



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

10th COUNCIL INAUGURATED
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THIRD SESSION—FOURTH SITTING
14th July, 1954



COLONY AND PROTECTORATE OF KENYA

LEGISLATIVE COUNCIL

TENTH COUNCIL

THIRD SESSION—FOURTH SITTING

Wednesday, 14th July, 1954

The Council met at fifteen minutes past five o'clock.

(Mr. Deputy Speaker in the Chair)

PRAYERS

ADMINISTRATION OF OATH

The Oath of Allegiance was administered to the following Member:—

Mr. J. W. Cusack, O.B.E.

COMMUNICATION FROM THE CHAIR

THE DEPUTY SPEAKER: Hon. Members before proceeding with the business on the Order Paper, I would like to refer to the honour which Her Majesty the Queen conferred on Mr. Speaker Horne in the recent Birthday Honours List. (Applause.) Knowing that it would be your wish that I should do so, I took upon myself to send him a telegram on behalf of us all with our heartiest congratulations on this honour and I have received from him this reply:—

"Dear Mr. Deputy Speaker,

I wish to thank you and the Members of Legislative Council for the very kind and friendly telegram of congratulations that I received to-day.

My wife and I are deeply conscious of the honour bestowed on me by Her Majesty the Queen. I may say also that it is in a certain respect due to the conduct of the Members during the last six years.

Yours sincerely,

W. K. Horne."

PAPERS LAID

The following papers were laid on the Table:—

The Report of the Commission on the Civil Services of the East African Territories and the East Africa High Commission, 1953-54.

The Virus Research Institute Annual Report, 1953.

The East African Fisheries Research Organization Annual Report, 1953.

The East African Literature Bureau Annual Report, 1953.

The East African Interterritorial Leprologist, Annual Report, 1953.

Report on the Kenya, Uganda and Tanganyika Savings Banks for the year 1952.

(BY THE ACTING CHIEF SECRETARY)

The Education Fees Rules, 1954.

(BY THE MINISTER FOR EDUCATION, LABOUR AND LANDS)

ORAL ANSWERS TO QUESTIONS

QUESTION No. 119

Mr. S. V. Cooke (Coast) asked the Minister for Works to state:—

(1) The reasons for the delay in the completion of the building of Parliament Building.

(2) Was there a penalty clause in the contract and, if so, has it been invoked?

THE MINISTER FOR WORKS: (1) The reasons for the delay in the completion of the Parliament Building were mainly the unsettled state of the labour market during the past 18 months owing to the Emergency.

(The Minister for Works)

(2) There is a penalty clause in the contract for the Parliament Building but it has not yet been invoked as final settlement to the contractor has not yet been made. The contractor has made a claim for extras and in arriving at the proposed settlement of the claim the prescribed penalty for delay in completion has been taken into account. The proposed settlement is, however, still under consideration and the matter has been referred to Crown Counsel for advice.

MOTION

FINANCIAL STATEMENT ON VISIT TO ENGLAND

THE MINISTER FOR FINANCE AND DEVELOPMENT: Mr. Deputy Speaker, I rise, with your permission, to make a statement on the financial position consequent upon my recent visit to the United Kingdom and the negotiations which I carried out on behalf of the Government of Kenya in respect of further financial assistance being granted to this country by Her Majesty's Government.

The Council will remember that in the Budget placed before them recently for the year 1954/1955, there was an anticipated deficit on our General Revenue Balance at the 30th June, 1955, of £2,145,336. In the statement I made to the Council on the 18th May, I informed the Council that additional information had been received about Emergency expenditure which was likely to increase that deficit. In the Budget there had been included a figure of £8,000,000 for the Emergency Expenditure Fund. With the increase of pressure on the terrorists, expenditure was mounting very quickly and it was felt desirable to call for revised estimates of Emergency expenditure. These showed that a rate of about £1,000,000 a month was being maintained and that indeed it might rise to £1½ million per month within the next six months. On the other side, our revenue was being maintained and was, indeed, coming in at a rate slightly higher than had been estimated. I felt it, therefore, possible to readjust my revenue figure in an upward direction. The result of this showed that we should be faced with a deficit of about £6½ million by the end of March, 1955, which is the end of the financial

year of the United Kingdom, that we should obviously be without any working balances and that before, therefore, I could authorize expenditure to be undertaken which could not be met from the resources available to us, I must ascertain what degree of further financial support was likely to be forthcoming from Her Majesty's Government.

I, therefore, proceeded to the United Kingdom to outline, on behalf of the Government, this position. I placed before Her Majesty's Government the three phases of the struggle in which we are involved; the struggle against the terrorists, which must be carried to a successful conclusion as rapidly as possible, the need to keep the African peoples in peaceful areas assured that development and progress would continue despite the disruption caused by the terrorists, and the need to keep our economy in a healthy condition, not only to meet the present strain but the future as well. All these three points were well appreciated in London and I was met at almost every point with understanding and a desire to do what was possible and necessary to help us crush the present outbreak of violence.

The Commander-in-Chief, General Erskine, was present in the first part of the discussions and largely as a result of his assistance considerable adjustments in certain Service charges were made which resulted in a large saving from the Kenya point of view. I should like to express my thanks to him for his assistance.

The problem then had to be tackled in relation to three periods of time—31st March, 1955, the United Kingdom financial year; 30th June, 1955, the Kenya financial year; and the immediate future thereafter.

For all three periods the question of working balances arose, as hon. Members are aware, I have been negotiating for short-term financial operations to take place which would relieve us from the need to keep so much "cash in the till" if I may so put it, and if those negotiations succeed—as I have no very hopeful they will—I shall be introducing during the next Session legislation designed to give the Government and the Treasury authority to raise short-term money as and when required.

(The Minister for Finance and Development)

For the period of the United Kingdom financial year, 31st March, 1955, after all adjustments had been made, a deficit of £3½ million seemed to be the figure to be faced and Her Majesty's Government have agreed that a sum of £4,000,000 as a free grant and £1,500,000 as an interest-free loan should be given to Kenya to meet that position, this assistance only to be called on to the extent that it proves to be needed. This extent that it proves to be needed, this means that during the present United Kingdom financial year assistance will have been of the order of £8 million free grant and £3½ million interest-free loan. The loan carries with it a five-year moratorium on capital repayment which will then be spread over a period of 20 years.

It was necessary then to turn to the period of the 1st April to 30th June, 1955, that is the time between the end of the United Kingdom financial year and our own financial year, for I needed to be assured of adequate finance being available to carry through the expenditure now being authorized, or already authorized, for our current financial year. Her Majesty's Government recognized the necessity of covering this contingency and the possibility of having to provide assistance at a similar rate during those three months.

I then placed before Her Majesty's Government the situation likely to be faced in future years when, even though the more active part of the Emergency may have died down and a consequent reduction of Military expenditure have taken place, there will still be a period when our measures directed towards the maintenance of law and order will have to remain at a fairly high level and what I have referred to as the "battle of ideas" will be continuing, both carrying with them a level of expenditure likely to be beyond our own capacity to bear without doing lasting damage to our economy. I have continually stressed that the most important factor, both from the point of view of Her Majesty's Government and that of the Government of Kenya, is the continuation of the expansion of our economy to the point where we can bear the burden of all financial expenditure and return once again to the state we enjoyed from 1922

to 1952 of being self-supporting. I have pointed out that there is little margin for extra taxation, particularly of the direct kind, without damaging the possibility of a quick return to that desirable self-financing position. I have also emphasized that the carrying out of our Development Plan for the next three years will have to be carried during that interim period of "lag" until the benefit of that Development expansion shows itself in the hoped for resultant expansion of our economy.

This position, too, Her Majesty's Government has recognized. They will ask, and quite rightly in my opinion, that we should do all in our power to contribute the maximum amount possible towards meeting the expenditure involved. I have agreed to keep under continual review this position. I shall also, if this Council agrees with the measure I put forward, endeavour to measures I put forward, endeavour to carry part of the burden by the raising of loans, calling upon posterity to share in the shouldering of our burden on the grounds that it is not only for ourselves but for the future generations of Kenya that the struggle, both Emergency and development, is being waged to-day.

This, then, is the background, as I see it, to the statement which the Right Honourable the Secretary of State for the Colonies is making in the House of Commons this afternoon. The statement is as follows:—

"On December 9th last I announced that, although precise forecasting was difficult, the Kenya Government would need assistance of about £6,000,000 if need arose to maintain a reasonable level of liquid resources and continue to meet their obligations until the end of the United Kingdom financial year 1954/55. I also said that should the present rate of Emergency expenditure continue it was possible more money would be required and Her Majesty's Government would be prepared to review the position in good time.

Unfortunately, this has proved to be the case. The rate of expenditure has risen. Moreover, it was well into 1954 before the Security Forces were fully deployed and a more accurate estimate of their costs was possible. This showed earlier estimates were below actual cost. The present rate of expenditure

[The Minister for Finance and Development]

is of the order of £1,000,000 a month of which about one-third represents expenditure on military forces and operations; the rest is the cost of these administration, the increase in the Police Force, the cost of detention and rehabilitation camps and Emergency public works. Although direct military expenditure will not rise in proportion, Emergency expenditure is expected to rise to about £1,250,000 a month over the next six months. I have again reviewed the financial position with the Minister for Finance and the Commander-in-Chief East Africa, and I have consulted my Right Honourable Friend the Chancellor of the Exchequer. A further £5½ million will be required up to the end of March, 1955. This takes into account the extra revenue of £2,500,000 which the Kenya Government will derive from increases in taxation announced last April. It is expected arrangements can be made by the Government of Kenya to provide for a working balance by other means and the sum does not, therefore, include any margin for this purpose. The expenditure during the last quarter of the Kenya financial year, April 1st to June 30th, 1955, which Her Majesty's Government recognizes may continue at a similar rate and which will be taken into account during the United Kingdom financial year 1955/56, is not also covered.

In these circumstances Her Majesty's Government will be prepared, subject to Parliament, to provide a further £4,000,000 and a further interest-free loan of £1,500,000 in the present United Kingdom financial year as a contribution towards the cost of Kenya's Emergency. It is understood that this assistance will only be called on to the extent that it proves to be needed.

This further assistance will cover Kenya's immediate needs but it is evident that even after it has become possible to reduce present military commitments Kenya's financial position will remain difficult.

I have made it clear to the Kenya Government that they will be expected

to take all practicable steps to increase their own revenue in order to meet their continuing commitments.

The British Government's help is required—and it has been given—to bring the Emergency to an end. If that help were not given not only would measures against the terrorists have to be reduced, but the social and economic programme, which represents constructive plans for Kenya's future, would suffer an unacceptable set-back.

I would like, Sir, to take this opportunity of placing on record my personal thanks to the Secretary of State for the Colonies and to all those officers of the Colonial Office and the British Treasury who took part in these negotiations which, though not always easy, were conducted in an atmosphere of goodwill and mutual understanding of each other's problems.

In conclusion, I am sure I am voicing the opinion of this Council in asking you, Sir, to convey to Her Majesty's Government the appreciation of this further financial assistance from the United Kingdom, emphasizing, as it does, the intention of Her Majesty's Government to assist us in every possible way in the destruction of violence, the restoration of law and order, and a resumption of Kenya's march along the road of peace and progress.

MR. HARRIS (Nairobi South): Mr. Deputy Speaker, Sir, may I first congratulate, on behalf of all hon. Members, the Minister for Finance in once again carrying out negotiations on behalf of the Colony of Britain and bringing them to a successful conclusion. (Hear, hear.)

May I also, Sir, add a word of thanks from this side of the Council to those already recorded by the Minister, in his statement, to the Colonial Secretary and officers of the Colonial Office and the Treasury at Home. I would like to add to those thanks, Sir, the thanks of Members on this side of the Council to the taxpayers and the people of Britain who, for the second time in a year, have come forward to help Kenya in her present troubles. This latest grant and interest-free loan bring the total contributions of the taxpayers of Britain in this year, if one includes the African agricultural grant as well, to something which, before the Emergency, would

BILL

FIRST AND SECOND READING

The Council of Ministers (Consequential Provisions) (Amendment) Bill—(Minister for Legal Affairs)—Order for First Reading read—Read a First Time—Ordered to be read a Second Time to-day.

Order for Second Reading read.

MR. DEPUTY FOR LEGAL AFFAIRS: The Minister for Legal Affairs: Mr. Deputy Speaker, I beg to move that a Bill entitled the Council of Ministers (Consequential Provisions) (Amendment) Bill, be now read a Second Time.

Sir, this is a very short one-cause Bill of a somewhat formal character and I hope I need not detain hon. Members more than a very few minutes explaining its provisions.—The main purpose of the Bill is to make provision for the transfer of the statutory powers which formerly were vested in the Executive Council to the Council of Ministers. This was created by the new Constitution which came into being on 15th April, and the non-statutory powers and duties having, of course, already been transferred when the new Constitution came into being in April. That object, Sir, is achieved by the commencing words of this Bill which make statutory provision for the transfer of all statutory functions which, under any Ordinance, are at the present time vested in the Executive Council or have, at any time since 15th April, been vested in the Executive Council. There is only one exception to this transfer and that relates to the statutory power which is conferred upon the Executive Council by the Criminal Procedure Code in relation to the advice which an Executive Council tenders to the Governor in capital cases.

As a corollary to the transfer of statutory functions, the Bill goes on to provide that any pending matters in relation to those functions shall be carried on and completed by the Council of Ministers and furthermore shall be deemed to have been capable at all times of being carried on and completed by the Council of Ministers.

Lastly, this one-cause Bill provides that any acts, things or matters that may have been done, or purported to have been done during this interim transitional

[Mr. Harris] look like a normal Kenya Budget. It is many millions of pounds and it is that much less money that the people of Britain have to spend on themselves or to reduce prices or taxation. (Hear, hear.)

It is very gratifying, Sir, to see that in his statement, the Colonial Secretary has shown his belief that it is necessary to end this Emergency with all possible speed and that this grant is, in fact, made to assist us to that end. It is also gratifying that these assurances from the people of Britain are made in order to ensure that the economic future of this Colony is not permanently disrupted and that not only is there in the statement offer of cash, but also the offer of goodwill and more to come should it prove necessary in the immediate years ahead. I feel, Sir, that it is now up to the people of Kenya—particularly Members of this Council—to see that there is no unnecessary expenditure on the Emergency—(Hear, hear.)—that all items of expenditure are scrutinized most carefully to see there is no waste. We wish to assure the people of Britain that, much as we appreciate their altruistic gesture, we feel there is probably in this act some measure of investment on their behalf, and it is up to the people of Kenya; Sir, and we, as their representatives, to make sure that this investment is indeed a good one for the people of Britain and to assure them that we will do everything in our power to bring Kenya back to a state of peace and prosperity as quickly as possible. (Applause.)

MOTION

SUSPENSION OF STANDING ORDERS

THE ACTING CHIEF SECRETARY: Mr. Deputy Speaker, I beg to move that under Standing Order 168, Standing Orders 91, 93A and 94 be suspended to the extent necessary to enable the Council of Ministers (Consequential Provisions) (Amendment) Bill (Bill No. 42) to be taken through all its stages to-day.

THE MINISTER FOR LOCAL GOVERNMENT, HEALTH AND HOUSING seconded.

Question proposed.

The question was put and carried.

[The Minister for Legal Affairs] period, shall be deemed to have been validly and effectively done for all purposes.

I do not think, Sir, anyone will quarrel with that provision unless it be someone who is disappointed at being deprived of the opportunity of exercising his dialectical skill.

The clause concludes by saying that all matters in this Bill shall be without prejudice to anything which has been done during the interim period, and that, I think, is an agreeable note upon which to end this explanation of the Bill. The Bill does, Sir, clarify the law and—what is even more important—it renders it certain in relation to these somewhat technical matters.

For these reasons I commend the Bill to the Council for a Second Reading.

I beg to move.

THE MINISTER FOR FINANCE AND DEVELOPMENT SECONDED.

Question proposed.

The question was put and carried.

COMMITTEE OF THE WHOLE COUNCIL

Committee of the whole Council—Order for Committee read. Mr. Deputy Speaker left the Chair.

IN THE COMMITTEE

[Mr. E. N. Griffith-Jones, Q.C., in the Chair]

THE COUNCIL OF MINISTERS (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL

Clauses 1 and 2 agreed to.

Title and enacting words agreed to.

Bill to be reported.

THE MINISTER FOR LEGAL AFFAIRS: Mr. Chairman, I beg to move that the Committee doth report back to the Council.

Question proposed.

The question was put and carried. Council resumed.

[Mr. Deputy Speaker in the Chair]

REPORT

Mr. E. N. GRIFFITH-JONES: Hon. Members, I beg to report that a Committee of the whole Council has considered, clause by clause, the Council of Ministers (Consequential Provisions) (Amendment) Bill and has approved the same without amendment.

THE COUNCIL OF MINISTERS (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL

THE MINISTER FOR LEGAL AFFAIRS: I beg to move that the Council of Ministers (Consequential Provisions) (Amendment) Bill be now read a Third Time.

Question proposed.

The question was put and carried.

The Bill was accordingly read a Third Time and passed.

THE DEPUTY SPEAKER: That concludes the business on the Order Paper. Before the Council adjourns, I have been asked to inform Members that there will be a meeting of the Commonwealth Parliamentary Association immediately after the Council adjourns in Committee Room number 4 which is marked on the door 5/6.

ADJOURNMENT

THE DEPUTY SPEAKER: The Council will now stand adjourned *sine die*; unless it is necessary to summon the Council to assemble before the 28th September, that will be the date of the next meeting.

Council rose at forty-five minutes past six o'clock p.m.

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Explanation of Abbreviations

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