

DESPATCH

EAST AFR. PROT.
No 11537

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Warrior No.
628

1908

11 Dec.

Continous Paper.

Subject
Ord 5077
Criminal Procedure

para copy to library

(Minutes)

Risley

H. S. R.

9/2

Mr. Ambrose

See also Report to this ad.

It affords an illustration of a Part starting up with the old man principle of majority verdicts and common sense, to the English principle of unanimity of verdicts in all cases.

Let had a sample of the reverse development with long ago when the old man abandoned the English principle for the English principle.

There is a suggestion of a... of professional opinion of their colony, or Part concerned can hardly be disregarded (see para 2 of the report)

? I am not sure

S.R.

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Governor's Office

Nairobi,

December 31st 1907.

AFRICA PROTECTORATE.

No. 623.

(Incl. 2.)

My Lord,

I have the honour to transmit to you with two

authenticated and ten printed copies of the Original

Procedure Ordinance 1907 as passed by the Legislative

Council to which I have assented in the name of H^M

Majesty.

2. An explanatory Memorandum by the Crown Advocate is

enclosed.

I have the honour to be,

with the highest respect,

My Lord,

Your L^y most obedient,

Loyal servant,

J. G. Walker

(In the absence of H.E. the Governor).

H. Prinsep

For the Secretary,

LONDON, E.C.

No. 700
31/10/06
C.O.
4537

THE CRIMINAL PROCEDURE CODE

The Indian Code of Criminal Procedure and the Protectorate provided that in trials before the jury shall consist of nine persons.

Sections 301, 302 of the Code make provision for the verdict of the majority of the jury and Section 303 empowers the Judge to give judgment in accordance with the verdict of the majority, provided that there are a 2 of one opinion.

After local legislation the jury in some cases consist of five and in others of five persons only. Section 303 of the Code cannot apply to juries of five persons and no special provision is made in the Code or in any local law regarding the acceptance of the verdict of the majority of such a jury. It is necessary, that the law shall definitely state as to whether in the case of a jury of five persons a majority verdict may be accepted by the Judge.

The local Government, the Judges, and the public are of opinion that not only in the cases tried by a jury of five but also in the cases of trial by a jury of nine unanimous verdict should ~~be the only mode of trial~~ and therefore when dealing with the matter of the verdict of jury in criminal cases the opportunity has been taken to alter the law which was introduced into the Protectorate by the Application of the Criminal Code Act, 1900.

The Criminal Code, sections 301, 302 & 303 of the Criminal Code shall henceforth apply to the Protectorate and substitutes Sections which make no provision for the delivery of a majority verdict, and that the judgment shall be

given in accordance with the nature of verdict and the provisions for the retrial in the case of a new trial made in the Code.

This in my opinion is an Ordinance to which the Council should assent on behalf of His Majesty.

CROWN ADVOCATE