

EAST AFRICA PROTECTORATE.

Kenya Colony and Protectorate

Minutes of the Proceedings
of the Legislative Council
of East Africa.

First Session,
1919.

Held at Nairobi on the 24th February, 1919.

Nairobi.

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British East Africa.

Minutes of the Proceedings of the First Session of the Legislative Council, 1919.

Held at Nairobi on the 24th February, 1919.

The Council assembled on the 24th February, at 10 a.m., HIS EXCELLENCY THE GOVERNOR, (MAJOR-GENERAL SIR EDWARD NORTHEY, K.C.M.G., C.B.), presiding.

Present :—

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).
THE HON. THE TREASURER (H. P. ESPIE).
THE HON. THE MANAGER OF THE UGANDA RAILWAY (S. COUPER).
THE HON. I. L. O. GOWER.
THE HON. F. W. MAJOR, C.M.G., I.S.O.
THE HON. A. C. MACDONALD.
THE HON. R. BARTON WRIGHT.
THE HON. J. AINSWORTH, C.M.G., D.S.O.
THE HON. W. MACGREGOR ROSS.
THE HON. E. A. PHELPS.
THE HON. K. H. RODWELL.

Absent :—

THE HON. THE ATTORNEY GENERAL.
THE HON. C. W. HOBLEY, C.M.G.
THE HON. P. H. CLARKE.
THE RIGHT HON. LORD DELAMERE.
THE HON. MACLELLAN WILSON.
THE HON. P. L. UYS.
THE HON. A. C. HOEY.

OATH OF ALLEGIANCE.

THE PRESIDENT administered the Oath of Allegiance to the Hon. Sydney Couper.

MINUTES OF MEETING.

THE HON. THE CHIEF SECRETARY moved that the Minutes of the Meeting of the Council held on the 4th, 5th, 8th and 20th November, and 9th, 10th, 16th, 18th and 19th December, be taken as read and be confirmed.

THE HON. THE TREASURER seconded.
The question was put and carried.

THE PRESIDENT'S ADDRESS.

THE PRESIDENT delivered the following address :—

Honourable Members of the Legislative Council,

It is very early after my arrival in the Protectorate that I address this Honourable Council to-day, and I feel sure that you will realise how short my acquaintance with local problems has been.

Nevertheless I have closely studied the many important and outstanding matters which so urgently require definite and early settlement, and I feel ready and competent to help you through this difficult aftermath of war.

During my short visit home, I discussed your problems with Mr. Long the late Secretary of State for the Colonies, with subordinate officials at the Colonial Office; with your last three Governors, and with some of your leading planters and commercial people who happened to be available.

I studied them from the broader view one gets in England. I tried to digest them on the voyage out; and with the conflicting advice and able assistance of many willing mentors here, I am arriving at conclusions from which I hope to formulate plans for the speedy and correct solution of these problems.

Most of the solutions are simple in theory and obvious to commonsense, but they have been difficult in practice owing to lack of ways and means, shortage of personnel and material. We must find the ways and means; and as the Imperial forces demobilise and shipping becomes available we shall get the men and material to enable us to go ahead towards progress and prosperity. After these terrible 4½ years of destruction and wastage of war we will work together for that reconstruction and development which Peace should bring to this and every country.

Owing to the war and shortage of staff, it appears that this Government has been recently unable to give effect to much needed and universally accepted reforms.

In the administrative staff there were only 82 men to fill 114 posts leaving 32 vacant or nearly one quarter.

This statement shows clearly how few were left to carry on the administrative work, many of them admittedly tired after four and five years of most strenuous work without leave or rest, and living on inadequate salaries in days of enhanced prices—many of them bravely carrying on through trouble and sickness—some indeed refusing lucrative appointments elsewhere.

I am not here to defend civil servants from recent violent attacks made on them—but I do think we should all recognise and give them credit for their long loyal devotion to duty under most difficult and trying war conditions. Particularly do I sympathise with those civil servants who could not be spared to fulfil their patriotic desire to go and fight.

Our gratitude is also due to the members of the War Council and District Committees who have most adequately performed their tasks. The former will now be dissolved, but I hope to be able to develop the latter as useful for general purposes.

I will now touch upon the most weighty problems which await solution. Native Policy. This Protectorate has taken over the ownership of millions of acres of good land and the guardianship of a large native population. Is it our duty to allow these natives to remain in uneducated and unproductive idleness in their so called Reserves? I think not. I believe that our duty is to encourage the energies of all communities to produce from these rich lands the raw products and foodstuffs that the world at large, and the British Empire in particular, require. This can only be done by encouragement of the thousands of able bodied natives to work with the European settler for the cultivation of the land and improvement of stock. The native must be taught to realise that co-operation between the European and himself will be beneficial to both. He will learn to live in better health amid more sanitary surroundings—he must in time learn to be proud of his proper place in the world and ashamed of his former idleness. I believe there is a great future for this country, but only if a steady flow of natives out of the Reserves, working willingly for a good wage, well housed and fed, under European control and supervision can be properly organised. I find some of the Native Reserves not clearly defined. I propose to settle that definitely. Where there are doubts and disputes as to the ownership of land, title and tenure of natives, I propose to proclaim the area in question as Reserve; that does not mean that I recognise that whole area as belonging to any native tribe or individuals; but it is Crown land. Survey and registration with careful enquiry into existing rights and uses will then settle once and for all the question of title and tenure. No one wants to take away any land which natives occupy or are using productively, but we can say, in these days of progress and development, and world-wide shortage of food and raw materials, that Crown lands, not made productive, may, by law, be made so as required. Take the Kikuyu Reserve: you cannot in justice, as far as I can see, straight away take a ten mile strip along the Railway and give it to soldier settlers—but you can in the future probably quite rightly, after survey and registration and careful enquiry, say, here, or there, is a portion of the country, above and beyond all that the Kikuyu have right to, or are using, making full allowance for commonage and grazing, which at present is lying waste and unproductive; the Government can take it for whatever development they like with a clear conscience before the whole world, and to the entire satisfaction of the natives who will know once and for all how they stand.

I now pass to the burning question of the appointment of unofficial members to the Executive Council. I am convinced that not only does the public wish for this but also that it will be of the greatest help to me in the Government of the Protectorate.

I also believe that the time has come when the unofficial members of the Legislative Council should be elected.

I am of opinion that side by side with legislation to this effect it will assist the Government on questions in which Arabs and Indians are interested, to ask His Majesty to nominate one or more representatives of these communities to serve on the Legislative Council. I do not consider that these communities should elect their representatives.

I am glad to be able to state that in answer to my representations, sent home since I arrived in the country, I received a cable from the Secretary of State for the Colonies on Saturday to the effect that approval is given to my proposals. The details towards the necessary legislation will be put in hand at once.

Next I come to the Asiatic question, lately brought to a head by unpleasantly heated arguments. I believe that in this Protectorate, placed in our charge by His Majesty the King, British European preponderance in the Government is essential. The contention put forward by prominent Indians that they should be given equal representation in the Government, or Municipal, Councils is untenable. Moreover I am satisfied, that the estimable and worthy gentlemen whose hospitality I enjoyed on Saturday know, as well as I do, that the bulk of their compatriots in this country are not qualified to vote, in their own, or any other country. With regard to immigration I am of opinion that we should educate the African native so that he will gradually replace the lower classes of Indian immigrants.

Segregation of races and the limitations as to purchase by Asiatics of residential and agricultural property are big questions of Imperial policy which I must closely study before I can make any suggestions: but on the face of it it looks as if, in time, residential qualifications should be rather educational and hygienic than racial.

The present unsatisfactory rate of exchange, and the whole question of currency will have my attention.

Demobilisation is proceeding as rapidly as can be and our local colonists who joined up are gradually coming back to the land.

I have recommended to the Colonial Office that leave and passage to England and back be granted to all ranks of the East African forces in the same way that these privileges are granted to officers and non-commissioned officers of the King's African Rifles.

I have been in constant communication with the Salvage Commission since my arrival in order to ensure that sales of surplus stores are sufficiently advertised and that local communities are given every opportunity of attending sales. Shipping difficulties and Colonial Office orders to expedite demobilisation render it, however, very difficult for stores in German East Africa to be brought to British East Africa. With regard to certain materials such as light railway, corrugated iron, etc., I am of opinion that by waiting for consignments from Europe we shall get these articles better and cheaper.

Since the outbreak of war instalments of loans already sanctioned have been withheld. The loans in question provided for additional transport facilities by road and rail and increased port facilities at Kilindini. I am already moving in the matter both as regards the issue of loans already sanctioned and the provision of additional loans for such projects as the Uasin Gishu railway and Thika railway extension.

Considerable capital will be required for expenses which cannot be properly described as development or production. For instance, the Public Offices at Nairobi are a disgrace to any Government, and the Director of Public Works has been instructed to prepare a list of works of this nature which cannot, and even if they could, should not, be paid for from revenue.

The conditions of service of Government employees must be improved: this will increase the cost of administration of the Protectorate.

Increased revenue will therefore be required both to meet the interest and sinking funds on loans and to cover increased cost of administration. This will entail increased taxation: the report of the Special Committee of this Council is receiving careful attention together with the comments made thereon by the Convention of Associations. In the meantime I have again cabled home asking for the removal of restrictions conferred upon this Protectorate by certain treaties.

This Protectorate's rapid growth and development is the cause of many anomalies which will soon disappear. At present if I want advice, outside official circles, which of course I do, I find it hard to know to whom to turn, or whose opinion is representative. Your elected representatives will help me enormously.

I hope we shall get the best men; but some of them I fear may be too busy.

The Convention of Associations seems to be your most representative body, and I shall hope to be invited to attend its future meetings, with any Heads of Departments or others desired, to advise and discuss, hear and put forward reasonable views.

We don't want two Parliaments; but the Convention can help the Government and the Government can help the Convention. Above all let us throw off this apparent hostility between official and unofficial, press and public servant; it has no depth; below it must be the true British spirit of good will which should bind us together for the common good.

Most of the resolutions recently passed by the Convention of Associations were obviously sound and referred to matters that were either already in hand or approved in principle. I am taking time to answer them, and am sending home such of them as requested to the Secretary of State.

Your local Chambers of Commerce should be most useful and representative bodies, but I would strongly recommend the formation of a Chamber of Commerce for the whole Protectorate, thoroughly representing the interests of all communities, towns and districts, able perhaps later to join with representatives of other Protectorates for the commercial prosperity of all East Africa.

With regard to the shortage of local native foodstuffs the position is that the Famine Committee hold more than sufficient grain to allow of all requirements being met, and provided the March rains come on in season and continue, all further anxiety may be considered at an end. Local production was greatly handicapped by influenza.

The restrictions on the importation of commodities from overseas have been largely relaxed and there has been a great reduction in the number of applications for priority certificates.

Shortage of shipping still renders necessary the existence of the Homeward Loading Sub-committee.

Efforts are being made by this Government to obtain facilities in the way of passages for persons wishing to travel to the United Kingdom, and returns of such individuals have been called for from all districts. Up to date approximately 600 names have been recorded.

Since council last met the following Commissions have reported to Government :—

- (a) Land Settlement.
- (b) Port of Kilindini.
- (c) Rinderpest Inoculation.
- (d) Civil Service.

Their reports will be laid on the table to-day.

The complete report of the Land Settlement Commission has only just reached me: the evidence on which it was based requires very careful study. I am not yet in a position to express my considered judgment. I agree to the principle of allotting available land to soldiers. I am not yet satisfied that £500 is sufficient capital. I think it is likely to be a great risk, though no doubt exceptional men with good luck may come out all right. I certainly consider some of the statistics given by Lord Kitchener as too optimistic. As regards the Kikuyu land I have explained that we cannot give it away in strips till we are satisfied to whom any particular strip belongs.

I have read the Port of Kilindini report with much interest and I agree with the conclusions arrived at. I propose to give effect to them at once. It is a most excellent, clear, concise, and prompt report and does great credit to the Commission.

The Rinderpest Commissioner's report is at present under consideration. I hope to prevent future recurrence of such regrettable mortality as occurred recently in the Rift Valley.

The Civil Service Commission report has been forwarded to the Secretary of State and Sir Alfred Lascelles is here working on the same subject. I am satisfied that the position of the local civil servant must be materially improved if we are to have an efficient and satisfied staff.

The Economic and Education Commissions have not yet reported. I am however, satisfied that we must get on with improvement in educational matters; that department has, I fear, been starved through lack of funds.

I have already given instructions for the publication in the press of the facts concerning the recent raids by Elgeyo natives on to farms of Europeans in the Trans Nzoia.

On my arrival I found trouble on the Northern Frontier where we have a small military force which is being reinforced as far as the long lines of communications will admit. The Tigre, a tribe of uncontrolled marauders have been terrorising the frontier; both Tigre and Abyssinians have pursued the Boran into British territory and have even fired on our patrols; as a result of my representations to Adis Ababa His Majesty's Minister there has impressed the seriousness of the situation on the Abyssinian Government who have now agreed to a joint expedition against the Tigre. I am astonished to find the extraordinary secrecy with which incidents and situations such as this on the frontier, at Elgeyo, or raids by the Masai, have been kept from the press and the public. I have taken steps to alter this on the general principle on which I worked with the Nyasaland and Rhodesian Governments during the German East African campaign, viz: that practically everything that is going on can be published except our own precise dispositions, numbers and intentions.

Legislation enacted but not yet operative consists of:—

1. Native Registration Order, 1915.
2. Resident Native Order, 1918.

Legislation approved in principle but not yet enacted:—

Inspection of conditions under which labour works and enforcement of conditions affecting accommodation, food, cooking and medical attendance.

Restriction of consumption of liquor by natives. The Attorney General is now preparing these. Business, including the budget for 1919-20, will come up for consideration at the next Session of the Council on 17th March.

PRESENTATION OF PETITIONS, Etc.

THE HON. THE TREASURER laid on the table:—

- Report of Land Settlement Commission.
- Report of Civil Service Commission.
- Report of Double Inoculation Commission.
- Report of the Kilindini Port Commission.

THE HON. THE TREASURER laid on the table:—

The Financial Report 1917-18 and announced that at the next Session he would introduce a Supplementary Appropriation Bill.

QUESTIONS AND ANSWERS.

THE HON. K. H. RODWELL (in the absence of Mr. P. H. Clarke) asked the following question:—

What work has been done in demarcating shambas and other land on the Coast during the years (1) 1916, (2) 1917, (3) 1918.

THE HON. THE CHIEF SECRETARY replied as follows:—

The number of plots and shambas demarcated on the Coast during the past 4 years has been as follows:—

	1915-16.	1916-17.	1917-18.	1918-19. (10 months).
Seyidie ...	353	297	718	1170
Tanaland ...	311	182	233	600
Total ...	664	479	951	1770

The above figures do not include control or rigid surveys done by the Survey Department.

The number of applications for title dealt with by the Land Registration Court during the same period was:—

1915-16.	1916-17.	1917-18.	1918-19. (10 months).
1614	862	925	848

THE GENERAL INDEMNITY BILL, 1919.

THE HON. I. L. O. GOWER introduced and moved the first reading of a Bill intitled "An Ordinance to Indemnify the Governor of the Protectorate and the Officer Commanding His Majesty's forces in the Protectorate and all persons acting under their authority and in good faith in regard to acts done or committed during the existence of Martial Law to validate certain sentences and orders passed by Military Courts, Courts Martial or persons acting or purporting to be acting under Martial Law," he said :—

Shortly the objects of the Bill are to render null and void all actions, prosecutions and legal proceedings against persons mentioned in the Bill in respect of any acts, matters and things whatsoever done in good faith as necessary for the suppression of hostilities, or the establishment and maintenance of good order and government in the Protectorate, or for the public safety and welfare of the Protectorate, or for the success of His Majesty's forces here or elsewhere, or for the execution of any regulations under Martial Law between the 4th August, 1914, and the passing of this Ordinance.

All sentences pronounced by Courts Martial or Military Courts constituted and convened by proper authority under Martial Law, or pronounced by officers authorised to dispose of offences summarily under Martial Law, upon persons not ordinarily subject to Martial Law, for acts enumerated in the Bill are confirmed, and all persons confined under such sentences shall be deemed to be legally confined until their expiration, or their discharge by lawful authority, and all such sentences are deemed to be sentences passed by duly and legally constituted Courts of the Protectorate.

All officers of prisons, and other places of confinement, receiving for confinement persons sentenced shall be deemed to have acted legally.

All persons deported, are deemed to have been legally deported, and any person returning without permission is guilty of an offence.

Arrests for crimes and offences are validated.

In cases of doubt as to whether any act has been ordered by "proper authority" it is lawful for the Attorney General for the time being to declare such act to have been done under proper authority. The Bill is framed on the Indemnity Act, 1902 of the Colony of the Cape of Good Hope.

THE HON. THE CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. I. L. O. GOWER gave notice that he would move the second reading of the Bill at a later stage of the Session.

THE WAR LEGISLATION REPEAL BILL, 1919.

THE HON. I. L. O. GOWER introduced and moved the first reading of a Bill intitled "An Ordinance to Repeal Legislation Rendered Necessary by Reason of the War," he said :—

I beg leave to introduce and move the first reading of a Bill intitled "An Ordinance to Repeal Legislation Rendered Necessary by Reason of the War."

The Bill repeals such of the legislation as has been rendered necessary by reason of the war and which it is considered no longer serves a useful purpose. In view of the fact that the demobilisation of local units will still take some time to complete it has been considered necessary to provide for the continuance of such units and of the provisions regarding discipline. This is provided for by section 2 of the Bill.

The Volunteer Ordinance, 1915, gave the Governor power during the present war to sanction the formation of such Volunteer Corps and units as he may think fit and prescribe the terms of service.

Discipline. The provisions of the Army Act 44 and 45 Victoria Chapter 58 applied. Pay as determined by the Governor. Applied to all units formed since the 4th August, 1914. The East Africa Medical Corps and the East Africa Veterinary Corps deemed to be corps formed under the Ordinance.

The Native Followers Recruitment Ordinance, 1915, gave power to recruit natives for the Transport Corps.

The Amending Ordinance of 1918, altered the name of the Transport Corps to the Military Labour Corps.

The Registration of Persons Ordinance, 1915, provided for the registration of all persons male and female between the ages of 15 and 65, for a Central Registration Authority and Local Registration Authorities, for notification of change of address.

The Amending Ordinance, 1915, gave the Governor power to apply the provisions of the Principal Ordinance by Proclamation to Somalis and Swahilis.

The Compulsory Service Ordinance, 1915, gave power to the Governor to sanction the formation of such military corps as he may think fit. Males between 18 and 45 liable to be called upon. Power to appoint a War Council.

The Amending Ordinance, 1917, provided that no employee should leave his employment without the consent of his employer and restrictions on employment of persons without a certificate.

The Amending Ordinance, 1918, provided that in addition to any other punishment prescribed by the 1917 Ordinance that an employee might be ordered to return to his original service.

THE HON. THE CHIEF SECRETARY seconded, and the Bill was read a first time.

THE HON. I. L. O. GOWER gave notice that he would move the second reading of the Bill at a later stage of the Sessoin.

THE GENERAL INDEMNITY BILL, 1919.

THE HON. I. L. O. GOWER moved that a Bill intituled "An Ordinance to Idemnify the Governor of the Protectorate and the Officer Commanding His Majesty's forces in the Protectorate and all persons acting under their authority and in good faith in regard to acts done or committed during the existence of Martial Law to validate certain sentences and orders passed by Military Courts, Courts Martial or persons acting or purporting to be acting under Martial Law," be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

The Council resolved itself into a Committee of the whole Council, HIS EXCELLENCY THE GOVERNOR, presiding.

In Committee.

The Bill was read clause by clause and was adopted without amendment.

The Council resumed its Sitting.

THE HON. I. L. O. GOWER moved that the Bill without amendment be reported to Council.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. I. L. O. GOWER gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE WAR LEGISLATION REPEAL BILL, 1919.

THE HON. I. L. O. GOWER moved that a Bill intituled "An Ordinance to Repeal Legislation Rendered Necessary by Reason of the War," be read a second time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

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In Committee.

The Bill was read clause by clause and was adopted without amendment.

The Council resumed its Sitting.

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THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried.

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THE GENERAL INDEMNITY BILL, 1919.

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THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried and the Bill was read a third time and passed.

THE WAR LEGISLATION REPEAL BILL, 1919.

THE HON. I. L. O. GOWER moved that a Bill intituled "An Ordinance to Repeal Legislation Rendered Necessary by Reason of the War," be read a third time.

THE HON. THE CHIEF SECRETARY seconded.

The question was put and carried and the Bill was read a third time and passed.

ADJOURNMENT.

THE HON. THE CHIEF SECRETARY moved that the Council adjourn until Monday the 17th March, when the Budget for 1919-20 will be ready for consideration.

THE HON. I. L. O. GOWER seconded.

The question was put and carried.

Council adjourned till the 17th March.