

1934.

Kenya.

No. 23046.

SUBJECT

C0533/443

Education Ordinance.

Previous

17144/31.

Subsequent

38237/35.

1. Government Notice No 824 of 1933
The Education (Fees) Rules 1933.

1 authenticated
11 printed copies to
Library.

2. Governor Byeme 4 _____ 5th January
Trans. & authenticated 4 12 printed copies of The Educa-
(Amdt.) Ordnce, 60 of 1933.

No. 1. Part 0.

N. a. The [unclear] of [unclear] [unclear]
provides that school fees [unclear] [unclear]
in advance 3 months [unclear] [unclear]
and [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]
[unclear] [unclear] [unclear] [unclear]

to the Director of Education

for the debt

? Sanction

(Mr. Nagles may like to see after [unclear])

Waves: P/2

to legal dept.

[Signature]
15/2/34

[Signature]
15/2/34

To Kenya, 121 (2 uncod) G/3 16 13 1934

Hanns Kisch

20.2

Printed
duty (leged)

3

1/2 of [unclear] [unclear]

1/2 of [unclear] [unclear]

1. Government Notice No 824 of 1933
The Education (Fees) Rules 1933.

2. Governor Byeme of _____ 5th January 1934
Trans. & authenticated 7 12 printed copies of The Education
(Amndt.) Ordnce, 608 of 1933.

1 authenticated
11 printed copies to
Library.

No. 1. Part 1.

No. 2. The purpose of these rules
provides that the fees for
in advance to the month of
end of the year
to the school
included in the school
to the Director of Education.

to the Director of Education
for the year
? Sanction
(Mr. Mayless may like to see after)

Waves: P/2

to legal class.

[Signature]
15/2/34

[Signature]
15/2/34

To Kenya, 121 (2 unsold) G/3 16 1934

Hanna Kichu
20.2

Police
City (Legal)
3
1/2/34
1/2/34
1/2/34

11. Governor Bygones 165/10/44

14 Nov 44

Submit for approval proposals for the ^{introduction} amendment of amending legislation with the view to bringing ^{in order} independent African schools to conform more closely with the syllabuses approved by the Education Dept. & ensure greater efficiency.

There is provision in the existing Education Ordinance, for the closing of a Private school if such school is conducted in a manner, which in the opinion of the Director of Education, is calculated to be detrimental to the physical, mental and moral welfare of the pupils attending.

The legislation proposed will empower the Director to close a school which is not properly conducted & provided with a Curriculum approved by an Inspector. The Governor points out however that the proposed amendment does not require an independent school exactly to follow the Govt Curriculum, but only a curriculum approved by an Inspector. - In fact it is not so much a question of curriculum as of reasonable efficiency.

The Director will have to consult the District Education Board before exercising the right of closure, & the manager of the school will have the right of appeal to the Governor

Section 34
Order II
1931

in Council, within 7 days, against the Order of Closure.

The principal Ordinance was considered by the Educational Advisory Committee, and presumably they should see the proposed amendment

C. J. G. Smith
27/12/44

Mr. Vischer.

When this paper came to me I remembered that we had had a somewhat similar state of affairs in Nigeria and promptly referred it back to get out the Nigerian papers on the subject of Hedge Schools in the Southern Provinces. As you know, Nigeria has got power to close a school, or to refuse to allow a school to be opened where it appears to the competent authorities that the school will not be properly conducted. The Kenya proposals to give itself similar powers, are in the despatch. It is stated that the power to close a school will only be used if the curriculum - which need not be the Government one - is not effectively applied or the school is not being properly conducted. I think the proposed measure is sound but I should be glad to learn what you think. It seems hardly necessary to consult the Education Committee.

(The pp only returned to me on Monday)

J. S. W. 2000
164.85

I fear that this provision re: the curriculum is too vague and might lead to misunderstanding and trouble. For this reason I would like the matter to go to the Adv. Com. to be considered at their next meeting. May 16. Harmon K. K. J.

Mr Vischen

all right: will you please arrange?

J. S. 18/5

Mr. Davin.

Will you please arrange. The
Copies of the despatches should be circulated
but I do not consider a memo it
necessary to write a note or memo on it.

Hamm Vischen

24.4

5 ACEC 75 circulating @ 10 29. 10 35

E.A.D

- to see (5) for a list of reports like
- to keep all papers until the meeting
- to procure somebody with access

25.5

Mr. Davin

? You will go (May 16th)

Approval

Yes: B. S. 15.5.

7/5.

J. S.

Mr. Davin / Mr. Secretary should 30 May 55

Enquire whether reply to No 4 can now be made.

Revised note minute above.

15.5.55
Reg 291.

? Reply s/p: that the govt is under

make
reference to
sub-committee & ACEC
on 16/5/55
17/5

ref: to the Advisory C'tee or Educ,
a promise a reply when the C'tee has
reported

(The Proposa letter on that the
next plenary meeting of the C'tee, before
which the Sub C'tee's report must be
laid, is fixed for June 20th.)

J. S.
18/5.

J. S. 18/5

To Col Sec, Kenya 3/Jan
to answer 22 1955

8. Extract from Minutes of the 60th Meeting of the ACEC held
on 16th May 1955.

In view of No. 7, there is not
much more that we can tell
Kenya at present. Possibly
the Sub Committee's Report will
be ready for the next meeting
of the ACEC on the 14th of July.
? Wait.

C. J. Parsons
27/5/55

Mr. Vischen
any chance of it? (I doubt)

J. S. 26.6

14. Nov.

Hope to find you a copy of
the Int. C.tee report shortly and
suggest that the Dept. take action
as it will not be waiting for the full
Sd. Adv. C.tee's approval.

Hamm Krich

27.7

The report has been laid up as the
members cannot agree on the wording
of the recommendation and some
members of the Int. C.tee feel very
strongly that if the Kenya Govt. already
have full powers under the Existing
Ordinance to close down a "bad" school
2/ that as there is evidently a demand
for schools that the Govt. cannot meet
adequately by providing Govt. schools
it seems wrong to discourage
or make more difficult the opening
of Natin schools run and paid for
by the Nation and finally 3/

that nothing is said to make the
Committee feel that the Inspecting Staff
was able to cope with his additional
work. - I fear that it will not be
possible to give you the views of the
C.tee on this matter before the date of
the next meeting. 12. Sept.

Hamm Krich

3.8.55

Noted. Then we must continue to wait.

B. 13 Sept.

gm

Stewart
P.S.A.

W. F. F. F.

Revised and will discuss above.

2397
29.25

W. F. F. F.

? the C.tee discuss this, so we must
await their Minutes

Stewart
25/9

Mr. Vinder

Did they get anywhere on this?

24.9.54

Mr. Flood
No report has yet been submitted.
Another meeting of the Sub-Committee
will be necessary as no report has
to far been agreed upon.

Hammick

24.9

Mr. Vinder

Sir C. Bottomley

I am tired of this. The Sub-Committee has evolved
into total hemines great contention. Sir P. Maxwell and
Lord Lugard are at variance. Sir P. Maxwell isn't
satisfied that the Governor means what he says when he
says he puts forward the proposals for acceptance. Lord
Lugard doesn't agree but would - as usual - like to fetter
the Governor somewhat.

My commhile it all hangs fire. I would suggest that
the Gov. be given discretion to introduce the legislation but
advised that the powers under it should be exercised with due
caution.

S. I. O. Ham

25.

This is so, except that Sir P. Maxwell
agrees with Lord Lugard that there is ample
provision under the present Ordinance
to close down bad schools and that no
additional power is needed. The rest of
the Sub-Com. approves of the proposal.
The next meeting of the Sub-Com. is on
Oct. 29. I suppose we cannot trust his com.
Hammick 24.9

Oh yes: better
wait, but it's then
a name. J.

Mr. Flood.

7A

I annex the agenda for the meeting of the
Advisory Committee on Education in the Colonies,
which is to be held next Thursday, 24th October.

You will see that the Committee will
consider the report of the Sub-Committee which was
appointed at the 60th Meeting held on 16th May
(at which you were present), to consider the Governor
of Kenya's confidential despatch of the 14th November
last, in which we were informed inter alia that
the Government proposed taking additional powers in
the Education Ordinance to close certain alleged
inefficient schools.

I have not yet received the Sub-Committee's
report, but I will send you a copy as soon as it is
available. I understand from Mr. Mayhew that the
Sub-Committee were not able to reach agreement on
all points and that the discussion on the report is
likely to be controversial.

The despatch referred to above is
registered on file 23046/34 Kenya.

I imagine that you may wish to attend the
meeting or to depute a member of the E.A. Department
to do so.

Thompson

18.10.55.

I attended this morning's meeting of the A.C.C.
when this matter was discussed.

Advise 30/10. As with the Ctee's minutes

Thompson
24.10.55

Copy of 86 date
24.9.54

X R. 297
H. please J

23046/34
C. P. M. S. H.

X
see PB.

Copy reg'd on
22.11.55

X

9 Extract from Supplement No. 35 to
Kenya Official Gazette No. 442 of 10.9.55

Attached for record in acc. with minis.
on 35040/35 (Pt. 4)

Mr. G. Kipkorir for record
? put by
C.A. Gurneith
6/11/55

(1) N.S.B. ? Wait for the
A.C.E.C.'s decision on the
Sub-committee's report.
C.A. G.

P. H. Austin
6/11/55

10. Extract from minutes of 63rd. meeting
of Advisory Stee. on Education 24.10.55.

The Committee made no definite recommendation,
and it is therefore to be decided
whether the Governor may be
permitted to introduce the
new legislation or not. If it
is decided that the Governor
should have his way, then presumably
Professor Combland's suggestion should
be adopted, i.e. that the Govt.
should be informed of every case
in which action is taken under
the new legislation, and in every case
opinion expressed on the
by the District Education Board.

On the whole it would seem
preferable

that the Governor's proposal be
accepted, subject to Prof. Combland's
suggestion.

C.A. Gurneith
27/11/55

I hesitate to express an opinion on the
performance of the A.C.E.C.

? As Mr. Gurneith proposes

P. H. Austin
22/11

"Performance" is, I think, the only word
to express the present situation. The proposals
of the Government of Kenya are to be found in the
Governor's despatch which is No. 4 on this file.
In that despatch the Governor stated that the
number of thoroughly inefficient schools run by
natives was increasing rapidly and that the Advisory
Council on African Education had recommended that powers
should be taken to close schools which were not
properly conducted and provided with an approved
curriculum (not necessarily the Government
curriculum but only what was considered satisfactory).
It was also proposed to require the Director to
consult the District Education Board or the Advisory
Council on African Education before closing any
school. The despatch wound up by saying that the
recommendation had been referred to the Executive
Council who advised that the proposed amendment of
the law should be referred to the Secretary of State
for approval and the Governor asked whether the
Secretary of State would agree to the introduction of
amending legislation on the lines suggested.

To an ordinary man it would seem that this was a recommendation of the Governor approved by his Executive Council, of which the Director of Education was a member, but it did not so strike the penetrating intellect of Sir G. Maxwell who, for some reason or other, assumed (a) that the Executive Council did not recommend the proposal, (b) that the Governor was not in favour of it, and (c) that the Director of Education had not been consulted. Hence the Sub-Committee and the perfectly idiotic remarks which they made. The discussion at the Main Committee ought, I think, to be read. As Mr. Vischer pointed out, the only thing that was asked for was that the Government should be given adequate powers to handle ~~the~~ ^a situation which was admittedly unsatisfactory, and Mr. Scott said that the amendment would not result in there being fewer opportunities for native education.

Lord Plymouth summed it up by saying that the Advisory Committee appeared to him to be generally in sympathy with the Kenya Government's aims but that some of them were still of the opinion that the powers necessary were already possessed by the Governor.

This, in my opinion, puts the whole discussion in a nut shell, but I want to point out that the people, whose job it is to use these powers, i.e. the Governor and the Director of Education, are not of opinion that the Governor has the necessary powers, which is why they want more. As Mr. Scott pointed out, from the legal point of view, it is actually doubtful whether the powers to close a school could be applied

applied except on grounds of health.

I have no hesitation whatever in recommending that the proposed amendment be approved subject, of course, to whatever the present Director of Education may have to say on the subject. It may be that Mr. Morris will not wish for the amendment and if so, there is no reason to introduce it, but I should be surprised if he does not.

As regards the proposal so enthusiastically accepted by the Committee that the Secretary of State should require that every case of action under the new Clause and the opinion expressed by the District Education Board should be reported to him, I can only say that this is the kind of thing which brings the Government of Kenya into contempt and ~~through~~ ground for charges that the real Government of Kenya is in Downing Street and not in Nairobi. I am quite aware that such provisions for the reporting of such totally unimportant matters are all too common in the case of Kenya, ~~where they have been used in the past~~ both by Ordinance and by administrative action, ~~but I have~~ ^{but I have} ~~no objection to their being used~~ ^{the number unless we have to} ~~in such cases~~ ^{such circumstances}. Either the Governor of Kenya has the confidence of the Secretary of State or he has not. If he has not, it is the Secretary of State's duty to advise His Majesty to withdraw his commission. If he has, then the Governor should be allowed to govern and the necessity of reporting such trivial occurrences as the closing of a totally inefficient hedge school should not be laid upon him.

However, since the Committee appears to attach such importance to it, I suggest that the Secretary of State

State might, in approving the enactment of legislation as proposed, provided of course that the present Director of Education and the Governor are still of the same opinion, say that the question was discussed by the Advisory Committee who took a deep interest in it and that he would be glad if an annual return of schools closed under the proposed new legislation could be furnished to him for his information and for communication to the Committee.

J. S. G. 25.41

Japu. Hamm Kidu

29.11

And J. The safeguards about
with respect (no. 4) seem to
be adequate, and revision of
each case here would add
little if any.

The present machinery of £25
fine cases is being examined,
whether adequate or not.

Oct. 2. 12. 25

J. S. 3/12/35

A good deal of surprise
seems to have been caused
by the fact that the Com-
mittee was unable to come

to complete agreement on this
question. Personally, in view
of the size & composition of the
Committee I am infinitely
more surprised at how often
the Committee do manage
to reach agreement.

Of course in a matter of this
kind it all depends upon
how the provision in question
is administered in practice.
If the Govt. used their new
powers fully they might
scarcely lay themselves open
to the criticism that they
themselves were not making
adequate provision for native
education & yet at the same
time were preventing others
from attempting to fill the gap
— a criticism which it might
be difficult to meet.

However, I fully agree
that we must trust the
Governor in such a matter

of administration. I
think we can proceed
on the lines suggested by
Mr. Flood.

P. Atwell

4.12.35

11 To Kempa, Conf (1/10) was 12 DEC 1935 ✓

H. Anand

MA

then trace recd -
No. 11

of administration. I
think we can proceed
on the lines suggested by
Mr. Flood

P. Atwell

4.12.35

11 To Kemp, Conf (w/c 10) was 12 DEC 1936
H answered

AM

When trace recd -
No. 11.

C. O.

- Mr. Grossmith.
- Mr. ~~Freston~~ *7*
- Mr. ~~Hood~~ *7*
- Sir C. Robinson.
- Sir G. Tomlinson
- Sir C. Bottomley.
- Sir J. Stuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

7/12
7
10-12

M^r Vischer
? This do.
2
My well.

Hamm Vischer
9.12

Ans'd ① on
3/23/1937
11
DOWNING STREET.

12 December, 1935.

C.D.
R. A. ODEC
D. 12

DRAFT.

Sir,

I have etc. to acknowledge *ref to*

the receipt of your Confidential despatch No.166 of the 14th of November, 1934, regarding the proposed amendment *to section 34(1)* with a of the Education Ordinance, 1931, to enable Government to exercise more effectively the supervision of independent African schools in Reserves, and to close schools which are not properly conducted and provided with a curriculum approved by an Inspector.

(2) The proposal has been discussed with *part* deep interest by the Advisory Committee on Education in the Colonies, and *is* considered

who referred it to a Sub Committee which, after prolonged discussion, failed to reach any satisfactory agreement but

Hamm

KENYA
CONFIDENTIAL
GOVERNOR

Copies to Kenya
15 on 3/8/37/29
670 each

(N/10)

FURTHER ACTION.

C. O.

Mr. Crossmith.

Mr. ~~Freeston~~

Mr. ~~Knox~~

Sir C. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Stothburgh

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

7/12
7
10-12

M^r Vischer

? This do.

My MR.

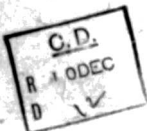
Hann Vischer

9.12

Ans'd ① on
3/27/1937
11

DOWNING STREET.

12 December, 1935.



Sir,

refer to
I have etc. to acknowledge

DRAFT.

(4)

KENYA

CONFIDENTIAL

GOVERNOR

59/4

Copy to Kenya
15 Nov 3 1937/39

(N/10)

the receipt of your Confidential
despatch No.165 of the 14th of
November, 1934, regarding the
proposed amendment ^{with a view} to
of the Education Ordinance, 1931, to
enable Government to exercise more
effectively the supervision of
independent African schools in
Reserves, and to close schools which
are not properly conducted and
provided with a curriculum approved
by an Inspector.

FURTHER ACTION.

(2) The proposal has been
discussed with ^{great} deep interest by the
Advisory Committee on Education in
the Colonies, and ^{it was eventually} ~~ca-~~ ^{considerative}

who referred it to
a Sub Committee which,
after prolonged discussion,
failed to reach any
conclusive agreement, but

however,

discussed in the full Committee and,
after consideration of their views,

of their report I approve the enactment
of the amending legislation, provided, of
course, that there has been no ^{alteration} improvement
in the situation described in the first
paragraph of your despatch and that you
^{remain} are still of the opinion that amending
legislation is desirable.

I ^{shall} should be obliged ~~to~~
if you will ^{forward} transmit to me, for my
information and for communication to the
~~Advisory~~ Committee, an annual return of
schools closed under the proposed new
legislation, showing brief particulars of
the circumstances in each case, and the views
expressed by the District Education Boards.

I have, etc.

(Signed) J. H. THOMAS

I enclose for your
info a copy of the minutes
of the Advisory Committee at
which the proposal was
discussed, and at which
Mr Scott was present, and
while I have no wish to
interfere with your discretion
or to suggest that each
separate case should form
the subject of a despatch,
in view of the interest
taken in the matter by
the Committee & the
divergent views expressed

discussed in the full Committee and,
after consideration of their views,

of their report I approve the enactment
of the amending legislation, provided, of
course, that there has been no ^{alteration} improvement
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paragraph of your despatch and that you
^{remain} are still of the opinion that amending
legislation is desirable.

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the Committee & the
divergent views expressed.

EXTRACT FROM MINUTES OF 63rd MEETING OF THE ADVISORY COMMITTEE
ON EDUCATION IN THE COLONIES - 24th OCTOBER, 1935.

copy to Kenya (11)

- 6. Report of the Sub-Committee appointed to consider the proposals from the Governors of Kenya and the Tanganyika Territory to take powers to close and to control the opening of inefficient schools.

(A.C.E.C. 22/35).

In opening the discussion on this paper, LORD
PLYMOUTH pointed out that the Sub-Committee had been
unable

10
EXTRACT FROM MINUTES OF 63rd MEETING OF THE ADVISORY COMMITTEE

ON EDUCATION IN THE COLONIES - 24th OCTOBER, 1935.

6. Report of the Sub-Committee appointed to consider the proposals from the Governors of Kenya and the Tanganyika Territory to take powers to close and to control the opening of inefficient schools.

(A.C.E.C. 22/35).

In opening the discussion on this paper, LORD
PLYMOUTH pointed out that the Sub-Committee had been

unable

unable to reach agreement on all the issues raised in each of the two proposals, but that in the case of the Tanganyika proposals the members were unanimous in agreeing that a wide distribution of schools throughout the Territory was highly desirable, that difficulties might arise from rivaling state schools under various bodies in the same locality and that it was desirable in the interest of the native tax-payer to guard against an unnecessary multiplication of schools in a particular district. On the other hand Lord Lugard, Sir James Currie and Sir William Gowers had dissented from the view of the other members that the problem was more a matter of practical difficulty than an educational question and that it could be solved more effectively by friendly discussion between all parties concerned than by taking powers under an Education Ordinance, which it was considered might arouse antagonism. Lord Plymouth suggested that if the Committee were unable to reach a definite conclusion in regard to the last issue, the Sub-Committee's report should be transmitted as it stood to the Colonial Office. He thought that the section of the report dealing with the Kenya proposals should be more fully discussed at the present meeting.

With regard to the Tanganyika proposals, SIR JAMES CURRIE stated that the difficulty would not have arisen if the Sub-Committee had been prepared to accept the suggestion of Lord Lugard that the proposed legislation should not be enacted, subject to an undertaking by all missions to consult the Governor-in-Council before opening any school in a district already adequately served and to abide by his decision.

3

decision. Unfortunately, however, this suggestion did not commend itself to all the members of the Sub-Committee.

With reference to the Sub-Committee's recommendation that an even distribution of schools throughout the Territory was desirable, DR McLEAN said that it appeared to him to be a question not so much of preventing the opening of schools as of guiding private enterprise in the selection of suitable sites and localities in accordance with a preconceived plan of development.

MR. VISCHER pointed out that in Tanganyika the majority of the schools were conducted by missions, mostly Roman Catholic. Bishop Myers had stated to the Sub-Committee the views of the missionary societies concerned, which did not recognise the principle that Government could tell them where and where not to open their proselytizing schools.

MR. BURNEY said that he understood from Bishop Myers that the chief anxiety of the Education Department which he spoke was that the opening of bush educational schools should not be controlled. It was however understood that these did not fall within the definition of schools and would accordingly not be affected by the Governor's proposal. BISHOP MYERS agreed.

MR. CALDER stated that these bush schools might come within the scope of the Tanganyika Education Ordinance. At the present time any school in Tanganyika which attempted to teach reading or writing was registered as a school under

the

the Ordinance. The Governor could not refuse registration on the ground that there were already established schools in the area, and he now wanted power to control the opening of schools. Mr. Calder suggested as a solution that there ought to be a minimum of secular education in more than which should not be given in any catechetical schools, and that catechetical schools should be registered. Any school where more than that minimum of secular education was attempted and failed to obtain registration, and it should be open to the Governor to refuse registration if satisfactory registration had already existed in the area. This procedure was suggested for Nigeria.

MR. VISCHER thought that it would be better to have separate secular and non-secular teaching, and that reading and writing were always taught in connection with religious instruction.

SIR PERCY NUNN suggested that the Committee should recommend that registration should cease for schools which taught only a prescribed minimum.

MR. HUSSAY said that in Nigeria schools which went beyond the teaching of reading, writing and elementary arithmetic were considered to be secular schools.

MR. VISCHER said that the system of controlling the opening of schools in Nigeria worked satisfactorily, but that this was largely due to the understanding which existed between the missionary authorities and the Education Department.

BISHOP MYERS suggested that the attention of the Tanganyika authorities should be drawn to the system obtaining in Nigeria.

After further discussion, the Committee decided to recommend

recommend that a record of their discussion should be sent to the Colonial Office, with a copy of the Sub-Committee's report, and that the Colonial Office should be further informed that the suggestion of Lord Lugard had met with almost general approval. The Committee also agreed to recommend that consideration should be given by the Tanganyika authorities to a system of registration similar to that obtaining in Nigeria.

The Committee then considered the views expressed by the majority of the members of the Sub-Committee on the Kenya proposals, together with the dissentient minutes submitted by Sir George Maxwell and Mr. Burney.

The CHAIRMAN said that there was some divergence of opinion amongst the members of the Sub-Committee as to whether there was any necessity, from the educational point of view, for the Governor of Kenya to be granted the powers for which he now asked. He thought that Mr. Scott might be able to assist the Committee.

Mr. SCOTT said that it would perhaps be useful if he briefly recounted the history of the present proposal. In the first place, as a former member of the Kenya Executive Council, he would say that he thought that the last paragraph of the Governor's despatch of the 14th November, 1934, might possibly be a little misleading. The Kenya Executive Council had presumably considered the proposed amendments to Section 34 of the 1931 Education Ordinance to be a matter on which all that was required was

the

16

the formal sanction of the Secretary of State. The original 1924 Kenya Education Ordinance had clearly been based on the Transvaal Act of 1907, and the Kenya 1931 Ordinance, which superseded the 1924 Ordinance, again was largely based on the Transvaal legislation. The provisions made under the 1931 Ordinance for the closing of schools were so worded that it was actually doubtful from the legal point of view whether they could be reasonably applied except on grounds of health. With regard to the provision for the infliction of heavy penalties, - which had been commented on by certain members of the Sub-Committee, - he assured the Committee that careful consideration had been given by the Kenya Government as to whether they should proceed by way of fine and imprisonment. It had, however, been felt that this method would prove unsatisfactory, since it might lead to alleged cases of 'martyrdom' among the cry that the schools were not only being taken away, but that those responsible for their conduct were being imprisoned.

Mr. Scott thought that it would be better to speak frankly to the school authorities. He knew of one very inefficient school in Kenya which, for some political reason, had attracted quite a number of children who otherwise would have been receiving a satisfactory education in the Catholic school in the neighbourhood. No actual moral harm was being done to these children, but they would certainly do better at the Catholic school. When it was suggested in Kenya that powers to close inefficient schools should be

obtained

obtained, it was anticipated that these powers would have to be used on rare occasions only. It was suggested that any cases on which such action might be taken should be notified to the Secretary of State. The Kenya Government had no intention of interfering with private initiative. Mr. Scott said that under the terms of the proposed amendment to the Kenya 1931 Ordinance with some reluctance he would draw attention to the fact that the amendment provided that a school could not be closed without reference to the District Education Officer if there was a majority of natives. If he were a member of the Education he would not contemplate closing a school if the District Board had not given their consent.

THE CHAIRMAN asked whether it would not be possible to proceed against inefficient schools with the powers already existing. In reply MR. SCOTT said that it would probably always be possible to proceed against them on the grounds that they had failed to send in proper returns and figures.

MR. JURNEY drew attention to the extensive powers already provided for under Section 34 of the 1931 Ordinance, upon which he had commented in the minutes submitted by him to the Sub-Committee.

MR. VISCHER said that from a purely educational point of view it was unquestionable that an improvement in the situation was desirable. The Government of Kenya were anxious to give the children the best education available. All that was asked for was that the Governor should have adequate powers to handle the problem.

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In reply to a question, MR. SCOTT said that the amendment, if adopted, would not result in there being fewer opportunities for native education.

SIR JAMES CURRIE remarked that if good Government schools existed, the natives would surely go to them, but to provide for these was apparently not the policy of the Government of Kenya. Could not the Kenya Government make it so?

MR. SCOTT replied in the negative. In one area in Kenya there was a chain of Government village schools which he had actually tried to induce the natives to hand over to the missions.

In reply to further questions MR. SCOTT said that some native schools in Kenya were run and paid for by the Local Native Councils. The Native Councils had at the same time not been illiberal in giving grants to missions. In a great many cases natives had the idea that the education given at Government schools was better than that given at other schools.

DR. VAUGHAN said that if the Kenya Government was trying to do more for education, it seemed to him that they ought to have the right to close inefficient schools, and he agreed with the introduction of the proposed amendment to the 1931 Ordinance on the understanding that the Government felt that this step was unavoidable in order to cope with difficulties that had actually arisen.

PROFESSOR COUPLAND said that he would like to move that, in the event of the proposed amendment being adopted, the Secretary of State should require that any case of action under the new clause, and also the opinion expressed on it by the District Education Board, should be reported to him.

MR. FREESTON

MR. FREESTON said that he thought that the Colonial Office would be quite ready to accept this suggestion.

SIR GEORGE MAXWELL said that he understood that, under the proposed new procedure, the Kenya Director of Education could go to a school which he considered to be inefficient and say that he would close it in a few months' time if it failed to improve in efficiency. Under the present law the Director could say that he would prosecute. However desirable it might have been to have such procedure introduced into the law some years ago, at the present moment the antagonism between the black and white races would render the introduction of the new procedure a difficult matter.

MR. SCOTT replied that the main safeguard would be that the schools would not be closed without previously consulting the natives. This was an example of the application of indirect rule.

MR. SOMERVILLE said that he was sure that all the members of the Committee desired the interest of the District Education Boards to be encouraged. The new powers proposed would seem likely to curtail their influence.

The CHAIRMAN pointed out that if the suggestion made by Professor Coupland were adopted the Secretary of State would be in a position to know when any opinions expressed by the District Boards had not been accepted. It seemed to him that the Advisory Committee was generally in sympathy with the objects of the Kenya Government, but that some members were still of the opinion that the powers necessary to carry them into effect were already possessed by the Governor.

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After further discussion, it was agreed that a record of the committee's discussion should be sent to the Colonial Office, with a copy of the sub-Committee's report, and that the Colonial Office should be further informed that the suggestion made by Professor Coupland was unanimously endorsed by the Committee.

Kenya Proclamations, Rules and Regulations, 1935

FIRST SCHEDULE.

1. The road from Kisi to Homa	Miles.
2. The road from Homa Bay to Kitero	28
	26

SECOND SCHEDULE.

1. The road from Wanjare Camp at approximately Mile 6 on the Kisi-Homa Bay road to its junction near Marindi with the Marindi-Homa Bay road	Miles.
2. The road from Wanjare Camp to Kamaganabo Camp	16
3. The road from Kitero towards Watende as far as the boundary between the South Kavirondo and Masai Native Reserves	11
4. The road from Kisi to Ngoina as far as the boundary of the South Kavirondo Native Reserve	20
5. The road from Oyugi's Teaching Centre to the Sendu Suspension Bridge	84
6. The road from Kisi to Nyangwetta via Majoge Camp	30
7. The road from Karungu to its junction with the Marindi-Homa Bay road	27
8. The road from approximately Mile 30 on the Kisi-Kitero road to Suna	29
	25

GOVERNMENT NOTICE No. 627

THE EDUCATION ORDINANCE, 1931.

RULES.

IN EXERCISE of the powers conferred upon him by section 45 of the Education Ordinance, 1931, His Excellency the Governor in Council has been pleased to make the following Rules:—

1. These Rules may be cited as the Education (Recognition or Licensing of Teachers in Public Schools) Rules, 1935.
2. No person, except in special circumstances as provided in section 35 of the Education Ordinance, 1931, shall be appointed as a teacher in any public school unless he has satisfied the Director that he possesses the qualifications shown in Schedule A to these Rules or unless he has received a licence from the Director in the form shown in Schedule B to these Rules.

Extract from Supplement No. 35.

to Kenya Official Gazette Number of 109-35.

23046/35

Attached for record vide memo. no 38040/35 (Vt4)

3. A teacher who satisfies the Director that he possesses the qualifications shown in Schedule A to these Rules will be recognized without the issue of a licence, but such recognition may be withdrawn if, after due inquiry, the Director is of the opinion that the teacher has conducted himself in a manner calculated to be detrimental to the physical mental or moral welfare of the pupils.

4. A licence to teach will be issued to a teacher if the Director is satisfied that, although such teacher does not possess the qualifications shown in Schedule A to these Rules, such teacher has had long and satisfactory experience in an approved school or schools. A licence to teach may be withdrawn on either of the following grounds —

- (a) That the holder has neglected or refused to attend any course or courses of training prescribed by the Director.
- (b) That the holder has, in the opinion of the Director, after due inquiry, conducted himself in a manner calculated to be detrimental to the physical, mental or moral welfare of the pupils.

By Command of ~~His~~ Excellency the Acting Governor in Council.

Nairobi,

This 31st day of August 1986

L. F. G. TROUGHTON
Clerk to the Executive Council.

SCHEDULE A

I.—EUROPEAN EDUCATION.

(i) *Secondary Schools*

The degree of a recognized University and/or a University Teachers' Diploma.

(ii) *Primary Schools* :

A recognized professional certificate and/or the degree of a recognized University.

(iii) *Primary Schools, Learner-Teachers* :

- Matriculation or equivalent;
- School Certificate or equivalent;
- Higher School Certificate or Intermediate or equivalent.

SCHEDULE.

DEDICATION

The line of public travel hereby dedicated as a public road is that shown by red line on the plan marked P.W.D. No. 114-4/1, filed at the Head Office of the Public-Works Department, Nairobi, a copy of which may be seen at the Public Works Department Office, Nyeri, and commencing at the point on the Nyeri-Rumuruti Road in Outspan Reserve L.R. No. 2271 thence generally in a westerly direction through that Reserve and Farms L.R. Nos. 3407, 2272, 3413, 3414, 3415, 7207, 4674 R1, 3420 R, 5171, 4674/R1, 3419, 5171, 3421, 3422 and terminating within the eastern boundary of Farm L.R. No. 5132

GOVERNMENT NOTICE No. 626

THE ROADS PROTECTION ORDINANCE, 1924.

ORDER

IN EXERCISE of the powers conferred upon him by section 3 of the Roads Protection Ordinance, 1924, His Excellency the Governor, with the concurrence of the Provincial Commissioner, Nyanza, has been pleased to order—

- (a) that such sections of the roads set out in the First Schedule hereto as are provided with an alternative cart or wagon track be closed to all wheeled vehicles with solid tyres and to vehicles having a gross weight in excess of $5\frac{1}{2}$ tons or a tare weight in excess of $2\frac{1}{2}$ tons, and to vehicles fitted with track; and
- (b) that the roads enumerated in the Second Schedule hereto be closed to all wheeled vehicles with solid tyres and to vehicles having a gross weight in excess of $5\frac{1}{2}$ tons or a tare weight in excess of $2\frac{1}{2}$ tons, and to vehicles fitted with track.

By Command of His Excellency the Acting Governor.

Nairobi,
this 2nd day of September, 1935.

C. W. HAYES-SADLER,
for Acting Colonial Secretary.

Extract from Supplement No. 35.

to Kenya Official Gazette Number of 109.35.

Attached for record vide memo. on 38040/35 (V.A.)

3. A teacher who satisfies the Director that he possesses the qualifications shown in Schedule A to these Rules will be recognized without the issue of a licence, but such recognition may be withdrawn if, after due inquiry, the Director is of the opinion that the teacher has conducted himself in a manner calculated to be detrimental to the physical, mental or moral welfare of the pupils.

4. A licence to teach will be issued to a teacher if the Director is satisfied that, although such teacher does not possess the qualifications shown in Schedule A to these Rules such teacher has had long and satisfactory experience in an approved school or schools. A licence to teach may be withdrawn on either of the following grounds—

- (a) That the holder has neglected or refused to attend any course or courses of training prescribed by the Director.
- (b) That the holder has, in the opinion of the Director, after due inquiry, conducted himself in a manner calculated to be detrimental to the physical, mental or moral welfare of the pupils.

By Command of His Excellency the Acting Governor in Council.

Nairobi,

This 31st day of August, 1935.

I. F. G. TROUGHTON,
Clerk to the Executive Council.

SCHEDULE A

I.—EUROPEAN EDUCATION

- (i) *Secondary Schools*
The degree of a recognized University and/or a University Teachers' Diploma.
- (ii) *Primary Schools*
A recognized professional certificate and/or the degree of a recognized University.
- (iii) *Primary Schools, Learner-Teachers*
Matriculation or equivalent;
School Certificate or equivalent;
Higher School Certificate or Intermediate or equivalent

Advisory Committee on Education in the Colonies.REPORT of KENYA and TANGANYIKA SUB-COMMITTEE.

At the 60th meeting of the Advisory Committee held on 16th May, 1935, the Governor of Kenya's despatch No.165 of 14th November, 1934, to the Secretary of State for the Colonies (ACEC 9/35, ACEC 9a/35) was discussed and a Sub-Committee appointed. At the first meeting held on 20th June, 1935, the Governor of Tanganyika's despatch No.652 of 23rd November, 1934, (ACEC 11/35) was considered and it was decided that a Sub-Committee with the following enlarged personnel and terms of reference should consider these proposals:-

Personnel:-

Sir George Maxwell (Chairman)
 Mr. Burney
 Sir James CURRIE
 Sir William Gowers
 Lord Lugard
 Mr. Mayhew
 Bishop Myers
 Dr. Oigam
 Mr. Vischer (Secretary)

Terms of Reference:-

"To consider the proposals in the Governor of Kenya's confidential despatch of the 14th November, 1934, for taking power to close schools on the grounds of inefficiency, and the proposals in the Governor of Tanganyika's despatch No.652 of the 28th November, 1934, for taking power to control

the

the opening of schools: and to advise what action should
be taken by the Secretary of State".

The Report of the Sub-Committee is enclosed
herewith for consideration.

J.O. BLISS

OFFICIAL SECRETARY

COLONIAL OFFICE,
Whitehall, S.W.1.
11th October, 1911.

TANGANYIKA TERRITORY.

(a) The Sub-Committee considered the proposal contained in the Governor's despatch No. 652 of 23th November, 1954, to the Secretary of State for the Colonies that the Government should be given power to forbid the opening of a school if it was satisfied that, having regard to local circumstances, the result would be prejudicial to the public interest, and should be permitted to introduce the necessary provision in the Education Ordinance.

(b) The Sub-Committee, reviewing the various points brought forward by the Governor at the Advisory Committee meeting in support of his proposals, agreed that an even distribution of schools through the territory was highly desirable and that difficulties might arise from rivalry between schools under various bodies in the same locality.

(c) It was also agreed that unnecessary multiplication of schools in one particular district should be guarded against in the interest of the native taxpayer who, by his taxes, helped to maintain the Government Department primarily responsible for the education of the people.

(d) The Sub-Committee, by a majority, came to the conclusion that the problem confronting the Tanganyika Government was more a matter of practical difficulty than an educational question and that it could be solved more effectively by friendly discussion between all parties concerned than by taking powers under an education ordinance. Whilst the majority of the Sub-Committee sympathised with the Governor and would welcome any measures calculated to prevent a waste of energy and money in competition between rival schools in areas already provided with educational

educational facilities, they thought that a proposal to give the Governor power by law to prevent the opening of schools might arouse antagonism. The power to refuse financial assistance to schools established in areas where local provision was adequate was already provided by the existing law. They hoped that the Governor would consider the matter in the light of these observations.

(e) The Sub-Committee decided to put on record the views of Lord Lugard, Sir James Currie and Sir William Gowers who dissented from the above report. Lord Lugard wished the Sub-Committee to suggest that the proposed legislation should not be enacted, subject to an undertaking by all Missions to consult the Governor-in-Council before opening any school in a district already adequately served and to abide by his decision. Sir James Currie recommended that the proposed amendment of the Education Ordinance should be enacted. Sir William Gowers agreed with the opinion expressed by Lord Lugard that this was definitely an educational question and not, as had been suggested, a question of practice which could be solved by local discussion.

He thought that if the Governor of Tanganyika still considered necessary the power for which he asked, it should be given, provided (as seemed to be the case) it could be given without infringing the terms of the Mandate. In his opinion antagonism was apparently to be expected only from missionary bodies. It appeared from the provisions of the Tanganyika Education Ordinance that purely religious institutions, where secular instruction was not given were not affected by the proposed power so that from the point of view of proselytism antagonism seemed justified. The power he considered might

be

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be useful and even necessary in the interests of education generally. It might even be necessary to exercise it in the interests of peace and good order. Sir Harold MacMichael suggested in the interests of peace and good order. He did not think that the Education Committee should refuse to agree to it merely from the apprehension of unreasonable antagonism.

KENYA

(a) The Sub-Committee considered the proposals for Kenya concerning the independent African schools in the native reserves, especially in the Kikuyu Province, contained in the Governor's Despatch No. 165 of the 14th November, 1934, to the Secretary of State.

(b) They agreed that as the number of schools was admittedly insufficient to satisfy the general demand for education in the Kikuyu Province, it seemed contrary to our general policy to put any difficulties in the way of native endeavour to increase the number of schools. They thought however, that the Kenya Government were faced here with special difficulties and, while sharing the Government's reluctance in being driven to this measure, they agreed with the introduction of the proposed alteration in the Education Ordinance on the understanding that the Government felt that this step was unavoidable in order to cope with the difficulties that had arisen. They hoped that every effort would be made by the Kenya Government to satisfy the native demand for more schools, and trusted that the powers conferred under the proposed alteration in the Education Ordinance would be exercised with discretion.

(c)

be useful and even necessary in the interests of education generally. It might even be necessary to exercise it as Sir Harold Michael suggested in the interests of peace and good order. He did not think that the Education Committee should refuse to agree to it merely from the apprehension of unreasonable antagonism.

KENYA.

(a) The Sub-Committee considered the proposals from Kenya concerning the independent African schools in the native reserves, especially in the Kikuyu Province, contained in the Governor's despatch No. 165 of the 14th November, 1934, to the Secretary of State.

(b) They agreed that as the number of schools was admittedly insufficient to satisfy the general demand for education in the Kikuyu Province, it seemed contrary to our general policy to put any difficulties in the way of native endeavour to increase the number of schools. They thought, however, that the Kenya Government were faced here with special difficulties and, while sharing the Government's reluctance in being driven to this measure, they agreed with the introduction of the proposed alteration in the Education Ordinance on the understanding that the Government felt that this step was unavoidable in order to cope with the difficulties that had arisen. They hoped that every effort would be made by the Kenya Government to satisfy the native demand for more schools, and trusted that the powers conferred under the proposed alteration in the Education Ordinance would be exercised with discretion.

(c)

(c) Sir George Maxwell and Mr. Burney dissented
and their dissentient minutes are annexed.

GEORGE MAXWELL,

(CHAIRMAN).

18th October, 1935.

ANNEXE.

KENYA and TANGANYIKA SUB-COMMITTEE.

DISSENTIENT MINUTE BY SIR GEORGE MAXWELL.

I dissent entirely from the recommendation in the last paragraph. I am not satisfied that there are any "special difficulties". The Governor has not attempted to show that there are any difficulties, and has not even suggested that there are any. Even if there were difficulties, I submit that this would be the wrong way of meeting them.

The Governor's argument is that the power to close schools for no other reason than that the management is inefficient is in the interests of the Missions themselves.

Mr. Flood, on behalf of the Colonial Office, introduced another argument at our meeting of 5th June. It was that there is a flaw in the Education Ordinance. The answer to both arguments is that the power exists already. It is contained in Section 33 (2) of the Ordinance; and the person who fails to conduct a school properly, or to comply with the curriculum approved by an inspector is guilty of a criminal offence, and is liable to a fine of £25. Moreover, under Sections 321 and 325 of the Criminal Procedure Code, he is liable to a substantial sentence of imprisonment in default of payment of the fine.

It is somewhat strange that the despatch did not refer to the extraordinarily drastic provisions in the existing law, in connection with the present application for even more drastic powers.

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Some mention was made of the inadequacy of the Inspectorate staff, but it is not easy to understand how a staff which cannot deal with prosecutions will be able to deal with the action now under contemplation.

I suggest that the Secretary of State for the Colonies would find it difficult at question time in the House of Commons to defend the law as it now stands, and I cannot agree to recommending him to take the responsibility of approving even more drastic powers.

In these private schools, under the present law, the school must be registered, all the teachers must be registered and a curriculum approved by the Government must be followed.

In addition to this, the Education Ordinance already contains ample provisions for closing any private schools on the ground that the teaching is detrimental to the physical, mental or moral welfare of the pupils, or that the premises are unsuitable.

(Signed) GEORGE MAXWELL.

17th September, 1935.

DISSENTIENT MINUTE BY MR. BURNEY.

Without the full dossier of the question before me, I may be ignoring important considerations. Subject to that possibility, and with A.C.E.C. 9/35 and 9A/35 and Sir George Maxwell's and Lord Lugard's and Sir William Gowers' comments before me, I have no hesitation in saying that I consider the Government of Kenya to possess already ample, and indeed surprising, powers for controlling schools of all kinds.

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I am further of opinion that the best way to close an inefficient private school, not in receipt of any grant or subsidy from public funds, is to open an efficient Government school near it.

(Signed) E. BURNEY.

7.10.35.

ADVISORY COMMITTEE ON EDUCATION IN THE COLONIES.

Agenda for the 63rd Meeting to be held in the Conference Room, Colonial Office, at 11.0 a.m. on Thursday, 24th October, 1935.

(1) Minutes of the 62nd Meeting.

(2) Secretaries' Notices.

(3) Report of the Sub-Committee appointed to consider the proposals from the Governors of Kenya and the Tanganyika Territory to take powers to close and to control the opening of independent schools (A.C.E.C.:2/35 - to be circulated)

(4) Nigeria.

Mr. E.L.J. Hussey, Director of Education, will speak on educational matters in Nigeria.

(5) Kenya-Jeanes School.

Mr. T.G. Benson, Headmaster of the School, will be present at the meeting to speak on the work of the school.

(6) Other business.

(sd) J.G. Hibbert.

Official Secretary.

Colonial Office,

17th October, 1935.

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ADVISORY COMMITTEE ON EDUCATION IN THE COLONIES.

Extract from Minutes of the 60th Meeting held on
Thursday, May 16th, 1935.

8. Independent African Schools in Native Reserves.

The Committee considered a Confidential despatch from the Governor on this subject, dated the 14th November, 1934 (A.C.E.C. 9/35).

Mr. Vischer briefly explained the cause of the unsatisfactory position of affairs dealt with in the despatch. The education of the inhabitants in the Native Reserves had formerly been entirely in the hands of the missionary societies, which had received considerable grants-in-aid for education from the Government. Unfortunately, however, certain Missionary Societies had decided to exclude from attendance in their schools and their mission community all those families who still practised circumcision of girls. A great many Kikuyu consequently left the mission

schools

schools, which were now not adequately filled, and a number of independent African schools had been brought into existence on the initiative of the Native communities themselves. Naturally these schools were in the hands of ill-qualified teachers and the Government therefore had proposed taking additional powers in the Education Ordinance to close such as were inefficient. Power already existed to close schools on certain grounds, e.g., moral and political.

Mr. Vischer suggested that, in view of the origin of these schools, such a proposal was open to strong criticism from the natives, who would feel that they had been prevented from going to the Mission Schools and were now to be equally prevented from attending schools of their own. Moreover, it would be a great pity to discourage them when for once they had shown real initiative.

Sir James Currie suggested that it would be better to control the opening of new schools by a licence-system than to enforce the closure of existing schools merely on grounds of inefficiency.

Mr. Vischer agreed and pointed out that under the scheme proposed a school could be closed merely because an Inspector considered that the curriculum was unsatisfactory or not carried out properly.

Sir George Maxwell was of the opinion that the proposal was not strongly supported by the Governor

and
Suppression

Suppression was un-British, and the whole tendency of the despatch was suppression: there was nowhere in it a suggestion for aid for efficient schools. British policy should be to help unless it was proved that the education given was wrong. The Government might supply these schools with text-books, either free of charge or at reduced prices. If a school were efficient it might have a grant, perhaps on a reduced scale. These schools were the result of a spontaneous African movement. There was an African craving for education.

Mr. Mayhew thought the closure of schools merely on grounds of inefficiency, which was impossible to define, most regrettable.

Lord Lugard said that the Committee had previously discussed at length the closing of Bush schools in Nigeria. In the present despatch he considered the proposals went a little too far but he strongly endorsed the closing of Bush schools which had done harm. He agreed with Mr. Vischer that schools ought not to be closed on the ipse dixit of an Inspector, but drew attention to the fact that under the scheme now proposed the District Education Board or the Advisory Council on African Education must be consulted before a school was forced to close down.

After further discussion, a sub-committee was appointed "to consider the proposals set out in the Governor's Confidential despatch of the 14th November, 1934, and to advise what action should be taken by the Secretary of State".

The personnel selected was as follows:-

Sir George Maxwell (Chairman)
Sir William Gowers
Mr. Mann
Bishop Myers
Dr. Oldham
Mr. Vischer (Secretary)

C. O.

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Mr. *Edmond* 2/23/35
Mr. *Keeton* WJ
Mr.

- Sir C. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Perm. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

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D

Confidential

DRAFT. 3/5

(No 6)

The U.S. of S. for the Colonies
presents his compliments to the
Colonial Secretary of the Colony
and Protectorate of Kenya and
with reference to his ^{note} ~~letter~~
No. 5/A. NED. 48/II/43 of the
30th of March, has the honour
to state that the suggestions
contained in Kenya Confidential
Despatch No 165 of the 14th of
November, 1934, with regard to
the supervision of independent
African schools in the Native
Reserves in Kenya, are
under reference to the
Advisory Committee on Education
in the Colonies. A reply
to the forerunner's despatch

FURTHER ACTION.

will be sent when the Committee
has reported.

Sowmy S.

22 May 1955.

will be sent when the Committee
has reported.

Sowmy S.

22 May 1955.

CONFIDENTIAL.



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THE SECRETARIAT,
NAIROBI,
KENYA.

WHEN REPLYING
PLEASE QUOTE
No. 7/A.NED.1/8/II/45.
AND DATE

30⁴ March, 1935.

The Acting Colonial Secretary of the Colony
and Protectorate of Kenya presents his compliments
to the Under Secretary of State for the Colonies and
has the honour to enquire if circumstances yet permit
a reply being sent to Kenya despatch No.165,
Confidential, of the 14th November, 1934, on the
subject of independent African schools in the native
reserves in this Colony.

No 4

Answered 6

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CONFIDENTIAL.



RECEIVED

23 APR 1935

C. O. REGY

THE SECRETARIAT,
NAIROBI,
KENYA.

30th March, 1935.

WHEN REPLYING
PLEASE QUOTE
No. Z.A. NED. 1/8/II/43.
AND DATE

The Acting Colonial Secretary of the Colony
and Protectorate of Kenya presents his compliments
to the Under Secretary of State for the Colonies and
has the honour to enquire if circumstances yet permit
a reply being sent to Kenya despatch No.165,
Confidential, of the 14th November, 1934, on the
subject of independent African schools in the native
reserves in this Colony.

No 4

Ameyid (7)

had

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A.C.E.C.9/35.

ADVISORY COMMITTEE ON EDUCATION IN THE COLONIES.

I circulate for the consideration of the Committee a copy of a despatch from the Governor of Kenya on the subject of independent African Schools in the native reserves in the Colony.

I.W. Davies.

Official Secretary.

Colonial Office

29th April, 1935.

RECORD OFFICE, LONDON

No. 166.

Confidential.

Government House,

Nairobi,

Kenya.

14th November, 1934.

Sir,

I have the honour to address you on the subject of independent African Schools in the native reserves in this Colony.

2. In view of recent representations received from the Administrative Authorities that independent schools, especially in the Kikuyu Province where their numbers have risen since 1931 from one to about fifty, are considerably on the increase and, with few exceptions, inefficient, the question was examined by my Advisory Council on African Education who have recommended that, with a view to bringing pressure on these schools to conform more closely with the syllabuses approved by the Education Department, and to securing some greater measure of efficiency, powers should be taken to close schools which are not properly conducted and provided with a curriculum approved by an Inspector.

3. The policy of this Government has up to now

Major the Right Honourable
 Sir Philip Cunliffe-Lister, P.C., G.B.E., M.C., M.P.,
 Secretary of State for the Colonies,
 Downing Street,
 London, S.W.1.

now been opposed to the introduction of any power of closure save as is already provided in Section 34 of the Education Ordinance, 1931, which enables the Director to close premises for school purposes if he considers the school is conducted in a manner calculated to be detrimental to the physical, mental or moral welfare of the pupils, on the ground that generally it is unwise to interfere more than necessary with the right of an individual to conduct a school provided it is sanitary and not definitely subversive of morals.

4. With, however, the development of independent schools the Director of Education has been brought reluctantly to realise that it may be necessary, in the interests of the African people themselves, to take some more drastic powers, and, with this end in view, has suggested the following substitution for the present Section 34(1) of the Ordinance:-

34. (1) The Director or an Inspector or any person specially authorised by the Director may from time to time visit any private school.
(2) If it appears to the Director on the report of an Inspector, or of a person specially authorised or from his own inspection that a private school is conducted in a manner which is in the opinion of the Director calculated to be detrimental to the physical, mental or moral welfare of the pupils attending thereat he may order the premises on which such school is held to be closed for school purposes, or he may give notice to the manager ordering such alteration in the structure of the premises or the conduct of the school as he may think necessary to be made within a time fixed by such order and if the same be not made to his satisfaction within the time prescribed, he may order the premises to be closed, provided that the manager may appeal within seven days to the Governor in Council against such order to close a school. Pending the decision of the Governor in Council the school may remain open.

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(3) If it appears to the Director on the report of an Inspector, or of a person specially authorised or from his own inspection in the case of any private school for the education of Africans either that the curriculum approved as required by Section 33(1)(c) of this Ordinance is not being effectively applied or that the school is not being properly conducted, he may, after consulting the District Education Board appointed under Ordinance No. 38 of 1934, or if there be no such Board, after consulting the Advisory Council on African Education, order such school to be closed."

5. It may be argued that whereas, if a school in receipt of a grant-in-aid from Government does not conform with the prescribed curriculum, the grant might fairly be abated, the fact that a school not so subsidised does not follow the curriculum laid down by Government is not sufficient justification in itself for a closing order provided the teaching does not offend the law, undermine morals, etc.

I should, however, make it clear that the proposed amendment does not require an independent school exactly to follow the Government curriculum, but only a curriculum approved by an Inspector, and that it is proposed to take powers to close a school only if that curriculum is not effectively applied or if the school is not being properly conducted. It is not indeed so much a question of curriculum as of reasonable efficiency.

6. It will be observed too that it is proposed to require the Director, before exercising his power of closure on these grounds, to consult the District Education Board, if any, in which connection see correspondence terminating with my despatch No. 431 of the 29th August, which body

will

OFFICE RECORD OFFICE, LONDON

will contain up to six African members, or in its absence the Advisory Council on African Education.

7. In regard to the principle of discrimination involved, I consider this can be defended on the ground that, in the present stage of African education, it is in the interests of the African people.

In this connection reference is invited to the following extract from Mr Thomas's despatch Confidential (4), of the 3rd September, 1931:

"I do not regard discriminatory legislation as necessarily of itself contrary to the memorandum, and I concur in the view that no exception need be taken to discriminatory provisions which confer privileges or impose safeguards for the benefit of the natives, and are justified by the needs of the native community."

8. The recommendation has been referred to my Executive Council who have advised the proposed amendment should be referred to you for approval, and I shall be glad to learn whether, in the circumstances, you would be prepared to agree to the introduction of amending legislation on the lines suggested.

I have, &c.,

(Signed) J. Byrne.

Brigadier-General,
Governor.

KENYA.

No. 165.

CONFIDENTIAL.



3/4
GOVERNMENT HOUSE.

NAIROBI.

KENYA.

11/11
November, 1934.

RECEIVED
10 DEC 1934
O. O. REGY

Sir,

I have the honour to address you on the subject of independent African schools in the native reserves in this Colony.

2. In view of recent representations received from the Administrative Authorities that independent schools, especially in the Kikuyu Province where their numbers have risen since 1931 from one to about fifty, are considerably on the increase and, with few exceptions, inefficient, the question was examined by my Advisory Council on African Education who have recommended that, with a view to bringing pressure on these schools to conform more closely with the syllabuses approved by the Education Department, and to securing some greater measure of efficiency, powers should be taken to close schools which are not properly conducted and provided with a curriculum approved by an Inspector.

5. The policy of this Government has up to now been opposed to the introduction of any power of closure save as is already provided in Section 54 of the Education Ordinance, 1931, which enables the Director to close premises for school purposes if he considers the school is conducted in a manner calculated to be detrimental to the physical, mental or moral welfare

MAJOR THE RIGHT HONOURABLE
SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

General (11)

*Copy to Kenya
15 Nov 38 30/1/39*

welfare of the pupils, on the ground that generally it is unwise to interfere more than necessary with the right of an individual to conduct a school provided it is sanitary and not definitely subversive of morals.

4. With, however, the development of independent schools the Director of Education has been brought reluctantly to realise that it may be necessary, in the interests of the African people themselves, to take some more drastic powers, and, with this end in view, has suggested the following substitution for the present Section 34(1) of the Ordinance:-

*34. (1) The Director or an Inspector or any person specially authorised by the Director may from time to time visit any private school.

(2) If it appears to the Director on the report of an Inspector, or of a person specially authorised or from his own inspection that a private school is conducted in a manner which is in the opinion of the Director calculated to be detrimental to the physical, mental or moral welfare of the pupils attending thereat he may order the premises on which such school is held to be closed for school purposes, or he may give notice to the manager ordering such alteration in the structure of the premises or the conduct of the school as he may think necessary to be made within a time fixed by such order and if the same be not made to his satisfaction within the time prescribed, he may order the premises to be closed, provided that the manager may appeal within seven days to the Governor in Council against such order to close a school. Pending the decision of the Governor in Council the school may remain open.

(3) If it appears to the Director on the report of an Inspector, or of a person specially authorised or from his own inspection in the case of any private school for the education of Africans either that the curriculum approved as required by Section 55(1)(c) of this Ordinance is not being effectively applied or that the school is not being properly conducted, he may, after consulting the District Education Board appointed under Ordinance No. 38 of 1954, or if there be no such Board, after consulting the Advisory Council on African Education, order such school to be closed."

3.

5. It may be argued that whereas, if a school in receipt of a grant-in-aid from Government does not conform with the prescribed curriculum, the grant might fairly be abated, the fact that a school not so subsidised does not follow the curriculum laid down by Government is not sufficient justification in itself for a closing order provided the teaching does not offend the law, undermine morals, etc.

" I should, however, make it clear that the proposed amendment does not require an independent school exactly to follow the Government curriculum, but only a curriculum approved by an Inspector, and that it is proposed to take powers to close a school only if that curriculum is not effectively applied or if the school is not being properly conducted. It is not indeed so much a question of curriculum as of reasonable efficiency.

6. It will be observed too that it is proposed to require the Director, before exercising his power of closure on these grounds, to consult the District Education Board, if any, in which connection see correspondence terminating with my despatch No. 451 of the 29th August, which body will contain up to six African members, or in its absence the Advisory Council on African Education.

7. In regard to the principle of discrimination involved, I consider this can be defended on the ground that, in the present stage of African education, it is in the interests of the African people.

In this connection reference is invited to the following extract from Mr. Thomas's

despatch

30070/34

and

Sup. Insp.
here.

4.

despatch, Confidential (4), of the 3rd September, 1931:

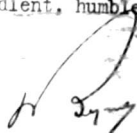
"I do not regard discriminatory legislation as necessarily of itself contrary to the Memorandum and I concur in the view that no exception need be taken to discriminatory provisions which confer privileges or impose safeguards for the benefit of the natives, and are justified by the needs of the native community."

8. The recommendation has been referred to my Executive Council who have advised the proposed amendment should be referred to you for approval, and I shall be glad to learn whether, in the circumstances, you would be prepared to agree to the introduction of amending legislation on the lines suggested.

I have the honour to be,

Sir,

Your most obedient, humble servant,



Brigadier-General
GOVERNOR.

KENYA.

No. 7



2⁴⁷
GOVERNMENT HOUSE
NAIROBI.
KENYA

5 January, 1934.

Sir,

I have the honour to transmit
herewith two authenticated and twelve printed
copies of "An Ordinance to Amend the Education
Ordinance, 1931," No. LXIII of 1933, which passed
its third reading in Legislative Council on the
21st December, 1933, and to which I assented in
His Majesty's name on the 30th December, 1933.

2. Copies of the Legal Report by the
Attorney General, together with a Comparative
Table, are also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,
GOVERNOR.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

Amend (3)

LEGAL REPORT

THE EDUCATION (AMENDMENT) BILL, 1933.

It is desired to make it possible to collect school fees with greater regularity. At present fees are nominally payable in advance, but every parent has a fortnight's grace and then a further month's grace. The proposed amendment to the Ordinance will make it possible to deal with defaulters more rapidly than is at present the case.

The second amendment is intended to correct an error in drafting in the original Ordinance, by which section 44 was made applicable to all races. It was never intended that this section should apply to Europeans and Indians, and in practice it has not been so applied. It is also desired to make the section permissive instead of mandatory in the case of Africans.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
21st December, 1933.

W. Haughey
ACTING ATTORNEY GENERAL

COMPARATIVE TABLE

THE EDUCATION (AMENDMENT) BILL, 1933.

Section.	Remarks.
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1. ~~Short~~ title.

2. New.

3. New.

No. LXIII.

1933



Colony and Protectorate of Kenya.

IN THE TWENTY-FOURTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH, ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 30th day of December,
1933

Governor.

AN ORDINANCE TO AMEND THE EDUCATION
ORDINANCE, 1931

ORDINANCE No. LXIII of 1933

An Ordinance to Amend the Education Ordinance, 1931.

ENACTED by the Governor of the Colony of Kenya, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as "the Education (Amendment) Ordinance, 1933", and shall be read as one with the Education Ordinance, 1931, hereinafter referred to as "the Principal Ordinance".

Short title
No. 2 of 1931

2. Section 39 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:

Repeal and replacement of section 39 of the Principal Ordinance

39. (1) Such fees or reduced fees as may be prescribed by rule shall be payable in any Government school provided that the Governor in Council may, at any time and for such period as he shall think fit, by order determine that no fees for tuition or for books or for medical attendance be payable in any one or more of such schools or in any class or classes of such schools or in respect of any individual pupil or group of pupils.

(2) All fees for tuition or books or board or medical attendance shall, as the Director may decide, be payable by the month or term in advance to principals of schools, or to such other person as the Director may decide and any child in respect of whom fees are due and owing may be refused admission or readmission to school (as the case may be) or if he has been admitted or readmitted may be excluded from school until all fees due up to the date of such exclusion have been paid.

Provided that such exclusion shall not take place until the school committee has been consulted.

(3) The Director may remit in whole or in part the fees due in respect of tuition or books or board or medical attendance if he is satisfied that the parent of the child in respect of whom such remission is recommended is unable to pay such fees in whole or in part.

(4) The Director of Education may in his own name institute legal proceedings for the recovery of any fees or other sums due in respect of the attendance of a pupil at a Government school.

Repeal and replacement of section 44 of the Principal Ordinance.

3. Section 44 of the Principal Ordinance is hereby repealed and the following section is substituted therefor —

44. (1) A child attending a public school and undergoing a course of training for any trade or vocation may be bound by a form of apprenticeship to be prescribed by rule to complete such course of training unless released therefrom with the authority of the Director.

(2) No stamp duty shall be payable on any agreement made under this section.

Passed in the Legislative Council the twenty-first day of December, in the year of Our Lord one thousand nine hundred and thirty-three.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

(4) The Director of Education may in his own name institute legal proceedings for the recovery of any fees or other sums due in respect of the attendance of a pupil at a Government school.

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Passed in the Legislative Council the twenty-first day of December, in the year of Our Lord one thousand nine hundred and thirty-three.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council

GOVERNMENT NOTICE NO. 827

THE EDUCATION ORDINANCE, 1931.

RULES.

IN EXERCISE of the powers conferred upon him by section 45 of the Education Ordinance, 1931, His Excellency the Governor in Council has been pleased to make the following Rules:—

1. These Rules may be cited as "the Education (Fees) Rules, 1933."

2. The following scales of fees payable in Government Schools shall come into force as from the 1st day of January, 1934:—

(a) SCHOOLS FOR EUROPEAN CHILDREN.

Tuition.

	<i>Per term</i>
Pupils in classes up to and including the Sixth Standard	Sh. 30
Pupils in classes above the Sixth Standard	Sh. 100

Boarding.

	<i>Per term</i>
For the first child in a family	Sh. 300
For the second child in a family	Sh. 270
For the third or subsequent child in a family	Sh. 240

(b) SCHOOLS FOR INDIAN CHILDREN.

Tuition.

	<i>Per term</i>
Pupils in classes sub-standard A and B	Sh. 4
Pupils in Standards I and II	Sh. 12
Pupils in Standards III and IV	Sh. 18
Pupils in Standards V and VI	Sh. 24
Pupils above Standard VI	Sh. 45

3. All fees shall be paid terminally in advance, provided that the Director may, in his discretion, permit payment to be made by not more than three instalments in respect of any one term. The first of such instalments shall be paid on or before the opening day of the term, the second instalment within one month of such opening day and the third and final instalment within two months of such opening day. The instalments shall be equal in amount, or as nearly so as may be.

By Command of His Excellency the Governor in Council.

Nairobi,

J. F. G. TROUGHTON,

23rd December, 1933. *Clerk to the Executive Council.*

GOVERNMENT NOTICE No. 827

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Boarding.

	<i>Per term</i>
For the first child in a family	Sh. 300
For the second child in a family	Sh. 270
For the third or subsequent child in a family	Sh. 240

(b) SCHOOLS FOR INDIAN CHILDREN.

Tuition.

	<i>Per term</i>
Pupils in classes sub-standard A and B	Sh. 6
Pupils in Standards I and II	Sh. 12
Pupils in Standards III and IV	Sh. 18
Pupils in Standards V and VI	Sh. 24
Pupils above Standard VI	Sh. 35

3. All fees shall be paid terminally in advance, provided that the Director may, in his discretion, permit payment to be made by not more than three instalments in respect of any one term. The first of such instalments shall be paid on or before the opening day of the term, the second instalment within one month of such opening day and the third and final instalment within two months of such opening day. The instalments shall be equal in amount, or as nearly so as may be.

By Command of His Excellency the Governor in Council.

Nairobi,

23rd December, 1933.

J. F. G. TROUGHTON,
Clerk to the Executive Council.