

EAST AFR. PROT.

34858

No. 34858

No. 493

(Subject)

1905

Appeal of Max Weber

7 Sept

at previous Paper.

Calls attention to provisions of
Comm. Ordinance Code S. 536 apparently
overlooked.

109

(Attaches)

Mr. Risley
M. J. P.

reference

The Comm. Ord. Code has called our attention to this sec 536
in his letter of 26/7/05 in which he says that it
helps us much - I think the section presupposes that trial
by jury is as far as possible, whereas in S. Africa,
orders having been made under secs 269 (1) and 274 (1) for
trial by jury in the Court of Session is simply a non-existent
institution.

In any case the interpretation as to regarding the jury
the Commission remain

The whole history of this case illustrates the absurdity
of trying to administer justice in a place like Africa
which only needs a few simple African officials to
preside over the courts. It is a waste of money and
effort to try to introduce a system of trial by jury
in a country where the people are not used to it.

J. P. P.

at previous Paper

36904

S. P.

at the office of the Secretary of State for the Colonies

C O
34858

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Commissioner's Office,

Ref. 30 Sep 35

Mombasa,

September 7th. 1905.

AFRICA PROTECTORATE,
No. 498

Sir,

With reference to your despatch No. 538 of 7th ultimo transmitting correspondence regarding Max Wehner's appeal,

I have the honour to report that the Crown Advocate has called my attention to paragraph three of Mr. Cox's letter of July 20th addressed to the Treasury Solicitor.

It would appear that the provisions of the Criminal Procedure Code section 350 have not received consideration.

That section enacts that if an offence triable with the aid of assessors is tried by a jury, the trial shall not on that ground only be invalid.

I have the honour to be,

Sir,

Your most obedient,

W. G. G. Umbie servant,

(In the absence of H. D. Commissioner)

Principal Secretary of State

for the Colonies,

Downing Street,

LONDON