

# East Africa Protectorate.

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

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Third Session.  
1915.

*August 23rd-25th, 1915:*

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Nairobi.

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British East Africa.

# Minutes of the Proceedings of the Third Session of the Legislative Council, 1915.

Held at Nairobi on the 23rd and 25th August, 1915.

The Council assembled on the 23rd August, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR H. CONWAY BELFIELD, K.C.M.G.) presiding.

*Present :—*

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).  
THE HON. THE TREASURER (H. P. ESPIE).  
THE HON. THE ATTORNEY GENERAL (J. W. BARTH).  
THE HON. THE MANAGER OF THE UGANDA RAILWAY (B. EASTWOOD).  
THE HON. F. W. MAJOR, I.S.O.  
THE HON. A. C. MACDONALD.  
THE HON. C. W. HOBLEY, C.M.G.  
THE HON. R. BARTON WRIGHT.  
THE HON. W. A. M. SIM.

*Absent :—*

THE HON. J. AINSWORTH, C.M.G.

## MINUTES OF MEETING.

THE HON. CHIEF SECRETARY moved that the Minutes of the Council Meeting held on the 10th May, 1915, which had been printed and circulated amongst Hon. Members, be taken as read, and be confirmed.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

## SUPPLEMENTARY ESTIMATE, 1914-15.

THE HON. TREASURER proposed the following motion :—

“Whereas it was found necessary to incur expenditure for which no provision was made in the approved Estimates for the year 1914-15, amounting to £31,203 15s. 4d. during the period from 1st October, 1914, to 31st December, 1914, as more particularly set forth in the Statement laid on the Table, it is hereby resolved that this Council do approve such expenditure.”

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

## THE EVIDENCE ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled “An Ordinance to amend the Law of Evidence.” He said that the law of evidence was contained in the Indian Evidence Act of 1872, and that under that Act as applied to the Protectorate it was not possible to prove a previous conviction against an accused person unless it was a fact in issue or unless it was for the purpose of rebutting evidence of good character or unless it was evidence showing the existence of a state of mind. It was an established rule of English law that a man's guilt had to be proved by facts and not by evidence of character. The Bill in no way affected that principle. Section 75 of the Indian Penal Code provided for enhanced sentences in cases of convictions for certain crimes when previous convictions for similar crimes were charged and proved, but it often happened that the ordinary penalty provided by the penal section of the Code or Ordinance for an offence afforded ample scope for the Court to regulate sentences, even if, owing to there being previous convictions against the accused, it was desirable to inflict severer sentences than the Court

might otherwise do on the facts proved. The Bill was framed with the object of giving power to prove a previous conviction after the conviction of the accused under the circumstances just stated. It was a measure which the Courts had asked for, and he thought it would be a great improvement to the law of evidence as applied to the Protectorate.

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

THE HON. ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE REGISTRATION REGULATIONS AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the East Africa Registration Regulations, 1901." He said that under the East Africa Registration Regulations, 1901, all documents dealing with interests in immoveable property had to be registered. Under the present Crown Lands Ordinance passed during the present year it was provided that leases of Crown land which did not extend beyond one year need not be registered under that part of the Ordinance dealing with Registration. The Ordinance further provided that the Registration Regulations, 1901, should not apply to documents liable to registration under its provisions.

He said that the combined result of the Regulations and the Crown Lands Ordinance was that leases of Crown lands for a term not exceeding one year must be registered under the Regulations but need not be registered under the Ordinance. As under the Transfer of Property Act registration of such documents is not necessary to secure transfer, and as under the Regulations registration must be effected in the district where the land is situated instead of at a central registry, it appeared advisable to so amend the regulations that such leases did not require to be registered.

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

THE HON. ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE COURTS (EMERGENCY POWERS) AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Courts (Emergency Powers) Ordinance, 1915." He said that the object of this short Bill was to correct what was originally a printer's error which had been carried through the various stages of the Principal Ordinance when it was before Council. It was to substitute the word "inability" for the word "liability" where it occurred in sub-section 3 of Section 2 of the Principal Ordinance.

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

THE HON. ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE DRUGS AND POISONS AMENDMENT ORDINANCE, 1915.

THE HON. A. C. MACDONALD, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Drugs and Poisons Ordinance, 1909." He said that the reasons for the introduction of the Bill were (1) to relieve druggists of the unnecessary work now entailed in carrying out the regulations in regard to the sale of poisons under the Drugs and Poisons Ordinance, 1909; (2) to allow a company to carry on the business of a druggist; and (3) to allow an executor or trustee of a deceased druggist to carry on the business, provided it was managed by a duly qualified and licensed chemist.

THE HON. ATTORNEY GENERAL seconded, and the Bill was read a first time.

THE HON. A. C. MACDONALD gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE TRADING WITH THE ENEMY AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Trading with the Enemy Ordinance, 1915, to provide powers for the Liquidation of Firms the Property of Enemy Subjects." He said that one object of the Bill was to

make certain amendments in order to improve the drafting of the Principal Ordinance, which was a consolidation of the Trading with the Enemy Act, 1914, and the amending Act at home. Another object of the Bill was to apply Proclamations issued by His Majesty as Proclamations issued by the Governor. That was effected by Clause 2 of the Bill, which defined a Proclamation issued by the Governor as including a Proclamation issued by His Majesty. The most important part of the Bill was contained in Clause 5, which provided for the liquidation in the Protectorate of firms and businesses carried on in the Protectorate being the property of subjects of a State for the time being at war with His Majesty. That was in accordance with the procedure which it was gathered had been adopted on the West Coast of Africa.

Intimation had also been received from the Colonial Office that it was their intention to liquidate any such firms in the Protectorate. The last Clause of the Bill gave the Governor power to make Rules prescribing the procedure to be adopted in the liquidation of such firms and businesses.

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

THE HON. ATTORNEY GENERAL gave notice that he would move the second reading of the Bill at a later stage of the Sessions.

#### \* THE NATIVE CARRIERS RECRUITMENT ORDINANCE, 1915.

THE HON. CHIEF SECRETARY, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to provide for the Recruitment of Native Carriers for the Military Forces now operating in the Protectorate." He said that, as the title of the Bill made it clear, this was special war legislation, and the measure was to remain in force only during the period of the war. Its object, as would be obvious to Hon. Members, was to secure for the military forces in the Protectorate during the present crisis an adequate supply of native labour. The Native Carrier Corps referred to in the Bill had now been organised on such lines that all native labour of any description employed by the Military—whether as porters, hospital orderlies, or maxim gun carriers, or in any other capacity—passed through the books of the Carrier Corps. He had, for the information of Hon. Members, a certain number of figures which might be of interest as showing the present state of native labour in relation to the military requirements and the numbers which had been recorded. He might state that during the earlier months of the war, before the Carrier Corps was organised on its present lines, the various military authorities in the different areas had to do the best they could to make use of the labour available on the spot. Of such labour no complete record had been kept, but during the months of December to February last the present Carrier Corps had been organised on its existing lines, and from the records in the books of the Carrier Corps, 28,917 native labourers, in addition to about 4,000 Uganda carriers, had been employed. The present requirements of the Military, allowing for a reserve to cover casualties and sickness, were 15,805, or approximately 16,000. In order to maintain the force of native carriers at that figure, and to relieve them and send them back to their reserves at the proper time a constant influx of natives at the rate of 3,000 per mensem was required. At the present moment the actual number of men on the books of the Carrier Corps was 10,823, and there was thus a shortage of nearly 5,000 men. That shortage was not so serious as it might appear for the reason that with pressure the necessary number to make up the full strength—which he had given as 16,000—could be obtained in a very short time from the native reserves; but it had not been found necessary to do so, and he did not think that Hon. Members need see any cause for anxiety in the fact that at the present moment the numbers were below stated requirements. It was, however, obvious that it might become necessary to call upon the native reserves to produce the necessary number, and for that purpose His Excellency the Governor had decided to provide special legislation authorising District Commissioners to call upon headmen and making it incumbent on headmen to provide from their reserves the number of men required, having regard to all the circumstances in each case. His Excellency had recently inspected the two major Carrier Corps depots, at Nairobi and Mombasa, and, being satisfied that the system of accounting for the

\* In Committee, on the second reading, the word "Followers" was substituted for "Carriers."

men and the arrangements made for their return to the reserves were extremely efficient, had consented to the introduction of this legislation. The wage which was being paid to the carriers was at the rate of Rs. 10 per mensem, with rations, and he (the Hon. Chief Secretary) was sure that if any Hon. Member wished to inspect the central camp near Nairobi, the Officer-in-Charge would be only too pleased to show him the arrangements made for the accommodation of the natives and for the treatment of the sick, and also the system of registration and transfer of the natives between the different units. The figure given of 16,000 included a reserve of 500 men at each depot. When the force was at its full strength it was hoped to have 500 men in reserve in each of the three depots in Mombasa, Kisumu, and Nairobi, so that casualties might be immediately replaced, and so avoid men being ordered out from the reserves.

THE HON. A. C. MACDONALD seconded, and the Bill was read a first time.

THE HON. CHIEF SECRETARY gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE LAND TITLES AMENDMENT ORDINANCE, 1915.

THE HON. R. BARTON WRIGHT, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Law relating to Land Titles and to remove doubts that have arisen in regard to the effect of the Crown Lands Ordinance, 1915, Section 141, on Certificates of Title issued by the Recorder of Titles." He said that doubts and fears having arisen that Section 141 of the new Crown Lands Ordinance, 1915, might be applied to invalidate the indefeasibility of title in regard to Certificates of Title issued under Section 21 of the principal Ordinance, and to remove these doubts, which had been voiced by the Chamber of Commerce to His Excellency at Mombasa, it is proposed to enact Section 2 of this Bill.

Under the Land Titles Ordinance of 1908 it is necessary for every person claiming to have an interest in immoveable property to file such claim with the Recorder of Titles, on the application of the Ordinance to the district or area in which the land is situated. If no such claim is filed, the interest lapses to the Crown. As, however, in the so-called Coast area, Crown land has been granted under the law for the time being in force relating to Crown Lands, and as under the Crown Lands Ordinance, 1915, one system of Registration is applied to such land, and under the law relating to Land Titles another system of Registration is applied to titles granted by the Recorder of Titles, it is deemed advisable to exempt holders of Titles granted by the Crown from the necessity of making claims under the Land Titles Ordinance of 1908. For this purpose it is proposed to enact Section 3 of this Bill.

THE HON. ATTORNEY GENERAL seconded, and the Bill was read a first time.

THE HON. R. BARTON WRIGHT gave notice that he would move the second reading of the Bill at a later stage of the Session.

#### THE EVIDENCE ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled "An Ordinance to amend the Law of Evidence" be read a second time.

THE HON. 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. ATTORNEY GENERAL moved that the Bill without amendment be reported to Council.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE REGISTRATION REGULATIONS AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the East Africa Registration Regulations, 1901," be read a second time.

THE HON. 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. ATTORNEY GENERAL moved that the Bill without amendment be reported to Council.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE COURTS (EMERGENCY POWERS) AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the Courts (Emergency Powers) Ordinance, 1915," be read a second time.

THE HON. 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. ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

THE DRUGS AND POISONS AMENDMENT ORDINANCE, 1915.

THE HON. A. C. MACDONALD moved that the Bill intituled " An Ordinance to amend the Drugs and Poisons Ordinance, 1909," be read a second time.

THE HON. ATTORNEY GENERAL 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. A. C. MACDONALD moved that the Bill without amendment be reported to Council.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. A. C. MACDONALD gave notice that he would move the third reading of the Bill at a later stage of the Session.

## THE TRADING WITH THE ENEMY AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the Trading with the Enemy Ordinance, 1915, to provide powers for the liquidation of firms the property of Enemy Subjects " be read a second time.

THE HON. 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. ATTORNEY GENERAL moved that the Bill without amendment be reported to Council.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of the Bill at a later stage of the Session.

## \* THE NATIVE CARRIERS RECRUITMENT ORDINANCE, 1915.

THE HON. CHIEF SECRETARY moved that the Bill intituled " An Ordinance to provide for the Recruitment of Native Carriers for the Military Forces now operating in the Protectorate " be read a second time.

THE HON. ATTORNEY GENERAL Seconded.

The question was put and carried.

The following Special Committee was appointed to enquire into and report on the provisions of the Bill :—

THE HON. CHIEF SECRETARY (Chairman).

THE HON. ATTORNEY GENERAL.

THE HON. C. W. HOBLEY.

THE HON. W. A. M. SIM.

## THE LAND TITLES AMENDMENT ORDINANCE, 1915.

THE HON. R. BARTON WRIGHT moved that the Bill intituled " An Ordinance to amend the Law relating to Land Titles and to remove doubts that have arisen in regard to the effect of the Crown Lands Ordinance, 1915, Section 141, on Certificates of Title issued by the Recorder of Titles " be read a second time.

THE HON. CHIEF SECRETARY seconded.

The question was put and carried.

The following Special Committee was appointed to enquire into and report on the provisions of the Bill :—

THE HON. R. BARTON WRIGHT (Chairman),

THE HON. ATTORNEY GENERAL,

THE HON. W. A. M. SIM.

## THE EVIDENCE ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the Law of Evidence " be read a third time.

THE HON. CHIEF SECRETARY seconded.

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

## THE REGISTRATION REGULATIONS AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the East Africa Registration Regulations, 1901," be read a third time.

THE HON. CHIEF SECRETARY seconded.

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

\* In Committee, on the second reading, the word " Followers " was substituted for " Carriers."

### THE COURTS (EMERGENCY POWERS) AMENDMENT ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to amend the Courts (Emergency Powers) Ordinance, 1915," be read a third time.

THE HON. CHIEF SECRETARY seconded.

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

### THE DRUGS AND POISONS AMENDMENT ORDINANCE, 1915.

THE HON. A. C. MACDONALD moved that the Bill intituled " An Ordinance to amend the Drugs and Poisons Ordinance, 1909," be read a third time.

THE HON. CHIEF SECRETARY seconded.

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

### THE COCONUT TRADE ORDINANCE, 1915.

THE HON. ATTORNEY GENERAL moved that the Bill intituled " An Ordinance to regulate the Trade in Coconuts, Copra, and other products of the Coconut Tree " be re-committed to Council for the purpose of making certain amendments.

THE HON. C. W. HOBLEY 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 following amendments were agreed to:—

*Section 9.*—After the word " Owner " in the first line of the Section insert the words " or person in charge."

*Section 11.*—After the word " Owner " in the third line of the Section insert the words " or person in charge."

#### *The Council resumed its Sitting.*

THE HON. C. W. HOBLEY moved that the Bill as amended be reported to Council.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

*The Council adjourned till 10 a.m. on the 25th August, 1915.*

## SECOND DAY.

The Council assembled on the 25th August, at 10 a.m., HIS EXCELLENCY THE GOVERNOR (SIR H. CONWAY BELFIELD, K.C.M.G.) presiding.

#### *Present:—*

THE HON. THE CHIEF SECRETARY (C. C. BOWRING, C.M.G.).  
 THE HON. THE TREASURER (H. P. ESPIE).  
 THE HON. THE ATTORNEY GENERAL (J. W. BARTH).  
 THE HON. THE MANAGER OF THE UGANDA RAILWAY (B. EASTWOOD).  
 THE HON. F. W. MAJOR, I.S.O.  
 THE HON. A. C. MACDONALD.  
 THE HON. C. W. HOBLEY, C.M.G.  
 THE HON. R. BARTON WRIGHT.  
 THE HON. W. A. M. SIM.

#### *Absent:—*

THE HON. J. AINSWORTH, C.M.G.



\*THE NATIVE CARRIERS RECRUITMENT ORDINANCE, 1915.

THE HON. CHIEF SECRETARY submitted and read the Report of the Special Committee appointed to enquire into and report on the provisions of the Bill intituled "An Ordinance to provide for the Recruitment of Native Carriers for the Military Forces now operating in the Protectorate," as follows:—

1. The Special Committee is of opinion that the term "native carrier" is not sufficiently explicit, and recommends that the more comprehensive expression "native follower" be introduced. It is obvious that followers other than carriers are required by the military forces, and the power to recruit such other followers should be made clear in the Ordinance.

2. As a corollary it is recommended that all reference to the "Carrier Section" of the Transport Corps shall be deleted and that a definition of "East Africa Transport Corps" be inserted in Clause 2, so as to include all native carriers and other followers in the employ of the military forces of the Crown.

3. It is considered that the powers of District Commissioners under the Ordinance should be extended to Assistant District Commissioners, and that to achieve this object a District Commissioner be defined in Clause 2, so as to include an Assistant District Commissioner.

4. As the Native Administration in the Coast Provinces is to a great extent carried out through the medium of Liwalis, Assistant Liwalis and Mudirs, it is recommended that Clauses 3 and 4 be amended so as to apply the instructions issued to Headmen to these Officers also.

5. It is considered that the penalties provided in Clause 7 are too heavy, and that the maximum term of imprisonment should be reduced to 2 months and the maximum fine to 75 rupees.

6. It is recommended that provision be made for penalties for Headmen refusing or neglecting to obey instructions issued under Clause 3, and that the maximum penalties be fixed at 6 months' imprisonment and a Rs. 300 fine.

7. The penalties now suggested for offences under the proposed Ordinance are similar to those provided under the Native Authority Ordinance, 1912.

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 with the amendments recommended by the Special Committee.

*The Council resumed its Sitting.*

THE HON. CHIEF SECRETARY moved that the Bill as amended be reported to Council.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. CHIEF SECRETARY moved the suspension of Standing Orders in order that the Bill might be read a third time.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. CHIEF SECRETARY moved that the Bill be read a third time.

THE HON. ATTORNEY GENERAL seconded.

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

ADJOURNMENT.

The Council adjourned until the third Monday in November, or such other date as might be duly notified.

\* In Committee, on the second reading, the word "Followers" was substituted for "Carriers."