

1928

Kenya

No. 5273

Sub-File A

SUBJECT

C O 533/379

Collective Punishments Ord.

Power of Senior Commissioner
R.F.P. to impose fines under

Previous

main file

Subsequent

15799/29

3814/35

1. Gov. Glegg 3/11/28
consider it desirable to refer to the Senior Council
of N.F.P. power to impose fines under Collective
Penalties Order up to a maximum of £500.
Request approved

22nd June 1928

H. Buske

Will you please advise whether
he can legally ^{can legally} ~~have~~ delegate his
powers as proposed?

H. Allen

Yes in terms of S 13 for Interpretation
Act - which of the two has been referred to -
to do that.

9/8/28

H. B.

15/7

Then approve?

H. Allen

23/7/28

The proposal, although somewhat
out of the ordinary, is justified
by the exceptional circumstances
of the Northern Frontier Province.

It is only that in the
exceptional circumstances
arising in the N.F.P.
the Govt. approves the
action proposed.

All Affairs

I shall have prepared a
maximum a four day slot of £500

23.7.28

but as per [unclear]

1945

23.7.45

[unclear]

Proceedings of
the [unclear]
[unclear]

~~DESTROYED UNDER STATUTE 1954 (and)~~

[unclear]



KENYA

No. 377

3
GOVERNMENT HOUSE,
NAIROBI
KENYA

RECEIVED

16 JUN 1928

22nd June 1928

Sir,

I have the honour to inform you that I consider it desirable that I should depute to the Senior Commissioner, Northern Frontier Province the powers conferred upon me by Sections 4, 6, and 9 of the Collective Punishment Ordinance, Chapter 77 of the Revised Edition, with a proviso to the effect that no fine imposed by him shall exceed £500, and I shall be glad to be informed if such a course meets with your approval.

2. Briefly the powers referred to enable me to impose collective fines on communities definitely proved to be guilty of collusion with criminals in cases of undetected murder or theft of property or of conspiracy to defeat the ends of justice by suppressing evidence or neglecting to effect the criminal's arrest.

3. Among the tribes of the Northern Frontier Province, the great distances combined with the scattered nature of the population and the inherited tendencies of these nomads to vendetta and other forms of lawlessness, render the normal processes of law very difficult of application, with the result that murders are committed with regrettable

THE RIGHT HONOURABLE

LIEUTENANT COLONEL L. C. M. S. AMERY, P. C., M. P.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S. W. 1.

-frequency-

frequency and with comparative impunity.

4. Local custom ordains that the murder may be expiated and complete satisfaction be given by the payment of a number of head of stock to the value of about £200 as "dia" or blood money. Failure to pay this blood money imposes on the victim's tribe an obligation to retaliate by murdering a member of the tribe of the perpetrator. A custom which sanctions the taking of human life at a cost of £200 is one which cannot, of course, be countenanced and one which I am most anxious to eradicate.

5. In certain cases of which you have been informed I have imposed Collective Fines on the guilty tribes, but the necessity of reference to me in every case inevitably means delay. Some of the districts of the Northern Frontier Province are over five hundred miles distant from Nairobi, and communications are very uncertain. I am of opinion that whenever it is possible retribution should follow swiftly upon the crime, and that the tribesmen must be taught in no unmistakable manner that this Government will not tolerate their lawlessness and will no longer acquiesce in the compounding of murder.

6. I consider that the first step towards engendering a realisation of Government's attitude towards these crimes, is to impress upon all concerned the fact that they will invariably be followed by immediate and severe penalties.

7. I hope that when this fact is

-fully-

fully appreciated the tribal authorities will be more inclined to perform their obvious duty in surrendering criminals to justice, and that in consequence these intertribal murders will become of less frequent occurrence.

8. The limit of £500 is suggested as the penalty if it is to be effective must, in any case, exceed the normal amount of blood money, and it sometimes happens that, in the course of an enquiry into the circumstances of one of these intertribal murders, it transpires that more than one man has lost his life.

9. It will of course be always open to the Senior Commissioner, Northern Frontier Province to refer any case to me for the imposition of a still larger fine if he is not satisfied that a fine of £500 or less would be adequate in a particular instance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Edward Gigg

GOVERNOR