

1929

Kenya

No. 15745

SUBJECT

CO 533/389

Wagraney legislation

Previous

Gov. 1875/26

Subsequent

16112/30

1929

Kenya.

No. 15745

SUBJECT

CO 533/389

Vagrancy legislation

Previous

Gov. 1875/26

Subsequent

16112/30

Memorandum regarding Vagrancy legislation
of Kenya.

This memorandum was prepared for the purposes
of the Office Committee which considered Report and
Questionnaire on Forced Labour prepared by the Inter-
national Labour Office. A copy of the Report of the
Committee has been registered for record in 20463
E.A. This may be put by.

J.M.L.

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VAGRANCY LEGISLATION OF KENYA.

In Section 2 of the consolidating Ordinance No. 9 of 1920 "vagrant" was defined as

- (a) Any person asking for alms.
- (b) Any person wandering about, or without leave of the owner thereof, lodging in any verandah, outhouse, shed or unoccupied building, or in any cart, vehicle or other receptacle, and not having any visible means of subsistence.
- (c) Any person wandering about who cannot satisfy the Police that he possesses adequate means of subsistence from a legitimate source.

When the Ordinance of 1920 was received it was fully realised that it would probably be regarded by the suspicious as a means of driving to work all natives who were found to lodge outside the Reserves.

Exception was taken to the elaboration of the definition "vagrant", as it was thought that sub-Section (c) of ~~Section~~ ^{Section} 2 might be used oppressively, and that all proper cases would probably fall under sub-Section (b). Therefore in sanctioning the Ordinance the O.A.G. was asked to take the first convenient opportunity of introducing (among certain other amendments) an amendment deleting ~~Section~~ ^{Section} 2 (c).

In reply the Government pointed out that the omission of sub-Section (c) of ~~Section~~ ^{Section} 2 rendered sub-Section (b) ambiguous and submitted the following alternative definitions which the Secretary of State approved:-

- (a) Any person asking for alms.
- (b) Any person wandering about and unable to show that he has visible and sufficient means of subsistence.
- (c) Any person lodging in any verandah, outhouse, shed or unoccupied building, or in any cart, vehicle or other receptacle without leave of the owner thereof, and not having any visible means of subsistence.

An amending Ordinance was passed accordingly, and the definitions appear in the existing Law, Chapter 63, in this form, with the addition of a further definition made by Ordinance 17 of 1925 in the following terms:-

"Any person offering, pretending, or professing to tell fortunes, or using any subtle craft, means or device by palmistry or otherwise to deceive or impose upon any person".

Under Section 11 of Chapter 63 a magistrate may order a vagrant

- (1) To find work within a prescribed period, and to report to the magistrate at a prescribed time.
- (2) To be detained in a house of detention,
- (3) If he be a native of the Protectorate, to be returned to the area, if any, reserved for the use of his tribe.

If such a native fails to find work or to report, the magistrate may order him to be returned to the area, if any, reserved for the use of his tribe. If a native who after being so returned leaves the area without the licence in writing of the Provincial Commissioner he is guilty of an offence and is liable to imprisonment of either description, not exceeding six months. A magistrate may order the detention of a vagrant native in a house of detention (Section 4 empowers the Governor to provide houses of detention for the reception of vagrants) or prison pending his return to the area reserved for the use of his tribe or sub-tribe.

It may be added that the Vagrancy Ordinance has

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has been scheduled to the Detention Camps Ordinance so
that detention in a Camp may be ordered as an alternative
to detention in a house of detention or prison.

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