

DESPATCH

EAST AFR. PROT.

28260

8260

23 AUG 09

Governor No.
405

1909

6 July

Previous Paper

Witchcraft Ordinance 1909
(No 97 1909)

This is memo. by Mr. Advocate

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Space copies to Library.
The policy of this office will right

Library Please annex the Criminal Ord.
No 26 of 1904 & pass a 2nd
Cox.

H. J. R.

24/III

Mr Cox
for info

In H.H. Wood's
It follows the Criminal Ord.
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Subsequent Paper

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GOVERNOR'S OFFICE,

NAIROBI.

July 26th 1909
166

EAST AFRICA PROTECTORATE.

No. 405

Incl: 2.

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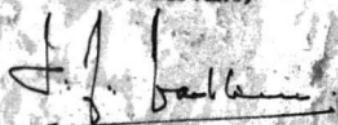
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My Lord,

I have the honour to transmit herewith 2 authenticated and 10 printed copies of the Witchcraft Ordinance 1909 as passed by the Legislative Council to which I have assented in the name of His Majesty.

2. An explanatory memorandum by the Crown Advocate is also enclosed.

I have the honour to be,
With the highest respect,
My Lord,
Your Lordship's most obedient,
humble servant,



M. Principal Secretary of State
for the Colonies,

Downing Street,

London, S. W.

INCLOSURE No >

In Dispatch No. 1105 of July 26 1909

8260

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M E M O R A N D U M .

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THE WITCHCRAFT ORDINANCE 1909.

1. The purpose of this Ordinance is to make provision for the punishment of persons practising or making use of so called witchcraft.
2. The belief in witchcraft is common throughout the Protectorate. Chief Elders and heads of families frequently profess to possess supernatural powers, and use these professed powers for the purpose of controlling the younger generation. In fact their authority is to a considerable extent due to their supposed possession of supernatural powers whereby they can punish persons who revolt against their authority or disobey their orders. As the exercise of witchcraft by such persons is generally for a proper purpose they are protected from punishment under the Ordinance under consideration.

Besides these persons who may be said to exercise white magic there are witch-doctors who exercise black magic and use their professed powers for improper purposes.

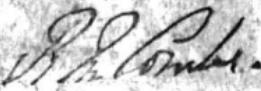
The natives uncontrolled by the Administration deal with these last in a very practical manner.

If at any time a witch-doctor becomes a danger and a nuisance to the Community, the Elders after a long conclave issue an order that he shall be killed, and such order is promptly carried out by the young men.

Within the last twelve months the High Court have convicted Natives in several cases of murder on evidence which has shown that they had killed under the orders of their Eldersmen who by practising black magic had become a danger to their neighbours. The belief in the powers of these witch-doctors is deeply rooted in the minds of the Natives and cases have been proved of persons who have been subjected to the influence of spells and incantations being rendered practically insane and driven to perform acts which bring them under the punishment of the law.

As the laws applied to the Protectorate protect witch-doctors from punishment in accordance with Native customs for their misdeeds, it is only right that the law should protect the community to the extent of providing some other proper punishment for the persons who by the pretended exercise of supernatural powers cause real injury to others. In fact it is certain that unless a proper punishment is provided by law the Natives will continue to protect themselves as hitherto.

As the Ordinance is based on laws in force in British Colonies I consider that it may properly be assented to and promulgated immediately.



CROWN ADVOCATE.

12-7-09.

THE WITCHCRAFT ORDINANCE 1909.

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ion 1. Title	
on 2. ns pretending erise witch- 3.	In effect Section 34 of the Transvaal Ordin- ance No.26 of 1904 omitting reference to fortune telling.
ion 3. -doctor Supply- -vise for -craft with -nt to injure.	Section 32 of the above.
ion 4. ns using witch ine with intent jure.	Section 33 of the above.
on 5. Elders etc. o be prosecut- der this ance for Acts as such without nt of the ner.	This provision is necessary for the Protec- tion of Chief and Elders whose authority is to a considerable extent based on their imagined power of punishing offenders by supernatural means.