

1937

38307

C0533/485
KENYA

38307

NATIVE SCHOOLS

Previous

S. C. Ardenby 16/7

Mr. Poyd 24/7

Secretary of State 16/7

R. 297 6/7

R. 309 28

Mr. Poyd 2/8

297

R.Q. FILE

Subsequent

1938

R. 297 14/7

R. 297 16/8

Mr. Poyd 2/8

Mr. Poyd 1/8

R. 297 2/8

R. 298 2/8

R. 297 5/7

Mr. Poyd 6/7

Mr. Poyd 4/7

297 9/7

299 15/7

297 20/7

R. 309 24/7

Mr. Poyd 24

R. 309 25

(No. 1 on P.O. FILE)

July 345. (acc. G. ^{Nov 16 file}) - 28/4/37
cons

~~DESTROYED UNDER STATUTE~~

~~11/1~~

2. Mr. Gerald Jones (5/0 to 5. of S.) — 14.6.37.

Enquire whether any information has yet been received.

~~DESTROYED UNDER STATUTE~~

Staff ~~herwitz~~
C.P. ~~Swanwick~~
17/6

~~3~~ To Cecch Jones 2 lines — 17. 6 37.

~~DESTROYED UNDER STATUTE~~

R298/3

No reply to No. 1. (see No 3)

~~del. herwitz~~
? Replied by ^{5/17/37}
C.P. ~~Swanwick~~
4/2/37

99 ~~Pearson~~
4/7
at end.

4 Tokama - 3 per (a/r) cons — 12/7/37

5. GOV' S DEPUTY, KENYA..... 308..... 12.7.37.
(1 amend.) Gives details regarding closing of native school at Mukui in the Kiambu District.

I submit the draft of a letter to Mr. Creach Jones with reference to his question of the 21st April, No.1 on the P.Q. file.

The case for the need for a greater measure of control over the erection of schools and churches in the Native Reserves as set out in the Governor's despatch of the 6th September, 1934, and the increased powers of the Director of Education in regard to the closure of independent African schools is discussed on 23046/34.

(I apologise for not ^{commenting} ~~commenting~~ fully. I am just about to go on leave.)

C. J. Pasani

24.7.37.

The first two paras. of the Dep. give the information for Mr. Creach-Jones asked in his question; & I see no particular reason for passing on to him the exposition of policy which is contained in the rest of the Dep.

I shd. be inclined to curtail the Dep. as indicated.

J. J. Pasani
24/7.

I agree it is necessary to discourage "hedge schools" and we need not expound policy unless we are asked. It is clear that the reasons were explained in full.
J. J. Pasani
24.7.

to Mr. Creach Jones. *W. H. 26/7*
26.7.37.

A. CREACH JONES (S/O TO S.O.F. S.)..... 28.7.
Acks(6) with comments.

P. P. Pasani
C. J. Pasani
7/8/37

J. J. Pasani
9/8
at home

W. H.

0180
R297
7
28th July, 1937

Rt. Hon. W.G. Ormsby-Gore,
Colonial Office,
Downing Street, S.W.1.



6.
Dear Mr. Ormsby-Gore,

I write to acknowledge with thanks your letter of 26th July regarding the closing of the school at Mukui. I am obliged to you for your enquiries and for the information you supply.

There still seems some discrepancy in the statement of the school authorities and your own statement, and I am making further enquiries and will write you again on the matter.

Yours sincerely,

H. G. G. G.

C. O.

Mr. Grossmith 24/7/37

Mr. Parkin 24

Mr. Flood 26.7

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley. 26.7

Sir J. Sturges

Permt. U.S. of S.

Partly. U.S. of S.

Secretary of State.

Semi-official for the Secretary of State's signature.

Downing Street,

26 July, 1937.

Dear Creech Jones,

I have now received a

despatch from the Governor of Kenya regarding the closing of the ~~independent native~~ school at Lukui which was the subject of your question of the 21st of April. The Governor says that the school was erected and opened in defiance of the refusal of the Kiambu Local Native Council to grant the Karinga School Association permission to erect the school, and that orders for its closing were given on several occasions to the President of the Association and the School Committee without effect, the reason for the order being explained on each occasion. Finally it became necessary for

DRAFT.

A. CREECH JONES, ESQ. M.P.

Recd. 21 (by 5.9.37) J.A.
the Native Authority Office
1937.

FURTHER ACTION.

for the managers and teachers to be prosecuted before the Native Tribunal under Section 25(2) of the Native Authority Ordinance, 1937.

The reasons why the Local Native Council refused to grant the application of the Karinga School Association were as follows:-

(i) Because it had been agreed by the Chief Native Commissioner, the Director of Education and the Administrative Officers concerned in conference that Local Native Councils should be advised generally to refuse permission for the erection of any new independent schools until existing schools had reached some stage of efficiency.

(ii) Because there is a long established Church Missionary Society school within a mile of the site, and it had been represented by the Mission Authorities that the activities of their school would be interfered with if the application were granted and that picketing by members of the Association to entice pupils from the school had already occurred; and

(iii) Because the District Education Board had recommended refusal for the same reasons.

W. H. Moore

*I should be
wished to
stop here
(v. minor)
J. J. P. P. P.
24/7*

I enclose for your information an extract of the relevant sections of the Native Authority Ordinance, 1937.

The Governor says that the general policy in regard to African independent schools in the Central Province has been, where possible, to enlist the co-operation of the Associations which manage them in order to increase their efficiency and to

C. O.

Mr.

Mr.

Mr.

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.

DRAFT.

FURTHER ACTION.

ensure compliance with the syllabus of the Education Department. At a meeting held in August last year with the leaders of the Independent Schools Association, an agreement was reached on the lines of such future co-operation the Association undertaking to conform with the regulations on the one hand, and being assured on the other that Local Native Councils will be encouraged to provide subsidies in order to assist private schools which had obtained some measure of efficiency. Local Native Councils in three of the Native Reserves where private schools have been established have voted sums for this purpose, and though in the past similar subsidies have failed to achieve their object, it is desired to give the experiment a further trial because it is believed that, as a result of the meeting

meeting referred to above, a more harmonious
co-operation and more effective control by the
Education Department of the educational activities
of these private schools can be achieved. The
Governor says that if, however, the experiment
again proves a failure, alternative action will
have to be considered which, while giving effect
to the strong desire of the Kikuyu peoples for
greater educational facilities, will ensure that
measure of control by the Education Department
without which efficient education is impossible.

AIR MAIL

KENYA

No. 369



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7
5

GOVERNMENT HOUSE

NAIROBI

KENYA

RECEIVED

19 JUL 1957

C. O. REGY

12 JULY, 1957.

Sir,

I have the honour to refer to your despatch No. 545 of the 28th April on the subject of a question asked in Parliament regarding the closing of an independent native school at Mukui in the Kiambu District.

2. You will be aware from paragraph 5 of Sir Joseph Byrne's despatch No. 447 of the 6th September, 1954, that when the Native Lands Trust (Amendment) Rules of 1954 were promulgated with a view to securing a greater measure of control over the erection of schools in Native Reserves, it became necessary in order to make these rules effective for Local Native Councils to take powers to regulate the erection of schools by means of the following Standard resolution:-

(5) on 23/28/54

Copy to Kenya
15 on 38.30/59.

" (a) No building may be erected for use as a church or for the purpose of Public Worship except on a site set apart for the purpose in accordance with Rule 9 of the Native Lands Trust Rules 1950, or leased in accordance with Section 8 of the Native Lands Trust Ordinance 1930.

(b) (1) No building may be erected for use as a School (as defined in Rule 9 (a) of the Native Lands Trust Rules, 1930, as amended by the Native Lands Trust (Amendment) Rules, 1954) except on a site set apart for the purpose in accordance with Rule 9 of the Native Lands Trust Rules 1930, or leased in accordance with Section 8 of the Native Lands Trust Ordinance 1930.

1.

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

LONDON. S.W. 1

(2) No building may be erected for use as a school as defined in the Education Ordinance, 1951 (other than the class of school defined in Rule 9 (a) of the Native Lands Trust Rules, 1930 as amended by the Native Lands Trust (Amendment) Rules, 1934) without the approval of the Local Native Council."

3. I am advised that after the passing of this resolution by the Kiamba Local Native Council, application was made by the Karinga School Association for permission to erect a school at Lukui, and that the application was refused for the following reasons:-

- (i) Because it had been agreed by the Chief Native Commissioner, the Director of Education and the Administrative Officers concerned in conference that Local Native Councils should be advised generally to refuse permission for the erection of any new independent schools until existing schools had reached some stage of efficiency.
- (ii) Because there is a long established Church Missionary Society school within a mile of the site, and it had been represented by the Mission Authorities that the activities of their school would be interfered with if the application were granted and that picketing by members of the Association to attract pupils from the school had already occurred; and
- (iii) Because the District Education Board had recommended refusal for the same reasons.

The school was, however, erected and opened in defiance of the refusal of the Local Native Council.

Orders for the closing of the school were given on several occasions to the President of the Association and the School Committee without effect, the reasons for the order being explained on each occasion; and finally it became necessary for the Messengers and teachers to be presented before the

Native

3.

Native Tribunal under Section 25 (1) of the Native Authority Ordinance, 1937.

*Agree
Committee*

Fines were imposed and the school was then closed by the Committee as the result of the prosecution.

4. In considering the general question, I have since been advised by the Attorney General that, although the teachers and managers may be fined for erecting and using the school in defiance of a refusal of the Local Native Council in sanction the application, the terms of the Statute in question do not in fact enable a specific order to be issued for the closing of a school opened in such circumstances; and that in fact once a conviction for erecting and using a school has been secured, no further prosecution can follow for keeping the school open.

As it stands, therefore, the resolution does not fully serve the purpose which it was aimed at, and, though it may be difficult to prevent a school which has been erected in defiance of the resolution from being subsequently used as a school, and, in order to re-vivify the position, Local Native Councils are accordingly being invited to pass the following further Statute resolution:-

- "1. (a) No person shall construct or cause to be constructed any building for use as a school without the approval of the Local Native Council which has and obtained.
- (b) No person shall take part in the management, control or conduct of, or attend for the purpose of giving or receiving tuition in, any school carried on or attempted to be carried on in any building unless such building has been erected for use as a school with the approval of the Local Native Council, or unless

4.

unless permission to use such building as a school has been obtained from the Local Native Council.

- (c) For the purposes of this Resolution the term "School" means a school as defined in the Education Ordinance, 1931, other than a school of the class of school defined in Rule 9 (a) of the Native Lands Trust Rules, 1930, as amended by the Native Lands Trust (Amendment) Rules, 1934.

2. Paragraph 2 of Clause (b) of Resolution No. of 193...., is hereby revoked."

I am advised that this resolution, while still not enabling an order to issue for the closing of a school- a function which I consider should be confined to the Director of Education under the powers conferred on him by the Education Ordinance, 1931, renders it possible to punish under Section 25 (2) of the Native Authority Ordinance, 1937, the persons concerned each time a school opened in defiance of it is used.

5. I should add that the general policy in regard to African independent schools in the Central Province has been, where possible, to enlist the co-operation of the Associations which manage them in order to increase their efficiency and to ensure compliance with the syllabus of the Education Department. At a meeting held in August last year with the leaders of the Independent Schools Association an agreement was reached with the latter on the lines of such future co-operation, the Association undertaking ~~the~~ to conform with the regulations on the one hand, and being assured on the other that Local Native Councils would be encouraged to provide subsidies in order to assist private schools which had attained some measure of efficiency. Local Native Councils in three of the Native Reserves where private schools have been established have voted sums

for this

- (2) No building may be erected for use as a school as defined in the Education Ordinance, 1931 (other than the class of school defined in Rule 9 (a) of the Native Lands Trust Rules, 1930 as amended by the Native Lands Trust (Amendment) Rules, 1934) without the approval of the Local Native Council."

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- (i) Because it had been agreed by the Chief Native Commissioner, the Director of Education and the Administrative Officers concerned in conference that Local Native Councils should be advised generally to refuse permission for the erection of any new independent schools until existing schools had reached some stage of efficiency.
- (ii) Because there is a long established Church Missionary Society school within a mile of the site, and it had been represented by the Mission Authorities that the activities of their school would be interfered with if the application were granted and that picketing by members of the Association to entice pupils from the school had already occurred; and
- (iii) Because the District Education Board had recommended refusal for the same reasons.

The school was, however, erected and opened in defiance of the refusal of the Local Native Council.

Orders for the closing of the school were given on several occasions to the President of the Association and the School Committee without effect, the reasons for the order being explained on each occasion; and finally it became necessary for the Managers and teachers to be prosecuted before the

Native Tribunal under Section 25 (2) of the Native Authority Ordinance, 1937.

After comments

Fines were imposed and the school was then closed by the Committee as the result of the prosecution.

4. In considering the general question, I have since been advised by the Attorney General that, although the teachers and managers could legally be fined for erecting and using the school in defiance of a refusal of the Local Native Council to sanction the application, the terms of the Standard resolution do not in fact enable a specific order to be issued for the closing of a school opened in such circumstances; and that in fact once a conviction for erecting and using a school has been secured, no further prosecution can follow for keeping the school open.

As it stands, therefore, the resolution does not fully serve the purpose at which it was aimed, since, though fines can be inflicted for erecting a school when sanction has been refused, it is not possible to prevent the building from being subsequently used as a school, and, in order to regularise the position, Local Native Councils are accordingly being invited to pass the following further Standard resolution:-

- "1. (a) No person shall construct or cause to be constructed any building for use as a school without the approval of the Local Native Council first had and obtained.
- (b) No person shall take part in the management, control or conduct of, or attend for the purpose of giving or receiving tuition in, any school carried on or attempted to be carried on in any building unless such building has been erected for use as a school with the approval of the Local Native Council, or unless

4.

unless permission to use such building as a school has been obtained from the Local Native Council.

- (c) For the purposes of this Resolution the term "School" means a school as defined in the Education Ordinance, 1951, other than a school of the class of school defined in Rule 9 (a) of the Native Lands Trust Rules, 1930, as amended by the Native Lands Trust (Amendment) Rules, 1934.

2. Paragraph 2 of Clause (b) of Resolution No. of 195...., is hereby revoked."

I am advised that this resolution, while still not enabling an order to issue for the closing of a school- a function which I consider should be confined to the Director of Education under the powers conferred on him by the Education Ordinance, 1951, renders it possible to punish under Section 25 (2) of the Native Authority Ordinance, 1957, the persons concerned each time a school opened in defiance of it is used.

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If, however, the experiment again proves a failure, alternative action will have to be considered which, while giving effect to the strong desire of the Kikuyu peoples for greater educational facilities, will ensure that measure of control by the Education Department without which efficient education is impossible.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

Cornwallis

GOVERNOR'S DEPUTY.