

1924/105

1925 *114*

KENYA

C.O. 8328  
20 FEB 24

HOUSE OF COMMONS

DATE  
19TH FEBRUARY 1924

ALLEGED MURDER OF NATIVE

CASE OF MR JASPER ABRAHAM

\*108. Lord Henry Cavendish-Bentinck.—To ask the Secretary of State for the Colonies, whether he has received any Report from Kenya colony upon the trial of a white settler named Abraham, who flogged a Native to death; and what action he proposes to take in the matter. [Tuesday 26th February.]

From U.S. of S. *22.1.24*  
Parl. U.S. of S. *22.1.24*  
Secretary of State. *22/1/24*

*Send reply*

Previous Paper

*55863*  
*1/23*

MINUTES

It will I think be necessary for the Secretary of State to read the three despatches sent to the Governor on this case on 55363.

Very briefly, Jasper Abraham is a son of the Bishop of Derby, and a settler of 18 years experience in Kenya. He heard, while himself ill, that one of his native boys had been seen riding a mare in foal. When he was able to do so he taxed the native with the fact and getting no reply, thrashed the native in order to make him own up. The implement was a double ox-hide rein (about as fierce a weapon as could be imagined) and Abraham laid on until he was tired out and then handed the job to native boys who, however, do not seem to have added much to the thrashing.

The boy, still being obstinately silent, was removed to a hut, to which he walked unaided, and there tied up for the night. He was given no food and apparently had had none for some time previously.

*Copy to A. Gov - 6 Mar 24/5*

Subsequent Paper

*1609*

previous). In the course of the night he died. Abraham once reported the death, and in no way attempted to conceal what had happened.

He was tried for murder, but the charge was reduced to grievous hurt, for which he was sentenced to two years rigorous imprisonment.

In the course of the last 3 weeks I have seen ~~the~~ from the Bishop to the District Magistrate implying that the ~~case~~ experienced unofficial ~~interference~~ was that the post ~~was~~ conducted and that ~~there~~ was no reason for ~~supposing~~ was due to the flooring. It was pointed out that the ~~fact~~ A quarter's suggestion that death was to track following on the flooring was inconsistent with the fact that the boy had walked some hundreds of yards, without assistance, to the hut.

~~Some~~ Minutes were written in this Office on the question whether the conviction ought not to have been for murder, ~~the~~ man hanged ~~for~~ interference of ~~the~~ but the ~~fact~~ of the ~~fact~~ and the ~~fact~~ of the ~~fact~~ of the verdict (which should surely have been manslaughter) and of the sentence, even for the reduced finding.

In

In the despatches comment is made on this point as on the disregard of Lord Napier's instructions that in such cases (where violence on native is alleged against a European) the trial should be heard at a distance remote from the crime scene; and, generally, of the question of the flooring, officially and unofficially, of ~~the~~ in Kenya. The ~~present~~ <sup>numbered</sup> despatch was drafted with the idea that the ~~case~~ <sup>being</sup> kept in mind and I think that this will be as good an opportunity for publication as it can have.

With regard to the report of the Commission on Native Punishment, which was referred to in the second confidential despatch of 1933, we are still waiting for the Governor's comments on the report which has been outstanding for some time. The comments promised to me by Mr. ~~the~~

at the ~~the~~ Rally which ~~the~~ ~~the~~ ~~the~~

*to*  
*2/12/34*  
*2/12/34*  
*1/12/34*

*over*

Official Report  
26 February 1924

**KENYA COLONY.**

ADMINISTRATION OF JUSTICE.

Lord H. CAVENDISH-BENTINCK

asked the Secretary of State for the Colonies whether he has received any information from Kenya Colony upon the trial of a white man named Abraham, who was sentenced to death, and what reasons were given for the matter. I have the honour to inform you that the matter is now before the High Court of Kenya. The trial is being conducted by my predecessor, Mr. Justice G. A. P. The case is a very serious one, and the High Court is now sitting in Nairobi. The trial is being conducted in a very thorough manner, and the High Court is now sitting in Nairobi. The trial is being conducted in a very thorough manner, and the High Court is now sitting in Nairobi.

Following is a copy of the despatch referred to.

(Copy, Kenya No 1753),  
Dawson Street,  
20th December, 1923.

1. I have the honour to acknowledge the receipt of your despatch No. 1563 of the 12th of October, transmitting a report on the trial and verdict in the case of Rex versus Abraham and others, signed by the Judge before whom the case was tried.

2. I have read the report and find it to be a very full and accurate account of the trial. It appears to me that the Judge has acted quite impartially.

3. I have further to state that my legal advisers, who have studied the report of the trial, are of opinion that the verdict of acquittal is quite in accordance with the facts. I have no doubt that the Judge has acted quite impartially.

4. I fully appreciate the fact that cases of this kind have been rare in the history of the Colony, and that the vast majority of the British subjects in Kenya are free from any liability to ill-treatment. As are British subjects in other parts of the world, I am, however, bound to record my opinion that such cases as have occurred in Kenya have been marked by great brutality, and that no sufficient punishment has been meted out to the offenders.

5. So long as this condition of affairs remains, the jury system can only be regarded, so far as cases of this nature are concerned, as on its trial. I share the reluctance of my predecessors to interfere with the institution which is so closely bound up with British traditions of justice; but it is clear that in the special conditions of Kenya the working of the system requires to be carefully watched.

6. I must, therefore, lay it down as a definite instruction that, in any future High Court cases in which a native or a non-native is charged with causing death or bodily hurt to a non-native or native respectively, a shorthand report of the trial must be furnished to me, in order that I may be in a better position to judge, with the assistance of my legal advisers, to what extent justice is being impartially administered between the two races.

7. In addition, it should be the invariable rule in cases of this kind that the trial should take place in, and the jury be summoned from, a province distant from the neighbourhood in which the crime was committed.

I have, Sir,  
(Signed) Cavendish-Bentinck.

Ref 3 65 Jan.  
C.B.S.  
27.2.24  
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Official Report  
26<sup>th</sup> Aug. 1924

**KENYA COLONY.**

ADMINISTRATION OF JUSTICE.

Lord H. CAVENDISH-BENTINCK asked the Secretary of State for the Colonies whether he has received any Report from Kenya Colony upon the trial of a white settler named Abraham, who flogged a native to death: and what action he proposes to take in the matter?

Mr. THOMAS: A report on the trial and verdict in this case was received by my predecessor, and I am circulating in the Official Report a copy of a despatch which was sent to the Governor on the case to which the Noble Lord refers. In addition, my predecessor has taken up with the Governor of Kenya certain questions with regard to the administration of justice in such matters, and I propose to await the Governor's reply before carrying the matter further.

Following is a copy of the despatch referred to:

(Copy. Kenya No. 1753)  
Downing Street,  
20th December 1923.

1. I have the honour to acknowledge the receipt of your despatch No. 1763, of the 32th of October, transmitting a report on the trial and verdict in the case of Rex versus Abraham and others, signed by the Judge before whom the case was tried.

2. I have read the papers relating to this trial with close attention, and I must express my abhorrence of a crime which appears to me to offer no extenuating circumstance.

3. I have further to observe that my legal advisers, who have carefully studied the report of the case, are of opinion that a verdict of anything less than manslaughter is quite irreconcilable with the facts. A verdict of manslaughter would no doubt have involved a more adequate punishment.

4. I fully recognise that cases of this kind have been of rare occurrence in the history of the Colony, and that the vast majority of the British settlers in Kenya are as free from any tendency to ill-treat natives as are British settlers in other parts of the world. I am, however, bound to record my opinion that such cases as have occurred in Kenya have been marked by great brutality, and that no sufficient punishment has been meted out to the offenders.

5. So long as this condition of affairs remains, the jury system can only be regarded, so far as cases of this nature are concerned, as on its trial. I share the reluctance of my predecessors to interfere with any institution which is so closely bound up with British traditions of justice; but it is clear that in the special conditions of Kenya the working of the system requires to be carefully watched.

6. I must, therefore, lay it down as a definite instruction that, in any future High Court cases in which a native or a native is charged with causing death or bodily hurt to a non-native or native, respectively, a shorthand report of the trial must be furnished to me, in order that I may be in a better position to judge, with the assistance of my legal advisers, to what extent justice is being impartially administered between the two races.

7. In addition, it should be the invariable rule in cases of this kind that the trial should take place in, and the jury be summoned from, a province distant from the neighbourhood in which the crime was committed.

I have, etc.,  
(Signed) DRYDEN

*[Handwritten signature]*

*Inf 3 15 Jan.*  
*W.C.S.*  
*27.2.24*  
*atm*

*Thom 2*

Reply to Lord Henry Cavendish -  
Bertinck. Oral, 28th February.

On the trial and verdict in  
this case was received on this  
question by my predecessor, and I am  
circulating in the official report a copy  
of a despatch which was sent to the  
Governor on the case to which the Noble  
Lord refers. In addition, my predecessor  
has taken up with the Governor of Kenya  
certain questions with regard to the  
judicial justice in such cases.  
My predecessor would have given  
before the Commission the

DRAFT.

MINUTE.

- Mr. B. [unclear] 20/11/24
- Mr. [unclear]
- Mr. [unclear]
- Sir C. [unclear]
- Sir G. Grindle.
- Sir H. Road. 20/11/24
- Sir J. Masterton Smith.
- Lord Arnold [unclear]
- Mr. [unclear]
- Mr. [unclear]
- Mr. [unclear]

For [unclear]

is approved, a  
of despatch no 1753  
155363/23  
Official Report