

COLONY AND PROTECTORATE OF KENYA.

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**Minutes of the Proceedings  
of the Legislative Council  
of the Colony of Kenya.**

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*Nairobi*      *Lal*

**(Extraordinary Session)  
1922.**

*Held at Nairobi on the 31st August, 1922.*

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**Nairobi,**

**PRINTED BY THE GOVERNMENT PRINTER,**

**Kenya Colony.**

# Minutes of the Proceedings of the Extraordinary Session of the Legislative Council, 1922.

31st AUGUST, 1922.

Held at Nairobi on the 31st day of August, 1922.

The Council assembled on the 31st August, 1922, at 10 a.m., HIS EXCELLENCY THE ACTING GOVERNOR (SIR CHARLES CALVERT BOWRING, K.B.E., C.M.G.) presiding.

Present:—

THE HON. THE ACTING COLONIAL SECRETARY (G. A. S. NORTHCOTE).  
THE HON. THE ATTORNEY GENERAL (R. W. LYALL GRANT).  
THE HON. THE TREASURER (J. GOSLING).  
THE HON. THE GENERAL MANAGER, UGANDA RAILWAY (S. COUPER).  
THE HON. THE COMMISSIONER OF LANDS (H. T. MARTIN).  
THE HON. THE ACTING DIRECTOR OF AGRICULTURE (E. HARRISON).  
THE HON. THE DIRECTOR OF PUBLIC WORKS (W. MCGREGOR ROSS).  
THE HON. THE ACTING COMMISSIONER OF CUSTOMS (G. WALSH).  
THE HON. I. L. O. GOWER (SOLICITOR GENERAL).  
THE HON. J. R. ORR (DIRECTOR OF EDUCATION).  
THE HON. COL. G. F. PHILLIPS, C.B.E., D.S.O. (OFFICER COMMANDING TROOPS).  
THE HON. C. R. W. LANE (SENIOR COMMISSIONER).  
THE HON. T. FITZGERALD (POSTMASTER GENERAL).  
THE HON. CONWAY HARVEY.  
THE RT. HON. LORD DELAMERE.  
THE HON. CAPT. J. E. CONEY.  
THE HON. SIR NORTHRUP McMILLAN, KT.  
THE HON. CAPT. H. F. WARD.  
THE HON. H. E. SCHWARTZ.  
THE HON. SIR F. L. SPROTT, KT.  
THE HON. E. A. EVANS.  
THE HON. SHAMS-UD-DEEN.  
THE HON. B. S. VARMA.

Absent:—

THE HON. THE CHIEF NATIVE COMMISSIONER (G. V. MAXWELL).  
THE HON. THE PRINCIPAL MEDICAL OFFICER (DR. J. L. GILKS).  
THE HON. LIWALI ALI BIN SALIM, C.M.G., C.B.E.  
THE HON. E. POWYS COBB.  
THE HON. MAJOR E. S. GROGAN, D.S.O.  
THE HON. A. C. ROSS.  
THE HON. A. A. VISRAM, M.B.E.  
THE HON. J. B. JOSHI.

## OATH OF ALLEGIANCE.

THE PRESIDENT:—Administered the Oath of Allegiance to the following as Ex-officio Members:

GEOFFRY ALEXANDER STAFFORD NORTHCOTE.  
(Acting Colonial Secretary.)

GEOFFREY WALSH.  
(Acting Commissioner of Customs.)

As Elected Member for Kikuyu Electoral Area:

SIR FREDERICK LAWRENCE SPROTT, KNIGHT.

As Provisional Member for Kenya Electoral Area:

EDWARD AUGUSTINE EVANS.

## COMMUNICATION FROM CHAIR.

THE PRESIDENT expressed his regret at the short notice which had been given in summoning the meeting. He briefly explained the circumstances leading up to the Bills referred to in the Order of the Day. On August 31st, 1919, the Former Enemy Aliens Restriction Ordinance, 1919, was passed: as written, Clause 9 of that Ordinance provided that the Ordinance remain in force for a period of three years from the date of commencement. In the middle of July the Secretary of State had enquired by telegraph whether it was considered desirable that the Ordinance should remain in force for a longer



period, and, after consulting the Executive Council the Governor had replied that it was not considered necessary to continue its operation. On August 18th the Secretary of State telegraphed that, as the neighbouring territories desired that the provisions of the Ordinance should remain in force, and as uniformity of policy was desirable, it would be necessary for the Government of Kenya to enact a measure continuing the operation of the 1919 Ordinance. These instructions were considered by the Governor at the next meeting of his Executive Council and a telegram was sent to the Secretary of State stating that the necessary steps would be taken in obedience to his instructions but asking that the matter might be reconsidered as this Government was opposed to the continuation of these restrictions on Former Enemy Aliens, and asking that they might be terminated on the date provided in the 1919 Ordinance. A telegram had been received from the Secretary of State on August 30th informing him that the legislation must be proceeded with.

The first of the two measures which would be introduced provided for the extension of the Former Enemy Aliens Restriction Ordinance for a period which might be renewable from time to time by proclamation and it was necessary to pass further legislation to provide for Passports for persons entering the Colony of Kenya. Passports had formerly been enforced under the regulations passed under the provisions of the Defence Order-in-Council and that Order having been repealed special legislation was necessary.

(A certificate of emergency was then read.)

#### SUSPENSION OF STANDING ORDERS.

THE HON. THE ACTING COLONIAL SECRETARY moved the suspension of Standing Orders so that the Minutes of the last Meeting might not be read.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY moved the further suspension of Standing Orders so that the Bills detailed in the Order of the Day might be passed through their three readings at one sitting.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

#### THE FORMER ENEMY ALIENS RESTRICTION (AMENDMENT) ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY introduced and moved the first reading of a Bill intitled "An Ordinance further to amend the Former Enemy Aliens Restriction Ordinance, 1919."

He explained that the object of the Bill was to keep alive the provisions of the Former Enemy Aliens Restriction Ordinance, 1919. The effect of the Ordinance was that before a Former Enemy Alien could enter this country he had to obtain a permit from the Colonial Secretary not only to enter but also to remain. Certain penalties were prescribed for a breach of the Ordinance and provision existed whereby the Governor could issue an order to any Former Enemy Alien to quit the country and could also direct that he be deported. Enhanced penalties existed for a second offence and any permit issued by the Colonial Secretary under the Ordinance was revocable under the hand of the Governor at any time. As far as the application of the Ordinance went local discretion existed. When the Secretary of State initiated this legislation he said that local discretion should be complete and confirmed this in a despatch last year. The application was only one of policy. The policy of the Government to-day was that Former Enemy Aliens should be allowed to enter where special reasons existed. As the welfare of the

Colony might demand that such persons be allowed to enter. There was no reason to anticipate that the Ordinance would be applied in any prohibitive manner.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a first time.

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

#### THE PASSPORTS ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY introduced and moved the first reading of a Bill intitled "An Ordinance to make provision for Passports for Persons entering the Colony of Kenya."

He explained that the necessity for this Bill arose from two causes. Firstly the revocation of the British Protectorates Defence Order-in-Council of 1916, which was a war measure; it had been decided that if it was found necessary to continue such legislation that legislation should exist under the ordinary civil sanction of the Legislative Council. The Commissioner of Police had stated that it would not be possible for him to apply the provisions of the Former Enemy Aliens Ordinance unless the Passport system continued. In so far as the effect on the public went it might be said to be entirely nil. Throughout the whole of the United Kingdom, Europe, South Africa, India, etc., it was necessary for any person entering these territories to be in possession of a Passport. It therefore followed that anyone leaving Kenya Colony must also possess a Passport. A Passport was still required to enable a person to enter Tanganyika Territory or Uganda.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a first time.

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

#### THE FORMER ENEMY ALIENS RESTRICTION (AMENDMENT) ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY moved that a Bill intitled "An Ordinance further to amend the Former Enemy Aliens Restriction Ordinance, 1919," be read a second time.

THE HON. THE ATTORNEY GENERAL seconded.

THE RT. HON. LORD DELAMERE said it would be impossible for him to vote for the Bill as he had already voted against it in Executive Council. He saw no necessity for the Bill. Power had already been taken to deport undesirables but, where cause arose, the Secretary of State did not take advantage of the fact that these powers had been taken. He referred to the case of Professor Andrews against whom no action had been taken although it had been clear that it was the presence of Professor Andrews and the action taken by the Indian Association that the recent riots in Nairobi took place. No action had at that time been taken by the Secretary of State to exercise the powers then in force and if powers existed and were not used in cases where they were required he asked what was the object of passing another Bill giving further powers to this Government for dealing with aliens.

He referred to the Bolsheviks, who were the most dangerous people, yet they did not come under the Bill. He saw no object in passing Bills which were never used. If undesirable aliens came to this country they could be dealt with under existing powers.

THE HON. CONWAY HARVEY opposed the Bill and associated himself with the remarks made by

the Rt. Hon. Member for the Rift Valley. He thought it was deplorable that the Secretary of State should deem it necessary to standardize legislation for a number of East African dependencies without taking into consideration their respective needs and requirements.

THE HON. H. E. SCHWARTZ also opposed the measure as he thought it was another example of unnecessary interference by the Colonial Office in what he considered a purely domestic matter. The argument was put forward that as Tanganyika and Uganda adjoined Kenya it was necessary to introduce the same legislation in all three. There were other countries also bordering those territories, e.g., Portuguese East Africa and the Belgian Congo. No suggestion had been made that these countries should come into line as well. He further opposed it on the ground of expediency. The war had been over for four years but there was still a certain section of the community who insisted on trying to carry on with war legislation which should have ceased long ago. It had to be realised that increased trade and increased prosperity could only be brought about by trading with all nations of the world. Capital was badly wanted in this country and if enemy aliens were allowed to come and trade in this country they would bring it. Mombasa had already been flooded with German goods, e.g., beer, and he could see no objection to individuals entering the country to trade thus bringing with them prosperity. The whole policy of the British Government had been and still was to try and save Europe from stagnation by making those countries which had fought against her prosperous thereby increasing prosperity. One nation only stood out against this—France—and it was up to Kenya not to follow the suicidal policy of that country.

THE HON. CAPT. J. E. CONEY said that after hearing the last speaker he had decided to vote in favour of the Bill. The Hon. Member for Nairobi South had admitted that the Imperial Government was doing all it possibly could to re-establish European trade in Europe. It was the same Government that had instructed the local Government to pass the measure before Council. He was quite sure there must be some technical reason for such a course.

THE HON. THE TREASURER said he had in the past sympathised on many occasions with views expressed by Unofficial Members although he had voted against them. He referred to his early departure and to the possibility of becoming a settler. In the present case the question arose whether a certain action was worth while and whether the opposition on the other side of the House should not be reserved for cases of major importance to the people of the Colony and not frittered away on minor things. The Rt. Hon. Member had said that the Government had not used its powers properly. The fact remained, however, that the Secretary of State was acting on the expressed views of the majority of the Colonies and Protectorates in this area. He appealed to Hon. Unofficial Members to support the Bill in this case.

THE HON. THE ACTING COLONIAL SECRETARY stated that the objections raised had been directed mainly against the general principles of the Bill. With regard to the remarks of the Rt. Hon. Member for Rift Valley in the matter of existing powers for deportation, these were emergency powers which Government was undesirous of using if possible and they did not cover the question of entry which the Bill aimed at in particular. It had to be remembered it was to a great extent an Imperial question.

HIS EXCELLENCY then announced that the Bill was a Government measure in favour of which the Official Members must vote.

The question that the Bill be read a second time was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY moved that Council resolve itself into a Committee of the whole Council to consider the provisions of the Bill.

THE HON. THE ATTORNEY GENERAL seconded.

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

*In Committee.*

The Bill was read clause by clause and reported unamended.

*The Council resumed its sitting.*

THE HON. THE ACTING COLONIAL SECRETARY gave notice that he would move the third reading of the Bill at a later stage of the Session.

#### THE PASSPORTS ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY moved that a Bill intitled "An Ordinance to make provision for Passports for Persons entering the Colony of Kenya," be read a second time.

THE HON. THE ATTORNEY GENERAL seconded.

The question that the Bill be read a second time was put and carried.

THE HON. THE ACTING COLONIAL SECRETARY moved that Council resolve itself into a Committee of the whole Council to consider the provisions of the Bill.

THE HON. THE ATTORNEY GENERAL seconded.

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

*In Committee.*

The Bill was read clause by clause and reported with certain amendments.

*The Council resumed its sitting.*

THE HON. THE ACTING COLONIAL SECRETARY gave notice that he would move the third reading of the Bill at a later stage of the Session.

#### THE FORMER ENEMY ALIENS RESTRICTION (AMENDMENT) ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY moved that a Bill intitled "An Ordinance further to amend the Former Enemy Aliens Restriction Ordinance, 1919," be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

#### THE PASSPORTS ORDINANCE, 1922.

THE HON. THE ACTING COLONIAL SECRETARY moved that a Bill intitled "An Ordinance to make provision for Passports for Persons entering the Colony of Kenya," be read a third time and passed.

THE HON. THE ATTORNEY GENERAL seconded.

The question was put and carried.

The Bill was read a third time and passed.

#### ADJOURNMENT.

THE HON. THE ACTING COLONIAL SECRETARY moved that Council stand adjourned until such time and date as His Excellency may by proclamation notify.

The question was put and carried.

THE HON. THE ATTORNEY GENERAL seconded.