

1933

Kenya

No. 3024.

SUBJECT

C0533/431

Indians:

Participation in Executive +

Legislative Council Affairs

Previous

17599/31.

17060/31.

See 17028/31.

Subsequent

23113/34.

1. Governor Byrnes to Gov. (The Mail) 14 January 23  
Furnishes details of Indian political affairs in regard to  
Indian cooperation with the Govt. Status representations  
have been made by the Quaker Assocn. for the appointment of  
a Mohammedan as Indian member of the Executive Council &  
recommends the nomination of Mr. Abdul Wahid as Indian  
member for appointment for one year.

I attach 1 a a separate minute

H.S. P. M. S. M. A.  
18/2/33

The question is complicated by the existence of a  
cross-division. The dividing line between Hindu &  
Moslem does not coincide with that between  
"non-cooperators" and "co-operators". But from  
the dispatch it appears to be a justified inference  
that the only section of the community who  
would repudiate Mr. Abdul Wahid would be  
the Hindu non-cooperators - i.e. the East  
African Indian National Congress.

Eight years ago Mr. Wahid was described  
as "the wealthiest Indian merchant in Kenya, who  
has been a resident of the Colony for 25 years".

The Governor is clearly in a better  
position to assess the intentions of the Indian  
situation in Nairobi than we in Downing Street,  
and this is eminently a case in which

in 21/8/33

1/3 Governor Byrnes to Chief (Mr. Gopal) 14 February 23  
Furnishes details of Indian political affairs in regard to  
Indian cooperation with the Govt. State representations  
have been made by the Muslim Assocn. for the appointment of  
a Mohammedan as Indian member of the Executive Council &  
recommends the nomination of Mr. Abdul Wahid as Indian  
member for appointment for one year.

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"non-cooperators" and "co-operators". But from  
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would reprobate Mr. Abdul Wahid would be  
the Hindus & non-cooperators - i.e. the East  
African Indian National Congress.

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as "the wealthiest Indian merchant in Kenya, who  
has been a resident of the Colony for 25 years".

in 2118/25

The Governor is clearly in a better  
position to assess the intentions of the Indian  
situation in Nairobi than we in Downing Street,  
and this is eminently a case in which

his judgment should be trusted & his advice accepted.

? Affirm, & send I.O. - copy of  
the correspondence

PPrinter  
20/2

I think we can do this. It is merely that there is now  
a suitable Indian (or A. Wahid) who is available.  
It is not necessary to consider his particular religion  
though the split between Moslems & Hindus is a hopeful  
sign.

But I am not sure about a one year limitation.  
Nothing is said as to tenure of office by an Executive  
Councillor - the Royal Instructions, ~~old~~ and the  
Letters Patent prescribe that all Ex. Councillors  
shall hold office during pleasure. The normal  
tenure for a nominated legislative Councillor is usually  
five years. Of course the Governor could warn  
Mr. Wahid that his intention would be that he  
should hold office for twelve months, but would it  
be politic so to do? I rather think not.

~~we should tell the Council that we are~~  
not sure.

J. L. G. H. L. D.  
22-2.

I asked Mr. Howell what the position was as  
regards appointing members for specified terms to  
Executive Council and Mr. Minter has produced the  
attached note. It appears from this that there  
are varying terms for Executive Council. Unofficials  
from 2 years to 5 years, while in other places,  
as in Kenya, the tenure is limited by pleasure,  
and in such cases the period chosen is either 3  
years or 5 years. In Bermuda, which is not, of  
course, parallel to Kenya, the Governor, Sir J. Asser,  
asked in 1933 for discretionary power to terminate  
appointments within the period of 3 years. But he  
was told that the proposal was open to very serious  
objection.

This is not, of course, a parallel to Kenya,  
and the circumstances are altogether exceptional.  
I think, therefore, that we may well signify His  
Majesty's pleasure to the appointment of Mr. Abdul  
Wahid<sup>x</sup> for a period of 1 year as recommended by the  
Governor, but at the same time we should tell  
Sir J. Byrne that the period is unusually short and  
that in other Colonies 2, 3 or as much as 5 years  
are the usual periods.

110 X 2

<sup>192</sup>  
\* See on the official members of  
Executive Council.

[Hope that the term "official member"  
will not get formal recognition]

Wed. 28. 3. 33.

As proposed

B. A. G.  
at once

Mr. Howell

I pass through you as regards the form  
approval.

H. P. ...  
4/23

1/2/33

- 2 To Gov. Conf (1 answer)
- 3 - 163 - - - - -

7 MAR 1933

4 I.C. (1, 2 + 3) B/A - 8/3/33

5 - ... 31 March '33.

(Handwritten initials)

Government Notice No 176 of 1933  
Executive Council appointment.

Copy. C. H. ...  
7.7.33  
above.

(Handwritten mark)

Mr. J. Small  
I pass through you as regards the form  
approval.  
H. M. Moore  
17/3

- 2 To Gov. Compt (1.6 amount)
- 3 - - 163 - - - - - } 7 MAR 1933
- 4 " I.O. (1.1, 2+3) 87a - 8/5/33
- 5 " - - - - - 31 March '33.

1/7/33  
To Mr. 301  
file on No. 3

*(Handwritten initials)*

Gov. Compt  
Exec. Council  
Government Notice No. 176 of 1933.  
Executive Council appointment.  
H. M. Moore  
17.7.33  
above.

*(Handwritten mark)*

6/4

GOVERNMENT NOTICE No. 176

EXECUTIVE COUNCIL.

APPOINTMENT.

His Majesty the King has been graciously pleased to approve the appointment of Abdul Wahid, Esq., to be an Unofficial Member of the Executive Council of the Colony and Protectorate of Kenya, for a period of one year.

Nairobi,  
18th March, 1933.

H. M. MOORE,  
Colonial Secretary

DRAFT

3024/13 Kenya

Entered in Appointment and

55

Warrant Books

Mr. Francis 29/3

● Mr. Finlayson 29/3 alone

Mr.

Mr.

Please supply four proofs of the following notice:—

Colonial Office,  
31 March, 1933.

The Superintendent of the  
"LONDON GAZETTE."

DOWNING STREET,

31 March, 1933

The King has been pleased to give directions for the appointment of Abdul Wahid Esq. to be an unofficial member of the Executive Council of the Colony of Kenya.

Downing Street,  
31st March, 1933  
The KING has been pleased to give directions for the appointment of Abdul Wahid Esq. to be an Unofficial Member of the Executive Council of the Colony of Kenya.

To be noted  
in R. 30 after  
action

(In the room of

C. O.

3024 Kenya 33 36

Mr. Howell b/s  
Mr. F. Parsons b/s  
Mr.

For Air Mail of 7 Mils

Mr. Parkenson.

7 March 1933

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Parli. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

Kenya

No 1163

For Baggage

~~SS~~

Copy to 10. (2)

4230/10/33  
1163 note in a/s.  
Lester  
M. 11/6

Sir

I have the honour to convey to you H. M.'s instructions for the appointment of Mr Abdul Wahid to be an Unofficial Member of the Executive Council of the Colony of Kenya.

2. I have at the same time to inform you that it is H. M.'s pleasure that Mr Abdul Wahid should hold his seat on the Council for a period of one year from the date of his appointment to be a Member, and that

subject

2/10



subject to any further expansion  
of Abdul Wahid's powers, his seat  
shall become vacant at the  
termination of that period.

I have

(Sgd) P. OUNLIFFE-LISTER

C. O.

30/24/33

27

For Air mail of 7<sup>th</sup> March

- Mr. Priestman 4/3
- Mr. Arnold 6/3
- Mr. Bracken 6
- Mr. Ford 6/3
- Mr. Parkinson
- Mr. Tompkins
- Mr. C. G. G. G.
- Sir J. Shackburgh
- Party U.S. of S.
- Party U.S. of S.
- Secretary of State

When letter shall  
be covered in your report  
you  
2

C. D.  
J. G. MAF  
B 6

March 1933.

DRAFT. Copy in v. minutes

Sir,

I have etc. to acknowledge  
the receipt of your confidential  
despatch No. 5 of the 14th of  
January recommending the appointment  
of Mr. Abdul Wahid to be an  
Unofficial Member of the Executive  
Council, and to refer to my  
desp. No 163 of even date  
His Majesty has been pleased  
conveying His Majesty's approval of the  
to appoint the appointment of  
Mr. Abdul Wahid to be an Unofficial  
Member of the Executive Council for  
a period of 2 year in accordance  
with your recommendation. I think  
it desirable, however, to state for  
your information that the period

KENYA  
Confidential  
GOVERNMENT

~~85~~

Copy to 10. (4)

? Copy this to  
desp. and No. 1  
10. L.F. Conf.  
2/3

24/3

for which the appointment is to run is unusually short, and that in other Colonies 2, 3 or even 5 years are the usual periods for

and appl. is to be there as much as five years.

~~3. I should also add that the approval of the appointment of Mr. Wahid has been granted solely on the ground of his suitability for the appointment, as I am not prepared to admit the claim of the Muslim Association that the religion of an Indian individual should be a deciding factor in this connection.~~

I have etc.

3. I would deprecate any tendency to regard Mr. Abdul Wahid as the Indian Member of Executive Council. As you are aware, it has been settled policy for many years that no distinction should be made between Europeans and Indians in deciding on the fitness of individuals to be members of the Council.

14/7/11  
of Govt 1911

(Sgd) P O'NEILL-LISTER

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147 7<sup>th</sup> Dec  
of Cal 1911

(Sd) P O'NEILL-LISTER

1B

There are no Unofficial members on any of the Executive Councils of the 6 W. African Dependencies, other than Kenya. Provision exists in Uganda for the appointment of such members; but no appointment of the kind has ~~yet~~ been made, so far as we are aware, and no period of appointment is specified in the instruments.

In many of the Colonies the length of the term of Unofficial members of the Executive Council is definitely laid down in the instruments. In the Straits the term fixed is 2 years; in Fiji and Hong Kong 5 years; and in Seychelles 3 years. A three year term is also specified in the new territories' Instructions which are shortly to be issued.

In some of the N.E. Colonies where no definite period is laid down in the instruments, the term

The date of the term of appointment (or period) of Unofficial members of the Executive Council of the Colonies is not specified in the instruments.

There are no Unofficial members on any of the Executive Councils of the 6 West African Dependencies, other than Kenya. Provision exists in Uganda for the appointment of such members, but no appointment of the kind has ~~yet~~ been made, so far as we are aware, and no period of appointment is specified in the instruments.

In many of the Colonies the length of the term of Unofficial members of the Executive Council is definitely laid down in the instruments. In the Straits the term fixed is 2 years; in Fiji and Hong Kong 5 years; and in Singapore 3 years. A three year term is also ~~to~~ specified in the new Executive Instructions which are shortly to be issued.

In some of the W.S. Colonies where no definite period is laid down in the instruments, the term

the 2nd Colony has  
to appoint (to fill)  
vacancies in the  
Executive Council  
and will be most  
desirable of the type  
of the type

of appr. is limited by an expression  
of the King's pleasure when conveying  
His instructions for the appr. of in  
the Warrant where apprs are made  
by Her Majesty. In such cases the  
period chosen is either 3 or 5 years.  
In 5264/23 Bermuda the Govt of that  
Colony suggested a lesser period  
in certain cases; but as will  
be seen ~~by~~ from the minutes on  
that paper, this course was regarded  
as objectionable.

*Printed*  
25.2.23

The Govt  
cannot produce  
the Warrant  
apprs to  
Her Majesty's  
14.11.23  
5264/23  
Bermuda

1a<sup>20</sup>  
9

Appointment of Indian Member  
of Executive Council.

The nomination of an Unofficial Indian Member of the  
Executive Council is governed by Clause iv, of the  
additional Royal Instructions dated the 7th of July, 1926,  
which states that -

"the Executive Council of the Colony shall consist  
of" various ex-officio and other Members "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".

The history of the appointment up to the year 1923  
is given on pages 7 and 14 of Cmd. 1922 where it was ruled  
by H.M.G. that the position would be maintained of  
appointing one Unofficial Indian Member, but that no  
distinction should be made between Europeans and Indians  
in deciding on the fitness of individuals to be Members  
of the Executive Council.

In 1923, on the resignation of Mr. Phadke, there was  
some difficulty in filling the appointment owing to the  
adoption by the Indian community of an attitude of non-  
co-operation, because of their disagreement with the  
system of franchise, etc.

Finally, Mr. R. K. Varma was appointed. Then followed  
a period of non-co-operation, but in 1925 Mr. Phadke was  
again appointed.

Mr. Phadke's resignation was accepted by Sir E. Grigg

51955/23

14635/25

*in the E.A. Indian National Congress*

in 1928 because Mr. Phadke had moved a resolution of no confidence in the Governor.

15020/28

*17-11-28*

No Indian appointment appears to have been made since that date, as a policy of non-co-operation was again adopted.

In 1929 it was proposed to appoint temporarily a seconded officer of the Indian Civil Service to the Executive Council for the purpose of discussing the Hilton Young Report but this proposal was dropped.

17399/31

In 1931 the Kenya Moslem Association submitted a memorial dissociating themselves from the non-co-operative attitude of the Indian Congress and demanding a separate Mohammedan electoral roll. (This was a point which had never previously been raised and had not, therefore, been considered by the Joint Select Committee). They also submitted that the Indian seat on the Executive Council which had previously been occupied by Hindu Members should be filled alternatively by a Hindu and a Mohammedan and suggested that a Mohammedan Member should now be nominated.

The Governor in commenting on the memorial stated that this separatist movement had only risen within the last few months and he therefore proposed to give the Moslem Association time to justify its existence. He mentioned, incidentally, that Mr. Abdul Wahid was stated to be a non-practising Moslem and was not a member of the Moslem Association.

The Governor now reports that the Moslem Association has renewed its representations that a Mohammedan should be appointed on the Executive Council, and he considers that this claim should be accepted and recommends the appointment of Mr. A. Wahid for one year. He has ~~mentioned~~ *stated* that Mr. Wahid would be acceptable to the

Moslem Association.

The 1931 census gives a total in Kenya of 18,409 Indian Hindus, and of 15,004 Indian Moslems. The claim of the Moslem Association that the Indian Moslem community forms 43 per cent of the Indian community in Kenya is therefore near enough to the mark.

On the face of it the proposal to appoint a Moslem is equitable, but it is a matter for consideration whether it is desirable at present to provide the Hindus in Kenya with an additional grievance.

The Royal Instructions do not specify that an Indian Member must be appointed, and the White Paper of 1923 lays stress on the point that suitability should be the governing factor (although it does envisage an Indian appointment). It would therefore be possible to maintain the present position and to take no steps to appoint an Indian member until Indian affairs have become more quiescent on the ground that, while non-co-operation continues, the Governor's field of selection is unduly limited.

On the other hand, the Governor may be assumed to have given full consideration to this alternative before making his present recommendation, and it would therefore be difficult to resist.

From 2116/25 it appears that Mr. Wahid was at one time the President of the East African National Indian Congress, and was then in favour of co-operation. It seems unnecessary and undesirable to make the appointment on grounds other than that of suitability, and it should therefore be made clear to the Governor that the number of alternate Mohammedan and Hindu Representatives on the Executive Council cannot be admitted, as this would conflict



conflict with the policy laid down in the 1923 White Paper. This would also provide a reply to any representations from India.

As regards the India Office, it seems unnecessary to do more than to convey to them the decision taken in this case with a statement of the reasons for it. In this connection the procedure set out in 32 in 17060/31 applies as regards keeping the India Office informed on important matters affecting Indians in Kenya.

H.S.P.

7.5.

In applying reference might be made to the decision of Kenya to forward the annual returns of members of the Executive Council required by Appendix B to the 1923 White Paper.

AIR MAIL

KENYA  
No. 6



13  
GOVERNMENT HOUSE  
NAIROBI  
KENYA

CONFIDENTIAL

1/3 January, 1935.

Sir,

I have the honour to inform you that during the past year I have been watching very carefully the course of Indian political affairs in this Colony, and have had numerous interviews with the various leaders of the Indian Communities which are anxious to cooperate with Government. My advisers have also seen the leaders of the non-cooperating section, the East African Indian National Congress.

2. The position is that for some months the Executive of the Congress has dwindled to three, some Hindoo as well as the Mahomedan members having resigned their membership. This attenuated body maintains its attitude of non-cooperation and its leaders retain such influence over the mass of the Hindoos that it has proved impossible to secure any sort of representative Hindoo opinion outside the Congress Executive. Six months or so ago, however, Mr. Abdul Wahid resigned his position as President of the Congress, and publicly repudiated his pledge of non-cooperation, with the result that both he and Mr. Nakan Singh were duly sworn in at the December session of Legislative Council. It is understood that he took these steps largely as a result .....

THE RIGHT HONOURABLE  
MAJOR SIR PHILIP CUNLIFFE-LISTER, F.C., G.B.E., M.C., M.P.  
SECRETARY OF STATE FOR THE COLONIES,  
DOWLING STREET,  
LONDON, S.W.1

*Amund (A)*

*Copy to 10. (A)*

result of conversations, which he had in India with both officials and unofficials of high standing whom he met in Simla, and which went to confirm his personal belief that the present defeatist attitude adopted by the East African Indian National Congress was doing serious harm to the legitimate interests of Indians of all communities domiciled here.

3. Meantime the Muslim Association has maintained its representations that a Mahomedan should be appointed as the Indian member of Executive Council on the grounds that the Mahomedans are loyal and anxious to cooperate with Government and further because, in previous years, when an Indian sat as a member of Executive Council, the person chosen was always a Hindoo, and the Association considers it is now the turn of the Mahomedans.

I have endeavoured without success to secure as a nominee a person whom all communities would support, and now that two Indians representing two important sections of the Indian Community, viz. the Mahomedan and the Sikh, have given practical evidence of their assurances of cooperation by taking their seats in Legislative Council, I do not think that the seat on Executive Council reserved for an Indian should remain unfilled any longer.

4. The Muslim Association has been at considerable pains frequently to assure me that the split in the Indian Community has nothing to do with religion but is caused entirely by differences of opinion on the question of cooperation, and in the light .....

light of the events of the past year, I have come definitely to the opinion that some encouragement should now be given to a Community which has given practical proof of its desire to cooperate with the Government. While I do not wish at present to take any action in respect of reservation of seats in Legislative Council which might, in the absence of any definite information as to the Imperial Government's policy on this subject in India, be regarded as premature, I consider that the Muslim Association's claim that a Mahomedan should be appointed as the Indian member of Executive Council should now be accepted. I am given to understand that the appointment of Mr. Abdul Wahid would be acceptable to the Association - as indicated above Mr. Abdul Wahid has taken his seat in Legislative Council - and I recommend his nomination as the Indian member of Executive Council.

5. It has not been customary in this Colony to make such appointments of unofficals for any specified period. Generally speaking it is not disadvantageous that such appointments should be for a specific term, and I would recommend that the practice be introduced in this case by making this appointment for one year.

6. I should be grateful for an early reply to this despatch and trust my proposal will be approved.

I have the honor to be,  
 Your most obedient humble servant,

BRIGADIER GENERAL.  
 GOVERNOR.