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There is one point in connection with the rule to which I must call attention. The Court did not sit in Term until the 15th December. It is very no explanation of this long delay under these circumstances and many other cases were not called on (and held) (and some still better) in the year 1880-81 and being withheld matters of sufficient importance to be considered to confer with the Court of the 15th of 1881 - 1882.

Mr. Justice Gurney was willing that the rule fell within the provisions of the Act but in the event, having not given satisfaction from the 15th but which has not been the intention of the rule (which is intended) and not have made 3 months before.

It would be surprising that this should be the case of Mr. Justice Gurney and in fact the Court is willing to comply with the rule in that follows a recent by the President.

The principle of the rule has not been met in accordance with the Act and should be disposed of with reference to the rule by special instructions to the Court and the Principal Secy of the Court and the Court will hold a date for the consideration of the Court and the manner of its execution with the (1) at the end of the year.

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...-7790...

I agree with G.H. as to the proposed amendments.

J.R.
8/11

his attention

I agree with Mr. Hardy.

The political question raised
is of some importance & I
trust that you will return for
leave.

H.H.
8/14

The ordinance having been
passed by the Council, I doubt
whether it is worth while to
insist upon the immediate introduction
of a fresh ordinance
to effect the proposed amendments.
I should be inclined to comment
upon the provisions of the ordinance
in the sense of Mr. Darnley's
minutes but to let the Governor
decide as to it as it stands.

Dear Sir,

I should be obliged to the
Sanction the ordinance in the
regulation making the
unreasonable - but I do not
think regulations should be
enacted in any form
to J. G. S. unless done
in the proper manner.

The nature proposals are reactionary, but I
should be disposed to let them pass (with
the proposed proviso) with no further
subjection to ^{regulating or prohibiting}
the use of the sidewalks of any public
streets by natives will create a storm
of opposition in the House of Commons.

Sir Charles Dilke and his friends
have spoken to me on the subject of the
similar provision in the Johannesburg
Municipal Regulations. The Transvaal
being now a self-governing colony we can
shelter ourselves behind the self-governing
argument, but here we have no such refuge.

It would be best, therefore, I am sure, to
sanction the Ordinance on condition
that they amend it by deleting subsection
5 of section 45.

J.S.
8/14

Governor's Office,

1394

Nairobi,

12 JAN 1909

December 15th 1908.

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EAST AFRICA PROTECTORATE.

No. 602

(INC. 2.)

My Lord,

I have the honour to transmit herewith two copies of an Ordinance to provide for the establishing of Municipal Councils in certain townships in this Protectorate, as passed by the Legislative Council, together with an explanatory Memorandum by the Crown Advocate giving reasons for its enactment.

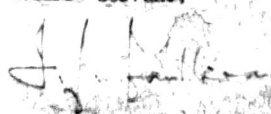
I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,



(In the absence of H.E. The Governor)

H.M. Principal Secretary of State

for the Colonies.

Downing Street,

LONDON, S.W.

R. Combe
16-4-08.

Deposited

MUNICIPAL CORPORATIONS ORDINANCE 1908.

1. The purposes of this Ordinance are:-
 - (a) To enable the Governor to declare if and when he may think fit any place to be a Municipality.
 - (b) To prescribe the manner in which a Municipal Council shall be constituted.
 - (c) To define the powers and duties of a Municipal Council.

2. With the question as to whether the population and revenues of any Township in the Protectorate are such as to justify the direct management of the affairs of the Township being transferred from the Government to a Council composed of persons resident in the Township we are not at present concerned. The Ordinance does not direct that any Township should be granted a Municipal Council but merely enables the Governor to constitute a Municipality for any place if and when he may think fit.

3. It is generally admitted that some time must yet elapse before the Government should entirely hand over the responsibility for the proper management of the affairs of any Township in the Protectorate to a Municipal Council. The Ordinance therefore provides that in the event of a Municipality being granted to any Townships, the Members of the Council responsible for the good government of the Municipality shall be appointed by the Governor and shall hold office during the Governor's pleasure.

4. With regard to the powers and duties of a Municipal Council established under this Ordinance the provisions of the Transvaal Municipal Corporations Ordinance 1908

been
have followed with such alterations as have been deemed
advisable and are explained in the attached Schedule.

5. The Ordinance should be forwarded to the Secretary
of State for his approval before being assented to by His
Excellency.

J. R. W. [Signature]

CROWN ADVOCATE.

16 4 08

THE MUNICIPAL CORPORATIONS (AMENDMENT) ACT, 1904.

Section.

Subject.

Section 1.

Short title.

Section 2.

Application.

Ordinance.

Section 3.

Provision where

township names under the
provisions of the Ordinance.

The East Africa Townships

Ordinance 1903 empowered the Governor to declare any place a Township, to make rules for the health order and good government of the township, and to levy rates for municipal purposes. Several places have been declared townships under that provision of the Ordinance. The smaller townships are managed by a government officer, the larger by a government officer or a committee of persons, or a committee of persons, official and non-official, resident in the township. Such committees have no legal entity, no defined sphere of action. All rates levied under the Ordinance and rates are assessed and levied.

This section transfers to a -

Sections.

Remarks.

Municipal Council the power to enforce the rules made to collect the rates lawfully assessed and to carry on the work commenced under the Townships Ordinance.

Section. 4.

Definitions.

With the exception of Mombasa in which a considerable proportion of the land is privately owned, practically the whole of the land in townships is Crown land. Hence "owner" is so defined as to make lessees of Crown land owner for the purposes of this Ordinance.

Section. 5.

Power of Governor in regard to procuring -- Municipalities.

Transvaal Ordinance No. 58 of 1894 Section 6 with the additional power to alter the boundaries of a Municipality, but excepting (4), (5) and (6) of that section which are not required in the East Africa Ordinance.

Section. 6.

Constitution of Councils.

Section 5 of the Transvaal Ordinance

Section. 7.

Councillors to be appointed by the Governor.

This section provides for the appointment by the Governor of not less

3.

Sections.

Remarks.

that 8 persons being resident in the Municipality to serve on the Municipal Council for a period not exceeding two years, subject to the Governor's -- pleasure.

The necessity of the appointment of Council lers being made by the -- Governor is generally recognised.

Section. 8.

Resignation of -

Councillors.

Disqualification of

Councillors.

Section. 9.

Meeting of Council.

Section 18 of the Transvaal Ordinance.

Section. 10.

Special Meeting.

Section 20 of the Transvaal Ordinance subject to alteration that whereas in the Transvaal Ordinance a written request by two-thirds of the members are necessary to require the summoning of a special meeting whereas in the East Africa Ordinance the request by four members is sufficient provided that business cannot be conducted at

Sections.	Remarks.
	a special meeting unless two thirds of the members are present.
<p>Section. 11.</p> <p>Quorum to be not less than one half or such larger proportion of the members as the Council may fix.</p>	<p>Section 14 of the Transvaal Ordinance.</p>
<p>Section. 12.</p> <p>Proceedings.</p> <p>Casting Vote.</p>	<p>Sections 13 and 18 of the Transvaal Ordinance.</p>
<p>Section. 13.</p> <p>Minutes to be recorded and signed.</p>	<p>Section 17 of the Transvaal Ordinance.</p>
<p>Section. 14.</p> <p>Minutes of proceedings open to inspection.</p>	<p>Section 18 (1) of the Transvaal Ordinance.</p> <p>The provisions of sub-sections (2) and (3) of that section are dealt with in East Africa Ordinance under the heading Accounts and audit.</p>
<p>Section. 15.</p> <p>Adjournment.</p>	<p>Section 19 of the Transvaal Ordinance.</p>

Sections.

Remarks.

<p>Section. 16. Committees.</p>	<p>Section 21 of the Transvaal Ordinance.</p>
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<p>Section. 17. Finance Committee.</p>	<p>Section 22 of the Transvaal Ordinance.</p>
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<p>Section. 18. Adjournment and - Quorum of Committees.</p>	<p>Section 23 of the Transvaal Ordinance.</p>
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<p>Section. 19. Contracts for - execution of works.</p>	<p>Section 24 of the Transvaal Ordinance, substituting seven hundred and fifty rupees for £100.</p>
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<p>Section. 20. Authentication of - documents.</p>	<p>Section 25 of the Transvaal Ordinance.</p>
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<p>Section. 21. Pecuniary interest of Councillors in matters - coming before Council.</p>	<p>Section 26 of the Transvaal Ordinance.</p>
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<p>Section. 22. Council to prepare and send to Governor a yearly Budget of Revenue and -</p>	<p>x) and for any other provisions the provisions of the New Zealand Local Government Act 1878 have been adopted</p> <p style="text-align: center;">V.A.</p>
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Sections.

Remarks.

Sections.	Remarks.
expenditure.	in preference to those in the Transvaal Ordinance.
Section. 23. Keeping of accounts.	Sections 27 and 1a (2) and (3) of the Transvaal Ordinance.
Section. 24. Accounts to 31st day of March in each year to be - audited by a Government - Auditor.	
Section. 25. Annual statement to be laid before the Council.	Section 149 of the New Zealand "Local Government Act 1878".
Section. 26. Examination and - settlement of accounts by Council.	Section 150 of the New Zealand Act.
Section. 27. Yearly abstract of accounts.	Section 151 of the New Zealand Act.
Section. 28. Governor may at any time direct and audit of accounts	

Sections.

Remarks.

by Government Auditor.

Section. 29.

Report to the -
Government by Auditor and
power to surcharge.

Sections 155, 156 and 157 of the
New Zealand Act.

Section. 30.

Auditor may take
evidence on oath.
Penalties for refusal to
attend to give evidence.

Section 158 of the New Zealand
Act.

Section. 31.

Auditor's remuneration
to be paid out of revenues
of Council.

As the duty of auditing the
accounts of a Municipality is outside
the work of the Government Auditor
this section enables the Governor to
direct that the Auditor shall receive
extra remuneration for performing
duties under this Ordinance to be
paid out of Municipal Revenues.

Section. 32.

Appointment of Town
Clerks and other officials.

The first paragraph of this section
is section 31 of the Franchise Ordinance.

The second paragraph is an unusual
provision but is rendered necessary by
the fact that if the Ordinance is
applied immediately to Nairobi the

Sections.

Remarks.

revenues of the Municipality~~ies~~ would be quite inadequate to allow of a Medical Officer of Health, ^{and} a qualified engineer being employed to carry on the duties which are now performed by Government Departments.

Section. 33.

No officer or servant to be interested in any bargain or contract of the Council.

Section 33 of the Transvaal Ordinance.

Section. 34.

Exemption of servants and members of Council from personal liability.

Section 34 of the Transvaal Ordinance.

Section. 35.

Power to acquire land.

Section. 36.

Naming and numbering of streets.

Section. 37.

Public streets and squares vest in Council.

Section 34 of the Transvaal Ordinance 1903 and sections 19 and 20 of the Transvaal Municipal Corporation Ordinance 1904.

Sections.

Remarks.

Section. 38.

Power of Council to close or divert any street, road or thoroughfare vested in the Council.

Section 5 of the Transvaal Ordinance.

In the East Africa Ordinance the provisions of this section are confined to permanent diversions and closings temporary and closings being dealt with under the preceding section.

Section. 39.

Power to acquire and construct tramways electric and water works.

Section 36 of the Transvaal Ordinance.

Section. 40.

Power to lay out - Native locations.

Section 57 of the Transvaal Ordinance No. 58 of 1903 and Section 21 of the Transvaal Ordinance No. 41 of 1904. Except that in the East Africa Ordinance the Council is empowered to make the necessary regulations under the section which regulations must be approved by the Governor before they become law (Section 61), whereas in the Transvaal Ordinance the regulations are made by the Governor. The maximum fee allowed for a pass is reduced in the East Africa Ordinance from 1 shilling to 4 pence.

Sections.

Remarks.

Section. 41.

Council may enter -
premises for exercise of
powers under this Ordinance.

Section 38 of the Transvaal
Ordinance.

Section. 42.

Council may make -
contracts for purposes of
Ordinance.

Section 39 of the Transvaal
Ordinance.

Section. 43.

General powers.

Section 40 of the Transvaal
Ordinance with the addition of the
things mentioned in paragraphs 13, 14
and 15.

Section. 44.

Special powers.

Section 41 of the Transvaal
Ordinance with the additional powers
set out in paragraph 7.

Section. 45.

Power to make bye-laws.

Section 42 of the Transvaal
Ordinance No. 54 of 1902 and
section 42 of the Transvaal Ordinance
No. 41 of 1904.

Section. 46.

How bye-laws to be made.

Section 43 of the Transvaal
Ordinance.

Sections.

Remarks.

Section. 47.

Bye-laws and regulations to be approved by the Governor and published in the Gazette.

Section 45 of the Transvaal Ordinances with the addition of sub-section (2).

Section. 48.

Penalties for breach of bye-laws.

Section 46 of the Transvaal Ordinances.

Section. 49.

Power of arrest.

Section 47 of the Transvaal Ordinances.

With regard to sub-section (2), section 38 of the Police Ordinance 1906 gives a police officer the right to arrest without warrant persons committing certain offences in a township, the purpose of this sub-section is to extend that right to Municipalities.

Section. 50.

Prosecution for contravention of bye-laws.

Section 48 of the Transvaal Ordinances.

Section. 51.

Prosecution by Council for breach of bye-laws.

Section 49 of the Transvaal Ordinances.

Sections.	Remarks.
Section. 32. Penalties.	Section 30 of the Provincial Ordinance.
Section 33. Recovery of penalties.	Section 31 of the Provincial Ordinance.
Section. 34. Default of payment of penalties.	Section 32 of the Provincial Ordinance.
Section. 35. Application of - penalties.	Section 33 of the Provincial Ordinance. Except that under that section forfeited mules go to Municipality. Until such time as the Municipalities contribute the share of a portion of the expenses connected with a Town Magistrate's court it is considered that forfeited mules go to the Government and not to the Municipalities.
Section. 36. Sections.	Section 34 of the Provincial Ordinance.

Sections.

Remarks.

Section. 47.

Substituting offices of
the Council.

Section 47 of the Transvaal
Ordinance.

Section. 48.

Power of Governor under
certain circumstances to
make regulations.

Section 48 of the Transvaal
Ordinance.

Section. 49.

Governor may make -
regulations for prevention,
checking eradication of -
plague.

Section 49 of the Transvaal
Ordinance.

Section. 50.

Revenue of Council.

Section. 51.

Custody of Municipal -

land.

Section. 52.

Advances by Government.

This section is inserted to enable
a Municipal Council to obtain from the
Government a temporary advance if such
advance should be necessary and the
Government should be willing to make
the advance required.

Section 57.

Section 57.

Section. 57.

Obstructing officers of
the Council.

Section 57 of the Transvaal
Ordinance.

Section. 58.

Power of Governor under
certain circumstances to
make regulations.

Section 58 of the Transvaal
Ordinance.

Section. 59.

Governor may make -
regulations for prevention,
checking ^{or} evasion of -
taxes.

Section 59 of the Transvaal
Ordinance.

Section. 60.

Revenue of Council.

Section. 61.

Custody of Municipal
land. *Land.*

Section. 62.

Advances by ^{the} Government.

This section is inserted to enable
a Municipal Council to obtain from the
Government a temporary advance if such
advance should be necessary and the
Government should be willing to make
the advance required.

Sections.

Remarks.

Section. 63.

Horse-drawn plows.

Section 63 of the Transient Ordinance.

Section. 64.

Persons of finding against
order or notice under this
Ordinance to be deemed guilty
of offence against Ordinance.

Section. 65.

Power of Council to
refuse licenses.

Section 65 of the Transient
Ordinance with the addition of (4)
of section 61 of that Ordinance.

Section. 66.

Section 61 of the Transient
Ordinance.

Section. 67.

Penalty on conviction
of licensee holder for
obstruction of law or
Council's bye-laws.

Section 67 of the Transient
Ordinance.

Section. 68.

Sanitary and other
services.

Sections.	Remarks.
Section. 68. Arbitration.	Section 68 of the Transvaal Ordinance.
Section. 70. Costs of arbitration.	Section 69 of the Transvaal Ordinance.
Section. 71. Bye-laws has proved.	
Section. 72. Report.	

S. J. Rice
 Order Advocate.

E.A.P. No. 3/3

The O. A. G.

DRAFT

Handwritten notes:
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Handwritten: 10 June 09

Sir,

I have the honour to ack. the recd. of your despatch No. 602 of the 15th of December 1908, forwarding copies of an Ordinance to provide for the establishing of Municipal Councils in certain townships in the East Africa Protectorate ^{has been} ~~which has been~~ ~~repealed~~ in accordance with clause 28 of the Royal Instructions of the 9th of November 1906.

MINUTE.

Handwritten:
Mr. Deane 3
Mr. Kistler 3
Mr. Butler 4
Mr. Lamb 4

+ Mr. Anstabus 5
Mr. Cox

Sir C. Lucas
Sir F. Hopwood
Col. Seely
The Earl of Crewe

2. I have no objection to the provisions of this Ordinance, except as regards section ⁴⁵ ~~52~~ subsection 58, which empowers a Municipal Council to make bye-laws for regulating or prohibiting the use of the sidewalks of any public street by natives. Such a provision appears to me to be neither necessary nor advisable, and I ^{am of opinion} ~~think~~ that an Ordinance to repeal it ~~may~~ ^{should} be introduced into the Legislative Council at the first opportunity.

for con.

On the understanding that this will be done, H. M. will not be advised to ~~repeal~~ ^{repeal} the present Ordinance.

There are it is true several precedents for the provisions of section 28

Handwritten notes:
See minutes
The draft was prepared after consultation with Sir H. S. J. J. J.

Handwritten:
F. J. J.

relative to the pecuniary interests of
Councillors in matters coming before the
Council, but these provisions appear to be
somewhat ~~the~~ ^{and} the provisions of the
Imperial Act, the Municipal Corporations
Act 1882, on the point are much more
stringent. The occasion of an amending
Ordinance might be taken to consider
whether the principal Ordinance should be
opened in this respect.

5. There is a misprint in section
2(5), where "raising and payment of" should
read either "the raising and payment of"
or "raising and paying". This can be put
right in the amending Ordinance.

The Ordinance was not given in
the ~~form~~ ^{for the Governor's signature} possible to comply with
clause 27(a) of the Royal Instructions, in
that all Ordinances, save in any one year
shall be presented to the Governor in
that year; and H. M. has accordingly been
pleased to dispense with this requirement
so far as this Ordinance is concerned.
You are therefore at liberty to assent to it
with the fullest liberality. It should be
numbered at the end of the ordinances of
1908, in accordance with the Royal Instructions.
I observe that the Ordinance was
passed on the 4th of September, but was not
sent home until the 15th of December.
It is evidently desirable that Ordinances
should be sent home as soon as possible after
they are passed, and more particularly so
in the case of ~~the~~ ^{an} Ordinances ~~which~~

the Governor's assent
signature of the Governor
672
order that instruction may if practicable
be given with regard to the Governor's assent
within the year in which the Ordinance is
enacted.

8. If draft regulations under the
Ordinance are prepared and then approved in
any quarter, I should ~~be~~ ^{like} to be
consulted on the subject.

I, etc.