

1933.

Kenya

No. 3198 / 1.

SUBJECT

C0533/436

Constitutional Development.

Native Representation on the

Legislative Council.

Previous

main file.

17407/31.

Subsequent

25039/1/34.

1. Extract from letter from Lord Thomas Scott

2. Extract from Note by Sir S. Wilson on interview with Lord Thomas Scott.

Proposed

3/

I have a note regarding the
legislation providing that the Nominations
by the members of the Legis. Cmt to
represent the interests of the
African community should be a
missionary. It will be seen
that the Govt has agreed that the
restriction limiting the choice to a
missionary may now be removed, but
before amending the Royal Instructions
we are awaiting the Governor's
views with regard to the
composition of the Legis. Cmt generally.
It may be considered desirable
that this matter should be
discussed with Sir J. Byrne.

C. J. G. 27/2/33

I agree that a talk with Sir J. Byrne would
be useful

B. 27/2

It would be useful but at least do enough good for these
reasons.

The present proposal limits the choice to Christian
missionaries and further limits the number of members to
represent the Africans to one. It has been agreed to
increase the number to two & to drop the missionary requirement
but this will involve a re-casting of the Royal Instructions
and I think it would be very difficult to undertake

at the present juncture with the demand for more white control in full effect. To provide to add to the special native representation would only exacerbate public feeling in Kenya.

Further, to announce now that it would no longer be necessary to have the natives represented by a missionary would, I feel convinced, provide a host here on the ground that, because missionaries (i.e. Leachman from) championed the rights of the natives, Govt. was taking steps to kick them off the Council where they could make effective protest. If it hadn't been for the developments of the last year over the goldfield and all the fuss in the Press, then it could have been done and there would have been little trouble. But I should not advise doing anything at all now until the agitation for control dies down.

If the agitation subsides then the matter can be taken up again when we get the Governor's views in reply to the despatch of 13 July last year. But it must be the Governor who replies on the points raised - not the O.C.

One further point: the Indians are now up in arms over the demand for more white control & so also the composition of Council will involve difficulties with them. So for that reason too we must go slowly.

[The ideal thing would be to go backwards & have a purely nominated Council once more. But that is not practical for political reasons.]

J.S.G. Hand
26.7.53

S. A. Dept

Received 31 July 1953
for C. B. [unclear] on
this does not pass.

a talk with Sir Joseph Baynes would, I think, be useful; but Mr Flood's arguments for moving (very) slowly are strong & will probably appeal to the Governor.

and
25.7.53

R297. note to Sir Joseph Baynes 27/7/53

Handwritten initials and date 26.7.53

Brought at wide minute of 25 July 53

Handwritten initials and date 26.7.53

Sir S. Wilson

This is one of the main points raised by Lord Pearce's Speech at the discussion.

I agree that there is no hurry... Sir J. Baynes does not, in fact, propose to be in Kenya again before Sept. I should mention the matter then and get his views, but on the basis that the change should lead for a convenient opportunity.

[The S. of S. decision yesterday does not preclude the E. of S. Handwritten initials]

Members from bringing up
the constitutional proposals
through the Governor, and
we cannot therefore assume
that there will be no other
need for amending the
Instructions?

15.11.33
17/8/33

Sec. of State.

In case, Lord Grenville,
Brett raises this point again
you should see that, although
in July 1932 you advised told
the Governor that the restrictions
which limited the representation
of natives to business matters
be removed, nothing has
actually been done to effect
this. It entails altering the
Royal Instructions. If a
favourable opportunity is being
awaited

2.8.33

B.H.

11/11/33

which we to return these
papers to you. The papers were
his, I believe, raised by Sir
Francis Boscwell he saw the
Sp yesterday.

1/11/33

B. C. Street

Noted

3.8.33

Brought up vide minute above.

5.9.33
Registry 297

I had an opportunity of mentioning this to
Sir Joseph Byrne this morning.

What we are waiting for before amending the
Instructions, is the question of having more than
one representative of native interests, as was
suggested by the Joint Select Committee. The
Governor has been unable to see his way to this,
because of the necessity for making a corresponding
additional appointment of an official member; but
he attaches importance to the suggestion as he
considers that the value of native representation
will be greatly increased if there are two representa-
tives who could discuss with each other any points
of native interest as they came along.

Pending

Pending the settlement of the question of double representation, he considers that there is no pressing need to amend the instructions on the other point as Canon Burns, though not specially good, is getting on quite well. On the other hand, the limitation to missionaries has been inconvenient when the question of appointing a temporary substitute for Canon Burns has arisen: the Governor would very much have liked to make use of Mr. Hemsted's experience, but was debarred from doing so.

We arranged that, after Sir Joseph Byrne has returned to the Colony, I should send him a letter reminding him of that point. If he still sees no practicable way of providing two representatives, it may then be necessary to amend the instructions on the other point.

(The question of re-distribution of European constituencies is before a Committee, but there will be no question of ~~changing~~ ^{altering} numbers and it would be the local Electoral Ordinance and not the Instruments of Government which would have to be amended).

12.9.33

Sr. S. Wilson

Please see my remarks above. This can best be done by your own hand!

25.9.33

D. J. P.

29.9.33

4. Lt. Col. H. F. Stoneham

28 October 33

Suggests that the tubes east of or those west of the Rift valley should be represented by members of the Leg. Council or officers of his services as representative of the west tubes.

Colonel Stoneham is founder of the Stoneham Agency, certain details of which (all, however, provided by Colonel Stoneham himself) are registered on another paper. He is an ex-Captain of the R.A.F. where his services were not wholly satisfactory and his personal file is circulating in the Appointments Branch as he is applying for a post under the Colonial Government. The object of his writing to G. is apparently to get a place in the Legislative Council.

The question of having a second member to represent native interests in Leg. Co. is a live one as the previous minutes show, but no decision on the matter can be taken for the moment and I should think it is highly improbable that Colonel Stoneham will stand a chance of being considered.

He says he will be in Nov. 2

He furnished an address in England up to October 31st, so it does not seem much good addressing him in this country.

I sent a copy of this to the G.O.C. Kenya for his information and request that [subject to any restrictions he may wish to make, Colonel Stoneham may be referred to the Secretary of State has received his letter and that his suggestions have been noted].

21.10.33

[] is too encouraging. Col. Stoneham has already approached the Kenya Govt. so substitute "a suitable reply may be returned to the writer"

31/10

10/10

I do not think he would stand much chance
? Co property

11.11.33

3110.

The Board.

That is all in substance.

The S. of S. will withdraw to write
personally?

W.C.S.
11.11.33.

The S. of S. agrees.

Three
|||

No
mt.

5
(N)

To Kenya, 833 (w/c 4)

5 NOV 1933

Brought at vide minute of 29th Sept '33

R.
24.11.33
Reg. 24/33.

Sir C. Bollenby

You will wish to receive the report.

(This is smaller than for the S. of S. list)

11.11.33
19.11

The Ref. of.

Why of my name
is omitted. If the subject is
not already in the list, will
you please arrange for its
inclusion?

W.C.S.

3/2

but not called

11/11/33

11/11/33

11/11/33

11/11/33

C. O.

Mr. Davies 2/11/33

Mr. Green 2/11/33

Mr. Parkinson

Mr. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

2 November, 1933.

R 2 NOV
D 3 1

DRAFT. DESPATCH.

KENYA.

NO. 833

O. A. G.

~~F. C. S. - 280~~

Sir,

I have the honour to forward for your information a copy of a letter that I have received from Lieut-Colonel H. F. Stoneham, O.B.E., regarding the representation of the interests of the African community on the Kenya Legislative Council, and to request that a suitable reply may be returned to the writer who, it will be observed, proposed to sail for the Colony on November 2nd.

I have, etc.,

(Sgd.) P. CUNLIFFE-LISTER

FURTHER ACTION.

THE STONEHAM-MUSEUM & RESEARCH CENTRE
FOR THE ADVANCEMENT OF SCIENCE.

KITALA,
KENYA COLONY,
BRITISH EAST AFRICA.

RECEIVED
31 OCT 1933
C. O. REGY

28th Oct. 1933

Constitution of Kenya Colony.
Representation of Native Interests.

Dear Sir Phillip Cunliffe Lister.

For many years I have deeply interested myself in the advancement of the Native African Negro races of Kenya Colony. Under the present ^{in the Leg. & Justice} Constitution, their interests are represented by one European, the Rev. Canon Bruce. It is absolutely impossible for this gentleman to represent all races adequately, as the area is so vast. With the opening of the Gold Fields, further representation is absolutely necessary. I would suggest that as a start the Colony & Protectorate be subdivided, there being a representative for those tribes dwelling East of the Rift Valley, and a representative for those tribes dwelling West of the Rift Valley. If you so approve, I hereby offer my very best services, as representative, of those tribes dwelling West of the Rift Valley, in the Kenya Legislative Council. I return to Kenya on Thursday 2nd Nov.

Yours very truly
J. Stoneham

5/2/33

N.B. I have already so spent my services & the Kenya Government has not made the appointment, so I do not return to Sir Phillip Lister. I return to Sir Phillip Lister. I return to Sir Phillip Lister.

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NOTE.

Section II of the Kenya Additional Instructions of the 28th March, 1927, provides for the constitution of the Legislative Council and lays down that the Nominated Unofficial Member to represent the interests of the African community shall be chosen from among the Christian Missionaries in Kenya, and shall be appointed by the Governor by an instrument under the Public Seal in pursuance of Instructions from the King through one of His Majesty's principal Secretaries of State.

(There is a proviso in Section I of the Instructions that "the appointment of a Nominated Unofficial Member to represent the interests of the African community shall be discontinued in pursuance of Instructions from Us through one of Our principal Secretaries of State when it shall appear to Us that such appointment is unnecessary.")

On the 13th July, 1932, the Secretary of State informed the Governor "that I am in agreement with your opinion that the door should be left open to the nomination of persons of African descent to seats on the Legislative Council; and that, although the time is not ripe for such representation, the restrictions which limit the choice

of the representatives of native interests to Christian Missionaries may now be removed, but on the last part of the original text read that before proceeding with any amendment of the Act, the Nominated Unofficial Member representing native interests (Saxon Burns) will continue to sit in Legislative Council during the life of the existing Council which expires in 1937.

Additional instructions of the 6th of January, 1930, provided for the dissolution of the last Council by the 20th of February, 1931, and after such dissolution the Governor shall dissolve the Legislative Council at the expiration

Ann 1.
7 No 3
17407/31

shall be able to have the first views of the Commission of the Constitution of the (last General Election) 2/12/31

~~but on the last part of the original text read that before proceeding with any amendment of the Act, the Nominated Unofficial Member~~

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expiration of three years from the date of the last preceding general election of elected members of the said Council if it shall not have been sooner dissolved.

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Extract from Note by Sir Samuel Wilson on interview
with Lord Francis Scott

(reg. no 1246/53)

X

X

No 3.
17407/51

It was pointed out to Lord Francis Scott
that the Secretary of State in his despatch to
Kenya had specifically stated that it should no
longer be necessary for the natives to be represented
by a Missionary on the Legislative Council.
Lord Francis Scott said that it was still the law
of the land that they should be and that nothing
had been done.

X

X

X

EXTRACT FROM LETTER FROM LORD FRANCIS SCOTT
registered on 3246/33 Kenya.

x

x

x

Two smaller matters. I do hope you will alter the constitution whereby the representative of the natives on the Legislative Council must be a Missionary. Well meaning as they are, the stupidity of these missionaries almost amounts to dishonesty! Besides which, they usually only know one small part of the country and the inhabitants thereof, whereas a retired Civil Servant usually knows much more and has a bigger outlook altogether.

x

x

x

COLONY OF KENYA.

INSTRUCTIONS passed under the Royal Sign Manual
and Signet to the Governor and Commander-in-Chief
of the Colony of Kenya.

GEORGE R. I.

Dated 11th September 1920.

INSTRUCTIONS to Our Governor and Commander-
in-Chief in and over Our Colony of Kenya,
or other Officer for the time being
administering the Government of Our said
Colony.

Preamble.

Recites Order in Council
of 11th June 1920.

WHEREAS by an Order in Council bearing
date the Eleventh day of June 1920, entitled
The Kenya (Annexation) Order in Council,
1920, it is provided that the territories
comprised in the East Africa Protectorate
save and excepting only such territories
therein included as form part of the
Dominions of His Highness the Sultan of
Zanzibar shall from and after the coming into
operation of the said Order be annexed to and
form part of Our Dominions and shall be known
as the Colony of Kenya:

And whereas the said Order in Council was
published in the Official Gazette of the East
Africa Protectorate on the Twenty-third day of
July 1920, and thereupon commenced and came
into operation:

And whereas by Letters Patent under the
Great Seal of Our United Kingdom of Great
Britain and Ireland bearing even date herewith,
We have signified ordered and declared that
there shall be a Governor and Commander-in-
Chief (herein and hereinafter called the
Governor) in and over Our Colony of Kenya
(herein and hereinafter called the Colony):

INSTRUCTIONS to the
Governor and Commander-in-Chief,
Colony of KENYA.

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And whereas We have thereby authorised, empowered and commanded the Governor to do and execute all things that belong to his said office, according to the tenour of Our said Letters Patent and of any Orders in Council relating to the territories formerly known as the East Africa Protectorate, save in so far as any provision of any such Order in Council may be repugnant to any of the provisions of Our said Letters Patent, and of such Commission as may be issued to him under the Royal Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under the Royal Sign Manual and Signet, or by Order in Council or by Us through one of Our Principal Secretaries of State, and to such laws as are now or shall hereafter be in force in the Colony:

Recites Instructions of
4th September 1919.

And whereas certain Instructions bearing date the Fourth day of September 1919, were issued under the Royal Sign Manual and Signet for the guidance of the Governor or other Officer administering the Government of the East Africa Protectorate:

And whereas We are minded to substitute fresh Instructions for the aforesaid Instructions:

Revoles above-recited
Instructions.

Now, therefore, We do, by these Our Instructions under Our Sign Manual and Signet, revoke, as from the date of the coming into operation of the above-recited Letters Patent bearing even date herewith, the aforesaid Instructions, but without prejudice to anything lawfully done thereunder, and instead thereof We do direct and enjoin and declare Our Will and pleasure as follows:-

Governor to administer
Oaths.

I. The Governor may, whenever he thinks fit, require any person in the public service of the Colony to take the Oath of Allegiance, in the form prescribed by the Act mentioned in the above recited Letters Patent bearing even date herewith, together with such other Oath or Oaths as may from time to time be prescribed by any laws in force in the Colony. The Governor is to administer such Oaths, or to cause them to be administered by some Public Officer of the Colony.

Instructions to be
observed by Deputies.

II. During the temporary absence of the Governor from the seat of Government or from the Colony these Instructions, so far as they apply to any matter or thing to be done, or any power or authority to be exercised, by a Deputy acting for the Governor, shall be deemed to be addressed to and shall be observed by such Deputy.

Deputies may correspond
direct with Secretary
of State in urgent cases.

III. If in any emergency arising in the Colony during the temporary absence of the Governor for a short period from the seat of Government or from the Colony it is necessary that instructions should be obtained from Us without delay, the Deputy (if any) acting for the Governor may apply to Us, through one of

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Our Principal Secretaries of State, for instructions in the matter; but every such Deputy shall forthwith transmit to the Governor a copy of every despatch or communication which he has so addressed to Us.

Constitution of Executive Council.

IV. The Executive Council of the Colony shall consist of the persons for the time being lawfully discharging the functions of Colonial Secretary, of Attorney-General, of Treasurer, of Chief Native Commissioner and of Principal Medical Officer, who shall be styled ex officio Members of the Executive Council, and such other persons holding office in the Public Service of the Colony as the Governor in pursuance of Instructions from Us through one of Our Principal Secretaries of State, may from time to time appoint by an Instrument under the Public Seal, who shall be styled Official Members of the Executive Council and further of such persons (if any) not holding office in the Public Service of the Colony as the Governor, in pursuance of Instructions from Us through one of Our Principal Secretaries of State, may, from time to time, appoint by an Instrument under the Public Seal, who shall be styled Unofficial Members of the Executive Council.

Extraordinary Members.

Whenever upon any special occasion the Governor desires to obtain the advice of any person within the Colony or the Protectorate of Kenya relating to affairs in the Colony, he may, by an Instrument under the Public Seal, summon for such special occasion any such person as an Extraordinary Member of the Executive Council.

Provisional Appointments.

V. Whenever any Member, other than an ex officio Member, of the said Executive Council shall, by writing under his hand, resign his seat in the said Executive Council, or shall die, or be suspended from the exercise of his functions as a Member of the Executive Council, or be declared by the Governor by an Instrument under the Public Seal to be incapable of exercising his functions as a Member of the Council, or be absent from the Colony, and from the Protectorate of Kenya, or shall be acting in an office the holder of which is an ex officio Member of the Council, the Governor may, by an Instrument under the Public Seal, provisionally appoint some person to be temporarily a Member of the Council in the place of the Member so resigning or dying, or being suspended or declared incapable, or being absent, or sitting as an ex officio Member.

Such person shall forthwith cease to be a Member of the said Council if his appointment is disallowed by Us, or if the Member in whose place he was appointed shall be released from suspension, or, as the case may be, shall be declared by the Governor capable of again discharging his functions in the Council, or shall return to the Colony or the Protectorate of Kenya,

or shall cease to sit in the Council as an ex officio Member.

Provided that when any person shall be lawfully discharging the functions of more than one of the offices the holders of which are ex officio Members of the said Council, the Governor may, by an Instrument under the Public Seal, appoint any fit person to be provisionally a Member of the Council so long as the functions of the said offices shall continue to be discharged by one person as aforesaid.

Provisional appointments to be immediately reported.

VI. The Governor shall, without delay, report to Us, for Our confirmation or disallowance, through one of Our Principal Secretaries of State, every provisional appointment of any person as a Member of the said Executive Council. Every such person shall hold his place in the Council during Our pleasure, and the Governor may, by an Instrument under the Public Seal, revoke any such Appointment.

Precedence of Members.

VII. The Members of the Executive Council shall have seniority and precedence as We may specially assign, and, in default thereof, first the ex officio Members, in the order in which their offices are above-mentioned, then the Official Members, according to the priority of their respective appointments, or, if appointed by the same Instrument, according to the order in which they are named therein, then the Unofficial Members (if any) according to the like priority and finally Extraordinary Members with like priority.

Governor to communicate instructions to Executive Council.

VIII. The Governor shall forthwith communicate these Our Instructions to the Executive Council, and likewise all such others, from time to time, as We may direct or as he shall find convenient for Our service to impart to them.

Executive Council not to proceed to business unless summoned by Governor's authority.

IX. The Executive Council shall not proceed to the despatch of business unless duly summoned by Authority of the Governor, nor unless two Members at the least (exclusive of himself or of the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

Quorum.

Who to preside.

X. The Governor shall attend and preside at all meetings of the Executive Council, unless prevented by illness or other grave cause, and in his absence such Member as the Governor may appoint, or in the absence of such Member the senior Member of the Council actually present shall preside.

Minutes of Executive Council to be kept.

XI. Minutes shall be regularly kept of all the proceedings of the Executive Council; and at each meeting of the Council the Minutes of the last preceding meeting shall be confirmed or amended, as the case may require, before proceeding to the despatch of any other business.

Minutes to be sent home twice a year.

Governor to consult Executive Council.

Proviso: Urgent cases.

Governor alone entitled to submit questions.

Governor may act in opposition to Executive Council.

Reporting grounds for so doing.

Members may require their adverse opinions to be recorded on the Minutes.

Constitution of the Legislative Council.

Twice in each year a full and exact copy of all Minutes for the preceding half-year shall be transmitted to Us through one of Our Principal Secretaries of State.

XII. In the execution of the powers and authorities granted to the Governor by Our above recited Letters Patent or otherwise he shall in all cases consult with the Executive Council, excepting only in cases which may be of such a nature that, in his judgment, Our service would sustain material prejudice by consulting the Council thereupon, or when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of their advice being given by the time within which it may be necessary for him to act in respect of any such matters. In all such urgent cases he shall, at the earliest practicable period, communicate to the Executive Council the measures which he may so have adopted, with the reasons thereof.

XIII. The Governor alone shall be entitled to submit questions to the Executive Council for their advice or decision; but if the Governor decline to submit any question to the Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the Minutes his written application, together with the answer returned by the Governor to the same.

XIV. The Governor may act in opposition to the advice given to him by the Members of the Executive Council, if he shall in any case deem it right to do so; but in any such case he shall fully report the matter to Us by the first convenient opportunity, with the grounds and reasons of his action. In every such case, it shall be competent to any Member of the Council to require that there be recorded at length on the Minutes the grounds of any advice or opinion he may give upon the question.

XV. The Legislative Council of the Colony shall consist of the Governor as President, ten *ex officio* Members, Nominated Official Members not exceeding seven in number, eleven European Elected Members, and two Indian Elected Members. Provided that until such Indian Elected Members have been elected the Nominated Indian Unofficial Members who were Members of the Legislative Council of the East Africa Protectorate at the date of the coming into operation of the Kenya (Annexation) Order in Council, 1920, shall continue as Members of the Legislative Council of the Colony during Our pleasure. And provided further that if one of the Nominated Official Members is not specially appointed to represent the interests of the Arab community there shall be a Nominated Unofficial Member to represent such interests.

Ex officio Members.

XVI. The ex officio Members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Colonial Secretary, of Attorney-General, of Treasurer, of Chief Native Commissioner, of General Manager of the Uganda Railway, of Land Officer, of Director of Agriculture, of Principal Medical Officer, of Director of Public Works, and of Chief of Customs.

Nominated Official Members.

XVII. The Nominated Official Members of the Legislative Council shall be such persons holding office in the Public Service of the Colony or of the Protectorate of Kenya as the Governor, in pursuance of instructions from Us through one of Our Principal Secretaries of State, may from time to time appoint by an Instrument under the Public Seal. They shall hold their places in the Council during Our pleasure and shall in any case vacate their seats at the next dissolution of the Council after their appointment, but may be re-appointed.

European Elected Members.

XVIII. The European Elected Members of the Legislative Council shall be such fit persons as may be elected in accordance with the provisions of the Ordinance entitled "An Ordinance to provide for the election and nomination of Members to the Legislative Council of the East Africa Protectorate" passed by the Legislative Council of the East Africa Protectorate on the Tenth day of July 1919, or of any law adding to, amending or substituted for the same by the Legislative Council of the Colony and for the time being in force therein.

Indian Elected Members and Nominated Arab Unofficial Member.

XIX. The Indian Elected Members of the Legislative Council shall be such fit persons as may be elected in accordance with the provisions of any law enacted for the purpose by the Legislative Council of the Colony and the Nominated Unofficial Member (if any) of the Council to represent the interests of the Arab community shall be such Arab or other person representing such interests and not holding office in the Public Service of the Colony or of the Protectorate of Kenya as the Governor in pursuance of instructions from Us through one of Our Principal Secretaries of State may from time to time appoint under the Public Seal. He shall hold his place in the Council during Our pleasure and shall in any case vacate his seat at the next dissolution of the Council after his appointment, but may be re-appointed.

Precedence of Members.

XX. The Members of the Legislative Council shall take precedence as We may specially assign and, in default thereof, first the ex officio Members in the order in which their respective offices are above mentioned; secondly, the Nominated Official Members according to the priority of their respective appointments, or if appointed by the same Instrument according to the order in which they are named therein; thirdly, the European Elected Members in order of date of election, or if elected at the same general election according to the alphabetical

order of their names; fourthly, the Indian Elected Members, in order of date of election or if elected at the same election according to the alphabetical order of their names; fifthly, the Nominated Unofficial Member (if any) representing the interests of the Arab community: provided always that until Indian Elected Members shall have been elected, the Nominated Indian Unofficial Members of the Council at the date of the coming into operation of the Kenya (Annexation) Order in Council, 1920, shall retain the precedence to which they were entitled at that date.

Provisional appointment
of Nominated Members.

XXI. Whenever any Nominated Member of the Legislative Council, shall, by writing under his hand, resign his seat in the Council, or shall die, or be suspended from the exercise of his functions as a Member of the Council, or be declared by the Governor, by an Instrument under the Public Seal to be incapable of exercising his functions as a Member of the Council, or be absent from the Colony and from the Protectorate of Kenya, or shall be acting in an office the holder of which is an ex officio Member of the Council, the Governor may, by an Instrument under the Public Seal provisionally appoint some person to be temporarily a Nominated Member of the Council in the place of the Member so resigning or dying, or being suspended or declared incapable, or being absent, or sitting as an ex officio Member.

Every such provisional appointment may be disallowed by Us through one of Our Principal Secretaries of State, or may be revoked by the Governor by any such Instrument as aforesaid.

Every person so provisionally appointed shall be to all intents and purposes a Nominated Member of the Council until his appointment shall be disallowed or revoked, or superseded by the permanent appointment in his place of a Nominated Member of the Legislative Council, or until the person in whose place he has been appointed shall be relieved from suspension, or declared by the Governor by an Instrument under the Public Seal to be capable of exercising the functions of a Member of the Legislative Council, or shall have returned to the Colony or the Protectorate of Kenya, as the case may be;

Provisional appointments
to be immediately
reported.

XXII. The Governor shall, without delay, report to Us, for Our confirmation or disallowance, through one of Our Principal Secretaries of State, every provisional appointment of any person as a Nominated Member of the Legislative Council.

Oath of allegiance to be
taken by Members of the
Council.

XXIII. No Member of the Legislative Council shall sit or vote therein until he shall have taken and subscribed the following oath before the Governor, or some person authorised by the Governor to administer such oath:-

"I, A.B., do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors according to law."

"So help me God."

Provided that every person authorised by law to make an affirmation instead of taking an oath may make such affirmation instead of the said oath.

Standing Rules and Orders.

XXIV. The Governor shall frame and propose to the Legislative Council from time to time for their adoption such Standing Rules and Orders as may be necessary to ensure punctuality of attendance of the Members of the Council, and to prevent meetings of the Council being holden without convenient notice to the several Members thereof, and to maintain order and method in the despatch of business, and in the conduct of debates in the Council, and to secure due deliberation in the passing of Ordinances, and to provide that before the passing of any Ordinance intended to affect the interests of private persons due notice of the same is given to all persons concerned therein.

Until further Standing Rules and Orders shall have been made, the Standing Rules and Orders of the Legislative Council now in force shall remain in force and apply so far as the same are applicable to the Council established in accordance with these Our Instructions.

All such rules and Orders, not being repugnant to any Orders in Council or to these Our Instructions, or to any other Instructions which the Governor may receive from Us, shall at all times be followed and observed, and shall be binding upon the said Council, unless the same or any of them shall be disallowed by Us.

Who to preside at the Council.

XXV. The Governor, if present, or, in the absence of the Governor, such Member of the Legislative Council as the Governor shall from time to time appoint, or in default of such appointment the Member present who stands first in order of precedence, shall preside at the meetings of the Council.

Voting.

XXVI. All questions arising at meetings of the Legislative Council shall be determined by a majority of votes, and the Governor or other presiding Member shall have an original vote in common with the other Members of the Council and also a casting vote if upon any question the votes shall be equal.

Council may transact business notwithstanding vacancies.

XXVII. The said Legislative Council shall not be disqualified from the transaction of business on account of any vacancies among the Members thereof; but the said Council shall not be competent to act in any case

Unless (besides the Governor or the Member presiding) there be present at and throughout the meetings of the Council six Members at the least.

Quorum.

XVIII. It shall be competent for any Member of the Legislative Council to propose any question for debate therein; and such question, if seconded by any other Member, shall be debated and disposed of according to the Standing Rules and Orders: Provided always, that no Ordinance, vote, resolution, or question, the object or effect of which may be to dispose of or charge any part of the revenue arising within the Colony, or to revoke, alter, or vary any such disposition or charge, shall be proposed, except by the Governor or with his consent: And provided further, that no vote, resolution, or question, the object or effect of which may be to suspend the Standing Orders of the Council, shall be proposed except by the Governor or other presiding Member or with his consent.

Questions, &c., for debate.

XIX. The sessions of the Legislative Council shall be held at such times and places as the Governor shall from time to time by proclamation appoint. There shall be at least one session of the Council in every year, and there shall not be an interval of twelve months between the last sitting in one session and the first sitting in the next session.

Sessions of the Council.

XX. The Governor may at any time, by proclamation, prorogue or dissolve the Legislative Council.

Governor may prorogue or dissolve Council.

XXI. The Governor shall dissolve the Legislative Council at the expiration of three years from the date of the last preceding general election, if it shall not have been sooner dissolved.

Duration of Legislative Council.

XXII. A general election shall be held at such time within three months after every dissolution of the Legislative Council, as the Governor shall by proclamation appoint.

General Elections.

XXIII. In the making of Ordinances the Governor and the Council shall observe, as far as practicable, the following Rules:-

Rules under which laws are to be enacted.

1. All laws shall be styled "Ordinances", and the enacting words shall be "Enacted by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof".

Style of Ordinances.

2. All Ordinances shall be distinguished by titles, and shall be divided into successive clauses or paragraphs, consecutively numbered, and to every such clause there shall be annexed in the margin a short summary of its contents. The Ordinances of each year shall be distinguished by consecutive numbers, commencing in each

Numbering and arrangement of Ordinances.

year with the number one. Except in the case of Bills reserved for the signification of Our pleasure, all Ordinances passed in any one year shall, if assented to by the Governor, be assented to by him in that year, and shall be dated as of the day on which the assent of the Governor is given and shall be numbered as of the year in which they are passed. Bills not so assented to by the Governor, but reserved by him for the signification of Our pleasure, shall be dated as of the day and numbered as of the year on and in which they are brought into operation.

Different subjects not to be mixed in the same Ordinance.

No clause to be introduced foreign to what title of Ordinance imports.
Temporary Ordinances.

3. Each different matter shall be provided for by a different Ordinance without intermixing in one and the same Ordinance such things as have no proper relation to each other; and no clause is to be inserted in or annexed to an Ordinance which shall be foreign to what the title of such Ordinance imports, and no perpetual clause shall be part of any temporary Ordinance.

Description of Bills not to be assented to.

XCVI. The Governor shall not (except in the cases hereunder mentioned) assent in Our name to any Bill of any of the following classes, namely:-

1. Any Bill for the divorce of persons joined together in holy matrimony;

2. Any Bill whereby any grant of land or money or other donation or gratuity, may be made to himself;

3. Any Bill affecting the currency of the Colony or relating to the issue of Bank Notes;

4. Any Bill establishing any Banking Association, or amending or altering the constitution, powers, or privileges of any Banking Association;

5. Any Bill imposing differential duties;

6. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty;

7. Any Bill interfering with the discipline or control of Our forces by land, sea or air;

8. Any Bill of an extraordinary nature and importance whereby Our prerogative or the rights and property of Our subjects not residing in the Colony, or the Trade and Shipping of the United Kingdom and its Dependencies, may be prejudiced;

9. Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable;

10. Any Bill containing provisions to which Our assent has been once refused, or which have been disallowed by Us:

Proviso in case of emergency for immediate operation of a Bill.

unless the Governor shall previously have obtained Our instructions, upon such Bill through one of Our Principal Secretaries of State, or unless such Bill shall contain a clause suspending the operation of such Bill until the signification of Our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorized to assent in Our name to such Bill, unless the same shall be inconsistent with any obligations imposed on Us by Treaty. But he is to transmit to Us, by the earliest opportunity, the Bill so assented to, together with his reasons for assenting thereto.

Private Bills.

XXXV. Every Bill intended to affect or benefit some particular person, association, or corporate body, shall contain a section saving the rights of Us, Our heirs and successors, all bodies politic and corporate, and all others, except such as are mentioned in the Bill and those claiming by, from, or under them. No such Bill, not being a Government measure, shall be introduced into the Legislative Council until due notice has been given by not less than two successive publications of the Bill in the Official Gazette of the Colony; and the Governor shall not assent thereto in Our name unless it has been so published. A certificate under the hand of the Governor signifying that such publication has been made shall be transmitted to Us with the Bill.

Ordinances to be sent home duly authenticated.

XXXVI. When any Ordinance shall have been passed, or when any Bill shall have been reserved for the signification of Our pleasure, the Governor shall forthwith lay it before Us for Our approval, disallowance, or other direction thereupon, and shall transmit to Us through one of Our Principal Secretaries of State a full and exact copy in duplicate of the same, together with a marginal summary thereof, duly authenticated under the Public Seal and by his own signature. Such copy shall be accompanied by such explanatory observations as may be required to exhibit the reasons and occasion for passing such Ordinance or Bill.

Collection of Ordinances to be published every year.

XXXVII. At the earliest practicable period after the commencement of each year, the Governor shall cause a complete collection to be published, for general information, of all Ordinances enacted during the preceding year.

Minutes of proceedings
to be kept.

XXXVIII. Minutes shall be regularly kept of all the proceedings of the Legislative Council, and at each meeting of the said Council, the Minutes of the last preceding meeting shall be confirmed or amended, as the case may require, before proceeding to the despatch of any other business.

Minutes to be sent home.

The Governor shall transmit to Us, through one of Our Principal Secretaries of State, as soon as possible after every meeting, a full and exact copy of the Minutes of the said Council.

Appointments to be
provisional and during
pleasure.

XXXIX. All Commissions to be granted by the Governor to any person or persons for exercising any office or employment shall, unless otherwise provided by law, be granted during pleasure only; and whenever the Governor shall appoint to any vacant office or employment of which the initial emoluments exceed one hundred pounds sterling a year, any person not by Us specially directed to be appointed thereto, he shall, at the same time, expressly apprise such person that such appointment is to be considered only as temporary and provisional until Our allowance or disallowance thereof be signified.

Suspension of Officers.

XL. Before suspending from the exercise of his office any Public Officer who has been appointed by virtue of a Commission or Warrant from Us or in Our name, or whose annual pensionable emoluments exceed one hundred pounds sterling, the Governor shall signify to such Officer, by a statement in writing, the grounds of the intended suspension, and shall call upon him to state in writing the grounds upon which he desires to exculpate himself, and if the Officer does not furnish such statement within the time fixed by the Governor, or fails to exculpate himself to the satisfaction of the Governor, the Governor shall appoint a Committee of the Executive Council to investigate the charges made and to make a full report to the Executive Council. The Governor shall forthwith cause such report to be considered by the Council, and shall cause to be recorded in the Minutes whether the Council, or the majority thereof, does or does not assent to the suspension, and if the Governor thereupon proceed to such suspension he shall transmit the report of the Committee and the evidence taken by it, together with the Minutes of the proceedings of the Council, to Us, through one of Our Principal Secretaries of State at the earliest opportunity. But if in any case the interests of Our service shall appear to the Governor to demand that a person shall cease to exercise the powers and functions of his office instantly or before there shall be time to take the proceedings hereinbefore directed, he shall then interdict such person from the exercise of the powers and functions of his office.

Governor to promote religion and education amongst the Natives.

III. The Governor is, to the utmost of his power, to promote religion and education among the native inhabitants of the Colony, and he is especially to take care to protect them in their persons and in the free enjoyment of their possessions, and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

Protection of persons and property.

IIII. Whenever any offender shall have been condemned to suffer death by the sentence of any Court in the Colony, the Governor shall call upon the Judge who presided at the trial to make to him a written report of the case of such offender, and shall cause such report to be taken into consideration at the first meeting of the Executive Council which may be conveniently held thereafter, and he may cause the said Judge to be specially summoned to attend at such meeting and to produce his notes thereat. The Governor shall not pardon or reprieve any such offender unless it shall appear to him expedient so to do, upon receiving the advice of the Executive Council thereon; but in all such cases he is to decide either to extend or to withhold a pardon or reprieve, according to his own deliberate judgment, whether the Members of the Executive Council concur therein or otherwise; entering, nevertheless, on the Minutes of the Executive Council a Minute of his reasons at length, in case he should decide any such question in opposition to the judgment of the majority of the Members thereof.

Regulation of power of pardon in capital cases.

Judge's report to be laid before Executive Council.

Governor to consult Executive Council in such cases.

To exercise his own judgment; entering his reasons on Council Minutes if unable to accept the advice of the majority.

IIIII. The Governor shall punctually forward to Us from year to year, through one of Our Principal Secretaries of State, the annual book of returns, commonly called the Blue Book, relating to the Revenue and Expenditure, Defence, Public Works, Legislation, Civil Establishments, Pensions, Population, Schools, Courts of Exchange, Imports and Exports, Agricultural Produce, Manufactures, and other matters in the said Blue Book more particularly specified, with reference to the state and condition of the Colony.

Blue Book.

IIIV. Except in the cases provided for in the above recited Letters Patent bearing even date therewith, the Governor shall not upon any pretence whatever quit the Colony without having first obtained leave from Us for so doing, under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

Governor's absence.

IIV. In these Our Instructions the term "the Governor" shall, unless inconsistent with the context, include every person for the time being administering the Government of the Colony.

Term "the Governor" explained.

Given at Our Court at Saint James's, this Eleventh day of September 1920, in the Eleventh Year of Our Reign.