

1925

KENYA

C.O.  
34801  
JUL 25

FROM *o.s.s.*  
*Denham Tel.*

DATE  
*29 July 1925*

711

RE CIRCULATION :-

Mr. *Sir R. Bristley*  
Mr. *Burke*  
Asst. U.S. of S.  
*W. Stirling*

*Indian representation*

From U.S. of S.  
Secretary of State

*A Indian Congress letter submitted some satisfactory names for nomination, but selection has been necessary owing to the fact that at least 400 should be nominated from gazette's orders. Request to carry out instructions.*

Previous Paper

*O.A.G. 18957*

60 MINUTES

It has not been possible to collect all the papers, but with the enactments annexed I think the position is sufficiently clear.

Briefly :-

(1) In 1923 the King said there <sup>should be</sup> ~~had been~~ <sup>four</sup> ~~no new~~ <sup>Indian</sup> members, and until they had been elected, there <sup>should</sup> ~~would~~ be four nominated Indian members.

(2) A local ordinance was then passed applying to Indians the provisions of the (European) Electoral Ordinance, 1919, which, in effect, said that <sup>the number</sup> ~~the~~ registration of voters ~~was~~ with a view to election, and <sup>that</sup> ~~the~~ candidates for election must be on the voters' roll.

(3) <sup>Only</sup> ~~There were~~ 57 Indians registered, and the arrangements for election broke down for want of nominations. Subsequently, as the result of political discussions, it was agreed to carry on for a time with five nominated members, and this year's instructions

*Ames Tel. 8 Aug 1925*

Subsequent Paper

*O.A.G. 36487*

*Such order is elected*

instructions say "until <sup>shall</sup> members have been elected, there should be five nominated ~~elected~~ Indian members."

In order that the nominations may be as representative as possible, the Indians have held an informal election. Nothing <sup>apparently turns</sup> can be determined on that point, or can ~~be~~ <sup>do</sup> so, since the election has not been held under the Ordinance. Apparently, the result has been that some persons in the first five are not on the registered voters' roll, and some below the first five are on that roll, and seek to get on to the Council through a technicality.

The point, as the Governor puts it to us, is this: - "Did the 1923 instructions contemplate that, ~~if such~~ facilities had been given for election, the arrangements for nomination should come to an end?". On the face of the Instructions - "until such Indian elected members ~~has~~ been elected" - there is, I think, no doubt (whatever the intention) that the arrangements for nomination not only survive, but are categorically imperative. No question of the intention seems to me to arise, but I can say from memory that, even if it is not so recorded, the words as to nomination were put in deliberately. We foresaw the possibility of non-cooperation in the matter of election, and we did not wish it to be said that we had left the Indians without any machinery for their representation.

I think therefore that we can at once telegraph to the O.A.G. saying that, both by intention and in form, the Instructions of 1923 and 1925 definitely contemplate nominated representation until elected members have actually been elected, and do not recognise any arrangements with a view to election which have not so far resulted in an election. <sup>And add that</sup> ~~That act,~~ and the provisions of the 1919 ordinance, relate only to the election of elected members, and have no relevance to the selection

*HLB*

C. O.  
34801  
TELEGRAM: From the Officer Administering the Government of

Kenya to the Secretary of State for the Colonies.

(Dated 29th July. )

(Received Colonial Office 7 p.m. 29th July, 1925.) 7:3  
No. 336. 29th July.

g.N.  
15825/25

Your telegram of 7th April. Indian Representation East African Indian Congress after informal election held by them to ascertain the views of the Indian community have now submitted to me five names for nomination I am satisfied that these are representative of the views of the Indian community as a whole and recommend approval of their nomination. I will telegraph names to you for approval on obtaining your decision on the following question which has been raised by a petition from two Indians that candidates should be nominated from amongst the gazetted voters in accordance with section 17 of the Legislative Council Ordinance 1919. There are 157 Indians on the roll but I am satisfied that the majority have registered under a misapprehension some possibly in order to raise this point. They are entirely unrepresentative of Indian opinion and contain no suitable candidate for nomination. The question arises whether the proviso in the Royal Instructions 25th October 1923 namely that until Indians have been elected there should be four nominated Indian members empowers me to nominate persons proposed by the congress who are not on the register or whether section 17 of the 1919 Ordinance debars me from nominating any unregistered candidates. Additional Royal Instructions referred to in your telegram 7th April not yet received. Royal Instructions 1923 do not appear to have the contemplated extensions principle of nomination of Indian members after facilities have been provided for their election. If this view incorrect difficulty disappears

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disappears but if it is correct new instructions should provide for continuance of nomination notwithstanding existence of elective provisions. I consider it very desirable to avoid introduction locally of amending legislation regarding this subject unless that course is the only way to escape from the present impasse. I should be glad to receive your opinion and instructions as early as possible. Session of Council commences on the 11th August.

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File  
OTG 34801/25. Kenya

DRAFT. Code Test

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Costed & sent.  
J.C. 12-45P  
8/8/25

Governor  
Nairobi

8th August

MINUTE.

Your telegram 29 July  
both by intention and in form  
No 336 / Royal Instructions  
1923 and 1925 definitely

- Mr. Seal 7-8-25
- Mr. Allen 7/8/25
- Mr.
- Mr. Davis.
- Sir G. Grindle.
- Mr. Strachey
- Sir H. Wood.
- Sir J. Masterton Smith.
- Mr. Ormsby Gore.
- Duke of Devonshire.

Contemplate nominated representatives  
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not so far resulted in an election.  
Newspaper

Ch. want  
afterwards

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