

EAST AFR. PROT

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Governor
Belfield 756

STOCK AND PRODUCE THEFT AMENDMENT ORDINANCE
NO. XIX OF 1914

1914

13th August

Last previous Paper.

Trs copies with Legal Report.

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Have copies to be by
Note
Aug 30-9-14

W E Jeffrey

Mr. Reed

H. J. R
22/9/14

Sanctioned

CB. 24. 9. 14

at once.
H. J. R.
24/9/14

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no. 867. 25 sep 14

Next subsequent Paper.

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EAST AFRICA PROTECTORATE.

No. 756.

30 4
GOVERNMENT HOUSE,
NAIROBI.
BRITISH EAST AFRICA.

August, 13th, 1914.

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Sir,

I have the honour to transmit herewith two authenticated and ten printed copies of The Stock and Produce Theft Amendment Ordinance, 1914, as passed by the Legislative Council on the 4th instant together with an explanatory memorandum by the Attorney General.

Ordinance.

Memorandum.

2. I have assented to the Ordinance in the name of His Majesty.

I have the honour to be,

Sir,

Your humble, obedient Servant,

Alanway Bayard.

G O V E R N O R .

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.

SECRETARY OF STATE FOR THE COLONIES.

DOWNING STREET, LONDON, S. W.

THE STOCK AND PRODUCE THEFT AMENDMENT ORDINANCE 1914.MEMORANDUM.

The definition of theft in the Stock and Produce Theft Ordinance 1912, vide Section 2, omitted offences which came within Section 454 or Section 457 of the Indian Penal Code that is, shortly, housebreaking or housebreaking by night. Thus persons convicted of these serious offences were not liable, if the offence intended to be committed was the theft of stock or produce, under the Stock and Produce Theft Ordinance 1912. The Stock and Produce Theft Amendment Ordinance 1914 remedies the omission.

2. Provision has been made in the Ordinance to enable a Magistrate to reward informers from the fines recovered. It is considered necessary that such power should be given as it is thought much assistance to the police may be obtained if rewards are possible.

3. It sometimes happens that in view of the heavy fine which must be inflicted under the Stock and Produce Theft Ordinance 1912 a Magistrate gives a very light sentence of imprisonment. In these cases the fine is frequently not recovered because the accused has no property and it is not considered just by the Provincial Commissioner that the fine should be levied on the family sub-tribe or tribe of the accused. The High Court has recently held that a sentence of imprisonment in default of the payment of a fine inflicted under the

Stock and Produce Theft Ordinance 1911 is illegal as not coming within the Indian Penal Code Section 64 or Section 67 in spite of the provisions of Sections 40 and 41. Under these circumstances it has been considered advisable that the provisions of the Indian Penal Code Sections 64-66 and Sections 68 and 69 should be incorporated in the law dealing ^{with} the theft of Stock and Produce in order to give ^{the} Magistrate power to inflict imprisonment in default of payment of a fine and they have therefore been embodied in the Ordinance vide Sections 4-7.

4. The Ordinance in my opinion may be assented to and published before reference to the Secretary of State.

ATTORNEY GENERAL.

THE STOCK AND PRODUCE THEFT AMENDMENT ORDINANCE 1914.

Section.	Remarks.
1.	Short title.
2.	Inclusion of offences under the Indian Penal Code Sections 454 and 457 in the definition of "Theft" for the purposes of the Stock and Produce Theft Ordinance 1912.
3.	Power given to Magistrates to reward informers.
4.	Provision for imprisonment in default of payment of a fine inflicted under the Stock and Produce Theft Ordinance 1912 vide Indian Penal Code Sections 64 and 65.
5.	Termination of imprisonment imposed in default of payment of a fine vide Indian Penal Code Section 68.
6.	Effect of a proportion of the fine being paid vide Indian Penal Code Section 69.
7.	Nature of imprisonment imposed in default of payment of a fine vide Indian Penal Code Section 66.