



EAST AFR. PROT
17066

17066
REC'D
REG. 9 11 1

Field Copy
1914
11 age
Previous Paper.
10838

Crown Lands Order

Questions raised by Mr. Harvey resp. position of natives under the new Order will be brought before the Special Council apppt. to consider the Order.

~~Mr. Pugh~~ Mr. G. Fiddler

On 4/7/38 we did not tell Mr Harvey that his points were being referred to the Governor and there is therefore no need to communicate the contents of this interim despatch to him.

? Pugh

W.C.S.

12.5.14

H.S.A.

12/5/14

W.C.S.

13.5.14

Subsequent Paper.

36129



EAST AFR. PROT
17066

17069
REC'D
REG. 9 11 1

Field Copy
1914
11 Apr.
Previous Paper.
0538

Crown Lands Order

Questions raised by Mr. Harvey re: position of natives under the new Order will be brought before the Special Committee apppt. to consider the Order.

~~Ins. Dept.~~ Mr. G. Fiddler

On 4/7/14 we did not tell Mr. Harvey that his points were being referred to the Governor and there is therefore no need to communicate the contents of this interim despatch to him.

? Paddy
W.C.S.

12.5.14

H. S. D.

12/1/14

at home

13.5.14

Subsequent Paper.

36129

"The Eastern African
Ptes (Court of Appeal)
Amendment Order in
Council, 1914"

2. I have to request
that you will cause the
removal of the judges
as set forth in
paragraph 2 & 3 of
my Ltr to the Gov. of the
EAP to be notified
in the Official Gazette
of the Uganda
Uganda Pte
Zanzibar

to be transcribed in the
Official Gazette of the M

copies of this concept
are being transmitted to
the Govt of Uganda &
Kyanadand & to the H.C.
Zigbar for inf. & guidance

2

Jan 1895
Sal Uganda
Zigbar

- ① Uganda No 215
- ② Nyera No 136
- ③ Z'bar H. Lamm No 8

DRAFT.

- ① Govt of Uganda
- ② Gov. G. Smith
- ③ H.C. in H. Belfield

20 May 1909

MINUTE

- Mr. Risley 15
 - Mr. G. Fiddes 15
 - H. Just.
 - J. Anderson.
 - Lord Emmott.
 - Mr. Harcourt.
- ① with ref to my predecessor's D.P.
② No. 407 of the 3rd of Dec 1909
③ No. 279 of the 3rd of Dec 1909

① I have the honour to transmit
to you, for your inf. & guidance,
a copy of concept with the
Govt of the Sal relating to
the seniority of the Judge
who will become member
of the Court of Appeal
as ~~member~~ ^{the result} of the

1895
Sal Uganda
Zigbar

2. Rank of the officer
that the seniority should
refer to a modification
which I explain below,
be settled by office, in
the case the order will be—

1. "The Senior member" —
i.e. the Chief Justice of the East
2. The Chief Justice of Uganda
3. The Judge of the High Court,
Nyasaland.
4. The Judge of the Zanzibar
Court for Zanzibar.
5. Judges acting for the above
according to priority of their
respective permanent appointments.
6. Judges other than those
enumerated in (1) to (5) above
according to priority of their
respective permanent appointments.
7. Judges acting for those
included in (6) according
to

1. These persons as well
from time to time appointed
to the Sec of State under act of
the Southern Africa Proter
(Court of Appeal) Ounc, 1909,
according to priority of their
respective appointments
I find this an error in the order of
the list. I do not think that
any one has ever been appointed to
the High Court of the East Africa
Proter, as the
case above of the
Judge of the High Court
of the East Africa Proter.

to priority of their respective
acting appointments 180
As, however, ~~there are~~
special cases affecting
the cases of W. Bonham
Carter & W. King Farlow,
these two judges should
be given seniority, so
long as they hold their
present offices, in the
order named between the
Chief Justice of Uganda
& the Judge of the High Court,
Nyasaland.

for comment
see Draft on
p. 3557 of

4. I accordingly
direct that the seniority
shall be as set forth
in paragraphs 2 & 3 of
this Draft. I should like
to report that you will cause
the seniority of the Judges

A

May 16 1895

East
Uganda
3/100

[Signature]

DRAFT.

East N: 480

Gov. Sir W. L. Bevilacqua

20 May 1895

Sir:

Thank you however to ask
the receipt of your dip No 341
of the 11th of April on the
subject of the respectful
seniority of the Judges
who will become members
of the Court of Appeal
as the result of
~~the amendment order~~
The Eastern African
Act (Court of Appeal)
Amendment order in Council
1910

- MINUTE
- Mr. Risley 15
- Mr. Cotton 15.5.14
- Mr. Reid 15
- Sir G. Fiddes 14
- Sir H. Just.
- Sir J. Anderson
- Lord Emmott.
- Mr. Harcourt.

[Handwritten initials]

For Mr 215
Gov. Sir W. L. Bevilacqua
20 May 1895
The Hon. S.

therefore junior judges of the Court of Appeal to take seniority at the foot of the list although in some cases they may have been on the bench longer than more senior judges of the Court of Appeal. There is also the fact to be taken into account that Zanzibar is or was only a Consular Court whereas the judges of the Court of Appeal are all judges of High Courts.

I have gone into this question at some length as it will probably be the source of some feeling which cannot altogether be ignored.

Edw. J. Barth

ATTORNEY GENERAL.

16995
 REC.
 MAY 14

17th. 1914.

Honourable Chief Secretary,

Reference No. B.205.

The East African Protectorates (Court of Appeal)
Amendment Order in Council 1914.

The date of commencement of the Order-in-Council must be published in the London Gazette, vide article 6 and a copy of the notice in the London Gazette should be in my opinion published in the Zanzibar Gazette as soon as possible after the notice has appeared. I would request a copy with the date of the London Gazette in which it appeared be cabled out.

As early a date as possible should be fixed in order that the inconvenience of appeals to Bombay may be removed.

The Secretary of State has so far issued no general instructions under Article 5 of the Principal Order Eastern Africa Protectorates (Court of Appeal) Order in Council 1909) but has directed the seniority of the Judges of that Court to be in the order set out in his despatch 2723 of the 3rd December 1909. I would suggest that Zanzibar judges in order of seniority be added at the end of that list as amended by the addition of Mr. Justice Parlow's name. The seniority of the existing judges of the Court of Appeal except that of Mr. Justice Longley has been determined since the inauguration of the Court and would appear somewhat irregular for newly joining

16995
REC.
MAY 14

MAY 14 1914

Honourable Chief Secretary.

Reference No. 11,8205.

The East African Protectorates (Court of Appeal)
Amendment Order in Council 1914.

The date of commencement of the Order-in-Council must be published in the London Gazette, vide Article 6 and a copy of the notice in the London Gazette should be in my opinion published in the Zanzibar Gazette as soon as possible after the notice has appeared. I would suggest a copy with the date of the London Gazette in which it appeared be cabled out.

As early a date as possible should be fixed in order that the inconvenience of appeals to Bombay may be avoided.

The Secretary of State has so far issued no general instructions under Article 5 of the Principal Order Eastern Africa Protectorates (Court of Appeal) Order in Council 1909) but has directed the seniority of the Judges of that Court to be in the order set out in his despatch 723 of the 3rd December 1909. I would suggest that Zanzibar judges in order of seniority be added at the end of that list as amended by the addition of Mr. Justice Carlow's name. The seniority of the existing judges of the Court of Appeal except that of Mr. Justice Carlow has been determined since the inauguration of the Court and it would appear sounder for newly joining

of State is recorded in Lord Crowe's despatch
 No. 1231 of 1901, but since that
 date three of the Judges who were included in
 that list have left the Court, and the name of
 Judge King Farlow has been added.

The new list will therefore include:-

Judge Hamilton

Judge Morris Carter

Judge Bonham Carter

Judge King Farlow

together with the name of the newly appointed
 second Puisne Judge for this Protectorate and
 those of the three Judges of the Zanzibar Court.

4. In this connection I submit for your
 consideration the opinion of my Attorney
 General that the names of the members of the
 Consular Court at Zanzibar should appear below
 those of the members of the High Courts of the
 East African and Uganda Protectorates.

I have the honour to be,

Sir,

Your humble, obedient servant,

Alfred B. B. B.

GOVERNOR.

C. O.
16995

REC'D
14

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE.

No. 341.

Hbc

April 11th, 1914.

175

Sir,

Hbc
8309
gbar

I have the honour to refer to your despatch No. 233 of the 13th of March 1914 under cover of which you transmitted to me copies of "The Eastern African Protectorates (Court of Appeal) Amendment Order in Council 1914."

Attorney General
7-4-14

2. It is being arranged that this Order in Council shall come into operation during the current month, and it therefore becomes necessary that I seek your direction regarding the respective seniority of the Judges who will become members of the reconstituted Court.

3. The original direction of the Secretary of

THE RIGHT HONOURABLE
SIR HENRY MARCOURT, B.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

of Seniority, but the new judges of Nyasaland

Possible we should wait for the appointment
of the latter & then issue a complete
revised list.

One objection to a list on the above basis
occurs to me - if Mr Hamilton & Mr Carter
both obtained promotion out of Africa
& P.J. might be left at the head of the
Court of Appeal, with his own C.J. and
all the other members of the Court including
at least one other C.J. below him

Had we not better follow the W. African
Full Court scheme of precedence?

vs. 1/ The senior member the C.J. of S.A.P.

2/ The C.J. of Nyasaland

3/ The Nyasaland Judge

4/ The Zanzibar Judge

5/ Judge in acting for 1/2/3/4/
according to priority of respective
prominent appointments

6/ Judge in office than 1/2/3/4/
according to date

7/ Judge in acting for 6/ according
to priority of respective acting
appointments

There is nothing in §5 of the 1909 Ord.
to prevent the S.A.P. from settling the
seniority by office as above. It does
not require a personal list

Perhaps the best office might be carried
by a blend of the 2 systems - i.e.

I agree
H. J. R.

put Messrs. Douglas, Carter & Honey Fairbairn
along, as they hold their present offices in
by name between 2/ & 3/
In this case it might be Mr. Sturrock might
come in by office under 6/

H. J. R.

12/5/14

H. J. R.

13/5/14

Diff. at once

P.S. 13.5.14