

1923

KENYA

63

38645

COLONIAL

DATE
JULY 1923

REC
REC 2 AUG 23

REGULATION -

SUBJECT

LEGISLATIVE COUNCIL
EXECUTIVE COUNCIL

Extracts from Cmd 1922 (Memo. re Indians in Kenya.

Mr. *Harrell* 4/8/23
Mr. *[Signature]*
[Signature]
[Signature]
11/11/23

Form U.S. of S. 75.199.
Form U.S. of S. 19.9.13
Secretary of State.

Previous Paper

MINUTES

CO 7309-1121
Kenya
not recorded

Would you please prepare
Pt of next amendment
to Kenya instruments, to
give effect to these decisions
(the passages underlined in
section re Leg. C.).

55105
1923
1554
7/11/23
cc iv
R.I. of
specimen
this

I think no amendment is
required as to Leg. C. in order
to enable the Gov. to act on
the decision in para 5.

The nominated members
of the Leg. C. can be
put in the Pt provisionally
or not existing.

A proviso will be required to
make it clear that the
existing arrangements
continue in regard to
the nominated unofficial
members & no doubt

Subsequent Paper

115 cc
50715
cc
10/11/23

Elected members have
the power to nominate
for the power to nominate
the Indian Official members.
The Indian Official members
may well refuse
to cooperate in the
elective scheme in their
present mood - & we could
do what power we have to nominate?

Next Clause XV

This is a smaller point -
The Ministry will not
go on after the votes
(very open sense)
except for the 2 representatives
in the C. C. It ~~is~~ ^{is}
be advised in the best of
the will to represent
in respect of the African
community
the right of course should be
extended to any case,
and the members of
the Parliament, but it seems
better to add a phrase,
and I think, to commit
us to having the Ministry
to be until the Africans
are fit for direct representation
in the Ministry. N. U. M.
may give a failure & we
might have to revise this
arrangement, but rather
~~rather~~
~~rather~~

To show that it is a provisional
arrangement? The best
before by a 2nd paragraph to
Clause XV B. 2

Provided further that
the appointment of a nominated
official member to
represent the interests of
the African community
shall be subject to
the approval of the
Ministry of the
Government of the
United Kingdom
through one of our principal
Secretaries of State
if it shall
appear to be necessary.

I do not know what
you had suggested
about

I discussed this matter with Sir
R. Coryndon yesterday.

On Mr. Parkinson's first point, he
saw difficulty in grouping all these
people together for the purposes of
precedence. There would certainly be
a protest from the Europeans. The
nominated Indians and the nominated
Arab (if any) ^{may} should take that order
of precedence, and he saw no reason
why the arrangement should not extend
to elected Europeans, elected Indians
and an elected Arab. If the Indians
protest against being put under the
Europeans.

To show that it is a provisional
arrangement. The best
is done by a 2nd proviso to
Clause XV. B. 2

Provided further that
the a body of a nominated
the official members to
represent the interests of
the African community
shall be inserted
and shall be provided
of instructions that
through one of our proposed
Sec of State ^{to be} it shall
appear to be that such
app is unnecessary.

I do not see the objection
but it is a matter of
detail.

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R. Coryndon yesterday.

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saw difficulty in grouping all these
people together for the purposes of
precedence. There would certainly be
a protest from the Europeans. The
^{European} nominated Indians and the nominated
Arab (if any) ^{may} ~~should~~ take the order
of precedence, and he saw no reason
why the arrangement should not extend
to elected Europeans, elected Indians
and an elected Arab. If the Indians
protest against being put under the
Europeans

Europeans, the reply would be that that is what has existed hitherto, and that the difference between election and nomination is immaterial.

I think we had better adopt this view.

On the second point, I succeeded in persuading Sir R. Coryndon that it was not good tactics to allow possible Indian non-co-operation in the matter of constituencies or qualifications to result in Indians having no means of representation at all. We should, as Mr. Parkinson proposes, provide for the system of nomination to continue, not merely until the date of dissolution, but also until the elected representation of Indians is in working order. As Mr. Howell's ^{amendment} stands, the present nominated members, I take it, vacate office at the dissolution (there will be no election before then), and in any case what we want is provision of power to nominate generally and not merely to continue the present men in their appointment.

A
/

Jay
K.S.
13.5.

The drafting will require care, but in the first place approval is required on the principle.

On the third point, Sir R. Coryndon ~~has~~ agreed that the appointment of a Missionary member should not necessarily continue until the Africans are able to take a direct share in Government. Mr. Parkinson's suggestion for a draft proviso should therefore be adopted.

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(I may say that it has today been suggested to me by a Kenya official that this Missionary nomination will not be satisfactory. There are a few notable Missionaries in the outlying districts, who are closely in touch with native sentiment and requirements, but the most prominent men, such as Dr. Arthur or Archdeacon Ower, are, it is suggested, not really in touch with the native at all.)

600
9.8.23

in above
H.A.
10/8

Dr. J. Westerton Smith
I agree as to the 2nd
+ 3rd points
I am a little doubtful
as to the 1st point but, on
the whole, I think that
we had better adopt the
(proposed) procedure I see in
S.P.C. There does not seem
to be adequate ground for
departing from what after
all, is the usual procedure

H. J. R.
17/11/23

Li Hui 14/8/23

67

The position in regard to precedence in
the Reg. Co. (or similar body) in
British & West Indies is as
follows:

General Rules

By clause VIII of Rules passed on
11 Sept. 1913 the 10 elected
members take precedence thus:
~~members take precedence thus:~~

(i) The 2 members for Port Louis
by date of election or if elected
on same day the cand. elected
by the ~~greater~~ larger number of
votes takes precedence over the
other.

Then (ii) the other 8 acc. to date of
election, or if alphabetical
order of names of elected on
same day.

British Guiana

By § 11 of Ord. 1 of 1891 the
8 elected members have precedence
in order of date of election or by
alphabetical order of names
if elected on the same day.

As to Fiji the Gov. has proposed
that the order of precedence shall be:

(1) Elected members
by order of seniority determined
acc. to the length of time that

the house continuously been
members of our Council
native Fijians.

(3) 10/20/25.

A Tel. has been sent to the Gov.
suggesting that it wd. be preferable
for all un-official members to
take precedence by seniority
inspection of race, if Gov. ratified
inquiry, & Fijians will not
object. Gov. has not yet
replied.

— 20/1
14.8.25

~~RECORDED~~

They have continuously been
members of the Council

(1) Native Fijians.

(3) Indians.

A Fed. has been sent to the Gov.

suggesting that it wd be preferable

for all unofficial members to

take precedence by seniority

irrespective of race, & Gov. satisfied

in general, & Fijians will not

object. Gov has not yet

replied.

208

14-8-23

~~XXXXXXXXXX~~

W. H. Reed Kenya. Proceedings in L.C.

I am inclined to agree that the present
 procedure among members of the L.C.
 in Kenya has been to maintain
 that sort of "Kassimbani" A. J. J. J.
 type. I think the fact has been
 noted by the Government that
 the same sort of procedure in Kenya
 if other States had been on
 the L.C. as a whole
 would be

29/11/25

H. Reed Kenya. Proceedings of the C

See below why we had the present

Proceedings among members of the C

in Kenya had better be written

Not what of! Namibia, Africa.

Yes. I think the first has been

asked to P. G. ... see also

to a similar question in ...

if ... (Kant's) ... has a

this ... in ... for

Edwards

1882

Mr. C. Davis

Mr. H. Head writes that you proposed
again for revision of question for
precedence when you put forward
your views on the precedence in
Dij. Reg. Co. - see ^{the Resolution} ~~the~~ Feb. of
17 August.

The point on which the decision of
the higher authorities is now
required, in order to enable us
to prepare draft of the new R.I.
for Kenya, is whether precedence
of Reg. Co. members is to be
irrespective of race or to be in
the order (1) European (2) Indian
(3) Arab.

It will be seen that Mr. H. Head would
prefer the latter, in spite of the
Warranties & Reg. procedure,
& still prefers it even if Dij.
is persuaded to give the order
irrespective of race (see your slip).

Mr. Robertson Smith (see white slip)
was inclined to agree that for
Kenya this would be best.

ACCP 17.8.23

W. Jackson

Mr. J. Robertson Smith
wrote on the attached copy of the
Memorandum for the Gov. of Kenya of the

17th August. You ich discussed but
but he accepts Sir C. Adyell's
view but the other should be

(A) European elected members

(B) Native members

(C) Indian elected members.

I should however point out that the
question of the representation of Indians
on the Leg. Council of Fiji is to be
discussed towards the end of Sept. between
Mr. Ousby Jones and Lord Brittain &
but the whole matter remains in
obscure in the interval. It cannot
therefore be said at least that Sir
C. Adyell's view is necessarily
correct.

16/8/23

The outstanding point is whether we
get a draft of the new Kenya R.L.
in preference of the Council's.

You will see from annexed slips
that Sir Ousby Jones prefers in any case
to follow the old order of (1) Europeans
(2) Indians (3) Arab rather than
fix an order irrespective of race.

Also Sir H. Longford, Sir J. Macdonald
Smith and I declined to do it. I could
view, but thought we should first

see what happened in 641
Fiji. I had written a
planning of Fiji for August
(attached hereto) as meaning
that he assumes Q.W. of Fiji's
view will be accepted
& that we can
therefore have a racial
order of precedence.

See however Sir C. Davis'
minutes

The Dept cannot do
more. It is now for the
Domestic Dept to say, I think.
I think (1) Kenya is to
have the racial order of
precedence, in which case
we can get on with the
draft of the new R.L. at
once & (2) discuss in
Kenya if must also
await his decision
with "L.D. Victoria" towards
the end of Sept.

Sir G. G. G. G.

Adyell

21/8/23

Mr. Lovell (copy)

Legation officials must be
in order of election or appointment
& in case of a tie, alphabetically
- Who did they rank and order

The old constitution?

21.8.55

G.F.

The para O. in C. of 1920
reproduces in ^{the} respect the
provisions of the previous R.I.
of 24 Nov 1910 & 26 Dec 1915.

Overl
22/8/55

The nearest precedent to Kenya is Ceylon
where we have community representation.
In Ceylon elected & nominated work according
to seniority. But in Kenya, where the
atmosphere is even more elastic than in
Ceylon, & where we have a precedent in
the other direction in the old L.P., I think
there is good ground for following the old
order of social precedence. Let us
have a draft ~~order~~ ^{R.I.} with perambles
in that order, & when sending it to
Mr. Omsby Gore call his attention to
the fact that a formal decision on this
point is required.

If justification is needed, the argument
might be that in Kenya the new order
follows the old just as it did in Ceylon.

22/8/55

21.8.55
G.F.

Topped off. of additional R.I.
herewith for revision of
Mr. Omsby Gore.
The point of special importance
(see preceding minutes) is
that of precedence - new
clause XX.

An addition wh. I have
now made for revision is
marked X in the Draft -
i.e. we must find
precedence for the nominated
Indian Unofficial Members
in case we have to carry
on with them for a while
instead of being only Indian
Elected members -
It will not, I think, be
unreasonable, regarding
them as we should, as an
interim form of representation
to let them rank in
preference wh. the Indian
Elected members will
ultimately have, even tho'
it will nominated Indian above the
elected ones.

Patty H.C.

15.12.55
atom

28.8.55
29/8/55

all
28.8.55
R.H. 29/8/55

Transmit from the Governor of Fiji to the Secretary
of State for the Colonies.

643

(Dated 17th August)

(Received Colonial Office 8.50 a.m. 17th August 1922)

Your telegram that July Indies franchise in
view of the interest since the original submission
I have thought it advisable to have the draft amending
Letters Patent finally examined here. Revised
draft showing suggested alterations which however
are mainly verbal forwarded in my despatch 10th
August 200. As regards procedure strongly advise
adherence to the principle followed in the draft
accompanying my despatch 15th March 1922. Alternative
principle of seniority irrespective of race would be
distasteful to European opinion and resented by the
natives of Fiji amongst whom grant of more advanced
electoral privileges to the Indians is already subj
of comment.

ROBERT.

H. Read

We have discussed

and the way for the

letter in its preparation

has been discussed

H. Read

17th

	Present	Future
President (Governor)	1	1
Ex-Officio Members (official)	10	10
Nominated official members (including one Arab)	7 ^x	10 ^x
European Elected Members	11	11
Indian Members	4 (nominated)	5 (elected)
Arab Member (elected)	-	1
Missionary (Nominated) representing native interests.	-	1

x In the present Royal Instructions 7 is expressed as the maximum (i.e. "not exceeding 7"). The future figure is not yet settled; probably it will be either 9 or 10 and whatever number is chosen will no doubt be expressed as a maximum.

EXECUTIVE COUNCIL

	Present	Future
President (Governor)	1	1
Ex-Officio Members (official)	5	5
Official Members ^a	?	?
Unofficial Members ^a	?	?

a No limitation of numbers. In each case the Members are such persons as the Governor in pursuance of instructions from the King through a Secretary of State may from time to time appoint.

In practice the constitution of the unofficial element depends on suitable persons being available. There are now two unofficial European Members (Lord Dunsford and Mr T.A. Wood), and since 1922 there has up to the recent

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Nominated Official Members (including one Arab)	7 ^x	10 ^x
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Indian Members	4 (nominated)	5 (elected)
Arab Member (elected)	-	1
Missionary (nominated) representing native interests.	-	1

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	Present	Future
President (Governor)	1	1
Ex-Officio Members (official)	5	5
Official Members ^o	?	?
Unofficial Members ^o	?	?

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	<u>Present</u>	<u>Future</u>
President (Governor)	1	1
Non-official Members (official)	10	10
Non-official Members (including one Arab)	7 ^x	10 ^x
European Elected Members	11	11
Indian Members	4 (nominated)	5 (elected)
Arab Member (elected)	-	1
Missionary (nominated) representing native interests.	-	1

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EXECUTIVE COUNCIL

	<u>Present</u>	<u>Future</u>
President (Governor)	1	1
Ex-Officio Members (official)	5	5
Official Members ^a	?	?
Unofficial Members ^b	?	?

^a No limitation of numbers. In each case the Members are such persons as the Governor in pursuance of instructions from the King through a Secretary of State may from time to time appoint.

In practice the constitution of the unofficial element depends on suitable persons being available. There are now two unofficial European Members (Lord Delamere and Mr T. A. Wood), and since 1922 there has up to the recent resignation

645
resignation of Mr. Phadke leave one unofficial Indian
Member. These members (subject to their being persons
suitable for appointment) will be continued and there
will be the additional unofficial member (preferably
a Missionary) to advise on native interests.

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have been illusory. In the special conditions existing in Kenya it is clear that no candidate, European or Indian, could stand as an advocate of the interests of the other race without sacrificing the support of his own. If elections were to be fought on racial lines, as they undoubtedly would have been in Kenya, the main advantage claimed for the communal electoral roll, namely, the bringing of the races nearer together, would be lost.

Having regard to all the circumstances, His Majesty's Government have decided that the interests of all concerned in Kenya will be best served by the adoption of a communal system of representation.

(b) *Qualifications for Voters.* It is not intended to effect any alteration in the qualifications for admission to the register of European voters as laid down in Ordinance No. 22 of 1919, that is to say adult suffrage, subject to certain necessary and customary reservations. Under the communal system His Majesty's Government are prepared to grant to Indians a wide franchise. It will be a matter for the Governor of the Colony to ascertain the views of the Indian community and to submit the necessary legislation to give effect thereto. The same procedure will be followed in the case of the Arab community.

(c) *Qualifications for Candidates.* His Majesty's Government are prepared to adopt a similar principle in regard to the qualifications for candidates, except that there must be a test which will ensure that candidates have such a knowledge of the English language as will enable them to take their part in the proceedings of the Legislative Council. No system which would involve the use of two or more official languages in the Council will be contemplated, but His Majesty's Government have no ground for supposing that the imposition of this necessary condition will create difficulties or unduly unreasonably the choice of suitable candidates.

(d) *Numbers on Legislative Council.* The question then remains of the number of seats on the Council to be allocated to each community. As matters stand, there are eleven elected unofficials (Europeans) on the Council, and as a provisional measure authority was given in 1921 for the substitution of four nominated Indian members for the two elected Indian members contemplated in Lord Milner's despatch of the 21st May, 1920.

After full consideration, His Majesty's Government have decided that provision should be made for two elected Indian unofficial members on the Council, while for the Arabs, it has been decided that there shall be one elected member in addition to the nominated Arab official member for whom provision already exists. The Europeans will continue to return eleven elected representatives. The number of nominated official members will be fixed so as to maintain an official majority on the Council.

In the opinion of His Majesty's Government adequate representation of the interests of each community will be secured by this allocation. It is desired, however, that the views of the Indians in Kenya

have been illusory. In the special conditions existing in Kenya it is clear that no candidate, European or Indian, could stand as an advocate of the interests of the other race without sacrificing the support of his own. If elections were to be fought on racial lines, as they undoubtedly would have been in Kenya, the main advantage claimed for the common electoral roll, namely, the bringing of the races nearer together, would be lost.

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After full consideration, His Majesty's Government have decided that provision should be made for five elected Indian unofficial members on the Council, while for the Arabs, it has been decided that there shall be one elected member in addition to the nominated Arab official member for whom provision already exists. The Europeans will continue to return eleven elected representatives. The number of nominated official members will be fixed so as to maintain an official majority on the Council.

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should be ascertained before a decision is taken upon the actual arrangement of the constituencies to be represented by the five Indian members.

No articulate expression of opinion can be yet expected from the African tribes in Kenya, and the time has not come to consider what should be their representation on the Council. The educational development of individual natives will undoubtedly precede the political education of the general body of natives; there are, indeed, signs of this already.

In present circumstances, the Governor has the advice of the Chief Native Commissioner in all matters affecting the African population and with the official majority can ensure the enactment of any measures for the betterment of the natives which may be approved by His Majesty's Government. It has, however, been suggested that a nominated unofficial member chosen from among the Christian Missionaries in Kenya specially to advise on such matters should be added to the Council until the time comes when the natives are fitted for direct representation. His Majesty's Government see no objection in principle to this arrangement, and they agree that provision should be made accordingly. It will be for the Governor to select a suitable person for nomination from time to time. It will, of course, be understood that there is no question of the representation of the Missionary Bodies as such, and that consideration of religious denomination will not affect the selection. Nor will the nomination of this one member relieve the Governor and his advisers of their full responsibility for representing the native interests.

5. Representation on Executive Council.

As regards the Executive Council, the present position as set forth in the Wood-Winterton report will be maintained, except that the Governor will be given authority to nominate an additional unofficial member a suitable person, preferably a Missionary, whose advice on matters affecting Africans will, in the opinion of the Governor, be of value.

6. Representation on Municipal Councils.

The only municipality which has been set up in Kenya is that of Nairobi.

The Municipal Corporations Ordinance No. 33 of 1922 provides for Municipal Councils to consist of so many Councillors as the Governor shall determine, and the appointment of these Councillors rests with the Governor.

It was not desired to suggest the enactment of various amendments to the existing law which are included in this Ordinance until the policy as to elections for Municipal Councillors had been determined; consequently the provision for the constitution of Municipal Councils was re-enacted generally in the form in which it appeared in the Municipal Corporations Ordinance of 1909.

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Indians in Kenya

647
END

Extract from April 1922

Indians in Kenya

617

ExD

Extract from Bond 1922

PUBLIC RECORD OFFICE

C0533/303

END

TOTAL EXPOSURES →

PUBLIC RECORD OFFICE

C0533/304

ORDER NO. ⇒ 777
CAMERA NO. ⇒ 19
OPERATOR. ⇒ CE
REDUCTION. ⇒ 12
EMULSION NO. ⇒ 311081
DATE. ⇒ 5/7/71

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1923

VOL. 13

(1923) GENERAL INDEX BY DATE, & BY OFFICE

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	"	Health & Dep't - Salaries
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Colonial Office	10	Cases with G. A. Desai re Indian Delegation
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		Information for Industry Workers
		Import of Motor Motor
Ch. M. M. M.	19	Attendance of Absentees in Civil Office
Colonial Office	Oct	Passage of Officers with Passes re 1st 6 months
		Vacancies for Medical Officers
	31	Imp. Conference - Status of Indians ^{Section}
	1 Nov	Position of Indians
		Minutes of Royal Talk on Local Government
		Officers serving on Detachment in Kenya who were
		retired - subsequent re-employment to S. S.
		Transfer of conditions of Service

FROM

DATE

SUBJECT

Customs Officer

17 Nov

Rev. Order 1923

S. P. O.

19

Det. Inspector

Colonial Office

29

Report of Private Inspector G. Lee

Colonial Office

Vacancy for Assistant in Customs

Colonial Office

Business of Salaries

Colonial Office

Use of Public Buildings

Colonial Office

vacancies in Customs

Colonial Office

Report on Trade in E. Africa by Col. Fraustman

Colonial Office

Uganda Trade Report 1922

Colonial Office

Book de la U. A. Industry

Colonial Office

Computation of Salaries

Colonial Office

Officers under instruction in Customs

Colonial Office

General Officers in Customs

Colonial Office

Immigration Bill (with amendments) 18/11/23

Colonial Office

Officers sent to various branches

Colonial Office

General Officers

FROM

DATE

SUBJECT

Customs House	17 Nov	Beer Act 1903
G.P.O.	"	Int. Inspectors
Colonial Office	29 "	Report of Private Enterprise & Co
Colonial Office	"	Vacancy for Assistant in Customs Dept
Colonial Office	"	Amendments of Customs
Responsible Commission	1 Dec	Use of Cable Railway
Colonial Office	"	Intervin Officers Vacancies
G.P.O.	"	Report on Trade in E. Africa by Col. Hamilton
Colonial Office	"	General Uganda Trade Report 1902
Union of Queensland	"	Code de Commerce Industry
Colonial Office	"	Domestication of Customs
"	"	Officers under instruction
"	"	Intervin Officers
G.P.O.	21	Investigation Bill
Colonial Office	"	Bank List to 1 pm. 1903
"	"	Medical Officers