

Certain officers and of
 Sergeant Major Dickinson
 & the rest of the company
 & the rest of the police
 provided in quantity
 I am to report that it was
 returned to the office

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EAST AFR. PROT
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 11/11

RAPE AND ASSAULT WITH INTENT
 BY COLOURED PERSONS UPON EUROPEANS

States sentence imposed in recent case of assault on a white child. If heavy sentence had not been passed fears that there would have been an armed conflict with the Police. Submits necessity for the introduction of legislation to deal with such cases and for the punishment of white women who allow natives to have connection with them. Will shortly submit a draft Ordinance.

Sir G. Zulus

Want for the S.P. of the proposed ord. etc. ?

With regard to para 4, there was no formal decision but the Gov. talked to me about the case & two other of a similar nature which had occurred in the past. I understood from Sir P. G. that, under the Indian Penal Code, the punishment for attempted outrage on a woman was very light (maximum sentence of 2 years imprisonment with fine - see Sec. 354 of the Indian Penal Code) but that outrages by natives on women were practically unknown in India - that on the other hand, the

T. 0

J. P. C. imposed very heavy penalties for
possessing offences which were common in
India but were practically unknown in the
S.A.P. I agreed that, in these areas,
the law with regard to outrages on women
would appear to require strengthening (at
least) not to the extent of capital
punishment, if that is what is implied by
"more in accordance with S. African
procedure") & I told him that we were
aware that the Indian Codes were
unsuitable in many respects to the E.A.P.
& that it was our policy to get them
superseded by local legislation more adapted
to the needs of the Prots. & that I
thought that the best way of removing
the anomalies referred to above was
for the L.O. to press on with the
new legislation. As to the see Ex 2795/112

+ Ex 26598/107

H- J. R.
25/III

Wait
Pr. 26

Ch 27.3
E 28.3

Mr. G. Poldes You will remember that
the

the matter was discussed with Sir P.
Garnaud at the meeting on the 5.11.12;
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some a few weeks ago, but that no
very definite conclusion was arrived
at - except that I think it is generally
agreed that we could not impose the
death penalty for criminal assault of
the kind by blacks on white women.
When the file is returned to the
Prots. I assume that I will send
home the order referred to in the last
page of his despatch. Meanwhile,

Put by!

H. J. R.

25/III

(See him produce his app. order for
operation)

Ch 11/6

Yrs. Tell friends

Ch 12.6

E 12.6

I hope the draft Ordinance will not be
long delayed. The jury question deferred
somewhat on 7th 15.6.12

Given
Garnaud
at a
1/II

C O 165
8073

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

EAST AFRICA PROTECTORATE

10th February, 1912.

CONFIDENTIAL No. 12.

Sir,

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3096
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With reference to my telegram of November 15th in which I reported that a native had been arrested on a charge of assault on the five year old daughter of a settler, I have the honour to inform you that the following sentences have been passed on the accused:-

(1) Seven years Rigorous Imprisonment, a fine of Rupees Five hundred or in default one year rigorous imprisonment, and 24 lashes under Section 325, Indian Penal Code.

(2) Four years Rigorous Imprisonment under Section 506, Indian Penal Code.

At the time of the trial public feeling ran very high, and had a conviction on a serious count not been obtained and a heavy sentence passed I have reason to believe that an attempt would have been made to seize the person of the accused and that a serious conflict with the Police would have resulted

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

resulted, in which it is probable that fire-arms would have been used and the Police overpowered.

3. There is a strong public feeling that the existing penalties for the offences of Rape and Assault with Intent, when committed by a coloured person upon a European, are inadequate, and I fear that should cases occur in the future without amending legislation being introduced meanwhile an attempt will be made by the settlers to take the law into their own hands.

4. The proposed amendment was discussed with Mr. Read, who agreed that we required laws more in accordance with South African than with Indian procedure, but was of opinion that it would be preferable, instead of enacting special legislation on the subject, to embody such sections as we consider necessary in the Criminal Procedure Code, which will, I hope, shortly be ready. Such offences as rape, however, are not dealt with under the Criminal Procedure Code but under the Criminal Penal Code, which we shall not be able to compile for several years. It is, therefore, I submit necessary to enact special legislation to deal both with rape and indecent assault and with cases of white women having unlawful carnal connection with a native or coloured person.

5. Unless we are content to wait until an attempt is made to introduce lynch law,
which

which will assuredly happen before long if we allow things to remain as they are at present, we must enhance the penalties which can be legally imposed in cases of rape and similar offences; and for the protection of natives we must be in a position to punish those white women who, by permitting natives to have connection with them, lower the prestige of the white woman, and are largely responsible for the so-called Black Peril. I am advised that such cases cannot be dealt with, as suggested in your confidential despatch of June 27th, 1911, under the Immigration Restriction Ordinances.

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6. I propose, therefore, shortly to submit to you a draft ordinance dealing with the whole question, and I venture to hope that the matter will receive your sympathetic consideration.

If you cannot see your way to approving my former suggestion to introduce into the Legislative Council a Bill similar to the Transvaal Crown Colony Ordinance No. 46 of 1903, as stated in your confidential despatch of March 17th, 1911, owing to such legislation involving differential treatment as between Europeans and Indians, I trust that you will not have the same objection to an ordinance in which a "native" is substituted for a "coloured person".

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I have the honour to be,
Sir,
Your humble, obedient servant,

R. J. ...
GOVERNOR.

C.D.
19 JUN
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Lu
873 E.A.P.

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[Handwritten signature]

Sent 4.50 pm
Curt

19 June 12

DRAFT.

Telegram to

Governor
Nairobi

stopping

When may I expect
overdress

MINUTE.

- Mr. Read 19 June
- Mr.
- Mr. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott
- Mr. Harcourt.

draft ordinance
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referred to in
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No 12 of 10th Feb 12

Harcourt

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Reference -
C.O. 533

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