

EAST AFR. PROT.
41150

177
C. O.
41150
REC'D
REGD 28 DEC 12

ring 849
Govt

Date.
1912
December

FUGITIVE OFFENDERS

Calls attention to delay and expense caused by present procedure respecting the return of offenders. Suggests alteration of the Law by O. in C. in order to facilitate its operations.

previous Paper.

112/07

19/1006

Nov 4-9 - copy above sent to G. P. M. S.

~~Mr. Read~~ Sir G. Fisher
Mr. Tennison

This is a matter of legal procedure, so perhaps you will minute.

(I have to explain, as the cause of delay in sending it forward, that No 38712₀₇ is missing. Original search has been made for it, & the copy was kept waiting until a copy of 38712 & of the reply were obtained from S. Africa. That paper has now been reconstructed as far as possible. (of course the minutes on it are wanting)

Yds 2/5/13

This proposal was apparently made on 38712/07. & he declined to

subsequent Paper
1785

present procedure. I should think that with regard to the F.O. act at any rate, we might make the suggested amendment of the O. in. C.

With regard to the other acts mentioned in the first Schedule of the Foreign Jur. Act 1894, the only one of any importance is I think the Merchant Shipping Act 1894 ^(certain sections of) Part XIII of which now reenacts ~~the~~ the provisions of the earlier acts which were mentioned in that Schedule. Part XIII deals with legal proceedings ~~on the important sections~~ ~~on these~~ I am not at all clear how the O. in. C. & the relevant sections of the M.S. A. 1894 ought to

be construed, but I assume ¹⁷⁹ that the main effect of the O. in. C. is to confine jurisdiction over offences committed off the coast of the Port or on the High Seas to the High Court, instead of allowing ~~the~~ such offences to be dealt with by the Courts as if they ^{had} been committed within their jurisdiction. This would be to give the inferior Courts in certain cases jurisdiction over (i) offences committed on board foreign ships within the three mile limit & (ii) offences committed by foreign subjects on British ships on the high seas. If you think that the Ed. magistrates are

think that we assume that the Act is not to be construed as if they had been committed within their jurisdiction. This would be to give the inferior Courts in certain cases jurisdiction over (i) offences committed on board foreign ships within the three mile limit & (ii) offences committed by foreign subjects on British ships on the high seas. If you think that the Ed. magistrates are

up to this, I should
suggest that we should

? send copy Corr.
to B.S. & say
that in the
consequence we
propose to make
the alteration of the
O. in. suggested in
the last para. of
the for's despatch.

I may point out that the
Gawzibar O. in. (1906) has
as ~~section~~ ^{article} (15. (1)) similar
to 13 (1) of the O. in. 1902
& this seems not to have
been amended yet.

C. 575/19.
as proposed by Mr. Jemison?

H. J. R.
7/5/13

Aloum P. 2. 5. 73

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suggest that we should

? send copy ~~copy~~
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that with their
concurrence we
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C. 575/19.
as proposed by Mr. Jennings?

H. J. R.
7/5/13

Aloum P. S. 573

C. O.
41150
REC'D
GOVERNMENT HOUSE
NAIROBI
REGD 28 DEC 12

BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE

December 7th 1912.

No. 849

Sir,

I have the honour to refer to Lord Elgin's despatch No. 75 of February 17th 1908 and to inform you that my attention has lately been drawn by the Police, Judicial and Legal Departments to the inconvenience and unnecessary delay and expense which is sometimes caused by the present procedure in force as regards the return of fugitive offenders under the Fugitive Offenders Act 1881.

Gov
28/12
7
copy attached

2. In the application of this Act to the Protectorate under the provisions of Article 13 (1) of the East Africa Order-in-Council 1902 the High Court is substituted for a Magistrate or Justice of the Peace of a Colony or British possession and every case under the Act has at the present time to be referred to that tribunal before proceedings can be instituted.

3. When the Order-in-Council 1902 was promulgated there was very good reason for prescribing that the Judges of the High Court should

THE RIGHT HONOURABLE
LEWIS HARCOURT, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

(2)

should exercise the powers conferred under the applied Act as they were the only competent legal authorities in the Protectorate but now that Magistrates have been appointed who are fully qualified to perform any of these duties I submit that these powers should be extended to them also.

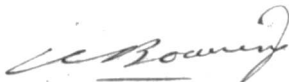
4. As the Provincial Commissioners are also Magistrates of the 1st Class but are not possessed of the necessary legal qualifications it is not intended that they should be included.

5. I venture to suggest therefore that an alteration in the Law should be made by an Order-in-Council providing that in the application of the Acts applied to the Protectorate by Article 13 of the Order-in-Council 1902 any Magistrate holding a Subordinate Court of the 1st Class and appointed by the Governor in this behalf shall be substituted for a Magistrate or Justice of the Peace of a Colony or British possession and I think that if this is done the operation of the particular Act in question will be much facilitated.

I have the honour to be,

Sir,

Your humble, obedient servant,



In the absence of the
GOVERNOR.

C.D.
R. 9 MAY
B. 14

SL

14 May 1913

DRAFT.

Asst. Secretary
Rains Dept.
Board of Trade.

288-1-2000

Sir,

I am etc to transmit
to you to be laid before
the B. of T. the accomp.
copies of correspondence with
the Gov. of the E. A.P.
respecting a suggested
alteration of the ~~draft~~

East Africa O. in C. 1902
in connexion with the procedure for the return
of fugitive offenders under the ~~Signature~~
T. W. A. proposal,

~~the~~ subject to the
concurrence of the Board,
to make amend the
O. in C. as suggested
in the last para. of Mr.
Belford's despatch N° 849

of the 7th of Dec. 1912
(Signed) H. READ.

for the Under Secretary

Downie 8/5/13
Lumsden 9/5/13
Balfour 9/5/13
W.S.D. 9.5.13 f.

No. 429. 20 Oct 1907
Gov. N° 849 of 7th Dec. 1912
Gov. N° 849 of 7th Dec. 1912
(41150)

Copy No 429. ans 6 June 13 1913

Papers afterwards to Mr
Lumsden, as to the
amending O. in C.
W.S.D. 8/6/13