or any department of the Government against a Municipal Council or other local authority, or an Officer of a Municipal Council or other local authority.

3. On the coming into operation of this Ordinance Section 424 of the Indian Civil Procedure Code in so far as it relates to an action against a public officer shall cease to apply to the Protectorate. Repeal.

A Bill

Intituled.

An Ordinance to make provision relating to suits by and against the Government and to the costs thereof.

A Bill.

Intituled:

An Ordinance to make provision relating to suits by and against the Government and to the costs thereof.

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1. This Ordinance may be cited as "The Petitions of Right Ordinance, 1910". Short Title.

2. Claims by the General Government of the Protectorate against any private person shall be brought by the Crown Advocate or by any Officer authorised by law to prosecute such claims on behalf of Government. Claims by Government against private parties.

3. All claims against the general Government of the Protectorate, being of the same nature as claims which may be preferred against the Crown in England by petition, manifestation, or plea of right, may, with the consent of the Governor, be preferred in the High Court in a suit instituted by the claimant as plaintiff against the Crown Advocate as defendant, or such other Officer as the Governor may, from time to time, designate for that purpose. Claims by private parties against the Government.

4. The suit shall be commenced by the filing of a plaint in the High Court and the delivering of a copy thereof at the Office of the Crown Advocate or other Officer designated as aforesaid, but unless and until the consent of the Governor to the suit shall have been granted as hereinafter provided no fee shall be levied on the filing of the plaint and a summons shall not be issued to the defendant. How suit commenced.

5. The Registrar of the High Court shall forthwith transmit the plaint to the Secretary to the Administration and the same shall be laid before the Governor. In case the Governor shall grant his consent as aforesaid, the plaint shall be returned to the High Court with the fiat of the Governor endorsed thereon, and the claim shall be prosecuted in the High Court. Fiat of Governor.

6. All documents which in a suit of the same nature between private parties would be required to be served on the defendant shall be delivered at the Office of the Crown Advocate or other Officer designated as aforesaid. Service of documents.

7. Whenever in any such suit a decree shall be made against the Government, no execution shall issue thereon, but a copy of such decree under the seal of the Court shall be transmitted by the Court to the Governor, who, if the decree shall be for the payment of money, shall, by warrant under his hand, direct the amount awarded by such decree to be paid, and in case of any other decree shall take such measures as may be necessary to cause the same to be carried into effect; or, in case he shall think fit, he may direct that any competent appeal shall be entered and prosecuted against such decree. Judgment and proceeding thereon.

8. So far as the same may be applicable, and except in so far as may be inconsistent with this or any other Ordinance, all the powers, authorities, and provisions contained in the Civil Code of Procedure for the time being in force, and the practice and course of procedure of the High Court, shall extend and apply to suits and proceedings by or against the Government, and in all such suits costs may be awarded in the same manner as in suits between private parties. Procedure and Costs.

9. On the coming into operation of this Ordinance Chapter 27 of the Indian Civil Procedure Code in so far as it relates to suits by or against the Government shall cease to apply to the Protectorate. Chapter 27 of Indian Civil Procedure Code to cease to apply to the Protectorate.

Provided, however, that any suit by or against the Government of the Protectorate commenced before the coming into operation of this Ordinance may be prosecuted as if this Ordinance had not been made. Proviso.

A Bill

Intituled.

An Ordinance to amend the Collective Punishment Ordinance 1909.

A Bill

Intituled.

An Ordinance to amend the Collective Punishment Ordinance 1909.

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1. This Ordinance may be cited as "The Collective Punishment Amendment Ordinance 1910" and shall be read as one with "The Collective Punishment Ordinance 1909" hereinafter referred to as the Principal Ordinance. Short Title.

2. The Governor may, in any case in which he is empowered to impose a fine under the Principal Ordinance on the inhabitants of any village area or district, or the members of any tribe sub-tribe or community, in lieu of imposing such fine, order the persons on whom such fine would have been imposed to construct or repair a road or roads or other public work on or near the lands occupied by such persons, as the Governor may direct within such time and in such manner and to the satisfaction of such Officer, as shall be prescribed in such order. Governor may in lieu of imposing a fine, order persons to make roads, etc.

3. Whenever an order shall have been given under the last preceding Section, any Chief, Council of Elders or Headman, having rule or jurisdiction within the village, area or district or over the tribe, sub-tribe or community, affected by such order, may require all able-bodied men under his or their jurisdiction and residing within the local limits of his or their jurisdiction and included in the persons against whom such order shall have been made, to work in constructing or repairing any road or other public work ordered to be constructed or repaired. Liability of able bodied-person to labour on work ordered.

4. Every person required to work as aforesaid neglecting or refusing to work when called upon by the Chief, Council of Elders or Headman or disobeying lawful orders whilst engaged on such work, shall be liable at the option of the Chief, Council of Elders or Headman to punishment according to native customary laws, provided that such punishment is not contrary to humanity or natural justice, or on summary conviction before a District or Assistant District Commissioner to a fine not exceeding fifteen Rupees or in default of payment to imprisonment of either description for a term not exceeding one month. Penalty for refusing to labour.

5. Whenever an order shall have been made under Section 2 of this Ordinance and the work ordered to be done shall not have been completed within the time and in the manner and to the satisfaction of the Officer prescribed in the order the Governor may impose a fine on all or any of the inhabitants of the village area or district, or the members of the tribe, sub-tribe or community against whom such first mentioned order shall have been made. If order under Section 2 not obeyed, Governor may impose a fine.

A Bill

Intituled

An Ordinance to make provision to restrict the disposal of Lands by Natives before the rights to the same have been settled.

A Bill

Intituled.

An Ordinance to make provision to restrict the disposal of Lands by Natives before their rights to the same have been settled.

Whereas it appears that certain evil disposed persons have been and are in the habit of purporting to sell lands without right thereto to the prejudice of honest men and the disturbance of the peace. Preamble.

1. This Ordinance may be cited as "The Disposal of Lands by Natives Ordinance, 1910". Short Title

2. This Ordinance shall apply only to the lands situate within such portions of the Protectorate as are at the date of the Ordinance within the dominions of the Sultan of Zanzibar or the Sultan of Witu. Provided however the Ordinance shall not apply to any land in respect of which a certificate of ownership shall have been granted under the "Land Titles Ordinance, 1908". Application of Ordinance.

3. No native may sell, mortgage, charge or otherwise dispose of nor agree to sell, mortgage, charge or dispose of any land or any right or interest in or over the same unless with the written consent of the Provincial Commissioner of the Province within which such land is situate. Natives prohibited from selling etc. land without consent of Provincial Commissioner.

Provided, however, that such consent shall not be required to a devise by will or lease for a period not exceeding twelve months. Proviso.

4. Every sale, mortgage, charge or other disposition by a native of any land or any right or interest in or over the same and every agreement for the sale, mortgage charge or other disposition of the same (except a devise by will or lease) for a period not exceeding twelve months to which the consent in writing of the Provincial Commissioner has not been expressed, shall be null and void. Sale etc. without consent null and void.

5. Money paid after the publication of this Ordinance in the manner prescribed in Section 9 of this Ordinance, to any native in consideration of any sale, mortgage charge or other disposition as aforesaid or of any agreement for the same (except a lease for a period not exceeding one year) to which the consent of the Provincial Commissioner has not been expressed, shall not be recoverable nor suable for. Money paid in consideration of sale etc. non-recoverable.

6. A Registrar may refuse to register any document which if executed after the commencement of this Ordinance would by virtue of Section 4 of this Ordinance be null and void, notwithstanding that such document purports to have been executed before the date of this Ordinance, unless and until he shall be satisfied by a declaration on oath by all the parties to such document that the document was finally executed before the date of the Ordinance. Registration of Documents purporting to have been executed before Ordinance may be refused unless such execution is verified by declaration on oath.

7. Whenever for the purposes of this Ordinance the consent of a Provincial Commissioner is requested to the sale mortgage, charge or other disposal of land or any right or interest in or over the same, by a native, the Provincial Commissioner shall give such consent in either of the cases following:— As to the consent of the Provincial Commissioner.

(1) If the native intending to sell, charge or dispose of land or any right or interest in or over the same shall produce duly registered documentary evidence of his title to the same bearing date prior to the 1st day of February, 1897. When may not be withheld.

(2) If the title of the native is derived from any certificate conveyance or lease from the Crown.

Save as aforesaid a Provincial Commissioner may withhold his consent as aforesaid in any case, and shall unless otherwise directed by the Governor, withhold his consent to the sale mortgage, charge or other disposal of land appearing to be waste land.

Rights of Crown and private persons not to be affected by consent of Provincial Commissioner to sale etc.

8. The rights of the Crown or of any person to on or over any land shall not be affected by reason of the consent having been given by a Provincial Commissiner to the sale, mortgage, charge or other disposal of such land or any right or interests in or over the same.

Notice of Ordinance to be given to Natives in Provinces affected.

9. It shall be the duty of the Provincial Commissioner of the Provinces of Seyidie, Tanaland and Jubaland to forthwith cause Notice of this Ordinance to be published in their respective Provinces in such manner and in such languages as they may consider will best convey the provisions of the Ordinance to the natives residing in the portions of the aforesaid Provinces which are within the dominions of the Sultan of Zanzibar or the Sultan of Witu.

Interpretation.

10. In this Ordinance "Native" shall include, in addition to persons of African race or origin, Arabs, and any native community or family, and the executor or adminstrator of the estate of a native.

"Provincial Commissioner" shall include an Acting Provincial Commissioner.

"Registrar shall mean a Registrar of Documents for the purposes of the East Africa Registration Regulations, 1901.

Ordinance to be in addition to the Regulations, No. 5 of 1897.

11. This Ordinance shall be in addition to and not in substitution for the "Regulations respecting the sale of Land by native women" (No. 5 of 1897).

A Bill

Intituled.

An Ordinance Relating to Mining.

A Bill.

Intituled.

An Ordinance Relating to Mining.

PART I.

Introductory.

1. This Ordinance may be cited as "The Mining Ordinance 1910" and shall come into operation, for the purposes of making any appointments or regulations under the Ordinance on the publication of the Ordinance, and, for all other purposes, on such date as the Governor, by notification in the "Gazette," shall declare. Short Title.

2. This Ordinance is divided into parts as follows :— Division.

PART I—Introductory.

PART II—Departmental and Official.

PART III—Acquisition of Rights of Prospecting, Mining and Occupation.

Division I—General.
Division II—Prospecting licences.
Division III—Gold leases.
Division IV—Mineral Leases.
Division V—Coal and Oil Leases.
Division VI—Miscellaneous Leases.
Division VII—Surface rights conferred by lease for mining purposes.

PART IV—Inspection of Mines.

PART V—Regulations.

PART VI—Miscellaneous.

3. The Several Enactments mentioned in Schedule A hereto are hereby repealed, but such repeal shall not affect any right, interest, or liability already created, existing or incurred, nor anything lawfully done or suffered under any enactment hereby repealed; and any proceeding in respect of such right, interest or liability may be carried on as if such repeal had not taken place. Repeal.

4. In the construction of this Ordinance, except where inconsistent with the context or subject matter :— Definitions.

"Alluvial" means any loose soil, earth or other substance containing or supposed to contain gold or precious stones, not being a seam, lode, quartz vein or cement.

"Coal" includes all descriptions of coal lignite and shale.

"Commissioner of Mines" shall include a person appointed to act for a Commissioner of Mines.

"Constantly employed" means working on or in connection with a mining claim or lease for not less than 8 hours on every lawful working day, excepting Saturdays, when four hours shall be considered a full day, and excepting proclaimed holidays.

"European" means a person of European birth or descent.

"Gazette" means the Official Gazette of the Protectorate.

"Gold" means as well as gold any substance containing gold or having gold mixed therewith, or set apart for the purpose of extracting gold therefrom.

"Inspector" means an Inspector of Mines appointed for the purposes of this Ordinance.

"Land Owner" includes the owner of the fee simple, a mortgagee, lessee, or licensee.

"Metals" include gold.

"Mine" as a noun, includes all lands and works on, in, or by which mining is carried on.

"Minerals" include precious stones, but does not include coal, or oil or such clay, sand or stone as the Commissioner of Mines shall declare to be suitable only for road making, building, making of pottery and similar purposes and from which no other mineral of such quality or in such quantity as to be of commercial value can be obtained.

"Native Reserve" is an area over which the Natives of the country have rights and which is reserved by the Government for their occupation and has been gazetted as such.

"Ordinance" includes Regulations.

"Prospecting" includes all modes of prospecting for metals, minerals, coal or oil.

"Reef" means a gold seam vein or lode, or any substance containing gold other than alluvial.

"Banket" means a sedimentary or foliated deposit interbedded among or superincumbent on the strata of the country and containing or supposed to contain gold.

"Placer" means alluvial deposit of ancient data *i. e.* not now in process of formation, containing or supposed to contain gold.

"Mineral Oil" shall include bitumen, asphalt, and other bituminous substances with the exception of coal.

"Mining" or "to mine" includes all modes of prospecting and mining for obtaining and making merchantable metals, minerals, coal or oil.

"Oil" includes all descriptions of mineral oil.

"Payable" a claim or lease is payable when the value of the metals, minerals, coal, or oil mined for and obtained thereon equals the sum paid or which would, at current wages, have been payable; wages to all the miners actually employed in obtaining such metals, minerals, coal or oil; and all other necessary working expenses.

The onus of proof that a claim or lease is not payable shall rest upon the claim holder or lessee.

"Protectorate" means the East Africa Protectorate.

"Prescribed" means prescribed by the Ordinance.

"Private Land" shall include lands privately owned and land the subject of a lease from the Crown or occupied under a licence from the Crown.

Applications of Ordinance.

5. The provisions of this Ordinance shall extend to all lands situate in the Protectorate.

Provided, however, nothing herein contained shall be deemed to authorise any person to prospect or mine on or under:—

(*a*) Lands dedicated or set apart for any public purpose.

(*b*) Lands held under grants or leases giving the holder rights of working the metals, minerals, coal and oil which are recognised by the Governor.

(*c*) Land situate within any Township or Municipal area except with the consent of the owner of the land, and of the Governor or Municipal authority.

(*d*) Land over which exclusive prospecting rights have been or may be granted by the Governor or by or on behalf of His Majesty and during such time as such rights shall be subsisting.

(*e*) Land reserved for the purposes of any Railway or situate within 100 yards of any Railway, except with the consent of the Railway Administration.

(*f*) Land the site of or within 300 yards of any building or of any artificial dam or reservoir the property of the Crown or of the Government, except with the sanction of the Governor.

(*g*) Land lawfully and *bona fide* used as a yard, garden, cultivated field or as the site of any building; or land within 300 yards of any building artificial dam or reservoir and the property of or leased by the owner of such building, artificial dam or reservoir, except with the consent of the owner and occupier of the land; Provided, however, such exemption shall cease upon payment of compensation for the loss resulting from the cessor of such exemption to the land owner, such compensati-

on, if not otherwise agreed upon, to be determined by arbitration. The person desiring the cessor of such exemption and the land owner shall be deemed parties to such arbitration.

(*h*) Lands declared by the Governor by Notice in the "Gazette" to be exempt from the operation of this Ordinance.

(*i*) A street road or highway without the consent in writing of the Governor or of the Municipal Corporation or other public body having the control thereof.

(*j*) Land within a Native Reserve except with the consent in writing of the Commissioner of the Province within which the Reserve is situate and on such conditions as may be prescribed.

Prospecting and mining in closed districts.

6. Nothing in this Ordinance shall be deemed to authorise any person to enter any closed district, except he shall have obtained a licence on that behalf from the proper authority.

Penalty for unauthorisd mining.

7. Any person who prospects or mines without being authorised to do so by virtue of this Ordinance or of some enactment theretofore in force or without the licence or authority of the Governor, shall be guilty of an offence and shall, on conviction, be liable to pay for each offence a penalty not exceeding 15 Rupees for every day on which he shall so prospect or mine.

Fees to be charged.

8. The fees set out in the Schedule B hereto shall be charged and taken in respect of the matters referred to in such Schedule.

PART II.

Departmental and Official.

Commissioner of Mines.

9. There shall be a Commissioner of Mines to be appointed from time to time by the Governor and such Commissioner of Mines or the Officer for the time being acting for him, shall have charge of the Administration of this Ordinance and of the Department of Mines.

Appointment of Wardens.

10. The Governor may appoint such Wardens, Inspectors, Registrars, and other Officers as may be necessary for the purposes of this Ordinance.

Jurisdiction of Commissioner in Suits.

11. (1) The Commissioner of Mines may hear and determine in a summary way all suits concerning any right, claimed in, under, or in relation to a prospecting claim or prospecting licence, or any advantage thereof or liability thereunder, or any contract in respect thereof.

(2) The Jurisdiction of the Commissioner of Mines shall extend not only to cases where the litigants are the parties originally interested in the cause of suit, but to cases where the title of litigants is derived from or through any of such parties.

Power of hearing.

12. The Commissioner of Mines may decide any suit, and any matter arising therein, in such manner as may be just, and may make and give all orders and directions necessary for enforcing his decision, and may award reasonable costs.

Mode of proceeding before Commissioner.

13. The mode of proceeding in a suit before the Commissioner of Mines shall be as follows:—

(1) The person suing shall lodge a plaint note at the Office of the Commissioner of Mines.

(2) The plaint note shall be in the prescribed form and shall specify shortly the subject matter of the complaint, and the relief claimed.

(3) Upon receipt of the plaint note the Commissioner of Mines shall give notice in the prescribed form, by post or otherwise, to the party sued and the time and place at which the same will be heard and determined.

(4) At the time and place appointed the parties shall attend and state their cases before the Commissioner of Mines, and may call evidence on oath (which oath the Commissioner of Mines is hereby authorised to administer) in support thereof, and the Commissioner of Mines having heard such statement and evidence, shall give his decision, which shall be final, except as hereinafter provided.

(5) The Commissioner of Mines may adjourn the hearing of a suit to any other time or place, and may, either at the original hearing or at any adjournment, proceed in the absence of either party.

(6) Save as in this Ordinance otherwise expressly provided no person who is not the holder of a prospecting licence in his own name shall have any right to institute proceedings before the Commissioner of Mines.

Commissioner's order need not be formally drawn up.

14. The order or decision of the Commissioner of Mines need not be formally drawn up, but the record in the book, which he is hereby required to keep for the purpose, shall be conclusive evidence of the order or decision and any person may obtain a copy of the record on payment to the Commissioner of Mines of the prescribed fee.

Commissioner may order metal etc. to be seized.

15. The Commissioner of Mines, upon the hearing of a suit, may cause any metal, mineral, coal or oil to be summarily seized and delivered to the person entitled thereto.

Inspection by Commissioner.

16. The Commissioner of Mines or any Inspector or any person authorised by the Commissioner of Mines may, at all reasonable times, enter and inspect any mine held under a claim or mining lease, and examine and take extracts from all books, accounts, vouchers, and documents relationg thereto, or to any metals, minerals, coal, or oil obtained therefrom.

Law regulatin proceedings before and enforcement of orders of, the Commissioner.

17. The law for the time being regulating proceedings before and the powers of a Subordinate Court of the First Class in the exercise of its civil jurisdiction shall, so far as practicable, and subject to any modifications, alterations, or additions which may be prescribed, apply to proceedings before the Commissioner of Mines and to the enforcement of his decisions in like manner as if such decisions were the decisions of a Judge of a Subordinate Court of the First Class.

Appeal.

18. There shall be an appeal from any determination in any suit of the Commissioner of Mines or from any order of dismissal, which appeal shall be to the High Court, and shall be conducted in manner provided for an appeal from a Judge of a Subordinate Court of the First Class.

Jurisdiction of ordinary Courts not excluded.

19. Nothing in the preceding Sections contained shall be deemed to prevent the holder of a prospecting licence from bringing in any of the ordinary Courts of the Protectorate any suit which might be heard and determined by the Commissioner of Mines. Provided, however, that whereas it is the intention of this Ordinance that all suits brought by the holder of a prospecting licence concerning any right, claimed in, under or in relation to a prospecting licence or a prospecting claim or any advantage thereof or liability thereunder, or any contract in respect thereof shall, so far as may be proper and convenient, be heard and determined by the Commissioner of Mines, the High Court or any Court subordinate thereto before which any such suit as aforesaid may be brought, may, on the application of the defendant or if there be more defendants than one, on the application of any one or more of the defendants, and if satisfied that the suit could be properly and conveniently heard and determined by the Commissioner of Mines, direct that the suit be brought before the Commissioner of Mines.

PART III.

Acquisition of rights of Prospecting, Mining, and Occupation.

PART III—Division I—General.

Modes of acquiring right of prospecting, mining, and occupation.

20. Prospecting and Mining shall be permitted pursuant to this Ordinance by virtue of :—

(*a*) A Prospecting licence.
(*b*) A gold lease.
(*c*) A mineral lease.
(*d*) A coal lease.
(*e*) An oil lease, or
(*f*) A miscellaneous lease.

and in addition to the rights of occupation conferred by the foregoing, occupation shall be permitted pursuant to this Ordinance by virtue of :—

(*a*) A business licence, or
(*b*) An occupation licence.

PART III—DIVISION II—PROSPECTING LICENCES.

21. A prospecting Licence, to be in force for one year from the date thereof, shall be issued by the Commissioner of Mines or other prescribed Officer to any European of or over the age of 16, upon payment of the sum of Five Rupees, and such licence shall be in the form contained in Schedule C to this Ordinance. Prospecting licence.

A prospecting licence shall not be transferable and no person shall hold more than one prospecting licence.

22. A prospector's licence may be renewed at any time during its currency. Renewal.

23. Every renewal shall be in force for one year from the expiration of the licence renewed. Term of renewal.

24. (1) A prospecting licence shall, in the first instance, authorise the holder to prospect for any metal, mineral, coal, or oil the property of the Crown, and to peg out such claims as are hereafter in this Ordinance specified. Privileges under Prospecting licence.

(2) The pegging out of any claim shall be invalid unless done by or in the presence of, the person who intends to register the claim in his own name.

25. A prospecting licence shall authorise the holder to own claims of the kind and to the number following:— Claims which may be pegged out.

(a) Gold claim, reef or banket, unlimited in number.
(b) Gold or precious stones claim, alluvial or placer, one only.
(c) Mineral claims, unlimited in number.
(d) Coal claims, unlimited in number.
(e) Oil claims, unlimited in number.

26. Claims which may be owned under this Ordinance shall not exceed the following dimensions:— Dimensions of claims.

(a) Gold claim, reef or banket, 600 feet along the reef and 300 feet in width.
(b) Gold or precious stones claim, alluvial or placer, 20 acres.
(c) A mineral claim forty acres.
(d) A coal or oil claim, six hundred and forty acres.

27. The shape of a claim shall, as nearly as circumstances permit, be that of a rectangular parallelogram, the length of the longer side of which shall not exceed twice the length of the shorter side and one of the sides shall run as nearly as may be in a North and South direction, the bearings being magnetic. Shape of claim.

28. (1) A Prospector pegging out a claim shall erect at the point of discovery a post 4 feet above the ground or a stone monument 3 feet high on which a notice shall be posted signed by the Prospector containing: Mode of taking Possession of claim.

(a) The name of the Prospector.
(b) The date of the pegging out of the claim.
(c) The length and width of the claim in feet.
(d) The distance in feet from the point of the discovery to each end of the claim.
(e) The general course of the claim.

(2) The date of the erection of the post or monument at the point of discovery and the posting of the notice aforesaid shall be deemed to be the date of the pegging out of the claim. Provided that the Prospector shall, before registering the claim, place at each corner of the claim a substantial post 4 feet above the ground or a stone monument 3 feet above the ground on which shall be marked or advertised the initial of the Prospector and the date of the pegging out, and shall further cut two trenches not less than 6 feet long and 6 inches deep in the direction of the boundary lines of which the post is intended to form the corner. Such corner posts or monuments shall be maintained in position while the claim is held.

29. The owner of a claim of whatever nature, within 30 days after the claim is first pegged out, or within such additional time (if any) not exceeding 14 days as the Commissioner of Mines may, on the ground of sickness, absence or other like disability of any such owner, or for other reasonable cause, allow, shall register the claim or title in the office of the Provincial Commissioner of the Province wherein the claim is situated. Registration of claim.

A monthly return of all such registers shall be furnished by the Provincial Commissioners to the Commissioner of Mines.

Prospecting licence to be produced on registration.

30. No claim shall be registered unless the prospecting licence under which the claim is held is produced to the Provincial Commissioner.

Mode of registration.

31. Any person desiring to register a claim shall make an application for registration in the manner and form prescribed.

The Provincial Commissioner shall, on payment of the prescribed fee, enter in a book to be called "The Mining Register" full particulars of each application clearly specifying the class of claim and shall fill in and sign a certificate of registration in the prescribed form, and hand such certificate of registration to the person so producing or forwarding such application.

Neglect to register.

32 If any person neglects to register his claim in the manner and time aforesaid he shall forfeit all rights in respect thereof.

False representations.

33. Any person who shall, by false representations or fraudulent concealment of facts, obtain registration of any claim under this Ordinance shall forfeit his rights in the claim in respect of which such registration has been obtained, and be liable to a penalty not exceeding seven hundred and fifty Rupees.

Rights of owners of claim.

34. The ownership of a claim shall confer the following rights in respect thereof :—

(*a*). As to a gold claim, the preferential right to a gold lease, and in the meantime the right of mining on the claim for gold and the ownership of all gold and other metals or minerals found.

(*b*) As to a mineral claim, the preferential right to a mineral lease and in the meantime the sole right to mine on the claim for any metals or minerals, except gold, and the ownership of all such metals and minerals when found.

(*c*) As to a coal or oil claim, the preferential right to a coal or oil lease, and in the meantime the right to mine for coal or oil.

Claim not to be pegged out twice on the same or different class of claim.

35. Save as in this Section otherwise provided no area which is pegged out under one class of claim shall be pegged out, except by the owner of such claim or with his sanction, under the same or any other class of claim unless the forfeiture of such first mentioned claim has been declared, or the same has been abandoned.

Saving as to discovery of gold on claim.

Provided, however, whenever an alluvial or placer deposit of gold or precious stones shall be found on any claim other than an alluvial or placer claim the holder of a prospecting licence may peg out on such claim an alluvial or placer claim.

Provided further that no claim shall be pegged out upon any claim which is being lawfully mined so as wholly or partially to come within fifty yards of a shaft or sinking in actual use for the purpose of such mining without the consent in writing of the owner of the claim.

Priority of claim.

36. Whenever the same area shall be included in different classes of claims, the different classes shall have priority in the following order :—

(*a*) Alluvial or placer gold or precious stones claim.

(*b*) Reef or banket gold claims.

(*c*) Mineral coal or oil claims.

but the owners of all claims shall comply with prescribed requisites for securing to each the benifit of his claim, and for preventing unnecessary interference with any right previously existing.

Additional rights of a prospector.

37. A prospecting licence shall confer upon the holder the following rights when engaged actively in prospecting or mining, namely :—

(1) On unoccupied Crown land to take fuel and water for his domestic use provided, however that he shall not have the right to cut any standing timber in any Proclaimed Forest Area, or any reserved tree unless he shall have obtained permission in writing from the Conservator of Forests or other prescribed officer.

(2) On any land on which he is entitled to prospect to take for his domestic use water from any lake river or stream, and with the consent of the owner or occupier of private land or on tendering to the owner or occupier a reasonable sum in payment therefor, any fuel other than standing live timber.

38. The owner of a claim shall have the right to reside on his claim and of grazing on his claim for six horses or mules, or for sixteen oxen, free of charge on unoccupied Crown land, and if on any private lands on payment to the owner or occupier of the land where such licence is exercised of fifty cents per diem. Provided, however, that on private land the owner of the claim shall only exercise the rights conferred on him by this Section on such portion of the claim as shall be indicated by the owner or occupier. Right of residence and grazing on claim.

If any question shall arise between the owner or occupier of the land and the owner of the claim as to the suitability of land indicated by the owner or occupier it shall be determined by the Commissioner of Mines or other prescribed officer.

39. Any person who shall abandon his claim shall forthwith fill up, or fence or secure to the satisfaction of the Commissioner of Mines or other prescribed officer all shafts, pits, holes and excavations, in such manner as to prevent persons or stock inadvertently entering the same. Owner of claim must on abandonment, fill up shafts etc.

Any person who shall have failed to comply with the provisions of this section shall be liable to pay, to the Commissioner of Mines if the claim shall have been situate on unoccupied Crown land, or to the landowner if the claim shall have been situate on the land of any landowner, such sum as the Commissioner of Mines or other prescribed officer shall certify will be the cost of filling up, fencing or securing all shafts pits holes and excavations on the abandoned claim, and until such sum shall have been paid the person liable to pay the same shall not be entitled to obtain or hold any prospecting claim or any interest in any prospecting claim.

40. The Commissioner of Mines shall, on the written application of any landowner on whose land a claim shall have been pegged out, require the owner of the claim to deposit with the Commissionar of Mines the sum of 400 rupees or to enter into a bond with two sureties to be approved by the Commissioner of Mines, or other prescribed officer, in the sum of 400 rupees for himself and 200 rupees for each of the two sureties for the due and proper repair in the event of the claim being abandoned by him of any surface damage done by him on the land of any owner, and for the due payment of the sum accruing to the landowner from the owner of the claim on account of the daily payments such claim owner is required to make under Section 38. Owner of claim may be required to make a deposit or to enter into a bond.

If the owner of the claim shall fail or neglect to make such deposit or enter into such bond as aforesaid within the time specified by the Commissioner of Mines and the landowner shall not, in writing addressed to the Commissioner of Mines, release the owner of the claim from his obligation to make the deposit or enter into such bond, the claim shall be liable to be forfeited.

41. The Commissioner of Mines shall hold subject to the provisions of this Ordinance, any deposit made under the provisions of the preceding Section until one month after, (*a*) the claim in respect of which the deposit shall have been made shall have been forfeited, or (*b*) notice shall have been received from the depositor of his intention to abandon the claim, or (*c*) the depositor shall have transferred the whole of his interest in such claim or (*d*) a mining lease shall have been granted over the area the subj ct of the claim; and shall then return to the depositor the sum deposited, less any deduction which may have been made in accordance with the provisions of this Ordinance; provided that a suit shall not then have been commenced before the Commissioner of Mines by the landowner for the recovery from the depositor of any moneys due to the landowner under this Ordinance. When deposit may be refunded.

42. Whenever the Commissioner of Mines is satisfied in a suit instituted before him by a landowner, which suit a landowner is hereby authorised to bring although not the holder of a prospecting licence, that any sum is due from the depositor to such landowner in respect of any of the payments matters or things in respect of which the deposit has been paid, he may deduct and pay to the landowner out of the moneys deposited such sum as he shall find to be due to the landowner, and in addition the costs, if any, of the suit. Sums due to landowner may be deducted from the deposit.

43. A claim shall be deemed to be abandoned in any of the following cases:— Claim when deemed to be abandoned.

(1) If, except under such circumstances as may be prescribed, no prospecting or mining shall have been done on the claim by the owner of the claim or by some person in the employ of, or prospecting or mining with the consent of, the owner, for a period of 28 days.

(2) If the owner of the claim shall notify the Commissioner of Mines

in writing of his intention to abandon the claim, or

(3) If a prospecting licence is at any time not held by the owner or if there are more owners than one, by one at least of the owners.

Forfeiture.

44. (1) Every claim shall be liable to forfeiture upon non-compliance by the owner with the prescribed conditions as to working the same.

(2) If at any time the Commissioner is satisfied that payable results have been obtained on any claim he may require the owner of the claim to take a lease of his claim, and in default of compliance with such requisition within such time as the Commissioner of Mines may specify the claim shall be liable to forfeiture.

Rights of person proving liability to forfeiture.

45. A holder of a prospecting licence who shall, in a suit instituted by him before the Commissioner of Mines, prove that a claim is liable to forfeiture, shall be entitled to an order declaring and enforcing such forfeiture, and shall, for fourteen days after the making of such order, have a preferential right to enter upon and peg out such claim.

Transfer of claims and interest therein.

46. After, but not before, the registration of a claim the owner may, subject to the regulations, and in the prescribed manner, by instrument in writing, divide the interest in the claim into such shares as he shall think proper, and may allot shares and transfer the claim or create or transfer any interest therein.

Amalgamation of claims.

47. Two or more adjoining claims may be amalgamated in manner prescribed, and every amalgamation shall be registered as prescribed.

PART III—Division III—Gold Leases.

Gold lease.

48. (1) The Governor may grant to the owner of a gold claim a gold lease of lands not exceeding twenty acres.

(2) A gold lease may be for any term not exceeding forty two years, and shall reserve an annual rent of five Rupees an acre payable yearly in advance, the first payment to be made on making the application for such lease.

Covenants in gold lease.

49. Every gold lease shall contain the following covenants by the lessee :—

(1) That he will pay the rent reserved by such lease as and when it shall become due.

(2) That he will pay the royalty (if any) prescribed as and when it shall become due.

(3) That he will not, without premission in writing from the Commissioner of Mines, use the leased land for any other purpose than that of mining on such land as authorised by his lease or the regulations.

(4) That he will, during the term of the lease, keep constantly employed in mining or prospecting for gold upon such land not less than one European of or over the age of 18 for every five acres of such land and shall furnish the Commissioner of Mines, whenever required by him, with satisfactory evidence that such number of men have been and are employed.

(5) That he will furnish the prescribed statements of the workings and proceeds of the mine, and observe all the provisions of this Ordinance.

(6) Such other covenants and conditions as may be prescribed, and shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition.

Gold lessee may mine for other metals or minerals.

50. The holder of a gold lease under this Ordinance shall be entitled by virtue or his lease to mine for all metals, minerals, coal and oil, in and upon such land, subject to the conditions of his lease and to the regulations.

Number of leases.

51. Any number of gold leases may be held by one person.

PART III—Division IV—Mineral lease.

Mineral lease.

52. (1) The Governor may grant to the owner of a mineral claim a mineral lease of land not exceeding forty acres.

(2) A mineral lease may be for any term not exceeding forty two years, and shall reserve an annual rent of three Rupees an acre payable yearly in advance the first payment to be made on making the application for such lease.

53. Every mineral lease shall contain the following covenants by the lessee :— Convenants in mineral lease.

(1) That he will pay the rent reserved by such lease as and when it shall become due.

(2) That he will pay the royalty (if any) prescribed as and when it shall become due.

(3) That he will not, without permission in writing from the Commissioner of Mines, use the leased land for any other purpose than of mining as authorised by his lease, or the Regulations.

(4) That he will, during the term of the lease, keep constantly employed in mining or prospecting for metals minerals coal oil upon such land not less than one European of or over the age of 18 for every ten acres or portion of ten acres of such land, and shall furnish to the Commissioner of Mines whenever required by him, with satisfactory evidence that such number of men have been and are employed.

(5) That he will furnish the returns required by, and observe all the provisions of this Ordinance.

(6) Such other covenants and conditions as may be prescribed and shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition.

54. A holder of a mineral lease under this Ordinance shall be entitled by virtue of his lease to mine for all metals, minerals, coal, oil, in and upon such land subject to the conditions of his lease and to the regulations. Mineral lessee may mine for all metals minerals, coal or oil.

55. Any number of mineral leases may be held by one person. Number of leases.

PART III—Division V—Coal and Oil Lease.

56. (1) The Governor may grant to a holder of a coal or oil claim a coal or oil lease of land not exceeding 540 acres. Leases for coal mining etc.

(2) A coal or oil lease may be for any term not exceeding forty two years, and shall reserve an annual rent of two rupees an acre payable yearly in advance, the first payment to be made on making the application for such lease.

57. Every coal or oil lease shall contain the following covenants by the lessee :— Conditions of Lease.

(1) That he will pay the rent reserved by such lease as and when it shall become due.

(2) That he will pay the royalty (if any) prescribed as and when it shall become due.

(3) That he will not, without permission in writing from the Commissioner of Mines, use the leased land for any other purpose than that of mining as authorised by his lease.

(4) That he will, during the term of the lease, keep constantly employed in mining or prospecting upon such land as authorised not less than one European for every forty acres of the land leased, and that he will furnish the Commissioner of Mines whenever required by him, with satisfactory evidence that such number of men have been and are employed.

(5) That he will observe all the provisions of this Ordinance.

(6) Such other covenants as may be prescribed; and shall contain a proviso that the lease shall be liable to forfeiture upon breach by the lessee of any covenant or condition thereon.

58. Any number of coal or oil leases may be held by one person. Number of leases.

59. Every lease granted for the purpose of mining for mineral oil or authorising the lessee to mine for mineral oil shall be subject to the following conditions :— Rights of H. M. Government in respect to Mineral oils.

(*a*) The lessee shall, if required to do so, erect in the Protectorate or elsewhere in His Majesty's dominions a refinery capable of dealing with the output of oil from the area subject to his lease, and shall so treat the oil as to produce residues suitable for the requirements of His Majesty's Government, provided that a lessee may, if he prefers to do so, arrange with the proprietors of some approved refinery already erected in British territory to refine the oil in accordance with the requirements of His Majesty's Government, provided also that the Governor shall have the power to waive this condition

in any lease, either for a fixed period to cover the initial stages of development, or until a reasonable time after His Majesty's Government shall have announced its readiness to purchase from the lessee stated quantities of oil residues.

(*b*) His Majesty's Government shall have the right of pre-emption of all crude oil raised, won or gotten from the area subject to the lease and of all products of the refining or treatment of such oil.

(*c*) The price to be paid by His Majesty's Government for all oil or products as aforesaid taken under the provisions of this rule shall either be as specified in a separate agreement, or, if no such agreement has been entered into prior to the exercise of the right of pre-emption, then the price shall be the market rate ruling at the time for the particular oil or product delivered by the holder of the licence or the lessee free on board ship at the nearest or most convenient port of shipment in the Protectorate. If no such market rate has been established and publicly quoted at the time at which the right of pre-emption is exercised, then the price to be paid shall be the market price of Texas oil or products of similar description free on board ship at Port Arthur (Texas). The right of pre-emption by His Majesty's Government shall extend to any oil or products which may have been already sold by the holder of the licence or lessee to other customers, but not yet despatched from the Protectorate and for such oil or products the price to be paid by His Majesty's Government shall be as expressed above, viz:—either the publicly quoted market rate for the particular British East Africa oil or product, or failing such rate the Port Arthur (Texas) rate, or the actual contract price at which the oil or product was originally sold if such contract price is less than either British East Africa or the Texas market rate; plus any actual penalties or damages the lessee may prove that he has suffered owing to cancellation or alteration of charters of vessels for the conveyance of such oil or products sold to other customers provided that such penalties or damages shall only be payable on a charter actually entered into for a particular voyage, and not on any general freight agreement in respect of prospective charters.

The lessee shall furnish to the Governor for the confidential information of His Majesty's Government, if so desired, particulars of the quantities of oil or product sold, or of charters entered into for freight, and in the event of the right of pre-emption being exercised by His Majesty's Government he shall also furnish particulars of contract prices for oil or product and freight, and shall exhibit to His Majesty's Government original or authenticated copies of contracts for oil or products and charter parties for freight.

(*d*) In the event of war, the Governor on behalf of His Majesty's Government shall have power to take control of the works and plant in the area subject to the licence or lease.

(*e*) The Governor shall have the power to regulate the site of any refinery or place of storage of oil in the Colony or Proteetorate.

PART III—Division VI—Miscellaneous Leases.

Salt and Gypsum lease etc.

60. The Governor may grant to the holders of a prospecting licence leases of Crown lands for such term and at such rent and upon such terms and conditions as may be prescribed, for all or any of the following purposes:—

(1) For the manufacture or obtaining of salt or gypsum.

(2) For the working of mineral springs.

(3) For sites for smelting works or any other mining works approved by the Governor.

Conditions of lease.

61. Every lease granted under the preceding section shall contain:—

(I) A Covenant by the lessee to use the leased land *bonâ fide* for the purpose for which it shall have been leased, and for no other purpose.

(2) Such other covenants and conditions as may be prescribed.
(3) A proviso for forfeiture upon breach by the lessee of any covenant or condition therein.

PART III—DIVISION VII.

Surface rights conferred by lease for Mining purposes.

A lease of private land to confer only such surface rights as are absolutely required for mining purposes.

62. A lease under this Ordinance of private land for mining purposes shall confer upon the lessee surface rights only so far as may be absolutely required for mining purposes, that is to say building sites, openings of shafts, roads, tram and wire ways and water ways, together with such rights of way as may be necessary for egress and the erection of telegragh and telephone lines. Whenever a disagreement shall arise between the owner of private land and a lessee of such land for mining purposes as to whether any surface right claimed by the lessee is absolutely required for mining purposes the same shall be determined by arbitration.

Owner of private land entitled to compensation for disturbance etc.

63. An owner of private land who shall be disturbed in his possession, or damaged or injured in any way by reason or in consequence of any right or power conferred by any lease of such land for mining purposes shall be entitled to claim from the lessee compensation in respect of such disturbance, damage or injury, the amount of which compensation shall, in all cases of disagreement, be determined by arbitration.

Surface rights on Crown land.

64. A lease of land, other than private land, for mining purposes shall confer such surface rights only as may be prescribed.

PART IV.

Inspection of Mines.

Powers of Inspector.

65. An inspector at all reasonable times by day or night, but so far as not unreasonably to impede or obstruct the working of the mine may :—

(i) Enter, inspect, and examine any mine.
(ii) Examine into and make enquiry respecting the condition and ventilation thereof, and all matters relating to the safety and health of the persons employed.
(iii) Inspect and examine the state of the external parts of the machinery used upon or in the mine, and the state of all plant, works, and ways.
(iv) The Inspector shall, in case he finds any mine or any part thereof or any matter, thing, or practice in or connected therewith, to be defective, give notice in writing to the owner, agent, or manager of the mine stating particulars in which he considers such mine or any part thereof, or any matter, thing or practice, to be defective, and requiring the same to be remedied.
(v) Inspect the storage of explosives upon any mine and direct in what manner the same shall be stored.
(vi) Exercise all powers necessary for carrying this part of this Ordinance into effect.

Proceedings on objection to comply with notice.

66. If the owner, agent, or manager of the mine objects to remedy the matter complained of in any notice under the last preceding section, he may, within twenty one days after the receipt thereof, send his objection in writting stating the grounds thereof, to the Commissioner of Mines, and thereupon the matter shall be submitted to and determined by the Commissioner of Mines, or by such officer as he may appoint on that behalf.

Proceedings on failure to comply with notice.

67. If the owner, agent, or manager of the mine fail to comply with the requisition of the notice, where no objection is sent within the time aforesaid, or with the decision of the Commissioner of Mines or other officer as aforesaid within twenty one days after the expiration of the time for objection or the decision (as the case may be), he shall be liable to a penalty not exceeding 1,500 Rupees.

Adjournment.

68. The Court, if satisfied that the owner, agent or manager has taken active measures for complying with the notice or decision of the Commissioner of Mines or other officer, but has not been able with reasonable diligence to complete the work, may adjourn any proceedings for punishing such offence, and if the works are completed within a reasonable time no penalty shall be inflicted.

Agreement not to preclude or exempt.

69. No person shall be precluded or exemted by any agreement from doing such acts as may be necessary to comply with the provisions of the last preceding three sections, or be liable under any contract to any penalty or forfeiture for doing such acts.

Special inquiry may be directed.

70. The Commissioner of Mines may direct an Inspector to make a special inquiry and report with respect to an accident in or about a mine causing loss of life or personal injury, and may cause such report to be made public at such time and in such manner as he thinks expedient.

Notice of accident to be given.

71. (1) Where in or about a mine, whether above or below ground, loss of life or serious personal injury occurs by reason of any accident whatever, the owner, agent or manager of the mine shall, within twenty four hours next after the accident, send notice in writing of the accident, and of the loss of life or personal injury occasioned thereby, to the Commissioner of Mines, and shall specify in such notice the nature of the accident, and the number of persons killed and injured respectively.

Notice when death results.

(2) Where any personal injury of which notice is required to be sent under this section results in the death of the person injured, notice in writing of the death shall be sent to the Commissioner of Mines within twenty four hours after such death comes to the knowledge of the owner, agent or manager.

Penalty.

(3) Every owner, agent, or manager who neglects to comply with this section shall be liable to a penalty not exceeding 750 Rupees.

Penalty for refusing means of inspection.

72. Every owner, agent, or manager of a mine who refuses or neglects to furnish an Inspector with the means necessary for maklng any entry, inspection, examination or enquiry under this Ordinance, in relation to such mine, shall be liable to a penalty not exceeding seven hundred and fifty Rupees, or to be imprisoned, with or without hard labour, for any period not exceeding six months.

PART IV.

Regulations.

Governor may make Regulations.

73. In addition to any power by this Ordinance conferred on the Governor to make regulations as to any special matter (which power shall, in every case, be implied for the purposes of any section in this Ordinance in which regulations are referred to, or in which the word " prescribed " is used) the Governor may, subject to the provisions of this Ordinance, make regulations, either of general or limited application. Such regulations may be for any of the purposes following :—

(i) For prescribing the terms on which licences to occupy Crown Land for the purposes of residence or business may be granted to the owner of a claim or to a lessee under this Ordinance, and the modes, times, and places of issue thereof.

(ii) For prescribing the mode of transferring or assigning any claim or lease, and for prohibiting any such transfer or assignment, and regulating the form thereof and the fees to be paid therefor.

(iii) For enforcing, under a penalty in case of default of not more than 1,500 rupees, the proper ventilation and safe construction and timbering or supporting of all Mining shafts, tunnels, drives or other mining workings used in mining ; for prescribing the mode of inspection of all such mines shafts, tunnels, drives, or workings, and the powers and duties to be exercised by inspectors ; and for determining and enforcing the distance at which all such shafts and other mining workings are to be kept from public and private roads, ways and passages, and from private land, dwellings, and other buildings.

(iv) For regulating the cutting, constructing, use, and maintenance of races dams, reservoirs upon Crown land, or upon claims or lands held under leases for mining purposes under this Ordinance or any other Ordinance.

(v) For prescribing the manner in which, and with what incident rights and obligations, and subject to what liabilities as to forfeiture and otherwise, any claim or class of claims, business

or residence areas, race, dam or reservoir, or any water taken or diverted by virtue of any licence, shall be taken possession of, held, occupied, used, worked or transferred.

(vi) For determining the order of priority among the holders of miner's rights entitled to the use of any water; how such priority is to be regulated, and under what conditions and circumstunces.

(vii) For prescribing the mode of registration of land occupied under this ordinance for residence or business, or of any claim, race, dam, reservoir or easement enjoyed, or any share or interest therein, or encumbrance thereon, and the mode of registration of the transfer or assignment of any such land, claim, race, dam, reservoir or easement, or of any share or interest therein, or encumbrance thereon, or of the discharge of any such encumbrance; and the mode of registration of the devolution of any such share or interest; or of the sale of any such share or interest under the decree, judgment or order of any Court, or the Commissioner of Mines; and the mode of registration of amalgamated claims, and of claims for suspension of work, and for fixing the fees to be charged on any such registration.

(viii) For enforcing and regulating the drainage of claims and of lands held under leases for mining purposes heretofore or hereafter granted.

(ix) For regulating the mode in which the rights and privileges of the owners of claims, and of races, dams, reservoirs, and easements, and of lands occupied under this Ordinance for residence or business, may be exercised or enjoyed, and limiting, qualifying, or restricting the exercise and enjoyment of such rights and privileges; and generally for the protection of such owners in the exercise and enjoyment of the rights, privileges, and interests conferred by this Ordinance.

(x) For providing for specially sized claims to be pegged out under the prescribed sanction by the discoverer of payable gold on his reporting such discovery in the prescribed manner.

(xi) For preventing the accumulation, and for the removal to some convenient place, of sludge, tailings and other refuse matter oozing or flowing from or connected with any land held or occupied under this Ordinance, and of waste water; and for the making of channels for any of the purposes aforesaid; and for otherwise regulating between claims such oozing, flowing, and running to waste.

(xii) For the protection from injury, destruction, and unlawful removal of races, drains, dams and reservoirs used or engaged under this Ordinance, and of the water therein, and of pegs, posts, fences, and notices, of plant or appliances used for or in connection with mining, and for the protection from obstruction of such races and dams, and of channels, drains, creeks, and rivers, used for mining purposes.

(xiii) For regulating the mode of construction and the material used in the construction, and the strength of embankments of dams and reservoirs used or to be constructed by virtue of a miner's right.

(xiv) For the construction and keeping in repair of suitable bridges or other crossings over races, channels, or drains used for mining purposes cut across roads or throughfares or over such races channels or drains over which roads or throughfares shall be carried, and for making proper approaches to such bridges or crossings, and for destining the width of such bridges crossings and approaches.

(xv) For making and keeping in repair and for regulating the width and formation of private ways and passages, used for mining purposes over claims or races, or any lands used in connection with mining under this Ordinance, or business carried on

under business licences, and for regulating and imposing conditions on the right to change the direction of any such way or passage, and for the protection of the same from injury or obstruction by the leaving of felled or fallen timber or other obstruction, or any waste or injurious matter thereon.

(xvi) For the prevention of nuisances in and about residences or places of business held under this Ordinance, and for cleansing and keeping clean the same.

(xvii) For securing the baling of water from mines so as to prevent injury from such water to any mining workings.

(xviii) For perventing the defiling of or wasting of water used for domestic purposes, or in any stream, and for determining whether any and what stream waterhole, spring, or other depository of water shall be reserved for domestic use, and the mode of such reservation.

(xix) For securing the fencing and protection of mines and works for the safety of man and beast.

(xx) For compelling contributions by parties benefited of a fair share of the cost of pumping in cases where pumping in one mine benefits other mines.

(xxi) Providing for the survey of claims and of lands applied for mining purposes, or for business or residence, and prescribing the fees to be paid for such survey by the owner of the claim or applicant.

(xxii) Prescribing the compensation to be paid to natives by the owner of a claim situate in a native reserve or by the applicant for a lease or the lessee or licensee, under this Ordinance, of land situate in a native reserve, the person by whom and the manner in which such compensation shall be assessed, and the persons to whom the same shall be paid and the manner in which it shall be distributed or used in the interests of the natives.

(xxiii) Prescribing the surface rights which shall be conferred upon a lessee under or by virtue of lease of lands other than private land for mining purposes.

(xxiv) Prescribing the conditions and restrictions to be imposed for the protection of the rights of a lessee of Crown land for mining purposes, on the purchaser, lessee, or licensee or surface rights over such land.

(xxv) For fixing fees, prescribing forms, regulating registration and otherwise fully and effectually carrying out and giving force and effect to the various objects, purposes, powers, and authorities of this Ordinance, and guarding against evasions and violations thereof.

(xxvi) For prescribing the duties and powers of wardens, inspectors, mining registrars, and other officers to be appointed under this Ordinance.

(xxvii) For imposing penalties for breaches of the regulations not exceeding 1,500 Rupees for any one offence.

General words in this Section shall not be limited or controlled by particular words.

Regulations to be published.

74. Every regulation made by the Governor under the authority of this Ordinance shall, when published in the "Gazette", have the force of law.

PART VI.

Miscellaneous.

Payable results to be reported.

75. When payable gold is struck, or metals, minerals, coal, or oil are found in payable quantities on any claim or mining lease the matter shall be reported to the Commissioner of Mines in manner prescribed, and if default shall be made in compliance with this Section, the claim or lease shall be liable to forfeiture.

Claim holders and lease holders to furnish half yearly returns.

76. Every holder of a claim or lease, other than an alluvial claim, shall half yearly, in the months of January, and July, furnish to the Commissioner of Mines or other prescribed officer a full and true return, showing the quantity of stone or ore treated, and the quantity of gold and other minerals or metals

taken from such claim or lease during the preceding half year, and if default shall be made in compliance with this Section shall be liable, on conviction, to forfeit and pay a sum not exceeding 150 Rupees for every such default.

77. The Governor may, at any time before breach thereof, suspend or wholly or partially remit all or any of the covenants and conditions contained in any lease for mining purposes, in any case where he is satisfied that by reason of special circumstances it would be impossible to comply with, or would inflict great hardship upon the lessee to enforce such covenants or conditions. Governor may remit covenants.

78. A lessee may, subject to the regulations, surrender a lease for mining purposes. Lease may be surrendered.

79. All rights of surrender conferred by this Ordinance are subject to the rights of persons claiming from or under the lease. Rights of surrender subject to other rights.

80. The rent by any mining lease may be levied or recovered by or under the authority of the Commissioner of Mines, in like manner as rent is or shall be leviable or recoverable by law in cases where private persons only are concerned, and, in case such rent is leviable by distress, an order under the hand of the Commissioner of Mines shall be sufficient warrant and authority to distrain. This Section shall not affect any other remedy for recovery of the rent. Rent, how recoverable.

81. If the rent or any other sum payable under a mining lease is not paid on or before the day appointed for payment thereof, a payment of five per centum shall be added to such rent or other sum, and if the said rent or sum be not paid within one month after such day, together with such penalty, a further penalty of ten per centum shall be added; and if the said rent or other sum and such penalties be not paid within one month after such first month, the same shall be recoverable by the Cemmissioner of Mines by action in his own name in any Court of competent jurisdiction. Penalties on non-payment of rent.

82. In every case where the rent of land held under a mining lease is unpaid for more than three months after the day on which the rent is payable under such lease the Governor may cancel such lease, and the Commissioner of Mines shall thereupon insert a notice in the Gazette declaring the lease to be forfeited, and in every case where the Minister has reason to believe that there has been a breach of any of the covenants or conditions contained in such lease, except in the case of non-payment of the rent as aforesaid, and except in cases of non-compliance with the labour conditions of any leases, the Commissioner of Mines shall give written notice to the lessee specifying the covenants or conditions which he has reason to believe are not being complied with, and notifying him that such lease will be liable to forfeiture at the expiration of one month from the date of such notice, unless in the meantime such covenants and conditions are not duly complied with; and if at the expiration of such notice such covenants or conditions are still not being complied with by the lessee, the Governor may cancel such lease, and the Commissioner of Mines shall thereupon insert a notice in the Gazette declaring the lease to be forfeited. In case of non-payment of rent or the non-compliance with the labour conditions, the Governor may exercise the power of cancellation without giving the written notice hereinbefore mentioned. Every such notice shall be conclusive evidence that the lease therein mentioned was legally cancelled and forfeited, and the land included therein may be dealt with as if such lease had never been granted. Forfeiture of lease.

83. Whenever a lease for mining purposes is liable to forfeiture, and in the opinion of the Commissioner of Mines a less penalty than forfeiture would meet the justice of the case, the Commissioner of Mines may extend the period during which the lessee may perform the conditions of his lease, for such time and subject to such terms and conditions as he may think fit; and the terms and conditions so imposed by the Commissioner of Mines shall bind the lessee and all transferees, mortgagees, assignees, and other persons claiming through or under him, and the lease shall thereafter be construed as if such terms and conditions were inserted therein. Extension after breach.

84. The owner of any plant, machinery, engines, or tools on any forfeited or surrendered lease shall have three months in which to remove such plant, machinery, engines, or tools, from the date of forfeiture or surrender, but shall not, under a penalty of not more than 1,500 Rupees or less than seventy five Rupees for each such offence, be permitted to remove or to interfere with any timber in any mines. Owner may remove plant.

Persons under sixteen not to hold mining lease etc.

85. No person under the age of sixteen years shall hold, directly or indirectly, a mining lease, or prospecting claim, except in a representative capacity. All covenants and conditions contained in or imposed by a mining lease or a licence granted to an infant of the age of sixteen or upwards shall be binding upon him as if he were of full age.

Discovery by Government servant

86. (1) In the event of the discovery of any metal, mineral, coal or oil by any person in the service of the Government, it shall be lawful for the discoverer to peg out in the prescribed manner a Government protection area not exceeding six hundred and forty areas.

The discoverer shall forthwith report such pegging out to the Commissioner of Mines, and it shall be unlawful for any person to prospect in a Government protection area except with the consent of the Commissioner of Mines.

(2) A Government protection area pegged out as aforesaid may be disposed of, for the purposes of prospecting or mining, in such manner as the Governor may direct, and there shall be paid as a reward to the discoverer out of the revenues of the Protectorate such sum as the Governor shall determine.

Arbitration.

87. Every arbitration in pursuance of this Ordinance shall be under The Arbitration Act 1889 (52 and 53 Victoria C. 49), and the parties to the submission shall, for the purposes of such arbitration and of such last mentioned Act, be deemed to have entered into a written agreement to submit the differences in respect of the matter in question to the arbitration of two arbitrators, one to be appointed by each party and the said Act shall apply accordingly with such notifications as may be necessary for purposes of substituting the High Court of the Protectorate for the English High Court of Justice.

Obstructing Officer.

88. Any person who shall wilfully obstruct, hinder or assault, or resist a warden or inspector, or any person duly authorised by a warden or inspector or a person authorised by this Ordinance to exercise any right or power or execute any duty or shall wilfully disobey a warden's order other than an order for the payment of money, or shall be guilty of contempt of the Commissioner of Mines acting in a judicial capacity, shall be liable to a penalty not exceeding seven hundred and fifty Rupees, or to imprisonment of either description for any period not exceeding six months.

Penalty for removing beacons, etc.

89. Any person who shall illegally alter, move, or remove any monument or post erected in pursuance of Section 28 Sub-section (1) or (2) or any boundary or survey mark erected in pursuance of any Regulations under this Ordinance, shall, on conviction, be liable to imprisonment of either description for a term not exceeding three years, or to a fine not exceeding one thousand Rupees.

Infringement of Ordinance.

90. Any person who infringes a provision of this Ordinance for the infringement whereof no penalty is prescribed shall be liable for every offence to a penalty not exceeding one hundred and fifty Rupees.

Imprisonment in default of payment of penalty.

91. In every case of the adjudication of a fine or pecuniary penalty or amends under this Ordinance, and of non-payment thereof, the Court may commit the offender or person making default in payment to gaol for a term not exceeding twelve months the imprisonment to cease on payment of the sum due, and any cost which may have been awarded.

Schedules.

Schedule A.

Law Repealed.

The East Africa Mining Regulations 1902 (No. 2 of 1902).

The East Africa Mining (Amendment) Ordinance 1903 No. 8 of 1903).

The Mining Regulations Amendment Ordinance 1907 No. 2 of 1907).

Schedule B.

	Rs.	cts.
Prospecting licence	5	00
Renewal of prospecting licence	5	00

Prospecting Licence.

E. A. P.

No.....

Prospecting Licence.

Issued at.....

Issued to.....

Residence .....

Date of issue.....

Date of expiry.....

Fee paid.....

Commissioner of Mines.

(or Officer authorised to issue).

EAST AFRICA PROTECTORATE.

Fee Five Rupees.

No.....

Prospecting Licence.

Issued to.....

under the provision of "The Mining Ordinance 1910" to be in force until.....day of.....1910.

Place of issue.....

Date of issue.....

(Not Transferable)

Commissioner of Mines.

(or Officer anthorised to issue)

A Bill

Intituled.

An Ordinance to provide for the better protection of Forests and Trees on Crown Land.

A Bill

Intituled.

An Ordinance to provide for the better protection of Forests and Trees on Crown Land.

Preliminary.

1. This Ordinance may be cited as "The Forest Ordinance, 1910." Short Title.

2. In this Ordinance :— Definition of terms.

"Cattle" shall include bulls, cows, oxen, horses, mares, geldings, asses, pigs, ostriches, sheep, ewes, and goats.

"Crown Land" shall mean ;

(*a*) unalienated Crown Land ;

(*b*) lands dedicated to or reserved for the use of any native tribe or community·

(*c*) lands dedicated or set aside for the use of the public ;

(*d*) alienated Crown Land, on which the Crown retains a right to trees or forest produce ; and

(*e*) land, whether vested in the Crown or not, over which the members of any native tribe or community exercise or claim to exercise rights to cut wood or to remove forest produce.

"Demarcated Forest" shall include such area as has been declared by Proclamation to be a Demarcated Forest.

"Forest Area" shall include a Demarcated Forest.

"Forest offence" shall mean any contravention of the provisions of this Ordinance.

"Forest Officer" shall mean any person appointed to be the Chief or other Conservator of Forests, a Verderer or Forester or any person upon whom the powers of a Forest Officer may be conferred by the Governor.

"Forest Produce" shall include earth, trees, timber, wattles, plants, grass, reeds, rushes, peat, creepers, fibres, leaves, moss, fruit, seeds, galls, spices, bark, rubber, gum, resin, sap, charcoal, honey, wax, and such other things as the Governor may, by notice in the Gazette, declare to be included in the said term.

"Gazette" means the "Official Gazette" of the Protectorate.

"Ordinance" includes rules under this Ordinance.

"Timber" shall include trees or any part of a tree when they have fallen or have been felled, and all wood, whether sawn, split, hewn or otherwise fashioned.

"Trees" shall include not only timber trees, but trees, shrubs, bushes of all kinds, seedlings, saplings and re-shoots of all ages, and any part of a tree.

Forest Area.

3. The Governor may from time to time by Proclamation published in the Gazette, declare any area in the Protectorate to be a forest area within the meaning of this Ordinance, and may, subject as to a demarcated forest to the provisions of the Ordinance, in like manner, declare that any forest area, or any part thereof, shall cease to be a forest area. Power to declare Forest area.

4. The Governor may, from time to time, make rules, either of general application or confined to particular forest areas for the protection of trees and forest produce being in or upon Crown lands in a forest area, and in particular may prohibit any person as regards such Crown lands from :— Rules for protection of Forest areas.

(*a*) felling, cutting, taking, working, burning, injuring or removing any tree or forest produce;
(*b*) squatting, residing, building huts or kraals.
(*c*) firing any grass or under-growth;
(*d*) grazing or depasturing cattle;
(*e*) clearing, cultivating or breaking up of land for cultivation or other purposes;
(*f*) trespassing in such parts of a forest area as may, by order of the Governor, be closed to trespassers; except upon terms and conditions, and upon payment of such fees or royalties as may be prescribed.

Rules by Governor in case of existing rights in Fores area.

5. In case there shall be any right of grazing, wood cutting, collecting or removing any forest produce or cultivating upon any Crown land in any forest area the Governor may make rules to regulate the use of the pasturage, the trees or forest produce, and the right of cultivating.

Such rules may:

(*a*) specify the species of tree which may be cut, the season for cutting, and the quantity to be cut.
(*b*) temporarily prohibit grazing or cultivating over specified areas in order to preserve the young trees growing on such areas.
(*c*) prescribe such annual succession of areas over which the right to cut wood or to collect or remove forest produce or to graze cattle may be exercised as shall be deemed most favourable for the conservation of the forest and forest produce.
(*d*) prescribe the manner in which the forest produce may be collected, extracted, gathered or obtained.
(*e*) generally provide for the manner in which any such right shall be exercised.

Demarcated Forest—Tenure—Procedure before Proclamation.

Proclamation of a Demarcated Forest.

6. The Governor may, subject to the provisions of this Ordinance by Proclamation in the Gazette, declare any area of Crown Land to be a Demarcated Forest for the purposes of this Ordinance.

Alienation of demarcated forest unlawful without approval of Governor in Council and consent of Secretary of State.

7. It shall not be lawful, without the approval of the Governor in Council, and the express consent of the Secretary of State for the Colonies, first had and obtained, to alienate, or grant, or dispose of any land, or of any right in or over land in a demarcated forest; and all such alienations, grants, or disposals that may be made without such approval and consent as aforesaid shall be null and void; provided that nothing in this Section shall be taken as affecting existing rights, or as prohibiting the grant of rights of way over land within a demarcated forest, or as prohibiting the sale of forest produce or the ground of rights of grazing or cultivating in such forest under and in accordance with regulations made under this Ordinance; and provided further that nothing in this Section contained shall be held to affect the rights of the Crown or Government to issue permits or licences for prospecting for minerals, or to dispose of land containing such minerals, provided that such disposals shall carry surface rights only so far as may be required for mining purposes.

Procedure before Proclamation of a demarcated forest.

8. Before any area shall be proclaimed to be a demarcated forest a preliminary demarcation of the area shall be made and a topographical plan illustrating such demarcation prepared, and a committee consisting of the Provincial Commissioner of the Province within which such area is situate, and such Officers of the Land and Forest Departments as the Governor shall appoint on that behalf shall, after due enquiry, report to the Governor as to the advisability of declaring such area to be a demarcated forest and as to the rights of any person or persons in such area.

Public notice to be given of intention to proclaim a demarcated Forest.

9. Whenever the Governor shall, after having received the report of the Committee required under the preceding section, approve that the whole or any part of the area demarcated as aforesaid shall be proclaimed as a demarcated forest, he shall, when the alterations, if any, in the boundaries of such area as approved by him shall have been demarcated and surveyed, cause copies of the plans of the area approved by him as aforesaid and of the report of the Committee as to existing rights in such area to be deposited for public inspection in the Office of the Commissioner of the Province within which such area is situate, and notice to be given once a month for a period of three months in the "Gazette" of the intention to proclaim such area a Demarcated Forest.

10. In case no Court of competent jurisdiction shall, during a period of three months in the preceding Section mentioned, make on the application of any person interested any order restraining such declaration, or in case of such restraint if such Court shall, within a period to be fixed by such order of restraint, decide against the objector or alter the limits of demarcation, a proclamation of declaration fixing the limits of demarcation as originally notified, or as altered, as the case may be, may be published, and thereupon the area to be so limited shall become a demarcated forest.

Unless restrained by competent order Proclamation may issue after three months.

11. Until the publication of any Proclamation of a demarcated forest as aforesaid, angles of boundaries may be shown by cairns or poles. As soon as such publication shall have taken place the said cairns or poles shall be replaced by beacons constructed in such manner and of such material or materials as the Governor may, from time to time, direct.

Until Proclamation angles of area may be marked by temporaryc airns or poles, after Proclamation permanent beacons to be erected.

Protection of Trees and Forest produce on Crown Lands not within Forest area.

12. The Governor may make rules either of general application or confined to particular areas for the protection of trees and forest produce on Crown Lands and for the regulation of the felling, collecting and removing thereof, and may prescribe the fees and royalties to be paid upon the felling of any tree or the collecting or removing of any forest produce.

The Governor may make rules for the protection of timber and forest produce upon Crown land not being within a Forest area.

General.

13. The Governor may fix such penalties for the breach or non-observance of any rule as he may think proper, not exceeding imprisonment of either kind for a term of six months or a fine of 1,500 rupees, or both, and the forfeiture of any licence granted in pursuance of this Ordinance or rule thereunder, and of any forest produce unlawfully or improperly obtained, and where no penalty is imposed by the rules the breach or non-observance of any rule shall be punishable to the extent aforesaid.

Power to fix penalties for breach or non-observance of any rule.

14. In all cases of cutting, injury or removal of trees or of forest produce, of forest fires, whether caused wilfully or negligently; of cattle trespass, or in any other way whatsoever, whereby any tree or forest produce is damaged or injured, the value of such damage or injuries may be assessed by the Court and be ordered by such Court to be paid by the accused.

Ofiender may be cost in damages resulting from offence.

15. In the case of the fraudulent removal of trees of forest produce, the restitution of the property so removed, or its value, to be fixed by the Court, shall be ordered in addition to the fines and damages adjudged.

Restitution of trees etc. fraudulently removed or payment of their value.

In case of unauthorised establishments, buildings, enclosures, huts, kraals, or standing crops within a forest area, the Court shall fix the period within which such buildings, huts, kraals or crops shall be removed, and the places put in their former condition. In case such removal shall not have been effected within the prescribed period, all buildings, huts, kraals, or crops, found in the forest, shall become the property of the Crown and the Forest Department shall dispose of them as may be most beneficial to the forest.

16. It shall be lawful for, and it shall be the duty of every Magistrate, Justice of thePeace, Police Officer, Forest Officer, to demand, as often as may be necessary, the production of the authority or licence for any act, done or committed in a forest area or in relation to any tree or forest produce, for which a licence or authority is required by or under any rule under this Ordinance; and in the event of such authority or licence not being produced then and there to restrain from further acts.

Production of authority for any act done within within forest area or in relation to trees of forest produce on Crown land.

17. Whenever any Magistrate, Justice of the Peace, Forest Officer or Police Officer suspects that any person has been guilty of a forest offence, or is in possession of any forest produce in respect of which a forest offence has been committed he may search such person or any baggage, package, parcel, conveyance, tent, or building under the control of such person or his agent or servant, and of the Magistrate, Justice of the Peace, Forest Officer or Police Officer shall find any forest produce, he may, if he shall have reason to believe that a forest offence has been committed in respect thereof, take the same before a Magistrate to be dealt with according to law.

Search and seizure of forest produce

18. Any person who shall receive or shall be found in possession of any forest produce in respect of which a forest offence has been committed shall be guilty of an offence, and if it shall be proved against such person that he knew or had reason to know that a forest offence had been committed in respect of

Receiving produce in respect of which offence committed,

such forest produce, he shall be liable to imprisonment of either description for a term not exceeding six months or to a fine of 1,500 rupees or both, and the produce shall be forfeited, and, in any other case, the produce shall be forfeited.

Person in possession of forest produce in or near forest area, liable to interrogation by Forest Officer; and unless possession proved lawful liable to fine.

19. Any person found within a forest area, or in its vicinity, and having in his possession any forest produce, who, on being thereunto required by any Forest Officer, refuses to give a satisfactory account of the manner in which he became possessed of any such produce, may be taken by the party interrogating him before a Magistrate; and if such person does not satisfy such Magistrate that he came lawfully by such produce, he shall, on conviction, be liable to a fine not exceeding seventy five rupees and the produce shall be forfeited.

Arrest withou warrant of persons suspected of offence

20. Any Forest or Police Officer may, without warrant, arrest any person reasonably suspected of having been concerned in any forest offence, if the accused person refuses to give his name and residence, or gives a name and residence which there is reason to believe is false, or if there is reason to believe he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person so arrested to be dealt with according to law.

Presumption of ownership of wood etc, or of land being Crown land in favour or Crown.

21. When in any proceedings under this Ordinance, a question arises as to whether any tree or forest produce is the property of the Crown, or whether any land is Crown land such tree or forest produce shall be presumed to be the property of the Crown, and such land shall be deemed to be Crown land until the contrary is proved.

Penalty for conterfeiting or unlawfully affixing; altering etc, mark of forest department.

22. Any person who commits, or aids, or abets, any person who commits any of the following offences, shall be punished with imprisonment of either description for a term not exceeding two years, or with a fine not exceeding seven hundred and fifty Rupees or with both such fine and imprisonment :—

(*a*) Counterfeits upon any tree or forest produce, a mark used by Forest Officers to indicate that such tree, or produce is the property of the Government, or that it may be lawfully cut or removed.

(*b*) Counterfeits or issues without due authority, any licence, permit or pass for the cutting, removal, or sale of trees, or forest produce.

(*c*) Alters, obliterates, or defaces any stamp, mark, sign licence, permit or pass used or issued by the Forest Department or under the authority of this Ordinance.

Penalties under Ordinance not substituted for others, but no conviction twice for the same offence.

23. Nothing in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or for being liable under such other law to any higher punishment or penalty than that provided by this Ordinance, provided that no person shall be punished twice for the same offence.

Or from civil liability.

24. Nothing in this Ordinance contained shall take away or interfere with the right of the Government or of any person to sue for and recover at common law or otherwise compensation for or in respect of damage or injury caused by a forest offence.

Share of fine may be paid to informer, other than Government servant.

25. The Court may award an amount not exceeding one-fourth of the fine imposed for a forest offence, to the person not being a person in the service of the Government who may have supplied such information as may have led to the conviction of an offender.

Disposal of forest produce forfeited,

26. Any forest produce forfeited under this Ordinance shall be sold or otherwise disposed of as the Governor may, by general or special order, direct.

Repeal.

27. The enactments set forth in the Schedule hereto are hereby repealed. Provided that all Proclamation, Rules, Orders, and appointment made thereunder and in force at the commencement of this Ordinance shall be deemed to have been made under this Ordinance and provided further when in any law, proclamation or order, or in any contract, or licence reference is made to any of the enactments hereby repealed such law, proclamation, order, contract or licence shall be read as if, therein, this Ordinance were substituted for such repealed enactment.

Schedule.

Enactments Repealed.

The East Africa Forestry Regulatations 1902.
The East Africa Forestry Ordinance, 1905.

A Bill

Intituled.

An Ordinance to amend the Native Hut and Poll Tax Ordinance 1910.

PRINTED BY THE GOVERNMENT PRINTER.

A Bill

Intituled.

An Ordinance to amend the Native Hut and Poll Tax Ordinance.

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1. This Ordinance may be cited as "The Native Hut and Poll Tax Amendment Ordinance 1910" and shall be read as one with the Native Hut and Poll Tax Ordinance 1910 hereinafter referred to as the Principal Ordinance. Short tiile.

2. For the purposes of the Principal Ordinance the term "Swahili" shall include a person of Asiatic origin neither of whose parents is of pure Asiatic descent. Whenever a question shall arise as to whether a person is a Swahili or not the onus shall be on such person to prove that he is not a Swahili. Interpretation of term "Swahili."