

# East Africa Protectorate.

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

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### Third Session,

*September 16th, 1912.*

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Nairobi

PRINTED BY THE GOVERNMENT PRINTER,

East Africa Protectorate.

# Minutes of the Proceedings of the Third Session of the Legislative Council, 1912.

Held at Nairobi on 16th and 18th September, 1912.

## FIRST DAY.

The Council assembled on the 16th September at 10 a.m., HIS EXCELLENCY THE ACTING GOVERNOR (C. C. BOWRING, C.M.G.) presiding.

### *Present :—*

THE HON. THE TREASURER (H. A. SMALLWOOD).  
THE HON. THE ATTORNEY GENERAL (R. M. COMBE).  
THE HON. THE ACTING MANAGER OF THE UGANDA RAILWAY (C. T. SANDIFORD, C.B.)  
THE HON. F. W. MAJOR, I.S.O.  
THE HON. C. W. HOBLEY, C.M.G.  
THE HON. B. G. ALLEN.  
THE HON. P. G. DICKINSON.  
THE HON. R. C. BAYLDON.  
THE HON. W. A. M. SIM.

### *Absent :—*

THE HON. THE ACTING CHIEF SECRETARY TO THE GOVERNMENT (A. C. HOLLIS, C.M.G.)

### **Oath of Allegiance.**

THE PRESIDENT administered the Oath of Allegiance to Messrs. R. C. Bayldon and W. A. M. Sim.

THE PRESIDENT announced that since the last Meeting the Imperial Government had given a loan of £500,000 for the further development of the Uganda Railway and connections, both by land and on the Lake, Kilindini Pier, wharves on the Lake, and possibly an additional steamer, with a large sum for engines and Railway staff. Out of the total loan of £500,000, the amount of £375,000 was for East Africa, the balance of £125,000 being for Uganda.

A Bill providing for the payment of interest and sinking fund, similar to the measure passed for the previous loan, would be placed before the Council in due course.

THE PRESIDENT further announced that he had appointed a Labour Commission to consider the various questions dealing with the labour supply of the Protectorate. The following gentlemen were appointed on the Commission:— Mr. Justice Barth (Chairman): Mr. A. E. Church: Mr. F. G. Hamilton: in addition to the official members, the following gentlemen had consented to sit: Lord Delamere: Mr. Geoffrey Williams: Father Brandsma: and Dr. Arthur.

The preliminary meeting would be held on the afternoon of Thursday the 19th September, when the different questions would be discussed.

On the motion of the Hon. the Treasurer, seconded by the Hon. Attorney General, the Minutes of the Council Meeting of the 27th, 28th and 29th May, 1912, which had been printed and circulated amongst Hon. Members, were taken as read, and were confirmed.

The Financial Report and Appropriation Accounts for 1911-12 was laid on the table by the Hon. Treasurer.

**Motions.**

In pursuance of notice given, and in the absence of the Hon. Acting Chief Secretary, the Hon. Treasurer proposed the following motion:—

“Whereas it has been decided to bring the Merehan under closer administrative control, and whereas it has become necessary to introduce troops from Nyasaland to replace casualties in a Company of the 3rd Battalion, K. A. Rifles, caused by a regrettable outbreak of beri-beri, it is hereby resolved that the sum of £4,400 be expended during the present financial year on the cost of a military patrol and necessary expenses incidental thereto”.

He said that the sum would be met from specified savings on the authorised expenditure for the year.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

In the absence of the Hon. Acting Chief Secretary, the Hon. Treasurer proposed the following motion:—

“Whereas an agreement has been entered into between His Majesty's Government and the Chiefs and Elders of the Masai tribe, according to the terms of which the area formerly known as the Masai Northern Reserve in exchanged by the Masai for an area conterminous with the Masai Southern Reserve, it is hereby resolved that the sum of £1,400 be expended during the present financial year on the cost of the move and necessary expenses incidental thereto”.

THE HON. ATTORNEY GENERAL seconded, and the motion was carried.

THE PRESIDENT stated that the Masai move was proceeding in a most satisfactory manner. He said that it was anticipated that some 100,000 head of cattle and a proportionate number of sheep would have crossed over by the end of the present month. The settlers over whose land the cattle had passed had rendered every help, and he desired to express his great appreciation of their assistance.

**The Law Officers Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled “The Law Officers Ordinance, 1912”.

He said that the alteration in the designation of the Crown Advocate to that of Attorney General necessitated a short Ordinance transferring to the Attorney General the duties previously performed by the Crown Advocate. The Bill provided that the Assistant Attorney General should have the same powers as the Attorney General.

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

THE HON. ATTORNEY GENERAL moved that the Standing Orders be suspended in order to enable the Bill to pass through its several stages.

THE HON. TREASURER seconded, and the motion was carried.

THE HON. ATTORNEY GENERAL moved that the Bill be read a second time.

THE HON. TREASURER seconded, and the Bill was read a second time.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider this Bill.

THE HON. TREASURER seconded and the motion was put and carried.

The 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 adopted without amendment.

**The Council resumed its sitting.**

THE HON. ATTORNEY GENERAL reported the Bill without amendment to Council, and moved that it be read a third time.

THE HON. TREASURER seconded.

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

### **The Public Holidays Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in the absence of the Hon. Acting Chief Secretary, and in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make Provision for Public Holidays".

He said that, hitherto, it had been the practice of the Governor to notify in the "Gazette" what days should be observed by public offices as public holidays; but it was considered that the time had now arrived when public holidays should be established by legal authority.

The Bill was based on legislation in force in other British colonies, and the days—which were to be observed by banks and public offices—were generally the same as elsewhere. The 1st of July was given instead of the first Monday in August, as the Banks desired that they should have a day conveniently in the middle of the year to enable them to close their books and make up their half yearly report.

THE HON. ATTORNEY GENERAL said he understood that some Hon. Members were a little anxious as to whether the effect of this legislation would be to declare a certain number of holidays which would be taken by both Europeans and non-Europeans, and that non-Europeans would demand as additional holidays those dates which had hitherto been Gazetted as Mahomedans, Parsees and other holidays. He said he would move that a Special Committee be appointed to consider the provisions of the Bill, in order that this matter might be fully considered.

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

THE HON. ATTORNEY GENERAL gave notice that he would move the second reading of this Bill later in the morning.

### **Official Secrets Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "The Official Secrets Ordinance, 1912". He said that the Bill made provision for the protection of military and naval secrets, and was based on legislation in force in England and in British Colonies, and applied, as far as local circumstances will permit, to English legislation on the subject.

THE HON. C. W. HOBLEY seconded, and the Bill was read a first time.

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

### **The Stage Plays and Cinematograph Exhibitions Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make provision for the licensing of Theatres, Stage Plays, and Cinematograph Exhibitions".

He said that the Bill was based on legislation in force in British Colonies, and provided for the appointment of an Officer who shall act as a censor of both stage plays and cinematograph exhibitions. Under the Ordinance it would be the duty of the public to submit to the licensing authority the details of any play which was intended to be performed, or any cinematograph exhibition. It gave power to the licensing authority to licence or withhold a licence, or make any alteration in any play submitted. The Bill also provided for the licensing of the buildings in which performances of stage plays or cinematograph exhibitions were intended to take place. The licensing officer would be required to satisfy himself before licensing any building that proper provision had been made on the premises in which the stage play was to be performed, or the cinematograph exhibition displayed.

THE HON. C. W. HOBLEY seconded, and the Bill was read a first time.

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

### **The East Africa Prisons Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to make further and better provision for the organisation of the Prisons Staff and the Management of Prisons". He said that this Bill was based on the Bill which

had been before the Council at its last meeting. It would be within the recollection of Members that the Bill was referred to a Special Committee, which recommended that a considerable number of amendments should be made in the Bill, and that for the convenience of Members the Bill should be withdrawn and a new Bill, incorporating those amendments, should be submitted.

THE HON. PROVINCIAL COMMISSIONER seconded, and the Bill was read a first time.

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

### **The Fugitive Criminals Surrender Amendment Ordinance, 1912.**

THE HON. ATTORNEY GENERAL, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to amend the Fugitive Criminals Surrender Ordinance, 1908". He said that the Fugitive Criminal Surrender Ordinance, made provision for the surrender, of fugitive offenders by this Protectorate to Foreign States. Under the Ordinance it was necessary before surrender was ordered that the Magistrate should be satisfied that there was a *prima facie* case against the person whose surrender is required. It was also stated what documentary evidence might be accepted as evidence for that purpose. It was provided under the Ordinance of 1908 that the original depositions and statements of Foreign States should be adduced before a Magistrate. It was obviously inconvenient that original documents should be sent to this Protectorate. For this reason it was proposed by this Bill to provide that certified copies of original depositions might be accepted for the purpose of the Ordinance. He concluded by stating that no other alteration in the law was proposed by the Bill before the Council.

THE HON. C. W. HOBLEY seconded, and the Bill was read a first time.

THE HON. ATTORNEY GENERAL moved that the Standing Orders be suspended in order to enable the Bill to be passed through its second and third stages.

THE HON. C. W. HOBLEY seconded. The question was put and carried.

THE HON. ATTORNEY GENERAL moved that the Bill be read a second time.

THE HON. C. W. HOBLEY seconded.

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

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.

THE HON. C. W. HOBLEY seconded.

The question was put and carried, and the 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 adopted without amendment.

### **The Council resumed its sitting.**

THE HON. ATTORNEY GENERAL reported the Bill to Council without amendment, and moved that it be read a third time.

THE HON. TREASURER seconded.

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

### **The Additional Appropriation Ordinance, 1912.**

THE HON. TREASURER, in pursuance of notice given, introduced and moved the first reading of a Bill intituled "An Ordinance to supply a further sum of money for the Service of the year ended 31st March, 1912." He said that this was the usual Bill for obtaining legislative sanction for net excesses appearing on any heads of expenditure at the closing of the accounts at the end of the financial year. The details of the expenditure in excess of the amounts originally authorised would be found in Appendix IV of the Financial Report now in the hands of Hon. Members. To cover the excess of £17,365, the aggregate total

of the excess on the ordinary votes, there were savings on other heads to the amount of £35,186, so that the excess was more than doubly covered. The special expenditure of £27,929 for Magadi was met by the special grant of £75,000 made last financial year. Unfortunately, owing to causes over which we had no control, we were unable to expend the sum of £75,000, and sanction has been asked to expend the balance of £47,071 during the current year. Although full details of how the finances of the Protectorate stood at the end of the last financial year (31st March, 1912) were embodied in the report laid on the table, and in the hands of Hon. Members, the Hon. Treasurer said that perhaps he might be permitted to make reference to what he said at the last Session of the Council, when he hoped that the surplus on the 31st March, 1912, would be £250,000; as a matter of fact the surplus amounted to £293,734, or £43,734 more. The reason for that was, as already explained, that we were unable to expend the whole grant of £75,000 for Magadi. Out of this surplus, as usual, we have to earmark a certain sum for works commenced last year but not completed, this earmarked amount comes to £74,152, and is shown in Appendix V of the Financial Report.

In spite of having to earmark that amount he said we could congratulate ourselves on the satisfactory state of the Protectorate's finances and look with confidence to the prospects of the present year.

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

THE HON. TREASURER moved that the Standing Orders be suspended to enable the Bill to be passed through its further stages.

THE HON. ATTORNEY GENERAL seconded.

The question was put and carried.

THE HON. TREASURER moved that the Bill 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 to consider the provisions of the Bill, His Excellency the Acting Governor presiding.

#### IN COMMITTEE.

The Bill was read clause by clause, and was reported without amendment to the Council by the Hon. Treasurer.

#### The Council resumed its sitting.

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

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

#### Sales by Auction Ordinance, 1912.

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to Regulate Sales by Auction" be read a third time.

THE HON. TREASURER seconded, and the Bill was read a third time and passed.

#### Trade Marks Ordinance, 1912.

THE HON. ATTORNEY GENERAL said that at the last Meeting, the Council passed a Bill intituled "An Ordinance to make Provision for the Registration of Trade Marks in the East Africa Protectorate." The Ordinance was submitted to the Board of Trade, who had recommended that certain amendments be made. The amendments proposed, and which were laid before Hon. Members, did not affect any principle, in the Bill already approved by the Council but would bring the Ordinance into line with recent legislation approved by the Board of Trade for enactment in Crown Colonies. The Bill was returned to Council in order that Council might consider whether the amendments recommended by the Board of Trade should be made in the Ordinance.

THE ATTORNEY GENERAL moved that the Council go into Committee to consider the amendments proposed.

THE HON. TREASURER seconded, and motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His Excellency the Acting Governor presiding.

THE HON. ATTORNEY GENERAL moved the following amendments:—

- Section 2. In definition of "person," delete "Corporative and substitute "Corporate."  
 Section 6. In line 4 insert "a" before "separate". In lines 5 and 6 substitute "application" for "applications and application" for application".  
 Section 7. In last paragraph delete "England" and substitute "United Kingdom". For "Trade Mark Act" substitute "Trade Marks Act".  
 Section 9. (2) For "clauses" substitute "classes".  
 Section 10. (6) Delete "Is out of the Protectorate at the time of making the application" and substitute "or an agent does not reside or carry on business in the Protectorate".  
 Section 13. (1) Insert "from the date" before of the advertisement".  
 (4) In line 2 substitute "any person" for "the persons".  
 Section 33. (b) Delete the last part of this paragraph from and including the words "by omitting" and substitute "upon such terms as he may think fit".  
 Section 34. (4) Delete "classes" and substitute "descriptions".  
 Section 37. (1) Delete "any such" before "register" and substitute "the". After "remaining on the register" insert "or by any error or defect in any entry in the register".  
 Section 50. (1 & 3) Substitute "United Kingdom" for "Great Britain" through these sub-sections.  
 Section 61. In line 1 delete "inability" and substitute "disability".

THE HON. TREASURER seconded, and the amendments were adopted.

### The Council resumed its sitting.

THE HON. ATTORNEY GENERAL reported the Bill, as amended, to Council.

### The Native Authority Ordinance, 1912.

In re-submitting the Native Authority Ordinance, 1912, which was passed by Council at the last meeting the Hon. Attorney General said that on instructions from His Excellency, the Bill was returned to Council in order that Hon. Members could consider the advisability of inserting a definition of the word "native". The word "native" was not defined in the Ordinance as passed by Council and His Excellency considered it would be advisable that a definition of that term should be inserted. He moved that Council go into Committee.

THE HON. TREASURER seconded.

The question was put and carried, and the Council resolved itself into a Committee of the whole Council, His Excellency the Acting Governor presiding.

### IN COMMITTEE.

THE HON. ATTORNEY GENERAL said that the definition of the word "native" proposed to be inserted in the Ordinance was the same as was given in the Native Hut and Poll Tax Ordinance. It included the members of any tribe of the Protectorate, also Somalis, who may have been born in Asia, but who had come to reside or trade in the Protectorate. It also included Swahilis, who sometimes claimed to be of Asiatic origin.

He moved the following amendment:—

Clause 14 after the definition of District Commissioner add "the term 'native' shall mean any native of Africa not being of European race or origin, and includes any Swahili or Somali".

THE HON. TREASURER seconded.

The motion was put and carried.

### The Council resumed its sitting.

### IN COUNCIL.

THE HON. ATTORNEY GENERAL reported the Bill to Council, as amended.

### Public Holidays Ordinance, 1912.

THE HON. ATTORNEY GENERAL moved that the Bill intitled an "Ordinance to make provision for Public Holidays be read a second time.

THE HON. TREASURER seconded, and the question was put and carried.

THE HON. ATTORNEY GENERAL moved that a Special Committee be appointed to consider this Bill, consisting of the Hon. Treasurer, as Chairman, and Messrs. Sandiford, Major, Sim, Allen, Bayldon, and himself.

THE HON. TREASURER seconded, and the motion was put and carried.

## Official Secrets Ordinance, 1912

THE HON. ATTORNEY GENERAL moved that a Bill intituled "The Official Secrets Ordinance, 1912, be read a second time.

THE HON. TREASURER seconded, and the Bill was read a second time.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.

THE HON. TREASURER seconded, and the question was put and carried.

The Council then resolved itself into a Committee of the whole Council, His Excellency the Acting Governor presiding.

### IN COMMITTEE.

THE HON. B. G. ALLEN asked the Hon. Attorney General, in reference to Section 9 (2) whether it was advisable that power should be given to a Superintendent of Police to authorise any Police Officer in this Protectorate to act in the manner provided by this section. This would authorise even a native officer to take all those steps which he would be empowered to take under a magistrate's warrant. The Hon. Member said he did not think it desirable in this country.

THE HON. ATTORNEY GENERAL, in reply, said that the power was given to a Superintendant of Police to act in case of great emergency. In such a case any Police Officer, whether native or non-native, should have the power to act if instructed by a Superintendent of Police; there was no reason to believe that authority to act would be given to a native officer unless it were absolutely necessary. He submitted that the Government should have full power to use the machinery at its disposal to guard military and naval secrets, and the machinery for the moment at the disposal of the Government included a native officer. If a native officer could act under a magistrate's warrant he did not know why a native officer should not act on the order of a Superintendent of Police.

THE HON. CHIEF OF CUSTOMS asked whether, under the Ordinance, a Customs Officer had power to hold or detain any person if it were discovered that that person had plans in his possession.

THE HON. ATTORNEY GENERAL, in reply said that he thought he was right in saying that under English and Colonial legislation no power was given to a Customs Officer to act in such a case as suggested by the Hon. Chief of Customs.

THE PRESIDENT asked the Hon. B. G. Allen if he was satisfied with the reply of the Hon. Attorney General.

THE HON. B. G. ALLEN said he thought that the public should be protected from being inconvenienced by a, perhaps, too zealous Police Officer, by the police having to go to a magistrate for a warrant. He thought that, in most cases under this Ordinance, action would be taken at the Coast, where there were magistrates, or District Commissioners, at all events, to whom application could be made. It was a question entirely of putting large powers in the hands of Superintendents of Police. If, however, the Hon. Attorney General thought clearly otherwise, the Hon. Member said he would withdraw his objection.

THE HON. ATTORNEY GENERAL said he thought the power should be retained, and the public were sufficiently safeguarded, as the power could not be exercised except in case of emergency.

### The Council resumed its sitting.

#### IN COUNCIL.

THE HON. ATTORNEY GENERAL reported the Bill to Council, without amendment.

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of this Bill during the Session.

### The Stage Plays and Cinematograph Exhibitions Ordinance, 1912.

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make provision for the Licensing of Theatres, Stage Plays, and Cinematograph Exhibitions" be read a second time.

THE HON. TREASURER seconded, and the Bill was read a second time.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.



THE HON. R. C. BAYLDON asked whether the Hon. Attorney General would consent to the Bill being considered by a Special Committee as he thought that there were some clauses which were quite unworkable.

THE HON. ATTORNEY GENERAL moved that a Special Committee be appointed to consider this Bill, consisting of the Hon. C. W. Hobley (Chairman) the Hon. Treasurer, the Hon. R. C. Bayldon and himself.

THE HON. TREASURER seconded, and the question was put and carried.

### The East Africa Prisons Ordinance, 1912.

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make Further and Better Provision for the Organisation of the Prisons Staff and the Management of Prisons" be read a second time.

THE HON. R. C. BAYLDON said he would like to make a few remarks before the Bill was proposed for second reading.

He would like to know whether the Government would be prepared to make a few amendments on the Bill. The principal thing to him was that as long as the prisons were administered under regulations—as has been done up to the present time—it was very easy for the regulations to be varied from time to time according to circumstances. There were two methods of dealing with prisons, (I) as at home where the Home Office had great powers and discretion, corresponding out here to the wide discretion exercised in the past by His Excellency in the making of Rules with a Prisons Board to control, and with a strong body of visiting justices, or (II) by detailed legislation. It was now proposed to legislate in great detail respecting the management of prisons, and if that was the method to be adopted he thought the legislation should be very complete, with nothing left out. There was nothing in this Bill to contemplate any difference in treatment between Europeans, Indians, and Natives. The whole treatment of prisoners at home had altered, and if better treatment was thought necessary at home (such as the Borstal system) it was probably necessary in East Africa. The Hon. Member said he was sure it was not the intention of the Government that all classes of prisoners should be treated in the same way; but there was nothing in the Bill to show they were to be treated differently, and he did not know to whom the discretion was given to treat prisoners thus. He thought that if the Government could take the Bill as it stood, and leave out the very few present provisions with regard to Europeans and add a complete set of provisions respecting them, then it would be very simple to amend the Bill in the manner necessary.

These were the main things the Hon. Member wished to say about the Bill, and he thought that if the Hon. Attorney General would give some assurance that something on these lines would be done, differentiating between European and Non-European, it would be helpful. As far as he could see, there was nothing to fall back upon once the Bill became law, and as a prisoner would have to rely on the letter of the law, it would be as well for the Government to make that very strong.

THE HON. ATTORNEY GENERAL said he was quite prepared to move amendments on the Bill for the separation of European and Non-European prisoners, both inside and outside prison; but he did not think that, at this period, provision could be made for such a system as the Borstal system, to which the Hon. Member had referred. Full power is given to the Governor to regulate the treatment of prisoners by Rules, and any further provision for the treatment of European prisoners would be dealt with by such Rules. As he said previously, he was quite prepared to accept amendments that European prisoners should be separated from Non-Europeans, as far as possible; but he did not think it possible to provide by law that Europeans should be confined in different prisons to Non-Europeans. As an instance of the unnecessary hardship this would entail on the prisoner himself, the Hon. Attorney General suggested the case of a prisoner from the Uasin Gishu having to be sent to Nairobi—a long journey for perhaps only a short term of imprisonment. It would be impossible to provide separate prisons in, say, the Uasin Gishu, for European and Non-European prisoners. He believed that there had not been any complaints that European prisoners had not been treated properly in the Prisons of this Protectorate. In conclusion he did not think it necessary to make special provision in this Ordinance for the treatment of European prisoners.

THE HON. R. C. BAYLDON said that in view of the Hon. Attorney General's explanation of the proper reading of clause 14 which gave the Governor wide discretion he was satisfied and would not oppose the second reading of the Bill.

THE HON. C. W. HOBLEY seconded, and the Bill was read a second time.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.

THE HON. TREASURER seconded, and the motion was put and carried.

The Council resolved itself into Committee of the whole Council His Excellency the Acting Governor presiding.

#### IN COMMITTEE.

THE HON. B. G. ALLEN asked the Hon. Attorney General whether it would not be better to insert "a" matron instead of "the" matron in Clause 2. He would also like to ask the Hon. Attorney General whether it would not be desirable to make the definition of "native" the same as in the Ordinance which had been dealt with that morning (the Native Authority Ordinance), so as to include Somalis and Swahilis.

THE HON. ATTORNEY GENERAL said he thought it might be made clear that the term included Somalis and Swahilis, adopting the same definition as given in the Native Authority Ordinance.

THE HON. ATTORNEY GENERAL proposed that the following be added to Clause 11. "Provided that the Governor may by writing under his hand, confer upon any European Gaoler all or any of the powers and duties of a Deputy Superintendent, other than the power to punish prisoners.

He said this was necessary as, in such a case as a prison at the Thika (on the tramway) it would be impossible for a Deputy Superintendent to visit the prison frequently, and it was advisable that there should be someone to maintain discipline at the prison.

THE HON. TREASURER seconded.

The motion was put and carried.

In reference to Clause 101, the Hon. B. G. Allen asked how it was proposed to enforce the condition that Visiting Justices should visit prisons once a week. He thought it should be left to their discretion.

THE HON. ATTORNEY GENERAL said that the Visiting Justices would no doubt arrange among themselves. It would be impossible to compel any individual to attend: but if a Visiting Justice were unable to visit the prison, he would doubtless send in his resignation.

THE HON. R. C. BAYLDON asked how it was proposed to deal with a temporary prison, such as on the Thika Tramway.

THE HON. ATTORNEY GENERAL said that the best possible provision would be made. In the case of the Thika temporary prison, the Medical Officer who visited that prison once a week, had been appointed a visiting Justice and similar provision would be made in other cases of temporary prisons.

THE HON. ATTORNEY GENERAL moved that the Bill, as amended, be reported to Council. The Hon. Treasurer seconded—the motion was put and carried.

Council adjourned until 10 o'clock on Wednesday 18th September, 1912.

#### SECOND DAY

The Council assembled on the 18th September, HIS EXCELLENCY THE ACTING GOVERNOR (C. C. BOWRING, C.M.G.) presiding.

*Present:—*

THE HON. THE ACTING CHIEF SECRETARY (A. C. HOLLIS, C.M.G.).

THE HON. THE TREASURER (H. A. SMALLWOOD).

THE HON. THE ATTORNEY GENERAL (R. M. COMBE).

THE HON. THE ACTING MANAGER OF THE UGANDA RAILWAY (C. T. SANDIFORD, C.B.).

THE HON. F. W. MAJOR, I.S.O.

THE HON. C. W. HOBLEY, C.M.G..

THE HON. B. G. ALLEN.

THE HON. P. G. DICKINSON.

THE HON. R. C. BAYLDON.

THE HON. W. A. M. SIM.

## The Public Holidays Ordinance, 1912.

THE HON. TREASURER read the report of the Special Committee appointed to consider a Bill intituled. "An Ordinance to make Provision for Public Holidays."

### REPORT OF THE SPECIAL COMMITTEE APPOINTED TO CONSIDER A BILL INTITULED AN ORDINANCE TO MAKE PROVISION FOR PUBLIC HOLIDAYS.

The Special Committee having considered the Bill Intituled "An Ordinance to make provision for Public Holidays" recommend that the following amendments be made:—

*Clause 5.*—This be deleted and the following substituted:—

"Anything in this Ordinance to the contrary notwithstanding, it shall be lawful for the Head of any Government Department to open the offices and works thereof and to call upon all or any persons employed in such Department to perform such of their duties on any Public Holiday as to such Head of Department may seem fit."

*First Schedule.* The deletion of the words. "The first day of July" and the substitution therefor of the words "The first Monday in August"

If, as the Committee understands, the Banks wish a special day, the Committee presume the Government would receive sympathetically representations to that effect: but the Committee is of opinion that the first Monday in August would make a better distribution of holidays throughout the year.

H. A. SMALLWOOD,

September 16th, 1912.

*Chairman.*

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of the Bill.

THE HON. ACTING CHIEF SECRETARY seconded, and the question was put and carried.

The Council resolved itself into a Committee of the Whole Council His Excellency the Acting Governor presiding.

### IN COMMITTEE.

In accordance with the recommendations of the Special Committee, the Hon. Attorney General moved that "the first Monday in August" be substituted for "the first day of July" in the Schedule.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

THE HON. ATTORNEY GENERAL moved that Section 5 be deleted, in accordance with the recommendation of the Special Committee, and the following substituted:—

"Anything in this Ordinance to the contrary notwithstanding, it shall be lawful for the Head of any Government Department to open the Offices and works thereof and to call upon all or any persons employed in such Department to perform such of their duties on any Public Holiday as to such Head of Department may seem fit."

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

THE ATTORNEY GENERAL moved that the Bill be reported to Council.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

### The Council resumed its sitting.

### IN COUNCIL.

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of this Bill later in the morning.

## The Stage Plays and Cinematograph Exhibitions Ordinance 1912.

THE HON. C. W. HOBLEY read the report of the Special Committee appointed to consider a Bill intituled, "An Ordinance to make provision for the licensing of Theatres, Stage Plays, and Cinematograph Exhibitions, as follows:—

### REPORT OF SPECIAL COMMITTEE ON THE BILL TO MAKE PROVISION FOR THE LICENSING OF THEATRES, STAGE PLAYS, AND CINEMATOGRAPH EXHIBITIONS.

"The Committee has carefully considered the provisions of this Bill, and begs to submit the following recommendations for consideration of Council.

Section 3 (1) 3 (2). It is recommended that the word "advertise" in the first line be deleted as it is considered that in the case of travelling theatrical companies from other colonies who desire to advertise their visits a considerable period in advance it may operate harshly; as it may be impossible to submit the book of words to the licensing authority before the actual arrival of the performers.

"In the case of well known plays it would not matter; but it would probably be very inconvenient to a company giving a variety show.

"Section 5. It is considered that the stipulations as to description might prove burdensome on the exhibitor of a cinematograph show, and that the only effective control on exhibitors of a doubtful nature is by inspection of the film and facilities for such inspection, and are not especially laid down in the section at issue. It is therefore proposed that Section 5 should be replaced by an amending one drafted by the Hon. the Attorney General on lines agreed upon.

"Section 7. In this Section it is considered necessary to insert a provision that the term of a licence should not exceed one year.

Nairobi,  
17th September, 1912.

C. W. HOBLEY,  
*Chairman.*

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider the provisions of this Bill.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council, His Excellency the Acting Governor presiding.

### IN COMMITTEE.

THE HON. ATTORNEY GENERAL moved the following amendments:—

Section 3 (1). The word "advertise" in the first line be deleted.

Section 3 (2). The word "advertise" in the first line be deleted.

Section 5. Delete and substitute:—

"A descriptive title of every picture or series of pictures intended to be presented at any Cinematograph exhibition shall be sent to the Licensing Officer with an account of the theatre where and the time when the exhibition is intended to be presented. The Licensing Officer may inspect or cause to be inspected any picture or pictures before issuing a licence in respect thereof."

Section 7. In line 7 insert after "period" the words "not exceeding 12 months.

Section 15. Becomes 15 (1)

(2) All rules proposed to be issued under the powers conferred by this section shall be published in the "Official Gazette" not less than 14 days before the same are enacted by the Governor.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

THE HON. R. C. BAYLON, in regard to Clauses 10, said that, if the following were the interpretation, he thought it would operate harshly. A man may put up a building, and rent it for a long period. Should the lessee fail to comply with the conditions of this clause, the licensing authority would come down on him. The Hon. Member did not think that was the real interpretation, but he would like to have a statement to that effect from the Hon. Attorney General.

THE HON. ATTORNEY GENERAL said that a person who built a theatre and leased it for a considerable term would be under no obligation to ascertain whether the prescribed licences had been obtained.

THE HON. B. G. ALLEN asked the Hon. Attorney General whether he would agree to the deletion of the word "attempt" in the 12th paragraph. He thought it would be time to punish when a person had committed a breach of the Ordinance, except in special cases. When a person was to be punished for an attempt to do a thing it opened a very wide range of possible crime, and this was not a case where it was necessary to punish attempts. Under the Indian Criminal Procedure Code, an attempt to commit a crime is usually punishable to only half the extent to which the actual commission of a crime is punishable.

THE HON. ATTORNEY GENERAL said he was not prepared to agree. It might be wrong to take proceedings against any person for an attempt to do something prohibited by the Ordinance but the clause applied also to offences against the rules under this Ordinance, and it might be that the rules enacted under this Ordinance providing for the safety of the public would be such as would require that a person should not even attempt to commit a breach of the rules, and he was therefore inclined to the opinion that it would be dangerous to omit the word "attempt". He did not think there was any danger of proceedings being taken against a person who might attempt to perform any stage play without sanction, and who desisted as soon as he was informed that he was offending against the law.

THE HON. B. G. ALLEN, in regard to Clause 14, asked whether, in view of the fact that the Municipal Committee and the public generally take great interest in these matters, it would be possible for any rules, proposed to be made by His Excellency the Governor, to be published in the "Official Gazette" and submitted to the Legislative Council, so that they might have an opportunity of discussing the same before they came into force.

THE HON. ATTORNEY GENERAL said that he thought the object would best be attained if provision were made that all rules under this clause should be published in the "Official Gazette" before being enacted. It might be inconvenient if His Excellency were prevented from making necessary rules until there had been a meeting of the Legislative Council.

THE HON. B. G. ALLEN said he thought this would suit admirably, if the draft rules were published in sufficient time for the authorities to meet—say a fortnight.

THE HON. ATTORNEY GENERAL moved that the Bill, as amended, be reported to Council.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

### **The Council resumed its sitting.**

#### **IN COMMITTEE.**

THE HON. ATTORNEY GENERAL gave notice that he would move the third reading of the Bill later in the day.

### **The East Africa Prisons Ordinance, 1912.**

THE HON. ATTORNEY GENERAL moved that a Bill intitled "An Ordinance to make Further and Better Provision for the Organisation of the Prisons Staff and the Management of Prisons" be read a third time. He said that since the previous sitting he had discussed the Bill with the Inspector General of Police—who was responsible for the Bill now before the Council—and it was thought advisable to extend the provisions of the Ordinance relating to the Subordinate Staff to Wardresses. He therefore moved that the Council go into Committee to consider certain amendments, including the question of the advisability of inserting clauses providing that Europeans should, as far as possible, be imprisoned in separate buildings from Non-Europeans; also to make amendments to clause 139.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

The Council resolved itself into a Committee of the whole Council. His Excellency the Acting Governor presiding.

### IN COMMITTEE.

THE HON. ATTORNEY GENERAL said that under the Bill as introduced, no special provision was made for appointment of wardresses or for maintaining discipline with female members of the prison staff; or for granting gratuities to wardresses after 12 or 21 years' service.

He moved, as a general motion, that the provisions of this Bill be extended to the wardresses, so as to enable them to be controlled, and to obtain the benefits allowed to warders.

THE HON. B. G. ALLEN asked the Hon. Attorney General, as he had had no notice of the amendments, whether the Matron was now provided for as regards discipline, in the same way as warders, or what was her exact position.

THE HON. ATTORNEY GENERAL said that the amendments proposed would not affect the Matron, who would be in the same position as the Gaolers and subject to the Colonial Office Regulations.

THE HON. ATTORNEY GENERAL moved the following Amendments.

- Clause 20. Delete the words "Asiatic and Native".
- Clause 42. Delete "Warder and substitute "Subordinate Officer".
- Clause 43. Delete "Chief Warder or Warder" and substitute "Subordinate Officer" throughout.
- Sub-sections (1) (2) & (3).
- Clause 44. Delete "Chief Warder or Warder" and substitute "Subordinate Officer".
- Sub-sections (1) Delete "an Asiatic or African Chief Warder or Warder" and substitute & (2). "a Subordinate Officer".
- Sub-section (3) Delete "Chief Warder or Warder" and substitute "Officer".
- Clause 45. Delete "man" and substitute "Subordinate Officer".
- Clause 47. In lines 2 and 4 delete "Chief Warder or Warder" and substitute "Subordinate Officer".
- Clause 48. Delete "Chief Warder or Warder" and substitute "Subordinate Officer".
- Clause 49. Delete "Chief Warder or Warder" and substitute "Subordinate Officer".
- In (c) delete "Warder" and substitute "Officer".
- In penultimate line delete "Chief Warder or Warder" and substitute "Officer".
- Clause 50. Delete "Chief Warder or Warder" and substitute "Subordinate Officer".
- Clause 51. Substitute "Subordinate Officer" for "Chief Warder or Warder" throughout.
- Clause 52. In line 2 substitute "Subordinate Officer" for "Chief Warder or Warder".
- Sub-section (1) After "4th, 5th and 6th grade Warders Rs. 50" add "Wardress Rs. 50".
- In the second Scale delete "75" and substitute "95" and add at end of scale :—
- |                                |      |      |        |
|--------------------------------|------|------|--------|
| 4th, 5th and 6th grade Warders | ...  | ...  | Rs. 75 |
| Wardress                       | .... | .... | Rs. 75 |
- Sub-sections (2) Substitute "Subordinate Officer" for "Chief Warder or Warder" throughout.
- & (3).
- Sub-section (2) Substitute "Subordinate Officer" for "Chief Warder or Warder" throughout.
- Sub-section (3) (a) Add new Sub-section (2);
- (2) European prisoners and Non-European prisoners shall, when possible, be imprisoned in separate buildings or in separate parts of the same building.
- Clause 121. Substitute "Subordinate Officer" for "Chief Warder or Warder".
- Clause 122. Substitute "Subordinate Officer" for "Chief Warder or Warder".
- Clause 123. Delete "Chief Warder or Warder or to a Chief Warder or Warder" and substitute "Subordinate Officer or to a Subordinate Officer".
- Sub-section (3) (a) Substitute "Subordinate Officer" for "Chief Warder or Warder".
- Sub-section (3) (b)

- Clause 127. Delete "Asiatic or Native Subordinate Officer" and substitute "Subordinate Officer".
- Clause 130. Delete "Asiatic or Native Subordinate Officer" and substitute "Subordinate Officer".
- Delete "or without having given two months previous notice in writing of his intention to so withdraw".
- Clause 130. After "Superintendent" insert "or lawfully performing the duties of a Deputy Superintendent".

THE HON. ATTORNEY GENERAL moved that the Bill, as amended, be reported to Council.

THE HON. ACTING CHIEF SECRETARY seconded.

Before the motion was put, the Hon. B. G. Allen asked whether there was not some information to be obtained regarding the scale of food, with particular reference to the provision of 20 plantains in Clause 87 (a).

THE HON. ATTORNEY GENERAL said that he had made enquiries, and had been referred to the Uganda Ordinance, where provision is made that a man should be supplied with 20 plantains, which correspond with the quantity of other food for which plantains are substituted. 20 plantains equal about 2 lb. of sweet potatoes. He pointed out that if 20 plantains were found to be too much, power is given for the quantity to be altered.

THE HON. C. W. HOBLEY said plantains vary very much in size; but 7 lb. of ordinary green bananas would be a fair ration for a whole day. The skin would be nearly half the weight, leaving about 4 lb. of substance.

THE PRESIDENT said he should prefer to leave the clause as it stood.

THE HON. CHIEF OF CUSTOMS asked from what funds the different pensions and gratuities were paid.

THE HON. TREASURER said they would be met from Revenue.

### The Council resumed its sitting.

THE HON. ATTORNEY GENERAL reported the Bill, as amended, to Council.

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make Further and Better provision for the Organisation of the Prisons Staff and the Management of Prisons" be read a third time.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried, and the Bill was read a third time and passed.

### The Non-Native Poll Tax Ordinance, 1912.

THE HON. ATTORNEY GENERAL moved that the Council go into Committee to consider amendments to Clauses 11 and 13 of a Bill intituled "An Ordinance to make provision for the payment of a Poll Tax by Non-Natives".

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

THE HON. ATTORNEY GENERAL said he understood that Hon. Unofficial Members whilst admitting that it was necessary that the Government should have some summary method of recovering the tax, desired that the procedure should, as far as possible, be a civil one. He was prepared to accept any amendment deleting any reference to criminal procedure. He proposed the following:—

- Clause 11.—(2) Substitute in line 5 "civil" for "criminal."  
 11.—(3) " " " " line 3 do.

THE HON. ACTING CHIEF SECRETARY seconded, and the amendments were agreed to.

THE HON. ATTORNEY GENERAL proposed the following addition to Clause 13, viz:—

- (4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax be *prima facie* evidence that the tax has not been paid.

He said this was necessary owing to the fact that under the Ordinance a person might pay his tax anywhere at the office of a District Commissioner. It would, obviously, be impossible to call any one person to prove to the satisfaction of the Court that the tax had not been paid. In the case of a tax on land or houses, the tax must be paid at a specified office, and non payment could be

proved by one witness or by the production of one book. In the case of a tax to be paid anywhere at any District Commissioner's office, it was necessary that provision should be made that it be upon the individual to prove that he has paid the tax.

THE HON. ACTING CHIEF SECRETARY seconded, and the amendments was carried.

THE HON. ATTORNEY GENERAL moved that the Bill, as amended, be reported to Council.

### **The Council resumed its sitting.**

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make provision for the payment of a Poll Tax by Non-Natives" be read a third time.

THE HON. ACTING CHIEF SECRETARY seconded.

The Bill was read a third time and passed.

### **The Public Holidays Ordinance, 1912.**

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make provision for Public Holidays" be read a third time.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

The Bill was read a third time and passed.

### **The Stage Plays and Cinematograph Exhibitions Ordinance, 1912.**

THE HON. ATTORNEY GENERAL moved that a Bill intituled "An Ordinance to make provision for the licensing of Theatres, Stage Plays, and Cinematograph Exhibitions" be read a third time.

THE HON. ACTING CHIEF SECRETARY seconded, and the motion was put and carried.

The Bill was read a third time and passed.

THE HON. R. C. BAYLON gave notice that at the next Meeting of Council he would propose a motion to call attention to the grave danger to the health of the Community which exists due to the insanitary condition of certain parts of Nairobi and to the effect which the lack of facilities for the provision of decent housing accommodation for the artizan and labouring classes is having upon the industries of the Town.

The President said that on the first day of the session he had announced the appointment of a Labour Commission. He regretted that Lord Delamere had now tendered his resignation, as he was unable to find the time. He (the President) was taking the necessary steps to appoint a substitute, which would be duly announced and published.

Before the Council adjourned, the President said he would like to express on behalf of the Government his great appreciation of the services rendered to the Protectorate by Mr. Hollis and to congratulate him on his well earned promotion to another colony-Sierra Leone.

He said Mr. Hollis joined the Protectorate Service on 12th March, 1897, previous to which he had been in private employment in German East Africa. He was first stationed at Rabai, where he rendered valuable service in recruiting porters for the Uganda mutiny relief expeditions. He was subsequently stationed at Taveta, Shimoni, and Mombasa. He acted as Vice-Consul at Dar-es-Salaam during parts of the years 1900 and 1901, was promoted to the rank of Collector in 1900, and became Secretary to the Administration in 1901, which post he held until 1907, when he became Secretary for Native Affairs, and a Member of the Legislative Council. He was made a C.M.G., in 1911, and acted as Chief Secretary during most of that year and 1912. He held the African Service Medal, with Jubaland and Nandi clasps. He was a recognised authority on East African languages and dialects, and had published "The Masai, their language and folklore", (1905), "The Nandi, their language and folklore", (1909), as well as many articles and pamphlets of an anthropological and ethnological character.

He had filled his onerous positions with satisfaction to all concerned and his promotion was well earned.



The position of Secretary for Native Affairs had been a very difficult post, as Hon. Members would realise, owing to the entire change of conditions affecting native life, due to the advent of European settlers and to the general development which has taken place throughout the country.

During the greater part of 1911, and whilst Sir Percy Girouard was on leave this year, Mr. Hollis acted as Chief Secretary. He wished to tender him his thanks for the valuable assistance rendered during the latter period. In conclusion, the President wished Mr. Hollis every success in his career on the West Coast, and congratulated the Government of Sierra Leone on securing the services of so able an officer.

MR. HOLLIS, in reply, said he was very grateful for the President's kind words, and expressed himself very sensible of the honour conferred upon him on his promotion to the West Coast. However, it was with mixed feelings that he accepted that promotion. He looked forward to many years of future work; but he would always look back to the happy days he had spent in East Africa. His services here had met with appreciation, and he hoped his future work in the Government would be likewise appreciated.

It was indeed a sad day for him when he severed his connection with the Protectorate, as he had looked upon East Africa as his adopted home. He had been here exactly half his life, and it was with no small emotion that he left.

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