

1931

Kenya

No. 17247

SUBJECT: C0533/414

Trace of Amelia S/O Thomas
for missing number of Mr. Redford

Previous

Subsequent

15545/52

18063/52 (Amelia)

Los Angeles 314

8 June

In copy of manuscript notes of trial of Angela
to which he attempted murder of M. Ketchum
and sentenced to five years hard labour for
undoubtedly having grievous harm done. His
appeal has been lodged.

314

I am not quite clear what
all this is about - the case seems
quite a straightforward one.

Presumably certain instructions
have given in the Department.

Nothing can be done till
evidence is found - please have
written for it.

W. J. G. 17.7.51

The draft referred to can't be traced
I think this might be put by.

Alternatively we might ask W. J. G.
so for a copy of the draft.

W. J. G.
17.7.51

Written work for it

W. J. G.

To H. T. Martin - Los Angeles - 2007-1574

Los Angeles 3/1

8 June

In copy of transcript notes of trial of Angela
to Athens for attempted murder of Mr. Pittard
and sentenced to five years hard labour for
unlawfully causing grievous harm - details of
appeal has been lodged

Kra

I am not quite clear what
all this is about - the case seems
quite a straightforward one

Presumably certain instructions
were given in the Dept. referred
to

Nothing can be done till
this is found - please have
another try for it

Glendon
17/7/51

The Dept. referred to can't be traced
I think this might be put by.

Alternatively we might ask Mr. Parker
for a copy of the book

Glendon
25/6/51

Letter ask for it

Glendon
25/6/51

To: H.T. Hester
[Signature]

lms s.o. 2/2/51
20 DEC 1951

3. Secretariat — No. — 2/1/51
No. 1 of Co. def. No. 2 of 1914

The existence of this copy
of the def. (which was an
important one) did be noted
on the connecting papers
connecting with that which is
missing.

Summary file
in center in
the area
for 2/1/51
C. H. C.

Thompson
S. J. 2/1/51

(Beach - no. 100)

Miller
S. J.
stave

3

THE SECRETARIAT
NAIROBI

JSL 10/1/40

21 December, 1951.

Dear Allen,

I am enclosing a copy of Mr. Thomas's
Despatch-No.762 of the 18th July, 1951, as
requested in your letter No.17217/51 of the
2nd. October to Martin.

I am sorry the reply to your letter has
been so long delayed.

Yours sincerely,



H. T. Allen, Esq.

3

THE SECRETARIAT
NAIROBI.

JSL K/17/410

21 December, 1951.

Dear Allen,

I am enclosing a copy of Mr. Thomas's
Despatch No. 762 of the 18th July, 1951, as
requested in your letter No. 17247/51 of the
2nd October to Martin.

I am sorry the reply to your letter has
been so long delayed.

Yours sincerely,



H. T. Allen, Esq.

COPY.

KENYA
NO. 762

4
DOWNING STREET

18 July, 1924.

Sir,

2/323/22.
Missing

I have the honour to acknowledge the receipt of your despatch No. 371 of the 29th of March, in which you deal with certain questions relative to the administration of justice in Kenya which have arisen out of the case of Rex versus Jasper Abraham.

55362/23.
none

2. I desire to make it clear in the first place that I entirely share the concern expressed in my predecessor's despatch No. 1753 of the 20th of December last as to whether in this and in other cases of a like nature which have occurred in the past, a punishment commensurate with the seriousness of the offence has been inflicted. As you point out in paragraph 4 of your despatch, it is difficult for a Secretary of State to intervene in such matters, and the fact that, until the present case made a review of the whole question inevitable, my predecessors have refrained from any official expression of opinion must be ascribed to his cause rather than to acquiescence on their part in the result of previous trials of a similar character.

3. I am glad to note your view as to the general standard of relations between colonists and natives in Kenya, and as to the earnest desire on the part of both judges

GOVERNOR

SIR R. T. CORYNDON, K.C.M.G.,

etc.

judges and juries to administer justice with fairness and patience. I am confident that your view is correct; but it cannot be denied that the few cases of brutality towards natives which have occurred have gained for Kenya an unenviable notoriety in the eyes of the public. However strong the general condemnation in the Colony of such acts may be, it has not preceded in this case the return of a very mild verdict; and the pronouncement of a sentence far short of that which was in the judge's power to inflict for a flogging which you very properly described as brutal.

With regard to the law of evidence, I am advised that it is a well-established principle that the fact that the deceased in such a case was in an insane state at the time the material in question was accelerated by the unlawful act of the act.

In view of what is stated in your despatch, I shall not object for full shorthand reports, but I must ask that in cases of the kind to which my predecessor referred in paragraph 6 of his despatch of the 20th of December, 1923, a typed copy of the judge's notes of the evidence and a summary report of the summing up may be supplied. I shall be glad to be furnished for record in this Office with a typed copy of the judge's notes of the evidence in the case now under consideration.

I note that the Duke of Devonshire's instructions with regard to the venue of trials of this nature will be carried out.

I have the honour to be,
 Sir,
 Your most obedient, humble servant
 J. B. THOMAS

17247/1931 Kenya.

16

C. O.

Mr. Eastwood
Mr.
Mr.
Mr. Tomlinson
Sir C. Bellamy
Mr. J. Shuckburgh
Sir G. Grindle
Permt. U.S. of S.
Palty. U.S. of S.
Secretary of State

30/f

Downing Street,

September, 1931.

C.D.
R 70SEP
D 30

For no allowed sign

2001 1931

502

In his despatch No. 317

DRAFT.

of the 8th June, the Governor sent the Secretary of State a copy of the transcript notes taken at the trial of a certain Ungalia s/o Akiono.

H. T. MARTIN, ESQ. G.B.E.

In doing so he referred to Mr. Thomas's despatch No. 762 of the 18th July, 1924.

M

Unfortunately our paper on which this despatch was registered has completely disappeared, and exhaustive search has failed to reveal it. I feel a little humiliated to have to make this request, but could you possibly let us have a copy of it? Without this despatch we find it difficult to understand why it should have been

thought necessary to send the proceedings

to him. home.

Yours sincerely,

SIGMUND H. T. ALLEN

thought necessary to send the proceedings

to him. home.

Yours sincerely,

Signed H. T. ALLEN

KENYA.

No. 317



7
V

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED

6 JUL 1931

COL. OFFICE

8th June, 1931.

My Lord,

14/21323/24

In conformity with the instructions conveyed in Mr. Thomas' despatch No. 762 of the 18th July, 1924, I have the honour to transmit a copy of the transcript notes taken at the trial of one Ungalia, s/o Akiong who was charged before the Supreme Court in Criminal Case No. 48 of 1931, with the offence of attempt to murder, contrary to section 201 of the Penal Code, and was convicted under section 214 of 'unlawfully causing grievous harm' and sentenced to five years' hard labour.

2. No appeal has been lodged.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble servant.

Brigadier-General,
GOVERNOR.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

KENYA.

No. 317



7
GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED

6 JUL 1931

GOV. OFFICE

8 June, 1931.

My Lord,

14/21323/24

In conformity with the instructions conveyed in Mr. Thomas' despatch No. 762 of the 18th July, 1924, I have the honour to transmit a copy of the transcript notes taken at the trial of one Ungatia, s/o Akionq who was charged before the Supreme Court in Criminal Case No. 48 of 1931, with the offence of 'attempt to murder', contrary to section 201 of the Penal Code, and was convicted under section 214 of 'unlawfully causing grievous harm' and sentenced to five years' hard labour.

2. No appeal has been lodged.

I have the honour to be,

My Lord,

Your Lordship's most obedient humble servant.

Brigadier-General,
GOVERNOR.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

COLONY AND PROTECTORATE OF KENYA.

IN HIS MAJESTY'S SUPREME COURT

AT THE ASSIZES HOLDEN AT KITALE

28th April 1931.

Criminal Case No. 48 of 1931.

R E X

v.

UNGALIA S/O AKONO.

INDEX to Transcript of Shorthand Notes of Trial.

	Page:
Plea	1
Evidence for the Prosecution:	
Charles Howard Pitchford (Complainant)	Examined 2 Cross-Examined 10
Sydney James Higgins (Doctor)	Examined 12
Margaret Baker	Examined 14
Musemari s/o Magonga	Examined 18 Cross-Examined 23
Wamanyolele s/o Katani	Examined 24 Cross-Examined 28
Accused's Statement	28(a)(b)
Summing-up	29
Assessors' Opinions	30
Verdict and Sentence	31
Statement by Complainant	33

IN HIS MAJESTY'S SUPREME COURT OF KENYA
AT THE ASSIZES HOLDEN AT KITALE
28th April 1931.

Criminal Case No. 48 of 1931.

Before:-

His Honour, Mr. Justice Dickinson
(sitting with 5 Assessors).

R. E. W.

UNGALIA S/O AKIONO

(Transcript of Shorthand Notes
of L. H. C. G. S. M.)

Accused present.
Siblewhite, Asst. Insp., for Crown.
Supt. Finch (Prisoner's friend)

Charge: Attempt to murder, contrary to section 201, P.O.

Particulars of offence: On or about the 2nd March 1931
in the Nzola Province, attempted to murder
Charles Howard Pitchford.

Information read.

Court: I advise you, as you are not defended by Counsel, at
this time just simply to say I admit or I did not attempt
nothing else. I do not want a statement now.

Accused: I did not attempt to kill.

(Accepted as plea of Not Guilty).

Accused remained in custody to 29th April
and case adjourned to next day.

9 a.m. 29th April 1931.

Court: I would like to know in regard to the question of the service of the census papers. What was the accused's duty?

Ebblewhite: At the time he was delivering and collecting if possible.

Court: There was no warning or notice given to the householders.

Ebblewhite: A typewritten notice was given to each house at the same time. The accused's instructions were in this case that he should take these forms to the farm with an explanatory letter that if the householder was not there they were to be left.

Court: The question is that the complainant in this case had no warning at all that the policeman was coming there.

Ebblewhite: None at all, your Honour.

CHARLES HOWARD PITCHFORD (duly sworn) :-

Court: You have got a farm at Cherangani?

A. Yes.

Court: You remember the 2nd March?

A. Yes, sir.

Ebblewhite: On that day, in the evening, where had you been?

A. To Kerara - a farm near by.

Court: What did you leave your farm that day?

A. About half past four in the afternoon.

Ebblewhite: Did you go alone, Mr. Pitchford?

A. No - with Miss Baker.

Court: That left the farm empty of Europeans?

A. Yes.

Court: There was nobody there to look after it in your absence?

A. No.

Ebblewhite: Did you return to your farm the same day?

A. Well very early in the morning of the next day - at 1.50.

Court: What did you do when you returned home?

A. Put the car in the shed and went into the banda.

Court: Did you notice anything when you got inside your house?

A. I noticed a pile of papers on the table - envelopes.

Q. Was there anything to convey to you what these envelopes contained?

A. Yes. There was one for me.

Q. What were the contents of the envelope?

A. Census forms.

Q. What did you do when you saw these?

A. I went outside. I heard voices outside, first.

Q. What kind of voices?

A. Two boys - two natives.

Q. They were talking?

A. Yes.

Q. On hearing this noise did you do anything?

A. I asked what the "shauri" was?

Q. Who did you see outside?

A. Two boys - my own and an askari.

Q. Which boy is that?

A. One - Wamunyolele.

Q. Your house-boy?

A. Yes.

Q. You saw your house-boy and an askari?

A. Yes.

Q. And is the accused that askari?

A. Yes, as far as I can tell. He was dressed in a greatcoat.

Q. Seeing these two talking, what did you do?

A. I went up and asked them what they were doing and they said they had brought the papers a long time ago.

Q. Who was it said that - made the reply to you?

A. I do not know whether it was the askari or the boy.

Q. Were they talking in Swahili?

A. Yes. The askari said he wanted to leave and would I take him saying "Peleka mimi Bwana shamba Bwana Cousins motor car" (Take me in the car to Mr. Cousins).

Q. Where is Mr. Cousins farm in relation to yours?

A. And after he said Mr. Cousins would take him to Mr. Miller's farm.

- Q. Where is Mr. Cousins farm in relation to yours?
- A. About a mile to a mile and a quarter.
- Q. What did you say when he made this request to you?
- A. I told him I could not do so. He must sleep the night on my farm because Mr. Cousins would be in bed and he must stop the night with my boys in the hut.
- Q. Did you agree to his request?
- A. No. I told him I was certainly not going out again.
- Q. Did he agree to that?
- A. No. He said he wanted to get on with the papers. He would take them on.
- Q. Did he then go away?
- A. No. I went and fetched the papers. I said if you will go. I repeated that he was to stop on the farm and I went back to the house to get the papers.
- Q. You just gave him back the other envelopes?
- A. Yes.

Ebblewhite (to Court). Apparently I was incorrect, the accused was merely delivering the blank forms and not waiting for them to be filled in. All he wanted back was his other envelopes. If the European was not there he was to give it to the Ethiopian on the next farm and not to me.

- Q. Did he then go off?
- A. I gave him the papers. I went in the house and kept my own and gave him the rest of the envelopes and he went away back towards the hut with my boy.

Court: You did not see where he went?
 A. The hut was only a few yards away and he went in that direction.

(Mr. Ebblewhite hands up to the Court a sketch showing the position of the house)

- Ebblewhite: What did you do then?
- A. I went back into the house.
- Q. Did you stay long in the house?
- A. Well there were a few things to do. A few oddments to put away that I had brought back. Perhaps 5 minutes. and then
- Q. Then what did you do?
- A. I went to my room which is in the banda. Miss Baker went across to her room. Her room is separate.

- Q. Where is Mr. Cousins farm in relation to yours?
- A. About a mile to a mile and a quarter.
- Q. What did you say when he made this request to you?
- A. I told him I could not do so. He must sleep the night on my farm because Mr. Cousins would be in bed and he must stop the night with my boys in the hut.
- Q. Did you agree to his request?
- A. No. I told him I was certainly not going out again.
- Q. Did he agree to that?
- A. No. He said he wanted to get on with the papers. He would take them on.
- Q. Did he then go away?
- A. No. I went and fetched the papers. I said if you will go. I repeated that he was to stop on the farm and I went back to the house to get the papers.
- Q. You just gave him back the other envelopes?
- A. Yes.

Ebblewhite (to Court). Apparently I was incorrect; the accused was merely delivering the blank forms and not waiting for them to be filled in. All he wanted back was his other envelopes. If the European was not there he was to give it to the European on the next farm and not to me.

- Q. Did he then go off?
- A. I gave him the papers. I went in the house and found my room and gave him the rest of the envelopes and he went away back towards the hut with my boy.

Court: You did not see where he went?
 A. The hut was only a few yards away and he went in that direction.

(Mr. Ebblewhite hands up to the Court a sketch showing the position of the house)

- Ebblewhite: What did you do then?
- A. I went back into the house.
- Q. Did you stay long in the house?
- A. Well there were a few things to do. A few oddments to put away that I had brought back. Perhaps 5 minutes. ~~and then~~
- Q. Then what did you do?
- A. I went to my room which is in the banda. Miss Baker went across to her room. Her room is separate.

- Q. What did you do when you got into your room?
- A. I undressed some time and then I heard a call from Miss Baker. First I heard a noise - some talking going on outside at the back and I presumed it was the boys just saying goodnight to one another.
- Q. You say you took no notice - you thought it was somebody saying goodnight?
- A. Yes.
- Q. Did you hear any noise after that?
- A. The next thing I heard was Miss Baker calling me.
- Q. Could you hear what she said or did you just hear her call?
- A. I only heard "Come along, there is a fight - some shauri on!"
- Q. She spoke in English?
- A. Yes.
- Epulewhite: What did you do?
- A. I put my dressing gown on and fetched a torch and went across.
- Q. You went to Miss Baker's hut?
- A. I walked towards her hut and heard this noise going on and it seemed to be louder and I told them to stop their noise.
- Q. Did you form any opinion as to what the noise was?
- A. No. I thought it was more serious when I came out than when I was in my house. It sounded like a high pitched voice.
- Q. Was it the voice of somebody quarrelling or shouting?
- A. I recognised the voice of the accused and the words "Peleth mimi bwana" (Take me to the bwana). He kept repeating it very often.
- Q. Did you go to Miss Baker's hut?
- A. I went to Miss Baker's hut and put the torch inside and heard the voices approaching. They were coming nearer.
- Q. You were this time inside Miss Baker's hut?
- A. I was at the door. I put the torch on the washstand and then I returned to where the voices were coming from.
- Q. You went out to see what the noise was?
- A. Yes.
- Q. Did you see anybody when you got outside?
- A.

A. I saw the askari (accused) who had hold of my boy.

Q. Which boy was it?

A. The wood and water boy - Musamari.

Court: What is this boy?

A. A full grown boy. A very old boy, very elderly.

Ebblewhite: Whereabouts did you see them?

A. Coming through the opening by the hedge.

Q. That is the gap in the hedge?

A. Yes.

Q. Did you say anything to him?

A. I asked what the noise was and my boy said that the accused had made him bring him (the accused) to me.

Q. Did you say anything to the accused?

A. I asked what it was and he said, I believe he replied that my boy had threatened him or I do not know. He said that -- I do not remember, Your Honour, the words he used.

Court: He led you to understand that this boy, Musamari, had threatened him, the askari?

A. Yes. I replied that he could not do that because he was an old boy "mzee" and not the sort of boy to hit or attack anyone.

Ebblewhite: What did the accused want you to do?

A. He was making a noise all the time. He had not finished this "Take me to bwana". He seemed to be sort of wild. He kept on. I thought he was mad. I thought he had been drinking.

Q. What did you say to him? Did you let him go on?

A. I told him that he must go to the hut and sleep with the boys or to go off the farm, that he had been drinking.

Q. Did he go away?

A. I said that if he did not go at once, I should report him to the Superintendent at Kitale. I walked away through the gap.

Q. After saying that you left him?

A. Yes.

Q. Assuming that he would go away and you walked through the back of the house to see that he went off?

A. Yes.

Q. Where was the water boy, Musamari?

A. He was by the side. I left him with the askari.

Q. Will you now tell us exactly what happened after you left the accused with the boy.

A. They followed me and I had gone 6 to 8 yards from the gap walking towards the path where he would go off on to the road.

Q. And what happened?

A. I felt a sharp blow on the head. I was bareheaded.

Q. With some hard instrument?

A. Yes.

Court: Where did he hit you?

A. (Witness demonstrates blow from behind on back of head) It dazed me but I did not lose consciousness. Immediately after another blow came, a very sharp blow on the head also.

Ebbelwhite: What happened after the second blow?

A. It staggered me but immediately after I received a third blow on the head which brought me down to my knees.

Q. You remember what you did when you were on your knees?

A. I felt that my only hope was to catch hold of the askari and I got him by the legs.

Q. By this time you had seen the person who attacked you?

A. Yes. I saw him in front of me and I saw it was the accused.

Court: What sort of light was there at this time?

A. There was a full moon but there were clouds.

Ebbelwhite: You thought the best thing to do was to catch hold of him by the legs.

A. Yes I did that and he rained blows on me all the time.

Q. Where was he hitting you?

A. In numerous places -- on the shoulder, on the arm, on the neck and behind the ear.

Q. And you had hold of him?

A. Yes. Well I think the next I must have been semi-conscious because I do not know how I got a few yards further. Well he was standing over me with my legs round his legs.

Q. Was he holding you down in any way?

A. He had one hand under my chin.

Q. Did you at this time see whether the accused had any weapon?

- A. I had been feeling it. I do not know that I noticed it. He was hitting me all the time.
- Q. He was hitting you with some weapon.
- A. Yes.
- Q. What happened next.
- A. I called to Miss Baker for help. She came out immediately. I saw the rungu (knobkerry) then in his hand as she wrenched it away.
- Q. Was there anybody else present at this time?
- A. Musamari the other boy came simultaneously with Miss Baker.
- Q. Had you seen anybody nearby before?
- A. He was with the askari when he followed me out, but not since then.
- Q. You said Miss Baker took the rungu from the accused?
- A. Yes.
- Q. Did she do anything with it?
- A. I told her to hit him as hard as you can where you can.
- Court: And she hit him?
- A. Yes.
- Ebblewhite: What did the accused do?
- A. With one hand he attempted to wrench the rungu out of her hands.
- Court: What was the other one doing?
- A. He was holding my throat, Your Honour.
- Q. He did not let go of you. He let go of the rungu first.
- A. Yes.
- Ebblewhite: Did he get the rungu from Miss Baker?
- A. No - he did not entirely. He held the end and she had it in the middle.
- Q. Did the accused do anything else to you?
- A. I put up my hand to get his whistle. He had a whistle lanyard hanging down and I put up my hand to pull it down to have a purchase to get up and he bit me through the finger.
- Q. What did you do next?
- A. I told him to give Miss Baker the rungu - to let go the rungu and give it to Miss Baker.
- Q. So at this time he had still got hold of the rungu?

A. Yes.

Q. Had you still got hold of the accused?

A. No.

Q. You had previously got him by the legs?

A. Oh yes I had still got hold of him.

Q. And you told him to give the rungu to Miss Baker.

A. He said if I give it to her she will hit me.

Q. Did you tell him anything?

A. I said "no she won't - the shauri is finished, go away". He would not give it up and then I told him Miss Baker would take the rungu away and put it in the house.

Q. Did he give it to her?

A. He said "will you let my legs go if I give her the rungu" I said "yes".

Q. And did you let go of his legs.

A. I let go of his legs and he gave the rungu to Miss Baker.

Q. At this time did you see the rungu?

A. Yes I had seen it before when Miss Baker came.

Q. Is that it? (exhibit A produced)

A. It is one similar. I could not say that is it.

Q. What did Miss Baker do with the rungu?

A. Miss Baker took it to the house.

Q. She left you.

A. Yes.

Q. And what did the accused do?

A. At the same time he walked off into the bush.

Q. And after he had gone?

A. I got up and fell down again and Miss Baker came and helped me into the house.

Court: Did you send for the Doctor?

A. I sent for the Doctor. My boys arrived on the scene. Directly after I got into the house all my boys arrived, 6 or 8 of them. Whether the accused heard them or not, I do not know.

Ebblewhite: As far as you were concerned the accused went away?

A. Yes.

Court: Did the Doctor come this very night.

A. He came straight away.

Ebblewhite: From the time you saw the askari on your farm, did you give him any provocation for attacking you?

A. The only provocation I gave him was that I said "You have been drinking and if you do not leave or go to the hut at once I shall take you to Kitale tomorrow." That was the only provocation I gave him.

Q. Did you assault him in any way before he started to assault you?

A. I did not touch him.

Cross-examined by Accused:-

Accused: Is it not true that I asked you for the letters to take them to Bwana Cousins?

A. You asked me to take you to Bwana Cousins with the letters first.

Q. Did I not report to you to give me permission to sleep on your farm and you told me to go to Bwana Cousins?

A. No. I told you on two or three occasions to sleep with the boys in the hut as it was too late and Mr. Cousins would be asleep.

Q. Why would I refuse to sleep on your farm if you gave me permission to do so?

A. I do not know at all.

Q. Are you not telling a lie?

A. No.

Q. Did you not begin by striking me with your hand?

A. No - I did not touch you.

Q. Did you not first of all push me and then slap me?

A. I did not touch you with my hand at all.

Not Re-examined.

By Court:-

Court: When you went off in the afternoon, when did you expect to get back? Did you know where you were going? Was it a long standing engagement or did you go off on chance?

A. I ran over very often - very near to a neighbouring farm.

Q. Did you expect to get back that evening?

A. Sometimes we stopped to dinner.

- Q. The boys would have dinner in case you did not stop?
- A. The boys have instructions to shut the doors and lock everything up.
- Q. On this occasion did the boys have dinner ready for you?
- A. No. When we come back Miss Baker gets dinner ready. She gets all the food.
- Q. You did not know when you left whether you would be back to dinner or not?
- A. No.
- Q. Do any of your boys, so far as you know, understand the time?
- A. One the house boy - I had him in the house and showed him the clock and told him to do different things.
- Q. He has to have it explained to him?
- A. Yes.
- Q. Was the place shut up when you got back?
- A. Yes, Your Honour.
- Q. How long do you think it was after you sent off for the Doctor that he turned up? Did he live far away?
- A. No, Your Honour, about $1\frac{1}{2}$ miles. I should say half to three quarters of an hour.
- Q. Which arm was it of yours that was broken or was it one of the bones only?
- A. Left fore-arm. It is not right now. I cannot use it.
- Q. That got damaged by the blows that hit you?
- A. Yes.
-

SYDNEY JAMES HIGGINS (Doctor) sworn:-

Court: You attended the last witness after the time he was assaulted assaulted?

A. Yes, Your Honour.

Ebblewhite: Was that the 3rd March.

A. That was on the 3rd March.

Q. At what time in the morning did you see Mr. Pitchford?

A. To the best of my recollection I got the message between 2.30 and 2.45 in the morning.

Q. The exhibit that was put in Court at the last hearing is a report of the injuries that you found on Mr. Pitchford?

A. Yes.

Court: That is correctly is it? (Document handed to witness)

A. Yes.

Q. You found how many blows in all, Doctor?

A. Three blows on the head, Your Honour, eight or various parts of the body, a break of his left fore arm.

Ebblewhite: Was that a break of both bones?

A. No, a break of one bone. Two abrasions and a bite.

Q. Was the bite on the finger?

A. The bite was on the middle finger of the left hand.

Court: These blows - you have seen that sort of - could they have caused them?

A. Yes, Your Honour.

Ebblewhite: What opinion have you arrived at as to the instrument that would have caused the injuries here on the arm?

A. I think the same instrument, Your Honour, if Your Honour would care to see the ex-ray photographs ---

(Witness explains photographs to Court)

Court: You do not think that could have been caused by a fall?

A. No.

Ebblewhite: Could you form any opinion or have you formed any opinion as to the extent of violence that was used for the injuries you found on Mr. Pitchford's head?

A. Well the wounds on the head - the scalp wounds were deep and in the case of one, the front one, the scalp could be seen at the bottom of the wound and in my opinion there was considerable violence.

Q. Was the violence used - would it be likely to have caused the death of Mr. Pitchford?

- A. The skull was not broken?
- Court: Would a really full blow with that (rungu) break the skull or would the stick give first?
- A. I think a full blow by a man of any physical strength would probably fracture the skull.
- Q. If a man could break a skull and did not break the skull - that is the situation.
- A. I think he could by exerting his full force.

Not cross-examined by accused.

By Court:-

- Court: When you saw complainant, did you think he had been drinking at all?
- A. There was no evidence.
- Q. No sign?
- A. There was nothing to lead me to any conclusion in that direction.
- Q. You know this countryside, Doctor? You know the farm Kerara Estate?
- A. Yes.
- Q. How far is that from Mr. Pitchford's place?
- A. About 6 miles.
- Q. Good road?
- A. The road at that time was not so good. It has recently been improved.
- Q. Had the rains started then?
- A. No.

A. The skull was not broken?

Court: Would a really full blow with that (runku) break the skull or would the stick give first?

A. I think a full blow by a man of any physical strength would probably fracture the skull.

Q. If a man could break a skull and did not break the skull - that is the situation.

A. I think he could by exerting his full force.

Not cross-examined by accused.

By Court:-

Court: When you saw complainant, did you think he had been drinking at all?

A. There was no evidence.

Q. No sign?

A. There was nothing to lead me to any conclusion in that direction.

Q. You know this countryside, Doctor? You know the farm Kerara Estate?

A. Yes.

Q. How far is that from Mr. Pitchford's place?

A. About 6 miles.

Q. Good road?

A. The road at that time was not so good. It has recently been improved.

Q. Had the rains started then?

A. No.

MARGARET BAKER, sworn:-

Court: You are living in a house on the farm of the complainant?

A. Yes.

Ebblewhite: You remember Monday the 2nd March?

A. Yes.

Court: You had been out with the complainant to the Kerara Estate?

A. Yes.

Q. You returned home about what time?

A. 1.50 on the 3rd March.

Ebblewhite: And what did you and Mr. Pitchford do on your return to the farm?

A. We went to the house and found some census papers on the table.

Q. And one of them was addressed to Mr. Pitchford?

A. And others to different farms.

Q. Was there anybody else in or near the house at that time?

A. No not just then, but I was just going to put the papers away when we heard voices outside.

Q. Did you recognise the voices?

A. No, I did not.

Q. Was it just ordinary talking or loud?

A. No, just ordinary.

Court: Who drove the car back?

A. Mr. Pitchford.

Q. Can you drive?

A. No, I cannot drive.

Ebblewhite: Did anybody go out to see what the talking was about?

A. Mr. Pitchford went out.

Q. And you remained in the house?

A. I stayed in the house.

Q. Did you hear any of the conversation between Mr. Pitchford and the people outside?

A. No, I did not.

Q. How long was it before Mr. Pitchford returned?

A. Oh - a very short time - two or three minutes.

Q. What did he do when he came back?

A. He took the papers out and said the askari wanted to leave tonight and go to Mr. Cousins.

Q. What did you do after that?

A. I fed the cat and went to bed to my room.

Q. Your room is the small hut some distance from the house?

A. Yes.

Court: What was the next thing that happened?

A. I had just got into bed when I heard a noise outside like two men quarrelling.

Ebblewhite: Did you do anything when you heard this noise?

A. I went to the door and called Mr. Patchford and asked him to come over to me as I was frightened.

Q. Did he come to you?

A. Mr. Patchford came up and left the torch with me.

Q. Did you see anybody at this time?

A. I saw the boys at the end of the path.

Court: How many figures?

A. Two.

Ebblewhite: Did you recognise them?

A. I recognised the askari and the wood and water boy.

Q. You saw these two boys outside and what were they doing?

A. The askari was holding the water boy by the neck.

Q. Did anybody go and speak to them?

A. I heard the water boy saying that the askari was going to "pige" (hit) him.

Q. Did anybody go out and speak to them?

A. Mr. Patchford went down and asked what the trouble was.

Court: Did you go back to bed?

A. I stayed at the door.

Ebblewhite: Did you hear anybody reply as to what the trouble was?

A. I heard talking but I could not understand what they were saying.

Q. What was the next thing that you saw or heard?

A. Mr. Patchford passed through the gap in front of the boy.

Court:

Court: From the door of your hut, can you see both sides of the hedge?

A. No. I cannot.

Q. He went out of sight as he passed through?

A. Yes.

Ebblewhite: Did the askari remain where he was?

A. He followed behind, he and the boy.

Q. What was the next thing you heard or saw?

A. I heard Mr. Pitchford saying to the askari "You have been drinking tembo and I am going to Kitale tomorrow and I will report you."

Court: You understand Swahili well enough for that?

A. No. I understand that. I do not understand when the boys speak, only a very little, but I understand a white person.

Ebblewhite: What happened after that?

A. I went into my room and then I heard blows and a scuffle.

Q. What kind of blows?

A. It was not from the hand.

Q. What did you do?

A. I did not go out because I thought it was one of our boys.

Court: You thought the boys were fighting?

A. Yes. But soon after Mr. Pitchford called me. I put on my shoes and went out.

Ebblewhite: Where did you find Mr. Pitchford?

A. I found Mr. Pitchford lying on the ground with his head in a pool of blood outside an unoccupied boy's hut.

Q. Was there anybody else there?

A. The askari was there holding Mr. Pitchford down by the throat with one hand and hitting him with the rungu in the other.

Q. Did you see anybody else there besides Mr. Pitchford and the accused?

A. Just then the water boy came up and touched the askari, but the askari turned on him.

Q. And what did he do?

A. He ran away.

Q. Did you do anything?

A. I struggled with the askari for a short time and managed to get the rungu.

- Q. And is that the rungu (Exhibit A) that you took away from him.
- A. That or a similar one.
- Q. What did you do with the rungu yourself?
- A. Mr. Pitchford told me to hit him, so I hit him.
- Q. Do you know the rungu that you took away?
- A. Yes.
- Q. Did you afterwards give it to the police?
- A. Oh, yes. I did.
- Q. You hit the askari - did the askari do anything?
- A. He managed to get it back again but I kept hold of it.
- Q. And then what happened?
- A. Then Mr. Pitchford told him to give it to me.
- Q. Did he?
- A. He said no he would not because I would hit him again.
- Q. And then what happened?
- A. Mr. Pitchford said there would be no further "shush" tonight if he would give it to me.
- Q. Did he give it to you?
- A. Then he gave it to me.
- Q. And what did you do with it?
- A. I took it and threw it in the house.
- Q. And what did the accused do?
- A. I did not stay. I went back to help Mr. Pitchford and
- Q. And when you went back was the accused there?
- A. I did not see him.
- Q. Can you identify this man (accused)?
- A. I could not.
- Q. You went and helped Mr. Pitchford and Mr. Pitchford was later treated by the Doctor?
- A. Yes.

No cross-examination by accused.

PUBLIC RECORD OFFICE

CONTINUED ON NEXT FILM

TOTAL EXPOSURES →

the
arc
enc

Map.
90:
fort
Basi
res
is:
eas
ep:
ran
e L
he:
brit
ase:
ossi

illouit
and

1900, but ab
=culation which finis

Handwritten notes and bleed-through:
 this direction would
 tions and with the
 gypt, the question
 nuously. His rej
 me, he forwarded
 Rough Notes to
 e System of L
 is rough not
 already
 of
 their control ove
 ul to deal
 at
 PUBLIC
 RECORD
 OFFICE
 him
 at n
 the direction
 of
 ink.
 apart.
 ass into

**PUBLIC
RECORD
OFFICE**

qualified opti
1900, but ab
=culation which finis