

1911

ESTABLISHMENT PROT.
J. H. [unclear]

C O
34764
Recd
28 OCT 11

Warrant Court

WARRANT ORDINANCE NO. 5 OF 1911

Date

14 Sept

Previous Papers

The copies with legal report. The Order has been issued in accordance with instructions.

Noted [unclear]

~~W. Butler~~
W. Butler

The ordinance was not passed because of the P.P.'s instructions - but there still seems to be some difficulty as to the penalties:-

- § 16. imprisonment of not more than 6 months is linked with a fine ^{not exceeding} R. 450.
- § 19. imprisonment of not more than 6 months is linked with a fine not exceeding R. 1500.
- § 22. imprisonment of not more than 2 years is linked with a fine not exceeding R. 1500.

Perhaps the equation of fines and imprisonment is not correct

within the limits of an ordinary
an objection of course, but the Crown
advocate, while claiming in his
memorandum to have made the fines vary
in a regular proportion with the terms
of imprisonment, appears to me to have
failed lamentably.

As you may not think it worth
while to pursue the matter further -
but when signifying HM's
allowance of the 0.50⁰⁰ I should
like to point out the discrepancies
above & enquire whether there is
any reason why the improvement of
fines have not been fixed so as
to bear a constant relation to costs
- other

Allt

13/11

I agree. The following points also occur to me
s. 2. The definition of timber is obscure. Is
it meant to include a limb fallen off
a standing tree? It should run

"Timber" shall include any tree ~~standing~~
or ~~limb~~ which has been felled or fallen
to any part of a tree which has been cut off a tree.

s. 7(1) The excision of the words "at least" has
caused an obscurity. The sub. ~~to~~ now open
for a board of six
persons or ~~less~~ should
and two of whom shall not be in the

(b)

S. 15. The words "or in any other way" are
quite ungrammatical. It should
be "or of any other act or omission
whenever they are..."

(c)

S. 16. Last line but two. The word "collected"
should be inserted before
"building" in first line of the paragraph.
These two sections are copied from the
Code of 1880, but it seems
probable that the mistake of the
act. Ch. 19/11

(d)

Mr. Fiddes

Signify an intention, viewing
the provision as imposed by W.
Parkinson, or a similar amendment
as suggested by W. Thompson at
(a) (b) (c) (d)

Ad 15

[and also in the Regulations]

except also in Pt. 17

EAST AFRICA PROTECTORATE.

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA

CONFIDENTIAL No. 83

September 28th, 1911.

(Incls. 2)

C O
34764
REC'D
SEP 28 1911

Sir,

With reference to your Confidential despatch of the 19th of May I have the honour to transmit herewith 2 authenticated and 10 printed copies of the Forest Ordinance 1911 as passed by the Legislative Council, and to which I have assented in the name of His Majesty.

2. The Ordinance was re-committed and amended in accordance with the instructions contained in your despatch and will now be numbered amongst the series of Ordinances for the current year.

3. I have also the honour to transmit a memorandum on the Ordinance by the Acting Crown Advocate.

I have the honour to be,

Sir,

Your humble, obedient servant,

[Signature]
GOVERNOR.

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

Finance
12

transmitted by
C. A.

See
14612

INCLOSURE

In Despatch No. 82 of Sept. 25/11

MEMORANDUM.C O
34764REC'D
FMS 28 OCT 11

THE FOREST ORDINANCE, 1911.

This Ordinance has been recommended to the Legislative Council by order of His Majesty's Secretary of State.

2. Provisions were made by Section 7 of the Ordinance as submitted to the Secretary of State for the constitution of a Board of Commissioners, to consist of the Principal Judge for the time being in the Proterogate and three other persons, all of whom shall be British Subjects and residents of the Proterogate and two at least persons not in the service of the Government, to be appointed by the Governor.

3. The Secretary of State doubted whether it would be wise at this stage to make the disposal of demarcated forests dependable on the views of unofficial members of the Board and directed that the Board should be constituted so as to make the consent of the Commissioners only necessary by Section 5, and the Principal Judge would be Chairman of the Board and would exercise both an original and a casting vote.

4. The only function of the Commissioners is to approve or to veto, proposals for dealing with Forest lands.

5. The opportunity has been taken to make the Fines vary in a regular proportion with the terms of imprisonment prescribed in the Ordinance.

6. As all these alterations have been made on the suggestion of the Secretary of State, I think His Excellency can properly assent to this Ordinance.

1911.

J. H. [Signature]
AG: [Signature] ADVOCATE.

907 347622 201

1808-2000

~~Sol~~

DRAFT.

Col Conf.

Gov. Sir P. S. S. S.

27 Nov. 1911.

MINUTE.

- Mr. Parkerson 17/11
- Mr. Terryson 20/11
- Mr. Butler 21/11
- Mr. Fiddes
- Sir H. Just.
- Sir J. Anderson.
- Lord Lucas.
- Mr. Harcourt.

Sir

have the honor to acknowledge the receipt of your conf. disp. L. of the 29th of September, and to inform you that H.M. will not be advised to sanction his power of Disallowance with respect to Ordinance No. 3 of 1911, of the Legislature of the S.A.P., entitled "The Forest Ordinance 1911".

1911

2. The acting Crown Advocate states in the memo. which accompanied the

the balance that, when
opportunity arises
the ordinance was re-committed
to the Legislative Council,
an opportunity was taken
to make the fines vary
in a regular proportion with
the terms of imprisonment.

It is however known that
the section of imprisonment for
term not exceeding
for ~~not more than~~
months is linked with a
fine not exceeding R 450;

in section 19 imprisonment
for term not exceeding
for ~~not more than~~ six months
is linked with a fine not
exceeding R 200 and 100

in section 23 imprisonment
for term not exceeding
for ~~not more than~~ two years
is linked with a fine
not exceeding R 1500

In view of these patent discrepancies

I am unable to understand
the statement of the Acting
Commissioner & I have
to enquire whether there is
any reason why the
terms of imprisonment & the
fines ^{should} have not ~~been~~
fixed so as to bear a
constant relation to each
other.

3. The following points
also call for remark:

Subj 2. The definition of
timber is obscure, as it
is not apparent whether
it is meant to include a
limb fallen from a standing tree.
It should read "Timber"
shall include any tree which
has been felled or fallen &
any part of a tree which
has been cut off or fallen, &
all wood thereon.

Section 7(1). The omission of the
 words "at least" has caused
 an ambiguity. This subsection
 might ~~not~~ be construed
 as providing for a board
 of six persons. The words
 "and two other persons not etc"
 should be replaced by
 the word "and two of whom shall
 not be etc"

Section 11. The words "or in any
 other way" should be replaced
 by the word "or of any other
 act or omission whatsoever
 whereby etc." as the
 section as drafted is not
 grammatical.

Section 16. In the last line put
 the word "establishment"
 to be inserted before
 the word "business".

Schedule
 The East of India
 Food & Drug
 1927 - Regulations
 as amended

I have to request that you will ^{who does} ~~frankly~~
 an amending Ordinance to give effect
 to the alterations indicated above. & the opportunity
 you should ^{take} at that time ~~thing~~ in the absence of
 any reason to the contrary ~~amend~~ the ~~terms~~
 of ~~improvement~~ ~~with~~ ~~the~~ ~~being~~ ~~them~~ ~~into~~ ~~a~~ ~~Food~~ ~~regulation~~
~~the~~ ~~same~~