

EAST AFR. PROT

C. O. F.
6944

27 FEB 13

6944

Home Office

1913

25 Feb.

Last previous Paper.

Gov
18/3
12-3

Prisons Ordce

Submit memo by Prison Commis. Sect. 106
is a question of practice & shd. not be
regulated by Ordce. Suggest that such
Ordces shd. in future be submitted in draft before
passing by Com.

~~Mr. Thompson~~

Mr. Bostonley

? In view of the memorandum of the Prison
Commissioners the ordinance requires to
be amended on the lines indicated by them.
At the same time the section 106 might be
deleted for the reason given in para 2 of
the H.O. letter.

Enquiries might also be made from the
Governor whether the passing of the ordinance
will entail any increase in the establishment
and if so what.

In 1873

Also suggest a in Big minute of 23. 1. 13
under §§ 2, 4, 8, 9, 11, 14, 60, 100, 110, 117, 9,

and
28-2-13

PT O

48 131 W. 20 202-28
41,000 11/12 A.R.W.

Next subsequent Paper

Deas
11092

See my margin notes
to Mr. Stephenson's points
on 1873.

Subject to what you may
think on questions of policy
I should be inclined, and
to raise any of these

points
to page 10
W. Head
C. 13/3

If - as I think they might have done -
they had sent the Ord. home a draft a
good deal of cleaning up in the lines of
Mr. Stephenson's remarks on 1873 could have
been desirable. As it is I agree with Mr.
Stephenson that we may confer amendments
to the points raised by H.O. except that on
the whole I think there is room here for
cleaning up §§ 100 & 101. It is curious to say that
there shall be thirty justices to every prison &
then to say that refer to persons to which 200 of
have been appointed. I agree that every prison
shall be visited by someone.

§ 52 establishes a new system of gaolkeepers
without any comment save in the A.G.'s
report. As a matter of fact it clearly follows
the provision in the Police Order (34781/11) that
he had to consult the Treasury then &
must do so now.

European Gaolkeepers
There is no reference to the European officers
being responsible in their case to the Police
Order. I don't think that matters

11/13/3

The Ord. has not yet been assented to by
the Privy Council, so that there is yet time to get it
troubled up. but in the first place, write
to the Treasury with regard to the
provisions.

at once
to J.R.

17/10

that we left
June: 1/11/3

38(2) etc.

1/11/3

38(1)

Any further communication on the subject of this letter should be addressed to—

THE UNDER SECRETARY OF STATE,
HOME OFFICE,
LONDON, S.W.

and the following number quoted—

233,961.

C 10
6944

27 FEB 13

HOME OFFICE,
WHITEHALL

25th February, 1913.

Sir,

3/12/13. In reply to your letter of the 3rd instant enclosing a copy of a despatch from the Governor of the East Africa Protectorate submitting copies of the "East Africa Prisons Ordinance, 1912", I am directed by Mr. Secretary McKenna to transmit to you herewith for the information of Mr. Secretary Harcourt, a copy of a Memorandum on the Ordinance which has been furnished by the Prison Commissioners.

2 The matter dealt with in Section 106 is a question of practice and does not appear to Mr. McKenna to be one which should be regulated by Prison Ordinance.

3 Mr. McKenna desires to suggest for the consideration of Mr. Harcourt that it would be convenient that in future such Ordinances should be submitted in draft before passing the Legislative Council.

I am,

Sir,

Your obedient Servant,

JH35

Under Secretary of State,

cc., cc., cc.,

Colonial Office.

East Africa Prison Ordinance, 1912.

C O
6941REC-
FEB 27 1913

The Ordinance regulates a number of details which according to English practise might have been left to the Statutory Rules under section 14. If it is at any time desired to alter sections 4 and 87 (to quote two examples) it may be found inconvenient to have recourse to legislation. Such defects, however, are not grave enough to call for a revision of the Ordinance.

The following sections seems to call for reconsideration:

Section 27. It is proposed to dispense with a magisterial enquiry into the cause of the death of a prisoner whenever a Medical Officer certifies that the death resulted from natural causes. Under the Statute in England there must be *a coroner's inquest* in the case of every death of a prisoner in custody, and unless there is a strong local reason against it, the law ought to be similar in East Africa.

Section 57. Though it is provided in s. 62 that a prisoner shall be medically examined before removal from one prison to another there is no medical examination on admission. Such examination is regarded as indispensable in all good prison systems. New admissions ought to be kept in a separate

building

building until the medical officer has pronounced them fit to enter the main prison and associate with the other prisoners.

Section 70. It is to be noted that the definition of Civil prisoner, mentioned in s.70 has been omitted from section 2, where other classes of prisoners are defined.

Section 87. It would seem better to lay down the scales of diet in the rules instead of in the ordinance. Any change in diet will require legislation.

Section 88. Power is given to the Superintendent to 'vary' diets. If this is to be so it was needless to provide a statutory diet. This section would give the Superintendent power to give a diet of a lesser food value. It would be better to relegate both these sections to the rules, and to specify alternative diets, with a provision that no greater allowance is to be given except on the recommendation of the Medical Officer.

Section 97. The last sentence ought to be reworded as follows "Prisoners awaiting trial shall be allowed to see their advocates in the sight, but, as far as possible, out of the hearing of a prison officer, unless for a special reason the Superintendent shall order otherwise". There may at some time be an advocate in the ^{Colony} who would use a private interview with a prisoner to defeat the ends of justice.

Section 114. It is not clear how this comprehensive list of ¹⁶
offences is to be made known to prisoners who are for the
most part illiterate. It would be well to frame a rule under
Section 14 providing that all material rules shall be read to
prisoners on admission.

C. D.
R. 17 MAR
D. 18

Left

Ans d 11082

No/6944/EM

1893

DRAFT.

The country to the Treasury

19 March 93

MINUTE.

- Mr. *Sturges* 17.3.93
- Mr. *Sturges* 17.3.93
- Sir G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

for

I am des. to send Harcourt to ask Treasury to go to the land before the land Commission of the Treasury the accompanying copy of section of the Ordinance to make better provision for the organization of the Pension staff, and the management of the Pension in the East Africa Provinces. The Ord. has not yet been assented to by the Gov.

2. Mr. Harcourt desires the section in question to be assented to by the Government in the Ordinance of the

to be inserted in the draft

10/3/93

make

provision for the grant of patents

to subordinate officers for their discharge, the principle of

the grant of patents to officers of this class and status has already been approved by their Lordships in the case of

and holds that their Lordships will see no objection to the extension of the system of payment of such gratuities to the subordinate persons staff.

which is considered as modest in amount, when the kind of service is taken into consideration.

I. I am to add that the principle of allowing gratuities to officers of the class in question has already been approved by their Lordships in the case

the gratuity of a CO and Comdants of the Police Force, which was upheld in your letter no. 29/11 of the 21st of January 1911. The Harcourt Committee

of subordinate officers of the Police Department in the East

Africa, Palestine, and in which this commission I would

invite your opinion to the Commission's findings with your letter 29/11 of January

21st 1911

I am etc.

Henry 21/11/11