

1930

Kenya

No. 16381

SUBJECT CO 533/404

Archdeacon Owen

- Contributions to Press

Previous

See 15922/29. (Closing down of subscription at Angon.)

See 16505/30. (Native Agency Ord.)

Subsequent

After Moore 709

December 2

Enclosed article on Jones letter written by Arch  
Hakon Brown to the East African Standard and copy  
correspondence which arose out of the article. Enclosed  
record of discussion which took place with Mr. &  
Fugg's comment on Archakon Brown's activities.

A well written & interesting  
dispatch.

The info. importance of it  
is interesting.

I don't think we  
need take any action on this  
at present. Perhaps the

paper could be reviewed on  
the 15th Feb when if

nothing has been heard from  
the Archakon we could  
ask Mr. Chant's ~~signature~~

~~is one~~  
J. J. J.  
10.12.30

Perhaps Sir J. Byrnie might be sent  
the duplicate of this as a matter  
of interest.

upon Dr William Gowers  
is the best of my belief,  
every specific complaint  
of abuse brought to  
notice by the Archbishop  
has been investigated,  
& action taken as  
necessary.

All Pardoners

13. 12. 20

(Should bring to the meeting  
copies of the 2 Ord<sup>s</sup>  
ref'd to in the despatch)

J. Shields

If you can spare the space  
available on Monday, I shall be  
glad to see you.

In the past Archbishop's  
has exercised his influence by  
allowing money for the  
occasional workings of the  
admission of slaves as a necessary which  
cannot be worked anywhere.

Now that he has taken to general  
prosecution his course is  
a narrow one.

demands of justice, though I  
agree that there is a  
necessity for the Archbishop  
to consider what is done before  
the return of the Archbishop is to  
take up the case as  
underlying the case but  
does not take time.

13. 12. 20

I have always felt that the  
most serious of the cases  
arising in the case of the  
conflict of interest, the  
cases of the Archbishop's  
taking of the case in 1920.

Dr. Shields

Thanks I have asked the Archbishop to  
the Parliament to be prepared to answer the  
to deal with specific points. I think the  
bring up and I expect to find it for some time  
he in that position. From the letter I have seen  
of him I believe we could get him to cooperate  
as he is not so different as the N.P.  
Further, it must be remembered that he was probably  
justified in going over the heads of the Mother Church  
of his own Church as - while one can fully  
accept the views of the Archbishop so far as he  
is concerned - there is no doubt that the timidity  
of missionary bodies in general in not taking any  
action against irregularities and abuses is largely  
due to their dependent financial condition in  
relation to the local South.

I think there is a good case for stopping  
forced labour or for greatly reducing it in the colonies.  
We do not need to wait for the first year.

Love that we have a first class man so our  
new source - that I have discussed these matters  
with him has found him sympathetic - and that  
he has undertaken to see the Archbishop or anyone  
else that has any standing to say - and I expect that  
he respects his public activities to a certain  
extent in connection and takes his co-operation and  
support to the Pope and the Archdiocese.  
He has adopted that Reg. are not as important as  
must be and let Mr. Joseph as far as possible  
possible and above all a little time to work round

T. B. 13.12.30

Archdeacon ... and ...  
The discussion

6.12.11.30

Mr. Gattowley

These see Mr. Gattowley's  
minute of 17/12/30 about the price has not  
yet been received

how is it to be  
17

Thorn  
8/1/31

Archdeacon W. B. G. ... 5th Jan, 1931

Enclosure summary of points brought forward at  
discussion on 16th. ~~xxxxxxx~~ December 1930.

Mr. C. Gattowley

Mr. Gattowley, in the interview with  
the Archdeacon, that the  
will set out in his minute  
above. The Archdeacon  
was friendly & wishes to be

helpful and well informed 5  
will learn him ...  
(just before he went to visit  
St. Joseph) he was extremely  
friendly but he needs to  
feel clear that he would not  
refrain from further pressing  
his views by writing  
perfectly

The forced labour (6 days a  
week) treatment unpaid labour  
in the reserves) is what  
the Archbishop most dislikes  
but on his own showing it  
is not so serious a case  
to abolish it. How can  
it be done in the present  
financial circumstances of  
Kenya?

The anti-semitism by the  
Archbishop covers other  
matters - freedom, etc.  
education, political  
development - and it is a  
little difficult to know how  
best to deal with it

Perhaps it wd. be well  
for a copy to be sent to  
St. Joseph, when he has  
received our part - or better

state, deal with it. Officially  
i.e. in order No. 1 say that  
Archibald Owen had an  
interview at C.O. with  
[redacted] when various  
matters affecting native  
order were discussed -  
a number copies of the note  
with the Archibald Owen  
since supplied - send also  
copy of the note in regard  
to 16/19/30 with brief  
explanation on basis of the  
minutes of 20.12.30 which  
I wrote at the time  
+ say generally that  
Mr. Bygone will be  
going carefully into all  
these matters affecting  
native administration  
& that he will not doubt  
report in due course upon  
the various questions raised  
with special reference to  
the general lines of the  
native policy laid down  
in Cont. Paper 3573.

And for our own  
purpose this file will remain

when we have the things  
settled under [redacted]  
Re: [redacted]  
20.1.31

Nothing to be done  
except to [redacted] Owen  
points which could be prepared  
has done so satisfactorily because  
it would not be definitive.

W.S. 20.1.31  
Satisfactory procedure  
prepared.

R.H.G.  
14.1.31.

As prepared!  
17.1.31  
to [redacted]

Copy 3 taken for [redacted]  
to 17/1/31

Recie v  
above  
note on [redacted]

To: Gov 104 - (incl 2 + incl 15 on 16/19/30) - [redacted]  
(No. 1 Answer)

No further action required  
on this file - Putty  
[redacted]  
17.1.31  
to 17.1.31

16/19/30  
[redacted]

16/1/31

C. O.

16381/30/Kenya.

DORNING STREET

9 February 1931.

Mr. Eastwood.

Mr. ~~Allen~~

Mr. ~~Parkinson~~

Mr. Tomlinson

Sir C. Doolopley.

Sir J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Permt. U.S. of S.

Secretary of State.

**DRAFT.**

KENYA

NO. 104

U. A. G.

Sir,

I have the honour to  
 with thanks  
 acknowledge the receipt of your  
 despatch No. 709 of the 8th  
 November 1930 on the subject of ~~the~~  
~~criticisms of the Government of~~  
~~complaints made by Archdeacon~~  
~~Kenya published~~  
 in the Times in his country &  
 Owen regarding the incident alleged  
 in the Colony. ~~It is very regrettable~~  
 to have occurred in Kenya and Uganda.

2. Archdeacon Owen has had an  
 interview at the Colonial Office  
 with Mr. Shiels, and various  
 matters affecting native adminis-  
 tration were discussed. I now  
 enclose copies of a note which  
 the Archdeacon has since supplied.  
 He has also forwarded an analysis  
 of the expenditure upon roads shown

in the 1931 Estimates, a copy of  
 which is ~~also~~ enclosed. ~~It will be observed~~  
 I understand

that

Note of Archdeacon Owen's  
 interview.  
 (Enclosure No. 2 on 16381/30)

Analysis of Road accounts  
 (Enclosure No. 1 on  
 16019/30)

Paper to re-circulate ~~the~~  
 despatch on native taxation  
 which is now ~~being~~ re-  
 ceived.

~~The analysis table, as a result of this~~  
~~that the expenditure does not include~~

expenditure on roads in the native areas under Head XXV.  
expenditure on roads in the Northern Frontier Province and Turkana

includes expenditure on trunk roads, township roads, bridge repairs, or any expenditure under Head

or Head ( ), except basic road grants to District Councils;

The Archdeacon's contention is that the native reserves do not obtain a fair share

of revenue for roads, and that in practice

Government <sup>in Kenya</sup> relies primarily upon the traditional

unpaid forced labour for communal purposes in the reserves in order to carry out such road work as is done in those areas.

3. Sir Joseph Byrne will be going carefully into all these matters, and others affecting native administration, and he will no doubt report in due course upon the various questions raised, with special reference to the general lines of native policy laid down in the memorandum issued last year.

The comparison made does not take into account (a)

(c) not extraordinary expenditure under Head XIV a + XXXIII

357370  
as a Command Paper (Order 3573)

I have,

etc.

(Signed) PASSFIELD.



*Notes with H*

STOCKS GREEN  
HILDENBOROUGH  
TONDRIDGE

9  
K

5th. January, 1931.

RECEIVED  
12 JAN 1931  
COL. OFFICE

Dear Mr. Parkinson,

I enclose a summary of the points I brought forward at the meeting on Dec. 16th, which I promised for January 7th.

I have already given you the statement with regard to the Road Votes. I do hope that it may be possible to do something to remedy this small grant to the Reserves.

Yours sincerely

*W. Owen*

*No 15  
16-19-30  
12-1-31*

9 FEB 1931

*copy and Cav 201*

Notes on W.E. Owen's statement at meeting at Colonial Office,  
Present. Dr. Drummond Shiels, Sir C. Bottomley, Mr. Parkinson,  
and W.E. Owen. December 16th, 1930.

Forced Labour. Forced Labour in the Reserves in Kenya is mainly concerned with the making and maintenance of non-trunk roads, and with the building and upkeep of the many rest camps used by Administrative Officers on tour. It is a feature of our Administration which arouses the bitterest feelings amongst the Africans. It falls upon that section which is least able to resist the demand. About 50% of the able-bodied men evade the demands. No records are kept of men forced out, or of the number of days they work. The system opens a door, very widely, to bribery and corruption, for the major African officials upon whom is placed the responsibility for seeing that the individuals are turned out, are in receipt of an "exploitation" wage of only 12 shillings a quarter, Sh.4 a month. Bribery and corruption is commonly said to be a feature of their regime.

It is difficult for people in England to realize how the system violates the sanctity of homelife, leaving it open to invasion by callous officials whose main concern is to force out the men required, very often at little or NO notice. Men are required to leave their work instantly, at times, and go on the job in hand. There is no tribunal of appeal, and resistance, passive or physical, renders a man liable to a fine up to 150 shillings, plus up to two months imprisonment. The system bears no recognizable relation to the communal services of the clans before our Administration, is entirely of our creation, and the sanctions behind it are not traditional clan or tribal sanctions, but our statutory laws with their heavy penalties. The very ease with which the system works from the point of view of the District Officer, with its despotic power and absence of regulations, constitutes one of its greatest evils. Efficient regulation, if carried out, would probably make it so cumbersome as to be not worth while.

Asked whether whether the Draft Convention on Forced or Compulsory Labour, Article 2, (e) requiring that the representatives of the community be consulted before services were performed by forced labour, did not remove objections to it, Archdeacon Owen replied that the abuses would remain, and he desired the entire abolition of all forms of forced labour. It was an unfair system, and its retention was openly desired as an instrument to "discipline" communities or individuals, as a form of collective or individual punishment, operating outside of the jurisdiction of the Courts (administrative and not judicial.)

Asked what it would probably cost to pay for the labour at present unpaid, O. replied that in the absence of records of the men at present forced out it was not easy to say, but that it would certainly cost as much as the money required for the non-trunk road system in European areas,

which was a very much smaller system, but in which no forced unpaid labour was used. This sum was £48300. It would cost at least this to abolish forced unpaid labour.

**TAXATION.** The Official Statistician of Kenya Colony recently put out calculations showing that the European paid £36 per head in taxation as against the Africans paying shillings 6 and 6 pence. Multiplying this figure by the figures of the respective populations ~~990,000 and 2,549,300~~ it appeared that the European community paid only £1 for every £2 paid by the African community, i.e. £450,000 as against £290,000. Turning to expenditure, there was a very general feeling amongst Africans who thought about these things, that they were not getting a fair return in services, such as education, roads and medicine, for the direct taxation imposed upon them. With this feeling O. agreed. Asked if he had seen the Despatch by Sir E. Grigg on this subject O. said that he had, but that while it was possible to criticise now certain items included in the statement no final criticism could be made without the details of the large items given in the statement. But on the statement as it stood, it appeared that £120,000 was spent on medical services to Africans outside the Reserves, as against £55,000 spent within the Reserves. On this showing the £120,000 spent on medical services outside of the Reserves are services more to industry than to African communities. O. cited the hospital at Kakamega which is without any maternity section.

O. put forward the view that the Africans in Kenya are overtaxed, contrasting Kenya figures with those for Uganda.

	Uganda.	Kenya.	( Figures from the Report of the Commission on "Closer Union.")
Poll tax,	15/-	12/-	
Population,	3,123,581	2,549,300	
Yield from tax,	£501,960	£541,505.	

The phenomenon here shown of the country with the smaller population and the smaller rate of tax producing the larger revenue, is due to the Hut Tax which Kenya has, but Uganda has not. O. stated that the present tax forced out men on to the labour market outside of the Reserves. The proof of this could be seen by anyone who was present at tax collections. Labour recruiters were present who advanced men the money for the tax on the condition that they allowed themselves to be recruited for labour elsewhere. It was a very large factor in forcing young boys out. These were going out in thousands.

It was not considered necessary to enlarge on the present disparity of the taxable age, Europeans 18 yrs. Africans 16 yrs. as this point had been noted.

It was very necessary that the revenue from the DIRECT taxation of Africans to be administered separately from the other revenues of the Colony, preferably under a system of Provincial administration, leaving the indirect taxation to pay for general services of the Colony. This could be done under the system of Provincial administration in force.

### Local Rates.

Under the Local Native Councils legislation, and under that for Local Government in European areas, powers were given to rate communities. These powers had been exercised widely by Local Native Councils, over a million shillings being on deposit at the present time in connection with schemes of these Councils, mainly educational. On the other hand Local Government authorities in European areas had not yet begun to impose rates. The poorest section of the population, the African, was being required to supplement services from General Revenue which, in the case of European areas, were wholly paid for out of General Revenue. This differential policy was already well established, and constituted a grave menace to the undoubted right of Africans to receive fair play at the hands of Government. A thorough review of the situation is called for, before matters become worse. Unless remedied it will constitute a most unfortunate ground for racial ill-will. It ought not to be allowed to go any further. ~~Further~~ schemes which are financed out of local rates ought to be such as will benefit the largest number of rate-payers. This principle has been lost sight of, notably in connection with the Local Native Council Schools at Kakamega and at Nyeri. A minute section of the school age population, under this scheme, will swallow up a quite disproportionate share of the proceeds of the Local rates. The benefit of the rates will go to a small, very small, favoured minority. The thing is wrong.

### Education.

No further extension of educational facilities to any community should be contemplated until the problem of how to pay for the forced labour at present unpaid is solved. A double injustice is fostered under the present system of financing education. The great bulk of the expenditure on African education, goes to a few institutions, reaching only a very small fraction of the school age population. The Elementary schools are largely left to voluntary support. Further, this very small percentage of the school age population, which receives the bulk of the benefits, is the very section which, on reaching adult age, managed to escape, almost wholly, the demands of the Reserves for forced unpaid labour. This is the double injustice of which I speak. The children of the large majority receive no return whatsoever, and are further called upon, in due time, to render unpaid labour while the others escape. It is most unjust. The treatment meted out to European educational institutions as against African is most marked, in its inequality. In particular the financial support accorded to the education of African girls is most markedly deficient. Under the system of European education boys and girls are accorded equal treatment. Under the African system the emphasis is placed, overwhelmingly, on boys and for the reason that we see the boys can make a greater contribution to the needs of the immigrant communities than can the girls.

4.

13

### Education, cont'd.

Of the needs of the African community, as a community, there does not seem to be much thought. The whole policy is dominated by the thought of the African community in its relation to the immigrant communities. That policy which will best serve the interests of the dominant immigrant community is the policy which carries the day. This is abundantly shown by the Estimates.

### Political Development.

At the present time there is no African ~~who~~ who could function in the Legislative Council representing Africans. A whole system has to be built up before that day will come. Beginning with Local Native Councils, (which are bodies partly elected and partly appointed) the next step, immediately possible, is to bring into being Provincial Councils, composed of representatives from the Local Councils chosen by these Councils from among their own members. These Councils could be advisory at first, to the Provincial Commissioner, further powers being entrusted to them as they developed. Above the Provincial Council, after these have been functioning for a period, say five years, a Central Council should be instituted, advisory at first, to the Chief Native Commissioner, and composed of members chosen by the Provincial Councils. In this way a natural sequence of development can be provided for which would be easily understandable by the people.

Missionaries generally are convinced that to introduce a common roll for all races ~~in Kenya~~, would now, and for many years to come, do a great disservice to Africans in Kenya. With its necessary educational and other standards, it would give the vote to that small section of the people, the younger elements, which have the least traditional right to influence under tribal custom, and it would debar those most entitled to it. For many years to come tribal sentiment would welcome as much more appropriate the enfranchisement of the members of the various Local Native Councils. These members, meeting as a united body for any electoral area, to be determined, would be by far the most suitable body to exercise any rights of franchise which can be committed to members of tribes at this stage. But whether the toll be common or communal, it would be disastrous to leave out the traditional tribal elders.

### Justice.

Asked with regard to justice in Kenya, O. said that the recent Native Tribunals Ordinance violated the sense of justice of those Africans with whom he had discussed it. The tribunals were to administer not only native law and custom, but also our statutory law, which was published in English only, a tongue very few Africans could understand. Printed translations of the Ordinances were objected to by Government as involving the evils of bi-lingualism in the Courts, if such translations were authoritative, and if not authoritative, then there is danger of the translation proving to be a hindrance rather than

a help. Government has repeatedly committed itself to the a statement, repeated in the House of Commons in reply to questions, that the best way to disseminate a knowledge of the laws, is by the oral communications of District Officers. But whether the communication be oral or written, it has to be a translation from the English original, and to argue that the oral excels the written, seems a strange inversion of values. Particularly is this so, when the matter to be communicated concerns the terms of Ordinances which members of Native Tribunals are to administer. With no letter of the law to guide Native Tribunals, it can readily be understood why the new Ordinance contains a provision rebarring advocates from appearing on behalf of any accused who takes his case from a Native Tribunal to a District Officers Court.

The spirit behind the administration of justice in Kenya is illustrated, in part, by the recent Rules to Headmen concerning the collection of funds for any purpose whatsoever. Under these Rules Local Native Councils were informed that it was illegal to collect money to defend accused persons, unless a permit had first been obtained from a District Officer. These Rules have had to be modified, but the Native Tribunals Ordinance goes further than the Rules went, and makes it illegal for an advocate to appear on behalf of a Native whose suit has been begun in a Native Tribunal. The refusal to give Native Tribunals written codes to administer, coupled with the refusal to allow an advocate to defend a native, even where statutory law or taxation is involved, is not a mere accident in the Kenya system of justice. It is a discrimination against the African inherent in the system, and recalls the repressive legislation against the English working classes of more than a hundred years ago. This partly accounts for the appalling increase in the need for jail accommodation in the Colony, which has been publicly commented upon on several occasions. And the Ordinance provides for more jail accommodation.

In Kenya, serving a full term of imprisonment in default of a fine, does not annul the liability to pay the fine any time up to six years from its imposition. The case of Esau Kamiti was mentioned in this connection and investigation promised. (The file of this case has since been submitted.)

An analysis of the 1931 Estimates in their relation to Road votes was promised and has been sent in. This shows a vote of £48,000 for the small non-trunk road system in European areas, but only £9,400 for the much larger system in the Reserves.

*W.E. Owen*

Dear Sir,

Owen and I have been going over the situation and are agreed that the C.C. ought to be asked to take action at once. The simplest way would be by questions, but I suggest that when the importance and urgency of the three matters I shall explain here are considered the best plan would be to ask Passfield and Chief for an interview. It is for you to decide of course whether, if you do ask for one, Owen ought to be one of the deputation.

The matters suggested to be dealt with are :

1. ROADS. In the Budget estimate for 1931 there are classified in a way that make an analysis of trunk-road expenditure impossible. But it is important that anyone dealing with the expenditure on roads as a whole should know the rough figures in case he is charged with arbitrarily dealing with a question of the facts. So far then as the total expenditure is concerned the facts are :

- |  |                            |
|--|----------------------------|
| 1. On trunk-roads. How what proportion of these are within and what outside the reserves is unstated | ( estimate only ) £ 50,000 |
| 2. Roads in Townships  | £ 13,000                   |
| 3. Non-trunk roads, i.e. feeder roads.   | £ 57,400                   |

This third is the only section of the whole expenditure out of the revenue of the Colony from which the Estimates enable a comparative statement to be made showing the proportion spent in areas belonging to Europeans and Africans respectively. But it should be remembered that Europeans are the chief beneficiaries from Township grants.

Of the £ 57,400 European areas get £ 48,000 and in their case that sum covers the whole cost, the local population having to bear no part of it. The reserves get £ 9,400, although their combined area is much greater than the area of the European area.

and the population of courses is incomparably greater.

But the non-trunk roads in the reserves are not wholly made and kept up out of these grants from central revenues. This £ 8400 covers only a small proportion of their cost. The bulk of the work on these roads is done by men who are forced to do the work and are neither paid for it nor given rations. A further unknown proportion of the cost is borne by rates paid, under the authority of the Native Councils, wholly by Africans.

Incidentally be it noted that while local authorities in the European areas have their roads and other works and services paid for them out of central revenues, the Native Councils actually contribute £ 2000 to the central revenues.

2. EDUCATION. The difficulties of getting comparable figures from the Estimates are even greater than in the case of roads. Take for example the four boarding schools for Europeans. Salaries and presumably food are included in the figures given under the head of education. But while it is known that the Government pays out of the central revenue the fees of the poorer parents there is nothing whatever to show the proportion of such parents nor the sum paying parents actually pay. In any case none of them pays the whole cost of his child's education. Again, many, perhaps most of the existing European school buildings have been paid out of loan funds the interest on which is paid of course out of the central revenue. We do know that two such schools cost £ 80,000. But the total sum spent on European school buildings cannot even be guessed at. We can only say it has been several thousand <sup>hundred</sup> pounds the interest on which is met of course mainly by the taxation of Africans.

Bearing in mind <sup>that</sup> these many secret methods of subsidising



European education at the cost of Africans must add at least 80% to the actual cost of European schools, the data that are revealed in the estimates of the Education Dept. are :

	Education estimates in round numbers	number of African children
European	£ 85,000	1650
Indian	£ 37,000	4900
Arab and African	£ 95,000	400,000

It is not quite certain that no money has been spent out of loans on any African school. Possibly some was so spent on the school at <sup>beta</sup> Kijabe that is training 450 boys to replace the skilled Indian workmen whose presence in the country the settlers greatly resent. At most only a trifling sum has been so spent as compared with what was spent out of loans on European schools.

Also be it remembered that large sums which the estimates do not state are raised by Native Councils and spent on education. With this sum the only comparable contribution by Europeans to the cost of educating their children is the poll tax of 30/- which brings in £ 11,000.

Compare these figures of the two chief ways in which taxes are spent to the visible benefit of taxpayers, with the figures of direct taxation. These in round figures are  
Africans £ 600,000                      Europeans 12,000

3. This of the matters ripe for immediate action is the fact that various illegalities are committed with impunity by officials. Commonest of these is the detention and sometimes the punishment of labourers for days or weeks, by police or district officers. As a rule the practice is followed at the request of employers, who allege that the man concerned has been impertinent or has refused to work after his contract has expired. Individual instances of this sort of illegality can be proved, some of them from the press. No one knows how common they are. The reason they happen at all is simply because when they come to light there is no punishment either of the official immediately concerned or of the superior whose laxity has been equally culpable.

The most serious of these illegalities is the collection of the Hut and Poll Tax from widows, especially war-widows, and other persons unable to earn the money. Revenue here is the object. The result of this variety of illegality is that able-bodied males have to pay, not the 12/- that the defenders of the system allege is their sole liability, <sup>but far more</sup> that is clearly proved to be the case since adult males to the number of just over 500,000 pay more than £ 600,000 in direct taxation. ~~Over 1/2 million~~ The half million, furthermore, must include many persons unfit from age <sup>or</sup> infirmity to earn wages. Investigation by several missionaries has always reached much the same conclusion, viz. that the average able-bodied male pays 30/- in direct taxation. There is the most urgent need that the liability to the tax should be limited to those individuals who are able to earn their living, to able-bodied adult males.

These in fact are the only persons who in law are liable, a fact that proves that the removal of isolated injustices

to Buxton = 30.II.30. 45 70  
would be an endless process. These weeds must be dug out, not just periodically cut down. The remedies for the deeper ill are three: First, every officer found to have committed an illegality should be dismissed and his immediate superior punished in some real way. Second, Africans should be made as free as Europeans are to have miscarriages of justice and abuses of authority and every sort of grievance dealt with judicially. The Native Tribunals Amendment Ordinance of 1950 seriously reduced Africans's rights and renders even less their former slender chance, when wronged, to get justice. That Act forbids them to engage skilled legal help in cases originating in a native court, even on appeal and even when statutory offences - not breaches of native customary law - are alleged. This Ordinance was rushed through before I had heard of it, in the minimum time allowed by law and despite the protests of the missionary council. (When that highly Conservative body has the audacity to protest something more than usually serious is wrong.) This Ordinance extends still further that difference in Status that is the theme of most recent legislation. Its whole substance is in direct conflict with the policy of the White Paper. It was published as a Bill before the White Paper came out. So there is a technical defence to the charge that the Govt. of Kenya disobeyed orders since they made no attempt to consult native opinion. But of course they ought to have done that anyhow, and could have easily before the Bill became law. The third remedy is better men. There is some-

to Burton 30.11.50.

6  
21  
something utterly wrong at the top. Men of ordinary courage and common honesty would not do and would not allow to be done what I have described. I have no material enabling me to judge how this root of the Kenya misadventure can be cut. I must mention it here because we must try to be realistic. In these men's hands no reform will work.

Miss Holtby, Archd. Owen and I are of one mind in this reading of the situation, that the only chance of getting any reform carried before this Govt. goes out of office is for you and others - in my view personally for you and Owen only, to interview Paerfield and Shiels taking as the occasion for the interview the startling proof in the 1951 Budget of the falsity of Grigg's account of where the hut-tax is mainly spent, and linking that proof with the habitual illegalities from which there is no redress. You know of course that Owen is available to give you further detail - and at any time. Yours sincerely,

an illegality perhaps the most startling of all is the following. The Native Authority Ordinance of 1912 provides that the Governor may make rules with the force of law. Hitherto all such rules have been published in the Gazette. But early this summer Owen was informed that the collection of members' fees by his Lavironda Taxpayers' Assoc. would in future be illegal without a permit from the D.C. On enquiry he found that the Governor had made rules under the above Ordinance by which it was made illegal for any native without magistrate's permission to ask money for any purpose whatever except a) taxation b) services rendered c) purely religious worship. He went to Nairobi and made a noise. He was shown a copy of the rules and read them but refused a copy to take away. They have never been in the Gazette. They operate thus. The O.N.C. sent a copy to each D.C. Each D.C. then reads the rules out to the Headmen, with such amplifications as he thinks desirable. I believe the whole thing to be illegal. But what a way of governing. You want need to be told explicitly but in none this letter ever gets into the hands of people who don't understand the general situation I ought to state frankly that the sole intention of these rules is to render impossible the organisation of really independent native opinion, to ~~fix~~ make existing inarticulateness permanent.

Owen got a promise that the rules would not be enforced in Lavironda but they are enforced elsewhere and even the promise may at any time be withdrawn.



KENYA

GOVERNMENT HOUSE,  
NAIROBI.

No. 709

RECEIVED  
1 DEC 1950  
COL. OFFICE

KENYA

8th November, 1950.

My Lord,

I have the honour to refer to paragraph 19 of Sir Edward Grigg's despatch No. 100 of the 20th February, 1928 in which he drew attention to the frequent contributions made by Archdeacon Owen to the local and English press without prior reference to the local executive committee of the Church Missionary Society or to the bishop of Mombasa.

2. Shortly before Sir Edward Grigg's departure on leave an article on "Forced Labour" appeared over the signature of Archdeacon Owen in the East African Standard of Friday September 10th, 1950, a copy of which I enclose.

3. In view of the nature of the article and the fact that the incidents quoted appeared prima facie to refer to the distant past - they have since been admitted to be ten years old - Sir Edward Grigg directed that the question should be taken up with the local Executive Committee of the Church Missionary Society. I enclose copies of the Colonial Secretary's letter to the Secretary of the Executive Committee and of the Secretary's reply thereto.

4. Mr. Pitt-Pitts' letter was followed up on the 7th October by an interview with the Acting Colonial Secretary, Canon Burns, and Mr. La Fontaine of the Native Affairs Department also being present. At that interview Canon Burns explained that the letter in question had been

written -

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W.1.

1831  
9 Feb 1951  
104  
Gmnd

No. 5 of 1922/24

16506/30

written by Archdeacon Owen without the knowledge or the authority of the Executive Committee of the Church Missionary Society.

5. Subsequently, Archdeacon Owen, when in Nairobi on his way to the Coast on leave, asked for an interview with me which I granted in the presence of certain Government Officials. I enclose for Your Lordship's information a record of the discussion which took place on that occasion. I should mention by way of explanation that before entering the conference I had no idea that Archdeacon Owen wished to see me on the specific subject of the article in question, nor that he had tendered his resignation to the Church Missionary Society. I was under the impression that the object of the interview was to discuss generally the question of forced labour in Kenya.

6. It was therefore with considerable surprise that I learnt from Archdeacon Owen that he had tendered his resignation through the local representative to the parent Committee of the Church Missionary Society in London, the fact as it emerged during the course of our discussions. In doing so, he had been largely actuated by the contents of a letter which he had received from Mr. Pitt-Pitts on behalf of the Executive Committee of the Church Missionary Society. In this latter Mr. Pitt-Pitts appears to have suggested that the Acting Colonial Secretary had given the impression at the interview referred to in paragraph 4 above, that Archdeacon Owen's letters to the Press were likely to result in the Government reducing their grants to the Church Missionary Society for education and other work.

7. As explained in the record of the meeting I immediately challenged this statement, and Mr. Pitt-Pitts admitted that during his conversation with the Acting Colonial Secretary

Secretary

Secretary, and the question of grants had never been mentioned or referred to in any way. I am therefore at a loss to understand why Mr. Pitt-Pitts should have written to Archdeacon Owen in such a sense. Possibly he had in mind the terms of the concluding paragraph of Sir Edward Grey's despatch to which I have already referred, which reads as follows:

"This Government will be subjected to increasing pressure from public opinion to reconsider grants of public money to Church Missions whose members persist in an attitude so unfair to Administrative Officers as to be injurious to the real welfare of the native population."

I need hardly say that I made it clear to Archdeacon Owen and Mr. Pitt-Pitts that although the methods which Archdeacon Owen persisted in adopting were in the Government's view misguided and likely to create a local public opinion adverse to his Mission, the attitude which the Government would adopt towards grants-in-aid would continue to be governed as in the past entirely by the merits of each individual case.

Mr. Archdeacon Owen appeared to be fully satisfied with this statement and I gained from him the impression that he intended in consequence to withdraw his resignation from the Society. As, however, the question may be raised as to how on his arrival in London, I have brought it proper to acquaint Your Lordship in full of the full sequence of events.

Before leaving Mr. Archdeacon Owen explained to me that his main object in writing to me had been one way to draw attention to the use of commissary labour on roads within the native reserves, particularly of the Nyanza Province, as he was not satisfied that native reserve roads were receiving their full share of Government

expenditure -



expenditure, and he was minded that a Committee should be appointed to consider the question of comparative labour and particular reference to be given on native reserve roads. I was unable to give him any undertaking that such a committee would be appointed, as the question of Government expenditure on native reserve roads is already engaging the attention of Government. The Chief Native Commissioner has already taken steps to collect detailed information from all native areas, upon which to base the classification of all roads, on lines similar to those laid down for District Council areas by Section 54 of Ordinance 21 of 1920. The matter was further discussed at a meeting of Provincial Commissioners in August, 1924, and the Public Works Department is now engaged in compiling a classification which will be submitted as soon as possible to the Central Roads and Traffic Board.

10. The position with regard to the recognised roads, for the construction and maintenance of which the Public Works Department is responsible, there is a network of minor roads throughout most of the reserves. These roads are constructed and maintained by the natives themselves in order to provide access to their homes and to facilitate movement of people and of stock, and to provide access to markets. The question of issue of licences for the use of these roads should be distinguished from district roads and minor district roads, to be maintained in whole or in part from public funds, and which should be considered as being comparable rather with the roads of access, which are the subject of Sections 15 to 16 of Cap. 115, and should therefore be constructed and maintained by those for whose special benefit they are required. It is for this purpose that a

of roads is being considered and the  
Director of Public Works has been requested to expedite  
the work.

11. The incidents which have occurred in the  
past few years have shown the Government's own in the  
conduct of the Police and the difficulty of maintaining the  
order and discipline in the district under  
the present conditions. It has successfully carried  
out the present work with the Police on the ground.  
The Government should refer to the local  
conditions and the Committee of the Council on the "Society".

The Police and the Executive Committee of the  
Society should be kept advised of any changes in  
the situation. The Government should refer to the  
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"Society".

*Wm. W. W. W.*

To the Editor, "E.A. Standard."  
 Sir,—That portion of Lord Delamere's speech at the farewell dinner, which referred to Forced Labour came as a surprise to me, and to many. It is only two years since the penalties for evading this unpaid forced labour were increased by the addition of two months' rigorous imprisonment. Not a voice was raised in the Legislative Council, against this measure, but, on the contrary there was talk of flogging. Lord Delamere in his speech placed upon the Administration the re-

sponsibility for the system. The Administration is only partly responsible. It is well within my memory that thousands of the Kikuyu were turned out, many of them with ropes round their necks for private employers. Your own columns contained my letter of protest against the forcing out of labour for harvesting purposes. Forced labour in the Colony has a long history behind it, which must be unknown to very many, but not, I think, to Lord Delamere. I have seen a gang marched across the public square of Kisumu, roped round the neck, being herded off to private employers. That is part of the background of my approach to "Forced Labour," and was the one incident, above all others, which converted me to opposition of the custom.

The last twelve months has been marked in this Province by increased activity on roads, more than I can remember in previous years. Empire development has meant these forced labour roads. I heartily endorse your suggestion for a Committee of enquiry into the working of the system. I would be happy to give evidence. The wonder is that an enquiry has not been held long ere this. Administrative officers have been placed in the most undesirable position. Roads have had to be made and kept up. They cannot be everywhere to see that at least the letter of the law is followed. The Roads Ordinance is practically a dead letter, and I suggest that it ought either to be removed from the statute book, thus ceasing to camouflage the position, or else followed.

The root of the trouble has been the system of centralised administration of direct taxation from the Africans. Many of us will continue to believe that had Provincial revenue from direct taxation been fairly expended in this Province of its source, there would have been ample money to pay for that labour which has hitherto been unpaid and forced.

Yours, etc.,

W. E. QWEN,

Archdeacon of Kavirondo.

Maseno,

September 14, 1930.

COPY.

Native Affairs Department,  
Office of the Chief Native Commissioner,  
Nairobi.

28th September, 1930.

Sir,

I am directed by his Excellency the Governor to draw your attention to the enclosed letter from Archdeacon Owen which appeared in the East African Standard on the 19th September and to enquire whether this letter was published after consultation with and approval by your Committee. In this connection I am to invite your attention to the enclosure sent with Canon Leakey's letter dated the 12th August, 1927. In any case, this Government would be glad to know what is the authority for Archdeacon Owen's statement "that thousands of the Kisi were turned out, many of them with ropes round their necks for private employers, when such an incident occurred and what steps, if any, he took at the time to make representations to the Government on the subject.

I have the honour to be,

Sir,

Your obedient servant,

Dr. B. H. LA FORTAINE.

COLONIAL SECRETARY.

THE SECRETARY,  
EXECUTIVE COMMITTEE,  
CHURCH MISSIONARY SOCIETY,  
BOX 360,  
NAIROBI.

Copy.

CHURCH MISSIONARY SOCIETY.

P.O.Box 360.  
Nairobi.

6th October, 1930.

The Hon. The Colonial Secretary,  
The Secretariat,  
Nairobi.

Sir,

Re: Archdeacon Owen's letter, Sept. 19th  
East African Standard.

1. I beg to acknowledge receipt of your letter  
of Sept. 23rd on the subject of the above.

2. I beg to state, as Secretary of our Society,  
I had not seen Archdeacon Owen's letter before it  
appeared in the press.

3. As a Society, we have not the facts which  
Archdeacon Owen refers to before us and therefore are  
not supporting his action in this matter.

4. I have been in communication with Archdeacon  
Owen as to when he saw "one thousand Kibiki turned out  
with ropes round their necks for private employers" and  
he has replied that he will only answer this question  
to a committee of enquiry who will take his evidence  
under oath.

I remain,

Yours faithfully,

SD: V. ARTHUR PITT PITES.  
SECRETARY.

RECORD OF A MEETING AT GOVERNMENT HOUSE22nd October, 1950

Present:- The Acting Governor,  
 The Acting Colonial Secretary  
 The Attorney General  
 The Chief Native Commissioner  
 The P.C. Nyanza  
 The P.C. Kikuyu  
 Ven: Archdeacon Owen  
 Rev: W. Pitt-Pitts (Secretary, C.M.S.)

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His Excellency said that he understood that Archdeacon Owen wished to see him. Archdeacon Owen explained on the other hand that he had understood that His Excellency desired a meeting to discuss a recent letter which he (the Archdeacon) had sent to the press on the subject of forced labour.

2. Archdeacon Owen then informed the Acting Governor that he had received a letter from the local representative of the Church Missionary Society, Mr. Pitt-Pitts, to the effect that the Society had received an intimation from the Colonial Secretary that a continuance of Archdeacon Owen's publicity methods might impair co-operation between the Government and the C.M.S. and Mr. Pitt-Pitts suggested in his letter that this was likely to result in a cessation or reduction of Government grants to the Mission for education and other work. On being asked, Mr. Pitt-Pitts agreed that in the conversation referred to with the Colonial Secretary, the matter of grants had never been mentioned or referred to in any way.

3. The Archdeacon wished to make it clear that the Society was in no way responsible for his writing in the Press, and informed the Acting Governor that in order to remove any danger of the Society being penalised by Government in this connection he had tendered his resignation through the local representative to the parent committee in London.

This, however, was not a step which he had taken lightly after 27 years service as a Missionary, and he desired to know whether the attitude of Government was as had been represented to him by the local Secretary of the Society. If so, he would, before resigning, ascertain personally from the Colonial Office in London whether this attitude on the part of the Kenya Government was supported by the Secretary of State. He further explained that he considered that he had not been adequately supported by the local Committee of the C.M.S. which had repudiated knowledge of facts which he had actually supplied to them.

4. His Excellency said that the latter aspect of the situation was a matter between the Archdeacon and the C.M.S. but that he, as Acting Governor on behalf of the Kenya Government, must clear up the suggestion that there had been any such threat on the part of the Government.

5. Archdeacon Owen said that the warnings had been conveyed to him by the C.M.S. in a letter from the Secretary and remarked further that an indication of the attitude of Legislative Council was contained in a record of the Select Committee on the 1929 Estimates which sat in November, 1928, and that Canon Leakey had at the time informed him that the grants to Maseno were only saved by transferring them to Mr. Carey Francis.

6. Mr. Dobbs, who had been Acting Chief Native Commissioner at the time, said that he did not remember any suggestion that grants to the C.M.S. for their work in Kavirondo were threatened with reduction on account of Archdeacon Owen's press activities, but that rather on account of unsatisfactory inspection reports on the schools concerned.

7. The Acting Governor made it clear that Government had never threatened to reduce the Mission grants on account of Archdeacon Owen's writings, or used any such means to endeavour to silence him.

8. His Excellency then referred to the working arrangement agreed upon between the Chief Native Commissioner and the Kenya Missionary Council in 1927 whereby it was undertaken that all representations on matters of native policy, and all complaints by missionaries in regard to alleged illtreatment of natives, should be dealt with by the Native Interest Committee of the Kenya Missionary Council. Archdeacon Owen said that he had only undertaken to work through that Committee in the first instance, and that as a matter of fact the Committee had broken down. He emphasised that there was no rule of the C.M.S. requiring him to submit to its Secretary any communications that he might desire to send to the press.

9. He added that, in view of His Excellency's assurance that the Society was not being threatened on account of his activities, his grounds for tendering his resignation no longer existed.

10. Mention was made of the fact that the incident referred to in Archdeacon Owen's recent letter to the East African Standard, namely that of Kisii labourers being roped round the neck and taken to work, was many years old. Archdeacon Owen said that it occurred in 1920 and that he had taken action at the time. He added that he could quote a similar incident as late as 1928.

11. The Chief Native Commissioner said that he personally would greatly regret Archdeacon Owen's resignation from the Society, for he had done very valuable work in



Kavirono and knew the people very well. Mr. Maxwell added that he would appeal to the Archdeacon to work in a different manner. There was no desire whatever on the part of Government or the Administrative Officers to silence the Archdeacon. On the contrary, they wished very much that he would report any irregularities that came to his notice, but report them immediately to the Administrative Officers rather than mention them in the press many years later when it was impossible to deal with them.

12. Archdeacon Owen then explained that his object in writing was twofold; firstly to refute an untrue statement made by Lord Delamere, and secondly, to secure a change in the policy of the Kenya Government. In regard to the latter his point was that he did not consider that natives were getting a fair return for their direct tax. If a fair proportion of money were made available for roads in the native areas, all compulsory labour on roads could be paid for. He asked for a Committee of Enquiry to investigate this point.

13. His Excellency said that he was unable at present to promise any such Committee, and Archdeacon Owen then said that he would press this point by a memorial to the Secretary of State for the Colonies.

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