

TANGANYIKA (LEGISLATIVE COUNCIL) ORDER IN COUNCIL, 1926

AT THE COURT AT BUCKINGHAM PALACE, THE 19TH DAY OF MARCH, 1926.

Present:

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

Whereas by an Order in Council bearing date the 22nd day of July, 1920, His Majesty, by and with the advice of His Privy Council, was pleased to constitute the office of Governor and Commander-in-Chief in and over the Territory of Tanganyika, and amongst other things to provide for the making of Ordinances by the Governor for the said Territory, and was further pleased to reserve to Himself, His heirs and successors His and their undoubted right, with the advice of His or their Privy Councils, from time to time to make all such laws or ordinances as might appear to Him or them necessary for the peace, order and good government of the Territory:

And whereas by the Foreign Jurisdiction Act, 1890, it is amongst other things communicated that it shall be lawful for His Majesty to hold, exercise and enjoy any jurisdiction which His Majesty now has, or may at any time hereafter have, within a foreign country in the same and as ample a manner as if His Majesty had acquired that jurisdiction by the cession or conquest of territory:

And whereas by treaty, grant, usage, sufferance and other lawful means His Majesty has power and jurisdiction within the Tanganyika Territory, and whereas it is expedient to make other provisions than in the said recited Order in Council are contained for the enactment of Ordinances necessary for the peace, order and good government of the territory by the establishment of a Legislative Council for the said Territory:

Now therefore, His Majesty, by virtue and in exercise of all powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows : -

- I. This Order may be cited as the Tanganyika (Legislative Council) Order in Council, 1926.
- II. This Order shall apply to the Tanganyika Territory as defined in the Tanganyika Order in Council, 1920.
- III. In this Order His Majesty includes His Majesty's heirs and successors; "Secretary of State" means one of His Majesty's Principal Secretaries of State; "Territory" means the Tanganyika Territory to which this Order applies; "Governor" means the Governor and Commander-in-Chief for the time being of the Territory and includes every person for the

time being administering the Government of the said Territory; "Council" means the Legislative Council established by this Order, which Council shall be known as "The Legislative Council of Tanganyika Territory" "The Gazette" means the Tanganyika Territory Gazette published under the authority of the Governor.

IV. From and after a date to be fixed by the Governor by proclamation published in the *Gazette* there shall be constituted a Legislative Council in and for the Territory as in this Order provided.

V. Legislative Council constituted from and after the 1st October 1926, by G.N. 72 of 1926

VI. New clause substituted by the Tanganyika (Legislative Council) Amendment 42 and 45.

VII. New clause substituted by the Tanganyika (Legislative Council) Amendment Order Council, 1935, p. 42, and amended by the Tanganyika (Legislative Council) Amendment Order in Council, 1945, p. 45.

VIII. Whenever upon any special occasion the Governor wishes to obtain the views of any person within the Territory touching any matters about to be brought before the Council, he may by an instrument under the Public Seal appoint any such person to be for such occasion an Extraordinary Member of the Council.

IX. The Members of the Council shall take precedence as His Majesty may specially assign, and in default thereof : -

(1) First the Official Members according to their seniority in the Executive Council or, if they are not Members thereof, according to the order in which they are named in Article 6 of this Order;

(2) Secondly, the Unofficial Members according to the length of time during which they have been continuously members of the Council, Members appointed at the same time taking precedence among themselves according to the alphabetical order of their names.

Provided nevertheless that any such Member re-appointed immediately on the termination of his term of office shall take precedence according to the date from which he has been continuously a Member of the Council.

X. No Member of the Council shall sit or vote therein until he shall have taken and subscribed the following oath before the Governor or some person authorised by the Governor to administer such oath: -

"I, do sincerely promise and swear that I will be faithful and bear true allegiance to His Majesty King George, His heirs and successors according to law.

"So help me God."

Provided that every person authorised by law to make an affirmation instead of taking an oath may make such affirmation instead of taking the said oath.

XI. Whenever any Unofficial Member of the Council shall die or shall, with the permission of the Governor, by writing under his hand addressed to the Governor, resign his seat in the Council, or shall be suspended from the exercise of his functions as a Member of the Council, or shall be declared by the Governor by an instrument under the Public Seal to be incapable of exercising his functions as such Member, or shall be temporarily absent from the Territory, the Governor may, by an instrument under the Public Seal, appoint some other person resident within the Territory to be provisionally a Member of the Council in the place of the Member so dying, resigning, or being suspended, or declared incapable or absent.

Every person so provisionally appointed shall be to all intents and purposes an Unofficial Member of the Council until his appointment shall be disallowed, or revoked, or superseded by the definitive appointment in his place of an Unofficial Member of the Council, or until the person in 'whose place he has been appointed shall be relieved from suspension, or declared by the Governor by an instrument under the Public Seal to be capable of exercising the functions of a Member of the Council, or shall have returned to the Territory.

XII. The Governor shall without delay report to *His Majesty for his confirmation or disallowance, signified through* a Secretary of State, every provisional appointment of any person as an Unofficial Member of the Council. Every such person shall hold his office in the Council during His Majesty's pleasure, and the Governor may by an instrument under the Public Seal revoke every such appointment.

XIII. The Governor may by an instrument, under the Public Seal, suspend any Official Member or any Unofficial Member of the Council from the exercise of his functions as a Member of the Council. Every such suspension shall be forthwith reported by the Governor to the Secretary of State and shall remain in force unless and until it shall be either removed by the Governor by an instrument under the said Seal or disallowed by His Majesty through a Secretary of State.

XIV. It shall be lawful for the Governor with the advice and consent of the Council to make laws for the administration of justice, the raising of revenue and generally for the peace, order and good government of the Territory. Such laws shall be styled "Ordinances" and the enacting words shall be "enacted by the Governor of Tanganyika with the advice and consent of the Legislative Council thereof."

XV. When a Bill passed by the Council is presented to the Governor for his assent he shall, according to his discretion but subject to any instructions addressed to him under His Majesty's Sign Manual and Signet, or through a Secretary of State, declare his assent to the same or that he reserves the same for the signification of His Majesty's pleasure.

XVI. No Ordinances shall take effect until either the Governor shall have assented thereto in His Majesty's name and on His Majesty's behalf, and shall have signed the same in token of such assent, or until His Majesty's assent thereto has been given through a Secretary of State. Every Ordinance assented to by the Governor shall be published in the *Gazette*, and

unless it be otherwise provided in the Ordinance shall take effect and come into operation as law on the date of such publication.

XVII. A Bill reserved for the signification of His Majesty's pleasure shall take effect as soon as His Majesty's assent to the same shall have been given through a Secretary of State and the Governor shall have signified such assent by publication in the *Gazette*, provided that no such publication shall be made after two years from the day on which the Bill was presented to the Governor for his assent.

XVIII. The Governor shall observe any general or special instructions of the Secretary of State with respect to the previous submission to the Secretary of State of draft Ordinances, to the making of Ordinances for particular purposes, to the amendment of Ordinances or draft Ordinances and to other matters in relation thereto; but nothing in this provision shall affect the validity of any Ordinance.

XIX. In making Ordinances the Governor and Council shall respect existing native laws and customs except so far as the same may be opposed to justice or morality.

XX. The Governor shall at the first available opportunity transmit to the Secretary of State two authenticated copies of every Ordinance passed by the Governor with the advice and consent of the Council.

XXI. The Secretary of State may disallow any Ordinance wholly or in part, and upon such disallowance being publicly notified in the *Gazette* the provisions so disallowed shall thereupon cease to have effect, but without prejudice to anything lawfully done or suffered thereunder.

XXII. There shall be reserved to His Majesty, His heirs and successors, His and their undoubted right, with the advice of His or their Privy Council, from time to time to all such laws or Ordinances as may appear to Him or them necessary for the peace, order and good government of the Territory.

XXIII. The Governor shall transmit to the Chief Justice Tanganyika, to be enrolled in the Supreme Court, a transcript, authenticated under the Public Seal and by his own signature of every Ordinance made by the Governor under the provisions of the Tanganyika Order in Council, 1920, and of every Ordinance passed by the Governor with the advice and consent of the Council, and of every Bill reserved by him for the signification of His Majesty's pleasure. He shall also from time to time transmit to the Chief Justice, to be enrolled in the said Court, a certificate under his hand and seal of the effect of every order or other direction which he may have received from His Majesty or from the Secretary of State for confirming or disallowing the provisions of any such Ordinance or Bill, which certificate shall in like manner be enrolled in the said Court and there remain on record to the intent that the Judges of the said Court may without further or other proof take cognisance of all Ordinances made and promulgated for the peace, order and good government of the Territory: provided always that the Judges of the said Court have not and shall not have any right or authority to prevent or delay the enrolment of any such Ordinance or Bill and that the validity thereof does not and shall not depend upon such enrolment.

XXIV. The Ordinances of each year shall be numbered consecutively and each may be cited by its number and year or by its short title if any.

XXV. An Ordinance may apply to the Territory an Act or Law of the United Kingdom or of any legislature of India or of any Colony or Protectorate, subject to any exceptions and modifications which may be deemed fit.

XXVI. The Governor shall at the first available opportunity after any rules or regulations are made under any Ordinance by any person or body authorised, transmit two authentic copies thereof to the Secretary of State.

XXVII. An Ordinance shall not be repealable by any rules or regulations made under Ordinance.

XXVIII. An Ordinance varying or affecting any Order in Council relating to the Territory shall not come into force unless it has been previously approved by the Secretary of State, and such approval shall be recited therein.

XXIX. The Governor, if present, or, in the absence of the Governor, such Member of the Council as the Governor shall from time to time appoint, or, in default thereof or in the absence of such Member, the Member present who stands first in order of precedence, shall preside at the meetings of the Council.

XXX. Every Member of the Council may, upon due notice being given, propose any Ordinance or resolution which does not impose any tax or dispose of or charge any part of the public revenue.

XXXI. No Member of the Council may propose any Ordinance, vote or resolution, the object or effect of which is to impose any tax or to dispose of or charge any part of the public revenue, unless that Ordinance, vote or resolution shall have been proposed by the direction or with the express sanction of the Governor.

XXXII. The Council shall not be disqualified for the transaction of business by reason of any vacancy or vacancies among, the Members; but no business except that of adjournment shall be transacted unless there shall be present at least six Members besides the Governor or other presiding Member.

XXXIII. Subject to the provisions of this Ordinance the Governor and the Council shall, in the transaction of the instructions business of the Council and the passing of, assenting to, and enrolment of Ordinances, conform as nearly as may be to the directions contained in any instructions under His Majesty's Sign Manual and Signet which may hereafter be addressed to the Governor in that behalf; but no Ordinance enacted by the Governor with the advice and consent of the Council shall be invalid by reason that in the enactment thereof any such instructions were not duly observed.

XXXIV. The Sessions of the Council shall be held at such times and places as the Governor shall from time to time by proclamation appoint. There shall be at least one session of

Council in every year, and there shall not be an interval of twelve months between the last sitting of one session and the first sitting of the next following session. The first session shall be held within six months from the coming into operation of this Order.

XXV. The Governor may at any time by proclamation prorogue the Council.

XXXVI. All questions proposed for debate in the Council shall be decided by the majority of votes and the President shall have an original vote in common with the other Members of the Council, and also a casting vote if upon any question the vote shall be equal.

XXXVII. The Governor may with the advice of the Council from time to time make, alter, revoke or renew such Standing Rules and Orders as may be necessary to ensure punctuality of attendance of Members of the said Council, and to prevent meetings of the said Council being held without convenient notice to the several Members thereof, and to maintain order and method in the despatch of business and in the conduct of debates in the said Council, and to secure due deliberation in the passing of Ordinances, and to provide that before the passing of any Ordinance intended to affect the interests of private persons due notice of the provisions thereof is given to all persons concerned therein.

All such Rules and Orders not being repugnant to any Letters Patent for the time being in force in the Colony or to any Order of His Majesty in Council or to any instructions which the Governor may receive from His Majesty shall at all times be followed and observed and shall be binding upon the said Council unless the same or any of them shall be disallowed by His Majesty.

XXXVIII. It shall be competent to any Member of the Council to propose any question relating to the affairs of the Territory for debate therein, and if seconded by any other Member such question shall be debated and disposed of in accordance with the Standing Rules and Orders: provided always that every Ordinance, vote, resolution or question the object or effect of which may be to dispose of or charge any part of the public revenue shall be proposed by the Governor unless the proposal of the same shall have been directed or expressly sanctioned by him. Provided further that any resolution or question which any Member may propose to bring forward for debate shall be notified to the Governor at least ten days before the meeting of the Council.

XXXIX. Minutes shall be regularly kept of all the proceedings of the Council and at each meeting of the Council the minutes of the last proceedings meeting shall be confirmed or amended, as the case may require, before proceeding to the despatch of any other business.

The Governor shall transmit to His Majesty through the Secretary of State, as soon as possible after every meeting, a full and exact copy of the minutes thereof.

XL. This Order shall come into operation on a date to be fixed by the Governor by proclamation in the *Gazette* and shall be published in the said *Gazette*, and the Governor shall give directions for the publication of this Order at such places and in such manner and for such time or times as he thinks proper for giving due publicity thereto within the Territory.

XLI. From and after the date commencement of the first Session of the Council held in pursuance of this Order, Article XIII of the Tanganyika Order in Council 1920, shall be revoked without prejudice to anything lawfully done thereunder.

XLII. His Majesty may from time to time revoke, alter, add to or amend this Order.

And the Right Honourable Leopold Stennett Amery, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein.

M. P. A. HANKEY