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SEUT. F. MACKAY, duly warned, states :-

At 8 p.m. on the 14th April I was present when S.M. McCrae and Sergts. Robb, Geesen, Johnston, came to Capt. Myles and enquired whether the order issued (to march on the following morning) still held good. The S.M. went on to say that owing to the small number of men remaining, and that the majority of these men were sick, and that he was afraid the Company would be unable to move next day, and he thought that the Company would go so far as to refuse to obey a direct order to do so. On (at) 6.30 a.m. on the 15th I was present on parade when Capt. Myles asked every man present whether he realised the seriousness of disobeying an order, and, after receiving the answer 'yes' from each man, Capt. Myles gave the order 'Saddle up.' None of the men on parade made any attempt to comply with the order. Capt. Myles thereupon placed the Company under arrest. He (Capt. Myles) ordered them to report to the M.O. on the evening of the 14th. They reported. On the evening of the 14th I saw the sick report and saw that about 12 men were marked for L.D. There was an ambulance at the camp. The M.O. was Major Pierson. The sick report was returned to Capt. Myles.

Read over and signed by him in the presence of the accused.

(Signed) F. MACKAY, Lt.,
E.A. Maxims.

Before me.

V. W. Dunman, Lt.,
A.P.M.

Questions by the Accused, through Major E. D. Browne at their request.

Q. Do I understand that the warning was given before or after the order to "saddle up" ?

A. The warning was before the order.

Q. Was there any time between the giving of the order and the placing under arrest of the men ?

A. Yes, about 1/4 hour.

Q. What were the men doing during this 1/4 hour ?

A. Nothing in particular, standing about and talking.

Q. How many times was the order given to "saddle up" ?

A. Once and not repeated.

Q. Do you say that Capt. Myles gave the men the order to report sick on the evening of the 14th ?

A. Yes.

Q. Did Capt. Myles ask the men individually as to the seriousness of disobeying an order when they were actually fallen in on parade or before ?

A. When they were fallen in.

Q. Did the deputation bring home to Capt. Myles the seriousness of the position in the minds of the men ?

A. Yes.

Q. Did the deputation ask Capt. Myles to see the Brigade Major about the condition of the Company ?

A. I did not hear it.

Q. Did Capt. Myles go and see the Brigade Major about the

matter ?

A. He went to the Staff, presumably to see them about something; I cannot say for certain what.

Q. Did you have any conversation with Capt. Myles with reference to the deputation after he saw the Brigade Major or Staff?

A. No.

Q. As far as you know any conversation between Capt. Myles and the Brigade Major had produced no tangible result ?

A. No.

Q. After the order to "saddle up" was disobeyed, did Capt. Myles and the other officers leave the parade immediately ?

A. Yes, immediately, and the men fell out themselves.

Read over and signed in the presence of the accused.

F. Mackey, Lt.,

E.A. Mackey.

The accused having been asked declined to make any statement.

No further evidence available Arusha at this stage.

Witnessed and signed in my presence.

V. W. Dumeau, Lt.,

A.P.M., Arusha.

Summary of Evidence at Trial.

CAPTAIN MYLES, duly sworn, said that at Kumbulum on the 14th April, 1916, he received orders from Bde. Hqrs. that his unit would leave that place on the next day. He ordered the Orderly N.C.O., Sgt. Geeson, to be ready at 6.45 a.m. on the 15th April. About 9 p.m. on the 14th Sgt. Major Macrae, Sgts. Geeson, Johnson, and Rebb came and asked if an enquiry could be demanded into the state of the Co., the shortage of men, and their medical fitness. Witness told them he had already sent in a statement to Bde. Hqrs. through Brigade Major pointing out shortage of men. The strength then was 32 of normal establishment of 96.

When explaining to Sergt. Major, the latter said the Company did not wish to go against military discipline, but the men would go so far as to refuse to obey a direct order to move.

On the morning of the 15th April, about 6.30 a.m., witness noticed no preparation to move. He took the two section commanders, Lieuts. Batchelor and Mackey, to the lines, and the men to be fallen in and roll called. He cautioned the men individually of the seriousness of refusing to obey orders, and asked each if he understood what it meant, receiving from each an affirmative. He then gave the order to "saddle up", but no one moved. He called the four section sergeants and asked the reason for refusal to obey. Some said shortage of men, some medical unfitness, and others bad boots. He placed the men under arrest and reported matter to Bde. Hqrs.

Cross-examined.

After the deputation on evening of 14th witness saw Bde. Staff Officer and reported to him. Nothing was done as a result of the visit to Bde. Hqrs. No reply was received.

Witness had said he expected trouble in the morning.

If Sergt. Major says did not use the words "Co. would refuse to obey an order" that would be incorrect. Positive that words were used as given in evidence in chief.

Represented at Kumbulum to Ede. Maj. four days before that efficiency could not be maintained with strength and that men were overworked. Nothing happened as a result.

Made every effort to obtain amelioration. Asked for 72 porters. None of requests granted.

No hesitation in falling in on morning of 15th.

Between night of 14th and morning of 15th no other deputation approached witness.

After order to saddle up was given and not obeyed, witness went away for 40 yds. and then called team sergeants. Four or five came up. Pointed out seriousness of refusal and then put them all under arrest after they had repeated their reasons. Did not say he was going to see Ede. Major prior to placing men under arrest.

Between 5 and 10 mins. elapsed between order to saddle up being given and men put in arrest.

Witness was of opinion that unit was fit to parade on date in question.

Sick parade on morning of 14th was about 8 or 10. Could not say if all had medical attendance. There was no malingering.

Did not know how many were on sick parade on 15th but no malingering after arrest.

On evening of 14th, after deputation, witness did not best of his knowledge order a sick parade.

After order to saddle up was disobeyed, witness did not dismiss the parade.

Unit was fit as it stood, and it moved on Apr. 13th 10 miles from Kumbulum and returned. One man, witness noticed,

3.

Call out.

Up to time of disobedience of orders on 15th April unit had on every occasion done its best and had given witness satisfaction in every way.

During period June 1915 to Nov. 1915 unit was in Nairobi and there was ample opportunity for its equipment.

Lt. Mackey was present on evening of 14/Apr and could have heard what passed between witness and deputation. Also present on morning of 15th.

Did not think that calling team sergeants after order disobeyed gave men impression that they would have further opportunity of reciting grievances. He conveyed nothing to them that he was prepared to discuss matters.

Witness did everything possible to obtain tents and clothing for the men. While at Kumbulum, men had no tents or shelters, shelters having been returned in consequence of late transport.

Length of parade on 15/4/16 was 29 N.C.Os. & men of 96. 2 and 3 stretcher bearers. Should have been 18 ayces.

No. 1 team had 1 N.C.O. to work gun.

No. 2 " " 2 N.C.Os. and 5 men.

No. 3 team witness could not say.

Mutual assistance all guns could have been worked but faulty.

Trained man was present with Co. and would be useful.

Four or five were partially trained, some others.

Men stronger than 61 N.C.Os. & men.

Relative to Pte. Dalgleish marked 'B'.

Accuracy but does not remember

W. not. He was present in parade

4.

en morning of 15/4/16.

Witness could not say whether sick parade was held before order to saddle up was given on morning of 15/4/16. There was one after. (Note. - Standing Orders provide that sick parade is to be held one hour before unit moves).

Men on "light duty" would parade, move, and work with unit. All N.C.Os. were aware of St. Orders re sick parades
Re-examined.

Ample opportunity was given to report sick when men were warned of consequences of disobedience.

By Court.

Witness could personally swear that all the accused were on parade on morning of 15/4/16.

(Signed) J. M. Myles, Co.

E. A. Max

LIEUT. F. MACKAY, duly sworn :-

On evening of 14/4/16 about 8 p.m., at Kumbulum, S.M. Macrae, Egts. Rebb, Geesen, and Johnson came to Capt. Myles and asked if order to move next day held good. He said 'yes'. Sgt. Major said owing few men remaining and fact that majority these were sick he thought Co. would be unable to move and would go so far as to disobey a direct order to do so.

On morning of 15/4/16 at 6.30 a.m. witness present on parade when Capt. Myles, after asking each man if he realised seriousness of disobedience and receiving affirmative from each, gave order "saddle up". No man attempted to comply. Capt. Myles afterwards placed Co. under arrest.

About 12 men were on light duty, but witness could not say how many were actually off duty for sickness on 14/4/16.

Cross-examined.

There was a sick parade on the evening of the 14th Apr. at which more than 12 were present. Witness was clear this was held in the evening by Capt. Myles' order. There was additional ^{to} morning sick parade.

Witness knew of no standing order relating to sick parade before marching out.

Witness did not know if Capt. Myles went round before time ordered for parade on 15/4/16 to urge men to comply with order.

Capt. Myles, before order to saddle up was given, warned men of seriousness of refusing to obey orders and said "Let us have no nonsense."

After order was disobeyed, Capt. Myles walked away with witness and Lt. Batcheler, and after half an hour witness saw team sergeants go to Capt. Myles but could not say if they had been called. Then Capt. Myles and Lt. Batcheler went away towards

2.

towards Bde. Hqrs., and as he went witness heard the former say to team sergeants "You must consider yourselves under arrest." Witness could not say whether this was meant to apply to the whole Co. or only to team sergeants.

When deputation saw Capt. Myles on the 14th., the Sergt. Mjr. said he thought men would go so far as to disobey the order to move. He also remarked that majority of men were sick, and also that the men were volunteers, not regulars, and must study their health.

On morning of 15th April, the conversation between Capt. Myles and team sergeants lasted about two minutes. Witness did not hear what passed.

In witness' opinion, the unit was fit to proceed in obedience to order to move, though only at one-third strength.

Witness had represented to Capt. Myles, prior to 14th Apr., that Co. was seriously weak in numbers.

(Signed) F. Mackey, Lt.,

H. A. Maxims.

Court adjourned at 12.45 p.m.

Court reassembled at 2 p.m.

Prosecution calling no other witnesses, prisoners' friend asked for adjournment until to-morrow. Reasons given being in opinion of Court adequate, adjourned until 10 a.m. to-morrow 15th inst.

Court assembled at 10 a.m. on 15th May 1916.

Evidence called by defence.

SERGEANT MAJOR JAS. MACRAN, duly sworn, said bivouac shelters for whole unit were issued, weight being about 60 lbs. They were returned

returned to sters. These were intended to be carried by the men. They could have been carried in addition to other equipment.

When deputation saw Capt. Myles on night of 14th Apr. witness said "The men will not go against military discipline but anything might happen in the morning." The statement that witness said the men would go so far as to disobey a direct order is absolutely incorrect.

Witness represented the shortage of men, medical examination of whole unit was necessary (necessity for ?). Witness understood the purpose of the deputation to be to generally represent grievances and to point out the inefficiency of the unit due to shortages named, viz. men, equipment, &c.

In reply to request to see Bde. Major, Capt. Myles said he would see that officer himself.

He medical inspection was ordered after the deputation, and no men reported sick.

Deputation returned to quarters after seeing Capt. Myles. Witness told his men that they expected an answer that night or in the morning. He gave no advice one way or the other. He did not hear that the men intended to disobey orders.

At about 6.30 a.m. on the 15th., witness and five sergeants saw Capt. Myles. Witness asked if Co. was still under orders to move and if any answer had been received from Bde. Major. Capt. Myles said he had seen Staff Capt. but did not say what result was. Witness did not ask.

At parade Capt. Myles warned men of the seriousness of disobedience, and then ordered "saddle up". The men hesitated, and then the order "All right, fall out", was given. This was obeyed, and the men went towards their team equipment. Then
team

4.

team sergeants were called up by Capt. Myles. Latter asked for list of grievances, which were repeated as on previous evening. He then turned away, walked 5 or 6 yards, turned round and said "Consider yourselves under arrest".

Witness had no meeting with the men at which disobedience was arranged. Had there been any meeting of N.C.Os. and men, witness must have known. There was no such meeting.

No opportunity was given to carry out order to saddle up. Kits were packed in readiness. Everything was in readiness to saddle up, and prepared to carry out the order to move.

Cross-examined.

No roll is called before moving. Team commanders are responsible that men are present.

It is not customary to fall the men in before saddling up.

Witness was positive no time was given the men to obey. Team commanders were called away within 5 minutes of the order to "saddle up", which takes about 1/2 an hour.

No deputation of men waited on the N.C.Os.

By the Court.

Did not know the men were likely to refuse to obey orders.

There was never any question in witness' mind that orders were to be disobeyed. Neither was the order disobeyed & no opportunity of obeying was given.

(Signed) James Macrae.

SERGE. HERBERT GIBSON, duly sworn :-

Witness was one of deputation on evening of 14/4/16. The reason of the deputation was that N.C.Os. knew the state of the Co. and thought the O.C. should know. There was shortness of men, many were medically unfit, and equipment was short and had.

bad. Deputation asked that these matters should be put before Bde. Major, and Capt. Myles said he would see that officer. Next morning deputation went to O.C., at 6.30 a.m., who said he had seen Staff Capt. who had informed him that unit was to move.

The words used at the deputation on 14/4/16 were that the men would not go against military discipline but that something might happen in the morning. Evidence of prosecution that it was stated men would disobey orders was incorrect.

No sick parade was ordered as a result of the deputation. There was a sick parade ordered on the evening of the 12th.

After deputation on 14/4/16 witness told his team what had happened but gave no advice. Witness did not know that there was any intention to disobey orders. Would certainly not have advised disobedience.

After 6.30 a.m. on the 15th parade was ordered, and O.C. asked men if they realised the seriousness of disobedience. All replied affirmatively. Order was then given to "saddle up". Men waited for usual order to dismiss, which was given by Capt. Myles. The men fell out; Capt. Myles walked away a few yards, turned, called the team commanders and asked for a statement, which was repeated on the lines of that of previous evening. This was given. Capt. Myles turned away, walked a few yards, turned again, and said "Consider yourselves under arrest".

No opportunity was given to obey the order.

No meetings were held at which disobedience was discussed.

By the Court.

Everything was ready to saddle up at 6.30 a.m. on the 15th.

Cross-examined.

Between the order to move and 6.30 a.m. on the 15th all

essential

6.

essential work was done to prepare for the move.

(Signed) H. L. Gesson, Sgt.

D. SILVER, duly sworn :-

When parade was called on morning of 15th Apr. the order to saddle up was given by Capt. Myles. The men waited for customary order to "fall out" or "Dismiss". Men fell out and went towards their team equipment. Capt. Myles called the commanders and asked for grievances. Various were stated.

Capt. Myles turned, walked away, turned back, and told commanders to consider themselves under arrest. Only a minute had elapsed. Saddling up would take at least half an hour.

Everything was ready for loading up, kits were packed all in readiness for the move.

(Signed) D. Silver, Sgt.

re-called :-

Witness gave the order to fall in personally. It was not customary to give an order to "Fall out" after the order "saddle up".

re-examined.

The men should have fallen out and saddled up when the "saddle up" was given. It is an executive order.

the Court.

There could have been no misunderstanding in the minds of the men of the meaning of the order "saddle up".

(Signed) J. M. Myles, Capt.

(Signed) W. Whittall,
Major.

CHARGE SHEET.

The accused

- | | |
|------------------------------|----------------------------|
| No. 3501 Sgt Maj Jas. Macrae | No. 3506 Sgt W. Robb |
| 3507 Sgt H. L. Geesen | 3504 Sgt D. Silver |
| 3516 Sgt G. Brown | 3509 Sgt V. J. Johnson |
| 3527 Cpl F. J. Macnamara | 3530 Cpl J. S. Oliphant |
| 3547 Cpl W. K. Metcalfe | 3559 Cpl R. Elliott |
| 3537 Pte J. Whyte | 3515 Pte J. Blacklaws |
| 3526 Pte J. L. Moon | 3524 Pte J. R. Kennedy |
| 3533 Pte E. S. Seaton | 3532 Pte A. Rodger |
| 3511 Pte U. H. Bourke | 3539 Pte A. Pietsen-Warlew |
| 3568 Pte W. R. Galloway | 3518 Pte J. S. Dalgleish |
| 3554 Pte H. Griffiths | 3525 Pte H. Lyall |
| 3555 Pte J. T. Molloy | 3556 Pte J. Mackay |
| 49 Pte E. Brady | 3555 Pte H. W. Barrow |
| 7 Pte P. Kottidge | 3561 Pte G. Kennedy |
| | 3553 Pte J. Macleod |

African Volunteer Maxims, soldiers of His Majesty's

Protectorate Forces, are charged with

Sec. 7 (3a). Joining in a mutiny in Forces belonging to His Majesty's Protectorate Forces in that at Kumbulum German East Africa on or about the 15th April 1916 joined in a mutiny by amongst themselves to disobey an order given by Captain J. M. Myles then Commanding Officer in the execution to immediately "saddle up" preparatory to marching;

Alternatively

Sec. 7 (3b). Being present at, did not use their utmost endeavours to suppress a mutiny in Forces belonging to His Majesty's Protectorate Forces in that they at Kumbulum German East Africa on or about the 15th April 1916 were present at a mutiny of the East African Volunteer Maxims who when on parade refused to obey an order given by Captain J. M. Myles their Commanding Officer in the execution of his duty to immediately "saddle up" preparatory to marching and took no steps to prevent such mutiny.

(Signed) J. M. Myles

Copy).

Pte. Dalgleish.

On the 14th and 15th April '16 I was attending hospital. I had both hands bad with ulcerations (right hand poisoned). On both days I was struck off duty and ordered by the M.O. not to do any manual labour. (Sick reports show my being struck off all duty).

(Q). Had Capt. Kylee right to order me to carry out an order involving manual labour ?

B.

(Signed) W. Whittall, Major,
President.

Copy).

Pts. Dalgleish.

On the 14th and 15th April '16 I was attending hospital. I had both hands bad with ulcerations (right hand poisoned). On both days I was struck off duty and ordered by the M.O. not to do any manual labour. (Sick reports show my being struck off all duty).

(2) Had Capt. Nyles right to order me to carry out an order involving manual labour ?

B.

(Signed) W. Whittall, Major,
President.

(Signed) W. Whittall,
Major,
President.

List of N.C.Os. and Men of the Gun Teams at
Kumbulua, April 15th 1916.

<u>Rank</u>	<u>Name</u>	<u>Age</u>	<u>Service</u>	<u>Occupation</u>	<u>Remarks</u>
1. Sgt. Major	J. Maerac	27	21 months E.A.R. & E.A.M.	Shop Assistant	Sgt. 7 yrs previous service 3 yrs vols. 4 yrs T.F.
2. Sgt.	D. Silver	37	21 months E.A.R. & E.A.M.	Farmer	
3. Sgt.	W. Hobb	38	21 months E.A.R. & E.A.M.	Builder	
4. Sgt.	H.L. Geesen	36	21 months E.A.R. & E.A.M.	Architect	
5. Sgt.	V.J. Johnson	31	21 months E.A.R. & E.A.M.	Architect	
6. Sgt.	G. Brown	29	21 months E.A.R. & E.A.M.	Printer	
7. Cpl.	F.J. Macnamara	24	21 months E.A.R. & E.A.M.	Shorthand Typist	
8. Cpl.	J.S. Oliphant	23	21 months E.A.R. & E.A.M.	Clerk	
9. Cpl.	R. Elliott	27	14 months E.A.R. & E.A.M.	Govt. Servant Land Office	
10. Cpl.	W.E. Netcalfe	24	17 months Railway Vol. E.A.T.C. E.A.M.	Govt. Servant Railway	
11. Pte.	J. Blacklaws	23	21 months E.A.R. & E.A.M.	Storeman	
12. Pte.	J. Moon	35	21 months E.A.R. & E.A.M.	Govt. Servant Forestry Dept.	
13. Pte.	J.R. Kennedy	24	21 months E.A.R. & E.A.M.	Accountant	
14. Pte.	J. Whyte	26	21 months E.A.R. & E.A.M.	Uphelsterer	
15. Pte.	A. Redger	31	21 months E.A.R. & E.A.M.	Cabinet-maker	
16. Pte.	C.G. Seaton	30	21 months E.A.R. & E.A.M.	Agent	

<u>Rank</u>	<u>Name</u>	<u>Age</u>	<u>Service</u>	<u>Occupation</u>	<u>Remarks</u>
17. Pte.	A. Pictou-Warlew	34	17 months E.A.R. & E.A.M.	Planter	
18. Pte.	J.S. Dalgleish	33	17 months E.A.T.C. & E.A.M.	Clerk	
19. Pte.	W.H. Bourke	26	21 months E.A.R. & E.A.M.	E.A.M.R. Planter	
20. Pte.	W.R. Galleway	29	7 months E.A.R. & E.A.M.	Watchmaker	
21. Pte.	H. R. Lyall	25	9 months E.A.R. & E.A.M.	Clerk	
22. Pte.	H. Griffiths	26	6 months E.A.M.	Accountant	
23. Pte.	J. McKay	32	6 months E.A.M.	Govt. Servant Computer	
24. Pte.	J. T. Malley	29	6 months E.A.M.	Accountant	
25. Pte.	H. W. Barrow	30	6 months E.A.M.	Govt. Servant Land Office	
26. Pte.	E. Brady	29	4 months E.A.M.	Govt. Servant Zanzibar Dept.	
27. Pte.	G. Kennedy	30	6 months E.A.M.	Law Clerk	
28. Pte.	P. Nettidge	18	4 months E.A.M.	Planter	?
29. Pte.	J. MacLeod	31	6 months E.A.M.	Shop Assis- ant	in Hosp.

(Signed) W. Whittall,
Major,
President.

Sentences Imposed.

3501	Sergt. Major Jas. Macrae	4 years penal servitude.
3506	Sergt. W. Robb	3 years penal servitude
3504	" D. Silver	3 years penal servitude
3507	" H. L. Geesen	3 years penal servitude
3509	" V. J. Johnson	3 years penal servitude
3527	Cpl. F. J. Macnamara	18 months hard labour
3516	Sergt. G. Brown	3 years penal servitude
3530	Cpl. J. S. Oliphant	18 months hard labour
3559	" R. Elliott	18 months hard labour
3547	" W. M. Metcalf	18 months hard labour
3515	Pte. J. Blacklaw	18 months hard labour
3537	" J. Whyte	12 months hard labour
3524	" J. R. Kennedy	12 months hard labour
3526	" J. L. Moon	12 months hard labour
3532	" A. Redger	12 months hard labour
3533	" C. G. Seaton	12 months hard labour
3539	" A. Pictou-Warlow	9 months hard labour
3511	" V. H. Bourke	12 months hard labour
3518	" J. S. Dalglisb	Acquitted
3468	" W. R. Galloway	6 months hard labour
3525	" H. Lyall	6 months hard labour
3554	" H. Griffiths	6 months hard labour
3556	" J. Mackay	6 months hard labour
3558	" H. W. Berrow	6 months hard labour
3555	" J. T. Melley	6 months hard labour
3569	" E. Brady	6 months hard labour
3561	" J. Kennedy	6 months hard labour
3567	" P. Nettlage	3 months hard labour
3563	" J. McLeod	6 months hard labour

(Copy).

E.

(Signed) W. Whittall,
Major,
President.

In forwarding papers relating to Field General Court Martial held at Aruseha on 12th and 13th May, 1916, on men of East African Maxims, the Court desires to represent to the Confirming Officer their impression that the charge of mutiny against the men concerned would not have arisen had the Officer Commanding the Company handled the situation with proper tact and consideration.

The Court ventures to submit that under all the circumstances the cases of all the men concerned may justifiably be approached with the maximum of leniency, and the Court further recommends all these men, in the strongest possible manner, to mercy.

(Signed) W. Whittall, Major, President.

(") I. P. Atkins, Capt., Member.

(") D. M. Drury, Capt., M.L.B.

Aruseha,

13th May 1916.

P.

(Signed) W. Whittall, Major,
President.

Arusha, 11.5.16.

East Africa Maxims.

Nominal Roll of N.G.Os. and Men in arrest.

<u>Rgtl. No.</u>	<u>Rank & Name</u>	<u>Remarks</u>
3501	Sgt. Major Jas. Macrae	
3504	Sgt. D. Silver	
3506	" W. Rebb	
3507	" H. L. Geeson	
3509	" V. J. Johnson	
3516	" G. Brown	
3530	Cpl. J. S. Oliphant	
3527	" J. Macnamara	
3559	" R. Elliott	
3547	" W. H. Mescalfe	
3515	Pte. J. Blacklaws	
3537	" J. Whyte	
3524	" J. H. Kennedy	with
3526	" J. L. Moon	hard
3532	" A. Hodger	labour
3533	" C. G. Seaton	
3539	" A. Pietsen-Warlow	
3511	" U. H. Bourke	
3518	" J. S. Macglaish	
3558	" W. H. Galloway	
3522	" H. Lyall	
3554	3556 H. Griffiths	Has occasional attacks
3554	" J. T. Malley	of papitation but is
3558	" H. W. Berrow	otherwise sound.
3559	" M. Brady	
3561	" G. Kennedy	
3557	" P. Bettidge	
3553	" J. MacLeod	Admitted Hosp. Kumbulum, 16th Ap. Conv. Hosp., Arusha. MacLeod is now convalescent from dysentery and appears to be fit to resume duty.

J. R. B. Dobson,
Lt., R.A.M.C.,
Casualty Clearing Station,
Arusha.

12.5.16

(Copy).

D. J. A. G. / 207.

General Headquarters,
Nairobi,

24th May 1916.

From

The D.A. & Q.M. General,
General Headquarters.

To

The Commander-in-Chief,
East African Force.MEMORANDUM

Proceedings on trial of East African Maxim Coy. for mutiny submitted. Confirmation has been reserved by Convening Officer.

The fact that the Court convicts the men shows that they believe they had a sufficient opportunity to obey the order given to "saddle up" and that they made no attempt to obey.

The recommendation to mercy is on the grounds that Capt. Myles did not handle the situation with tact.

This is not borne out by evidence, unless the evidence of Capt. Myles is not believed, in which case the conviction is wrong. The conflict of evidence is two-fold:-

(a) Capt. Myles and Lieut. Mackay say that Sergt. Macrae warned them the men might go so far as to refuse to obey orders to move. This Sergt. Macrae absolutely denies.

(b) Capt. Myles says the men had opportunity to obey orders. This again Sergt. Macrae and other N.C.Os. deny.

It is evident Capt. Myles had reason to believe the men contemplated disobedience, which goes to show that he had had warning. Whether it was tactful to warn men is questionable.

If the men had not the opportunity to obey the order, when given, of course the conviction would not stand.

The List "C" shows the class of men concerned.

Considering the probabilities of the case, the question seems to be, was the action of the men a deliberate pre-arranged refusal to obey an order, or was it a wrong-headed attempt to get grievances rectified, the idea of disobeying that particular order being possibly put into their heads by Capt. Myles' warning.

The probability is that the men did not realize the seriousness of disobeying an order collectively in this way, and that they would have obeyed the order if Capt. Myles had handled the situation differently, and, instead of walking away, had called on the men to obey the order. An offence would still have been committed, but one of much less serious a nature than it appeared to be under the circumstances that actually prevailed. That they did not realize the seriousness of the case even when awaiting trial was noticed by the Deputy Judge Advocate General when at Arusha the day prior to assembly of the Court.

(Signed) C. F. FENDALL, Colonel,

A.A.G.,

for D.A. & Q.M.G.

(Copy).

I certify that this Court Martial was promulgated by the Post Commandant, and that the necessary extracts were taken from it and sent to the Unit concerned.

(Signed) C. O'HAGAN, Capt.,
Station Staff Officer,
Nairobi.

Dated 24/6/18.

No.D.J.A.G./207.

Confidential.

General Headquarters,
Nairobi,

7th July 1916.

To

The Hon. The Chief Secretary,
E. A. Protectorate.

1. I am directed by the D.A. & Q.M.G. to forward for perusal (under confidential cover) the proceedings on trial of the man of E.A. Maxima for mutiny.

2. When sent to the C.-in-C. for confirmation he returned proceedings endorsed "Sentences all reduced to dismissal from Army." The order as it stands is not in accord with the Army Act, as Sec. 44 provides "dismissal" as a punishment for officers, and "discharge with ignominy" for soldiers. In order to bring the Chief's order into line with the Act, Col. A. Stuart has endorsed formal confirmation on the schedule. The sentence of discharge with ignominy is less than imprisonment or detention.

(Signed) E. C. GRANT, Capt.,

D.J.A.G., E.A. Force.

No. DJAG/207.

General Headquarters,
Korogwe,

27th July 1916.

To

The Staff Officer,
Volunteers.

The attached proceedings of a Field General Court Martial on 29 men of the East African Maxim Company are passed to you for record please.

(Signed) E. E. GRANT, Cpt.

D.J.A.G., E.A. Force

Nairobi.

17th July 1916.

Dear General Ewart,

After minutely examining the record of the proceedings at the Court Martial held on 28 members of the East Africa Maxim Company, I have arrived at the following conclusions, which I put before you for consideration by the G.O.C.:-

- (1) That the ^{conviction} evidence was bad, because there is no sufficient evidence to establish the fact that the offence with which the men were charged was actually committed, no sufficient time having been allowed by the Commanding Officer to enable the men to comply with his order before placing them under arrest.
- (2) That, if in the fact the men did hesitate or show disinclination to obey the order, such hesitation was not in the nature of deliberate insubordination, but resulted from their anxiety to make such protest against the insufficiency of their ^{arms and} equipment as would impress the proper authorities with the serious nature of the deficiencies under which they were suffering.
- (3) That these men were among the first to join the East Africa Mounted Rifles on the outbreak of war, and, being volunteers from civil employment, might reasonably be presumed to have less accurate knowledge of military discipline than the regular soldier, and that for these reasons they might well have been treated with greater leniency.
- (4) That the trouble was intensified, if not actually created, by the tactless and precipitate ^{manner} conduct of the Commanding Officer, who, having apparently

apparently failed to make adequate representation to the proper authorities, contributed to the trouble by treating his men with unnecessary curtness and acting on the presumption that insubordination was intended.

- (5) That the guilt of the men has not been definitely established, and that, even if such is accepted as proved, the punishment inflicted should not be increased by dismissal from civil employment.
- (6) That the penalty of dismissal from civil employment would work unequally and unfairly because the Government employee would lose his position while the man who is a settler would simply return to his farm.

Yours sincerely,

Sd. H.C. BELFIELD.

27.7.16.

ENCLICATE NUMBER No 4

Conf
No. 99 of 19-8-16

453

Dear Sir Henry Belfield,

General Smuts passed through here yesterday and I showed him your letter to me on the subject of the East African Maxim Company Court Martial. He asked me to tell you that he regrets he is unable to reconsider his decision. He holds that the case must be looked at entirely from a military standpoint. The men in their petition repeatedly acknowledge that they deliberately disobeyed the order of their Commanding Officer, and, apart from the serious nature of such an offence in the Field, the General Officer Commanding-in-Chief has had to take into consideration what the effects might have been on the other troops. He cannot accept the men's excuse that they resorted to mutinous conduct in order to air their grievances, as the legitimate means of redress were always open to them.

The offence is punishable by death, and the minor sentences of penal servitude were awarded because of the special circumstances under which the men had been rearing and the fact that possibly their Commanding Officer showed some want of tact in handling the case.

General Smuts says he is sorry that the punishment falls more heavily on the Government employees, but he holds that their position would have been even worse if he had allowed the original sentences to stand. The question of the further disposal of the men who were formerly in the employ of the Protectorate Government is, of course, one for your decision, but in view of the recent ruling by the Secretary of State in regard to civilians who resign their appointments to enter military employ, they would seem, under the spirit of this regulation, to be debarred from reverting to their original appointments.

Your sincerely,

Sd. R.H. EWART.

R. 6 OCT.
D. 6

Sc

Downing Street,

7 October, 1916.

Divsd 55298

Sir,

I am directed by Mr. Secretary

Bonar Law to request you to lay before the Army Council, the accompanying copy of a despatch with its enclosures, from the Governor of the East Africa Protectorate relating to the case of five officials of the Protectorate Service who were serving in the East African Maxims, and have been discharged with ignominy from His Majesty's Service.

Mr. Bonar Law would be glad, before coming to a decision in the matter, to be favoured with the observations of the Council, and he ^{would be glad to receive} ~~will be glad to receive~~ ^{could be sent} those observations, as early as possible, since the five men concerned have, as will be seen from the despatch, been provisionally reinstated in the civil

service

DRAFT.

SECRETARY,

WAR OFFICE.

MINUTE.

- Mr. Butler. *6.10.16*
- Mr. *f.s.*
- Mr.
- Mr. Grindle.
- Mr. Lambert.
- Mr. Read.
- Sir G. Fiddes
- Mr. Steel-Maitland.
- Mr. Bonar Law.

Gov. E. A. P. Conf. 99. Aug 19. 1916.
(44782)

(f)

Gov E.A.P.
44782

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Sc

16

17 Nov. 1916

DRAFT.

The Secretary
War Office

Dec 55208

Sir,
With ref. to the
letter from this Dept.
of the 7th of Oct., I
am to request
you to inf. the A.C.
that he will be glad
if they can furnish
him with their views
on the case of the
five applicants of the
E. A.P. service who
have served with the
E. Africa Mission and
one developed with
experience from N.M.
service.

Oct. 16. 11. 16 f

(Review directed
by Mr. Butler)

(Signed) E. J. [unclear]