

1935

1935

38076

KENYA

C0533/457

38076

Flogging of Natives by Mr & Mrs Selwyn

9 subsequent death of a native Mr Selwyn

Previous		Mr Bwale	17/4		
		Sir J. Maffey	15/4		
		S. of S.	15/4		
		Mr Guinness	1		
Subsequent		298	18/4		
		297	23/4		
		Room 309	17/4		
		Mr Francis	23		
	R 297	X			
	Rustford	15. 11			
	H. 342				
	Reg 297	15/3			
	Mr. [unclear]				
	Mr Boyd	18/3			
	Mr. [unclear]	20			
	Mr. Flood	20			
	R 297	10/4			
	Room 309	10/4			
	Mr. [unclear]	11			
	Mr. [unclear]				
	Reg 297	11/4			
	Room 309	11/4			
	Mr. [unclear]	11			
	Mr. [unclear]	11			

6.3
Nominal
staggery

Mr. Bushe

I shall be so much obliged if you will read the enclosed letters and my draft and complete the latter where I have left a particular point unanswered: also if you will advise me whether you think it is on the right lines.



14.3.35.

I sent for the papers about this matter, and these letters came back registered; I do not know if the Secretary of State wants them registered. I have added a suggestion in the draft as to what might be said about the venue. The Attorney General's report on the matter is the enclosure to No. 21 on 23247. I entirely concur in the draft, subject to a query as to whether it is quite safe to insert the last seven words. There is, of course, the instance of Mr. Cornell in the Powys case which has been published, and no doubt there are other instances which could be unearthed if anyone was so disposed; I know of one or two myself. On the other hand, I am sure it is quite accurate to say that it is untrue, ~~to~~ to suggest that there is any habit.



15.3.35.

? Now put by.

Printer 20/3

Yes: a wholly admirable letter from Lord Dawson

but the Deen still can't see

- a) That it is a crime for a white lady to beat any black man she does.
- b) That if the black man as Helen dies, the crime becomes more serious and may be murder. (Deena would be agree that Simon Legree murdered Uncle Tom?)

we haven't heard the last but this maybe

Put by

11.11.35

20.3

alone

To Lord Barnwood (11and) 18/3/35

3. The Very Rev. F. G. Selwyn 9 April '35.

Enquires the reason for the removal of Mrs Selwyn from Mombasa to Nairobi prison where conditions are more severe

4. The Very Rev. F. G. Selwyn 10 April '35

Requests that No 2 may be cancelled as further information has been received.

No 3 & 4.

Put by

C. J. Greenwith

10.4.35

The Deen still can't see!

Put by

5. The Very Rev. E. G. Selwyn 10 April '35

States that his sister in law has been released

Mrs Selwyn was sentenced to 12 months' imprisonment on the 28th of September 1934!

Put by

C. J. Greenwith

11.4.35

Presumably on grounds of ill-health!

Put by

11/4

No doubt. She was ill & it is usual to release very ill prisoners even in this country.

I had had a notion of acknowledging 3 & 4 with a reference to "the convict"; but we need not

we can

Acknowledge 3, 4, & 5.

S.S. is dead

11.4.

No 3 is really an amazing letter!

13/4

17/4

Put by

Secretary of State has seen

Six weeks

16/4

To Rev. E. G. Selwyn (3-5 and.) 18/4/35

DESTROYED BY STATUTE

Put by

4. Copy of letter Tel. of 11 April '35 release of Mrs Selwyn.

Put by

C. J. Greenwith

11.4.35

Put by

11/4

In Progress
R297

REUTERS

E. African Staff

CENTRAL

4.46 PM

FLOGGING OF KENYA NATIVE DELIVERY 6
ENGLISHWOMAN RELEASED FROM PRISON
HALF OF SENTENCE SERVED

NAIROBI, THURSDAY.

MRS. HELEN SELWYN, THE ENGLISH WOMAN WHO WAS SENTENCED TO 12 MONTHS IMPRISONMENT LAST SEPTEMBER FOR THE MANSLAUGHTER OF A NATIVE WHO WAS ALLEGED TO HAVE DIED FROM A FLOGGING, WAS RELEASED FROM PRISON TODAY ON MEDICAL GROUNDS.

SHE IS RETURNING TO HER FARM IN THE KITALE DISTRICT. PRACTICALLY THE WHOLE SIX MONTHS OF HER SENTENCE WHICH SHE HAS NOW SERVED HAS BEEN PASSED IN HOSPITALS IN MOMBASA AND NAIROBI.

REUTER.

.....

MRS. SELWYN IS THE WIDOW OF MAJOR GEOFFREY SELWYN. THEY WENT TO KENYA IN 1920 AND SETTLED ON A FARM NEAR KITALE. DURING HER TRIAL IT WAS ALLEGED THAT LAST JUNE MRS. SELWYN ORDERED THE FLOGGING OF A NATIVE ON HER FARM FOR A PETTY THEFT AND THAT SHE LOOKED ON WHILE IT WAS ADMINISTERED. HE DIED IN HOSPITAL TWO WEEKS LATER.

D/JA/WEG. 11.4.35.

4-4-57

DELIVERY OF FLOODING OF KENYA NATIVE
ENGLISHMAN RELEASED FROM PRISON
HALF OF SENTENCE SERVED

MAIROBI, THURSDAY

MRS. HELEN SELWYN, THE ENGLISH WIFE WHO WAS SENTENCED
TO 12 MONTHS IMPRISONMENT LAST SEPTEMBER FOR THE MARRIAGE OF
A NATIVE WHO WAS ALLEGED TO HAVE DIED FROM A FLOODING, WAS
RELEASED FROM PRISON TODAY ON MEDICAL GROUNDS.

SHE IS RETURNING TO HER FARM IN THE KILALI DISTRICT.
APPROXIMATELY THE WHOLE SIX MONTHS OF HER SENTENCE WHICH SHE HAD
NOW SERVED HAS BEEN PASSED IN HOSPITALS IN HONORARY MAIROBI.

ENTER

MRS. SELWYN IS THE WIFE OF MAJOR GEOFFREY SELWYN.
THEY WENT TO KENYA IN 1950 AND SETTLED ON A FARM NEAR KILALI.
DURING HER TRIAL IT WAS ALLEGED THAT LAST YEAR MRS. SELWYN
ORDERED THE FLOODING OF A NATIVE ON HER FARM FOR A FEW FEET
AND THAT SHE LOOKED ON WHILE IT WAS ADMINISTERED. SHE DIED
IN HOSPITAL TWO WEEKS LATER.

DALANEG. 11-4-57

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F. O. O. REGY

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49

49 11.9 WINCHESTER T 11

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 11.9
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RECEIVED
110 APR 1935
C. 1

39

THE DEANERY,
WINCHESTER.

9th April, 1935

The Secretary
to The Colonial Office.
London, S.W.1

Dear Sir,

I have heard recently that my sister-in-law, Mrs Selwyn, who has been in prison at Mombasa since October last has lately been moved from there to Nairobi; and I am writing to ask whether you could tell me the reason of this. At Mombasa she was getting on well after a severe operation which she had in the autumn, and her spirits seemed to be also being gradually restored after the very severe trial she had been through. There had also been some relaxation of the rules in the matter of letters, and she had been allowed to receive four instead of one a month, and had always been allowed to receive business letters.

Amid 6

I have now received a letter from a lady at Nairobi who has visited Mrs Selwyn ~~when she was~~ in the hospital ~~here~~, and she says that she is feeling the change back to the high altitude after being at sea-level; and my correspondent's letter proceeds - "The Prison Superintendent at Nairobi seems much more strict and less kindly disposed, and I am afraid if she is transferred to the Prison here she will be treated with a good deal less consideration than she was at Mombasa These are a few instances of the difference between the prison here and Mombasa - her business letters are being counted as ordinary letters and not as extras as before, in the prison they want her to wear prison clothes, which she did not have to do at Mombasa and to do the prison sewing instead of her own; also the quarters are very restricted and depressing after the ones at Mombasa."

My correspondent adds that she has just heard from the Prison Authorities that she may not pay another visit

TEL: WINCHESTER 187.

39

RECEIVED
10 APR 1935
C.

THE DEANERY,
WINCHESTER.

9th April, 1935

The Secretary
to The Colonial Office.
London, S.W.1

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Ind. 6

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My correspondent adds that she has just heard from the Prison Authorities that she may not pay another visit

to Mrs Selwyn for a month.

I may say that whilst she is in hospital the Hospital Authorities are showing Mrs Selwyn every care and consideration, as I should have expected; but I should be glad to know what the reason is for this change of method in her treatment by the Prison Authorities. Mrs Selwyn had not, I think, given any cause for offence to the Prison Authorities at Mombasa and she had got stronger there, both physically and mentally, it is difficult to understand why she should have been transferred to conditions so much less satisfactory.

Yours faithfully,

E. G. Selwyn, Dean.

to Mrs Selwyn for a month.

I may say that whilst she is in hospital the Hospital Authorities are showing Mrs Selwyn every care and consideration, as I should have expected; but I should be glad to know what the reason is for this change of method in her treatment by the Prison Authorities. Mrs Selwyn had not, I think, given any cause for offence to the Prison Authorities at Mombasa and ^{as} she had got stronger there, both physically and mentally, it is difficult to understand why she should have been transferred to conditions so much less satisfactory.

Yours faithfully,

E. G. Selwyn, Dean.

C. O.

Mr.

Mr.

Mr.

Mr. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State. *M*

2⁸

For the Secretary of State's signature

Personal

18 March 1935.

My dear Chamwood

Thank you very much for sending

me a copy of your own letter and the

Dean's letter, which I return. If I

may say so, I think your letter is

admirable in its fairness and wisdom.

There is very little I have to
say in answer to the Dean's letter: the

facts are on record. But there is one

matter which calls for a very definite

reply. You write in your letter to the

Dean - "You said to me that in bringing

the prosecution the Government were

actuated by politics" and you add: "This

is a monstrous charge to put about."

DRAFT.

THE LORD CHARNWOOD.

FURTHER ACTION.

I entirely agree. The question of whether
a prosecution should be brought and what
charge should ^{be} preferred is entirely a
matter for the Law Officer of the Crown
acting in that capacity; and the rule
that it would be most improper for the
Executive to interfere is as absolute
in the Colonies as it is in this country.

The Dean also charges the Attorney-
General with having conducted the prosecution
unfairly. If that were true it would have
seen the duty of the judge to intervene, and I
feel bound to add this: the traditional
practice of the English law as regards the
lines on which prosecution should be con-
ducted ^{is} ~~are~~, I believe, scrupulously followed
by Law Officers in the Colonies. They are
trained in the tradition of the British
Bar; not less jealous of that tradition
than members of the Bar at home, and I think

C. O.

- Mr.
- Mr.
- Mr.
- Mr. Parkinson.
- Sir G. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

FURTHER ACTION.


it is a most unfair reflection on both
Bench and Bar, to suggest that any other
rule obtains.

As regards the specific
point of the application that the case
should be transferred to Nairobi,

I am informed that the Attorney
General considered that in
the interests of justice the
case ought to have been
transferred to Nairobi, but
that in consequence of
certain medical affidavits
sworn on behalf of Mr.
Selwyn, he decided not to
oppose her application for
the case to be tried at Kitale,
but to leave the matter to the court.
The judge ~~the court~~ however ordered the
trial to be held at ~~Kitale~~.

Lastly there is the suggestion
that

that administrative officers in Kenya are
in the habit of inflicting illegal corporal
punishment. It is surely very unfair that
such a charge should be made without
specific evidence against a particular
officer. ~~I believe it to be entirely untrue.~~


(sgd.) P. CUNLIFFE-LISTER

Flaxman 0824

RECEIVED
15 MAR 1935
C. O. SGT.

10

14, Chelsea Court,
Embankment,

13 March 1935

S.W.3.

Dear Cunliffe - Lister,

You will remember having very kindly had a long talk with me about the Selwyn case in Kenya. I intended to have it out with the Dean of Winchester, whose circular to friends I showed you. But I was afterwards ill for some months and did not see him till about ten days ago when I was staying in Winchester.

He asked me to take away and study the papers on the case which he had meanwhile received. After doing so I wrote him my full opinion in a long letter.

I enclose a copy of this in case you care to look at it, but do not wish to bother you with it, if, as is very likely, it does not interest you.

I have had a very friendly talk with the Dean since, in which he said he in turn would write fully to me. He said then that he would like me to forward what he said to you, and I gather that on the whole he would still prefer this. So I send you his letter — not to be returned as I have a copy.

I wrote again to him, as I received his letter here.

I allude of course to my strong opinion that the Judge had handled the matter very well & that his (the Dean's)

talk

2
Cred

talk of "microcosm of justice" was absurd.

As to mine matters I said: -
That from the slight information before me I thought
there was probably complete justification for the
original charge of murder though it was not borne
out at the trial,
That it seemed to me likely, but not all certain,
that the Atty Gen. had presented rather severely,
though there was no reason to impute motives for
particularly injudicious line which he seems to have taken.
That I could imagine - my several reasons for
the Atty Gen.'s desire to remove the case to the Court.
That I thought it would be right that the Dean's
complaints about the Atty Gen. should be brought
to your notice (i.e. by my forwarding his letter), but it
would seem pretty & wise if the Dean were to
present them complaints, against a particular officer
& on a subordinate matter, any further.

I may explain that, as I am one of the elders
among the Dean's people - however, I see rather
looked to as an appropriate person to admonish him.
I set no store at all on any opinion of
mine in this matter. The Dean is the head of his mind
I am probably jealous of him as what having
been told to put this written down in the papers
on the farm which he describes. - And I
sent the letters of sympathy, petition to the Governor,
and so on, which to me, as the customary sent
to the Governor, - yours sincerely,
Pharwood

THE DEANERY,

WINCHESTER.

8th March, 1935.

Dear Godfrey,

I promised to answer your full and careful letter about my sister-in-law's case in Kenya. I think I had better begin at once by saying that I have never in any way disguised the fact that what she did was a crime, and that some doubt exists as to whether the natives who were beaten were guilty of the stealing with which they were charged. The evidence was that of her own natives who had tracked them down to their hutments on a neighbouring farm; but clearly they may have been either mistaken or vindictive. Her action was no doubt unjudicial and decided upon when she had lost her temper.

But when that is admitted, I still contend that there has been a real miscarriage of justice. I have lately had a letter dated February 5th from a very well known settler in Kenya who practised for many years at the Kenya Bar, and who has taken a great interest in this case, owing to having been a pupil of my father's. He writes - "The Attorney General I am told fought the case almost savagely, and I believe he was out to justify, so far as he could, his action in bringing a charge of murder. It was from the first a scandalous charge on the facts - you will have seen that the Judge dismissed it in a few words - and it was from this initial blunder (if one can use so mild a term) that all the injustices of the case sprang - Mrs. Selwyn's detention without bail, your brother's death, the publicity and, above all, the stigma which must attach under such a charge whether

justified

justified by the facts or not." On this I comment as follows:-

1. The charge of murder.

The Judge dismissed this in a sentence and there was never any foundation for it. My correspondents are unanimous in saying that they believe the charge would never have been brought, if it had not been for the fact that at that time five natives were on trial for the murder of an English settler and the outraging of his wife.

2. This fact is further borne out by the determination of the Attorney General to stage Mrs. Selwyn's trial in Nairobi despited two medical affidavits (including one from the Medical Officer of the district) stating that her removal to Nairobi - a long journey over two escarpments - would be dangerous to her life in her then very precarious state of health. In England medical affidavits of this kind would determine the matter, quite apart from the fact that it is an ordinary principle of law that crimes should be dealt with in the area in which they are committed. But the Attorney General's attempts to remove the trial to Nairobi (which were happily foiled) cost the defence twenty guineas in legal processes, not to speak of my having to go from Northumberland to the Colonial Office to see what could be done.

3. The Attorney General's conduct of the case was, I think, wholly inconsistent with the temure of a high office under the Crown. Not only was his cross-examination brutal, but he emphasised a number of picturesque features for which there was no kind of evidence and which were dismissed by the Judge in the summing-up in a sentence or two.

4. The verdict was, I think, a possible one: at any rate one can well understand that a jury would not wish to put the blame upon the insanitary conditions of a native hospital

which

which had already been scheduled for replacement by Government. But the Judge's sentence seems to me to have completely disregard the jury's recommendation to mercy, and several of them expressed very strong opinions about it afterwards. When one considers that a prominent English sportsman found guilty of a quite inexcusable manslaughter on the road is sentenced to only nine months one realises that a sentence of a year for my sister-in-law is somewhat out of proportion.

5. You speak of Mrs. Selwyn's offence as "serious, deliberate and aggravated by the fact that she handed over the natives to the police, keeping them meanwhile as prisoners". I will take these points seriatim:

"Serious" The chastisement of natives is so widely spread in Kenya among both official and non-official white residents that it has got to be considered when the "seriousness" of the offence is spoken of. It is far more analogous to the chastisement of children in this country than to the assault upon an adult, and there are reasons for this. It is no doubt a serious thing that people should in any kind of social condition take the law into their own hands; but in Kenya the paucity of police and the slowness of legal processes make it almost inevitable. It is quite customary for a native to be given the choice between being chastised or being arrested, and for him to choose the former punishment. There is also an objective reason for it, as an arrest means that a native who is in no real sense a criminal may be herded in prison with those who are. This custom (the word, I think is not too strong) of corporal punishment in Kenya lays of course a more serious responsibility upon the individual settler, and makes it the more important that their actions should be judicial.

But this brings me to your second term "deliberate"; and I do not think that the word can properly be used of an action taken in a sudden fit of temper. For five months previously my sister-in-law had been in constant pain and needing an operation but prevented from having it by the fact that she could not leave her disabled husband and her farm. She was living at an altitude of over 5,000 feet - at which everyone tells me that nervous tension is almost always acute. She had had considerable experience of trying and failing to get redress for native offences through ordinary channels. And she had reason to suppose that there was some treachery even on her own farm. A failure of coolness and deliberation in these circumstances constitutes to my mind something that calls for a mild rather than a severe punishment.

My sister-in-law sent for the police at Kitele to come to arrest the natives, not for the offence of stealing for which she had had them beaten, but for being outside their own native reserve without registration certificates. I think that her action was ill-judged, because I believe that if she had not had the natives arrested none would have died and nothing would have been heard of it. But I think that her action in itself was right, because obviously if natives can go outside their reserve without certificates, with the connivance of a neighbouring settler, the maintenance of order becomes exceedingly problematical. You seem to think it an offence that the natives were meanwhile kept as prisoners. But what is a settler to do? The natives' power of evading justice is almost unrivalled. Some natives go to the length of deliberately greasing their skin so that if they are caught in the very act of some offence and tied up while the police are being fetched they can extricate themselves from their

bonds

bonds and escape. A few years ago my sister-in-law herself had an experience of this kind. You say that "the view that the natives of a British Colony cannot in practice be treated as having the same personal rights of Englishmen is contrary to the view taken by our laws and to the settled policy of the British Empire". Theoretically this is true: but the theory seems to me responsible for a good deal of the trouble which exists in a country like Kenya. Ever since reading Norman Leys' book on Kenya I have felt that we were not really facing the facts. Large numbers of natives are far more like children than like adults, and should be dealt with by a different kind of administrative and legal procedure from what obtains in England. I think that a great deal could be done by the appointment of travelling inspectors accompanied by one or two police officers who would regularly visit the farms in each district, advise the settlers and dispense justice on the spot. My brother had been out in Kenya for thirteen years and only twice during that period had he been visited by the police, though he had often asked them to come. The reason no doubt for the inadequate police supervision and protection is largely expense. But I take it that an efficient system adapted to the real facts and needs of the Colony would save a good deal of the money now spent on expensive legal establishments at Nairobi. I was much interested to read a few months ago what had happened in Australia when the Government of one of the States had discovered that the attempt to apply ordinary law to the aborigines had completely broken down, and that if justice was to be done they must devise some quite new system of administration for the purpose.

With regard to my brother the position was that his wife sent him to follow her own natives in tracking down the others. This he did and was present at the arrest but, owing to his limp he did not arrive back at the farm until

16

the beating was well advanced, and as soon as he arrived Mrs. Selwyn asked him to go and look for one of the native's donkeys which had strayed. He was really a very helpless man, and I doubt whether, even if he had wished to stop the beating during the moment he was there, he could have done so. I understand that these facts were pointed out to the police at the time, but none the less he was arrested for murder. I doubt whether he had any more complicity for what was done than the fact of being there. I have petitioned the Government of Kenya for some compensation to his estate for the undeserved stigma cast upon his name and his children's: but, as I expected, this has been of no avail.

If this seems to be rather a controversial letter, you will, I know, understand that I have had to be as brief as I could; and I do very much appreciate the trouble you have taken to go into the details of the case. It was nice to see you both - but much too short a glimpse.

Yours, etc.,

(Sgd.) Gordon Selwyn.

17
14, Chelsea Court,

Embankment, S.W.3.,

8th March, 1935.

Dear Gordon,

Thank you very much for lending me the papers which I return under another cover. I have read them carefully. I disagree seriously with what you said to me about the case. So I write you a note of my considered opinion in case you may care to read it before we meet next.

Do not think that I am lacking in sympathy. Your poor brother was and his widow is a person for whose position everybody must feel a certain compassion. You too have had a terrible cause of grief. I have tried and sentenced a good many offenders by now - (not of course in cases so grave as murder or manslaughter). This by no means makes one callous in one's feelings towards one's fellows who have been led into crime. I have often enough had to talk in court to the relations - generally poor and ignorant people - of men to be sentenced, and have had occasion to admire the natural way in which they combine continued affection and loyalty towards the offender with manifest horror at his offence, and their manifestly honest sorrow - not that he is being punished but that he has behaved badly.

Of the facts in this case some are fully admitted:-

Mrs. Geoffrey Selwyn ordered and superintended the administration by her servants to certain natives of what her counsel described as "a severe beating." As to this it is wholly immaterial that the severity was exaggerated by some witnesses whose exaggeration was forcibly pointed out to the Jury by the Judge.

The beating was in consequence of a theft which had been committed, but it does not appear from these reports that at the time of the beating there was any certainty that all, if any, of the persons beaten had been the thieves. (Indeed, assuming the accuracy of one passage in the reports, it does appear to have been ascertained later that some of them were innocent, though I am far from assuming that it is accurate.)

However this may be, the astonishing fact is uncontested that the beating was followed as soon as possible by handing over the same natives to the police for some offence, and that in the meantime they were kept as prisoners.

Thus Mrs. Selwyn was evidently guilty of an offence against the law which was serious, deliberate, and aggravated by the fact just mentioned.

As to Major Selwyn it is, I understand, admitted that he took an active part in capturing the men who were beaten, was present at some part of the beating, and took some part in the proceedings which followed. Unhappily he did not live to be prosecuted or defended, but evidently there was a prima facie case for regarding him as a participator in the transaction taken as a whole.

Whether the offence of which Mrs. Selwyn was guilty amounted, in view of the subsequent death of one of the persons beaten, to manslaughter is a question on which there was a conflict of evidence. It is not at all safe, as a rule, for someone who has not himself heard or seen the witnesses, to form a confident opinion of his own from a newspaper report of their evidence. But on reading it he can ask himself whether it suggests to him any doubt of the conclusion to which the Jury, with whom in this case the Judge evidently agreed, came.

In this case it certainly suggests to me no such doubt; - quite the contrary.

The question was evidently thrashed out very fully.

The Judge's summing up was conspicuously fair and able.

The Jury was a white Jury whose prejudice, if any, would certainly not be against the accused.

Thus it seems to me scarcely rational, for anybody who has read the material which you put into my hands, to doubt that this poor lady was rightly convicted of manslaughter. - I would observe here that such as I remember of the points which you mentioned to me in favour of the defence related to allegations or suggestions which had indeed been made in the course of the prosecution (or in the cross-examination of Mrs. Selwyn) but

F. Bradley
exp. 1/4
It was to be presented
for something after the
beating, of course this
detection was
necessary.
It
Not literally
deliberate for she
did not deliberate.

which formed no part whatever of the substantial case against her as put to the Jury by the Judge.

Returning for a moment to the evidence so far as its effect can be gathered from the newspapers:- It would be surprising to me if twelve at all vigorous strokes with the sort of instrument described had not produced some scratches or breaking of the skin which would suffice to make septic infection possible. The fact that the native who died and some others who were beaten were in such a condition that on the second day after arrival in prison they were taken into hospital, where those who survived remained long after, is an extremely weighty fact. The evidence of the lady who saw the corpse afterwards is not impressive as it reads in the newspapers. - Thus, I think, if one had to come to a conclusion from the evidence in the papers, it would be the conclusion to which in fact the Judge and Jury came. - I notice that you, who seem to think otherwise, dwell upon the evidence which was rebutted as to manifestly bleeding wounds which had to be washed; but it is quite evident that the Judge and Jury were not influenced at all by any such untrue evidence.

In regard to the sentence, the Judge's remarks in passing it seem to me right. One may be ever so sorry for a woman who has been living for years in a situation which was very unsuitable for a woman (a delicate woman I gather) with an invalid husband and a child, but the offence was of a grave kind, and in the whole manner and circumstances of the offence, as the defence admitted them to be, there was certainly nothing whatever to set the offence in an amiable light. To me, and I think to most people who have had to consider sentences for crime, a lighter sentence in this case would have seemed a scandal, - a thing of which the public influence would have been bad.

Such being the only view I can, after giving it very careful and anxious consideration, form of the case, I deplore some things which you have said, for no words from a man of your personal and official distinction, on a matter which comes to nearly home to him, can be treated lightly.

It is a very grave error of judgment and of heart to think that there is either love or loyalty in representing the wrongdoing of a friend, however dear, as other than it is.

I appreciate that, as you said, it is hard for you to look at the matter judicially (though charity should make it easier after a while), - you appear to have found it impossible. Can you not recognize this, and, at the least, refrain from rash and untrue judgments on others?

You said there had been a serious miscarriage of justice. This is a view which a cool reader of the case (as it is put before in the papers you sent me) would think absurd.

You said to me that in bringing the prosecution the Government were actuated by "politics." This is a monstrous charge to put about. It would have been a great abuse and dereliction of duty if the Government had not prosecuted, - (whether the Attorney General in his speeches ever went, as you say, beyond the duty of a prosecuting advocate is an altogether minor question, for, even assuming that he did, it clearly did not affect the result).

If, as you believe, similar offences are common, and if, as is plain, the temptation to them is often strong, this is only a further reason why the Government should prosecute wherever there is a good chance of obtaining a conviction, (at least in any case that is at all serious for some assaults may of course be quite trivial,) and a reason why the Judge in passing sentence must on no account fail to make the punishment exemplary enough.

I am of course very familiar with the view that natives of this, that, or the other country under the King cannot in practice be treated as having the same personal rights as Englishmen. It crops up repeatedly from time to time among English residents overseas, and finds only too ready an echo in drawing-room and, I daresay, barrack-room talk at home. But it is contrary to the view taken by our laws. It is moreover contrary to the long settled policy of the British Empire and the principles to which the great administrators who have made the Empire have been passionately devoted. - Curzon, for example, deliberately put in great peril his own dearest ambitions for the sake of upholding those principles when prevalent Anglo-Indian opinion was setting them at naught. A mere layman would suppose that the principles of the New Testament were in this respect plainly at one with this cardinal policy of the Empire, and might demand of you as a Minister of Christ to be at least as firm about this as men like Curzon or Cromer.

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END

You complain that your brother was arrested. The crime was a grave one as it proved at the trial, and, as originally put before the police by the witnesses who were shown at the trial to have exaggerated, it was even greater than it proved; the police had before them nothing less than a prima facie case of murder, and, as against your brother, a prima facie case of being accessory thereto. What else could they have done? You dwell upon the great shock to him. Now, most obviously his wife who was the principal had to be arrested. Would the shock of this to him have been lessened by his being left at liberty himself instead of being also arrested? That, as it seems to me, would be a suggestion altogether dishonouring to your brother's memory. - Your remark in your printed circular for your friends, that "he had no authority to stop it" (i.e. the beating) is a strange remark. Any man (let alone a husband) who is present at the commission of an act of unlawful violence has authority in law and has a moral duty to interfere and to protest to the very utmost of his power, even though his actual power may be inadequate for the purpose.

Lastly you said to me that if they intend to put down such offences the Government should begin by weeding out a number of their own officers who committed such offences. Now unless you possess information which justifies such a remark, you must see that it would be a very wrong and harmful remark to make again. But, if you have such information of a trustworthy kind which would make action or enquiry by the Government possible, what then? I think strongly that in that case, in your position of great influence and with your manifest interest in the whole question, it is your duty to put your information before the Secretary of State and to press for action on his part. If you do this, and if the information seems to me at all as good as it does to you, you have at your disposal my, possibly considerable, services in backing up your demand for action or thorough enquiry by the Secretary of State.

Forgive my speaking plainly. I really feel deeply for you in what must be a terrible trial, but I do not understand the sort of friendship which would make a man who cares for you speak less plainly.

Yours ever,

44- Chambers