

necessary for the peace, order and good government of His Majesty's subjects and others within any British Settlement:

And whereas by the Kenya (Annexation) Order in Council, 1920, the territories comprised in the East Africa Protectorate as specified in the East Africa Order in Council, 1902, save and excepting only such territories therein included as form part of the dominions of His Highness the Sultan of Zanzibar were annexed to and now form part of His Majesty's dominions and are known as the Colony of Kenya:

And whereas the said Colony is a British Settlement within the meaning of the said Act:

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Act, 1887, or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as "The Kenya Colony Order in Council, 1921." The limits of this Order are the territories defined in the Kenya Colony and Protectorate (Boundaries) Order in Council, 1921, as included in the Colony of Kenya. The said territories are in this Order referred to as "the Colony."

2.—(1) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Governor for the time being in trust for His Majesty.

(2) The Governor may make grants or leases of any Crown lands or may permit them to be temporarily occupied on such terms and conditions as he may think fit, subject to the provisions of any Ordinance.

(3) "Crown lands" shall mean all public lands in the Colony which are for the time being subject to the control of His Majesty, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever and shall include all lands occupied by the native tribes of the Colony and all lands reserved for the use of the members of any native tribe.

3. All Ordinances, Proclamations, Regulations, Rules, or other public notifications shall be published in the Official Gazette of the Colony and Protectorate of Kenya, and also in such other manner, if any, as the Governor may direct in the case of any particular notification.

4.—(1) There shall be a Court of Record styled His Majesty's Supreme Court of Kenya (in this Order referred to as "the Supreme Court") with full jurisdiction, civil and criminal, over all persons and over all matters in the Colony.

(2) Subject to the other provisions of this Order, such civil and criminal jurisdiction shall, so far as circumstances admit, be exercised in conformity with the Civil Procedure and Penal Codes of India and the other Indian Acts which are in force in the Colony at the date of the commencement of this Order and subject thereto and so far as the same shall not extend or apply shall be exercised in conformity with the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 12th day of August, 1897, and with the powers vested in and according to the procedure and practice observed by and before Courts of Justice and Justices of the Peace in England according to their respective jurisdiction and

authorities at that date save in so far as the Civil Procedure and Penal Codes of India and the other Indian Acts in force as aforesaid and the said common law doctrines of equity and the statutes of general application and the said powers, procedure and practice may at any time before the commencement of this Order have been or hereafter may be modified, amended or replaced by other provisions in lieu thereof by or under the authority of any Order of His Majesty in Council, or by any Ordinance or Ordinances for the time being in force in the Colony.

Provided always that the said common law doctrines of equity and the statutes of general application shall be in force in the Colony so far only as the circumstances of the Colony and its inhabitants permit and subject to such qualifications as local circumstances render necessary.

(3) The Supreme Court shall sit at such place or places as the Governor may appoint.

(4) The Supreme Court shall have a Seal bearing the style of the Court and a device approved by the Secretary of State; until such seal is provided the seal of the present High Court of East Africa may be used.

5. The Supreme Court shall be a Court of Admiralty and shall exercise admiralty jurisdiction in all matters arising on the high seas or elsewhere or upon any lake or other navigable inland waters or otherwise relating to ships and shipping.

6.—(1) Courts subordinate to the Supreme Court, and Courts of special jurisdiction, may be constituted by or under the provisions of any Ordinance as occasion requires.

(2) Provision may be made by Ordinance for the hearing and determining of appeals from any such Court by the Supreme Court or otherwise.

7. In all cases civil and criminal to which natives are parties, every Court (a) shall be guided by native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance, or any regulation or rule made under any Order in Council or Ordinance; and (b) shall decide all such cases according to substantial justice without undue regard to technicalities or procedure and without undue delay.

8. If any sentence of death is pronounced by the Supreme Court a copy of the evidence shall be transmitted to the Governor, and the sentence shall not be carried into effect until confirmed by him.

9. Subject to the provisions of any Ordinance, the Supreme Court may, with the approval of the Governor, make rules for regulating the practice and procedure of the Supreme Court and of all other Courts which may be established in the Colony.

The power to make rules under this Article shall include (a) a power to fix fees and scales of remuneration, and (b) a power to regulate the conditions on which persons may be admitted to practice as advocates or solicitors in the Courts of the Colony.

At the first available opportunity after any such rules are made, the Governor shall transmit an authenticated copy thereof to the Secretary of State.

10.—(1) A court under this Order shall not exercise any jurisdiction in any proceeding whatsoever over the Governor or his official or other residences, or his official or other property.