

DESPATCH.

EAST AFR. PROT.

28264

82643

REC'D
23 AUG 09

mor. No.

410

909

July

Previous Paper.

Penal Code Ordinance 1909

Advocate In usual copies in memo. by Gen.

Share copies to Secretary

General Dept

Notes
P. 176

H. J. K.

22/10

See minutes attached to CO 11200 Genl
Draft prepared accordingly. 20/2/10
to Capt

Copy No. 2 sent 1916 6777/6

W. 500127

Next Paper

17

GOVERNOR'S OFFICE,

NAIROBI,

July 27th 1909

EAST AFRICA PROTECTORATE.

No. 410

C. O.
28264REC'D
23 AUG 09

Incl. 1.

My Lord,

I have the honour to transmit herewith 2 authenticated and 10 printed copies of the Penal Code Ordinance 1909 as passed by the Legislative Council to which I have assented in the name of His Majesty

2. An explanatory memorandum by the Crown Advocate is also enclosed.

I have the honour to be,
With the highest respect,
My Lord,
Your Lordship's most obedient,
Humble servant,

J. J. Falkner

H. M. Principal Secretary of State

for the Colonies,

Downing Street,

LONDON, S. W.

INCLOSURE No. 2
In Despatch No. 410 of 27. 7. 1909

C. O.
8264

REC'D
23 AUG 09

180

MEMORANDUM.

-----:oOo-OoO:-----

THE PENAL CODE ORDINANCE 1909.

1. This Ordinance applies to the Protectorate Section 103 of the "Children Act 1908" (8 Edward 7 Chapter 67) which provides for the sentence to be passed on a "young person" convicted of an offence punishable with death.

2. The Ordinance was introduced on instructions received from the Secretary of State and may therefore be assented to and promulgated forthwith.

B. J. C. [Signature]

CROWN ADVOCATE.

12-7-09

8264

23 AUG 60

THE PENAL CODE ORDINANCE 1902.

---:C&C-C&C:---

Section 1.

Title.

Section 2.

A person not to
be sentenced to death.

Section 103 of the "Children Act 1904".

The reference to a child has been omitted.

The Governor has been substituted for the Secretary of State as the authority who shall direct the place where the young person shall be detained.

Section 3.

Definition.

The term "young person" has been defined^{as} in the English Act.

If the Ordinance applied only to Natives there might be good reason for defining a young person as a person under 14 years of age. As, however, the Ordinance applies to Europeans, Asiatics and Natives, and as a separate definition with reference to each of these would be open to objection the definition most favourable to the convicted person, and proper, at any rate, as regards Europeans has been adopted.

For CAP
28 Feb 10

182

~~For CAP~~

For CAP

DRAFT.

East Africa Protectorate
No 101

Governor

B. Col. Sir C. P. Gordon RA &c

MINUTE.

- Mr. Smith 23/2/10
- Mr. Parn 23
- Mr. Bailey 24
- Mr. Fiddes
- Mr. Just.
- Mr. Cox. Seeley
- Sir C. Lucas.
- Sir F. Hopwood.
- Col. Seely
- Lord Crewe.

Sir:

28 Feb 10

I have the honor to inform you that W.M. will not be advised to exercise his power of disallowance in respect of Ordinance No 10 of 1909, entitled 'An Ordinance to amend the law relating to sentences of to be pronounced on young persons convicted of offences punishable with death', a

transcript of which accompanied
Mr. Jackson's despatch, No 440,
of the 27th of July last.

2. Section 3 of the Ordinance
defines "young person" as any
person under the age of sixteen
years. It is desirable that
discretionary power be vested
in the Court ~~in~~ ⁱⁿ deciding whether
the person is within the provided
limit of age, and I have to
request that the Ordinance may
be amended by the insertion of
the words "who in the opinion
of the Court is" between "person"
and "under" in that section.