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KENYA

No 183

CONFIDENTIAL



46015
GOVERNMENT HOUSE

NAIROBI
24 SEP 1925

29th September 1925

Sir,

With reference to paragraph 6 and 7 of Sir Robert Coryndon's Confidential despatch No. 153 of June 18th 1924, paragraph 3 of your Confidential despatch of 19th December 1924, I have the honour to forward for your approval copies of an Ordinance to provide for the Establishment of Detention Camps which was passed unanimously at the last Session of Legislative Council, together with a statement of Objects and Reasons prepared by the Attorney General.

for 36047/24
Finance.
Statement.

This Ordinance has been the subject of considerable deliberation by a Committee of which I was Chairman as *independently H. Wadhvani is acting Deputy Secretary* Colonial Secretary. It has been the object of the Committee to make the draft Ordinance as wide as possible ^{so} to allow Magistrates considerable latitude in sentencing natives to terms of detention in a Detention Camp.

The basis of inclusion of Ordinances in the Schedule has been the nature of the offences which breaches of the Ordinance involve. Where there is a likelihood of the offence being committed without any deliberate criminal intention by ignorant natives the Magistrates will have the opportunity of sentencing such offenders to a term of detention where hitherto conviction has necessarily meant imprisonment in one of the Colony's Prisons except in such cases where a fine may have been inflicted *and paid*.

As was pointed out in the despatch referred to a very large number of natives are annually sent to jail for offences which, while deserving of punishment, cannot be regarded as entirely...

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.

722

entirely justifying detention with prisoners who belong to the criminal classes. The effect has been to deprive imprisonment of any moral stigma, to confuse the mind of the native as to the view taken by the European in regard to crime and possibly in some cases to suggest the idea of crime by persons who, if they had never come into contact with criminals, would have been unlikely ever to come under this category.

3. I feel sure that this Ordinance will have a very good effect throughout the country and ~~would~~^{will} do much to prevent the increase in criminality amongst the natives.

4. Though you have approved in principle the introduction of the Ordinance I have deferred my assent pending your approval, which I should be glad to receive by cable, as the Ordinance affects the native population only and the draft was not previously submitted to you.

I have the honour to be,

Sir,

Your most obedient humble servant,



ACTING GOVERNOR.

HK3/72.

TELEGRAMS: CYTELAR, SOCIETY
TELEPHONE: VICTORIA 222

INTERNATIONAL LABOUR OFFICE,
LEAGUE OF NATIONS.

REF. NO.
ILO.60/695.

LONDON ADDRESS:
28, BUCKINGHAM GATE,
S.W.

RECEIVED
17 FEB 1926
COL OFFICE

February 15, 1926

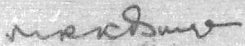
723

My dear Antrobus,

Thank you for your letter of the
12th February and for sending the Kenya
Colonies Gazette for the 9th December 1925,
which I have at once sent on to Geneva.

M.I.
11/27
/26

Yours sincerely,



M. E. Antrobus, Esq.,
COLONIAL OFFICE,
Downing Street,
S.W.1.

MRKB/VT.

TELEGRAPH: INTERLAB, 81
TELEPHONE: VICTOR

INTERNATIONAL LABOUR OFFICE
LEAGUE OF NATIONS

REF. NO.
ILO.6c/251.

LONDON ADDRESS:
26 BUCKINGHAM GARDENS

January 19, 1922

My dear Antrobus.

Thank you so much for your letter of the 18th January, enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, and for your promise to supply a copy of the Ordinance on the same subject in due course.

I note your remarks with regard to the criticisms which have been expressed on the Ordinance and will pass them on to Geneva.

Yours very sincerely,

Mr. Antrobus

M. E. Antrobus Esq.,
COLONIAL OFFICE,
Downing St.,
S.W.1.

Mr. Antrobus
15/2

15/2
Antrobus

1. The object of this Ordinance is to give effect to certain recommendations made by the Native Punishments Commission which was appointed by the Governor on the 25th day of May, 1914, and which reported in 1914.

2. The Ordinance is designed so as to allow the Court to sentence natives who have been convicted of offences under the Ordinances set out in the Schedule to be detained in a Detention Camp.

3. These offences do not necessarily involve moral turpitude and it is considered desirable to have power to keep technical offenders separate from hardened criminals.

4. The Governor is empowered to establish Detention Camps.

Certain sections of the Prisons Ordinance, 1914, dealing with administration, medical supervision and punishments are included.

5. A detainee convicted of any offence against discipline may be removed to prison. The authority who convicts is one to be appointed under the rule making section. Interpretation Ordinance, 1912, section 2 (25).

6. A Comparative Table is attached.

7. On the question of whether His Excellency may assent to this Ordinance I have had considerable hesitation but on the whole in view of the terms of article XXIV (9) of the Royal Instructions and as the Ordinance has not yet been submitted to the Secretary of State I am of opinion

that

that His Excellency should withhold his assent.

Nairobi.

29th August, 1925.

R. W. G. G. G.
ATTORNEY-GENERAL.

COMPARATIVE TABLE OF STATUTES.
THE DETENTION CAMPS ORDINANCE, 1925.

726

ion.	Remarks.
	Short title.
	Definitions.
	Governor may establish Detention Camps.
	Control of Detention Camps.
	Power to sentence a native convicted of a technical offence to be detained in a Detention Camp.
	The Supreme Court on appeal, revision or confirmation may alter a sentence of fine or imprisonment to one of detention.
	Officers revising the proceedings of a Native Tribunal may alter a sentence into one of detention.
	Detainee to be kept to labour but without pay.
	Power to remove detainee from one detention camp to another. For meaning of "prescribed authority" see interpretation Ordinance, 1912, Section 2 (25).
	Detainee convicted of an offence against discipline may be removed to prison.
	Registration certificate to be taken from detainee on admission to camp and to be returned to him on discharge. Detainee to be provided with identity disc to be worn during detention.
12.	Certain sections of the Prisons Ordinance, 1914, applied.
13.	Governor in Council may amend schedule.
14.	Power to make rules.

Schedule.

Remarks.

Schedule

List of Ordinances to which the Ordinance applies.

Nairobi,

28th August, 1925.

R. W. G. Grant

ATTORNEY-GENERAL.

23

and Ansh
1372 F(2)

Mr. Allen 29.11.25

O.A.G. 46015/25 Kenya

Mr. Bottomley 25 *at*

Mr. *9*

Mr. Strachey.

Codes + Sent

H. 35 pm
24th Nov. '25
CP

728

Sir J. Shuckburgh.

Sir O. Davis.

Sir G. Grindle.

Sir S. Wilson
Master Smith

Mr. Ormsby-Gore.

24th November. Your Confidential despatch 29th

Mr. Amery.

September 183. His Majesty has been

DRAFT.

pleased to assent to the Detention Camps

TELEGRAM

Bill, but you should take steps to

introduce as soon as possible amending

legislation (a) providing that period of

detention shall not in any case exceed

period of imprisonment to which accused

could have been sentenced if Bill not

passed (b) provide that when an

Ordinance provides for fine only or fine

and imprisonment in default of payment,

detention may be ordered in default of

payment and not as the primary punishment.

(c) lay down *scales* of detention in default

of payment of fine

working of the HC
amended after discussion
with Mr. St. Charles

drafts

AMERY.

O.A.G. 48015/25. Kenya.

Mr. Allen

Mr. *Bottrill*

Mr. *Jr.*

Mr. *Sirachey*

Mr. *J. Shuckburgh*

Mr. *C. Davis*

Mr. *G. Grindle*
Mr. *S. Wilson*

Mr. *J. Masterton-Smith*

Mr. *Ormsby-Gore*

Mr. *Amery*

2nd

729

SA

30 November, 1925.

Sir,

DRAFT.

HONORARY SECRETARY,
THE ANTI-SLAVERY AND
ABORIGINES PROTECTION
SOCIETY.

*47136
46097*

With further reference to
your letter of the 19th October,

I am directed by Mr. Secretary Amery
to inform you that he has now given
careful consideration to the Bill
passed by the Legislative Council
of Kenya to provide for the
establishment of Detention

*Report in 42800/23
loc in 36000/24*

30 Nov 25

2. As regards your request
that the Governor ^{may} be asked to
report as to the necessity of the
measure, I am to explain that the
Bill was passed to give effect to
the recommendation of the Native
Punishment Commission in paragraph
6 of their report, a copy of which
is enclosed. In commenting on that

copy to Gov Com (CS)

Drafts.

recommendation the Governor reported,

that during 1923 a total of 4,530

natives were imprisoned for an average

of 35 days for offences against the

Master and Servants Ordinance, 1910,

the Native Registration Ordinances and

other Ordinances such as the Townships,

Licenses, Native Authority, Passes, Hut

and Tax and Gambling Ordinances.

It was considered that it should be

possible to deal with the great majority

of offences under these Ordinances

through Detention Camps; and a circular

(a copy of which is enclosed) was

issued by the Government on May 20th,

1924, with a view to devising a system

for dealing adequately with this class

of offences without the infliction of

an undue stigma or a punishment which

may appear excessive in respect of the

offence on account of which it is

imposed.

3. It is also anticipated that

the introduction of this scheme will
relieve the larger prisons of a
great number of prisoners. In this
connection, the Governor ~~has~~
pointed out that there are three
first-class prisons at Mombasa,
Nairobi, and Kisumu to which
prisoners who have received longer
sentences than six or three months
are drafted from second and third
class prisons respectively because
of the lack of accommodation
available at outstations. When the
detention camp system is in force
it is expected that it will be
possible to keep a larger number of
prisoners at outstations where
special provision ^{will} can be made for
camps for their accommodation. This
extension will meet the recommendation
in paragraph 21 of the report of the
Native Punishment Commission which
it is considered desirable to follow

allowed to come into operation, and he is satisfied that there is no reason to apprehend that the scheme will be misused for the purpose of securing supplies of unpaid labour. The Governor has accordingly been informed that His Majesty has been pleased to give his assent to the ^{Ordinance. He} ~~Bill~~ but ~~he~~ at the same time been requested to take steps for the early introduction of amending legislation

(a) providing that the period of detention shall not in any case exceed the period of imprisonment to which ~~the~~ accused would have been sentenced if the Bill had not been passed,

(b) provides that where an Ordinance provides for fine only or fine and imprisonment in default of payment, detention may be ordered in default of payment and not as the primary punishment

TD

6

(c) ^{Scaley} lay down ~~scale~~ of detention in
default of payment of fine.

6. The Governor has already been asked for a report on the working of the system after it has been in operation for a reasonable time, and copies of your letter of the 19th October and of this reply are now being sent to him for his information.

I am etc.,

(Signed) W. G. BOTTOMLEY.

- Mr. Allen
- Mr. *Boltonley 24/11/25*
- Mr. *[unclear]*
- Mr. *[unclear]*
- Mr. J. Shackbrough
- Mr. O. Davis
- Mr. G. Grindle
- Mr. S. Wilson
- Mr. J. MacLinton-Smith
- Mr. Ormsby-Gore
- Mr. Amery

G.A.G. 48915/25. Kenya

232

Send

C.
 25 NOV
 1925

30 November, 1925.

DRAFT.

Sir,

I have the honour to

confirm my telegram of the 24th of
 November in which I informed you
 that His Majesty had been pleased
 to assent to the Detention Camps
 Bill and requested you to take steps
 for the early introduction of
 legislation amending the measure
 in certain respects. I enclose a
 copy of correspondence on the
 subject of the Bill with the Anti-
 Slavery and Aborigines Protection
 Society and I would invite your
 attention to paragraph 3 of my
 despatch Confidential (2) of the 19th
 of December, 1924, in which I asked

ENYA
 CONFIDENTIAL (11) *Confidential*
 Mr. GRIFF

From Secy: 17 Oct
to - - - 30 Nov
(Confidential)

S.N.P.

3 drafts

36-27/24

for a report on the working of the
detention camp system when it has
been in force sufficiently long for
it to have had a fair trial.

I have, etc.,

(Signed) L. S. AMERY

INTERNATIONAL LABOUR OFFICE.
LEAGUE OF NATIONS.LONDON ADDRESS:
26, BUCKINGHAM GATE,
S.W. 1.

Januray 6, 1926.

My dear Antrobus,

In the House of Commons on the 14th December last the Under-Secretary for the Colonies referred to an Ordinance relating to the formation of detention camps issued by the Government of Kenya Colony, and to a circular on the same subject issued by the Colonial Secretary for the Kenya Colony. My Head Office are anxious to obtain copies of these and I should be very grateful if you could procure them for me.

Yours sincerely,

*M. E. Antrobus*M. E. Antrobus, Esq.,
COLONIAL OFFICE,
Whitehall,
S.W. 1.

7338

Downing Street,

18 January, 1926.

My dear Burge,

I am enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, which you asked for in your letter of the 6th of January. I am sorry that we have not yet received the usual supply of copies of the Ordinance on the same subject, but I will send you one when in due course they arrive.

In view of certain criticisms of the Ordinance I may say that while the Secretary of State thinks that in certain respects as to which the Governor has been consulted, it is capable of amendment, he is satisfied that there is no reason to apprehend that the scheme will be misused for the purpose of securing supplies of unpaid labour.

Yours very sincerely,

(Sgd) H. E. Antrobus

R. K. BURGE, Esq.

Mr. Chiffa 14/1/26
Mr. Allen 14/1/26
Mr. Antobus 14/1/26
Mr. E. J. Harding.

733

Mr. Strachey.
Sir J. Shuckburgh.
Sir G. Grindle.
Sir C. Davis.
Sir S. Wilson.
Mr. Ormsby-Gore.
Earl of Clarendon.
Mr. Amery.

~~Antobus~~

18 January 1926

DRAFT. S.O. for Mr
Antobus' Signature

R. K. Buge Esq.

My dear
~~Dear~~ Buge.

I am enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, which you asked for in your letter of the 6th of January. I am sorry that we have not yet received the usual supply of copies of the Ordinance on the same subject, but I will send you one when

Circular No. 54.

Noted
and B.L. in a month's time so as to ensure that Mr Buge gets a copy of the Ordinance when recd

In due course they

arrive

It may say that while
the staff looks that in
the case of certain points objects

In case of certain
criticisms of the
order

the Ordinance which
it is

is capable of amendment
and to which the Governor's
attention has been ^{called}
has been ~~considered~~ ^{amended} AM

is quite satisfied

that these Ordinance is
no reason to apprehend that
a whole will not lead
the scheme will be increased for
to any extent in the
the purpose
decreasing of securing
supplies ~~to~~ of unpaid
labour.

Yours very sincerely

(Sgd) Mr. E. A. Roberts.