

EAST AFR. PROT.

22178

2173

467

Governor No
301
1909
4 June
of Previous Paper
70
11220

Court of Appeal
Appeal to Privy Council } Orders in Council
1909.

Submit memoranda by Principal Judge. Request
sanction to proposed addition by R. 28. Subject
to approval of Govt concerned 1 Jan 1910 is suggested
as suitable date for the C. to come into force.

H. Rivley

H. J. R.

6/11

Mr Fox Jid de

1 With regard to date of commencement we need (I can)
do nothing until we hear that the Govt & Magistrate
concur as to 1 January 1910 - which seems to me
a suitable date, as it will allow ample time for
every body to prepare for the new regime.

2 Judge Handlome means

para (2) I concur in their proposal of the 21st Rules of
Court and in 437/666

I see no objection to their recommendation
and I presume that it will not be necessary
to give effect to them if approved by
action under §§ 5 & 8 of the Ordinance
later on in the year - if the Ordinance is not
to come into operation until Jan 1910.

An answer is wanted as to para (3) of the Judge

was com. 19th 20 July
w/office ? in some

subsequent Paper

31662
31702

None in any case so our receipt express does approved
(or the review) of the recommendations in paras (4) - (5) but
explaining that default action will not be taken until
under § 5 of the OMC until later on when a
notification has been published in the London Gazette
from the date of the commencement of the OMC

SR 107

Mr L. J. J.

to proceed

(1/13)

- 10/11

U. express approved

21 June 1914
P.B. 14

None in any case so as to accept express does approved
(or the reverse) of the recommendations in paras (4) & (5), but
explaining that default action will not be taken until
under §§ 5 & 8 of the Ome until later on when a
notification has been published in the London Gazette
from the date of the commencement of the Ome

SR 12/7

Mr. L. J. G.

Approved

(13/7)

13/7

U. express approved

21 June

R. H.

C. O.
22178

Governor's Office,
Nairobi,
June 4th 1909.

453

EAST AFRICA PROTECTORATE.

No. 591.

(Incl. 1.)

My Lord,

I have the honour to acknowledge the receipt of Your Lordship's despatch No. 207 of April 20th enclosing the "Court of Appeal" and "Appeal to Privy Council" Orders in Council 1909 and to transmit herewith a minute by the Principal Judge.

Principal Judge
May 28th.

2. I should be glad to receive Your Lordship's sanction to the proposed addition to rule 28.
3. Your Lordship will perceive that, subject to the concurrence of the other Governments concerned, the 1st of January 1910 is suggested as a suitable date for the Orders in Council to come into force.
4. I am communicating with the Acting Governor of Uganda and the Governor of Nyasaland in accordance

with

H. E. Principal Secretary of State

for the Colonies,

Downing Street,

LONDON, S. W.

with Your Lordship's instructions.

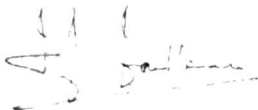
I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

A handwritten signature in cursive script, appearing to be 'S. J. ...', written in dark ink.

with reference to Colonial Office despatch No. 207 of 20th April 1909. after consultation with Judges Barth and Bonham Carter I beg to offer the following remarks:-

(1) We think that a suitable date for bringing the Orders into force would be the 1st January 1910. This would give ample time for making the necessary arrangements and communicating with the other Protectorates concerned, and allow for the first sitting of the New Court to be held in March of that year.

(2) We agree with all the criticisms of the Draft rules contained in the despatch in question.

(3) We would wish, however, to add to rule 28 a new sub-section (g), viz:-

' To order that a decree shall be set aside and a new trial be had'.

This is a useful provision taken from the English practice, Order 58 rule 5, which should not be omitted.

(4) As regards article 5 of the Court of Appeal Order, Council we recommend that the seniority of the existing Members of the Court should be published simultaneously with the Order, based on the dates of their respective appointments as Judges of the various Protectorate High Courts, viz:-

Judge Hamilton
" Ennis
" Morris Carter
" Barth
" Griffin
" Bonham Carter

oag / 22/78

Sal.

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20

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DRAFT. Sal. N^o 396.

oag.

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20 July 1909.

MINUTE.

- Mr. Parkin 15/7
- Mr. Butler 16
- Mr. Rieley 17
- Mr. ~~Butler~~
- Mr. ~~Butler~~
- Mr. Antrobus 27/13
- Mr. Cox 19/15.
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely
- The Earl of Crewe.

for comm

Sir, I have the honour to
ack: the receipt of your
resp. No. 301 of the 2^d. of
June, transmitting a
copy of minute by the Principal
Judge on the "Court
of appeal" & "Prin-
cipal appeal to Privy Council"
orders in Council 1909.

3. I am ^{also} prepared to
approve of the proposal
in para 4. of the
Principal

I approve of the
addition to rule 28
suggested in para (3) of
the minute.

The Judge minute, but
no separate action

will be taken under
article ~~10~~ ¹¹ of the
S.P.C. Act of the

Court of appeal
Order in Council

until a notification
has been published

in the London Gazette
fixing the date

for the orders in
Council to come

into force.

4. With effect
to the recommendation

made in the 5th para.
of the minute. Shall

be glad to hear
whether the recommendation

that Mr. J. W. Parkhouse
be appointed Registrar
of the Court of appeal
with hon., now that
he has been 472
appointed to the
post of Administrator
General.

Shaw