

EAST AFRIC PROT.

20828

128  
405

1912

15 June

previous Paper

The Interparliamentary General Conference, 1912

No. XIII

7th, with Legal Report

Nov 18/12

~~Mr. A. G. Fielder~~  
Mr. G. Fielder

The only point to which I desire  
to draw attention is the omission  
of any definition of the term "Native"  
I recognized that it is difficult  
to formulate a satisfactory definition,  
but I think that we should have  
a definition of some sort. I suggest

The term "Native" means any  
person of African descent who is  
a subject of a British or other  
any British or Colonial Government  
Native that shall be deemed to

subsequent Paper

1/2/12

Many particular adman a different  
 definition appears, in all respects  
 provided by para 2. In the testimony  
 following expression shall, unless the  
 meaning is clearly indicated, be taken  
 to mean the same as in the  
 words to be used unless in any adman  
 a contrary definition appears.

Feb 27/14

The Nigerian regulations, which were  
 made in 1910, 1911, 1912, 1913 & 1914  
 but he was aware of the various  
 definitions of the word 'native' which  
 he had used in his various reports  
 to the Government and in his  
 evidence in the trial. He was  
 aware of the fact that the  
 definition of the word 'native'  
 was not uniform and that it  
 was necessary to define it in  
 each case.

The Nigerian definition of (1) 'native'  
 was in fact very wide and  
 included persons of questionable  
 origin. It was, in fact, a  
 very broad definition and it  
 was not until 1914 that it  
 was narrowed down to its  
 present meaning.

The definition of 'native' in the  
 Criminal Law - - - 308

Native means any person of African  
 descent and includes an Arab  
 and a Sikh. The word 'native'  
 as proposed by Mr. Justice  
 will regard to the definition of  
 'native'.

H. J. R.  
 29/14

about  
 11.30

GOVERNMENT HOUSE,  
NAIROBI,  
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

June 13th 1912.

No. 405

SIR,

I have the honour to transmit herewith two authenticated and ten printed copies of The Interpretation and General Clauses Ordinance 1912 as passed by the Legislative Council on the 29th ultimo, together with an explanatory Memorandum by the Attorney General.

Ordinance  
Memorandum

2. I have assented to the Ordinance in the name of His Majesty.

I have the honour to be,

Sir,

Your humble, obedient servant,



ACTING GOVERNOR.

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

THE INTERPRETATION AND GENERAL CLAUSES  
ORDINANCE, 1912.

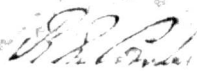
LEGAL REPORT.

1. The purpose of this Ordinance is to define the rules of interpretation applicable to certain terms and provisions usually adopted in Ordinances and other legal enactments, and to make provision with regard to the construction and application thereof.

2. The Nyasaland Ordinance No. 12 of 1911 was taken as the model on which the East Africa Ordinance was drafted. The reasons for the additions, alterations, and modifications are given in the attached Comparative Table where the same are not obvious.

3. In my opinion this Ordinance is a necessary and proper Ordinance for enactment in this Protectorate and may be assented to forthwith.

NAIROBI,  
June, 1912.



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CROWN ADVOCATE.

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THE INTERPRETATION AND GENERAL CLAUSES  
ORDINANCE, 1912.

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Section 1.  
Short Title.

Section 2.  
Interpretation  
of terms.

Section 2 of the Swaziland Ordinance No. 12 of 1911.

- (a) The words in the first line "(other than an Imperial Statute or applied Indian Act)" have been inserted. Terms used in Imperial Statutes and Indian Acts should be interpreted in accordance with the English and Indian rules of interpretation.
- (b) The interpretations of "Abet" and "Act" are taken from the Indian General Clauses Act.
- (c) The interpretation of the term "flopping" has been omitted, as the matter is already covered by the provisions of the Courts Ordinance 1907.
- (d) The interpretations of the terms "Immoveable Property" and "Moveable Property" have been inserted in the same terms as in the Indian General Clauses Act.
- (e) The interpretation of the term "Medical Practitioner" has been omitted, as being already covered by Section 12 of the Medical Practitioners and Dentists Ordinance 1910.

- (f) The interpretation of the term "Native" as given in the Nyasaland Ordinance is not applicable to this Protectorate where Arabs and Somalis from Aden are Natives for the purposes of many of the Protectorate laws.
- (g) The latter part of the interpretation of the term "oath" in the Nyasaland Ordinance has been omitted as the matter is covered by the Native Oaths Ordinance 1906.
- (h) The interpretation of the term "Ordinance" has been altered so as to include Regulations made under the Orders-in-Council prior to 1902.

Section 3.

Section 3 of the Nyasaland Ordinance.

Ordinances to be divided into sections without any introductory words.

Section 4.

Section 4 of the Nyasaland Ordinance.

Date of commencement.

Section 5.

Section 5 of the Nyasaland Ordinance.

Appealed Ordinances not revived.

Section 6.

Section 6 of the Nyasaland Ordinance.

Appealed provisions of Ordinances to remain in force until substituted provisions commence.

<p>Section 7. Effect of repealing Ordinances.</p>	<p>Section 7 of the Nyasaland Ordinance.</p>
<p>Section 8. Ordinances to be deemed public Ordinances.</p>	<p>Section 8 of the Nyasaland Ordinance.</p>
<p>Section 9. General provision with respect to power given to any authority to make Orders or Rules.</p>	<p>Section 9 of the Nyasaland Ordinance.</p> <p>This Section has been altered; the provision with regard to the implied authority to make Rules has been omitted. It is considered that power to make Rules should be expressly conferred in each law under which it is intended that Rules may be made.</p> <p>The penalties have been altered so as to accord with the penalties prescribed by the East Africa Penalties Ordinance 1903.</p>
<p>Section 10 (1) Appointment of Officers by name or office.</p> <p>Section 10 (2) Power to appoint to include power to suspend or dismiss.</p>	<p>Section 10 of the Nyasaland Ordinance.</p> <p>Not in the Nyasaland Ordinance, but a necessary provision for which precedent will be found.</p>
<p>Section 11. Power of Governor to provide for exception of duties of Public Officer during temporary absence or inability.</p>	<p>Section 11 of the Nyasaland Ordinance.</p>

## Section 12.

Official designation to include officer executing duties.

Section 12 of the Nyasaland Ordinance.

## Section 13.

Power of Governor to delegate authority.

Section 13 of the Nyasaland Ordinance.

Altered so as to apply only to powers conferred by or under an Ordinance.

The term "law" used in the Nyasaland Ordinance would appear to be sufficiently wide to include Orders-in-Council and Imperial Statutes.

## Section 14.

Power to be exercised and duties to be performed from time to time.

Section 14 of the Nyasaland Ordinance.

## Section 15.

Making of Rules in interval between passing and commencement of Ordinance.

Section 15 of the Nyasaland Ordinance.

## Section 16.

Acts done under rules, etc. to be deemed done under Ordinance by which rules authorized.

Section 16 of the Nyasaland Ordinance.

## Section 17.

Construction of amending law with amended law.

Section 17 of the Nyasaland Ordinance.



<p>Section 18. Computation of time.</p>	<p>Section 18 of the Nyasaland Ordinance.</p>
<p>Section 19. Time.</p>	<p>Section 19 of the Nyasaland Ordinance. Standard time 2 1/2 hours East of Greenwich has been adopted for the Protectorate. See Section 20 page 274 in Official Gazette of May 1st 1908.</p>
<p>Section 20. Serving of service by post.</p>	<p>Section 20 of the Nyasaland Ordinance. Altered to the extent of requiring that the service shall be effected by registered letter. As in this Protectorate there is no delivery of ordinary letters at the house of the addressee, it is considered that service of a notice or document should be by registered letter.</p>
<p>Section 21. Special acts to be read with necessary modifica- tion.</p>	<p>Section 21 of the Nyasaland Ordinance.</p>
<p>Section 22. Provisions as to penalties under two or more laws.</p>	<p>Not in the Nyasaland Ordinance. A precedent will be found in Section 22 of the Southern Nigerian Interpretation and General Penalties Ordinance.</p>
<p>Section 23. Recovery of penalties.</p>	<p>The Sections of the Indian Penal Code referred to apply only to offences under that Code, but should be extended to all offences. A similar provision will be found in the Indian General Clauses Act.</p>

for  
20828  
EAP

3 Aug 1912

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Sir ~~Mr~~ 6.6

I have the honor  
to acknowledge the receipt of  
your check no 405 of  
the 13<sup>th</sup> of June and  
to inform you that I am  
not able to advise  
because his power of  
disallowance will extend  
to advance no 200 of 1911  
of the legislation of the  
Public The legislation  
and General Clause  
Advance, 1912

and 33163

DRAFT.

AP no 471  
of

MINUTE.

- Mr. B.S. 1 ver
- Mr. Butler 2 -3.
- Mr. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

I should like  
to definition of the term

"Nation" is included

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list of affairs to be done

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definition of some part

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