

1927

Kenya

No. 10118

SUBJECT

C.O. 533/366

Indian Representation
in Legislative Council
and in 1927 Elections

Previous

Gen 2684/26

Subsequent

15740/28

15942/29

57095/27 Cl. Clr

O.A.P. Debenham Co

27 Feb 27

Mr J. Ripley,

Very, we have two views on the points put by the O.A.P. in the last sentence of the Program. They were fore-shadowed in No 5 of X.P. 26/24/28

The first is a rough basis with X.P. 26/24/28

I put up copies of the Instruments. The basis of O.A.P. is Cap 24 Vol 2 R.L. The draft of the 4th R.L. was discussed in 28/25/23

- see especially X in Mr Bottinck's minute on that paper also his minute of 28/20/23

Copies of the draft have been made I.O. 5-0 - they have heard nothing 11/27

H. Allen

2/2/26

Mr C. Strachey

I have discussed this with Mr Allen and I think the position is as follows:

The Resolution Council Ord (Cap 24) as originally framed in 1919 applied only to the election of the 11 European members. As framed in the Revised Law Book it appears to have that application still, but as a matter of fact it has been amended since the R.L. Book was framed by the "Revised Edition of the Laws (Operation) Ord 1926" so as to extend also to the election of the 5 Indian elected members and the 1 Arab elected

Member provided for by the R.I.

Under the Cap. extension there is only one electoral area - viz the Colony of Malabar - to return all 5 Indian members, and it is quite evident that Sec 17 of Cap 24 which provides for filling a vacancy by election is in a one-member constituency where no candidate has been nominated for election is wholly inapplicable to a 5-member constituency where one member has been elected and no other candidates have been forthcoming for the 4 other seats.

2. § XV of the R.I.

The Govt proposes to construe the first proviso as enabling him to elect the one Indian member who has been elected by 4 other members nominated by him for a period of one year only.

It is felt clear that the proviso will not bear this construction, or any construction allowing a mixed Indian representation, partly elected and partly nominated.

The R.I. must be amended if the Govt proposal is to be carried out

J.S.B.
7/2/37

action under (1) of Sec 17. Disturbance is clearly ruled out - as to action under (2) the position is curious. The R.I. (S XV) say that there shall be 5 Indian elected members, but that until they have been elected there shall be five nominated Indian members. i.e. all elected or all nominated. Now they have elected one Indian (on gohale register). The Governor cannot under the R.I. nominate less than 5, as there must be 5 nominated members until the 5 elected members have been elected (and the total must not exceed 5).

*"such Indian elected members"

There seems nothing for it but to tell the J. Ag. that the R.I. will be amended, & to take steps for such amendment.

C.S.
8-2-37

Mr. Bromleyhouse.

I am afraid there is no other course open to us, but to amend the Royal Instructions.

R.H.L.

10.11.37

X-1018

Why cannot the person to meet the technical point nominate himself, instead of being nominated?

to be done 1/2

Gen J. Riley

Please see above. May I have your remarks?

J.H.G.

16.2.27

Mr J Wilson

The one who has already been being elected and in respect of his name there is no objection to which the Govt could nominate a member - whether the same man or any body else - however, as already pointed out, the fact that there is one duly elected member for the Indian Constitution makes the situation entirely out of line with the Ordinance and if no alteration to amend the Royal Instructions

J.S.R.
14/2/27

Sec of State

Please see. It looks as if the Royal Instructions will

X-1018

55

have to be amended.

J.H.G.

16.2.27

17

Inform O.C. that Royal Instructions will have to be amended & take up question

J.H.G. done

18.2.27

To Gov. tel. 19 Feb 1927

3 To India Office (encl. copy of No. 19/10-2) - 19 Feb 1927

Miz Allen

Mr. D. W. D. W.

24 Feb 1927

(Action reqd. by CCA)

Opening session fixed for 28th March. Important amended R.I. should be in force before that date. Would be glad to be given opportunity of considering proposed amendments before they are finally passed.

I understand that the off. amend to the Indian constitution will cover the point as to the possible resignation to be made. If advised the off. amend to have to be completed the D.P.P. - the proposed a

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draft amendments to the
instructions. We do not know
yet precisely when there will be another
Council.

at 11/11/27

5) to any. Tel. cons. 20 Feb. 1927.
(vide memo attached to
Draft Instrument)

6) ——— Hof Comm. no. ——— 26 Feb., 1927.

REPRODUCED UNDER STATUTE

by Mr. Kerrie Smith.

Entry made
in Sub. file A

1/3 to be sent a J.P. file

at 11

11/11/27

28/12

at 11

7

8) ——— O.A.C. Jankin ——— 28 Feb., 1927

Submits suggestions in connection with
proposed amendments to the Royal Instructions.

The position is that nominations of Indians
should in practice be limited (a) until 29th Feb., 1928
or to any other period, or (b) thereafter to persons
on the electoral roll without any change in the
draft

1.10.18

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draft amendments to the Instructions.
The O.A.C. apparently wants some such specific
provision in the Instructions as a political gesture
and it is a question whether this ^{might not better} could be secured
by retaining the present draft amendments and
making a public intimation that the intentions of the
Government are as at (a) and (b) above. As, however,
nominations are made on instructions from the King,
such an intimation, which would in effect be in his
name, would seem dangerous and afford a handle for
misrepresentation. For this reason, it would seem
better if the O.A.C.'s recommendations are to be
accepted, to incorporate them in the additional
instructions.

No difficulty would seem to arise in
amending the draft (a) by limiting nominations to a
period not exceeding one year, or (b) by omitting
the reference to reappointment; but the further
limitation of nomination ^{to} persons on the electoral
roll might create a difficulty if no one at all or
no one suitable for membership of the Council enrolled,
since, in that case, the Council could not be
properly constituted without a further clause
providing that it should be regarded as properly
constituted notwithstanding any vacancies in the
various classes of members. Such a clause would,
however, seem to be dangerous in view of the
attitude of the European elected members as reported
in the Governor's telegram of the 22nd November (No. 6

in

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X. 1018
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in K.F.2684/26) i.e. that if the Indians do not accept the compromise now ^{suggested} ~~promoted~~ them, the European selected members would unanimously resist further nominations as being contrary to the spirit of the White Paper. On the other hand, if the clause is omitted, and the position I have indicated arose, a still further amendment of the Royal Instructions would be necessary later, but I think on the whole that the best ~~course~~ would be to take the risk of this, especially as we shall know how the matter is developing long before that position could actually arise.

~~Therefore suggest~~
I ~~therefore recommend~~ that the instructions ~~or~~ additional instructions already drafted should be amended to provide that the Indian nominated members shall be nominated as provided in the Instructions, further provision being added that the first nominations under ^{the new section} ~~this clause~~ shall be for a period not exceeding one year, and that any nominations thereafter shall be from names on the Indian electoral roll. The draft should also be amended by omitting the reference to reappointment.

If this is agreed, the O.A.G. could be informed of the further amendments, but as there is no possibility of a Council before the 8th March he should also be told that it is not now possible for the additional instructions to be issued before the 8th March, but that he may intimate that steps will be taken for the issue of such instructions as soon

soon

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X. 1018
27

Should be an offer
soon as possible and ~~for~~ nominations before the 8th March as a preliminary measure. (This action follows that taken on 15825/25 when a similar position arose as certain instructions could not then be issued before the next meeting of the Council.)

I think a copy of the correspondence should also be sent to the India Office in order that they may be kept informed. They know already that it is proposed to issue additional instructions.

W. H. H. H.
1/3/27
H. H. H. H.
1/3/27

J. R. 1/3/27

? proposed - 1/3

*The Secretary,
Dep of State.*

I would have professed if possible to have assented a further amendment of the Royal Instructions for the purpose, as Mr Allen terms it, of a political gesture; but at the same time there are objections to any such intimation as to the future intention in the

x 10118/1

Circumstances, I think that it is better to proceed as proposed

G.H.C.
1.5.27

I agree 28.3.27

To oag Tel. 3 March/27, cons.

... in fact to receive in due course ... the ... is prepared and ...

Draft kept ...
SMC
4/3

To G.O. Wiggins 4.5, 8.9.27) 4 Dec 1927

Further draft of Additional instructions prepared & circulated on draft instrument.

E.H. Howell
8/3/27

x 10118/17

Miss. copied from 50095/27 cc. K.

The Additional Instructions have now been signed by the King and received back to-day. I presume that they should be given today's date and their substance cabled to-day to the O.A.G.

As the O.A.G. will presumably have to appoint the 4 Nominated Indian Unofficial Members before the signed Additional Instructions can reach him.

I am afraid there is no help for it in view of the limitation as to period. ? the text of the operative part of the document so far as it concerns appointments should be telegraphed in-extenso.

H.T.A.

Draft telegram herewith, for consideration, to which you may wish to add a reminder that the O.A.G. should telegraph the names and periods so that His Majesty's Instructions may be conveyed.

(Sgd) E.H. Howell
28.3.27.

I don't think anything need be added after all it is their affair.

(Sgd) H.T. Allen
28.3.27.

(Intld) C.S.
28.3.
at once.

To oag Tel. 28 March/27

India Office 8 March, 1927

Two copy telegraphic copies between Soff. for India + Viceroy

See for action 14
draft tel

India Office 25 March, 1927

Note no. 5 and expresses hope that Indian Communities will avail themselves of the opportunity of registering as voters. But if this should prove not to be the case, experience that reasons could be given as to widening of basis of nominations. Adds as to fresh nominations

12

X-1008/17

It has, of course, all along been the intention that even if the Indian Community fails to accept the communal roll of registers it cannot be left without adequate representation on the Council, but there is no need to go out of the way to assure the Indian Community that if they still fail to register, they won't in any case be worse off than they were before. It seems clear from No. 8 that the O.A.G. would regard any such assurance as positively mischievous. This letter does not invite a reply, but silence may be construed as consent, and we have, in any case, to make a further communication to the I.O. sending them the new Instructions. Therefore? reply sending those Instructions, say that the S. of S. shares Lord Birkenhead's hope that the Indian Community will now avail themselves of the opportunity to register and to elect ^{the full number of} members, in which case the system of nomination ^{will} ~~will~~ lapse and the contingencies referred to in paras. 3 and 4 would not arise. In these circumstances, it would clearly be premature for the S. of S. to express any opinion on the matters raised in para. 3 though he desires to point out that as regards nominations from the Registry, the new Royal Instructions are in accordance with the legislation relating to European membership which provide that where no candidate has been nominated for a European electoral area, the Governor may, in his discretion, nominate any person who is eligible for election in such electoral area to be the member for that electorate. As regards para. 4 add that in view of the terms of the telegram from the O.A.G. of the 28th Feby. (No. 8), the S. of S.

8888

Section 17 Cap. 24.

36963/2

X-1008/17

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A

sees no reason to apprehend that the Indian Community will be left in any doubt as to effect of the new Instructions, which will presumably be published in due course in the Sat. Gazette.
 [I have ascertained that the R.S.S. 11/12/20 & the late R.S. were all registered]. And it would be safe to say that all will be done to ensure that the Instructions are properly published to the O.A.G. Confidential

CS 4/6

15 To O.A.G. Kenya. Misc. 14/4/27
 (Final. Serials R.I. done 24/2)
 12 Plain copies

16 To I.O. (2 copies. Addnl. J. 1927) 14 APR 1927

17 To Gov. Kya. Conf. (1 copy to R.I.) 19 APR 1927

18 O.A.G. Dehlon 30 June 1927
 Documents app. of G.S. Varma, R.S. Nehra, J.B. Pandya and P.K. Ghanday as nominated Indian unofficial members of the Leg. Al. app. to terminate on 31 Jan, 1928. Report
 tel. reply

Nehra & Pandya were among the Indian members nominated in 1925. He is an afraid the other names are unknown to me.
 This is the approval of nominations as in the receipt, which reaches the front since no R.S. were then in office

14/

X. 10118/27

to be given in the hand.
troops comes to it.

[This is satisfactory since, so far as I
am aware, this is the first definite
indication that the Indians will accept
the Communal roll]

J.H. Allen
4/7/27

The Hon. Secy. has official ~~instructions~~ ^{instructions}
issued by the Gov. in pursuance of instructions
from H.M. through Sifd
It is amended accordingly

J.H. Howell
4/7/27

19. Tel to Gov. 7th July 1927.

- 20 To I.O. (w/ copies 18, 19) 16 JUL 1927
A. Indian Unoff. Leg. Comm. Gazette, 2/1/27
- 21 O.M. Dunham 493 4 July 27
State has provisionally apptd Bhagwan Singh
Lamba to be temporarily an unoff. member of
the Executive Bd. during absence of Mr. Laman
Vishnu Prasad from the Colony.

extracted and
sent to relevant
file

H. of Comm. 29 Nov. 1927

Question by Col. Woodwood

entry further
in Sub. file A

22 mfs to Lye. 15 Sep. 1927. in sub. file
A

X. 10118/27

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10

~~DESTROYED UNDER STATUTE~~ Congress

28th Dec. 1927

I am not sure
that this is the
right file but
I think it
is most likely

Congress unanimously resolved to place
on record that Mr. Nehru, Barister, does
not represent views of Indian Community.

The Gov. presumably knows of this resolution.
The appointment of the 4 nominated Indians terminate
on the 31st Jan. & presumably Mr. Nehru will
not be re-appointed. No action has been
in mind when Gov. submits new names.

Clairmont
H. Bolton

Perhaps can do it - but? but?

J.H. Allen

28/11/27
The fact that this is a result of the
non-co-operation movement reported in
today's Times. P. 10

Oct. 29. 12. 27
at the

ZX.10116/27 Kenya.

DRAFT

Entered in Appointment and Warrant Book

OKS.

The Superintendent of the
"LONDON GAZETTE"

DOWNING STREET,

Mr. Grossmith *27/7/27*
Mr. Harman. *25/7*
Mr. Howell *28/7*
Mr. *above*

25/7/27 187
29 JUL
D

The King has been pleased to give

directions for the appointment of the undermentioned gentlemen to be Nominated Indian Unofficial Members of the Legislative Council of the Colony of Kenya:-

- Bhagwan Singh Varma, Esq.,
- Ram Singh Nehra, Esq.,
- Jagannath Bhawanishanker Pandya, Esq.,
- Pestonji Kalkobad Grandy, Esq.

This is the spelling in the Governor's telegram (No 15) but I adhere to spelling given when he was last appointed - as in Kenya gazette 12 Aug 1925, p. 775.

Downing Street,
2nd August, 1927.

The KING has been pleased to give directions for the appointment of the undermentioned gentlemen to be Nominated Indian Unofficial Members of the Legislative Council of the Colony of Kenya:-
Bhagwan Singh Varma, Esq.
Ram Singh Nehra, Esq.
Jagannath Bhawanishanker Pandya, Esq.
Pestonji Kalkobad Grandy, Esq.

(In the room of

X. 10718. 27

19
12

Nairobi

Mr. McAllan 4/7
Mr. Howell 4/7

Mr. E. J. Harding.

X Sir C. Strachey 4-7

Sir J. Skyeckburgh.

Sir G. Grinille.

Sir C. Davis.

X Sir S. Wilson. 5.7.27

X Mr. Ormsby-Gore. 3.7.27

Earl of Clarendon.

X Mr. Amery. 27.7

C. D.
R
D
JUL
27

Codes & Sent
1.30 pm
7.7 July 27

July 27th. has been

pleased to approve
for the appointment
nomination of the four

gentlemen named in

Law 61 23/24 30 line

nomination as Indian members

of Legislative Council

appointments to

terminate 31 Dec

1928.

DRAFT. Cons. v. minute

Governor
Nairobi

Copy to
10.16 JUL 1927

Lysetta
Ayres
2.8.27

RECEIVED
JUL 30 1927
COL. OFFICE

Telegram from the Officer Administering the Government
of Kenya to the Secretary of State for the Colonies.

Dated 30th June

(Received Colonial Office 1.2 p.m. 30th June, 1927).

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237. 30th June. Your despatch of 14th April

Miscellaneous.

After conference with Eastern African Indians National
Congress recommend appointment of Bhagwan Singh Varma, Ram
Singh Nehra, Jagannath Bhawanishanker Pandya and Pestonji
Kaikobad Ghandy as nominated Indian Unofficial members of
the Legislative Council following recommendation of the
Congress appointments to terminate on 31st January 1928.

I have selected this date with a view to holding Indian
elections during the first week in February. Should be
glad of reply by telegraph as I am anxious to make
definitive appointments as soon as possible.

Ans. & Tel. 7th July 1927
16.15
16 JUL 1927
11.0
Coy

16

- Mr. Cliffe 5.4.27.
- Mr. J. Realey 9/4
- Mr. Allen 11/4
- Mr. E. J. Harding.
- Sir C. Strachey.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Sir O. Davis.
- Sir S. Wilson.
- Mr. Ormsby-Gore.
- Earl of Clarendon.
- Mr. Amery.

C.C.D.
 11 APR
 0 13

Downing Street.

14 April, 1927.

Sir,

I am directed by Mr. Secretary

Amery to acknowledge the receipt of

your letter, E. & O. 1539/27, of the

25th of March, and to transmit to you,

for the information of the Earl of

Birkenhead, the accompanying copies of

the additional Royal Instructions to the

Governor of Kenya, dated the 28th of

March, 1927, as requested in your letter

No. E. & O. 1199/27, of the 1st of March.

2. Mr. Amery shares Lord

Birkenhead's hope that the Indian

community will now avail themselves of

the opportunity to register, and to

elect the full number of members to

which they are entitled, in which case

the system of nomination would lapse

and

DRAFT.

Under Secretary of State
 for India,
 Economic and Overseas
 Department.
 India Office.

*This has been read & can
 be used as at his
 disposal the working
 paper J. 3. 11. 27.*

19 APR 1927
 Copy to Sir. Realey

No. 10.

Copy this (without encl.)
 and No. 14 to C. A. G.
 Confidential, L. F.

*Kalson
 (L. F.)*

two copies.
 Additional Royal Instructions
 (50095/27 C. Clerk)
 (Copies to be obtained from
 C. C. D.)

*Attache
 (C. C. D.)*

Rochester

and the contingencies referred to in paragraphs 3 and 4 of your letter under reply would not arise.

In these circumstances it would clearly be desirable for Mr. Amery to express any opinion on the question raised in paragraph 3 of that letter, though the recent nominations from the register have already been appointed but with reference to the telegraphic correspondence enclosed in the letter from the Department of the 18th February, that the new Electoral Districts do not involve any discrimination between European and Indian Electoral areas since the Legislative Council will have the right to elect a candidate for election in any Electoral area, the Governor-General at his discretion nominate any person eligible for election in such Electoral area to be the member for that

Subject to certain disqualifications any person who is qualified to be registered and is registered as a voter in any Electoral area is eligible for election

any person who is qualified to be registered and is registered as a voter

is eligible for election

4. As regards paragraph 1 of your letter under reply, in view of the terms of the telegram from the Acting Governor of Kenya of the 28th of February, a copy of which was enclosed in the letter from this

Department of the 4th of March, Mr.

Amery sees no reason to apprehend that the Indian community will be left in any doubt as to the effect of the new instructions which will presumably be published in due course in the Government Gazette.

I am, etc.,

(Signed) H. T. ALLEN,

for Under Secretary of State,

10118 Kenya

15
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Mr. Harman 12.4.27

Mr. Howell 12/4/27

Mr. Allen 12/4/27

Mr. E. J. Harding

Sir C. Strachey

Sir J. Sluickburgh

Sir G. Grindle

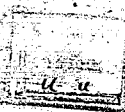
Sir G. Davis

Sir S. Wilson

Mr. Ormsby-Gore

Earl of Clarendon

Mr. Amery



Answer no. 18 14. Apr. 1927

~~12/4/27~~

to my telegram

DRAFT

Kenya
Miss
Oag

of the 28th of March, I have
the hon. to the Gov. from the
Royal
acc. additional instructions
found under the Royal Lign Manual Lignet,
dated the 28th of March 1927,
to the Governor of Kenya
in regard to the constitution
of the Leg. Council
Twelve printed copies are
also enclosed

(Signed) L. S. AMERY

Sealed & signed copy
+ 12 plain copies

Paper in circulation

17
COLONY OF KENYA.

ADDITIONAL INSTRUCTIONS passed under the Royal Sign Manual and Signet, to the Governor and Commander-in-Chief of the Colony of Kenya, in regard to the constitution of the Legislative Council thereof.

Dated 28th March 1927.

GEORGE R.I.

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

WHEREAS by Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date the Eleventh day of September 1920, We did constitute, order, and declare that there should be a Governor and Commander-in-Chief (therein and hereinafter called the Governor) in and over Our Colony of Kenya (therein and hereinafter called the Colony):

Recites Letters Patent of 11th September 1920

And whereas We did thereby authorise, empower and command 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 might be repugnant to any of the provisions of Our said Letters Patent, and of such Commission as might be issued to him under the Royal Sign Manual and Signet, and according to such Instructions as might 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 were then or should thereafter be in force in the Colony:

And whereas certain Instructions bearing date the Eleventh day of September 1920 were issued under the Royal Sign Manual and Signet for the guidance of the Governor, or other Officer administering the Government of the Colony, and providing amongst other things for the constitution of the Legislative Council of the Colony:

Recites Instructions of 11th September 1920

And whereas by certain Additional Instructions bearing date the Twenty-fifth day of October 1923 We did further amend the Fifteenth, Nineteenth and Twentieth Clauses of the said Instructions of the Eleventh day of September 1920 as amended by Our Additional Instructions of the Eleventh day of February 1922:

Recites Additional Instructions of 25th October 1923

And whereas by certain Additional Instructions bearing date the Twenty-eighth day of December 1925 We did further amend the Fifteenth clause of the said Instructions of the Eleventh day of September 1920 as amended by Our Additional Instructions of the Eleventh day of February 1922, Our Additional Instructions of the Twenty-fifth day of October 1923, and Our Additional Instructions of the Fifteenth day of July 1925, and did also amend the Sixteenth Clause of the said Instructions of the Eleventh day of September 1920:

Recites Additional Instructions of 28th December 1925

And whereas We are minded to make other provision in regard to the constitution of the said Legislative Council:

ADDITIONAL INSTRUCTIONS to the Governor and Commander-in-Chief, COLONY OF KENYA.

Revoles Fifteenth, Nineteenth and Twentieth Clauses of Instructions of 11th September 1920, as amended.

Now therefore We do, by these Our Additional Instructions under Our Sign Manual and Signet, revoke as from the date hereof the clause which by Our said Additional Instructions of the Twentieth day of December 1925 was substituted for the Fifteenth Clause of Our Instructions of the Eleventh day of September 1920, as amended by Our said Additional Instructions of the Eleventh day of February 1922, the Twenty-fifth day of October 1923; and the Fifteenth day of July 1925, and the clauses which by Our said Additional Instructions of the Twenty-fifth day of October 1923 were substituted for the Nineteenth and Twentieth clauses of Our Instructions of the Eleventh day of September 1920, as amended by Our Additional Instructions of the Eleventh day of February 1922, but without prejudice to anything lawfully done thereunder, and instead thereof We do direct and enjoin and declare Our will and pleasure as follows:—

Constitution of the Legislative Council.

I. The Legislative Council of the Colony shall consist of the Governor as President, eleven *ex officio* Members, Nominated Official Members not exceeding nine in number, eleven European Elected Members, Indian Elected Members not exceeding five in number, one Arab Elected Member, and one Nominated Unofficial Member to represent the interests of the African community:

Provided that if after a dissolution of the Council less than five persons are elected to be Indian Elected Members, or if at any time the number of Indian Elected Members is less than five, the vacancy or vacancies so arising may be filled by the appointment in the manner hereinafter provided of Nominated Indian Unofficial Members:

Provided further 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:

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.

Indian and Arab Elected Members.

Nominated Unofficial Member to represent African Community.

Nominated Arab Unofficial Member.

II. The Indian and Arab 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. 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 Us through one of Our Principal Secretaries of State. 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. All such Nominated Unofficial Members 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.

Nominated Indian Unofficial Members.

Until the termination of one year from the date of these Our Additional Instructions the Nominated Indian Unofficial Members (if any) shall be such fit persons 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 by

Instrument under the Public Seal. Such Nominated Indian Unofficial Members shall hold their places in the Council during Our pleasure and shall in any case vacate their seats at the termination of one year from the date of these Our Additional Instructions, or of such less period as may, in accordance with any instructions from Us through one of Our Principal Secretaries of State, be provided in the instrument by which they are appointed, or at the next dissolution of the Council after their appointment, whichever is the earlier. After the termination of one year as aforesaid the Nominated Indian Unofficial Members (if any) shall be nominated from among those persons whose names are entered on the register in force for the time being of voters for the election of Indian Elected Members prepared in accordance with the provisions of any law enacted for the purpose by the Legislative Council of the Colony and shall be appointed by the Governor by an instrument under the Public Seal in pursuance of instructions from Us through one of Our Principal Secretaries of State. Such Nominated Indian Unofficial Members appointed after the termination of one year as aforesaid 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 or at the termination of such period as may, in accordance with any instructions from Us through one of Our Principal Secretaries of State, be provided in the instrument by which they are appointed, whichever is the earlier.

III. 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 mentioned in the Sixteenth clause of Our Instructions of the Eleventh day of September 1920 as amended by Our Additional Instructions of the Twentieth day of December 1925; 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 and the Nominated Indian Unofficial Members (if any) in order of date of election or appointment or if elected or appointed on the same date according to the alphabetical order of their names; fifthly, the Arab Elected Member; sixthly, the Nominated Unofficial Member representing the interests of the African community and the Nominated Unofficial Member (if any) representing the interests of the Arab community according to the priority of their respective appointments.

Precedence of Members.

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

Given at Our Court at Saint James's this Twenty-eighth day of March 1927, in the Seventeenth Year of Our Reign.

14
14
5647

Any further communication on this subject should be addressed to—

The Under Secretary of State for India,
Economic & Overseas Department,
India Office, London, S.W. 1.

and the following reference quoted:—

E. & O. 1539/27.



INDIA OFFICE,

WHITEHALL,

LONDON, S.W. 1.

25th March 1927.

RECEIVED
26 MAR 1927
COL. OFFICE

Sir,

I am directed by the Earl of Birkenhead to acknowledge the receipt of your letter of 4th March 1927, No. 10118/27, regarding the question of Indian representation in the Legislative Council of Kenya.

2. Lord Birkenhead notes that the Royal Instructions now to be issued will provide that the nominations to be made forthwith shall terminate not later than one year from the date of the Instructions, nominations thereafter being made from the Indian Electoral Roll only.

3. His Lordship hopes that the Indian community in general will, as is anticipated by the Governor, now avail themselves of the opportunity of registration as voters. If, however, this should unfortunately not prove to be the case and if they should enrol themselves in inconsiderable numbers only, He presumes that consideration could then be given to the question whether the basis of nominations should not again be widened and that, if this should be thought to be desirable, there would be no difficulty in amending the Royal Instructions accordingly.

4. His Lordship also presumes that it will be made clear to the Indian community that fresh nominations (from the register) will be made on the expiry of the period of the forthcoming temporary nominations.

5. It will have been observed from the Viceroy's telegram of 3rd March that by that date the Government of India

The Under Secretary of State,

Colonial Office,

S. W. 1.

had/

10.11
copy to Gov Secy 19/4/27

Recd 14 April 24

Ind. No. 13

had not been approached by the Indian community on the question of participating in communal elections.

I am, Sir,

Your obedient Servant,

E. J. Turner

W. Allen

Can you say whether the following House Royal Instructions were published locally in the Gazette.

- 11 Sep 1920 { 29/11/20 }
Gov Notice 886
- 11 Feb 1922 { General 15/2/22 }
Gov Notice No 94
- 25 Oct 1923 { 12/12/23 }
Gov Notice 422
- 15 Mar 1925 { General 12/8/25 }
Gov Notice 320

Shree

4/2/25

X 10118 Kenya 12/27

Mr. Howell 28/3/27

Mr. Allen 28/3/27

Mr.

Mr. E. J. Harding

X Sir O. Strachey 28/3/27

Sir J. Shackburgh

Sir G. Grindley

Sir C. Davis

Sir S. Wilson

Mr. Ormsby-Gore

Earl of Clarendon

Mr. Amery

Codes & Sent
6.5 pm
28th March 27
CP

O. D.
R 29 MAR
1927

My telegram of 3 March
Additional instructions signed
by His Majesty and dated
28 March come into

DRAFT.

Governor
Nairobi

operation forthwith
provision is made for inclusion
in legislative Council of
Indian Elected Members not
exceeding five in number
subject to following proviso
beginning

Copy to be attached
to draft instrument
Copy placed within
5009/27 K.C.C.

Provided that if after a dissolution of the Council less than five persons are elected to be Indian Elected Members, or if at any time the number of Indian Elected Members is less than five, the vacancy or vacancies so arising may be filled by the appointment in the manner hereinafter provided of Nominated Indian Unofficial Members:

ends
Clause Nineteen of
Additional Instructions of
25 October 1923 is amended
by deletion of second
sentence

for action
deposited for
letter to

sentence and following
provision added
begins

Until the termination of one year from the date of these Our Additional Instructions the Nominated Indian Unofficial Members (if any) shall be such fit persons 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 by

Instrument under the Public Seal. Such Nominated Indian Unofficial Members shall hold their places in the Council during Our pleasure and shall in any case vacate their seats at the termination of one year from the date of these Our Additional Instructions, or of such less period as may, in accordance with any instructions from Us through one of Our Principal Secretaries of State, be provided in the Instrument by which they are appointed, or at the next dissolution of the Council after their appointment, whichever is the earlier. After the termination of one year as aforesaid the Nominated Indian Unofficial Members (if any) shall be nominated from among those persons whose names are entered on the register in force for the time being of voters for the election of Indian Elected Members prepared in accordance with the provisions of any law enacted for the purpose by the Legislative Council of the Colony and shall be appointed by the Governor by an Instrument under the Public Seal in pursuance of instructions from Us through one of Our Principal Secretaries of State. Such Nominated Indian Unofficial Members appointed after the termination of one year as aforesaid 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 or at the termination of such period as may, in accordance with any instructions from Us through one of Our Principal Secretaries of State, be provided in the Instrument by which they are appointed, whichever is the earlier.

Order
Precedence is given to Indian Elected Members and Nominated Indian Unofficial Members next after European Elected Members and between themselves also in order of date of election or appointment or if elected or appointed on the same date according to the alphabetical order of their names

Mr. Miller 4/3

X 10118 27

Kenya

- Mr. E. J. Harding
- Sir O. Strachey
- Sir J. Shackburgh
- Sir G. Grindle
- Sir C. Davis
- Sir S. Wilson
- Mr. Ormeby-Gore
- Earl of Clarendon
- Mr. Amey



Amey No. 14.

4-10-27 (927)

DRAFT

The list of
Economies
we send Dept
India Office

of the letter from this
Dept 7 this 19 Feb

Handwritten notes and dates:

- Handwritten: 100005 62 No 55 (Nov) 20 Feb
- Handwritten: 100005 62 74 (Nov) 20 Feb
- Handwritten: 100005 62 28 Feb (No 8)
- Handwritten: 100005 3 week (No 9)
- Handwritten: 100005 28 Dec 1927

Handwritten notes:

- I am to transmit to
- the Secy of the
- Dept of Education the
- acc copies of further
- the comes with the
- copy of the
- copy of the
- the
- the

in the Register of that

copy.

I can also enclose,
as requested in your letter of
the 1st March (C 101199/27)
a copy of the additional
Royal Instructions of the 28
Dec 1915. A copy of the
further Instructions now being
prepared will be sent
when passed.

Yours truly

W. H. Allen

Mr. Allen 3/3/27.

Mr. H. J. Harding

Mr. Strachey

Sir J. Shuckburgh

Sir G. Grindley

Sir O. Dams

Sir S. Wilson

Mr. Ormsby-Gore

Earl of Oarendon

Mr. Amery

X 10118

1-5 pm
2-3-27



DRAFT TELEGRAM

Governor,
Nairobi.

Your telegram 23 February 62.

Draft additional instructions embodied
in my telegram of 24 February would in
pract. of English nominations to be limited
as proposed but in view of your recommen-
dation draft will be amended by providing
specifically that nominations made within
one year from date of new instructions
shall terminate not later than one year
from that date nominations thereafter
being made from Indian Electoral Roll
only. Reference to re-appointment will
be omitted. ^{Impossible} ~~Reference~~ for additional
instructions to be issued before 8th March
but you may intimate that steps will be
taken for issue of such instructions.

C 101199/27

W. H. Allen has
been a success
M.P.

Receipts here

at the earliest possible date. You may
also offer nominations before 8th March
as a preliminary measure and submit names
and period of appointment proposed.

Telegram from the Officer Administering the Government of Kenya to the Secretary of State for the Colonies.

Dated 28th February, 1927.

(Received Colonial Office 5.55 p.m. 28th February, 1927.)

No 62. 28th February. Your telegram of 28th February. Indian Elections It is I consider most advisable that Royal Instructions now to be issued should prolong nominations only for such period as would allow of time (1) for the Indian community to register and (2) for elections to be held on that register. Suggest therefore that period for nominations under Royal Instructions should be limited to 29th February, 1928 and that thereafter nominations should only be made from amongst persons whose names appear in the electoral roll. I believe that the Indian Community is generally ready to register communally and consider that an intimation as suggested above clinch this view. Reference to reappointments may tend further to prevent early settlement of the question and does not appear essential. Trust that you will give these suggestions the fullest consideration.

Hand Tel. 3 March 1927
Copy to S.O. 4 Room 19/27

Mr. Allen Feb. 2.27.

at face 1c

X 10118 Kenya 27

- Mr.
- Mr.
- Mr. E. J. Harding.
- Sir G. Strachey.
- Sir J. Shackburgh.
- Sir G. Grindle.
- Sir C. Davis.
- Sir S. Wilson.
- Mr. Ormsby-Gore.
- Earl of Clarendon.
- Mr. Amery.

Ans'd no. 8

C
R 25 LB
D 25

Coded & sent 10.30pm 24/2/27 JHB

Important.

Your telegram 24th February

No. 55 ~~Propose to make~~ following *proposed* amendments in Clause 15 in Royal

Instructions of 28th December 1925

(a) insert words "not more than"

before word "five" in line 4.

(b) delete first proviso and

insert following begins Provided

that until one or more Indian

elected members have been elected

there shall be five nominated *Indian*

unofficial members, and that if

after a dissolution of the Council

less than five persons are elected

to be Indian elected members or if

at any time the number of Indian

elected members is less than five the

vacancy or vacancies so arising may

be

DRAFT TELEGRAM

Governor

Nairobi.

Copy to J.O. 4 Nov. 1927

be filled by the appointment of
nominated Indian unofficial members.
such nominated Indian ^{unofficial} ~~official~~ members
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 or at the termination of
such period as may be provided in
accordance with any instructions ~~from~~
Us
or through one of our principal Secretaries
of State in the Instrument by which or
in pursuance of which they are appointed,
whichever is the earlier, but may be
reappointed ends.

Telegraph with least possible delay
whether you agree.

4
20

Telegram from the Officer Administering the Govern-
ment of Kenya to the Secretary of State for the
Colonies.

(Dated 24th February.

(Received Colonial Office 9.55. ^{25th} February 1927)

RECEIVED
24 FEB 1927
COL. OFFICE

55. 24th February.

Your telegram of 19th February Opening Session
of the new Legislative Council fixed for 8th March.
Important that Royal Instructions as amended should
be in force before that date to enable nomination(s)
to be made for vacancies. Consider amendment(s)
should be designed to cover the possibility of
elected member Malik resigning. Should be glad to
be given opportunity for considering proposed amend-
ment(s) before they are finally passed.

Copy to 3 O 4 Mar 1927

X 10118 29
Kens

371

Mr. *W. Miller*

1912
J.S.

C. D.
19 FEB
D 19

Mr.

Mr. E. J. Harding.

Mr. Strachey.

Sir J. Shuckburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Earl of Clarendon.

Mr. Amery.

J.S.

Capt. 19 Feb 1912

Sir,

With ref. to the letter

DRAFT.

From this Dept of the 10 Oct

The U.S.S.
Inca Office

I am to transmit to you,

for the info. ~~the~~ case of

Buckenhead, the acc.

Copy of further tele. comes

with the O.A.S. of March

in the subject of Inca

representation on the basis

of Mr. Tolary.

Allen

(Signed) H. T. ALLEN

To Mr. Tolary 4 Feb
To Mr. Tolary 19 Feb
(Camp: 871)

TELEGRAM from the Acting Governor of Kenya to the Secretary of State for the Colonies.

Dated 4th February, 1927.

(Received, Colonial Office, 4.0 p.m. 4th February, 1927).

42. 4th February.

RECEIVED
6 FEB 1927

Your telegram of 6th December, Confidential. I am informed that meeting of the Indian Congress resulted in adoption of proposal to participate in communal elections subject to the concurrence of the Government of India which I understand has been approached. No official notification of this decision has yet been made to me but I have every reason to believe that the Indian Community in general desires to enrol its own members on communal basis, annual revision of which is now progressing and I am most anxious to do all that I can to maintain this attitude which I believe has also been recommended to the local community by the Indian delegation to South Africa who passed through here last month. The following position has now arisen. An election for Indian members was held as required by law on 22nd January on the register referred to in my telegram of 22nd November as a result of which one Indian A.H. Malik was nominated and declared duly elected by the Returning Officer of the Indian Electoral area. The consequence is that there will be one Indian elected member and four vacancies at the opening of the new Council. The question how these vacancies should be filled either (I) under the provision of Article XV of Royal Instructions of 28th December 1925, or (II) under Section 17 of Legislative Council Ordinance. If nominations are made under the latter they would have to be made from the existing unrepresentative register while nominations under the former are unrestricted. I conclude that the fact that there is one elected Indian member does not deprive the Governor

XF 2694/26
No. 7

Chm. to. 19 Feb. 27 (No. 2)
Copy to 30. 19 Feb 27.

XF 2694/1
No. 6

5/3/27
Patten paper

Governor of power to fill the remaining vacancies by nomination under Royal Instructions. Both the Ordinance and the Royal Instructions appear to provide for nominated members remaining members of the Council as such until the next general election is held. If such a course is adopted there will be further delay in securing Indian members elected on communal basis which is now the general desire of the community and in accordance with the White Paper. I am therefore most anxious to avoid a course which would delay this very desirable settlement and I should be glad to be informed by you whether in your opinion the Royal Instructions can be taken to cover a nomination period for one year only in which case the Indian community would be informed that the vacancies would have to be filled by election on new roll next year or whether you would be prepared to advise amendment of the Royal Instructions to provide for nominations for one year only.

Governor of power to fill the remaining vacancies by nomination under Royal Instructions. Both the Ordinance and the Royal Instructions appear to provide for nominated members remaining members of the Council as such until the next general election is held. If such a course is adopted there will be further delay in securing Indian members elected on communal basis which is now the general desire of the community and in accordance with the White Paper. I am therefore most anxious to avoid a course which would delay this very desirable settlement and I should be glad to be informed by you whether in your opinion the Royal Instructions can be taken to cover a nomination period for one year only in which case the Indian community would be informed that the vacancies would have to be filled by election on new roll next year or whether you would be prepared to advise amendment of the Royal Instructions to provide for nominations for one year only.

PUBLIC RECORD OFFICE

END

TOTAL EXPOSURES →