

1938

38004

CO 533/487

38004

KENYA

Penal Code Legislation

Allegations regarding treatment of Natives

Previous

of See 38000

Murkin

17/1

98

19/1

Rsq.

26/1

Murkin

13/2

Subsequent

See 38000
(from Kampeta)

297

17/11

309

4/11

M. Pasbin

17

M. Creag

18/11

C.D. 308

23/11

299

24/11

297

30/11

309

1/12

297

20/12

309

29/12

M. Pasbin

30

M. Freeta

30

M. Creag

31/12

R. 297

6/1

R. 299

14/1

28/10/38

b. J.
Penal Code
Natives
Nominal

1. Archbishop of York.
Finds letter from Mr A. Milner regarding treatment
of black Christians.

Mr. Paskin.

I enclose a letter which the G. of S. has
received from the Archbishop of York, enclosing one
from Mr. Alfred Milner regarding certain allegations
as to the treatment of natives in Kenya.

Mr. MacDonald would be grateful if you would
advise what reply he should send to the Archbishop's
letter.

J. Casey

29/10/38.

2. To Archbishop of York. 1 each 31/10/38.

DESTROYED UNDER STATUTE

It will be necessary to ask Kenya
for a report on this case before
writing fully to the Archbishop.

Drafts attached course.

Clothey White
11/11

3. To Archbishop of York - 1 each - 18.4.38.

DESTROYED UNDER STATUTE

4. To Kenya 711. (7/c. Pen. Code in vol. 1). 24/10
G.O.S. 28.11.38.

DESTROYED UNDER STATUTE

5. Archbishop of York %
Ackno 703. 31/11/38

Put by Clothey White 4/12
at am

6. Governor 721

10/2/38

Offers observations on cutting from Manchester Guardian.

Draft submitted. The second part of the first para is intended to present copies of the despatch being sent to correspondents (eg. Mr. Milner - see end to 1) of the Archbishop. That might be undesirable; though to send the Archbishop himself a copy of the despatch seems to be appropriate.

Clotworthy 29/12

When Mr. Clotworthy consulted me as to the propriety of sending a copy of the despatch to the Archbishop I had forgotten that he had merely passed on a letter from Mr. Milner, to whom, no doubt, he will wish to pass on the S.P.'s reply. I have accordingly prepared a revised draft incorporating the substance of the despatch.

J.P. Pascoe
30/12

The Committee is becoming increasingly mechanistic. A cross-section should be made - this holds on the one hand, another recent report of his practical activities.

J.P. Pascoe
30/12

See 28/10/38.
James Kempster
Working Educationally
Union

1 To Archbishop of York - received - 2. Jan '39

8. Archbishop of York
DESTRUCTION UNIT
RECORDS SECTION

4/39 3

? Per 63.

6.1.39

J.P. Pascoe
12/1

- 9 Extract from Manchester Guardian 4/1/39
- 10 Extract from Manchester Guardian 13/1/39

Putby
Clotworthy
26/1

Delayed for No. 9 to be obtained, as No. 10 was not very intelligible without it. The passage at 2 provides the clue to the case mentioned - No. 1. ~~It is clearly~~ ~~not~~ the case mentioned by the Gov. in para. 3 of No. 6. But as it happened in 1925, ~~it~~ it hardly seems worth while to pursue it.

? Putby

J.P. Pascoe
12/1

J.P. Pascoe
13/1

Manchester Guardian 13/1/39

10
4

NATIVE RIGHTS IN KENYA

"Unlawful Assemblies"

To the Editor of the Manchester Guardian

Sir,—Mr. G. B. Soames, in your issue of January 4, asks for the number and date of the ordinance which makes meetings illegal. The ordinance to which I referred is the Criminal Procedure Ordinance of May 5, 1914. Section 110 of this ordinance reads:

Any magistrate or officer in charge of a police station may command an unlawful assembly or assembly of five or more persons likely to cause a disturbance of the peace to disperse.

The likelihood of disturbance is left to the judgment of the magistrate or officer. Add to this section 8 of the Native Authorities Ordinance, by which:

"Any headman may from time to time issue orders to be obeyed by natives residing within the local limits of his jurisdiction," for purposes which include prohibiting natives subject to his jurisdiction from holding or attending any meeting or assembly . . . which in his opinion might tend to be subversive of peace and good order."

Section 9 authorises a senior commissioner or district commissioner to direct a headman to issue such orders, and to issue them himself if the headman refuses. Section 10 says that any native who disobeys or refuses to comply is guilty of an offence and shall, on conviction, "be liable to a fine not exceeding seven pounds ten shillings, and in default of payment to imprisonment of either description for a term not exceeding two months."

These, in practice, mean that meetings may not be held without the permission of the district commissioner or headman.

Mr. Soames also asks for the name, address, and tribe of the victim and of the victim's friends alleged to have been holding an illegal assembly when they went home together after church. He will find them in Fort Hall Class III Criminal Case No. 83/29. In his summing-up the judge concluded that a meeting had been held because more than five persons were present, and though he expressly stated that the objects of the meeting did not appear to be dangerous, the meeting itself constituted an offence for which the accused were punished.

My statement as to religious meetings referred specifically to the period between 1929 and 1930, during which, owing to a controversy between the missionaries and the Kikuyu people, many schools were closed. Some of these schools had been used as churches. I freely admit that Africans are not discouraged from attending either football matches or Salvation Army meetings. It is a striking fact, however, that in the many petitions which have been sent to the Kenya Government and the Colonial Office no African has ever demanded these privileges or expressed his appreciation of them. Satisfactory as they may be in themselves, they are not regarded as acceptable substitutes for the right to form trade unions, co-operative societies, and other organisations to protect African political, economic, and cultural rights.—Yours, &c.,

JOMO KENYATTA, General Secretary Kikuyu Central Association.

15, Cranleigh Houses, Cranleigh Street, London, N.W.1, January 7.

But he mentioned it as current history.

They certainly have a right to form Trade Unions.

J.P.P.

Man - Guardian

4/1/39 95

TREATMENT OF NATIVES IN KENYA

Mr. Kenyatta's Charges

To the Editor of the *Manchester Guardian*

Sir.—You recently reported an address delivered to the Manchester Fabian Society by Mr. Jomo Kenyatta in which the following statements occur—

—In Kenya it is illegal for more than five people to meet together except for a religious purpose, and when there was a meeting for a religious purpose there had to be a white missionary leading the congregation.

Will Mr. Kenyatta give the number and date of the ordinance which makes meetings illegal and the date of its sanction by the Secretary of State for the Colonies? Will he also explain, if such is the case, how it is that cup meetings between the various district native football teams attract attendances of 10,000 to 20,000 native spectators and that the ordinary football matches held almost daily have attendances at their little village fields of several thousand spectators? Will he also explain how so many hundreds of natives attend the meetings of the Salvation Army conducted by native laymen, with no Europeans present, and how it is that throughout the year native preachers and teachers of all denominations conduct their simple services many miles away from any white pastor?

Mr. Kenyatta has frequently alluded in the home press to a native returning from church and inviting four friends to tea preparatory to returning to evening service, the calling of a policeman, their arrest, their imprisonment and fine of £7-18s. for having illegally assembled. But previously he has not indicated that he knew these people. Now, he states, "a native friend of his" was the victim. Can he give the name, address, and tribe of the victim and of the victim's friends so that this matter can be investigated in the Legislative Assembly? There is no such law; no magistrate or District Commissioner would even hear such a charge; the High Court would not confirm such a sentence.—Yours, &c.

G. B. SOAMES.

Nakuru, Kenya Colony.

December 18,

38004/1/38

6

C. O.

Mr. Pession 30/12

Mr. Freston 29

Mr. Crook 30/12 f

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

S.O. for the S. of S.'s Sig.

2 Jan '39

DRAFT.

The most Rev,
The Lord Archbishop of York.

M: Milner 26/x.
(and. co No. 1 in orig.)
N.B. a copy of the newspaper
cutting to be made for
the file.

On the 28th of Oct.
you sent me a letter
from Mr Alfred Milner, in
I return herewith, enclosing
a newspaper cutting about
the treatment of natives
in Kenya. I have now
received a resp. from the
Gov. dealing with Kenyan
allegations.

The Gov. observes that

FURTHER ACTION.

(Sgd.) MALCOLM MacDONALD

KENYA

NO. 721

15 December 1938.

Sir,

I have the honour to refer to your despatch No. 711 of the 24th November and to offer the following observations on the cutting from the "Manchester Guardian" to which your attention has been drawn by the Archbishop of York.

2. There is, of course, no foundation for the statement that there is "no freedom of speech, freedom of association or freedom of movement" for the native peoples in this Colony. It is not illegal for more than five people to meet together for other than religious purposes, provided their purposes are lawful. It is not obligatory for a European missionary to be present at a meeting for religious purposes. Headmen are, however, empowered under Section 8 of the Native Authority Ordinance, 1937, to issue orders prohibiting or restricting natives from holding or attending any meeting or assembly which might tend to be subversive of peace and good order, and prohibiting or restricting the holding of drinking bouts excessive dancing and immoral or indecent dances.

The Gov. says that his
3. ~~As my attention had already been drawn to the cutting, I recently caused investigations to be made~~
and that he had
regarding the case referred to in Mr. Kenyatta's address.
He points out
You will appreciate that, without details of the date and place and of the persons concerned, it is extremely difficult to trace such an incident in a Province containing more than a million inhabitants. No case in which

the ...

THE RIGHT HONOURABLE
MALCOLM MACDONALD, M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

the facts correspond with those recited by ~~Mr.~~ Kenyatta has been discovered. It is, however, possible that ^{he gives however the following particulars} ~~Mr.~~ Kenyatta has distorted the history of a case which occurred in the Fort Hall District of the Central Province about two years ago, and which ^{he says,} is probably a typical example of such cases. A Chief surprised a number of young natives holding a tea-party late at night and performing a dance which had been forbidden by a resolution of the Local Native Council. The girls' parents were extremely angry that the girls had been induced by the young men to attend the party without the parents' knowledge. Upon prosecution of these persons before a Native Tribunal the young men were awarded severe sentences and the girls a small fine. Upon lodging an appeal to the District Commissioner they were released on a bond signed by a native pastor of the Church Missionary Society who is also a leading member of the Kikuyu Central Association. During the hearing of the appeal they took an oath that the affair had been an innocent tea-party and that they had not indulged in any form of dancing. The District Commissioner gave them the benefit of the doubt and quashed the conviction and sentences against them.

however The facts of this case are so different from those alleged by Kenyatta that it hardly seems possible that they relate to the same incident, however distorted Kenyatta's account may have been.

I have the honour to be,

Sir,

Your most obedient, humble servant,

AIR CHIEF MARSHAL.

G O V E R N O R .



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3. As my attention had already been drawn to the cutting, I recently caused investigations to be made regarding the case referred to in Mr. Kenyatta's address. You will appreciate that, without details of the date and place and of the persons concerned, it is extremely difficult to trace such an incident in a Province containing more than a million inhabitants. No case in which

the ...

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SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

Amund. (5- on 28/10/38)

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I have the honour to be,

Sir,

Your most obedient, humble servant,

R B Brooke-Popham

AIR CHIEF MARSHAL.

G O V E R N O R .

Bishopthorpe.
York.

21 November 1938

My dear Creasy,

How nice to be in touch with you again - we must try and meet sometime when I am in London.

It is very good of Mr. MacDonald to promise to write when the Governor's report arrives. I am sure that he and you understand that when I forward documents of this sort, it is not because I have myself enquired into them or in any way accept the statements made as necessarily true, but rather that I am sure the Colonial Office wishes to know what is being alleged, and, so far as abuses arise, to check them.

Yours sincerely,

William E. G. A.

See
S.L.S.
L.S.
L.S. = 8

Bishopthorpe.

York.

28 October 1948

My dear MacDonald,

You will think you have never done
with me: I expect the enclosed has been
brought to your notice, and I fully recognise
the difficulty of dealing with such matters,
but I hope you will forgive me for forwarding
this letter and cutting.

Yours very sincerely,

William Ebor.

Copy sent to Lord in and to Long (2)

13
COPY of cutting from Manchester Guardian

TREATMENT OF NATIVES IN KENYA

The inconsistency of this country's protests against the treatment of the Jews in Germany and elsewhere, in view of the conditions of the native peoples in Kenya and other British colonies, was commented on by Mr Yomo Kenyatta, author of "Facing Mount Kenya", general secretary of the Kikuyo Central Association, and vice-president of the Internal African Service Bureau, in an address last night to the Manchester Fabian Society.

"I not only say", said Mr Kenyatta, "that there is British Fascism in the colonies but can give you examples and facts for you to judge whether the Jews in Germany are treated worse than we are in the colonies". For the native peoples in the colonies there was no freedom of speech, freedom of association, or freedom of movement. In Kenya it was illegal for more than five people to meet together except for a religious purpose, and when there was a meeting for a religious purpose there had to be a white missionary leading the congregation. A native friend of his, a Christian, went to church one day, and afterwards he invited four friends to his home to have tea before going to the evening service. While they were there a policeman called, and, seeing six people - including the woman who was serving the tea - arrested them and locked them up. At the court on the following day they were each sent to prison for two months and fined £7.10s for having "illegally assembled".

That was the kind of thing that was going on.

14
EN

It was for the British people to awaken to their responsibility and to repudiate the wrongs that were being done in their name.

Mr Edgar C. Gates presided.