

EAST AFR. PROT.

No. 35044

C O

35044

REC'D

OCT 07

(Subject.)

1907

Attachment of African Political Prisoners

Seals: with in the enclosed the hours of detention confined when in the 5 and 6 and unless mention of persons named in list enclosed at Mombasa for hence state rights except by the means of allocation who not should incovertly be appear

~~Mr. Read~~ (Minutes)

Mr. Read

It is not quite clear to me what this action is covered by the former year by 20.24-25 of the 6. Office Order in Council of 1902 - see volume beneath.

These actions seem to contravene (1) 20.24 Deputation of the being confined to imprisonment by a Court, & the security of that imprisonment, outside the protective

(2) 20.25 Deputation by the Comms on own evidence that the person to be deported as a danger

to peace & good Govt, is without trial
 or sentence by a Court, to a place
 outside the Protectorate, but
 without imprisonment or detention there
 In this case persons without trial
 by a Court are deported by
 the order of the Commissioner to
 Moolba within the Protectorate
 & sentenced there - which I
 suppose is equivalent to imprison-
 ment. The case of the two
 Jubaland offenders is similar
 (per 3 of 10134)

MS 4/10

I am sure that the Government have
 reasons to show of detention conferred upon
 them by the Ordinance (No 1 of 1902) that
 they are competent as to the legality of
 the internment, depending upon any decision
 of the legislative authority

if of their own power of detention for
 5 years (and others for 1 year)

The Government have the sanction in certain
 cases of legality but of course if the men were
 really prisoners of war their internment would
 have a character of the restriction of

As it is their detention is illegal in the absence
 of legislative authority for such a course

Mr. Antrobus

per 5/10
 Write to the Govt - the same

f

to peace & good Govt, is without trial
or sentence by a Court, to a place
outside the Protectorate, but
without imprisonment or detention there
In this case persons without trial
by a Court are deported by
the order of the Commissioner to
Moolson within the Protectorate
& returned there - which I
suppose is equivalent to imprison-
ment. The case of the two
Jabaland offenders is similar
(see 3 of 10194)

10/4/10

I am sure that the Government have
expressed a desire of prohibition conferred upon
him by the Director of Affairs and that there
is no objection as to the legality of
the order.

(If there is no objection of course the order is valid for
5 years & shall continue for 5 years.)

The terms of the order are contained in certain
acts of legislation but of course if the acts were
not in force the order would be void. The order is
made in accordance with the provisions of section
No 12 of the Ordinance of 1894 in the absence
of legislative authority for such a course.

W. Anderson

10/4/10

Write to the Govt. the same

7

If the foregoing, say that in any case,
it is hoped that it will not be found
necessary to confine over the 14
months or a long period as 5
years, or that the jury report ²¹¹
should present sufficient grounds
to justify the removal of the
prisoner to the workhouse, or
to both, stating, in each case, the
reasons on which it is considered
necessary that the prisoner should
be detained.

H. J. P.

and said that a specimen
of the laws usually referred
to under the title of the
reluctant's irascibility, if
in the field is not.

See similar in
3/15/4

Oct. 15

35044
GOVERNMENT OFFICE,
RECEIVED
3 OCT 07
Nairobi.

212

August 28th 1907.

EAST AFRICA PROTECTORATE.

Number
(Incl. 1.)

My Lord,

I have the honor to report that at the conclusion of last year's operations against the Nandi a question arose as to the disposal of certain prisoners of war who had been active in fomenting rebellion and were considered likely to be detrimental to the re-establishment of amicable relations with the conquered tribe.

These were irreconcilables who would not enter the Reserve and who had been instrumental in several raids and murders after the conclusion of the operations against the tribe as a whole. The Chiefs declined to hold themselves responsible for them and the Military Authorities were anxious to try them by

H.M. PRINCIPAL SECRETARY OF STATE
FOR THE COLONIES,
— DOWNING STREET,
LONDON, S.W.

C. I. O.

35044

212

Government Office,
No. 3 OCT 07
Nairobi.

August 28th 1907.

EAST AFRICA PROTECTORATE.

No. 280

(Incl. 1.)

My Lord,

I have the honour to report that at the conclusion of last year's operations against the Nandi a question arose as to the disposal of certain prisoners of war who had been active in fomenting rebellion and were considered likely to be detrimental to the re-establishment of amicable relations with the conquered tribe.

of Prisoners

These were irreconcilables who would not enter the Reserve and who had been instrumental in several raids and murders after the conclusion of the operations against the tribe as a whole. The Chiefs declined to hold themselves responsible for them and the Military Authorities were anxious to try them by

H.M. PRINCIPAL SECRETARY OF STATE

Court

FOR THE COLONIES.

— DOWNING STREET,

L O N D O N, S. W.

Court Martial, but this I did not consider desirable, as I was advised by the Civil Authorities that it would be extremely difficult to get direct evidence against individuals, though the complicity of the prisoners as a body was unquestioned. I therefore thought it better to exercise the power of deportation conferred upon me by the Order-in-Council and I accordingly directed that the persons in question, whose names appear in the attached list, should be deported to Mombasa and interned there for the periods stated.

3. Through an oversight, for which I have the honour to express my regret, these orders of deportation were not reported to Your Lordship with an explanation of the reasons for which I deemed it necessary to make them. I trust, however, that Your Lordship will approve of them.

4. Should the authorities of the Kisumu Province at any time consider that the return of these persons might be permitted without danger to the maintenance
of

Court Martial, but this I did not consider desirable, as I was advised by the Civil Authorities that it would be extremely difficult to get direct evidence against individuals, though the complicity of the prisoners as a body was unquestioned. I therefore thought it better to exercise the power of deportation conferred upon me by the Order-in-Council and I accordingly directed that the persons in question, whose names appear in the attached list, should be deported to Mombasa and interned there for the periods stated.

3. Through an oversight, for which I have the honour to express my regret, these orders of deportation were not reported to Your Lordship with an explanation of the reasons for which I deemed it necessary to make them. I trust, however, that Your Lordship will approve of them.

4. Should the authorities of the Kisumu Province at any time consider that the return of these persons might be permitted without danger to the maintenance

of

of law and order, I would propose to curtail the term
of their internment.

I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

Herbert Asquith

In Dispatch No 311 of Aug 28 1907

C O
35044
Recd
OCT 07

LIST OF PRISONERS.

Arab-Dai-Boi interned at Mombasa for 5 years from September 25th 1906.

Arab-Kaige	do.	do.	5	do.	do.	do.
Arab-Farge	do.	do.	5	do.	do.	do.
Arab-Chaluel	do.	do.	5	do.	do.	do.
Arab-Kaigari	do.	do.	5	do.	do.	do.
Arab-Kapsigir	do.	do.	5	do.	do.	do.
Arab-Kapchermet	do.	do.	5	do.	do.	do.
Arab-Kaploop	do.	do.	5	do.	do.	do.
Arab-Kapuleen	do.	do.	5	do.	do.	do.
Arab-Chibwoni	do.	do.	5	do.	do.	do.
Arab-Kogok (Kamelilo)	do.	do.	5	do.	do.	do.
Arab-Kogok (Kamelilo)	do.	do.	5	do.	do.	do.
Arab-Chohi	do.	do.	5	do.	do.	do.
Arab-Kaigari	do.	do.	5	do.	do.	do.
Arab-Kaigari	do.	do.	1	do.	do.	do.
Arab-Kaigari	do.	do.	1	do.	do.	do.
Arab-Kaigari	do.	do.	1	do.	do.	do.

Gov
35044

E.A.P.

25

DRAFT

25 October 17

E.A.P. Conf.

Sir I have the honor
to acknowledge the receipt of
your despatch No. 366 of
the 28th inst. in
which you request that
you have ordered the
interment of the
remains of 14 Nandi prisoners
whom, in view of
their bad character, it
was not considered
safe to release at the
conclusion of the fighting
last year.

Gov. Col. Peffer

MINUTE

Mr. 21/10

Mr. 21

Mr. 21

Mr. Anstruther 23

Mr. 23

Mr. 23

Mr. 23

Mr. 23

Mr. 23

25 Oct 17 or 35044

by the Gov. on sworn
evidence that the
person to be deported
is a danger to peace &
good govt. without
trial or sentence of a
Court to a place outside
the Protectorate but without
imprisonment or detention
there.

3. On the other hand,
it would seem
that if the Waorani
country is a special
district within the
meaning of the "Re-
moval of Natives within
Special Districts"
Ordinance 1954, there is
power to take the
action in regard
to these natives which

you have reported.

4. I have to request that you will consult the Crown Advocate on this point, & if he ^{is of} ~~is~~ ^{is of} opinion ~~is~~ ^{is of} an order for the detention of the offender under the Act of 1944.

5. In any case I think that it will not be found necessary to confine the first part of the former report & the last attached for delay for a period as 5 years half-yearly reports be sent or furnished me stating in such the grounds on which it is considered necessary the prisoner should be detained.

6. I do not know whether any of the Subaltern Officers referred to in Mr. Jackson's despatch of the 11th Feb 18154 are still detained, or under what law they were so punished, but if the case is similar to that of the Prisoners, the procedure should be regularised in the same way.