

rely upon that point. But I am not
prepared to remark about holding a
reply of Monday. It is not certain
as to the section under which the man
should be charged. It has become very
evident that ~~with~~ joining the Acting Crown
Advocate is a very useless officer. That
Crown cannot rely upon ~~the~~
Crown Advocate, a good man
in ~~the~~ ^{the} circumstances.
I think it would be right to advise Sir
Gordon as to the section under which
the charge should be brought if we ~~can~~
possibly
do it. But I don't see that we can.
The facts
are not in sufficient detail. I could
not give a reply. It is not a word
of assistance to show what support there
is to a charge of criminal intimidation
under sec 506.

Subject to anything which Mr. Risley
may have to say, I see nothing for it
but to reply that the S of B does not
understand on what point the Govt
wants a reply, but that if it is as to
the section under which the charge should

He brought it is impossible to advise on
the information given in this telegram.
As to the latter part of your telegram
we can but await events. 193

Feb
N.Y.C.

I agree. The child is a brilliant writer
of the most unusual kind. He has more years
than understanding of what he writes
and you should advise the Commission
at once.

I have read the report of the Commission
and understand the delay. It is the
S. P. of the Commission. I am sure that
the Commission is a committee of experts
for a purpose - a small of the kind, that we
hope to have a reply before we receive the
Dept. and I regard the whole telegram
as intended to prepare the S. P. of the Commission
for a purpose to stiffen up the law as
to make it correspond with that of S. Africa.

I don't think we expect any reply, & I
stand aside for further comment promised.
P.M. 17

I think Mr. Fiddes is right. But it is altogether wrong for the Gov. to retract a reputation before the man has been tried, and I should tell him so.

Oct 12 11

~~Mr. Fiddes is right~~

Which is a very large but
absence of details makes it
impossible to offer opinion

that proceedings will
take place with
facts with give chance of
most severe penalty if guilty

I do not think it desirable
to be so suspicious &
convinced of facts

Oct 12 11

in better

I have attached to this paper the
letter to the Press & which he proposed
after in his letter. He would prefer
to compare the depths in the subject
It is better than what I had thought
but some in another hand does

Dear Sir

1878

Mr. Fiddes

A subscription

Mass.

Dec 19

Nov 30 12

Dec 20 12

Mr. Fiddes

~~Mr. Fiddes~~
Mr. Fiddes

It is strange that Mr. Fiddes is

The Thomas Case.

Prisoner Convicted.

ON TWO COUNTS.

Before Mr. Pickering on Thursday, at the Nairobi Magistrate's Court, Jaguna Wa Kambui, an Akikuyu, employed by Mr. Karslake Thomas at Dondora, near Nairobi, was charged with attempted rape or indecent assault with violence on a child of five years, a daughter, Mrs. Karslake Thomas, as follows:

The first witness was Mrs. Thomas, the mother of the child. She stated that the prisoner was tending a flock of chickens about 70 yds. from the house, on the morning in question and Neta, the child, went out saying she was going to see if the chickens were being properly fed. She did not return for two hours, and the houseboy was sent to call her in at noon for lunch, when she made her appearance, looking very unwell. Her blue serge was torn and she was out of breath when questioned about it. She refused to say what had happened and seemed frightened, besides she said that nothing else did not seem unusual for the rest of the day, nor indeed the next days. She complained of illness and witness at first attributed this to a cold, but finding the child restless all night and upset next day she prepared a hot bath. The child sobbed frequently and sometimes screamed. In the bath, the child said she had been hurt and in reply to questions admitted that a boy had hurt her, and that the culprit was Jaguna, the ostrich-chick boy. Witness found that a doctor's attention was needed and asked Mr. Thomas to fetch assistance. The child said "Don't let Jaguna kill me" and added that prisoner had threatened to kill her if she told them what he had done, appearing to be very much frightened. She said Jaguna had hurt her with his fingers and then told all that had occurred. Her husband telephoned Dr. Tichborne and in the mean time Police Constable Fiddley arrested the native. The child remained in bed for several days and was not quite well yet. She had been in agony four days during which time she could not bear the slightest movement and screamed when ever she was tried to attend the injuries. Her nerves were thoroughly upset.

Dr. Leasley gave medical evidence and stated that besides the laceration there was a contusion, a bruise, a laceration, and a fracture of the right wrist. He stated that the injuries were not of a serious nature and he would be glad to attend to them. He stated that he had seen a similar case and he admitted that he had examined the child. The prisoner's wife was charged.

Evidence was then given in an informal fashion by the child, Neta, who testified in an intelligent manner and identified the accused as her assailant. She told prisoner that he would get "liboko" but he threatened if she told, to kill her with his "kideco muti." Her dress was torn in the attempt to get away from the prisoner, who scratched her with his fingers and held her.

Dr. Tichborne gave formal evidence as to the injuries and stated that he had been in attendance on the child up to the last of the month. Besides the lacerations, and of which was an inch long and some what deep, the child had suffered from severe shock, which, however, she would probably recover in course of time. Permanent injury of none.

Mrs. Karslake Thomas said the prisoner had been employed to herd the young ostriches for three or four months. He narrated what had occurred from his own, and second hand, knowledge. The child had changed very much since the assault and whereas formerly she was quite normal she now seemed to be nervous and terrified. Even two nights ago the child had awakened from her sleep in a terrified condition. He had never known the natives molest his children before.

Karsnja, the houseboy, was called to show that he had been sent to call the child indoors. She was too far off for him to notice anything.

This was denied the evidence. The Magistrate said there was no evidence of attempted rape. He thereupon charged a prisoner with offences under sections 52, and 50C, namely, atrocious hurt and criminal assault.

Mr. Justice had to see the prisoner needed also possibly a lawyer. I am not so sure the girl will do it. I would tell you she would have some other offers. If I had a girl and her why should I want to steal a little milk for it? I referred to the previous case of a girl who was charged with the same offence.

Mr. Justice said, Mr. Pickering said the girl, Karsnja, was only five years old. He made a note of this. The girl would be as good as lost. The two charges were entirely separate.

The girl was sentenced for the first offence to six months and seven years' imprisonment.

The second offence was a fine of Rs. 100, in default of which he would go to prison for six months or one year, or to the same imprisonment as the first offence. The term of the first offence was five years, failing payment.

C. O.
 Recd
 15th Nov 11

Paraphrase

Telegram. The Governor of the East Africa Protectorate,
 Secretary of State for the Colonies.

(Received, Colonial Office, 7.50 p.m. 15th November, 1911)

15th November. There has taken place very serious case of assault by
 an adult native upon a white girl of 16 years there is a report
 as to intended rape. Government Medical Officer reports that the
 child is seriously injured. This is first time that such a case will
 come to Court. The father who is most respectable Englishman has
 written to Press full particulars and in so far as police are concerned
 earned his public statement is thought to be correct. Offender
 has been arrested. Trial will not be heard until he has been
 recovered. Have endeavored to ascertain on the facts of the case
 stated what is possible in the case of conviction. Charge
 of rape or attempt probably not established. Charge under
 section 564 possible but sentence entirely inadequate. On statements
 made there might be charge under section 506. Public opinion is
 expected to run high. I have agreed to receive deputation on Monday
 and hope to receive reply before then. Indian law was introduced
 before the arrival of white settlement and it would appear that it is
 necessary owing to changed conditions to amend it in this par-
 ticular connection so as to conform to Colonial practice. Govern-
 ment undoubtedly will be pressed to introduction of South African
 law. Will keep you informed of developments.

Circuard.

