

EAST AFR. PROT.
No. 3424-1

36271
31 JUL 07

1907
Aug 9
at previous Despat.

(Subject.)

Abolition of legal status of Slavery

Submits draft order amended has no reason to make for
modification Explains draft of Section 16 & proposes to follow
Zangwill's practice as to payment of compensation

(Miscellaneous)

Mr. Ellis

? send to Mr. Riley to see that
the order is in order

Mr. Phillips This seems all right 2/1/07
Mr. Cortis authentic on attachment by telegraph
DL 4/1

The draft is in outline all right and as the Head
of the Dept. has seen it has no objection to it
and in the case of the draft as proposed

It is as satisfactory within the meaning of
the Act as to the draft (2000) clause but the
language of the latter is not satisfactory - in general
it is not satisfactory unless it is clear that the purpose is
to be intended
to be of the same nature as the

It is as prepared by Mr. Phillips
and will not be necessary to see it
as prepared to the satisfaction of the

...injunction, with
The Treasury letter in which
it was suggested that a limit
should be fixed to the amount
to be granted in each case
... It should be looked
up, and also the correspondence
with the O.A.G. on the subject
The Ordinance contains no
mention of a limit, and I
do not understand how Col
Satter is able to say that
the Court will not estimate
the compensation at higher
rates than those which he
proposes. It may be re-
ferred to some matter of
... in the telephone

Atty. Gen.
at once

Mr. Satter

Please see para 3 of Memorandum and
para 2 of Report prepared on that paper. The
Report must have reached Bombay on
the 5th of July, so that apparently Col Satter
has not understood that the maximum was
to be fixed at the discretion.

Yours faithfully
GCS
6/7

Governor's Office

Nairobi

C.O.
31271
1907 AUG 07

August 9th

EAST AFRICA PROTECTORATE

CONFIDENTIAL (47)

(Incl. 1)

My Lord,

I have the honour to acknowledge the receipt of Your Lordship's despatch - Confidential - of the 4th ultimo on the subject of the abolition of legal status of slavery on the Coast strip.

The necessary alterations have been made in the draft Ordinance, which is now resubmitted as amended.

With reference to paragraph 9 of my previous despatch Confidential No. 76, I have carefully considered the papers and correspondence received from His Britannic Majesty's Agent and Consul General at Zanzibar, and see no reasons to make any further modifications in the draft Ordinance.

With regard to the concluding paragraph of Your Lordship's despatch under reply, I would explain that the

object

H.M. PRINCIPAL SECRETARY OF STATE

FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W.

object of Section 16 of the draft Ordinance is to safeguard the home life of the Arabs, a matter upon which considerable stress was laid when similar action was taken in Zanzibar.

vide Nos. 1 and 2 page 1 also 3 page 57 of Africa No. 6

(189⁰) - the printed correspondence respecting the abolition of the Legal Status of Slavery in Zanzibar and Pemba.

5. I was anxious to follow as closely as possible the procedure adopted in Zanzibar as the Arab and Swahili owners of our Coast line would the more readily understand our motives based on such procedure. I accordingly followed in Section 16 the wording of the Sultan's Proclamation.

The Crown Advocate has, however, re-drafted this Section in a clearer and more legal form, retaining the evident intention of the Sultan's Proclamation. I trust that this will meet with Your Lordship's approval.

6. I am proceeding to Mombasa on the 20th instant where I shall hold a meeting of the Livalis of the principal Coast towns and leading Arabs of Mombasa and explain our intentions to them.

7. Regarding the amount of compensation I would again

propose

INCLOSURE

To: Despatch *Conf. 49/10/1907*

31271
31 5/1907

A BILL

for the abolition of the Legal Status of Slavery throughout the East Africa Protectorate.

WHEREAS it has been determined to abolish the Legal Status of Slavery throughout the Protectorate: And it enacted by the Governor of the East Africa Protectorate with the advice and consent of the Legislative Council thereof:-

Short title.

1.

This Ordinance may be cited as the
Abolition of the Legal Status of Slavery
Ordinance 1907.

3.
The Legal Status of
Slavery absolutely
abolished.

From and after the 1st day
of October 1907 the Legal Status of Slavery
shall be and remains abolished throughout
the Protectorate and all claims of whatever
description made before any Court in the
Protectorate in respect of the alleged
relations of Master and Slave shall be
referred to the District Court or to the
Special Court as the case may be within the
jurisdiction of which the case may arise, and
shall be cognizable by that Court alone.

rights over the
property of a slave
be enforceable
Master may claim
compensation for
losses actually
suffered by reason of
the provisions of this
Ordinance.
Such claims to be made
at the District Court.

3. From and after the 1st day of October 1907 a District Court or Special Court shall decline to enforce any rights claimed over the body, service, or property of any person on the ground that such person is a slave, but wherever any person shall claim that he is lawfully possessed of such rights in accordance with the law existing in the Protectorate immediately before the making of this Ordinance and has by this Ordinance been deprived of them, and has suffered loss by such deprivation then the Court shall serve or cause to be served upon the person making such claim a notice requiring ^{him} to appear at the Court on a date to be stated in such notice but not within 28 days of the date of such notice, to prove his claim.

The Court must
give notice of every
claim for a period of
not less than 28 days
before the claim is heard.

Whenever a claim shall be made under
the preceding Section the Court shall cause
a notice written in Swahili and Arabic to
be posted outside the Court building stating
the name of the claimant, the name of the
alleged slave in respect of whom the claim
is made and the day on which the claim will
be heard, and calling upon any person or
persons who may wish to oppose the claim to
appear at the Court on the said day. Such
notice shall be posted as aforesaid for not
less than 28 days before the day fixed for
the hearing of the claim.

5. The Court to take the evidence of the claimant and persons opposing the claim.

On the day appointed for the hearing of any claim under these Ordinances or on any day to which the hearing may be adjourned the Court shall take the evidence of the claimant, if he appears, and of his witnesses (if any) and shall hear any person or persons who may appear to oppose the claim and take his or their evidence and the evidence of his or their witnesses (if any).

6. Court to assess compensation and report to the Treasurer.

If after taking all the evidence produced by the claimant and the opponents (if any) to the claim the Court is satisfied that claimant was lawfully possessed of the rights claimed and has suffered loss by the deprivation of those rights occasioned by this Ordinance it shall give judgment accordingly and shall report to the Treasurer that it deems the claimant entitled in consideration of the loss of such right and damage resulting therefrom to such pecuniary compensation as the Court may estimate to be a just and reasonable equivalent for their value, and the Treasurer shall save as hereinafter provided then pay to the claimant the sum estimated by such Court.

In estimating the amount of compensation to be awarded the Court shall include the Court costs paid by the claimant in those proceedings.

the Court shall dismiss the claim which in its opinion is not well founded and report accordingly to the Treasurer.

If the claimant shall fail to satisfy the Court that his claim is well founded the Court shall dismiss the claim and shall order the claimant to pay the costs of any person or persons who may have successfully opposed the claim and shall report to the Treasurer accordingly.

Copy of the evidence B.
to be forwarded to
the Treasurer.

With every report sent to Treasurer
under Sections 6 and 7 of this Ordinance
the Court shall forward a copy of the evidence
taken in the matter of the claim and when
preferable a description of the alleged
slave in respect of whom the rights were
claimed.

Penalty for making fraudulent claim.

9. (1)

Any person who shall claim any right over the body, service or property of any person on the ground that such person is his slave, knowing or having reason to believe that such person is not his slave shall be guilty of an offence and shall on conviction be liable to a fine not exceeding Rs.1000 or to imprisonment of either description for a term which may extend to one year, or to both.

Penalty for abetment of an offence under preceding sub-section.

(2)

Any person who shall knowingly abet within the meaning of the Indian Penal Code any person in the commission of an offence under the preceding Sub-Section shall be guilty of an offence and shall be liable to be punished with the punishment provided by that Sub-Section.

When the Treasurer shall not pay the compensation assessed.

The Treasurer shall not pay compensation under this Ordinance in any of the following cases:-

1. When the person to whom compensation is payable has been convicted of an offence under the preceding Section.
2. When compensation for the loss of rights in respect of the body, service or property of a slave has already been awarded and paid to some other person who has satisfied a Court that he is the owner of such slave.
3. When he shall receive notice from any person that he has entered an appeal in the High Court against the decision and award of the District or Special Court and until he shall be notified that such appeal has been dismissed.
4. When it shall appear that compensation has been already paid under this Ordinance to the person ~~xxxx~~ in whose favour the award has been made in respect of the deprivation of his rights over the body, service or property of the same slave.

11.

Any person making a claim

appeals to the
Court.

under any of the provisions of this Ordinance
and any person prejudiced by the decision
of any District or Special Court in any
matter arising under this Ordinance,
whether he shall have been ~~the~~ person
opposing a claim in the said Court or not
shall have the right to appeal from the
decision of the District or Special Court
to the High Court provided that in the
latter case such appeal shall be entered
before the compensation has been paid under
this Ordinance.

Compensation may be paid to a sick or aged slave for damage actually suffered by reason of the provision of this Ordinance.

(1)

From and after the first day of October 1907 a District or Special Court shall not enforce any right claimed by a slave against his Master on the ground that he is a slave: Provided that whenever any slave shall complain to a District or Special Court that he is unable by reason of age, illhealth or other infirmity to earn a living and that his Master has refused to give him such support as he would be entitled by law to demand of him but for the provisions of this Ordinance the Court shall summon or caused to be summoned to the Court the alleged Master and shall after taking the evidence of the complainant and the alleged Master if he appears and of such other person who may be called to give evidence in the matter, if satisfied that the complainant would but for the provisions of this Ordinance be entitled by law to be supported by the said Master and that the Master has refused to give him such support award to the complainant such pecuniary compensation as may be a just and reasonable equivalent for the value of the right of which he has been deprived by this Ordinance.

(2)

The compensation awarded under the preceding Sub-Section may be in the

nature of a lump sum or of a monthly or yearly payment.

- (3) The Court shall send to the Treasurer a report of every claim made under SubSection 1 of this Section, together with a copy of the evidence and of judgment of the Court, and the Treasurer shall then pay to the complainant the compensation (if any) awarded and in accordance as regards the time and manner of payment with the judgment.

13. Compensation awarded to a slave under the preceding Section to be a charge on any compensation which may be awarded under this Ordinance to the Master of such slave.

Any compensation awarded to a slave under the preceding Section shall be a first charge on the compensation which may at any time be awarded in respect of any other slaves under this Ordinance to the Master of such slave and the Treasurer shall deduct a sum sufficient to pay that first mentioned compensation from any monies which may become due to such Master under this Ordinance.

No compensation
to be paid to a
master in respect
of a slave who shall
have received compensation
under this Ordinance.

14.

A Master shall not be entitled to any
compensation for the loss of any right
over the body, service or property of any
slave to whom any compensation shall have
been awarded under this Ordinance.

16.

The Treasurer to keep a record of reports judgments etc under this Ordinance.

15. The Treasurer shall keep or cause to be kept a full and proper record of all reports, judgments and awards under this Ordinance sent to him, and a record showing the amount of compensation paid, the name of person to whom it has been paid and of the person in respect of whom or the property of whom the compensation was awarded.

The Treasurer to keep a record of reports judgments etc under this Ordinance.

15. The Treasurer shall keep or cause to be kept a full and proper record of all reports judgments and awards under this Ordinance sent to him, and a record showing the amount of compensation paid, the name of person to whom it has been paid and of the person in respect of whom or the property of whom the compensation was awarded.

16. Concubines shall not be deemed to be slaves for the purpose of this Ordinance and nothing in this Ordinance shall alter the law relating to the rights and duties of concubines in force in the Protectorate at the date of this Ordinance. Provided however that in any case in which a concubine shall petition a District Court or Special Court for a dissolution of the relations existing between herself and her Master on the grounds of cruelty, such Court may, if the alleged cruelty shall have been proved to its satisfaction, grant such dissolution and thereupon the Master shall cease to have any rights over the body, service or property of such concubine, but no compensation shall be paid to such Master for the loss of such rights.

Indy

6 September

Pilotton

DRAFT Telegram

Sadler

nanobe

msd 31271

Referring to your conf. dispatch

dazzlefool

47

section 16

fortyseven

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Ellis 11/1 6/9

W

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Mr. Cas

Mr. Lucas

Sir P. Hopwood

Mr. Churchill

The Earl of Egin

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