

38328

1937

38328

C0533/486
KENYACAPTAIN FOTHERGILL

Previous

E. O'Brien 2/9

M. Paskin

298

27/11

R297

15998/30

Subsequent

R. 297

28/11

MR. Paskin 2/9

M. Paskin 2/9

Libby 3/9

Mr. Paskin 27/9/37

Mr. Paskin 9/9

309 10/9

Mr. Flood

288 17/9

287 17/9

303 20/9

299 21/9

297 19/9

309 4/11

Mr. Paskin 20/11

Nominal.

This is the first we have heard of Captain Fothergill's removal to the Union of South Africa. A copy of the report sent by the solicitor is registered on K15998/30.

The law governing the removal of lunatics is Cap.123 of the revised edition of the Kenya Laws, under which the Governor can make an order for the removal to the Union of South Africa ~~of a European lunatic~~ when it appears to ~~the~~ ~~Governor~~ either:-

(a) that there is residing within the Colony an European lunatic whose domicile is the Union of South Africa; or

(b) that there is residing within the Colony an European pauper lunatic, whether his domicile is or is not the Union of South Africa.

We don't know whether Captain Fothergill's case falls under (a) or (b). As he was an inmate of Mathari Mental Hospital, a Government institution, it is possible that he was regarded as a pauper lunatic, i.e. a person maintained wholly or partly at the expense of the Government of the Colony (see Section 2, Cap.123). On the other hand, it is possible, though not very probable, that

30197/E.A.

Mrs. Fothergill may have applied for her husband to be removed to the Union (see Section 4, Cap.123).

? We might reply that the Secretary of State has no information regarding the removal of Captain Fothergill to the Union of South Africa, but that a copy of Messrs. Thompson, Quarrell and Company's letter is being sent to the Governor of Kenya for his observations. Enclose, for their perusal and return to the Colonial Office, copy of Cap. 123 of the revised edition.

C.A. Brown
23.8.1937

Library

I think the answer is as follows:

(a) The S. G. S. has no information of the case in this case; but that from the statements in their letter, it may appear that Capt. Fothergill was ^{originally} ~~retained~~ in accordance with the provision of the Indian Lunatic Asylums Act, 1858 which has been applied to Kenya & was subsequently removed to Pitermaritzburg under the provision of Cap. 123.

(b) Copies of these orders can be seen in the CO. Library.

(c) None of the English acts mentioned apply.

(d) A copy of the order - being sent to the Gov. for his order.

Library

Can you fill the gap at X above p. 2?

J. J. Cassin
Date 2/9
J. H. Deane 3/9

We must refer this to the Governor for his observations, and should therefore confine our letter at the present stage to saying that the S. G. S. has no information regarding the circumstances in this case, but that a copy of their letter of 23/8/57 is being sent to the Governor for his observations.

Mr. Flood.

In the circumstances I hardly think it is necessary to go into the law at this stage; but you must do as you think best.

I am very busy just now and have not been through the Indian Lunatic Asylums Act 1858 or the other Acts referred to in the last paragraph of No. 1. Perhaps the Librarian could be asked to have a look at them.

13/9/57 J. A. Duncan.

I did look at the Indian Act. The only part I read was only that the provisions are in regard to

2 To Messrs. T. Quarrell (and) Co. 11.1.57

3 To Messrs. J. H. Deane (and) Co. 11.1.57

[Handwritten signature]

11/2/57

26. Gov. Kenya — 682 — 13.11.37.

Give details of the findings of Capt. Tolleygill to
Fort Napier Institution at Petermaritzburg &
enclose copy of report on his present mental & physical
condition.

A further communication was provided
in para 2 of No 2. D/Sr Komesari accordingly

Clonke, J. J.

I suppose we are entitled to
pass on the encl. ? It was
sent home in an open bag,
& it will be seen from the
encl. to No 1 that a report
from the P.O. of the Northern Rhodesia
Hospital was forwarded to
the D.A.S.S. Kenya.

[Signature]
20/11

To Mr. [unclear]

[Signature]
21/11

To Mr. Thompson, Quarels Rd. (Road 64) — 27/11/37

[Signature]
Messrs. Thompson, Quarels Rd. — 29.11.37
Ackd (5)

DESTROYED UNDER STATUTE

? Public
[Signature]
2/12/37
above 2/12/37

C. O.

38328/37

C. D.
A 23 NOV
D. X. C.

27 November 1937

Mr. Corkery 19/11

Mr. Parkin 22/11

Mr. O'Sullivan 22/11

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Peru. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

Thompson,
Oranmore

Gentlemen

②

I am etc to refer to the
letter from your Office of the 17th
of September regarding Captain
Fohungil, and to inform you
that a despatch has been
received from the Gov of Kenya
stating that ~~forwarding~~ a report
on Captain Fohungil's condition,
a copy of which is enclosed
herewith.

2. The Gov of Kenya states
that in May 1937 the Director
of Medical Services recommended
the transfer of Capt Fohungil
at Govt expense, to an
institution in South Africa
where ~~in the grounds~~ he might well
benefit from the social
distraction, occupation and
recreation available there.

A warrant for the patient's
removal was accordingly

(to the Fort Napier, Durban at 10/11/37)

and that he
was likely to
require medical
treatment for a
very long time

FURTHER ACTION.

Signed by the Governor under the
Removal of Limatics (European)
Ordinance, Cap 123, Laws of
Kenya.

I am etc.

(Sgd) J.W. Flood

AIR MAIL

KENYA
No. 682



C. O. REGY

GOVERNMENT HOUSE
NAIROBI
KENYA

13 November, 1967.

Sir,

3

With reference to your despatch No. 784 of the 21st September last on the subject of Captain J.H. Fothergill, I have the honour to inform you that in May, 1964, the Director of Medical Services recommended the transfer at Government expense of this mental patient to an Institution in South Africa since the Visiting Physician to the Mathari Mental Hospital had advised that he would benefit by the social distraction, occupation and recreation available there and that he was likely to require institutional treatment for a very long time.

The Government of the Union of South Africa was approached in the matter, and a warrant for the patient's removal to the Fort Napier Institution at Pietermaritzburg was signed by Sir Joseph Byrns on the 24th January, 1965, under the Removal of Lunatics (European) Ordinance, Chapter 123, Laws of Kenya.

A copy of a report on Captain Fothergill's present mental and physical condition, which has been obtained from the Physician Superintendent of the Fort Napier Institution, is enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

J. Brooke-Popham

AIR CHIEF MARSHAL,
GOVERNOR.

THE RIGHT HONOURABLE
W. ORMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

Copy to the Hon. Prime Minister (P)

20/M38873.

COPY

No. M.E. 695.

FORT NAPIER INSTITUTION,
PIETER ARLTZBURG.

18. 10. 1937.

The Commissioner for Mental Hygiene,
Union Buildings,
PRETORIA.

With reference to your Minute No. 19/M.
58873 of the 14th instant regarding mental patient
J.H. FOTHERGILL, I have to inform you that he remains
dull and indifferent but still retains all his
grandiose delusions. His memory is poor and he is
completely lacking in insight. His physical condition
is satisfactory.

(Sd.) G. J. IRONSIDE.

ACTING PHYSICIAN SUPERINTENDENT.

C. O.

Mr. C. O. ...

Mr. Flood 109

Mr. Dumas Please pay ...

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parnt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

10/9/29

139/28

H.O.

76228/27



17

I would like to give them the info as to the law. If you agree

DRAFT.



It will be of interest

to you to know that

FURTHER ACTION.

Copy copies.
Gov. ...
Mr. ...

and that
for keys

30

the S. 78 is a...

TELEPHONE NO. MANSION HOUSE 2054
4055
4089

ENC.

INLAND TELEGRAMS FLUKEE, CANNON, LONDON
CABLES "FLUKEE, LONDON"

THOMPSON, QUARRELL & CO.
SOLICITORS
W. H. QUARRELL
KEITH S. THOMPSON
W. J. C. QUARRELL
W. F. S. HUNT
11, J. STREET

20
*9, Clements Lane,
Lombard Street.*

PLEASE QUOTE
THIS REFERENCE FN/PW.

London 23rd August, 1937.

71 FAUBOURG S^o HONORE PARIS
VIA RIPIETTA 22, ROME

The Under Secretary of State for the Colonies,
Whitehall, S.W.1.

RECEIVED
25 AUG 1937
C. O. REGY

Dear Sir,

On the 24th of March, 1930, a letter was written by the director of medical and sanitary services Nairobi Kenya to a Dr. Macbeth Elliot concerning a Captain Pothergill. We have pleasure in sending herewith a copy of that letter.

We are informed by our client Mrs. Pothergill that about three years ago Captain Pothergill was removed from Kenya to Port Napier at Pietermaritzburg South Africa. We are informed that the state of Captain Pothergill's mental and physical condition is no better than it was but we require confirmation of this fact.

In particular, we wish to ascertain under what powers Captain Pothergill is under care and treatment either in Kenya or South Africa.

We apprehend that he would have been detained in Kenya under some local ordinance but we should be glad if you could inform us or ascertain for us whether such care and treatment as he has been under has been in pursuance of any of the following English Acts of Parliament :-

Lunacy and Mental Treatment Acts 1890 to 1930;
Army Act; Air Force Act; Naval Discipline Act;
Naval Enlistment Act, 1884; Yarmouth Naval
Hospital Act, 1931 or Criminal Lunatics Act,
1884.

We have the honour to be, Sir,

Your obedient servants,

*and
Apply to Kenya*

COPY.

MEDICAL DEPARTMENT.

Headquarters Office,

(P. O. Box 641.)

NAIROBI, KENYA.

24th March, 1930.

No. 47/290/9.

A. Macbeth Elliot, Esq., M.D.,
107, Queen's Gate,
LONDON, S.W.7.

Sir,

RE: CAPTAIN FOTHERGILL.

Your letter of 18th January, 1930, addressed to the Rt. Hon. Lord Pasfield, has been forwarded to this office.

I have pleasure in providing for your information the following report by the Medical Officer in charge of Mathari Mental Hospital upon this gentleman's condition :-

"Capt. Fothergill was admitted to Mathari Mental Hospital on the 11th March, 1922. At the time of admission he was bedridden, completely incontinent and had to be spoonfed. He was disorientated for time, space and place. He made a gradual improvement and at the end of 3 months could sit up and walk slowly about the building. His physical condition and to a less extent his mental condition steadily improved for the next six months until the condition he is in at present was reached.

He is very depressed and wanders about the grounds by himself; it is difficult to engage him in conversation, however, he will on occasions,

especially after the offer of such amenities as cigarettes, converse quite rationally about subjects such as the campaign in East Africa, etc.

He has delusions about property in Tanganyika and also states that he is the senior partner in De Beers Diamond Mines. He does not know what month it is, takes little interest in his surroundings, but says he is quite comfortable and has no complaints.

As far as his physical condition is concerned he is thin and rather poorly nourished. His heart is slightly enlarged to the left and the arteries are slightly hardened.

He has varicose veins in both legs and a varicose dermatitis of the left leg which does not cause him any particular inconvenience.

It is considered that on the whole his mental condition has gradually degenerated and that his delusions have increased.

The prognosis is poor and it is not considered that his mental condition will improve."

I have the honour to be,

Sir,

Your obedient servant,

A. D. WILKINS.

DIRECTOR OF MEDICAL & SANITARY SERVICES.