

EAST AFR. PROT.
 No. 17686

17686
 18 MAR 06

No. 180.
 906
 Serial
 Previous Paper.

(Subject.)

Ordinance 6 of 1906.
 Native Courts

Submit

(Minutes.)

Mr. Peck
 H. J. R.
 19/5

Noted.

Mr. Peck
 Mr. Peck

The course arises out of the Webster case and is a sensible
 move

2. Specially non-Discretionary reference, approval of
 the course taken by the Council.

H.R. 19/5

Mr. Peck

I assume that the Council has
 satisfied himself that no native
 tribes have unsuitable forms of
 oaths or other work so obvious in
 sanctioning

1906

H.R.

Mr. Peck

Commissioner's Office,

Nairobi,

April 30th 1906.

AFRICA PROTECTORATE.

No. 180.

(Incl. 2)

C O
17686
REC'D
REG 18 MAY 06

My Lord,

I have the honour to transmit to Your Lordship herewith a copy of a letter which I have received from the Crown Advocate drawing attention to the fact that although provision is made by the Indian Oath Act 1873, which has been applied to this Protectorate, for persons objecting to take an oath, no provision is made for a person who is entirely ignorant of the meaning of an oath. As a point was made by the Appellant in the case of Wehner versus the Crown that the native witnesses were not sworn I have deemed it expedient to enact an Ordinance to be known as the Native Oaths Ordinance 1906, according to the terms of which any native, not being a Christian or Mohammedan, when required by law to take an oath, shall

take

Principal Secretary of State

for the Colonies.

Downing Street,

LONDON, S.W.

No. 7.
E4th
1906

Commissioner's Office,

Nairobi,

April 20th 1906.

EAST AFRICA PROTECTORATE.

No. 180.

(Incl. 2)

C O
17686
REC'D
MAY 18 1906

My Lord,

No. 7.
E4th

1906
for leg.

I have the honour to transmit to Your Lordship herewith a copy of a letter which I have received from the Crown Advocate drawing attention to the fact that although provision is made by the Indian Oath Act 1873, which has been applied to this Protectorate, for persons objecting to take an oath, no provision is made for a person who is entirely ignorant of the meaning of an oath. As a point was made by the Appellant in the case of *Wehner* versus the Crown that the native witnesses were not sworn I have deemed it expedient to enact an Ordinance to be known as the Native Oaths Ordinance 1906, according to the terms of which any native, not being a Christian or Mohammedan, when required by law to take an oath, shall

take

W. Principal Secretary of State

for the Colonies,

Downing street,

LONDON, S.W.

take the oath in the form common amongst, and held binding by, the members of the tribe to which he belongs, and when the native belongs to a tribe the members of which hold no form of oath, he shall be required to make solemn affirmation in the form now in use in the

2. I enclose herewith eight copies of this Ordinance which I trust will meet with Your Lordship's approval.

I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

REC'D
REGD 18 MAY 06

CROWN ADVOCATE'S OFFICE,

N. MOMBASA,

MARCH 24th 1906.

No. 7
Sir,

A point was made by the Appellant in the case of Wehner versus the Crown that certain natives who belonged to a tribe the members of which recognised no form of oath as binding and who were themselves absolutely ignorant of the nature of an oath, were not required by the Judge to take an oath before giving their evidence.

The Judges of the Court of Appeal were of opinion that it was unnecessary that an oath should be administered in such cases. It is possible however that the Privy Council differed from that opinion and that the non administration of an oath to these natives was one of the irregularities referred but not named in the judgment of the Court.

2. I have the honour to forward for your approval a draft Ordinance allowing the Court to require any person who is entirely ignorant of the nature of an oath to affirm in the form in which persons who object taking an oath are allowed to affirm.

3. The Ordinance is necessary although provision is made by the Indian Oath Act 1873 which has been applied to this Protectorate for persons objecting to

take

H.M. Commissioner,

Nairobi.

2.

take an oath. No provision is made for the person who is entirely ignorant of the meaning of an oath.

I have the honour to be,

Sir,

Your most obedient

humble servant,

Sd. R. M. (initials)

CROWN ADVOCATE.

Comm. S.A.P.
17686

25th May 1906

DRAFT.

Encl. Prot. no. 275

Mr. Sadler

Sir,
I have the honor to
acknowledge the receipt
of your letter of the 14th of
April last, in
reference to the Native
Tribes Ordinance (no.
6 of 1906) of the East
Africa Protectorate,
a transcript of which
was
accompanied your despatch
no. 180 of the 20th of
April last.
I have the honor to
acknowledge the receipt
of your letter of the 14th of
April last, in
reference to the Native
Tribes Ordinance (no.
6 of 1906) of the East
Africa Protectorate,
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no. 180 of the 20th of
April last.

MINUTE.

- Mr. B. ... 23/5
- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...
- Mr. ...
- Sir H. ...
- Mr. ...
- The Earl of ...