

BECHUANALAND PROTECTORATE.

No. 8 of 1927.

[Promulgated 25th February, 1927.]

PROCLAMATION

By His Excellency the High Commissioner

Making provision in the Bechuanaland Protectorate for the appointment of a Railway Commission and for the fixing of railway charges.

Whereas it is desirable to make provision in the Bechuanaland Protectorate for the appointment of a Railway Commission and for the fixing of railway charges:

Now therefore under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:—

ANALYSIS OF PROVISIONS.

Section.

1. Interpretation.
2. Railway Commission.
3. Appointment of officers.
4. Expenses.
5. Procedure.
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9. Accounts and returns.
10. Standard revenue.
11. Loan provision.
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1. For the purposes of this Proclamation, unless the context otherwise requires:—

The expression "the Governments" means the Governments of Southern Rhodesia, Northern Rhodesia, and the Bechuanaland Protectorate.

The expression "the companies" means the Rhodesia Railways Limited, the Mashonaland Railway Company Limited, and the Blinkwater Railway Company Limited, and shall include the successors in title of the companies or of any of them.

The expression "the Katanga Company" means the Rhodesia Katanga Junction Railway and Mineral Company Limited.

The expression "the undertakings" means the undertakings, railways, lands, works, movable and immovable property, powers, authorities, privileges, exemptions, rights of action and suit, and all other the contractual and other rights and interests to which the companies are from time to time

entitled, including the railway undertaking comprised in an Indenture of Lease dated the 30th day of January, 1915, and made between the Katanga Company of the first part, James Rochfort Maguire, Sheffield Neave and Baron Emile Beaumont d'Erlanger of the second part, Tanganyika Concessions Limited of the third part, the Mashonaland Railway Company Limited and the Rhodesia Railways Limited (herein after in this Proclamation together referred to as "the Lessee Companies") of the fourth part, subject to the contracts, obligations, debts, and liabilities of the companies; and the expression "the undertaking" used in relation to any one of the companies has the same meaning in relation to that company.

The expression "the railways" means the portions of the undertakings used for railway purposes.

The expression "the Katanga Railway" means the railway undertaking of the Katanga Company comprised in the Indenture of Lease above mentioned.

The expression "the Commission" means the Railway Commission by this Proclamation constituted.

The expression "railway charges" includes rates, fares, tolls, dues and other charges which the companies or any of them are entitled to make for railway services.

The expression "rates" means rates and other charges in connexion with the carriage of merchandise.

The expression "fares" means fares and other charges in connexion with the conveyance of passengers and their luggage.

The expression "merchandise" includes goods, minerals, live stock and animals of all descriptions.

The expression "trader" includes any person sending, receiving or desiring to send merchandise by railway.

The expression "modifications" in relation to charges includes modifications whether by way of decrease or increase, and "modify" shall be construed accordingly.

The expression "year of account" means the twelve months for which the accounts of the companies are made up pursuant to the provisions of this Proclamation.

The expression "year" when used with reference to the receipts, expenses, charges, accounts or statistics of the companies or any of them means the year of account.

The expression "the sources of revenue" means the net revenue from the undertakings. The expression "the net revenue" means the revenues from the undertakings after deducting all expenses, charges and allowances chargeable against revenue, except the items mentioned in section *eleven*.

The expression "realized income" means in respect of any year of account the revenue realized by the companies in that year from the sources of revenue.

The expression "standard revenue" means in respect of any year of account such net revenue as will provide the items specified in section *ten* hereof.

The expression "reserve account" means the accumulated amount carried to reserve by the companies or any of them in accordance with the provisions of this Proclamation.

2. (1) There shall be established a tribunal styled the Railway Commission (in this Proclamation referred to as "the Commission") consisting of four members, and the Commission shall be a court of record and have an official seal which shall be judicially noticed, and the Commission may act notwithstanding any vacancy in their number; provided that the Commission shall not act when the office of chairman herein after mentioned shall be vacant and an acting chairman shall not have been appointed.

(2) The following provisions shall apply to the members of the Commission other than the chairman:—

- (i) They shall be appointed one by the Government of Southern Rhodesia, one by the Government of Northern Rhodesia, one by the High Commissioner for South Africa on behalf of the Government of the Bechuanaland Protectorate.

- (ii) The original members shall retire one at the end of the third year, one at the end of the fourth year and one at the end of the fifth year from the date of appointment. The order in which such members shall retire shall, in default of agreement between the Governments, be determined by lot. Each succeeding appointment shall be for a period of three years and shall be made by the Government which appointed the retiring member. A retiring member shall be eligible for reappointment.

The appointment of a member shall terminate if his estate is sequestrated as insolvent or is assigned by him for the benefit of his creditors, or if through infirmity of mind or body he becomes incapable of performing the duties of a member, or if his appointment is withdrawn by the Government which appointed him in terms of the next succeeding paragraph.

- (iii) Any of the Governments may withdraw the appointment of the member appointed by it on the ground of proved misbehaviour or incapacity. In the case of the Government of the Bechuanaland Protectorate such withdrawal shall be subject to the approval of the Secretary of State.
- (iv) The remuneration of each member shall be fixed by agreement of the Governments.
- (v) In the event of a casual vacancy, caused by the retirement, termination of appointment or death of any member, the Government which appointed such member shall appoint a member in his place for the remainder of the period of the original appointment.
- (vi) In the event of any member being unable to act owing to absence, illness or any other cause, the Government by which such member was appointed may appoint another person in his place during the period of such member's inability to act.

(3) The chairman (who shall be a man of practical experience of railway working) shall be appointed (with the approval of the Secretary of State) by the Governments jointly, after consultation with the companies, for a period not exceeding five years, upon terms to be fixed by the Governments. If the Governments fail to make such appointment within four months of the date when such appointment falls to be made, the appointment may be made by the Secretary of State.

(4) In the event of the office of chairman by reason of death or retirement becoming vacant, or if the chairman is unable to act owing to absence, illness or any other cause, an acting chairman may be appointed for a period not exceeding six months. The provisions of sub-section (3) of this section as to the qualifications and appointment of a chairman shall apply to an acting chairman.

3 The Commission may appoint a secretary and such other officers and servants (subject to the consent of the Governments as to number) as they may consider necessary for assisting them in the proper execution of their duties, and there shall be paid to any such secretary, officer or servant such remuneration (including superannuation allowances or gratuities on retirement) as the Commission, with the approval of the Governments, may determine.

4. The remuneration of the Chairman and other members of the Commission, of the Secretary, officers and servants thereof, and any other expenses of the Commission incurred in the exercise and performance of their powers and duties, shall be defrayed (so far as the same are not met out of the amount recovered by way of fees) by the companies as part of their working expenses.

The Commission may from time to time frame an estimate of its expenditure and make levies on the companies for the funds to meet the same. The Governments may make temporary advances to meet the expenses of the Commission, pending the recovery of such expenses from the companies.

5. (1) The Commission may from time to time, with the approval of a Judge of the High Court of Southern Rhodesia and a Judge of the High Court of Northern Rhodesia, make general rules governing their procedure and practice, and

generally for carrying into effect their powers and duties under this Proclamation, and such rules may, amongst other things, provide for—

- (a) the recovery of any sums payable by the companies or any of them, pursuant to this Proclamation or any order made by the Commission under this Proclamation;
- (b) the awarding of costs by the Commission, but so that in proceedings before the Commission the Commission shall not have power to award costs unless they are of opinion that either the application, claim or complaint or the defence or objection, as the case may be, is frivolous or vexatious;
- (c) the reference of any question to a member or officer of the Commission or any other person appointed by them for report after holding a local inquiry;
- (d) the number of members of the Commission to constitute a quorum;
- (e) enabling the Commission to dispose of any proceedings before them, notwithstanding that in the course of the proceedings there has been a change in the persons sitting as members of the Commission;
- (f) the right of audience before the Commission, provided that any party shall be entitled to be heard in person, or by a representative in the employment of the party duly authorized in writing, or by counsel or solicitor;

and may prescribe a scale of fees for and in connexion with the proceedings before the Commission.

(2) Each of the Governments shall be entitled to intervene and be heard in any proceedings before the Commission or on appeal. The companies or any of them shall *prima facie* be regarded as a party to such proceedings.

(3) The Commission shall annually make a report of its proceedings under this Proclamation to each of the Governments.

(4) The Commission shall furnish annually to each of the Governments an account showing its revenue and expenditure; such account to be subject to audit by the Governments.

6. Subject to the provisions of this Proclamation and to the rules made thereunder, the Commission may hold sittings in such place or places as may be convenient for the determination of the proceedings before them. The head office of the Commission shall be at Bulawayo.

7. The decisions of the Commission shall be by a majority, and for this purpose every member of the Commission, including the Chairman, shall have one vote, and in case of equality the Chairman shall have a second or casting vote. Any one of the Governments or any one or more of the companies shall be entitled to require any matter to be referred for final decision to a referee, to be appointed by the Secretary of State, whose award shall take effect as though it were a judgment of the Commission. The costs of any such reference shall be deemed to be expenses of the Commission.

8. Should a question of jurisdiction arise as to the competence of the Commission to entertain any particular matter, the same shall be referred by way of special case to the High Court of Southern Rhodesia, whose decision shall be final. In the proceedings on such special case the Commission shall take proper steps for legal representation of the Commission, and shall be recouped its costs thereof as part of the expenses of the Commission.

The Registrar of the Court shall transmit a certified copy of any judgment or order of the Court in such special case to the Registrars of the High Court of Northern Rhodesia and of the Special Court of the Bechuanaland Protectorate respectively. Upon the filing of such copy in the Special Court of the Bechuanaland Protectorate it shall have the effect of a judgment or order of that Court,

9. (1) The companies shall prepare and submit to the Commission financial accounts, which shall be compiled in a form and manner to be approved by the Commission, and shall be made up to the 30th September of each year.

Six copies of such financial accounts and of such supplementary statements as the Commission may require shall be delivered to the Commission on such date as the Commission may fix, commencing with the year of account ending the 30th September, 1927; and the Companies shall on request furnish the Commission with such explanations or further information as the Commission may require with reference to the said accounts and statements or to any documents submitted to the Commission pursuant to the provisions of this Proclamation.

(2) The Commission shall have the right to inspect all books, accounts, records and statistics of the companies, or any of them, at all reasonable times and after reasonable notice, and if the Commission deem it desirable to have such accounts, records and statistics for any year or other period examined by a chartered, statutory or incorporated accountant, or other properly qualified person appointed by the Commission for this purpose, and each of the companies shall give all necessary facilities and assistance for such inspection and examination.

(3) The Commission may, for the purpose of obtaining information as to any matter being inquired into by it, summon any person before it to give evidence or produce any books, papers or documents in his custody or control in relation to such matter, and, if such person shall fail or neglect to appear in answer to such summons or to give evidence or produce such books, papers or documents, the Commission may impose on him the same penalties as might be inflicted by the High Court of Southern Rhodesia in like circumstances, and such penalties shall be enforced in like manner as penalties imposed by such Court.

The Commission may further for the purpose aforesaid require the companies, or any of them, to furnish, upon reasonable notice, served upon their local representative, such books, papers or documents, wherever situated, and should any such Company fail or neglect to comply with such notice, it shall be liable to a penalty not exceeding £100, and to incur a further penalty of £10 in respect of each day during which such default shall continue.

10. The standard revenue shall be such as will provide the following items:—

- (1) A sum to be calculated in accordance with section *eleven* hereof (in this Proclamation called "the loan provision");
- (2) a sum to be calculated in accordance with section *twelve* hereof (in this Proclamation called "the dividend provision");
- (3) a sum to be calculated in accordance with section *thirteen* hereof (in this Proclamation called "the reserve provision").

11. The loan provision shall consist of—

- (a) the amount required during the year for meeting the interest upon the loan capital of the companies, particulars whereof as at the 1st of September, 1926, are set out in the Schedule to this Proclamation; and
- (b) such allowance as shall appear to the Commission necessary to remunerate adequately any capital which may be raised or provided after the 1st of September, 1926, if such capital has been raised or provided with the prior approval of the Commission or (pending the appointment of the Commission) of the Governments, or, in the absence of such prior approval, unless in the opinion of the Commission the expenditure of such capital has not enhanced or is not likely to enhance the value or earning capacity of the undertakings or any of them.

12. (1) The dividend provision shall, for the year commencing 1st October, 1927, be the sum of £150,000, which sum shall be the minimum dividend provision.

(2) If in any year the realized income shall have exceeded the standard revenue for that year, the dividend provision shall be increased for the year following the ascertainment of such excess, and for following years by 10 per cent. of such excess up to a maximum of £10,000 in any one year; but this process of increase shall cease as soon as the dividend provision shall have reached the sum of £225,000, which sum shall thereafter be the maximum dividend provision. Provided that, notwithstanding any such increase in the dividend provision, the charges for any year shall not be increased except to the extent (if any) which may be required to yield the minimum dividend provision.

13. (1) The reserve provision shall, in the year commencing the 1st October, 1927, be the sum of £350,000, and shall continue at that annual figure until the accumulations thereof, together with any other sums carried to the reserve account, shall have reached the sum of £1,000,000.

(2) After the reserve account has reached £1,000,000 the reserve provision shall be reduced to £150,000, and shall continue at that annual figure until the reserve account shall have reached £1,500,000 whereupon the reserve provision shall cease.

14. The companies jointly and each of the companies separately, as the case may be, shall—

- (i) in the year 1927, as soon as practicable after the appointment of the Commission; and
- (ii) in every subsequent year on such date as the Commission may fix;

submit to the Commission the following documents:—

(a) A collective balance-sheet of the companies and separate balance-sheets of each of the companies as at the end of the last preceding year of account.

(b) Collective statements of the whole of the receipts and expenses on revenue and capital account respectively of the undertakings and similar separate statements in respect of the undertakings of each of the companies, distinguishing the receipts and expenses in respect of the Katanga Railway, for the last preceding year of account. Such statements shall be in a form to be prescribed by the Commission, and the revenue statement shall comply with the following requirements:—

- (i) It shall be presented in two parts, one of which shall give the figures for the portion of the year of account during which the last revised charges were in force, and the other for the earlier portion (if any) of the period of account;
 - (ii) expenditure on additions or improvements made to the undertakings or undertaking, as the case may be, out of revenue shall be specifically set out;
 - (iii) any sums produced during the year by the sale of lands or other capital assets shall be excluded from the receipts;
 - (iv) in the event of the accounts of any company not being complete at the date when the statements are due to be submitted, such company shall include in the statements the best estimate it can make of the receipts and expenses for the period for which precise figures are not at the time ascertainable;
 - (v) the basis of any charges against revenue for depreciation or renewal or any other provisions shall be shown.
- (c) A schedule of the railway charges which the companies propose shall be made in the next succeeding year of account.
- (d) An estimate in such form as the Commission may prescribe of the anticipated receipts and expenses of the undertakings on revenue account for the next succeeding year of account. The estimate of receipts shall include all sources of revenue, and the receipts from railway charges shall be calculated on the basis of the schedule submitted pursuant to the last preceding sub-section.

All documents submitted to the Commission pursuant to this section shall be published by them in such manner as they shall deem fit.

15. (1) It shall be the duty of the Commission annually—

(a) To examine the documents so submitted pursuant to section *fourteen*, and to consider any objections which may be lodged with them within the prescribed time and in the prescribed manner, and to hear all parties whom the Commission shall consider to be sufficiently concerned to entitle them to be heard.

(b) To determine what adjustments, if any, ought to be made, having due regard to efficient and economical management, in the accounts for any year submitted pursuant to section *fourteen*, in order to arrive at the amount of the realized income for that year, and for the purposes of this Proclamation the amount so arrived at shall be deemed to be the realized income of the companies for that year.

(c) To consider the charges in respect of any railway or other business carried on by the companies or any of them ancillary or subsidiary to the railways, including the rents of leased lands, the charges for which are not subject to the jurisdiction of the Commission and if in the opinion of the Commission, the companies or any of them are not making or have not taken reasonable steps to enable them to make adequate charges in respect of any such business, to estimate the additional revenue (herein after in this section called "the estimated additional revenue") which would, in the opinion of the Commission, be produced by any such business if adequate charges were in operation.

(d) To adjust, if necessary, the schedule of railway charges submitted pursuant to section *fourteen*, so that a net revenue equivalent to the standard revenue for the year to which the schedule relates, calculated according to the provisions of section *ten*, will, in the opinion of the Commission, so far as practicable be earned in that year with efficient and economical management from the sources of revenue; provided that the Commission, in considering the amount of revenue to be earned from any ancillary or subsidiary business, shall take into account the estimated additional revenue.

(e) To fix the date, whether before, at or after the commencement of the next succeeding year of account, at which the railway charges so adjusted shall come into force.

(2) On and from the date so fixed such charges shall, unless and until the Commission shall otherwise order, be the charges which each of the companies respectively shall make for all services rendered in respect of which charges are determined.

16. The companies shall, in addition to the statements mentioned in the preceding sections, furnish to the Commission periodical reports, either quarterly or as the Commission may direct, giving the following particulars:—

(a) The actual receipts and expenditure for the current year to date.

(b) The anticipated receipts and expenditure for each quarter of the remainder of the current year.

(c) A revised estimate of the anticipated receipts and expenses of the undertakings on revenue account for the next succeeding year.

17. (1) The Commission shall, at the end of each year of account; ascertain the amount to be carried to the reserve account for the year by the following calculation:—

From the total realized income shall be deducted—

(a) The loan provision for the year.

(b) A sum available for distribution in dividend and for income tax (if any) payable thereon (in this section called "the dividend sum"), calculated as follows—

(i) In any year in which the realized income shall be equal to or greater than the standard revenue, the dividend sum shall be (a) a sum equal to the dividend provision

for that year, together with (b) a sum equal to 10 per cent. of the excess (if any) of the realized income over the standard revenue for that year.

- (ii) In any year in which the realized income shall be less than the standard revenue, the deficiency shall be apportioned between the dividend sum and the sum to be carried to reserve respectively in the proportion which the dividend provision bears to the reserve provision for that year, and the dividend sum shall be a sum equal to the dividend provision for that year less the said proportion of the deficiency.

The balance of the realized income, less the amount (if any) of the income tax payable on such balance shall be the amount to be carried to the reserve account.

(2) Any sums which from time to time shall be held by the companies or any of them, representing the amounts carried to the reserve account, shall not be applied by the companies respectively to any purposes which shall not have been previously approved by the Commission.

18. (1) The companies shall send to the Commission as soon as possible after the end of each year of account a statement showing the manner in which the sum available for distribution in dividend and for income tax (if any) payable thereon, calculated in accordance with section *seventeen*, has been allocated between the companies respectively.

(2) If the companies fail within a reasonable time after the end of each year of account to make such allocation, the Commission may provisionally determine the manner in which such allocation is to be made, and until the companies shall have made such allocation and shall have given notice thereof to the Commission, the provisional allocation made by the Commission shall, as between the companies, be valid and binding.

(3) No one of the companies shall distribute in dividend or in any other manner any greater sum than the sum which shall in the allocation so submitted or settled as aforesaid be allocated to that company for that purpose, except with the consent of the Commission, who shall be satisfied that such distribution will not contravene the provisions of this Proclamation in relation to the accumulation of the reserve account nor the provisions of section *nineteen* of this Proclamation, and provided that all undistributed balances in the accounts of the companies as at the 30th September, 1925, shall remain in the undertakings and shall not be distributed by way of dividend or in any other manner.

19. (1) The aggregate sums which the companies shall distribute in dividends, including the income tax payable in respect of the distribution in each of the years ending the 30th September, 1926, and the 30th September, 1927, shall not exceed the amount of £150,000. Any excess of the realized income above such sum and the loan provision in the year ending the 30th September, 1926, shall remain in the undertakings, and any such excess in the year ending the 30th September, 1927, shall be carried to the reserve account.

(2) As from the 1st October, 1926, or as soon thereafter as practicable, such a reduced tariff of railway charges shall be brought into operation by the companies as it is estimated would in twelve months produce a realized income of £500,000 after payment of the amount required for the loan provision under section *eleven*.

20. The Commission may, on the application of the companies or any one or more of them, allow the temporary reduction of any railway charge or charges. Such application shall, where possible, be made and dealt with summarily.

21. (1) Nothing in this Proclamation contained shall prejudice or affect the power of the companies or any of them to impose railway charges and to make rebates, allowances or reductions on such charges under contracts entered into by the companies or any of them prior to the 1st day of September, 1926, for the periods and according to the terms by such contracts respectively provided.

(2) After the passing of this Proclamation, the companies shall not enter into contracts and arrangements to grant exceptional rates except with the consent of the Commission.

22. (1) The benefits and obligations of any contracts or arrangements entered into by the companies or any of them prior to the 1st September, 1926, and in force on that date, for acquiring, working, managing or sharing profits over any section of railways not included in the undertakings, but now or hereafter worked in conjunction with them or any of them, shall enure to the undertakings as a whole, and shall not be varied or cancelled save with the consent of the Commission or (pending the appointment of the Commission) of the Governments.

(2) The benefits and obligations of any such contracts or arrangements as are described in sub-section (1) hereof entered into by the companies or any of them on or after the 1st September, 1926, shall enure to the undertakings as a whole, save in so far as the Commission or (pending the appointment of the Commission) the Governments shall be of opinion as regards any such contracts or arrangements that they may unduly enhance the relative value of any such section or sections, and correspondingly diminish unduly the relative value of the companies or any of them, and the Commission shall for the purposes of section *fifteen* of this Proclamation take into account such additional revenue as would have been produced if such undue diminishment had not been effected.

(3) If any contract or arrangement referred to in the last preceding sub-section shall have received the approval of the Commission or the Governments, as the case may be, then the terms of the said sub-section shall not apply thereto except the provision that the benefits and obligations of such contract or arrangement shall enure to the undertakings as a whole.

23. Any of the Governments or any one or more of the companies or any representative body of traders, or any person who is in the opinion of the Commission a proper person for the purpose, shall be entitled at any time to apply to the Commission to modify railway charges or any of them, and if any such Government, company or body of traders or person, as the case may be, prove to the satisfaction of the Commission that the railway charges or conditions or any of them or any classification ought to be modified, the Commission shall make such modifications as they think fit, and shall fix the date as from which the modified railway charges or conditions or classifications shall be effective, and may limit a period for their operation.

Provided that when modifying railway charges upon an application for a general modification of railway charges under this section, the Commission shall have regard to the like considerations as when adjusting railway charges under section *fifteen* of this Proclamation.

24. Where any through charge shall have been quoted by the companies or any of them or fixed by the Commission, the same shall be apportioned as shall be agreed amongst the companies concerned. If such companies fail to agree, the Commission shall apportion such charge, and in so doing shall take into account all the circumstances of the case.

25. All rates and fares shall at all times be charged equally to all companies or persons and at the same rate, whether per ton, per mile or otherwise, in respect of all passengers and of all goods of the same description and conveyed or transported by like conveyance or engine passing only over the same portion of the line of railway under the same circumstances and conditions, and no reduction or advance in any such rates or fares shall be made directly or indirectly in favour of or against any particular company or person travelling upon or using the railways except where otherwise provided in this Proclamation.

26. The companies shall not nor shall any of them make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company or any particular description

of traffic in any respect whatsoever, nor shall any of the companies subject any particular person or company or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatever.

Whenever it is shown that any of the companies charge one trader or class of traders or the traders in any district lower charges for the same or similar services than they charge to other traders or classes of traders or to the traders in another district, or make any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charges or difference in treatment do not amount to an undue preference shall lie on such company.

In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the Commission may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing the traffic in respect of which it is made, or is in the opinion of the Commission for any other reason desirable in the interests of the public or of trade, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant.

27. Any of the companies may, with the approval of the Commission, quote new railway charges.

28. The railways shall continue to be operated, as they are at the present time, by a central administration, except in so far as the companies, on the determination of any existing arrangements with the Katanga Company (including the said lease of the Katanga Railway), shall be unable to continue such arrangements or to make new arrangements under which the existing system of centralized operation may be continued. So long and in so far as the existing system of centralized operation shall so continue, traffic shall be enabled to pass throughout the whole of the railways owned or worked by the companies or any of them as one continuous line, and each of the companies shall handle the traffic of any other or others as though it were its own traffic, and each company shall be entitled to quote through rates and fares to and from any point on its system from and to any point on the system of any of the other companies, and to run over and use for all purposes of railway traffic the whole of the said railways and all stations, sidings and other conveniences connected therewith.

29. Any costs awarded against the companies or any of them in terms of rules made under section *five* (1) (*b*) of this Proclamation, and any penalties awarded under section *nine* (3), shall not be defrayed by the companies as part of their working expenses.

Any damages or costs awarded against the companies or any of them in terms of section *thirty* of this Proclamation shall not be defrayed by the companies as part of their working expenses unless the Commission shall be satisfied that the act or omission in respect of which such damages or costs were awarded was not due to a wilful or deliberate disregard of the provisions of this Proclamation.

30. (1) It shall be lawful for any company or person complaining against the companies or any of them of anything done or of any omission made in violation or contravention of this Proclamation to apply in a summary way to the Commission; it shall also be lawful for any of the Governments through its duly authorized officer to apply in like manner to the Commission, and in either of such cases it shall be lawful for the Commission to hear and determine the matter of such complaint; and if it be made to appear to the Commission that any thing has been done or omission made in violation or contravention of this Proclamation by the companies or any of them, it shall be lawful for the Commission to award damages to the injured party and to issue an interdict restraining the companies or any of them from further continuing such violation or contravention of this Proclamation,

and enjoining obedience to the same, and any order or judgment of the Commission shall as regards any person cause matter or thing within the jurisdiction of the Courts of the Bechuanaland Protectorate be deemed to be an order or judgment of the Special Court of the Bechuanaland Protectorate and shall be enforced in like manner as an order or judgment of that Court; and in any such proceeding as aforesaid the Commission may, subject to the provisions of this Proclamation, order and determine that all or any costs thereof or thereon incurred shall and may be paid by or to the one party or the other, as the Commission may think fit; provided that—

- (a) no damages shall be awarded by the Commission in respect of any application made to the Commission under this section unless such application shall have been made to the Commission within one year after the discovery by the applicant of the matter in respect of which such application is made; and
- (b) in cases of complaint of undue preference, no damages shall be awarded if the Commission shall find that the rates complained of have for the period during which such rates have been in operation been duly published in the rate books of the companies kept at their stations, unless and until the party complaining shall have given written notice to the companies requiring them to abstain from or remedy the matter of complaint, and the companies shall have failed within a reasonable time to comply with such requirements in such manner as the Commission shall think reasonable.

(2) The jurisdiction of the Special Court of the Bechuanaland Protectorate is hereby extended so as to include all causes or matters in the Bechuanaland Protectorate arising under this Proclamation for the hearing and determination of which other provision is not herein made and in particular the matters referred to in section *eight* and this section of this Proclamation.

31. The costs, charges and expenses incurred by the Governments of Southern Rhodesia and Northern Rhodesia and the Bechuanaland Protectorate in and about the promotion of this Proclamation, both in England and South Africa and incidental thereto, together with the costs, charges and expenses of the companies arising out of such promotion, shall be defrayed by the companies as part of their working expenses.

32. For the purposes of this Proclamation each company shall be entitled to defray as part of its working expenses any income tax paid by it (other than that recoverable from any other company or person), the allocation of which is not otherwise provided for in this Proclamation.

33. Any Proclamation repealing this Proclamation or amending any of its financial provisions shall not take effect until His Majesty's pleasure thereupon has been signified.

34. This Proclamation may be cited for all purposes as the Railway Proclamation 1927. It shall not come into operation unless and until the High Commissioner has declared by notice in the *Gazette* that it is His Majesty's pleasure not to disallow the same and shall come into operation on such date as may be fixed by the High Commissioner by the same or any subsequent notice in the *Gazette*.

GOD SAVE THE KING.

Given under my Hand and Seal at Capetown this Eighteenth day of February One thousand Nine hundred and Twenty-seven.

ATHLONE,
High Commissioner.

By Command of His Excellency the
High Commissioner.

SHIRLEY EALES,
Acting Imperial Secretary.

**THE SCHEDULE OF LOAN CAPITAL AND INTEREST
THEREON.**

1. RHODESIA RAILWAYS, LIMITED.

	<i>Amount Outstanding.</i>	<i>Rate of Interest.</i>	<i>Annual Charge for Interest.</i>	
	£		£	
(a) 5 % Redeemable Debentures.	1,881,800	5 %	91,090	less Income Tax.
4 % Redeemable "	3,996,333	4 %	159,853	"
3 % Debentures	252,870	3 %	7,586	"
(b) 10-year Joint Secured Notes	1,000,000	6 %	60,000	payable free of Tax.
	£7,131,003		£321,529	

2. MASHONALAND RAILWAY COMPANY, LIMITED.

First Mortgage Redeemable De- bentures	5,039,800	5 %	251,990	less Income Tax.
TOTAL	£12,170,803		£573,519	

NOTE.—Income Tax is deducted by the company concerned on the payment of the interest on the debentures, but interest on the joint notes is paid free of tax. The loan provision includes Income Tax and will be for the above amount of £573,519, together with the amount representing the Income Tax payable in any year in respect of the interest on the £1,000,000 of 6 per cent. secured notes.