

EAST AFR. PROT

57495

57495

REC'D
14 DEC 15

Proposed Circular

1915

13 Dec

Last previous Paper.

P
51375

Customs fine
Case of Mr. Pothard

Reviews case. Submits that fine imposed on Mr. Pothard should be repaid & the responsible authority reprimanded

to read.

We relied on getting this letter earlier and took no note of the interview (with the exception of the details of fine or green slip in 51375) but except for one omission in the ^{the} report we saw nothing which ~~prevented~~ the arguments which had been ~~then used~~. The omission is the fact that the Major's story begins a day ~~before~~ the Major's report referred to in para. 2 of 30559 not being founded on the Major's report except so far as it is covered by the previous admission dealt with in (a). As a matter of fact that para. 2 is itself inaccurate in stating that the General Officer took Mr. Pothard to his house.

Copy for 900 ans for Dec 15
13 Dec 15
about with 20-25-1915
by Mr. J. G. P. 1915. 66
General Officer
to be sent to the
General Officer
to be sent to the
General Officer

Next subsequent Paper.

P
1521/16

Mr. Porter stated to Council that we
cannot excuse it off-hand.

(b) must I think be considered.

(c) depends on (a).

Of other points, you said that I was
already intended to clear up the matter
of who was responsible for finding out whether
a man had an actual license or not.

As regards the impishness, the expression (more
fully stated at the interview) that Mr.
Skidmore was not so sure of his duties that
he did not know that he had power to
impose a smaller penalty than the
maximum seems a little improbable,
but clearly Mr. Skidmore's view should
be ascertained - & might well have
been ascertained earlier.

The letter is given as ex parte
statement, but it seems very probable
that Mr. Pollard committed at most a
technical offence, and probably the
results would have been the same,
but for his reticence, of which we had
one or two attempts - in spite of Mr.
Porter's efforts - at the interview. On
account of his untractability it was
considered desirable - unless the Public
Gort were prepared to give way altogether
- that further correspondence should
be conducted through us & Mr. Porter,
rather than via the Post. - with Mr.
Pollard, since the object of the delay
which would be to be avoided.

Given of
C. J. J. J.

Substantia

15/12/15

HUR PORTER & CRUICK

SOLICITORS

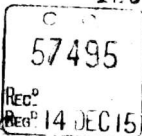
COMMISSIONERS FOR OATHS

TELEPHONE NO.
541 ROMFORDHUR PORTER
& CRUICK

Bank House

Market Place

Romford, Essex



13th December 1915

Sir,

Owing to various causes we have been unable until now to write you confirming the points which we took on our Client's behalf and which he also took when we attended with him upon you on the 9th ^{NOV} inst.

You will no doubt remember that we pointed out to you that the matter seemed to resolve itself into three heads viz:- (a) that there was a colobus monkey skin which our Client declared (b) that there were three blown ostrich egg shells and some ostrich feathers which our Client as the holder of a ostrich farmers license had the right to export (c) that there were certain skins - wild cat, leopard, and rock rabbit, which as they are known as "vermin" our Client thought were not dutiable.

And dealing with each of these matters we took the following points:- As to (a) that it is quite clear that our Client ought never to have been fined in respect of this matter since his statement that he declared the skin is borne out by the statement of Mr Major referred to in paragraph 4 of your letter to us of the 3rd ult: where in order to support his contention that our Client could not plead ignorance of the fact that he had no right to export certain things he stated that our Client was deliberately concealing the fact that he was

HUB PORTER & CRUST,
SOLICITORS

ATTORNEYS FOR AFRICA

TELEPHONE N°
541, ROMFORD

10, SOUTH STREET,
ROMFORD

*Bank House
Market Place
Romford Essex*

13th December 1915

"exporting restricted goods" other than the colobus monkey skin
You will see that Mr Majár himself therefore admits that there was no concealment of the colobus monkey skin and of course it follows at once that no charge as to this ought to have been brought against our Client. If we may say so therefore point (a) appears to be conclusively proved in our Client's favour.

As to (b) that as Mr Pollard was the holder of an ostrich farmer's license he had a perfect right to export the blown eggs and feathers, a right which after his conviction has been acknowledged as appears not only from paragraph 5 of your letter to us of 3rd November but also from a letter received by our Client. Here in this second branch of the case therefore it is perfectly evident on the shewing of the East African authorities themselves that our Client has been wrongly charged and improperly fined.

As to (c) that this was the only point as to which our Client had not merely proved his entire innocence but had absolutely proved the wrong which had been done him. As to his innocence in this matter you have his deliberate statement that these skins were in the box with the colobus monkey skin (which latter skin it is admitted he declared) and that therefore it is on the face of it absurd to suppose that he would endeavour to smuggle out of the country skins in a box which contained an article he was declaring and producing.

HUR PORTER & CRUST
SOLICITORS
24, BAKER STREET, LONDON, W.1

*Bank House
Market Place
Rompford Essex*

13th December 1915

It is obviously improbable and we suggest that in this third branch of the case where the other two branches are already "given away" by the East African Authorities, and our Client is proved to be absolutely right, it is reasonable to assume that our Client was acting in the ignorance of which he has spoken and that this is practically proved by the fact that it would indeed be foolish to attempt to smuggle the skins in a box containing what he knew to be a dutiable skin.

The above are the main facts and contentions in this matter. As you know there are several points in your letter of the 3rd ult: with which our Client joins issue and investigation will no doubt prove that even in minor details the East African Authorities are quite wrong. For instance in your letter it is stated that Mr Kirsopp not being satisfied with Mr Pollard's statements took them to the Chief of Customs. This we are instructed is untrue and the fact is that Mr Pollard asked to be taken to the Chief of Customs and Mr. Jones took him and Mr. Kirsopp. This is of course a matter of evidence which ought to be easily disposed of. Again in your letter it is stated that "after the hearing of the case in Court Mr Pollard's box was cleared but it was stopped at the Customs Gate by the Askafi on duty". This again we are told is not the fact. At the hearing of the Case the box was in court and was returned to Kilindini

W. PORTER & CRUST
 10, BROADWAY
 NEW YORK CITY

*Thank You
 Wm. H. H. H.
 13th Decr 1915*

13th Decr 1915

The box was never stopped at the Customs Gate, but the skins which had been taken out of the box at the Court house and taken to Mombasa by the Customs Officer and (at Mr Pollard's request) wired and sealed up were again stopped. As to the statement that no advice had been supplied to the Customs Office that Mr Pollard was an ostrich farmer or feather merchant, our Client considers that it was not his duty but the duty of the Authorities to communicate this fact to the Customs Office. We understand that you will enquire as to whose duty it is but quite apart from what the answer may be we may point out that Mr Pollard offered to pay for a telegram before the case was heard but this offer was not accepted - a very high handed proceeding and we understand that the Magistrate asked why it had not been done.

The statement in paragraph 4 of your letter of 3rd inst. that Mr Major's view was apparently shared by the Magistrate is, if we may be pardoned for saying so, a little bit gratuitous and his action in that respect may well have been due, as Mr Pollard thinks it was, to the fact that he had only held his appointment for a few days and any argument that may be adduced on account of this action of the magistrate is counterbalanced by the fact that the Magistrate kindly took trouble to get various of the skins returned to Mr Pollard.

THUR. PORTER & CRUST
SOLICITORS
COMMISSIONERS FOR CALLED
TELEPHONE NO.
251, ROME ROAD
LONDON, E.C. 4

*Bank House
Market Place
Romeford, Essex*

19

(5)

There is other detail we could go into, but it does not seem necessary. The broad and main issues of this matter lie in the fact as we have already pointed out that two points out of three in the case against our Client are absolutely now given in his favour and that as to the third point all the probabilities are in favour of our Client's view.

We feel that the very least we can ask is not only that the amount paid by our Client shall be refunded but that some reprimand should be given to the responsible authorities for the loss, damage, and annoyance caused to our Client by the apparently somewhat high handed proceedings taken against him.

Yours obediently,

Arthur Porter & Crust

The Under Secretary of State

Colonial Office

London

S.W.

57495/185 E.A.P.

17 December 1915

Gentlemen,

I am directed by the
Key. Brown Law Co
adv. the recd. of your
letter of the 13th of Dec.
and to inf. you that
he is communicating
further with the Exec.
of the E.A.P. in the
matter of the J. J.
Pollard's complaint
against the (Lentons
Dept. of the Probate

DRAFT.

Genl. Arthur Porter (cont)

MINUTE.

- Mr. Bottomley 12/12/15
- Mr. Read 15
- Mr.
- Mr.
- Sir G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Mr. Steel-Halland.
- Mr. Omar Law.

for comm.

?

See Ch. 1

P EAT
57495/15

129

~~57495/15~~
~~enclo~~

17 December 1915

divd 24388/15

Sir,

I have the hon. to
ack: the recd of your despatch
no. 705 of the 20th of
Sept: and to transmit
to you the accompanying
copy of further correspondence
with Messrs Porter and
Crest on the subject of
Mr J. Pollard's complaint
against the Customs Dept.
of the E.A.T.O

2. I shall be glad to
receive a detailed report on
the letter of the 13th of
December. You will observe
that the main points urged
are that Mr. Pollard
voluntarily declared the
goods, and that the

DRAFT.

S.A.P. No 905

Encl.
Belfield

MINUTE.

- Mr. Hadowley 15/12/15
- Mr. Read 15
- Mr.
- Mr.
- Sir G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Mr. Steel-Maitland.
- Mr. Bonar Law.

Forwards

To Messrs. Porter & Crest 3/12/15
(58258)

From d.o. 13 Dec
(57495)

As the box from which he
produced it contained the
other skins also he could
not be expected on having
inspected them. The baggage
ref. 1, enclosed in your
dispatch, does not deal,
explicitly at all events, with
the account of the original
interview between Mr. Pollard
and the Governor official as
given in lines 6 & 7 of Messrs
Porter and Conroy's letter of
the 1st of July, and you
will observe that they regard
the Major's reference to goods
other than the Colobus monkey
skins as an admission that
that skin was in fact
declared. This point
should be cleared up, and
if, as is possible, it is one
of those in which there is a
conflict with the sworn
Statement of the Customs Clerk
I shall be glad to be informed
whether Mr. Pollard gave his
account of the interview either
at the hearing in Court or at
any other time and

(see journal of
report in 60258)

DRAFT.

130
if no other skins were
taken to Madagascar.
3. The question whether the
other ^{skins} ~~skins~~ ^{skins} ~~skins~~ are in the
same box as the monkey skin
should present no difficulty if
they were, and if Mr. Pollard's
statement as to his voluntary
declaration of the monkey
skin and his opening the box
can be ^{accepted} ~~substantiated~~, I see
no difficulty in believing
that he was not aware
that the other skins were
detainable.
4. As regards the ostrich
feathers and eggs, I shall
be glad to learn whether
Messrs Porter and Conroy
are correct in
claiming that Mr. Pollard's
right to export them has
been recognized. On
this point, I do not clearly
understand whether the
Customs Dept. has or has

expected to keep a list
of license holders or whether
the latter are expected to
produce their licenses
for the information of the
Customs officials. In the
latter case it is certainly
desirable that the
license holders should be
left in no doubt as to
their responsibility in the
matter.

5. With regard to the hearing
in Court, ^{the reasons} ~~the points~~ on which
I require further information
I get the fact that Mr Pollard
pleaded guilty rather than
have the case adjourned and
that he explained ^{in Court} his reasons
for pleading guilty? What
considerations led Mr
Sheridan to impose the
maximum penalty? What
view if any did Mr Sheridan, on
the facts before him, form as
to the desirability of any
provisional sentence or the
probation of Mr Pollard?

be glad if you will forward
me with a report by Mr. 131
Sheridan on the points and
on any other bearing on the
case which may occur to
him, and it may ^{be convenient}
that I should also have ^{a copy of}
notes on the hearing.

6. I understand that the
finder was made up as follows:

Value of Cloven skin	Rs. 30
" " leopard skins	25
" " Rock rabbit skins	25
" " Cat skins	10
" " Otter feathers	7
" " Otter eggs	3
	<hr/>
	100
Duty at 10%	10
	<hr/>
	110

Fine of trade value & duty, Rs 330.

It will be convenient if in
replying to this despatch
you will inform me whether
any and if so what portion
of the fine ought to be
remitted.

Letter omit.
This was suggested
by the Solicitor but
I disapproved of it
as it is better to
as it is better to
as it is better to

7. I may add that it was
~~not~~ ^{not} considered as the returns
to the Court had been

(Signed) A. BONAR LAW.

on the 9th of Nov. that
further correspondence on
this subject should be
carried on through the Colonial
Office and I have Po to and
Crest notwithstanding the
fact that Mr Pollard has
now returned to the E. A. D.

34