

EAST AFR. PROT.

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1917

PRISONER G.W.C. COOMBS

REMOVAL TO ENGLAND

11 July

Last previous Paper.

H.O.

5000

Reports circumstances in which second sentence of two years has been reduced to a sentence of 4 days. It is hoped he will shortly be able to obtain an order of 3rd Feb is being acted on rather than wait for issue of fresh order.

the Bailey

the Nelson Bay

W. Butler

On the assumption that the...
... (in the last para. of...)
... a fresh order of removal...
... requested in the...
... apparently be unnecessary to...
... send H.O. a copy of the...
... for their info?

Mr. Clark is likely to write...

... on the grounds of...

Next in sequence Paper.

... it is not yet seen necessary to...
... take any action of his... in...

Copy H.O. on 22 Aug 17

To 8/11/17

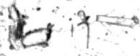
Hardly true that the remission of
heat of the vertebra affects the order
of removal, but we can leave the
H.O. to guess the point of things

See p. 17

811 12/8/17

17.5.17

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at once

200

EAST AFRICA PROTECTORATE.
No. 400

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

July 11th, 1917.

Sir,

400
1942
16-7

I have the honour to refer to my despatch No. 772 of the 5th of December, 1916, requesting that you would be pleased to order the removal of George William Gordon Coombes to the United Kingdom under the Colonial Prisoners Removal Act, 1884. Since the issue of the order of removal enclosed in your despatch No. 127 of the 5th February the prisoner has petitioned me to exercise clemency in respect of his second sentence of two years rigorous imprisonment which was imposed on the 25th day of October, 1916. On inquiry into the facts it appears that the prisoner was sentenced to two years rigorous imprisonment on the 1st of September, 1916, by Mr. Pickering, sitting as an Acting Judge of the High Court for an offence punishable under Section 420 of the Indian Penal Code. Some seven weeks after

H.O.
100-0

THE RIGHT HONOURABLE

WALTER LANG, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W.

after the date of that conviction i.e. on the 25th October, 1916, the prisoner was tried for a similar offence and sentenced to a similar term of two years rigorous imprisonment by Mr. Justice Ehrhardt. The Judge, however, was apparently unaware of or forgot the provisions of Section 315 (Criminal Procedure Code, 1911 No. 6 of 1914), and ordered that the sent. should run from the date of the conviction thus in fact giving the prisoner an additional sentence of about seven weeks for the second offence. The terms of the above Section were subsequently brought to the notice of the Judge and he then altered his judgment to make it agree with the law, that is to say, he ordered the sentence of two years rigorous imprisonment to run consecutively with that of the 1st September, 1916. In the case of another convict, Henry William Lovesay, in which the same Judge made a similar error and a similar subsequent amendment the Court of Appeal decided that the Judge had no power to vary a judgment once given. A judgment was interpreted by the Court as including the order dealing with the date from which the sentence was to run. The sentence in this case was accordingly reduced by the Court to expire on the date on which it would have expired if the Judge's original order had held good. Having in view the judgment of the Court of Appeal in the case of Lovesay and the fact that the Judge in determining the sentence passed in October, 1916, on Coombes took the sentence which the prisoner was then serving into

into consideration I have with the advice of my Executive Council reduced the last sentence of two years to a sentence of 54 days rigorous imprisonment which will commence to run at the expiration of the sentence imposed in September, 1916, thus carrying into effect the original judgment.

2. In considering the errors of procedure made by Mr. Justice Ehrhardt it must be remembered that he was at the time in a very bad state of health and hardly able to perform his duties on the Bench.

3. Owing to the difficulty of arranging for escorts and passages Coombes has not yet been removed under your order of the 3rd February, 1917, but an agreement has now been reached with the Military Authorities in respect of his transport and it is hoped that he will shortly leave. In these circumstances I have deemed it desirable to act on your order of the 3rd of February rather than to wait for the issue of a fresh order and to send with the convict particulars of the remission of his sentence; vide the Colonial Prisoners Removal Act, 1884, Section 8 (1).

I have the honour to be,

Sir,

Your humble, obedient servant,

[Handwritten Signature]

EDWARD MANNING

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5000
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Box 40281 77 Seal

SC

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DRAFT.

The U.S. Home Office

22 August 1917

MINUTE.

- Mr. Branley to any (5000)
- Mr. Buttouche, 20/8/17
- Mr. Grindle.
- Mr. Lambert.
- Mr. Read.
- Sir G. Fiddes.
- Sir A. Steel-Maitland.
- Mr. Long.

but ref to your letter of the
 26 of Jan last, No 328, 20
 I am to be to you for
 the wife of Lieut. G. G. G. G.
 a copy of a despatch for the
 Office of the War. regarding
 the intended removal to
 this country of consular
 George William Gordon
 Coombers

ref 1000 - 11 July

