

EAST AFR. PROT.

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Italian mission

1910

11 June

previous paper.

2/6/10

gives history & present position of mission established in Prot. & encloses report of enquiry into the conduct of the mission orphanage at Ayer. Requests instructions as to (1) location of the orphanage, (2) land for mission, & (3) whole position of this mission & its future.

W. Foaker.

The medical report on the orphanage by Dr. Bodeker is painful reading. With regard to the other reports, there is a distinct difference in tone between W. Foaker's report of the 12<sup>th</sup> of January & his report of the 31<sup>st</sup> of March. The later report is much more favourable to the Mission. <sup>W. Foaker</sup> It concludes by saying that in view of the good work done by the Mission during the past three years, he does not see that any substitute is possible short of the establishment of a Govt. institution.

The Govt. authorities instructions in

WILLIAM A. GARDNER

Subsequent Paper

22053

(1) The Orphanage

(a) As to the disposal of the children now at the Orphanage. The Crown Advocate suggests, in par. 2. of his memorandum, (last enclosure), the theoretically proper way of disposing of them. The proposal depends, however, on the possibility of ascertaining what children were handed over as the result of pressure on the part of the Mission, what children were handed over voluntarily, & what children were picked up abandoned or deserted. Mr. Foster's second report, pp. 2 & 5, shows what strong motives the natives have for lying about the method in which the Mission have obtained control of the children, & what good ground there is for thinking that they have lied already on the subject. In the face of this state of affairs, I doubt whether any Court enquiry will elucidate the facts sufficiently to form the basis of a satisfactory partition of the children.

We might put the point to the <sup>29</sup>Crown Advocate whose dispatch is more devoted to pointing out difficulties than to suggesting how to overcome them on these & other points. If he thinks that an enquiry as this could be conducted with hopes of a satisfactory issue, the enquiry should be held, & the children should be disposed of as recommended by the Crown Advocate. If not, I see no alternative to allowing the Mission to retain the children until they are of an age to look after themselves.

(b) The future. If I assume, the Mission is allowed to continue its work, the precautions suggested by Mr. Foster on pp. 6 & 7 of his first report should certainly be adopted, i.e. a all children taken by the Mission should be registered by the District Council in the presence & with the consent of the parents or relatives, the conditions of residence at the Mission being fully explained & agreed to by both parties.

3. Medical & lay inspection of the orphanage should be carried out by Govt officers from time to time.

When abandoned children are picked up by the Mission the matter should be reported to the District Commr, a report should be made of the facts, and enquiry should be instituted.

(2) Land for Missions.

There seems to be nothing to object to in the Governor's suggestion that inside Reserves, no lands should be the maximum grant for Mission purposes, & that no land granted should be held in lease-renewable for the same purposes, & that outside Reserves, Missions should be permitted to take up land within the limits prescribed for ordinary purposes.

(3) The position of the Mission & Bishops.

I do not see how we can at present interfere with either. The Mission has been allowed to establish itself, &

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on this point  
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see also clearly  
to your own  
could emphasize  
point in writing  
11.2.18

See  
P.H.

has been promised land by the late Govt. It is by no means certain that he has not done good work, & even where the case against it looks blackest, it is an open question whether the plight of the children is not far better than it would have been if the Mission had not been at work. So long as it submits to the precautions referred to under head (1) above, & is not a cause of serious unrest among the natives, I think it must be allowed to go on.

As to the Bishopric, possibly the General Dept can say what formalities, if any, are usual between the Holy See & H.M.G. in regard to the establishment of Roman Catholic Bishoprics in British Colonies. (The G.A.P. is however not yet a British Colony). Subject to anything that may be said on this point, I think H.M.G. would be extremely ill-advised to meddle in the internal affairs of the Roman Church.

in the pt. what Sir P. Girouard suggests  
 is in effect that we should try to arrange  
 that the Roman Catholic Bishop rather  
 than another should exercise his functions  
 in a particular district of the pt. It do  
 not think that the proposal is one which  
 can even be discussed. Nothing short  
 of clear & serious detriment to the  
 public interest could justify any such  
 representation against a particular prelate.  
 Even in that case, the representation would  
 have to stop short of suggesting the  
 particular rearrangement that should  
 be made.

2013

July 22

Mr Fiddes

I agree

H. J. R.

23/11

Can you then say 4/4 - 10

Point of view of W. Butler

Mr Fiddes

We have no precedent. The staff of the  
 of his office for a great many years has  
 not to interfere with the exercise of episcopal  
 functions or the areas of jurisdiction within  
 to any particular Bishop.

Col Seely

Lord Howe

As to the children - I think it is almost probable that these, in most cases, would die if the Mission had not taken charge of them, and I should not advise any action against the Mission on any pretext of irregularities in the method of taking care of them. I doubt the expediency of an Inquiry with a view to restoring the children to "parents or guardians". It is suggested in the report that some of the children were exposed in the belief that if they lived they w<sup>d</sup> bring trouble on the <sup>family</sup> tribe [? or being the E. A. equivalent of the malocchie?] It is possible that the <sup>family</sup> tribe w<sup>d</sup> then be glad to get hold of these children again - in order to put them to death; if so, the Inquiry w<sup>d</sup> be all the less likely to attain that end.

As regards the future, I would like to have that in matters relating to missions must be as much under the control of the Ct. authorities as anywhere else. If they take in children they must be subjected to inspection as suggested by Mr. Kettle, and there must be appropriate

power in the fact to remove the orders  
for the re-issuing of any. However, directed  
by some instructions, with appropriate  
penalties for disobedience.

As to the Bishops, I do state the  
Govt. H. of C. cannot interfere for  
the reason given by Mr. Niblett.

W. J. H.

Jaques.

W.  
27.7.

Certainly. These religious orders  
must be subject to ordinary  
laws. Act as proposed.

27.7.

Receipt

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18 JUN 10

Government Office  
Tahiti.

EAST AFRICA PROTECTORY TERRITORY.  
Confidential (58)

11th June 1910.

My Lord,

I would desire to invite Your Lordship's attention to the history and position of the Italian Mission now established in this country. Its history, in so far as correspondence goes, dates from 1861 when, without any permission from the authorities, its representatives established themselves in the Likiep Native Reserve. In July 1862 the Collector of the District objected to their proceedings and Mr. Jackson informed Bishop Allgeyer of the undesirability of their presence. From that date forward no further action was taken regarding their establishment seems to have been taken.

3. By 1867 applications were made for the land in the Lania Province. By 1870 4,528 acres had been applied for by this mission and tacitly agreed to by my predecessor and the Commissioner of Lands.

4. Nothing exists in the Government correspondence

THE RIGHT HONOURABLE

THE EARL OF CREVE, K.G.

SECRETARY OF STATE FOR THE COLONIES

DOING STREET,

LONDON, S.W.

pendence to show why this Roman Catholic mission from a foreign country established itself within the jurisdiction of Bishop Allgeyer. A note by Sir James Hayes Sadler dated the 43th of August 1899 indicates that the original occupation was a temporary measure. This has been confirmed verbally by Bishop Allgeyer, who informs me that the mission originally arrived with the intention of proceeding to Italian territory but finding the Kenia country very attractive gradually settled Meroin.

I am not aware of the formalities, if any, which are usually adopted between the Holy See and His Majesty's Government in the establishment of Roman Catholic Bishops in British colonies.

There is no doubt that this mission from the start did not work well with Bishop Allgeyer. At the end of 1899, entirely to his surprise and certainly with no knowledge on our part, the head of the Italian mission was created Bishop of Kenia, the whole Province being withdrawn from the jurisdiction of Bishop Allgeyer.

There are at present therefore three Catholic Bishops in British East Africa: the old Uganda Province under Bishop Hannan, the Kenia Province under Bishop Perle, and the remainder of the Protectorate under Bishop Allgeyer.

Shortly after my arrival in the country I received a somewhat serious report as to the conduct of the Italian mission with regard to its organisation at Averi. The Magistrate at Fort Hall investigated the



the matter, and the substance of his report is appended. I visited the mission station at Nyeri myself, and although this mission has been in the country for seven years now, none of its members could converse with me in English and only one in French.

2. Shortly afterwards the head of the mission returned as a bishop. He appeared to me to hold a further enquiry, as he was not on the spot and could answer all allegations. This was held by the same magistrate, and the results are appended, with the Crown Advocate's report upon the whole matter.

10. I saw Bishop <sup>10</sup> afterwards and discussed with him the questions connected both with this expropriation and with the land required for mission purposes. With regard to the former, he absolutely refused to give up any of the children alleging that he had proved that no force or undue persuasion was used in procuring any one of them by members of the mission, and that its profits would suffer if any of them had to be given up. The land question I found in an extraordinary state.

11. At Nyeri 1,000 acres of so-called grazing lands were to be granted in freehold and 2,000 acres in leasehold. These lands, I may remark, are being cultivated with every kind of product, and are in no sense grazing lands. At Fort Hall 100 acres of freehold were granted for the purposes of the Mission.

## Mission.

11. In addition to all this, and without authority, the mission has been cutting timber for all purposes for several years. In point of fact it appeared to aim at making itself self-supporting in the country, and I fear that in many of these small stations native labour has been used in a manner with which we cannot entirely agree.

12. As the deeds have not been passed, I have informed Bishop Perlo that in no case can we grant more than 20 to 40 acres within a native reserve and that this must be leasehold for mission purposes only.

13. In so far as Nyeri itself is concerned, the land taken up there is outside the Native area and there can be no objection to the Mission obtaining what it has requested. At Fort Hall, which is an administrative centre, I have informed Bishop Perlo that his request for 160 acres freehold must be cut down.

14. In my opinion sufficient attention has not been paid in the past to the proceedings of this Mission, and it has been allowed to establish itself without due consideration. The resulting position is somewhat awkward. It would appear regrettable to have acquiesced in the creation of an Italian Bishopric within our territory, and it would be inadvisable to arrange, if possible, that the jurisdiction of Bishop Allgeyer over the Province of Kenia should be re-established.

I should be glad to receive your Lordship's instructions

instructions as to:-

(1) The question of the Orphanage.

Here I was much concerned as to the necessity or otherwise of a criminal prosecution. Such an action I desire to avoid owing to the peculiar position of this Mission. The matter was, as Your Lordship will see, thoroughly investigated locally, as also by my law officers. There is every probability that many of the children were picked up when abandoned, but others were undoubtedly obtained from their parents by some form of threat or improper enticement. The mortality at the orphanage was certainly large, but I think we may believe the Bishop when he asserts that many of the children were practically in a dying condition when taken in. There is no doubt however that the natives themselves were not consulted before the Mission or Orphanage was established. In November 1808 the Provincial Commissioner had all the Chiefs in that part of the country brought together and asked them to state their wishes truly in the matter. They unanimously and emphatically said that they did not desire any Mission in their midst.

(2) Land for Missions.

Outside the Reserves there is no objection whatever to any Mission body taking up land within the limits of authorized grants. Inside the Reserves twenty to forty acres should be the maximum granted as leasehold for Mission purposes, with the proviso that the leasehold will be extended on termination if the land is still in occupation.

occupation for those purposes.

(3) The sole position of this Mission and  
Bishopric.

I have the honour to be,

Your Lordship's humble

obedient servant,

  
GOVERNOR.

Copy.

REPORT ON THE INQUIRY HELD INTO  
THE CONDUCT OF THE ITALIAN  
MISSION WITH REGARD TO  
ITS ORPHANAGE AT  
NYERI.

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This enquiry has been instituted with the object of obtaining information on the following points:-

1. How and under what conditions have certain native children been obtained by the Italian Catholic Mission in the Nyeri District?
2. Has the treatment and general management of these children whilst in the care of the Mission been of an humane and satisfactory nature?
3. To account for the heavy mortality that has taken place amongst them.

(1)

On the first point the evidence of 49 native witnesses as against the Mission has been taken and with very few exceptions it appears that the children were taken by the Mission against the wishes of their parents or if their parents were dead of their other relatives. The same story is repeated with similar singular unanimity and in nearly every instance the following seems to have occurred:-

A mother with <sup>a</sup> young infant dies, the infant has been taken charge of and is being looked after by one of its relations, the Italian Mission get to

hear

hear of it and one of the Fathers proceeds to the village and demands the child on behalf of the Mission. Its father or other relatives refuse to hand it over, the priest then proceeds to threaten fine or imprisonment or both unless the infant is given to the Mission or in the event of its death if it remains with its own people. These being overawed by threats consent to hand over the child and it is taken away to the Mission where it remains. The greatest offender in this respect appears to be an Italian Father known to the natives as "Kabureri", his real name I believe is Gabrielli and he is now said to be in Europe but is shortly returning to British East Africa.

After making every allowance for native exaggeration and untruthfulness, I am convinced that a considerable number of children have been obtained by the Mission against the wishes of their ~~natives~~ parents or guardians by means of unlawful threats and that in some instances those threats have been carried into effect and money and goats extorted from natives who refused to hand over their children and which children afterwards died.

There is however another aspect of this matter that requires consideration:- Chief Wambugo stated in his evidence that for the past three years, under no circumstances, have any children been abandoned by his people in accordance with old standing custom or if it had been done, he was unaware of it. I do not believe this statement to be in accordance with fact and I am strongly of opinion that under certain conditions

conditions infants are still abandoned in considerable numbers and that this practice will continue for many years to come. Anyone acquainted with natives and their ways will readily understand that it is most improbable that an uncivilized tribe numbering some hundreds of thousands will have entirely changed its habits and customs within the space of two or three years. I imagine Chief Wambugo made his statement with a laudable desire to save the face of his people but I do not think his evidence on this point should be regarded seriously.

There are some native children still at the Mission and many more who have died for whom no claimants have come forward, I think it may be taken for granted that many of these infants were picked up by the Mission after they had been thrown away and abandoned by their relations for superstitious reasons, and taken to the Mission Orphanage. Their relations, even if they are aware that the children are alive and at the Mission, which is doubtful, are probably afraid to come forward and claim them being fearful of being charged with their abandonment and punished by fine or imprisonment.

In concluding my remarks on this point it is difficult to ascertain what proportion of the total number of children who have been at the Mission during the past year have been obtained by unlawful means and what proportion have been picked up. As a rough and approximate estimate only I should say that half have been obtained by the former and half by the latter

latter means, this estimate, of course, being open to revision on obtaining fuller information.

Father Saroglio's statement adds nothing to the elucidation of the matter, he either does not know the circumstances under which the children were obtained or if he does know he will not say what he knows. I am reluctant to believe that he has deliberately kept back information on this point and think it more probable that he is, in a great measure, ignorant as to how the children were obtained by the other Missions before being transferred to the Mission Farm at Nyeri.

(2)

On this point I can give <sup>a</sup> certain amount of information from personal observation. On the 5th of January I visited the Italian Catholic Mission Farm where all the surviving children now are. I am unable to furnish any details of a medical nature, these are fully dealt with in the report of the Medical Officer which is attached hereto and I can only deal with the impression that were made upon me. With the clothing, diet, accommodation and general appearance of the healthy children there is little to find fault with but as regards the really sick children - six in number - their treatment appears to leave much to be desired. The report of the Medical Officer and his recommendations as to what should be done deserve careful consideration as the future welfare



welfare of the children, if they are to be kept by the Mission, will largely depend upon their being carried out. It is not easy to furnish any information as to the medical and general treatment of the children in the past, the mortality has been extremely heavy, but of the 42 children and infants at present in the Mission only 6 were I believe actually ill. I deal with the question of mortality and its probable causes in Section 3 of this report.

(3)

From a return furnished by the Nyeri Mission a copy of which will be found in the file on which this enquiry is based, it will be noted that a total of 82 children and infants of both sexes have been received into the Mission during the past two years or thereabouts. On my visit to the Mission on January 5th I counted 42 and was told there were no others alive, the remainder having died. It thus appears that the death-rate has been practically 50 per cent in the short period of at most two years. The question naturally arises, what has been the cause of this abnormal heavy death-rate and could it or any part of it have been prevented? Father Saroglio states that many of the infants when brought to the Mission were sick and unable to take either food or medicine and that in most cases their recovery was hopeless and I am inclined to believe that this, to a great extent, may have been the case. It is of course impossible

impossible to say what proportion, if any, of these infants could have been saved by proper medical care and treatment and it is open to the Mission to make the obvious retort that none would have been saved but for the action of the Mission in taking them in and this is doubtless perfectly true. In the face, however, of the Medical Officer's report on the present treatment of sick children I think we may presume that that treatment has not been superior in the past and that therefore an uncertain number of young lives might have been saved by greater care, attention and knowledge on the part of those who were in charge of them.

I think that having taken in these infants the Mission was morally bound to give them the requisite care and medical treatment and this, in my opinion, has not in many cases been done.

No evidence was taken from the children themselves as in the opinion of the Medical Officer they were too young for such to be of the slightest value for the purposes of this enquiry.

- In view of what has been disclosed in this enquiry I venture to make the following suggestions:-
- (a) That all parents or other relatives who have children at the Mission at the present time and who desire to remove them should be allowed to do so.
  - (b) That in future all children and infants taken by the Mission should be registered by the District Commissioner in the presence and with the consent of their parents or other relatives if the parents are dead

welfare of the children, it they were to be kept at the Mission, will largely depend upon their being... It is not easy to furnish any information as to the medical and general treatment of the children in the past, the mortality has been extremely heavy, but of the 42 children and infants at present at the Mission only 6 were... I deal with the question of mortality and its probable cause in section 2 of this report.

When a child is taken to the Mission... it will be found... children and infants of both sexes have been received... the remainder having died... their parents or other relatives if the parents are dead... I am inclined to believe that in most cases the parents are ignorant and I am inclined to believe that in most cases the parents are ignorant and I am inclined to believe that in most cases the parents are ignorant...

dead and the conditions and length of such residence at the Mission should be fully explained and agreed to by both parties.

(c) That medical and lay inspections of the Orphanage or Home should from time to time be carried out.

(d) That in every case where abandoned children are picked up by members of the Mission the matter should be reported to the District Commissioner and a record made of all the facts of the case with a view to enquiry.

I do not know what construction to put on the fact that the Mission has called no witnesses of any sort to refute the grave charges that have been made against it. The presumption is that either they regard them as too trivial to need refutation or that they have no witnesses available. Neither of these reasons appears satisfactory and they must have, I believe, abundant evidence at their disposal in connection with the finding of abandoned infants and can hardly fail to realize the gravity of the charges that have resulted in this enquiry. That fact however remains that no witnesses have been called and that Father Saroglio knows or has stated that he knows, practically nothing about the matters enquired into. I do not think it is necessary for me to enlarge further on this point and as I have set down my conclusions, as they appear to me, at some length on the points into which I was instructed to enquire I now bring this report to a close in the hope that

able to say that... if any of these... should be fully explained and agreed to by both parties... (c) That medical and lay inspections of the Orphanage or Home should from time to time be carried out... (d) That in every case where abandoned children are picked up by members of the Mission the matter should be reported to the District Commissioner and a record made of all the facts of the case with a view to enquiry... I do not know what construction to put on the fact that the Mission has called no witnesses of any sort to refute the grave charges that have been made against it... The presumption is that either they regard them as too trivial to need refutation or that they have no witnesses available... Neither of these reasons appears satisfactory and they must have, I believe, abundant evidence at their disposal in connection with the finding of abandoned infants and can hardly fail to realize the gravity of the charges that have resulted in this enquiry... That fact however remains that no witnesses have been called and that Father Saroglio knows or has stated that he knows, practically nothing about the matters enquired into... I do not think it is necessary for me to enlarge further on this point and as I have set down my conclusions, as they appear to me, at some length on the points into which I was instructed to enquire I now bring this report to a close in the hope that

it may result in the the Italian Mission Orphanage and Home being conducted on somewhat more satisfactory lines than has hitherto been the case.

sd. F. G. FOAKER.

Nyeri,  
12th January, 1910.

To by both parties.  
(c) That medical and lay inspectors of the Orphanage Home should from time to time be carried out.  
(d) That in every case where abandoned children are taken up by members of the mission the matter should be reported to the District Commissioner and a report made of all the facts of the case with a view to

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ENCLOSURE

In Despatch No. 88 of 1907

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R. E. P. O. N. Y.

on

THE ENQUIRY HELD INTO THE CONDUCT OF THE  
ITALIAN MISSION WITH REGARD TO  
THE ORPHANAGE AT NYERI.

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In attempting to arrive at some definite conclusions on the evidence and statements recorded in this enquiry one is at once struck with the pronounced discrepancy in the versions as to what actually occurred in the cases of children obtained by the Mission. In hardly a single instance is there any agreement and I propose later on in this report to give what I consider to be an explanation of this discrepancy. After a careful perusal of the evidence and statements contained herein I have however formed the following conclusions:-

1. That in many cases the natives themselves voluntarily handed their children over to the care of the Mission.
2. That in some cases moral pressure was used either directly by members of the Mission, or indirectly through the Chiefs, in order to obtain the custody of children.
3. That the object of the Mission in thus desiring to get possession of children was in itself entirely praiseworthy and humane and that no improper or criminal motive or intention can be shown to have existed or to exist.

1. In view of the statements made by the members of the

the

(2)

the Mission I am forced to believe that many children were voluntarily handed over to their care by the parents or other relatives, that these children were generally in a very bad state from disease or neglect or both and were very often in extremis and that it was a hopeless task to endeavour to save their lives. The Mission record shows many cases in which infants only lived a few days after being taken in, which I think proves that they must have been in the state described. In addition to these many infants are stated to have been picked up in the bush after having been abandoned in accordance with native custom and I see no reason to doubt this as the practice of abandoning or suffocating infants born under certain conditions is, I am certain, still prevalent though not perhaps to the same extent as formerly. That all natives who have children at the Mission now wish to take them away is I think natural; they see they are, in most instances, strong and healthy and able to do a certain amount of work and in the case of the girls the live stock to be obtained on their marriage is doubtless a further inducement to withdraw them from the Mission. I understand the position taken up by Bishop Perlo to be that, while he is quite willing to return those children to their parents or other relatives who express the desire to go, he objects to return those who prefer to remain at the Mission and that this especially applies to those who are still very young or in bad health. It is a matter on which there is much to be said on both sides and great care should be taken to ascertain that the natives claiming children are really entitled to have them as no doubt in the cases of children who have no surviving parents

or

in attempt to arrive at some definite conclusions on the evidence and statements recorded in this country and at some stage the pronounced discrepancy in the versions as to what actually occurred in the cases of children obtained by the Mission, as having a single instance is there any agreement and I propose later on in this report to give what I consider to be an explanation of this discrepancy. After a general review of the evidence and statements contained herein I have however formed the following conclusions:

1. That in many cases the natives themselves voluntarily handed their children over to the care of the Mission.
2. That in some cases moral pressure was used either directly by members of the Mission or indirectly through the village in order to obtain the custody of children.
3. That the object of the Mission in this respect is not possession of children but to have them voluntarily placed in the hands of the Mission and that in some cases of children who have no surviving parents or relatives it may be necessary to have them placed in the hands of the Mission.

In view of the statements made by the natives

other near relatives claims will still be put forward and more especially in the case where girls are concerned.

2. Although I am inclined to believe that there has been much exaggeration not to say downright untruthfulness on the part of the natives who have given evidence before me I am still of opinion that in some instances the Mission, in the person of Father Gabrielli, has directly employed moral pressure to a considerable extent in order to obtain the custody of native children, such moral pressure taking the form of threats of fine or imprisonment. In other respects cases pressure has, I think, been used indirectly through the sub-chiefs and with this form of pressure I can see little objection provided good cause could be shown for it, and the Chief was satisfied that it was necessary. However laudable the object in view, however I see grave objections to members of the Mission directly employing moral pressure in the dealings with the natives. If the principle is once admitted it is difficult to see where it will end and with a more or less irresponsible body such as a foreign Missionary Society it might quite conceivably open the door to all sorts of abuses. The Mission would, I think, have been much better advised had it reported all cases in which children had been made away with or where it suspected that such was the intention in any particular case, to the Acting District Commissioner at Nyeri; he could have instituted an independent inquiry and if he found there was reason to believe that any child was likely to be abandoned or made away with or was being treated in such a manner that

its life was in danger, he could have made an order consigning it to the care of the Mission and no further question would have arisen. I believe however in all these cases the Mission acted under the bona fide conviction that by its action it was directly saving children from death, that no time was to be lost if any good was to be done and that it failed to see that it was acting imprudently and that its actions were open to criticism and misconception, in short, that it was allowing its zeal to outrun its discretion. Bishop Perlo states that the natives will not come to a Government Station to register their children as being placed with the Mission being afraid to do so partly on superstitious grounds; this may be so possibly at first but later on there should, I imagine, be no difficulty about it.

It is, I believe, a fact that the death of children born under certain conditions is considered necessary on the grounds that such children, owing to the circumstances of their birth, are accursed and that their survival will bring all manner of misfortunes on their families. Were removal in these cases is not considered sufficient, though it may be so in others, and many infants are, I believe, annually made away with and about which nothing is heard, in order to save their families from the dire consequences of their survival is supposed to entail. When the Mission does hear of these cases it naturally does its best to obtain possession of the infants before they are made away with and if moral pressure is occasionally resorted to it may be invidious but cannot be classed as a crime.

It has become evident to me during the progress of



this enquiry that considerable antagonism exists towards the Mission on the part of the Chief Wambugu and the reason of this antagonism I take to be as follows:-

For the past 2 or 3 years Wambugu has endeavoured to persuade the Administration that the practices alluded to have almost, if not entirely, ceased. In face however of the revelations that have been made by the Mission it is obvious that they have not ceased. Infants are frequently being picked up in the bush and otherwise saved from death and I am of opinion that Wambugu is extremely annoyed that his assertions have been found to be incorrect and is fearful that he may be called to account for allowing these practices to continue. The result of his enmity towards the Mission may be found in the statement of some of the <sup>native</sup> witnesses that have been recorded. I do not hesitate to say that a considerable amount of intimidation, or, to put it more broadly, intimidation has been employed with reference to these witnesses and that many of them who voluntarily gave their infants into the care of the Mission have come into this Court and stated positively that the infants were taken from them by force and against their wishes, or that they only handed them over after being threatened with fine or imprisonment. I, of course, cannot state definitely in how many cases this has occurred as it is impossible to find out the exact details in any given case, but the extraordinary similarity of the stories told by witness after witness is, to say the least of it, suspicious and I believe the explanation I have given above is in nearly all respects a correct one. It must be remembered that the members of the Mission practically pass their lives amongst the natives, that they spend many years in one district and that they speak the native language as do the natives themselves. As a consequence they have a more intimate

(8)

intimate knowledge of the natives of any given District their habits and customs than any Administrative Officer can hope to have who is constantly being moved from one part of the Protectorate to another. I think it is something of a pity that this intimate knowledge cannot be utilized by the Administration for its own purposes and I would suggest that conferences might be held from time to time between Administrative Officers and members of the Mission for the discussion of any points it might be desirable to bring forward. Had this been done in the present instance the true state of affairs would have been ascertained some time ago and steps might have been taken to put a stop to the barbarous practices with regard to children that undoubtedly occur. I am well aware that these practices cannot be made to cease all at once, it will probably be many years before they die out altogether but the sooner a beginning is made the sooner will the desired end be attained.

3. As I have already dealt with the subject matter of this section in the preceding one I forebear to recur to it again as I have, I think, said all that is necessary to say on the subject. I agree with the Crown Advocate that this is no case for criminal proceedings, to institute such with any prospect of success it would be necessary to prove the existence of some criminal motive or intention and it is obvious that in these cases no such motive or intention can be shown to exist and even if it did it would be almost impossible to prove it in a Court of Law to the satisfaction of a Jury. The most that can be urged against the Mission is that, in some instances, it acted imprudently but that its motives were

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(7)

were in themselves good and humane. I have not the slightest doubt.

Many of the natives who gave evidence in the first enquiry have been available being absent at Nairobi and other places where they have gone to look for work. There has been ample time however to enable the Mission to know the charges it was called upon to rebut and that object having been achieved there was little advantage to be gained by the recording of superfluous evidence in which one statement was the counterpart of that preceding and following it.

I did not consider it necessary to take the evidence of the native witnesses the Mission was prepared to produce being of opinion that such evidence was of no material value and could throw no fresh light on the matters under examination.

I see no reason to vary or amend the recommendations I made in my report on the first enquiry. If I have altered my conclusions on some points with reference as to how the children were obtained in the first instance they remain the same on the subject of registration and inspection of the orphanage of Home if it is to continue its existence and activity and in view of the good work it has undoubtedly done during the past three years, I do not see that any substitute is possible short of the establishment of a Government Institution for which I imagine the time is not yet ripe.

Nyeri,

Sd/- F.G. FOAKER.

March 31st 1910.

MEDICAL REPORT  
on the  
ROMAN CATHOLIC ORPHANAGE  
At Nyeri.

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On the afternoon of January 5th 1910 Mr. Foker and myself visited the Roman Catholic Mission for the sole purpose of inspecting the Orphanage. We were shown the building which is used both as a school and sleeping quarters for native children. It is constructed of wood and has a flat corrugated roof with a ceiling. The floor consists essentially of earth and was found in an unhealthy and damp condition, and sprinkled with saw dust. It is distinctly draughty, being ventilated by several windows and badly constructed walls - the temperature at night must be very trying for the little inmates.

Inside the space called off for infants (Wing B) six native children averaging about a year and half old were found sprawling on the damp floor covered with saw dust. In the whole of my experience in this country I have never witnessed such repulsive and pitiful sights as I found inside that building. All these children were suffering from syphilitic manifestations, and there was absolutely no evidence to show that any attempt at treatment had ever been tried. Even the simple treatment of healing an ulcer has been grossly neglected. The general condition of each child was most shocking - I found that even their ulcerated toes

were

were never dressed and bandaged. The railing has been erected to prevent other children from mixing with them.

Each diseased child is placed at night in a small wooden crib, not unlike a coffin, with a layer of straw underneath and a blanket above. It is obvious that they spend the best part of their miserable existence in the same room both day and night. Their diet consists principally of milk and native porridge.

An examination was also made of other 54 children and two infants about 2 or 3 months old. The ages of the former vary from 2 1/2 to 7 years. The majority of them look as if they had been properly fed and cared for with exception of a total disregard for treatment of ulcerated toes and chronic ophthalmia. I found them all suffering from either one or both complaints. A few also showed signs of syphilitic taint. They all sleep under a blanket in Wing A on the damp straw-covered floor, and are fed three times daily on a mixed diet consisting of milk, porridge of wheat or maize, sweet potatoes and other native grain. They are washed daily and are decently clothed. In my opinion I consider that all these children are far too young to make any statement which could be accepted as trustworthy evidence.

DISPENSARY.

I found that their supply of drugs, &c. is very scanty and most unsuitable for children. A marked absence of specific drugs and surgical dressings was noted. It is also obvious that the two Sisters in charge of the children have proved themselves to be utterly incapable of looking after sick children, nor do they appear to have any knowledge of prescribing medicines.

MEDICAL REPORT  
on the  
ROMAN CATHOLIC ORPHANAGE  
at Mervat

In the afternoon of January 19th 1910 I, Robert Ross, myself visited the Roman Catholic Mission for the purpose of inspecting the Orphanage. We were shown the building which is used as a school and a dining room. It is constructed of wood and is situated on a hillside. The building is a long narrow structure with a central passage and several rooms on either side. The rooms are small and the furniture is very simple. The children are housed in a separate building which is situated on a hillside. The building is a long narrow structure with a central passage and several rooms on either side. The rooms are small and the furniture is very simple. The children are housed in a separate building which is situated on a hillside.

Inside the building I found that the children were housed in a separate building which is situated on a hillside. The building is a long narrow structure with a central passage and several rooms on either side. The rooms are small and the furniture is very simple. The children are housed in a separate building which is situated on a hillside. The building is a long narrow structure with a central passage and several rooms on either side. The rooms are small and the furniture is very simple. The children are housed in a separate building which is situated on a hillside.

CEMETERY.

We visited the burial ground which lies about half a mile away from the Mission. It is noted that no attempt has been made to prevent the bodies of dead children being eaten by hyaenas. The usual depth of the grave measures  $\frac{1}{2}$  about two feet.

Before closing this report I should like to add the following remarks:-

To all intents and purposes, the primary object of the Orphanage is intended for discarded native children under certain conditions. Unfortunately medical arrangements for sick children have been entirely ignored, nor has a bona-fide register of all deaths amongst the children been kept. It is incomprehensible on the part of the Mission their not asking medical advice on behalf of the sick children at any time from the Government Dispensary here, as they do not hesitate to send for a doctor should any of their own members require prompt medical attendance.

As the present state of affairs in connection with the Orphanage is most unsatisfactory, I would suggest that the Medical Officer in charge of the Province should be empowered to make periodical inspection visits to all Mission Stations where there are numbers of native children.

Sd/- Henry A. Bodker.  
MEDICAL OFFICER.

... were never dressed and...  
... erected to prevent other children from mixing with them...  
... in a coffin...  
... and a plank above...  
... the best part of their miserable existence in the...  
... same room both day and night...  
... of milk and native porridge...  
... was also made of other...  
... of 2 or 3 months old...  
... the lower very low...  
... as if they had been properly fed and cared for...  
... of a total abstention from...  
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... of both complaints...  
... also showed signs of...  
... under a blanket...  
... and the three...  
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... other native...  
... and the...  
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HYGIENE.

I found that their...  
... and most...  
... of specific...  
... of the children have...  
... of local...  
... to have any...

MEMORANDUM.

From the papers it would appear that the Mission has obtained the custody of children in each case in one of the following ways:-

1. By inducing, by threats, the parents or lawful guardians to hand over the children to them.
2. Under an arrangement entered into voluntarily by the parents or guardians.
3. By taking charge of infants who had been abandoned by their parents or guardians.

The question for consideration is as to whether in the event of the parents or guardians demanding that the children should be returned to them, the Mission should be compelled to comply with such request.

At present the parents have the right to the custody of their children and the Courts will issue a writ ordering the children to be handed over to them.

By legislation in recent years the English Courts have been given a wide discretion in dealing with such cases and may now refuse to issue a writ or make an order for the return of the child if the Court is satisfied that the parent has abandoned or deserted the child or has otherwise so conducted himself or herself that the Court should refuse to enforce his or her right to the custody of the child.

In cases where the child has been brought up at the expense of some individual or Association the Court has the power to order the parent to pay the whole or a whole part of the cost of the maintenance of the child

(2)

child as a condition on which the child will be handed over to the parent.

Protectorate Officers in dealing with such cases administratively should, as far as possible, be guided by the principles of the English Common and Statute Law.

The fundamental principle is that parents should have the custody of their children, and that the Courts will enforce the right of a parent in this respect. In the interest of children however the Courts are allowed a discretionary power and may, when satisfied that the character or conduct of the parent is such that having regard to the welfare of the child, the child should not be returned to the parent, refuse to order the return and may permit the person in whose custody the child then is to retain such custody.

2. With regard to the children now in the custody of the Italian Mission at Nyeri, I would advise:-

(a) As regards children who were handed over to the Mission in consequence of threats used by the members of the Mission, that they should be returned to their proper guardians if they ask for such return.

(b) As regards children voluntarily handed over by the parents to the Mission, if, as must generally have been the case, such handing over was induced by a desire on the part of the parents to be relieved of the care of a sick child, that the parents should, before the child is returned, pay the Mission some part of the cost of the maintenance of the child whilst in the Mission.

(c) In the case of children found abandoned or

deserted



(9)

child as a condition on which the child will be handed over to the parents.

Prosecutors Officers in dealing with such cases should be guided by the following principles, as far as possible, to wit:

1. The child should be returned to the custody of the parents if the parents are able to provide for the child's maintenance and education.

2. If the parents are unable to provide for the child's maintenance and education, the child should be placed in the custody of the State.

3. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care.

4. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

5. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

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7. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

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12. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

13. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

14. The child should be placed in the custody of the State if the parents are unable to provide for the child's maintenance and education, and the child is found to be in need of such care, and the child is found to be in need of such care.

deserted, that the Mission should retain the custody of the children.

Nairobi,

Sd/- R.M. Combe.

May 5th 1910.

CROWN ADVOCATE.

Gov. 22033/1910.  
East Africa Protectorate.

DRAFT.

EAST AFRICA PROTECTORATE

Downing Street,  
6 August, 1910.

Governor

Col. Sir P. Girouard, C.M.G., D.S.O., R.E.

MINUTE.

Mr. Battersbee. 3/8

Mr. Reed 4

Mr. Fiddes.

Mr. Just.

Mr. Cox. 4

Sir C. Lucas.

Sir F. Hopwood.

Col. Seely.

Lord Crewe. E 4 VIII

Sir,

I have the honour to acknowledge

the receipt of your despatch Confidential (56)

of the 11th of June, raising certain points

as to the conduct of the Italian Mission.

2. To deal in order with the questions

as to which you request instructions -

(1) The Orphanage. *It would seem* I think it probable

that the children in most cases would have

died if the Mission had not taken charge of

*Under these circumstances I do not think it desirable to*  
them; and I cannot approve of any action against

the Mission in respect of possible irregularities

rities

irregularities in the method of taking them over; nor do I think that any good purpose would be served by an enquiry with a view to restoring the children to their "parents or guardians", as I doubt whether such an enquiry would elucidate the facts sufficiently to form the basis of a satisfactory partition of the children.

It is suggested in Mr. Toaker's report of the 12th of January that some of these children were exposed in the belief that if they lived they would bring trouble on the family. It is possible that the family would still be glad to get hold of them again in order to put them to death, and the enquiry might enable them to attain that end.

As regards the future, it should be the rule that in matters secular a Missionary Body should be as much under the control of the Colonial Authorities as any other body.

The precautions suggested by Mr. Toaker on

cases and 7 of his report about referred to should certainly be adopted, and there should be power in the Government to make orders for the remedy of any defects disclosed by the inspections made by its officers, with appropriate penalties for disobedience.

(2) Lands for Missions. I see no objection to your suggestion that <sup>with</sup> ~~these~~ reserves 40 acres should be the maximum grant for Mission purposes, and that the land granted should be held on a lease renewable for the same purposes; and that outside reserves Missions should be permitted to take up land within the limits prescribed for ordinary purposes.

(3) <sup>with</sup> ~~in~~ regard to the possession of the Bishopric and the jurisdiction exercised by Bishop Perle, I have to inform you that His Majesty's Government cannot interfere in the matter, as it has been their settled policy

any way with the exercise of Episcopal  
functions or the area of jurisdiction  
assigned to any particular Bishop, whether  
Anglican or Roman Catholic.

I have, etc.,

(sd.) CREWE.