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PUBLIC RECORD OFFICE

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TIGHTLY BOUND FOR ALL WORDS TO BE
REPRODUCED IN ENTIRETY

KENYA.

No. 183

CONFIDENTIAL.



48015
GOVERNMENT HOUSE.

NAIROBI,
24 02 25.

29th September 1925.

721

Sir,

With reference to paragraphs 6 and 7 of Sir Robert Coryndon's Confidential despatch No. 153 of June 18th 1924, and paragraph 3 of your Confidential despatch of 19th December 1924, I have the honour to forward for your approval copies of an Ordinance to provide for the Establishment of Detention Camps which was passed unanimously at the last Session of Legislative Council, together with a statement of Objects and Reasons prepared by the Attorney General.

2. This Ordinance has been the subject of considerable deliberation by a Committee of which I was Chairman as *Independent Member - acting Colonial Secretary* Colonial Secretary. It has been the object of the Committee to make the draft Ordinance as wide as possible ^{so} as to allow Magistrates considerable latitude in sentencing natives to terms of detention in a Detention Camp.

The basis of inclusion of Ordinances in the Schedule has been the nature of the offence which breaches of the Ordinance involve. Where there is a likelihood of the offence being committed with at any deliberate criminal intention by ignorant natives the Magistrates will have the opportunity of sentencing such offenders to a term of detention where hitherto conviction has necessarily meant imprisonment in one of the Colony's Prisons except in such cases where a fine may have been inflicted *in fact*.

As was pointed out in the despatch referred to a very large number of natives are annually sent to jail for offences which, while deserving of punishment, cannot be regarded as entirely...

RIGHT HONOURABLE,
LIEUTENANT COLONEL L.C.M.S. AMERY, P.C., M.P.
SECRETARY OF STATE FOR THE COLONIES.
DOWNING STREET.
LONDON. S.W.

72

entirely justifying detention with prisoners who belong to the criminal classes. The effect has been to deprive imprisonment of any moral stigma, to confuse the mind of the native as to the view taken by the European in regard to crime and possibly in some cases to suggest the idea of crime ^{by} persons who, if they had never come into contact with criminals, would have been unlikely ever to come under this category.

3. I feel sure that this Ordinance will have a very good effect throughout the country and ~~would~~ ^{will} do much to prevent the increase in criminality amongst the natives.

4. Though you have approved in principle the introduction of the Ordinance I have deferred my assent pending your approval which I should be glad to receive by cable, as the Ordinance affects the native population only and the draft was not previously submitted to you,

I have the honour to be,

Sir,

Your most obedient humble servant,

J. Wilson

ACTING GOVERNOR.



HEB/VT.

TELEGRAPH: INTERLAB. SOWEST. LON
TELEPHONE: VICTORIA 2886.

INTERNATIONAL LABOUR OFFICE.
LEAGUE OF NATIONS.

LONDON ADDRESS:
26, BUCKINGHAM GATE,
S.W. 1.

REF. NO.
ILO.60/693.

February 15, 1926.

RECEIVED
17 FEB 1926
COL. OFFICE

723

My dear Antrobus,

Thank you for your letter of the
12th February and for sending the Kenya
Colonies Gazette for the 9th December 1925,
which I have at once sent on to Geneva.

Yours sincerely,

Handwritten signature

M. E. Antrobus, Esq.
COLONIAL OFFICE,
Downing Street,
S.W.1.

M.I.
1647
26

MRKB/VT.

TELEGRAPH: INTERLAR, BOWEN
TELEPHONE: VICTORIA 51

INTERNATIONAL LABOUR OFFICE.
LEAGUE OF NATIONS.

LONDON ADDRESS:
26, BUCKINGHAM GATE,
S.W.

REF. NO.
HC.6c/251.

January 19, 1926.

724

My dear Antrebus,

Thank you so much for your letter of the 18th January, enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, and for your promise to supply a copy of the Ordinance on the same subject in due course.

I note your remarks with regard to the criticisms which have been expressed on the Ordinance and will pass them on to Geneva.

Yours very sincerely,

MRKB/VT

M. E. Antrebus Esq.,
COLONIAL OFFICE,
Downing St.,
S.W.1.

Handwritten notes:
H.A. / Attached
17/12 1925
Antrebus

1. The object of this Ordinance is to give effect to certain recommendations made by the Native Punishments Commission which was appointed by the Governor on the 25th day of May, 1922, and which reported in 1923.

2. The Ordinance is designed so as to allow the Court to sentence natives who have been convicted of offences under the ordinances set out in the Schedule to be detained in a Detention Camp.

3. These offences do not necessarily involve moral turpitude and it is considered desirable to have power to keep technical offenders separate from hardened criminals.

4. The Governor is empowered to establish Detention Camps.

Certain sections of the Prisons Ordinance, 1914, dealing with administration, medical supervision and punishments are included.

5. A detainee convicted of any offence against discipline may be removed to prison. The authority to convict is only to be exercised under the rule-making section. Interpretation Ordinance, 1917, section 10.

6. Comparative Table is attached.

7. On the question of whether His Excellency may assent to this Ordinance I have had considerable hesitation but on the whole in view of the terms of Article 17 (1) of the Royal Instructions and as the Ordinance has not yet been submitted to the Secretary of State I am of opinion

that

726^A

that His Excellency should withhold his assent.

Nairobi,
29th August, 1925.

R. W. G. G. G.
ATTORNEY-GENERAL.

COMPARATIVE TABLE OF PROVISIONS.
THE DETENTION CAMPS ORDINANCE, 1915.

726

No.	Remarks.
	Short title.
	Definitions.
	Governor may establish detention camps.
	Control of detention camps.
	Power to sentence a native convicted of a technical offence to be detained in a detention camp.
	He may be sent on appeal, revision or confirmation to a detention camp or to a prison or to any other place of detention.
	Officers receiving the proceedings of a native tribunal may order a sentence into one of detention.
	Prisoners to be kept to labour but not of any.
	Power to remove detainees from detention camps and to prescribe rules for their conduct in detention camps, labour, education.
	Detainees convicted of any offence may be removed to prison.
	Detention certificates to be given free detainees on a mission to camp and to be returned to him on discharge. Detainees to be provided with identity files to be worn during detention.
	Certain sections of the prisons ordinance, 1911, apply.
	Governor in Council may amend schedule.
	Power to make rules.

Rule.	Remarks.
Module	List of Ordinances to which the ordinance appl

Nairobi,

28th August, 1965.

R. W. [Signature]

SECRETARY-GENERAL.

23

Allen 19.11.25

O.A.G. 48015/25 Kenya

and *Amal*
1872F(3)

Huttonley 15 place

London

Stockport

Dover

London

S. Wilson

London

(21)

Codes + Seal
H. 35
24th Nov. '25
CP

728

24th November. Your Confidential despatch 29th

September 1925. His Majesty has been

pleased to assent to the Detention Camps

Bill, but you should take steps to

introduce as soon as possible amending

legislation (a) providing that period of

detention shall not in any case exceed

period of imprisonment to which accused

could have been sentenced if Bill not

passed (b) providing that when an

Ordinance provides for fine only or fine

and imprisonment in default of payment,

detention may be ordered in default of

payment and not as the primary punishment,

(c) lay down ^{scales} of detention in default

of payment of fine

AGENCY

RAFT.

GRAM

CHUVOR NAIROBI

1/11/25
after the meeting
with the [unclear]

SRE a

Allen
11/25
Botranley 24 f

O.A.G. 48015/25. Kenya

2nd

729

- Strachey.
- J. Shuckburgh.
- C. Davis.
- H. Grindle.
- S. Wilson.
- J. Masterton-Smith.
- Ormsby-Gore.
- Amerly.

SU

30 November, 1925.

Sir,

DRAFT.

HONORARY SECRETARY,
THE ANTI-SLAVERY AND
ABORIGINES PROTECTION
SOCIETY.

47136
~~45697~~

With further reference to

your letter of the 19th October.

I am directed by Mr. Secretary Amerly

to inform you that he has now given

careful consideration to the Bill

passed by the Legislative Council

of Kenya to provide for the

establishment of Detention

As regards your request

that the Governor ^{may} be asked to

report as to the necessity of the

measure, I am to explain that the

Bill was passed to give effect to

the recommendation of the Native

Punishment Commission in paragraph

5 of their report, a copy of which

is enclosed. In commenting on that

Report in 42809/23
inc in 36000/24

30 NOV 1925

copy to Gov. Conf (4)

Drafts.

Recommendation the Governor reported
that during 1923 a total of 4,530
Native were imprisoned for an average
of 31 days for offences against the
Water and Sewerage Ordinance, 1910,
the Native Registration Ordinances and
other Ordinances such as the Townships,
the Native License and Passes, Hut
and Tax and Licensing Ordinances.
It is suggested that it should be
considered whether the great majority
of these offences are
of a nature which, as a general
rule, should be enforced. It
is suggested that on or about May 20th
1924 a committee be devised a system
for dealing adequately with this class
of offences without the infliction of
an undue fine or a punishment which
may appear excessive in respect of the
offence on account of which it is
imposed.

3. It is also anticipated that

Recommendation the Governor reported

that during 1923 a total of 4,530

Native were imprisoned for an average

of 30 days for offenses against the

Master and Servant Ordinance, 1910,

the Native Administration Ordinances and

other Ordinances such as the Townships

Native Authority Passes, Hut

Tax and Gambling Ordinances

It is recommended that there should be

enacted a law which would give a great majority

of the Native population the right to

own land and to be represented on the

Native Authority. It is also recommended

that the Native Authority should be

empowered to legislate on a system

of taxation which would be levied on the class

of the population which is the subject of

the proposed law. It is also recommended that

the Native Authority should be empowered to

impose a tax on the Native population which

is proposed

3. It is also anticipated that

the introduction of this scheme will
 relieve the larger prisons of a
 great number of prisoners. In this
 connection, the Governor ~~has~~
 pointed out that there are three
 first-class prisons at Mombasa
 Malindi and Kisumu to which
 prisoners who have received longer
 sentences than six or three months
 are drafted from second and third
 class prisons respectively because
 of the want of accommodation
 and the want of outstations. When the
 cellular camp system is in force
 it is expected that it will be
 possible to keep a larger number of
 prisoners at outstations where
 special provision ^{will} ~~can~~ be made ^{for}
 camps for their accommodation. This
 extension will meet the recommendation
 in paragraph 31 of the report of the
 Native Punishment Commission which
 it is considered desirable to follow
 not

not only for the reasons given in
that paragraph, but also for reasons
of health, so that lives may be
saved.

allowed to come into operation, and he
is satisfied that there is no reason
to apprehend that the scheme will be
misused for the purpose of securing
supplies of unpaid labour. The Governor
has accordingly been informed that His
Majesty has been pleased to give his
assent to the ^{Ordinance} ~~Bill~~, but has at the same
time been requested to take steps for
the early introduction of amending
legislation

(a) providing that the period of
detention shall not in any case exceed
the period of imprisonment to which the
accused would have been sentenced if the
Bill had not been passed,

(b) providing that where an Ordinance
provides for fine only or fine and
imprisonment in default of payment,
detention may be ordered in default of
payment and not as the primary punishment

Secretary of State *He has set a*
Bill ~~Bill~~ *is requiring*
as which he is committing it to
respects referred to later
the Bill is copy of amendment
reason why it should not be

allowed

TD

6

Scalag
(c) lay down ~~rules~~ of detention in
default of payment of fine.

6. The Governor has already been asked for a report on the working of the system after it has been in operation for a reasonable time, and copies of your letter of the 19th October and of this reply are now being sent to him for his information.

I am etc.,

W. C. BOTTOMLEY

scale

(c) ~~lay down~~ ^{scale} ~~scale~~ of detention in
default of payment of fine.

6. The Governor has already been asked for a report on the working of the system after it has been in operation for a reasonable time, and copies of your letter of the 19th October and of this reply are now being sent to him for his information.

I am etc.,

(Signed) W. C. BOTTOMLEY

not only for the reasons given in that paragraph, but also for reasons of health, so that natives may not be subjected to inevitable changes of climate to which they appear to be very susceptible

4. The need for a Central Prison, a matter which has been under consideration for some time, will become less urgent if these measures come into operation. The importance of such a institution is not questioned; but the Colonial Government feel that the expenditure of large sums of money for this purpose would be premature and would prefer to reconsider the matter after the Central Prison scheme has received a fair trial

5. While the Secretary of State *Richd. King* considers that ~~amendments are required~~ *the Bill requires amendment* in certain respects, *to which he is committing the Bill*, *provision of the Ordinance in respect of amendment*, he sees no reason why it should not be

allowed

allowed to come into operation, and he is satisfied that there is no reason to apprehend that the scheme will be misused for the purpose of securing supplies of unpaid labour. The Governor has accordingly been informed that His Majesty has been pleased to give his assent to the ~~Bill~~ *Ordinance, &c.* but ~~has at the same~~ time been requested to take steps for the early introduction of amending legislation

(a) providing that the period of detention shall not in any case exceed the period of imprisonment to which the accused would have been sentenced if the Bill had not been passed.

(b) providing that where an Ordinance provides for fine only or fine and imprisonment in default of payment, detention may be ordered in default of payment and not as the primary punishment

TD

6

not only for the reasons given in that paragraph, but also for reasons of health, so that natives may not be subjected to avoidable changes of climate and let to which they appear to be very susceptible

4. The need for a Central Prison matter which has been under consideration for some time, will become more urgent as these measures are in operation. The importance of this institution is not questioned; and the Polish Government consider that to spend a large sum of money on this purpose would be premature and will have to reconsider the matter if the detention camp scheme has received a fair trial.

5. While the Secretary of State *thinks that as the Bill requires amendments* considers that amendments are required in certain respects *in which he is committing the Govt. to* ~~referred to later~~ *provisions of the Ordinance and copies of amendments*, he sees no reason why it should not be

allowed

allowed to come into operation, and he is satisfied that there is no reason to apprehend that the scheme will be misused for the purpose of securing supplies of unpaid labour. The Governor has accordingly been informed that His Majesty has been pleased to give his assent to the ~~Bill~~ ^{Ordinance} but ~~has~~ ^{has} at the same time been requested to take steps for the early introduction of amending legislation

(a) providing that the period of detention shall not in any case exceed the period of imprisonment to which the accused would have been sentenced if the Bill had not been passed,

(b) providing that where an Ordinance provides for fine only or fine and imprisonment in default of payment, detention may be ordered in default of payment and not as the primary punishment

TD
6

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default of ~~payment~~ of fine.

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I am etc.,

(Signed) W. C. BOTTOMLEY.

(c) ^{scaley} lay down ~~scale~~ of detention in
default of ~~scale~~ payment of fine.

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asked for a report on the working of the
system after it has been in operation
for a reasonable time, and copies of your
letter of the 19th October and of this
reply are now being sent to him for his
information.

I am, etc.,

J. M. C. BOTTOMLEY

23

Mr. Allen
Mr. Boltanley 24/11/25

Mr. Stuckey
Mr. J. Shuckburgh
Mr. C. Davis
Mr. G. Grindle
Mr. S. Wilson
Mr. J. Masterton-Smith
Mr. Oswald Gore
Amery

O.A.G. 48015/25. Kenya.

732

Quid

C. 11
R 25 NOV
D 24

SS

30 November, 1925.

DRAFT.

CONFIDENTIAL

(11) 19/10/25
Grigg

From Secret 19 Oct
to Mr. - 30 Nov
(Confidential)

Sir,

I have the honour to

confirm my telegram of the 24th of
November in which I informed you
that His Majesty had been pleased
to assent to the Detention Camps
Bill and requested you to take steps
for the early introduction of
legislation amending the measure
in certain respects. I enclose a
copy of correspondence on the
subject of the Bill with the Anti-
Slavery and Aborigines Protection
Society and I would invite your
attention to paragraph 3 of my
despatch Confidential (2) of the 19th
of December, 1924, in which I asked
for

3 drafts

30/11/25

for a report on the working of the
detention camp system when it has
been in force sufficiently long for
it to have the opportunity

(Signed) L. S. AMERY

INTERNATIONAL LABOUR OFFICE,
LEAGUE OF NATIONS.LONDON ADDRESS:
26, BUCKINGHAM-GATE,
S.W. 1.

60/71.

January 6, 1926.

My dear Antrobus,

In the House of Commons on the 14th December last the Under-Secretary for the Colonies referred to an Ordinance relating to the formation of detention camps issued by the Government of Kenya Colony, and to a circular on the same subject issued by the Colonial Secretary for the Kenya Colony. My Head Office are anxious to obtain copies of these and I should be very grateful if you could procure them for me.

Yours sincerely,

M. E. Antrobus, Esq.,
COLONIAL OFFICE,
Whitehall,
S.W. 1.

7335

Downing Street,

18 January, 1926.

My dear Burge,

I am enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, which you asked for in your letter of the 6th of January. I am sorry that we have not yet received the usual supply of copies of the Ordinance on the same subject, but I will send you one when in due course they arrive.

In view of certain criticisms of the Ordinance I may say that while the Secretary of State thinks that in certain respects as to which the Governor has been consulted, it is capable of amendment, he is satisfied that there is no reason to apprehend that the scheme will be misused for the purpose of securing supplies of unpaid labour.

Yours very sincerely,

(Sgd) H. E. Antrobus.

H. K. BURGE, ESQ.,

- Mr. Clegg 14.1.26
- Mr. Allen 14/1/26
- Mr. Antrobus 14/1/26
- Mr. E. J. Harding.
- Mr. Strachey.
- Mr. Shuckburgh.
- Mr. Grindle.
- Mr. Davis.
- Mr. S. Wilson.
- Mr. Ormsby-Gore.
- Mr. Clarendon.
- Mr. Amery.

Antrobus

18 January 1926.

DRAFT. S.O. for Mr Antrobus' Signature

Burge Esq

My dear ~~Dear~~ Burge.

I am enclosing a copy of the Circular relating to the formation of Detention Camps in Kenya, which you asked for in your letter of the 6th of January. I am sorry that we have not yet received the usual supply of copies of the Ordinance on the same subject, but I will send you one when

Letter No 54

Noted

and B.L. in a month's time so as to ensure that Burge gets a copy of the Ordinance when recd

in due course they

arrive

In view of other
criticisms of the
order

It may say that while
the Joffe thinks that in
the ~~order~~ certain parts respects
it is
the ~~order~~ which

is capable of amendment
and when the Governor
has been ~~is~~ cancelled
has been ~~is~~ cancelled but

butly - quite satisfied

at the ~~order~~ as
to casual to apprehend that
the ~~order~~ will not lead
the scheme will be necessary for
to any abuse on the
to increase
necessity of securing
supplies ~~of~~ of unpaid

Yours very sincerely

Edw. M. E. Dubois