

1933.

Kenya.

No. 3011.

SUBJECT

C0 533/430

*Impositions Under the Collective
Punishment Ordinance.*

Previous

18151/32.

Subsequent

23126/34.

- 93
1. Governor Byrne 594 _____ 9 Dec 32
 Trans. copy of Proceedings on an Enquiry into the murder
 of a member of the Muhamud Dakatch Tribe, named Aden Yusuf
 together with a copy of an order inflicting a fine of Shs 1000/-
 upon 20 members of the Kariyabat & Kariyafate Sections of the
 Habshan Tribe.

 2. Governor Byrne 610 _____ 19 Dec 32
 Trans. copy of Proceedings on an Enquiry into the theft of
 30 head, together with a copy of an Order inflicting a fine of
 Shs 112/50 upon 15 inhabitants of the Houf of Haysket in
 Location No 8 of the Wandi Locust.

 3. Governor Byrne 622 _____ 23 Dec 32
 Trans. a copy of Proceedings on an Enquiry into the theft
 of 11 carabos, together with a copy of an Order inflicting a fine
 of Shs 3000/- on sections of the Habshan tribe

 4. Governor Byrne 625 _____ 23 Dec 32
 Trans a copy of Proceedings on an Enquiry into the theft
 of 20 head of cattle, together with a copy of an Order inflicting a
 fine of Shs 2000/- on Sections of the Habshan tribe

 5. Governor Byrne 624 _____ 25 Dec 32
 Trans a copy of Proceedings on an Enquiry into the theft
 of 250 head of cattle & 2 donkeys together with a copy of an order
 inflicting a fine of Shs 10,000/- on Section of the Habshan tribe

3/1/33

The total fine is Rs. 100

Rs. 175
Rs. 125
Rs. 170
Rs. 170
Rs. 20
Rs. 125

(The total fine is Rs. 100)
Rs. 175
Rs. 125
Rs. 170
Rs. 170
Rs. 20
Rs. 125

J. B. Singh
4/1/53

I am not at all happy about Nos. 3, 4 and 5, particularly the last mentioned. It is difficult fully to understand the proceedings from these reports alone, but I have an uncomfortable feeling that the Orders were made without adequate appreciation of the conditions which must be observed before a fine can be imposed.

Under section 2(c) of the Ordinance it is necessary to prove that stolen property has been traced to within the limits of the locality, and that after the public announcement has been

made within the locality, the natives there have failed to restore it or to take on the track beyond the limits of the locality. The offence which has to be established is failure to restore on track after the announcement has been made. In other words, no offence can be committed before the announcement. Further, merely for a native authority to inform one or two persons of the theft does not seem to come anywhere near a "public announcement". The object of the Ordinance is to place a collective liability upon a community for the wrongs of some or one of their number, and it therefore requires that adequate steps should be taken to inform the whole community that a theft has taken place, so that they will all appreciate the responsibility which will be theirs if they do not take certain steps. The question as to what is a public announcement is more or less a matter of common sense, and it is not, I think, necessary for me to attempt to define the expression. Suffice it to say that in these circumstances I see no satisfactory evidence that one was made.

It is true that an alternative charge is in each case framed under section 2(b). No public announcement is required here, a fact which seems to be overlooked by Mr. Darroch, the Magistrate, and also in the recitals to the formal Orders imposing the fines; but it is not the case, as seems to be suggested, that it would suffice for the purposes of this paragraph to show that evidence has been suppressed in the Collective Punishments Ordinance enquiry itself, a view which is like prosecuting a man for perjury solely in the hope that he will make untrue statements on oath at his trial. To support a charge under section 2(5) it is necessary to show that

13. A/Ruma No 387 22 June 33.

There is a copy of proceedings in an Expiry and the draft of same, together with a copy of an Order reflecting a fine of Rs 250/- or 1000 roubles of the bank of India.

The draft of this ex occurred as per back on Oct. 1931.

The provisions of the Order appear to have been observed.

? Subject to legal opinion later.

A/Ruma No 28/7/33

A/Ruma No 10/11/33

The proceedings are in order No. 10 legal observation.

A/Ruma No 10/11/33

A/Ruma No 10/11/33

The proceedings are in order No. 10 legal observation.

(4)

6

Summary of Impositions under Large Allowance Licenses to Order
(see memo. on Naga on 17-5-33/10/33)

No.	Province	Locality	Office	Amount	Remarks	Order made	License No.
1	N. India	Patna District	Patna	Sh. 1000/-	4000/-	Patna	101/33
2	Assam	Lecton No 8	dist. of shuk.	Sh. 12/50	45	Patna	No 2
3	N. India	Patna District	dist. of shuk.	Sh. 3000/-	4000/-	Patna	No 3
4	-	-	dist. of shuk.	Sh. 2000/-	4000/-	Patna	No 4
5	-	-	dist. of shuk.	Sh. 10,000/-	4000/-	Patna	No 5
6	U.P.	Patna	dist. of shuk.	Sh. 1500/-	60	Patna	No 6
7	U.P.	Patna	dist. of shuk.	Sh. 11/3	60	Patna	No 7
8	U.P.	Patna	dist. of shuk.	Sh. 10	60	Patna	No 8
9	U.P.	Patna	dist. of shuk.	Sh. 10	60	Patna	No 9

No.	Province	Locality	Offense	Fine imposed	Number of persons killed	Persons made prisoner	Persons made prisoner	Reference
10.	Ghana	Gushie District	Theft of sheep & cattle	Sh. 1,125/-	15	Sh. 2	—	No 10 3011/13
11.	Nigeria	S. Lumbwa District	Theft of sheep & cattle	Sh. 2,500/-	53	—	—	No 11 3011/15
12.	---	---	Theft of bull	Sh. 500/-	54	---	---	No 12 3011/23
13.	Sierra Leone	North District	Theft of man	Sh. 500/-	158	---	---	No 13 3011/32

KENYA

No. 387



13
8
GOVERNMENT HOUSE
NAIROBI,
KENYA

RECEIVED
24 JUL 1933
C. O. REGD

28th JUNE, 1933.

Sir,

I have the honour to transmit for your information an enclosed copy of the Proceedings in an enquiry held by the M. Glass Magistrate, Mandi District, Kzoia Province, under the Collective Punishments Ordinance No. 64/1930, into the theft of an ox, the property of Mr. H. McGoobe of Lassos, together with a copy of the order made by Sir Joseph Ryan, section 2 of the Ordinance, which inflicts a fine of Shgs. 350/- on the 158 inhabitants of the Kzoia Krdin of Location No. 6 of the Mandi Native District to which location the stolen animal was traced.

Concurring with the advice of my Executive Council I have ordered that the balance of the fine of Shgs. 350/-, after payment of any expenses incurred in collection and less the sum of Shgs. 70/- to be paid as compensation to the owner of the stolen ox, be paid into the funds of the Mandi Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

ACTING GOVERNOR.

HIS RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., O.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
PARLIAMENTS HOUSE, LONDON, S. W. 1.

9

COLLECTIVE PUNISHMENT ORDINANCE

RECOVERY.

WHEREAS it has been proved to my satisfaction that one ox, the property of Mr. R. McCombe of Lesos, was stolen in October 1931 and that the said ox was tracked to the Korot of Madia of Location No. 6 of the Madi Native Reserve, Nusia Province, and that the inhabitants of that Korot failed to restore the said ox and failed to take the tracks beyond the limits of the Korot and were therefore rendered themselves liable to the imposition of a fine under Section 2(a) of the Collective Punishment Ordinance No. 84 of 1929:

NOW, THEREFORE, I, Joseph Alwynn Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the Honorary rank of Brigadier-General in His Majesty's Army, GOVERNOR and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by Section 2(a) of the said Ordinance do hereby impose a collective fine of Shgs. 350/- upon the inhabitants of the Korot of Madia of Location No. 6. of the Madi Native Reserve, Nusia Province, and of this fine of Shgs. 350/- when recovered, I order that the sum of Shgs. 70/- be paid to the said Mr. R. McCombe as compensation for the ox stolen as aforesaid.

GIVEN under my hand at Nairobi this 3rd day of June, 1932.

ED: J. BYRNE,

BRIGADIER-GENERAL,
GOVERNOR.

High Arm Kooia - Kandi - of Location 6 - part
 original station - (Charge explained)

I went for Mr. McComb. I took his house I
 remember the day when an ox - the property of Mr. McComb
 was stolen. I am not sure when it was but I think it was
 about 2 years ago. My hat was not far from the cattle
 house about 5 A.M. I heard a noise outside and going
 I found an ox rubbing itself against my hat. This
 ox was loaded with and in the same barn as the ox which
 was stolen.

I went to the house - Long Street I told him
 that probably he had had the gate of the barn - as
 I had found an ox outside. He came out looking the ox
 back to the barn.

In the morning I have been told by Long Street
 that the ox was stolen. I stayed in the house.

Later a police officer and some others came
 to the house. I helped the Aborigines to search. I saw that
 the gate of the barn had been broken and there the
 cattle had gone out of the barn. We followed the tracks
 of the cattle. We followed the tracks of 1 herd of
 cattle and one man with it. We followed this track to
 Kopyoua Swamp - in the Forest of Kandi. The tracks
 crossed the river. Rain fell and it was nearly dark. I
 was with Long Kaiti and Kipoua Arop Chabigou and
 Arop Kandi. We left the tracks and did not show the
 tracks to any one else. Arop Kaiti is a Kiyatet
 (Kiyatet).

I met Arop Kaiti on the road and we followed
 the tracks together.

Continued by Court:-

I knew the children as, it was then collected. I
 went to see an enemy camp. One day the ox was seen

sent to ... I saw the car after it had returned to the farm and before it was stolen. The gate of the estate, was broken in cards,

R.O.S.
M.E.S. Nathan
Magistrate.

Q. ... If the car was lost at night why did I not receive any news until the evening of the day following?

A. ... I remain until all the people came,

Witness: ...

Q. ... you followed the track? ... the place where the ... was lost and I am the head of ... called?

A. It was nothing to do with me, it was ...

R.O.S.
M.E.S. Nathan
Magistrate.

Witness: ...

Q. ... found the car lost in the early morning did you see a noise?

A. Yes.

Q. How many people came?

A. 10

R.O.S.
M.E.S. Nathan
Magistrate.

No further questions.

Witness: ... of location 4 Next page continued -- charge explained -- states:-

I went for ... I remember the day when ... was stolen from the farm. I was ... in colour. ... about 2 years ago. ... came to me at ... and told me the man had come out of the ... I ... the man to the ...

ox was not there. This one I refer to as stolen. I went to the herd and told him. The herd is Arap Chabigan. When the cattle was herded into the barn the night before I did not see the cattle.

I went home, after I had been to the herd.

I helped the police to search for the lost ox in the morning. I saw the foot prints of one ox and one man, which came from the barn. We did not find it until a little way from the barn. Then we followed it to Leavenworth, and then to the Herd of Nelson. The tracks crossed the Kaw River, and then rain fell. We marked the spot with a stick. The people of O'Leary helped in the search.

Q. How far is O'Leary?
A. About 10 miles.
Q. How far is the herd?
A. About 10 miles.
Q. Did you ever think of seeing the prints of another man?
A. No.
Q. How did you come?
A. Alone.

Q. How far is the herd?
A. About 10 miles.

Q. Were you there when the tracks were followed to Leavenworth?
A. No.

Q. How far is the herd?
A. About 10 miles.
Q. How far is the herd?
A. About 10 miles.

Called Arap Chabigan - Herd of location C pages attached -
Charge explained - states.

I had Mr. [Name] cattle. I remember the day when an ox, which was dark coloured, was stolen. This was about 2 years ago. The night before the theft I shut up the barn. The number was correct - and the dark coloured ox was there. At night Arap Chabigan called me and told me the cattle had got out of the barn, and asked if I had seen it at night. I replied that I had. I went out, and searched the cattle and found the ox was not

ox was not there. This one I refer to as stolen. I went to the herd and told him. The herd is Aray Chobigagan. When the cattle was herded into the house the night before I did not see the cattle.

I went home, after I had been to the herd.

I helped the police to search for the lost ox in the morning. I saw the foot prints of one ox and one man, which came from the house. We did not find it until a little way from the house. Then we followed it to Leeson's River, and then to the mouth of Kania. The tracks crossed the Kanyagere River, and then Tula Fall. We marked the spot with a stick. The people of O'Leeson helped in the search.

My name is O'Leeson.
The owner of the ox was Mr. Robinson.
Kanyagere Aray Chobigagan.

Q. Did you come ahead to warn the people to watch the tracks?

A. Yes.
Q. The day you came?
A. Several.

Q. How many times?
A. You know my hut?
A. Yes.

Q. Were you there when the tracks were followed to Kanyagere?
A. Yes.

Questioned by Court:
The gate of the house was broken inward.
R.W.C.
M.H.H. Smith
Magistrate

Kalsh Aray Kibigagan - Mouth of Location 6 pages affirmed -
Charge explained - stolen.

I had Mr. Robinson's cattle. I remember the day when an ox, which was dark coloured, was stolen. This was about 2 years ago. The night before the theft I shut up the house. The number was correct - and the dark coloured ox was there. At night Aray Chobigagan called on me and told me the cattle had got out of the house, and asked if I had seen it that night. I replied that I had. I went with him and searched the cattle and found the ox was not

Aray Nettit had three of his people with him from the reserve.

Rain fell and we went home, but first I sent two Hoven to tell Aray Kurovet, that we had followed the tracks into his area.

I saw Aray Kurovet and told him the news and also Aray Kurovet the following morning. We held a Hovasa a few yards from here. There were about 50 Hundi there. I told them all about the matter. Aray Kurovet refused to believe that the men had gone into his area and refused to look at the tracks. Aray Nettit was also there.

I made it clear to Aray Kurovet, and Aray Kurovet and Nettit that there was no doubt that the tracks had been traced to Aray Kurovet's area (Hundi).

Aray Nettit wanted to see the tracks and told him to go with the Hoven from Aray Kurovet and Aray Kurovet.

L.S.D.
M. E. S. Station
Singapore.

Aray Kurovet stated:-

to have nothing to say.

They should have sent to me at once.

L.S.D.
M. E. S. Station

During Aray Kurovet - Hundi Tribal Policeman's report - charges explained - stated:-

I am a Tribal Policeman. I remember the day when an order came from Mr. Roberts. I went with the Police Officer, and a Corporal and Aray Nettit.

We found the tracks of one head of cattle and one man near the cattle barn. We followed the tracks until we reached the Singapore river. The tracks crossed the river and by then it was dark, and it started to rain. I went to home to Aray Kurovet. I told Aray Kurovet and Aray Kurovet.

We held a Hovasa here the next day and told Aray Kurovet all the news. There were about a great many Hundi at

at the Barasa. Arap Baracet was told that the stolen beast had been taken to his area. He refused to believe it and would not look at the tracks.

Questioned by Court.

I sent the two Barasa to Arap Baracet immediately we left the tracks.

E.S.G.
M.A.E. Beethan
Magistrate

By questions:

M.A.E. Beethan
Magistrate

Chapman Arap Baracet - Howl group affirmed charges explained. witness:

I am Registrar of Location 4, my name is E. Beethan. I remember the day when we in the station from Barasa. I went there with the Police Officer John Lawson.

We found tracks at one end of cattle and one end, from near the cattle pen. We followed the tracks up to Barasa. The tracks crossed the river. We found the tracks then because it rained and it was nearly dark. There were 7 people from the reserve with us.

The place where we left the tracks is Barasa and Arap Baracet is the Elder.

In the morning we had a Barasa, and there was many Barasa there, and we told them all the news and to search for the one. Arap Baracet said that he did not believe it, and would not look at the tracks.

E.S.G.
M.A.E. Beethan
Magistrate.

Anybody is asked if anyone has any questions to ask the witness.

None. No one had any questions to put.

M.A.E. Beethan
Magistrate.

Step 1: ... - ... Chief of Location 5, 6 & 7 - affirm ...

The place to which the ex was tracked is the Forest of ...

Name:

SA. E. J. ...
Magistrate.

By questions:

Change about the ... of the Forest of ... is ...

SA. E. J. ...
Magistrate.

Witness:

... The people were silly that day - they ...

E. J. ...
SA. E. J. ...
Magistrate.

After ...

I ... believe it ... tracks ...
It is a plain ... to ...
I ... been ... to the forest ...
the ... and the ...

E. J. ...
SA. E. J. ...
Magistrate.

After ...

I ... to the ... and I ...
... where the tracks were last. I could ...
... I ... where the tracks were and ...

E. J. ...
SA. E. J. ...
Magistrate.

No ... statements ... from the ... area.
...
... were ... in the ... who knew the tracks
and who were with us the previous day.

E. J. ...
SA. E. J. ...
Magistrate.

Inquiry adjourned pending finding.

Sd/- M. B. Keethan.

Findings.

The facts of the case are that on October 1st, 1951 - an ox was stolen from the farm of a Mr. McCabe, during the night. The fact that it was stolen is proved by the six witnesses for the prosecution, and the fact that the gate of the cattle barn was broken from outside towards. All the prosecution witnesses state that the following morning the tracks of the head of cattle and cow were tracked from close to the cattle barn into the Moudi Reserve. The tracks were eventually lost in the Moudi Reserve in the Parish of Madia late in the evening.

From the tracks were lost the AM & PM witnesses - A Police Sergeant and a Tribal Policeman - went for some time to the side of the Parish of Madia.

The following evening a large meeting was held and the Head of Madia Parish attended this meeting. The Corporal of Police informed the people of the theft and that the tracks of the ox and cow had been tracked to the Parish of Madia. The Head of Madia, it is proved by witnesses, and present at the time, refused to believe that the tracks had followed into his area and refused even to look at them.

It is proved that the tracks were followed to the Parish of Madia.

I am satisfied on the evidence that the ox was stolen, and that the tracks were followed from the site of the theft into the Moudi Reserve and into the Parish of Madia, that further a Public announcement was made on the day after the theft by the Corporal of Police and the Tribal Policeman, as required in Section 2 (g) of the

collective

Collective Punishment Ordinance 1950; that the stolen property has not been restored; and that the tracks were not followed beyond the limits of the Parish of Madia.

I recommend that a Collective Punishment be imposed on the Parish of Madia in location 6 of the Madia Reserve.

The Parish in question has 150 tax paying males.

I recommend that a fine of Shs. 10/- be imposed on the parish of Madia in location 6 of the Madia Reserve.

Out of this fine I recommend that the sum of Shs. 10/- be paid to Mr. Mwangi, the compensation for his loss. It is impossible without more enquiry and evidence to obtain the exact statement of Mr. Mwangi. Shs. 10/- is the value given by him to the value of the loss of the sheep (vide attached letter from Assistant Inspector of Madia in charge Para. 10, Station - No. LINDA G.E.I.A./2 of 1/6/55).

10/4/55.

Mr. E. McArthur.

RECEIVED
MADIA
10/4/55

10

1200



GOVERNMENT HOUSE
NAIROBI.
KENYA

KENYA.

NO. 378

RECEIVED
10 JUL 1933
C. O. REGD

JUNE, 1933.

Sir,

I have the honour to transmit to you information a copy of the Proceedings in an enquiry held by the III Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishments Ordinance No. 54/1930, into the theft of a bull, the property of a Kavirondo of Central Kavirondo District named Agure Otien, together with a copy of the order signed by the Provincial Commissioner, Nyanza Province, which inflicts a fine of Shgs. 500/- on the fifty four male Kipsigis inhabitants of the Koret of Motero of the South Lumbwa Native Reserve, to which Koret the tracks of the stolen bull were traced.

2. Concurring with the advice of his Executive Council Sir Joseph Byrne ordered that the proceeds of the fine, less any expenses incurred by Government in collection and after paying the sum of Shgs. 40/- to Agure Otien as compensation for his loss, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Native Trust Fund Ordinance.

I have the honour to be,
Sir,
Your obedient servant,

ACTING SECRETARY.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CURLIFFE-LISTER, P.C., G.C.B., G.C.E., M.C., &c.
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, W. I.

III Class Court, Kericho.

Inquiry under Collective Punishment Ord.No.54 of 1950.

Held at Juljuliet on 19.4.58.

An inquiry as to whether the inhabitants of the Keret Motere in the South Luabwa Reserve, 1 bull the property of a Julius Agure s/o Otien, Mwangi Otieno Chief Otie, having been stolen on or about the 20th February 1958 and tracked into Motere, and these tracks having been shown to the inhabitants, have refused, though ordered by a District Officer to return this stock, to restore the said bull to Agure.

Inquiry opened on 19.4.58. Some 50 persons of the Keret concerned present. (Total population 60 male persons). Due notice of inq. by given.

Public Announcement.

On the 28.3.58 at a baraza at Juljuliet a public announcement was made by G.M. Deverell, D. O. ordering the inhabitants to restore the bull. The bull has not been restored.

Sd. G. M. Deverell,
19. 4. 58

Agure s/o Otien duly sworn states:- Towards the end of February my herd a boy called Ogare came to me he reported that while herding my stock near Kibiabiri 8 Kipsigis crossed the border and proceeded to carry off my stock. Ogare ran towards the border and the Luabwa ran off with one bull. The bull was black with white head and neck, and an S. brand.

When the bull was carried away the child ran and reported to me. I was at the time attending the District Officer's baraza at Kapseret (Juljuliet). Next morning I followed the tracks of the bull with Border Guards Grene, and arap Hagene. The tracks were lost in Keret Motere, at a place called Kachepain.

Here

Here the tracks were lost amongst many others at the salt lick.

We then reported to the District Officer who informed the people that if the bull was not restored he would impose a collective fine.

A day or two later the Herdward Groom informed me that my bull had been recovered and was in the home of an elder arap Chepkigt where Chief arap Borgechut had placed it. I went with Groom to retrieve it but when we arrived arap Chepkigt informed us it had been stolen that night.

Since then I have not seen the animal or heard of it. "S. H. are state. We have no questions to ask we admit that this is all true."

H.D.G.

Sd. Ch. M. Beverell.

Chief arap Chepkigt duly affirmed states:- Towards the end of February I was present at the District Officer's ba'asa Kipterre. I heard that the complainant had had his bull stolen and the District Officer told us he would punish us if we did not return it.

That evening Chief arap Borgechut went to lie in Metere. The next morning he arrived at my house with a bull answering to the description of the complainant which he said he had just found in the bush beside my house. He told me it was the Jaluo's bull and asked me to keep it in my boma till the Jaluo came for it.

I went off to Kipterre with arap Borgechut to follow the District Officer's safari and left my son to herd the bull with my stock.

My son told me that he put it in the boma with my stock

stock but next morning when he went to open the homa he found the deer wide open and the bill gone. Since then I have heard nothing of it.

I have talked with the Jaluo and there is no doubt that the bull was his.

R.O.C.

G.M. Deverall
Sd. C.M. Deverall

Kipigis asked if there is anyone who wishes to question the evidence of the two witnesses. Reply - "We admit that the bull was stolen and taken into our country and stolen again from arap Chepkigat."

Border Guard Groma duly sworn states: One day on your last safari the complainant reported that his bull had been stolen. Next day I followed the tracks with arap Kigone across the border to Kapeerok salt lick. The Kipigis Motere here the tracks were lost.

The Kipigis all admitted the tracks. A day later I heard that arap Mergochut had found the bull and that it was with arap Chepkigat. I summoned the complainant and we went to Chepkigat's hut. When we were told that it had been stolen that night.

R. O. C.

Sd. C.M. Deverall.

No questions asked.

Complainant recalled states: One youth and two children were guarding my stock, 100 head of cattle the day my cattle was stolen.

R.O.C.

Sd. C.M. Deverall.

RECOMMENDATION.

The facts in this case are simple and are not controverted by the defendants the people of Motere.

On or about the 20th February the complainant a

Jaime, Aguro #/o Otien had sent his stock consisting of about one hundred head to graze near a hill called Kebembiri which is the boundary between Central Kavirondo and South Lumbwa Reserve.

This place is densely wooded and has been the scene of many cattle thefts. Despite this fact and despite innumeral administrative warnings the complainant had entrusted the care of his stock to one youth and two small children.

This inadequate guard was easily dispersed on the appearance of eight Kipsigis warriors who proceeded to drive off some of the complainant's cattle. They however only succeeded in making off with 1 bull.

A report was made that evening to the H. O. who was holding a bar a in the neighbourhood, and the people were informed that stolen stock had been traced into their territory and that failure to restore it would result in a punitive Punishment Inquiry. The following day Chief Arap Bergabat discovered a bull which he recognised from the description of the complainant's the one stolen, in thick bush in the Koret Noiers.

He took possession of the animal and placed it in Arap Chepkigat's home, sending a messenger to the complainant to come and receive his property.

That night, and before the complainant, had time to arrive the bull was again stolen and had not been seen since.

These facts are all admitted by the people of Metere who say in effect: we admit that the bull was stolen by our people, we admit that it was taken into our country, we admit that it was found there and we admit that it was again stolen while in our country. But we would rather pay a fine than \$20 who has stolen the bull or restore the bull.

I have no

I have no doubt that the names of the thieves are known to a large number of these people and they have not denied this.

The stealing of the bull the second time after they had been warned in open barsa of the consequences of the first theft can only be construed as a gesture of defiance to Government. If such a gesture is not followed by severe punishment stock thefts on this part of the border will certainly become even more frequent than hitherto.

I recommend that a collective punishment of five hundred (500/-) shillings be imposed upon the male inhabitants of the Koro Muro (24 persons) as detailed in the list opp. 1st.

I recommend that from this amount 40/- be paid to Agaru & Co Office as compensation for the loss he has sustained, the balance (460/-) to be paid to the funds of the South Lumbwa Local Native Council.

SA. G.M. Deverell,

III Magistrate,

Jul Juliet, 18.4.35.

Male inhabitants of Motero.

1. Chuna a. Haiwa
2. Rere a. Cheskolgat
3. Kiphalya a. Tangat
4. Chobunoi a. Haiwa
5. Kimirik a. Keter
6. Kiprof a. Keter
7. Tegutwa a. Tirop
8. Kipnang a. Tegutwa
9. Chuno a. Cheskolko
10. Kipkario a. Chuno
11. Kipkoto a. Tangat
12. Kipoo a. Baruaia
13. Chuno a. Telo
14. Kipnang a. Chuno
15. Kipkario a. Tunising
16. Chuno a. Telo
17. Kiptani a. Cheskolko
18. Kipwato a. Cheskolko
19. Baruaia a. Kipkario
20. Kipkoto a. Kipkario
21. Cheskolko a. Tunising
22. Kipkario a. Motero
23. Kipnang a. Cheskolko
24. Kiplang a. Tangat
25. Kipat a. Tangat
26. Kipat a. Tangat
27. Kipat a. Cheskolko
28. Cheliliga a. Cheskolko
29. Kipat a. Tangat
30. Cheliliga a. Rere
31. Kipkario a. Rere
32. Kipat a. Lilo
33. Kipat a. Kipat
34. Cheskolko a. Kipat
35. Kipat a. Haiwa
36. Kipat a. Rere
37. Kipat a. Baruaia
38. Chuno a. Kipat
39. Kipkario a. Rere
40. Kipat a. Rere
41. Kipat a. Rere
42. Cheliliga a. Kipat
43. Kipat a. Kipat
44. Kipat a. Kipat
45. Chuno a. Cheliliga
46. a. Tangat
47. a. Tangat
48. a. Kipat
49. a. Chobunoi
50. Kiptun a. Kipat
51. a. Cheliliga
52. a. Kipat
53. Kipkario a. Kipat
54. Kipat a. Tangat.

COLLECTIVE FURNITURE NUMBER NO. 2383 OF THE LIBRARY.

COLLECTIVE SETTLEMENT ORDINANCE
No. 24 of 1930.

Inquiry No. 1/1933 of South Lunenburg District.

ORDER.

WHEREAS it has been proved to my satisfaction that one Neil, the property of Agure v/o Otian, Kianga Otian, Chief Ota, Nyamash Location of Central Kariakoo District, was stolen in or about 1928 February 1928 near a place called Mumbiri and was traced to the forest of Motere in the South Lunenburg Native Reserve.

AND WHEREAS it has been proved to my satisfaction that the Kipaliga inhabitants of Nyamash, although a public announcement was made and failed to recover the property or to take the trouble beyond the limits of the Reserve and have therefore incurred themselves liable under section 7 (a) of the Collective Settlement Ordinance 1930 to the imposition of a fine.

NOW, therefore, I, Harold Robert Montgomery, Provincial Commissioner of the Nyamash Province in exercise of the powers delegated to me by Government Notice No. 475 of 1927, do hereby impose a collective fine of SHILLINGS FIVE HUNDRED on the Kipaliga inhabitants of the Motere of the South Lunenburg Native Reserve whose names are shown on the Schedule annexed hereto.

AND I hereby order that out of the fine of SHILLINGS FIVE HUNDRED, when collected, the sum of SHILLINGS FORTY be paid to Agure v/o Otian as compensation for his loss.

GIVEN at Kisumu this twenty-third day of May, One thousand Nine Hundred and Thirty-three.

H. R. MONTGOMERY

PROVINCIAL COMMISSIONER NYAMASH.

COLLECTIVE SETTLEMENT ORDINANCE
No. 44 of 1930.

Regulation No. 1933 of South Lusaka District.

27

ORDER.

WHEREAS it has been proved to my satisfaction that one bull, the property of Agura v/o Otien, Mwangi Otieno, Chief Otien, Nyakachi Location of Central Kavirondo District, was stolen on or about 28th February 1933 near a place called Kishihiri and was traced to the Korot of Motere in the South Lusaka Native Reserve.

AND WHEREAS it has been proved to my satisfaction that the Kipsigis inhabitants of Korot Motere, although a public announcement was made have failed to restore the property or to take the bull to the limit of the Korot and have therefore rendered themselves liable under Section 2 (c) of the Collective Settlement Ordinance 1930 to the imposition of a fine.

Now, therefore, I, Harold Robert Montgomery, Provincial Commissioner of the Nyanza Province in exercise of the powers delegated to me by Government Notice No. 475 of the 20th August, 1927, do hereby impose a collective fine of **SHILLINGS FIVE HUNDRED** on the Kipsigis inhabitants of Korot Motere of the South Lusaka Native Reserve whose names are shown on the Schedule annexed hereto.

AND I hereby order that out of the fine of **SHILLINGS FIVE HUNDRED**, when collected, the sum of **SHILLINGS FORTY** be paid to Agura v/o Otien as compensation for his loss.

GIVEN at Kisumu this twenty-third day of May, One Thousand Nine Hundred and Thirty-three.

H. R. MONTGOMERY

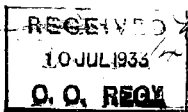
PROVINCIAL COMMISSIONER NYANZA.

KENYA.

No. 372



GOVERNMENT HOUSE
NAIROBI,
KENYA.



JUNE, 1933.

Sir,

I have the honour to transmit for your information a copy of the Proceedings in an enquiry held by the III Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishments Ordinance No. 54/1930, into the theft of 10 head of cattle, the property of a Kavirondo of Central Kavirondo District named Iula Oluoch, together with a copy of the Order signed by the Provincial Commissioner, Nyanza Province, which involved the fine of Shgs. 318/- on the fifty three male Kipsigis inhabitants of the Korat or Kablelartet of the South-Lumbwa Native Reserve, to which Korat the tracks of the stolen cattle were traced.

2. Concurring with the advice of Executive Council, Sir Joseph Byrne ordered that the proceeds of the fine, less any expenses incurred by Government in collection and after paying the sum of Shgs. 260/- to Iula Oluoch as compensation for his loss, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. M. Lister

ACTING GOVERNOR.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP GUNLIFFE-LISTER, P.C., G.S.E.I., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W. 1.

INQUIRY NO. 2 OF 1955.

III Class Court, Kericho.

Inquiry under Collective Punishment Ord. 54 of 1950.

Held at Sonda on 20.2.1955.

An inquiry whether the inhabitants of the Koret Kablelartet in the Belgut Area, Location 1, of South Lumbwa Reserve, stolen cattle to wit 13 head the property of Tala s/o Olmosh, H. Ododo, Chief Opio, Central Kavirondo having been tracked to within the limits of their area on or about 24th December 1954 have failed to restore the property (or have failed to take the track beyond the limits of their Koret)

Inquiry held at Sonda on 20.2.55 about 20 persons of the Koret concerned being present.

Public notices on inquiry having been given for 3 days and the inquiry put off on three successive days on account of insufficient number of people.

Chief arap Sergeant, and Head Border Guard arap Maina present.

Tala s/o Olmosh only affirmed statement:-

"I am a resident in Chief Opio's country Central Kavirondo. One day shortly before Christmas I put my cattle into my boma at usual at night. I counted them and there were 17. That night about 1 a.m. I heard the noise of a cow calling. I got up and went out. I found the door of the boma broken down and only 4 cattle remaining.

I immediately called my children and we went down to the Border Guards Lines which is about half a mile from my boma. We arrived at the lines about 3 a.m. He reported to B.G. Ngavala who at once sent word to the other border guards.

I then returned to my boma to await light. When it was light B.G. Ngavala, B.G. Genga, B.G. Mngese, and myself and another Lumbwa followed the tracks. The tracks lead across the boundary into Lumbwa country half way up a mountain

known

INQUIRY NO. 8 OF 1988.

III Class Court, Kericho.

Inquiry under Collective Punishment Ord. 64 of 1980.

Held at Sonda on 20.8.1988.

An inquiry whether the inhabitants of the Koret Kablelartet in the Belgut Area, Location 1, of South Lushwa Reserve, stolen cattle to wit 15 head the property of Tula s/o Oluoch, M. Odeda, Chief Opio, Central Kavirondo having been tracked to within the limits of their area on or about 24th December 1987 have failed to restore the property (or have failed to take the track beyond the limits of their Koret)

Inquiry held at Sonda on 20.8.1988 about 30 persons of the Koret concerned being present.

Public notice on inquiry having been given for 6 days and the inquiry put off on three successive days on account of insufficient number of people.

Chief arap Bargoohut, and Head Border Guard arap Weina present.

Tula s/o Oluoch duly affirmed states:-

"I am a resident in Chief Opio's country Central Kavirondo. One day shortly before Christmas I put my cattle into my boma as usual at night. I counted them and there were 17. That night about 1 a.m. I heard the noise of a cow calling. I got up and went out. I found the door of the boma broken down and only 4 cattle remaining.

I immediately called my children and we went down to the Border Guards Lines which is about half a mile from my boma. We arrived at the lines about 3 a.m. He reported to B.G. Ngawala who at once sent word to the other border guards.

I then returned to my boma to await light. When it was light B.G. Ngawala, B.G. Ganga, B.G. Mngeso, and myself and another Lushwa followed the tracks. The tracks lead across the boundary into Lushwa country half way up a mountain

known

known to us as Nyika. Here the tracks were lost near a Lambwa Bush. We called out and shouted for some time but no Lambwa came. We did not enter a Lambwa house.

Then we returned and I sent my son to KIMBA to the District Commissioner to report. Another son went to District Commissioner Kericho. This son was given a Tribal Retainer who returned with him to the place where the tracks were lost. But he was not able to find my cattle.

The cattle I had stolen was as follows:-

2 cows, 2 bulls, 2 calves.

There were a number of foot prints near my bush but I think 2 people were concerned in the theft.

Since the day of the theft I have not heard anything of any of these animals.

M. O. O.
S.C.M. Boverall,
III Mag.

No questions asked.

S.C.M. Boverall.

Swt a/o Tula (son of complainant) testified stating:-

"Shortly before Christmas I sent up our cattle at night in our bush. I counted the stock when I put them in and there were 17.

That night I was wakened by my father who said that our cattle was stolen. I found that only 6 animals were left.

I immediately called the rest of our clan and I went to Kigwani to tell the Border Guard. I returned early in the morning and followed the tracks with Border Guards Mwangi, Ganga and Arap Engere. The tracks were lost near a Kipwiga bush half way up the escarpment above Sanda.

I went to the District Commissioner Kericho, and returned with a Tribal Retainer but he was not able to find the cattle.

Witness

Witness not X - examined by Kipsigis.

R. O. C.
Sd. C.M. Dowerall.

Border Guard Ngwain duly affirmed states:-

"One day about 5 a.m. I heard a noise from Tala's Boma. Then Tala arrived. He said that his cattle had been stolen. I put on my clothes and went to the boma. I also sent people off in every direction to look.

In the morning I followed the tracks and sent for Border Guard Arap Ngosoo. He arrived with 8 men. They said they wished to go to the boma to follow the tracks. They followed the tracks as we had done across the boundary, half way up the escarpment above Gonda. The tracks were lost near a ~~large~~ boma when there were many other tracks.

We started and called for a long time but got a single sign in some.

Those who followed the tracks to this place were myself, the Tala family, Border Guard Arap Ngosoo, Arap Ringa, and Ngosoo, the last two people from Ngosoo.

R. O. C.
Sd. C.M. Dowerall,
III Mag.

Kibuna arap Terer, Korot Burigwet duly affirmed states:-

"One day about 8 a.m. I heard some Jains shouting. I was in my boma at the time. I went towards the noise and met Border Guard Arap Ngosoo and Arap Ringa. I then met Border Guard Ngwain. ^{Arup Ngosoo asked Ngwain} what the noise was about. He said that 10 head of his cattle had been stolen from Tala and tracked into Kipsigis country.

I looked for the tracks and could not find them.

Then Arap Ngosoo suggested that we should follow the tracks from the boma and he told me to examine other people to search.

I found Headman Arap Maribee and some others. The former was sick that day. I was given 3 persons; Arap Kaunilo, Arap Hingesso (brother of Border Guard) and another of his brothers.

We met the Border Guard Arap Hingesso told us that he had been unable to trace the tracks across the border. He told us that the Jains had returned and there was no use doing anything now.

Q by Ngavala. Did you see me that day?

A Yes I saw you.

Ngavala. I never saw this witness that day. I know him well and never saw him that day. He is lying.

R. G. G.
Sd. G. M. Dowerell,
III Mag.

Kiphoos Arap Hingesso, only affirmed statement:-

" I am brother of Border Guard Arap Hingesso. About 4 a.m. one day I heard the last witness shouting. I went with him and my brother and met my brother on the way. He was by himself. He said he had gone into Jainu country to trace the tracks. He had traced them to a potatoe chamba but had not been able to trace them across our border. He said that was nothing more to be done and we returned to our home.

Q by Magistrate. When I heard Arap Terei's shout I was in my house.

The place where the Jains say the tracks were found was beside my brother the Border Guards house.

R. G. G.
Sd. G. M. Dowerell,
III Mag.

Kiphoos Arap Hingesso, Border Guard, only affirmed statement:-

" One day about 7 a.m. I heard Ngavala calling me. I found him with about 20 Jains in our country.

I asked them to show me the place where the tracks entered our country.

I returned with them to the border and looked about. The ground near the border was too stony to trace the tracks.

We went into Jaluo country and followed the tracks in a shamba.

We followed them to a place called Ghassoh in Jaluo. The tracks then crossed the border but the Jaluo said they would go no further because their dog had died and they believed the thief was a witch.

Later Border Guard Gonga came along and said that Jaluo had traced the tracks halfway up the escarpment near a boma of Kiptonk arap Tami. I did not see Ngwala but he had put pigs down, and I could see the tracks plainly.

Next day Ngwala came and I showed everybody the tracks. Everybody agreed that they were the tracks.

The tracks were lost because the other cattle had trampled them down. The place where the tracks were lost was Kabeleartat.

E. C. H. DeWorell,
III-Mag.

Hearing adjourned 20.6.35.

RECOMMENDATION

This is an inquiry as to whether the inhabitants of Kabeleartat have failed to restore 15 head of cattle, the property of a Jaluo Tala s/o Olucch, the tracks having been traced into their area and not followed up, or not.

The evidence of Tala and his relations supported that of the two Jaluo Border Guards seems to be sufficient to prove that the 15 head of cattle were in fact stolen. The evidence of the same Border Guards supported by the Kiptonk Border Guard arap Ngwese seems to show that the tracks were in fact followed into Kabeleartat, shown to the local inhabitants, and agreed to by them.

The evidence of arap Turer, and Kiptonk arap Ngwese does not contradict the evidence of Border Guard arap Ngwese. They merely state that they were not shown the tracks when the Jaluo first reached the border. The Border Guard

arap

arap Hageso distinctly states that it was only later that the Jaluo Border Guards whom he found the tracks and showed them to him. The Jaluo also state that they called for assistance and none was forthcoming.

Since the theft was reported every effort has been made to find the thieves without avail.

I recommend that a collective fine as authorized by Ordinance No. 84 of 1969 should be imposed on the adult male inhabitants of Kabilart as mentioned in the schedule appended. The fine to be at the rate of 8/- per head, 818/- in all.

Out of this I recommend that 500/- be paid in compensation to Kala w/o Ogech, the balance to be paid into the funds of the South Luwero Local Native Council. There are 53 male adults in Kabilart, the stock is rich in cattle.

G. G. M. D. D. D.

III 1969

1117.00

Chief Arap Bergochat, Location 1, South Lubwa Reserve, Gulu wama states:-

"Just before Christmas I received a report that 10 head of cattle had been stolen from a Jains and traced into my country between Benda and Karabel.

I at once went to the place and saw the border guards. They showed me the tracks and I realized that the cattle had really been taken across the border. I called a barasa of the people of Kabilawit and of the other Kavets close by. I told them that the cattle had been traced into their country and said that if they did not restore the stolen stock as soon they would be punished.

A few days later I held two more barasa I repeated that they must restore the stock and told them that a Tribal Note now had come from the District Commissioner to tell them they would be severely punished if the stock was not returned.

Unfortunately the stock has not been seen since.

R. G. C.

Sd. C.H. Powell,
III Mag.



KENYA

No 285

1 MAY 1933.

Sir,

I have the honour to transmit for your information a copy of the Proceedings of an inquiry held by the 1st Class Magistrate, Laikipia District, Masai Province, under the Collective Punishment Ordinance, 1930, into the theft of eight head of cattle the property of an Kikuyu native of Laikipia District, together with a copy of the Order signed by me under section 2, of the Ordinance, which inflicts a fine of Rs. 1,200/- upon fifteen inhabitants of the Sika Area in the Laikipia District, in which area the stolen cattle were traced.

E. Concurring with the advice of my Executive Council I have ordered that the proceeds of the fine, less any expenses incurred by Government in collecting, be paid into the funds of the Laikipia Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

MR. LAIPEN-GENERAL
GOVERNOR.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CURLIFF-LISTON, F.C.S.I., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOVING STREET, LONDON, S. W. 1.

one other and proceeded to Makindu. About one and a half miles on the Kiboko side of Makindu, Juma pointed out a place crossing the Railway line. I told him to write out the mile post number. He handed me No. III. We reached Makindu at about 8.30 a.m. and there I inspected the cattle band of the Kiboko. It appeared that the deer had been interfered with, there was no padlock thereon. There were indications that recently one had been removed. I was handed the padlock and staple by the constable (No. IV). At about 10.30 a.m. I left Makindu carrying Hademan Juma and Kimanthi, Constables Muli and two others. At about 12.15 p.m. about thirteen and a half miles from Makindu and about a half from Simba. I dropped Hademan Juma, Kimanthi and Constable Muli. I then proceeded to Simba, and reached there at 12.30 p.m. I went to the Hademan Juma, as arranged the previous evening, I searched for him without result until about 2.30 p.m. I then called the alders at Simba.

1. Hademan Juma
2. Kimanthi
3. Constable Muli
4. Constable Muli
5. Constable Muli
6. Constable Muli
7. Constable Muli
8. Constable Muli

I directed them to check the Hademan Juma, Kimanthi and Constable Muli Nos. 2, 4, 5 and 8 went with me. Just after three p.m. we arrived at this place which on the Simba side of the Railway line. There I saw Hademan Juma remove a clump of cut tinea bush. A tin and pieces of a box, and disclosed the footmarks of young cattle and those of persons wearing gator car tyre sandals. In the tracks of the sandals could be seen three distinct lines. The spurs disclosed were at distinct

of thirty to forty yards from each other. The spear came from Kiboko and entered the Masai country. This I pointed out to the elders. I also pointed out to them that there was no other cattle spear fur at least 10 yards on either side. I then recorded the statements of the elders. On account of what Simba told me I looked for other spear and showed before the elders that the spear pointed out to me by Headman Juma occurred over a distance of about one hundred yards and lay along a definite route, always accompanied by the sandal marks.

I saw a similar sandal mark among spears similar to that pointed out to me by Juma on the Makindu side of the Kiboko bridge on the old Kiboko road. The ground was unfortunately too dry and dusty for me to take plaster impressions of the tracks at Makindu. I attempted to take those where Juma pointed out but it was not successful.

R. G. S.

Sd. A. K. Rice.

Later Statement made by Inspector Ash:- When I showed the tracks to the four elders, three men, S, D, and E agreed that the spear had definitely come from the direction of Kiboko and had entered the Masai and were not the spear of local cattle.

MS.S held that they were of local cattle. These tracks finished about one week and a quarter from Simba's (MS.S) myitta.

R. G. S.

Sd. A. K. Rice.

Sd. A. Ash. S. P.

Note:- Subsequent statement is not admissible as ^{evidence} ~~shown~~ Sd. A. K. Rice.

Sargan Ole Sirai, question:- Were the marks which covered the footmarks new cut or old?

Witness:- I don't know. I did n't cut them.

Sargan. Where did you leave Juma that day?

Witness. 12 1/2 miles from Makindu and 4 1/2 miles from Simba.

Sungun- Did I agree that the spear was not local cattle?
Witness - Yes and you signed a statement to that effect.

Sd. A. Ash. I. P.

R.O.C.

Sd. A. K. Rice.

2nd Witness for Poon, Malohi Binti Ngovi. Malohi affirmed
states:- I live with my husband Kimathi in Makindu, I know the
lock (M. IV), it is the lock of the cattle barn of my husband.
This is the key (She shows it - it works). On the night of
the 10th October I put the cattle in the barn at 8 p.m. I put in
22. (Witness examines five cattle produced) Four of these cattle
were among them. I do not know the small grey bull. The next
morning eight were missing. The four of these five were among
them.

R.O.C. Sd. A. K. Rice.

I Right thumb
of Malohi.

No I.I. Sd. A. K. R.

3rd Witness:- Malohi s/o Malohi Binti Ngovi, Malohi affirmed:-
I live in Makindu. The woman who was here is my wife. She
lives with me. I know these cattle, four of them are mine, the
one (grey small bull) is not mine. I lost them last month. I lost
eight cattle. I heard the cattle crying in the night, I went out
and saw the padlock of the door was broken and all the cattle
out side. I recognise this padlock as mine. (M. IV) I rounded
everything in the village, and we put them cattle in the barn.
I saw eight were missing. Four of them are here now, the other
four I have not seen again - all these missing are cows. One is
with calf. We returned to the barn because we could not find the
cattle. In the morning I followed the cattle with Poon and
Constable Muli. The price of these cattle is sh. 1000/-. I saw
these four cattle again near the shamba of Mohamed ten days
later.

I Right thumb of Kimathi.

R.O.C.

Sd. A. K. Rice.

No I.I.

-4-

Bangan- Did I agree that the spear was not local cattle?
Witness - Yes and you signed a statement to that effect.

Sd. A. Ash. I. P.

R. O. C.

Sd. A. K. Rice.

2nd Witness for P. M. Maloti binti Mgevi. Mamba affirmed states:- I live with my husband Kimanathi in Makinda, I know the look (No. IV), it is the look of the cattle horns of my husband. This is the key (the witness tries it - it works). On the night of the 15th October I put the cattle in the barn at 8 p.m. I put in 22. (Witness examines five cattle produced) Four of these cattle were among them. I do not know the small grey bull. The next morning eight were missing. The four of these five were among them.

R. O. C. Sd. A. K. Rice.

I Right thumb
of Maloti.

No I.I. Sd. A. K. R.

3rd Witness:- Kimanathi s/o Mhai Mba 080021 Mamba affirmed:- I live in Makinda. The woman who was here is my wife. She lives with me. I know these cattle. Four of them are mine, that one (grey small bull) is not mine. I lost them last month. I lost eight cattle. I heard the cattle crying in the night, I went out and saw the padlock of the door was broken and all the cattle out side. I recognise this padlock as mine. (No. IV) I rounded everybody in the village, and we put these cattle in the barn. I saw eight were missing. Four of them are here now, the other four I have not seen again - all these missing are cows. One is with calf. We returned to the barn because we could not find the cattle. In the morning I followed the cattle with P. M. and Constable Muli. The price of these cattle is sh. 1000/-. I saw these four cattle again near the shrine of Mshamu ten days later.

I Rb. thumb of Kimanathi.

R. O. C.

Sd. A. K. Rice.

No I.I.

4th Witness Juma bin Kichu-Mahomedan, Kibaha, sworn:- I am the Headman of Makindu. I heard at 10 p.m. one night that Kwanthi had lost some cattle. I left my house and went to his home. I saw that the staple holding the lock had been forced off and was lying on the ground near. I saw only twenty inside. Everybody turned out, about thirty of them and looked for the cattle. We looked until 11.30 p.m. then I told everybody to go back. When I returned I sent a telegram to the Askari Muli. He came at 6 p.m. next morning. We went out and saw tracks of the cattle and tracks of three people, all wearing rubber tyre sandals one having three distinct lines down it. We followed the tracks, which were very clean, down to the Makindu river. The tracks were of running cattle and their droppings were fluid. The tracks crossed the river in the mud, together with the three people. They crossed the line of the railway at a place the village of which I wrote down later (KX/II) They then crossed the Mombasa road, I could see the tracks well. They entered the bush, and went to the Kibaha river, they crossed it in the old road leaving the new bridge. They followed the old road for half a mile, then they followed the new road for about four miles. They were still very clean. About a mile. About a mile and a half from Kibaha town they went into the bush again. Here I stopped every body because there were eleven people with us all armed and we would quarrel with the Masai if we met them. We made exit there bush, and put it with a tin and boards over the tracks, particularly over the very distinctive tracks of the sandals with three lines and studs. There were no other cattle tracks in the immediate vicinity. I sent Constable Muli and one man to Kibaha manyatta to tell them the news and to tell them to come and look at the spear. Then I went away with my people. I stayed that night at Kibaha on the sugar plantation. The next morning on the Makindu Road I met Inspector Ash. I

I went with him to Makindu. I showed him everything. Then we went to the home of Simba, on the way he left me at the place where I had covered the tracks and went away. Then he fetched me away and took me to Mibha. We took four elders to the tracks. We showed them the tracks and then Inspector Ash wrote down their statements. On the 20th I heard that five cattle had been found at Mibha. I sent a telegram to Constable Mali of Kibwezi. As usual, I went with Mali and Kimathi to the shamba of Mubwand on the Mwezi side of the Railway. I saw five cattle there. They are here now. We saw their tracks had come from Masai country. They were the tracks of two people with them, one of whom was wearing sandals with lines on them just like those seen with the cattle in the first place.

R. O. C. ed. A. L. Rice.

Ed. Juma Njaha.

Questions:- Saungu- Did I not say when we saw the tracks that they were the tracks of our cattle?

Witness. You said this country is where we put our cattle.

Saungu- Where did you put the tracks?

Witness. I put them there the first time I went.

Saungu. You saw the tracks of sandals, does not every body use sandals?

Witness. I got these tracks coming from the home.

R. O. C. ed. A. L. Rice.

Ed. Juma John.

5th Witness- Ist. Class Con. 647 Mali a/o Mbatia-Mbumba affirmed- I was stationed at Mibwezi in October. On the seven-teenth I heard that cattle had been stolen in Makindu. I left Mibwezi at 2 P.M. and reached Makindu at 4 a.m. I went to Juma. I went with with him and eleven others all armed to follow the cattle. We saw tracks near the home in the doorway of cattle and three people. All the people wore sandals, two of them were plain and the other had three lines. We followed the tracks into the Mwezi side, then they crossed the railway, then crossed the

the road to Mombasa and went into the bush, they crossed the Kiboko on the old road, then joined the new road and went on that to near the boma of Simba, then the tracks entered the bush, there we stopped and Juma and I covered the tracks with tin, weed and thorns. We covered them so that they would not be destroyed. Juma returned and I went to the boma of Simba. He is here now (Simba pointed out) I told him we were looking for lost cattle and that I had followed them to that hill. I pointed it out. I asked him to go with me to see them. He refused. I asked him to look for the cattle. He said he would. I then returned to Simba Makindu. I met Inspector Ash there. I went with him, Juma, Kimathi and two other sukaris, and we went to Kiboko, then to the place we had marked. He left Juma, Kimathi and me there. He then came and took us all to Simba. He took four sleds and left me here. I returned to Kibwesi.

On the 26th I got a telegram, I went to Makindu. I went with Juma and Kimathi to Kiboko to a shamba. We found five cattle there we saw their tracks had come from the bush, together with the tracks of two people. One of them was wearing sandals like those I saw on the day when we followed the cattle.

R.O.C. sd. A.K. Rice.

Ed. Mali, did
Lemalan Ole Njigiri (Simba) ~~What~~ you put the mark to show the tracks?

Witness: About half an hour away from your boma.

Lemalan- Did you ask me to look at them?

Witness - Yes.

R.O.C. sd. A.K. Rice.

Ed. Mali.

Inspector Ash states he has six more witnesses to corroborate the statements of Juma and Mali on the tracking of these cattle. They were among the eleven.

Ed. A. K. Rice.

The Court decides that for the present this is not necessary.

Sd. A.K. Rice.

5th Witness- Mohamed bin Barroo- Shamba, Mohamadani- Sworn-
I have a shamba at Kiboko on the Masai side of the line. I
saw the cattle here on the 26th at about seven a.m. near my
shamba, they were alone. I called my neighbour and asked him
if they were his. Then I sent word to Juma, Juma, Mali and
Kimanthe and others came Kimanthe claimed four of them. I saw
the track of the cattle and two people one of them was wearing
small sandals with three lines on them.

R.O.C. Sd. A.K. Rice.

x Right thumb mark of
Mohamed.

No X.L.

This closes the case for the prosecution. The Court adjourned
for the Magistrate to visit the place where the tracks entered
the Masai country. He were covered up.

11.30 a.m.

Sd. A.K. Rice.

Case resumed 3 p.m.

I consider that a case lies against the inhabitants of the
Simba district under Section 2(c) of the Collective Punishment
Ordinance No. of 1930, in that stolen property or property
which may reasonably be suspected of being the proceeds or
part of the proceeds of a theft concerning which a public
announcement has been made has been traced to within the
limits of their District, and they have failed to restore the
property or take on the tracks beyond the limits of the
District.

For this purpose I consider that the inhabitants of
the area called Simba district are those who water their
cattle at the Simba Waterhole and the Katatema windmill. There
are four homas, three watering at Simba and one at Katatema
these are included in a circle of radius approx nine miles

The Court decides that for the present this is not necessary.

Sd. A.K.Rice.

6th Witness - Mubama bin Barroo - Mubama, Mohamedani - Sworn-

I have a shamba at Kiboko on the Masai side of the line. I saw the cattle here on the 26th at about seven a.m. near my shamba, they were alone. I called my neighbour and asked him if they were his. Then I sent word to Juma, Juma, Mali and Kimanthe and others came Kimanthe claimed four of them. I saw the track of the cattle and two people one of them was wearing small sandals with three lines on them.

R.O.C. Sd. A.K.Rice.

x Right thumb mark of
Mohamedi.

No X.X.

This closes the case for the prosecution. The Court adjourned for the Magistrate to visit the place where the tracks entered the Masai country and were covered up.

11.30 a.m.

Sd. A.K.Rice.

Case resumed 3 p.m.

I consider that a case lies against the inhabitants of the Simba district under Section 2(c) of the Collective Punishment Ordinance 54 of 1930, in that stolen property or property which may reasonably be suspected of being the proceeds or part of the proceeds of a theft concerning which a public announcement has been made has been traced to within the limits of their District, and they have failed to restore the property or take on the tracks beyond the limits of the District.

For this purpose I consider that the inhabitants of the area called Simba district are those who water their cattle at the Simba Waterhole and the Katatema windmill. There are four herds, three watering at Simba and one at Katatema these are included in a circle of radius approx nine miles

wilds from the point where the tracks were lost and are shown as crosses on H.L.S. 47

The inhabitants of these hamlets:-

1. (a) Lemale Ole Njigiri (Simba).
(b) Pasote Ole Tirangai.
(c) Hanguya Ole Tumo.
2. (a) Sangan Ole Sirayem.
(b) Taimaiyer Ole Londidio.
(c) Katata Ole Laibogunya (Not here though summoned)
(d) Lesinyo Ole Birvia.
3. (a) Hasi Ole Kusano.
(b) Tivina Ole Apai.
4. (a) K. Hasi Ole Nyimo.
(b) Oshurai Ole Masoo.
(c) Tivaya Ole Salanga.
(d) Mairasha Ole Mhaiya.
(e) Giodilo Ole Ngunya (Blind)
(f) Keisina Ole Sairio (Not here though summoned)
(g) Olenote Ole Tivora (Not here though summoned)

All except those noted present. The charge read over and explained to them, they are asked to plead.

Sd. A. K. Rice.

Lemale Ole Njigiri (Simba) says:- As soon as we got the news we went out to look for the cattle, then we heard the cattle were found in Elhabe. These were found in country that is not ours on a Shamba. Elders are not able to go out at night to follow thieves.

R.O.C.

Sd. A. K. Rice.

X Rt. thumb mark of Lemale.

Sangan Ole Sirao, states:- I went with the European to the place where the tracks finished, I saw the thorns and wood. I told the Swana these tracks were of our cattle, our cattle graze all over this country, and asked him how he knew they were tracks of Masai. (The charge was again explained to the accused). When the Askari came the first time he only told me naa.

R.O.C. Sd. A. K. Rice.

Adas:- I do not remember the Swana asking me to look for the tracks. Why were we not asked to look at the tracks of these of which were found?

R.O.C. Sd. A. K. Rice.

X Rt. thumb of Sangan.

Mojeni Ole Kyimo-States:- I knew nothing about this before the Swana (Ins.Ash) came. I went with the Swana and saw the end of the tracks. The Tracks I saw were those of our cattle.

R.O.C. Ed. A.K.Nico.

X St. Thumb mark of
Mojeni.

No other wish to say anything. Ed. A.K.Nico.

FINDING- I find that the cattle were stolen and that it has been established that they entered the district inhabited by the accused. I consider that the accused made no efforts to follow up the stolen stock or to apprehend the thieves. They have had more than a month in which to act and the only result has been that four of the stock have been turned loose by night just outside their area. I consider that had they exercised any diligence they could have returned all the cattle and could have caught the thieves.

I am convinced that they know where this stock is and also know who are the thieves.

I therefore recommend that a fine of sh.2,000/- be imposed on the inhabitants of this district.

sh.1000/- is a very high valuation for 7 cows and one bullock, and I consider that sh.200/- only should be paid as compensation to Kimathi.

sh.1. I also recommend that sh.200/- be paid to the police for the costs of their prosecution. Since this one case has absorbed a considerable portion of their funds available in the Machakos District.

If the fine be imposed I recommend that it be divided as follows:-

sh. 300/- on each of the inhabitants of the Simba Boma that is on Nos. 1a, 1b and 1c and sh.150 on each of the others with the exception (4c) Gladika Ole Mnyuye who is blind and should therefore be exempted.

I order that the four cattle and the lock be returned to Kimanthe, and the fifth bullock be held in pound and treated as strayed. The cattle to remain here until permission is obtained from the Veterinary Authorities for their removal.

Gd. A. K. Rice.

Magistrate III Class.

Sims, 21. 32.

The Case under the collective punishment enquiry was concluded at Simba on the 22/11/28. On the 23/11/28, the Headman of the Kaputei, Longemajik Ole Makuro, who had been present at the enquiry telegraphed Kajindo that on account of the information he had received on the day after the enquiry he had caught the thieves.

The thieves were brought in, and convicted in Criminal Case No. 104 of 1928 of the II Class Court, Kajindo. Two of the thieves are residents of the Simba district (i.e. that area charged under the collective punishment Ordinance) and the third is of no fixed abode, but at the time of the theft was living in that District.

In my finding of the 22/11/28 I said that I was convinced that those people charged at the enquiry knew who were the thieves. This would seem to have been established, since, although more than a month had passed between the time of the theft and the enquiry and no information at all had been given, manifestly it was known that I was recommending a fine the thieves were produced. The inhabitants were obviously waiting to see if they could escape without penalty before volunteering any information, such theft is regarded as a virtue by the Maasi, and they will seldom give information about it voluntarily.

I consider therefore that the inhabitants of that area should still pay a fine under the collective punishment Ordinance but as the thieves have been caught and punished I recommend that the fine of sh.2700/- be reduced to sh.1125/-, all those charged except No. 49, who is blind paying sh.75/- each.

Further since the complainant has been compensated in the Criminal Case I recommend that no compensation be paid to him from this fine but that the police prosecution costs be paid as previously recommended.

Gd. A.K. Rice.

Magistrate III Class.

51

COLLECTIVE FINE ORDINANCE, 1950.

O. C. P. O. S.

WHEREAS it has been proved to my satisfaction that a herd of cattle, the property of Kisanthi M/S. Mwal, an Khasa of the Masai District, Masai Province, have been stolen and that the said cattle have been tracked to the Ngora of the Uasin area of the Kajicho District, Masai Province, and that the inhabitants of that area failed to restore the said property and have failed to take the tracks beyond the limits of the said area and have therefore rendered themselves liable to the imposition of a Fine under Section 2 (a) of the Collective Punishment Ordinance No. 24/1950;

NOW, THEREFORE, I, Joseph Aloysius Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by Section 2 of the said Ordinance do hereby impose a Collective Fine of Shs. 1125/- upon the inhabitants of the Uasin area in the Kajicho District, Masai Province, and of this fine of Shs. 1125/- when recovered, I order that the sum of Shs. 200/- be paid as costs of police investigation and prosecution.

Given under my hand at Nairobi this 3rd day of March 1950.

J. Byrne
BRIGADIER-GENERAL.

**LIST OF INSTANTANTS FROM WHOM THE COLLECTOR
HAS RECEIVED THE FOLLOWING**

1. (a) Lemale ole Njigiri (Gimba)
(b) Pasote ole Yirongai.
(c) Nongiya ole Tusa.
2. (a) Kaman ole Niraiga.
(b) Taimaiga ole Lemiale.
(c) Kuita ole Imbaraga.
(d) Kasiya ole Piria.
3. (a) Kasi ole Kibama.
(b) Tuma ole Aoi.
4. (a) Lemale ole Njigiri.
(b) Gionga ole Kibama.
(c) Tuma ole Njigiri.
(d) Kaituma ole Njigiri.
(e) Kaituma ole Njigiri.
(f) Kaituma ole Njigiri.

M. Roberts - Wily

Inquiry No. 6

This was an inquiry under § 2(c) of this Act. The alleged stolen property - 10 head of cattle - was not found in the Keret. The only question therefore was whether there was satisfactorily proved that the holder of these particular head of cattle had been traced to the Keret. The question is not printed on the characterised as rather vague. The learned Magistrate expressly disbelieved the prosecution witnesses and then proceeds to have the finding on the point fairly on what the witness said. However, there is no clear finding and it is impossible to say that there is no proof in support of the finding. As regards the public expenditure incurred by the subtraction, the only reference is to the finding in the testimony of Mused that Kalan was a resident in Kibibet of Keret. Subsequently, on Sunday morning, I called a baraza at the Keret. Due to nothing to show that the person is an authorised emissary of a District Officer or a native councillor. (vide § 2(a)) but the Magistrate seems to consider the announcement sufficient, and at the distance of space and time, it would be good public policy in regard to a point of his time to act on the maxim omnia praesumentur esse verba.

and I have
 had my people
 to look for
 cattle compensation
 J. J. J.

The amount of the fine imposed appears to be excessive - the number of persons liable was only six - but, here, again, the quantum of punishment is essentially a matter for the Court of first instance, unless it can be shown to be excessive or otherwise opposed to natural justice. I have no more comment to offer as regards the inquiry, which I consider the most important of all. It is necessary in these proceedings to show that the person was a resident of the Keret when the cattle were stolen. The inquiry was explained to the witnesses and they were asked to state the facts.

N. Roberts - Wray

Inquiry No. 6

This was an inquiry under § 2(c) of this Act. The alleged stolen property - 10 head of cattle - were not found in this Karet. The only question, therefore, was whether there was sufficient evidence that the holder of these particular head of cattle had been traced to this Karet. The evidence on this point can be characterized as rather vague. The learned Magistrate expressly disbelieves the main prosecution evidence and then proceeds to base his finding on the point partly on what the Acc. witness said. However, there is his clear finding, and it is impossible to say that the Acc. is so sure as to support it. In regard to public announcement required by the subsection, the only evidence is the following evidence in the testimony of Moses Arot Kaber who is described as Kiplangit of Karet Lethel: "On Sunday morning I called a meeting at the home of one of my friends to show that the person is an authorized emissary of a District officer or of a native authority" (vide § 2(A)) - but the Magistrate seems to consider the announcement sufficient, and at the distance of space and time, it would be good public policy in regard to a point of this kind to act on the maxim: omnia praesumuntur esse veritas.

and to have
 had any judge
 to look for
 the evidence
 do so

The amount of the fine imposed appears to be excessive - the number of persons liable was only six - but, here, again, the quantum of punishment is essentially a matter for the Court of first instance, and unless it can be shown to be excessive or otherwise otherwise, natural justice. I have no more comment to offer as regard this inquiry, which I consider the most important of all. There is nothing in these proceedings to show that the Acc. was not satisfied with the inquiry, which was explained to the Acc. by the Magistrate. The Acc. has the

opportunity to prepare their defence. It is true that the 5th does not require that a charge should be framed or that the accused persons should have notice of the inquiry, but these preliminary and safeguards are of the essence of British justice, whenever administered, and it is, I consider, of paramount importance that they should be observed in every instance where the Act subjects are put in peril of criminal punishment. In the present instance no failure of justice seems to have been occasioned by this omission and I would not do more than pass particularly on I note that in case of ~~the~~ these inquiries under consideration the requirements have been complied with.

It further, the 5th requires that the Govt. in his administrative character be "satisfied" that certain persons are guilty of the offence. This can only be administered by British justice and is satisfied that a party is guilty unless he has participated in the offence. The nature of the case against him is that he had an opportunity to meet it.

Inquiry No. 7

This purports to be an inquiry under § 3(2)(c) and 2(d) of the 5th. It has regard to the facts that have given rise to an inquiry, (and not merely to having regard to the success of § 5(4) of 1939) and seems to be intended to consider whether a finding such as the above is possible.

It is true that the Court appears to have operated with the evidence which was not necessary for the purposes of the inquiry, but the facts are the findings stated to be true in this case completely and

entirely within the ambit of § 3 of the 5th. If this is an inquiry properly within § 3 of the 5th, the public announcement seems to be necessary. It is necessary to give notice of the fact that a public announcement was made would I think in the absence of any material to the contrary, warrant the presumption that due public announcement was in fact made.

Inquiry No. 8

This is the best conducted of the inquiries under consideration. The nature and scope of the inquiry was fully explained; the materials were given sufficient time to get ready and, although there is no mention of a public announcement prior to the public announcement, or the material before us it can safely be held that there was ample public announcement with the purpose of § 3(c) of the 5th.

I think we can give this to be reasonable to assume that the material known to the inquiry is sufficient.

I agree that in case inquiry (7) as a § 3 case, I make no comment.

Good night?
Think

This is an inquiry similar to No: 7 and the Magistrate.

The same remarks as regards the grounds of charges apply.

J.D.S.

In this inquiry, nearly full within § 3 of the Act § 3(4) casts the burden on the inhabitants to prove that they had "used all reasonable means to trace the offender to justice".

The Magistrate holds that the inhabitants have failed to discharge this burden as "concrete" means "accidental". It is not possible to say that he is

W. J. ...
27.9.33



GOVERNMENT HOUSE.
NAIROBI.
KENYA

KENYA.

No. 136.

RE

23 FEBRUARY 1933

23 February 1933.

COL. OFF.

Sir,

I have the honour to transmit for your information a copy of the Proceedings in an Enquiry held by the 2nd Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishment Ordinance No. 54/1930, into the robbery with violence of Obino Masita, a native of Kisii, by three unknown natives of the Korot of Chemagel, Location 10, South Lumbwa Native Reserves, together with a copy of the Orders made by me and the Provincial Commissioner, Ny. Pr., under Sections 5 and 2 respectively of the Ordinance, which confiscate 25 spears and 25 swords and inflict a fine of Shs. 100/- upon the 67 adult male Mipanga inhabitants of the korot mentioned above.

2. Concurring with the advice of my Executive Council, I have ordered that the proceeds of the fine, less any expenses incurred by Government in collection and after paying the sum of Shs. 50/- to Obino Masita as compensation for his injuries, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,
Your most obedient, humble servant,
J. A. Byrom
BRIGADIER-GENERAL.

G O V E R N O R.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUSLIFFE-LISTER, F.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

INQUIRY NO. 7/32.

Second Class Magistrate's Court, Kericho.

Inquiry under Ordinance 54 of 1950
Section 2(c) & (b) read with Section 3.

CHARGE:-

WHEREAS on 6th December 1952 one Kisiil Obino Masita was robbed by three unknown Lumbwa, who were armed with dangerous weapons in the 'Keret' Chemagel Location 10 which includes the area known as Kap, Shupara, and a public announcement having been made the inhabitants have failed to take all reasonable means to arrest the offenders and/or have combined to suppress evidence regarding this offence. Read over to assembled natives.

sd/- G. TOMKINSON
2ND CLASS MAGISTRATE

Kipsangotet Arap Rono, Kipsel Matop,

elders and some twenty five other elders and young men of Chemagel 'Keret'.

also present Chief Arap Raronyo, Headman Arap Yalo and

Local Native Council members:- Arap Bwaga, Location 10

Arap Matai, Location 10

Arap Chemura, Location 11.

Keret Chemagel according to tax register contains 37 adult males.

HK 291265 Obino vs Masita, Kisiil

employed by Veterinary Department affirmed states:- On 6th December I was coming from Kericho with eight other Kisiil, seven were in front and I and another were behind when we reached the Sulalo stream near Chemagel we had bathed, we went after the others and came on them to find that they had been stopped by three Lumbwa, the Lumbwa did nothing to the seven but passed onto us. I was struck with a ranga on the neck, then he took a

DEMAND NO. 7/52.

Second Class Magistrate's Court, Kericho.

Inquiry under Ordinance 54 of 1930
Section 2(a) & (b) read with Section 5.

CHARGE:-

WHEREAS on 6th December 1952 one Kiali Obino Masita was robbed by three unknown Lumbwa, who were armed with dangerous weapons in the 'Keret' Chemagel Location 10 which includes the area known as Kapshapuru, and a public announcement having been made the inhabitants have failed to take all reasonable means to arrest the offenders and/or have combined to suppress evidence regarding this offence.
Read over to assembled natives.

sd/- C. TOMKINSON
2ND CLASS MAGISTRATE.

Kipsangotet Arap Rono, Kip. di Matop.

elders and some twenty five other elders and young men of Chemagel 'Keret'.

Also present Chief Arap Roronye, Headman Arap Tele and Local Native Council members:- Arap Buge, Location 10

Arap Mutai, Location 10

Arap Chemwan, Location 11.

Keret Chemagel according to tax register contains 67 adult males.

EK 291265 Obino wa Masita, Kiali

employed by Veterinary Department affirmed states:- On 6th December I was coming from Kericho with eight other Kiali, seven were in front and I and another were behind when we reached the Sulale stream near Chemagel we had bathed, we went after the others and came on them to find that they had been stopped by three Lumbwa, the Lumbwa did nothing to the seven but passed onto us. I was struck with a rung on the neck, then he took a

native sword from its sheath and cut me over the eye and the other man struck me on the head with a spear. They struck me over the arms, my companion ran away, the other seven had gone on, I was knocked down. they robbed me of Shs.10/-, a blanket of Shs.5/- and a shirt of Shs.2/- and shorts of Shs.4/- also a hat of Shs 1/50. They ran away and I got up and followed the others and they took me to Chemagal and my employer took me to Maricho Hospital.

R.O.G.

sd/- C. TOMKINSON
2ND CLASS MAGISTRATE.

No questions.

2nd Witness, NK 509767 Katika wa Gumbi, Kisumu employed by Veterinary Department affirmed: I was with last witness we were behind the 7 others, the three Lumbwa passed them and came on us, they took my blanket from me and struck my companion with a sword, they all three had rungas, swords and spears. When I saw my companion struck I called out and ran away. When I caught up the others I saw Obino following and we all went to our employer and then to the Police Station.

R.O.G.

sd/- C. TOMKINSON
2nd Class Magistrate.

No questions.

3rd Witness, Esakiel Arap Roronya, Chief Location 10 sworn states:- On the 6th December, the Inspector of Police brought me to Chemagal arriving about 4 p.m. I called a meeting at once at Kapshokoru and 69 inhabitants attended, and three Kisii came but could not identify anyone. There were 8 children there who said they had seen the Lumbwa beating the Kisii, the children were on that road going to the native mills on

the Kipsenoi. The children said there were three
 Lumbwa but with sticks and swords not spears. The
 children could not identify the Lumbwa amongst them,
 but said one had a large pierced lobe with a stick in
 it. Next day I had another meeting of 118 including
 Kapamatu and Kiriat and Chebongi herets as well as
 Chmagel. But neither the Kiriat nor the children could
 identify the Lumbwa assailants. I told them to have
 meetings also at Kapamatu and Chmagel about this
 matter. I have been unable to find out anything else.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate.

No question.

4th Witness, Marge wa Charung, affirmed witness. I
 an employe of Veterinary Department and was one of the
 party of Kiriat, I saw the Lumbwa hitting the Kiriat. I
 heard him calling out when I was about 200 yards (100
 from Police Station to Government Camp here) I did not
 see anyone come out of my village.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate.

One of the children mentioned by witness No. 5 was
 called, but gave no coherent evidence.

sd/- G. TOMKINSON
2nd Class Magistrate.

Elders and others called on to make any statement.

' We have had meetings but have been unable to trace
 the offenders'.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate.

In company with Chief Arap Rereya, I visited the
 scene there are no huts within a quarter of a mile, none
 are actually visible from the stream, but a much used

track passes the spot in addition to the main road.
Some recently cultivated shambas are to be seen.

sd/- C. YONGKINSON
District Commissioner.
16-12-1932.

A.R. Kaler, Medical Officer Kericho sworn states:- This
complaint was brought in on 6th December, he had a
cut over his right cheek bone about 1 1/2" in length and
about 1/2" deep, two stitches were put in. He had a small
scalp wound on the back of the head. He made an
uninterrupted recovery and was discharged on the 15th.
He was suffering from contusions of a trivial nature.

R.S.M.
sd/- C. YONGKINSON
District Magistrate.
1-1-1933.

Subjctive evidence of the Medical Officer was taken
intentionally to save expense, the 'honor' being
disputed as it not being able to ask H.O. questions.

sd/- C. YONGKINSON

REMARKS:-

These cases which are best described as
ambushes are becoming much too prevalent in this
District of North Embu. This case concerns a Kikuyu
native who was set on and robbed. It is true that the
Chief called all those concerned to try and find the
offenders, the inhabitants may well have all been
present and none of them may have been the actual
offenders, but it is the total indifference on the part
of the inhabitants to such an act of violence which con-
sult consider, beyond local meetings no effort has been
made by the inhabitants of this Keret to investigate
this crime which occurred within their area. I am
therefore of opinion that they have not used all
reasonable means to bring the offenders to justice and
I therefore recommend that Chungal Keret pay a fine
of Shs. 100/-, of which Shs. 50/- to be paid to

track passes the spot in addition to the main road.
Some recently cultivated shambas are to be seen.

sd/- C. TOMKINSON
District Commissioner.
16-12-1932.

A.R. Esler, Medical Officer Kericho sworn states:- This complaint was brought in on 6th December, he had a cut over his right cheek bone about 1 1/2" in length and about 1/2" deep, two stitches were put in. He had a small scalp wound on the back of the head. He made an uninterrupted recovery and was discharged on the 15th. He was suffering from contusions of a trivial nature.

R.O.C.

sd/- C. TOMKINSON
The Glass Magistrate.
2-1-1933.

Note:- The evidence of the Medical Officer was taken subsequently to save expense. A 'Kericho' suffer no disadvantages in not being called to ask R.O. questions.

sd/- C. TOMKINSON

INCIDENT:-

These cases which are best described as assaults are becoming much too prevalent in this district of North Embu. This case concerns a Kikuyu native who was set on and robbed. It is true that the Chief called all those concerned to try and find the offenders, the inhabitants may well have all been present and some of them may have been the actual offenders, but it is the total indifference on the part of the inhabitants to such an act of violence which one must consider. Beyond local meetings no effort has been made by the inhabitants of this Kericho to investigate this crime which occurred within their area. I am therefore of opinion that they have not used all reasonable means to bring the offenders to justice and I therefore recommend that Shungul Kericho pay a fine of Shs. 100/-, of which Shs. 50/- be paid to

HK 271265 Claim for injury and loss of property and further that the inhabitants of this Keret do deliver up n. 25 spears and 25 swords (sini)

n. Spears with iron shaft and blade.

W/LT.

si/- G. STURROCK
2nd Class Magistrate,
2nd January, 1979.

Further I recommend that balance of fine after compensation is paid, be credited to North Lushan Local Native Council funds.

si/- G. STURROCK
2nd Class Magistrate,
2nd January, 1979.

THE COLLECTIVE PUNISHMENTS ORDINANCE, 1930.

O R D E R.

WHEREAS in virtue of the powers thereunto enabling him the Provincial Commissioner of the Nyassa Province by order dated the 16th day of January 1933, imposed a collective fine of Shillings One Hundred on the adult male Kipsigis whose names appear in the Tax Register of Karot Commercial District 10 of the North Eastern Native Reserve.

AND WHEREAS it is considered expedient that in addition to the said fine the said Kipsigis should deliver up to the said Provincial Commissioner 25 spears and 25 swords.

NOW KNOW ALL MEN, that I, Joseph Aloysius Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by Section 5 of the Collective Punishments Ordinance 1930, hereby order the said Kipsigis to deliver to the said Provincial Commissioner 25 spears and 25 swords within such time as the said Provincial Commissioner may fix.

GIVEN under my hand at Nairobi this 16th day of January 1933.

J. BYRNE.

BRIGADIER-GENERAL.
GOVERNOR.

63

COLLECTIVE PUNISHMENT ORDINANCE,
No. 54 of 1930.

Inquiry No. 7/1932 of South Lumbwa
District.

ORDER.

WHEREAS it has been proved to my satisfaction that on 6th December, 1932, a native of Kisii, Obino Masita, was robbed by three unknown natives of Lumbwa who were armed with dangerous weapons in the forest Chomagal Location 10, of the South Lumbwa Native Reserve, which includes the area known as Kapahakora.

AND WHEREAS it has been proved to my satisfaction that the Kipsigis inhabitants of forest Chomagal, though a public announcement was made, have failed to take all reasonable means to arrest the offenders and have declined to suppress evidence in the inquiry, and have therefore rendered themselves liable under Section 2 (a) and (b), with which should be read Section 3 of the Collective Punishment Ordinance, No. 54 of 1930, to the imposition of a fine.

HON, therefore, I Harold Robert Montgomery, Provincial Commissioner of the Nyansa Province, in exercise of the powers delegated to me by Government Notice No. 475 of 30th August, 1927, do hereby impose a collective fine of SHILLINGS ONE HUNDRED on the adult male Kipsigis whose names appear in the tax Register of forest Chomagal Location 10 of the South Lumbwa Native Reserve.

AND I hereby order that out of the fine of SHILLINGS ONE HUNDRED, when collected, the sum of SHILLINGS FIFTY be paid to Obino Masita (SK. 291265) as compensation for his injuries.

GIVEN at Kisumu this 16th day of January, One Thousand Nine Hundred and Thirty-three.

H.R. Montgomery.

PROVINCIAL COMMISSIONER NYANSA.

KENYA

No. III



3511 864
GOVERNMENT HOUSE

NAIROBI.

KENYA

15 February 1933.

RECEIVED
17
COL. O.

Sir,

I have the honour to transmit for your information a copy of the Proceedings in an Enquiry held by the 3rd Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishment Ordinance No. 54/1930, into the theft of a head of cattle, valued at Shs. 165/-, the property of Manji Amber, an Indian trader of Kapsoonet, together with a copy of the Order made by the Provincial Commissioner, Nyanza, under Section 2 of the Ordinance, which inflicts a fine of Shs. 260/- upon the 113 Kikuyu inhabitants of the Keret of Kabasuya, Location 2 of the South Lumbwa Native Reserve, to which Keret the stolen cattle were traced.

2. Considering with the advice of my Executive Council, I have ordered that the proceeds of the fine less any expenses incurred by Government in collection and after paying the sum of Shs. 165/- as compensation to the owner of the stolen property, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.

G O V E R N O R .

THE RIGHT HONOURABLE
MAJOR-GENERAL PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1.

COLLECTIVE PENITENTIARY ORDINANCE
No. 64 of 1909.

Magistry No. 4/1908 of South Ludhiana District.

ORDER.

WHEREAS it has been proved to my satisfaction that four hand of cattle valued at Rs. 100/- were stolen from Nanji Anba, an Indian trader of Kaysanagat in the South Ludhiana Native Reserve on or about the 20th day of November, 1908, and were traced to the Herd of Kaysanagat Location 2 in the said Native Reserve:

AND WHEREAS it has been proved to my satisfaction that the Kipsiga inhabitants of Herd Kaysanagat, although a public announcement was made, have failed to restore the property or to take on the lands beyond the limit of the Herd and have therefore rendered themselves liable under section (c) of the Collective Penitentiary Ordinance 1909 to the imposition of a fine:

NOW, therefore, I Harold Robert Montgomery, Provincial Commissioner of the Punjab Province in exercise of the powers delegated to me by Government Notice No. 478 of the 20th August, 1907, do hereby impose a collective fine of SHILLINGS TWO HUNDRED AND SIXTY on the Kipsiga inhabitants of Herd Kaysanagat Location 2 of the South Ludhiana Native Reserve, whose names are shown on the schedule annexed hereto.

AND I hereby order that out of the fine of SHILLINGS TWO HUNDRED AND SIXTY, when collected, the sum of SHILLINGS ONE HUNDRED AND SIXTY FIVE be paid to Nanji Anba as compensation for his loss:

GIVEN at Lahore this 17th day of January, One Thousand Nine Hundred and Thirty-Three.

H. R. MONTGOMERY

PROVINCIAL COMMISSIONER, PUNJAB.

Schedule referred to in Order made under
Collective Fundament Ordinance 1950 on
the subject of the Native Reserves,
Location 2 of the South London Native Reserves.

Locality No. 2000 of South London District.

1. Chaphin Aray Bato
2. Bekin Aray Tongai
3. Kibikoi Aray Kaili
4. Kumbai Aray Kaili
5. Kungai Aray Kato
6. Kungai Aray Kato
7. Kipoo Aray Song
8. Kibikoi Aray Song
9. Kibikoi Aray Tumbi
10. Kibikoi Aray Tumbi
11. Ch. 2001 Aray Tumbi
12. Kibikoi Aray Kato
13. Kibikoi Aray Kato
14. Bekin Aray Kumbai
15. Kibikoi Aray Kato
16. Aray Kato
17. Kibikoi Aray Kato
18. Kibikoi Aray Kato
19. Kibikoi Aray Kato
20. Kibikoi Aray Kato
21. Kibikoi Aray Kato
22. Chaphin Aray Chaphin
23. Kibikoi Aray Chaphin
24. Kibikoi Aray Kato
25. Chaphin Aray Chaphin
26. Kibikoi Aray Kato

COLLECTIVE PUNISHMENT ORDINANCE
ORDINANCE NO. 5 OF 1932.

Collective Punishment Inquiry under Ordinance No. 5
of 1932 held at Kappanangal on 16th December 1932 before
C.N. Beverell, Esq., 1st Class Magistrate.

Inquiry attended by Chief Arap Barico, Headmen Arap
Rara and Arap Heigo and about twenty five of the
inhabitants of Mawa and Kabaeva.

Nature and scope of Inquiry explained to those
present.

sd/- C.N. Beverell

NATURE OF INQUIRY.

An inquiry as to whether the inhabitants of the
'Karets' Mawa and Kabaeva of Location 3 South Indian
District, whose property to wit 200 head of cattle, the
property of Hani Aha, Indian trader, Kappanangal,
having been brought into their areas on the 17th day of
November 1932, have failed to restore the said property,
or have failed to take on the track beyond their limits.

DETAILS OF INQUIRY.

Due days notice of inquiry had been given and
published in Karesa in the location concerned.

Inquiry adjourned till 17th December 1932 for proper
representation of 'Karets' concerned. Karets warned that
it is in their own interest to attend.

sd/- C.N. Beverell
16/12/1932.

Hearing resumed, 17/12/32, about 60 persons of the two
'Karets' concerned, Chief Arap Barico and his two headmen
being present.

sd/- C.N. Beverell
18/12/1932.

1st WITNESS, HANI AHA, Indian Trader, Kappanangal duly
sworn deposes - On the 17th December 1932 I shut up my
cattle in my house behind my gate about 6 P.M. I counted

the cattle and there were 6 head of cattle. I looked the padlock and secured the key.

At 12.15 that night my watchman Arap Tembur roused me and reported that 4 of my cattle had been stolen. He showed me the lock which had been broken open. I told Arap Tembur to try and follow the tracks and sent a boy to tell Headman Arap Nere first thing in the morning. Arap Tembur went off with a lamp and next morning told me that he had discovered the tracks, I told him to follow these up and set off at once to Kerimo to report the matter.

Since then I have seen no trace of the stolen cattle. The cattle stolen consisted of one heifer which I purchased for Shs 45/-, one milk cow which I bought for Shs 60/-, and 2 bullocks which I bought for Shs 30/- each. I can show you the record of these various transactions in my ledger.

sd/C.N.Overall.

No one wished to question this witness.

sd/-C.N.Overall.

2nd WITNESS, ARAP TEMBUR, Kipsigis, watchman of Hamji Amba duly affirmed states:- On the night the cattle was stolen I began work at 6 p.m. I then saw the cattle counted in and the padlock affixed, there were 6 head of cattle. It was a dark night and I wandered round keeping a look out round the boma and the duka also when I was not walking between the boma and the duka I was standing by a tin shed in which were 7 more cattle. I did not sit down at all but kept circling round the duka and boma. At 11 p.m. I tested the padlock and it was alright. At 12 midnight I looked again and found the lock broken. I had thought I heard the noise of cattle just before, so I ran to the boma and found the lock broken. I at once saw that 4 head of cattle had disappeared. The noise I heard was made by the two bullocks remaining in the boma. I did not hear any sound of cattle being driven off.

3

69

When I saw the cows had been stolen I ran and told the Indian. He brought a lamp and we inspected the beam. I took the lamp and searched along the various paths. I saw the foot prints for some way but it was very dark and I could not follow them for more than a few yards. I ran on ahead with the lamp along one of the only two possible paths, as I went I shouted for help at every house. About 1 a.m. Kiyoti Arap Swigo, the L.N.C. Elder came up to ask me what I was doing and I told him that I was looking for thieves. He also searched. Two other persons then came up Arap Kevir and Arap Kevet and later Arap Otharook, and Arap Yoo and an elder called Arap Kinagi.

Then I and Arap Kevir went on to the river to see if we could see tracks in the mud but without any luck. I then went on by myself looking everywhere and eventually returned to the duka about 4 a.m. Though I kept on calling upon people to help nobody else came to my assistance. I asked the people I have named to go on and about the two paths leading down the escarpment but they would not go. As soon as it was dawn I returned to the beam.

I soon picked up the tracks and followed them to Kibowoi. I could not trace it further than this for the moment. I looked about everywhere and presently found the tracks again in a river bed about 1 1/2 miles from the duka. Here I called out for help but two persons only came. One was Arap Mago, and Arap Kuto. We followed the tracks till they were lost about a mile further in some grass. Then we found them again and followed them down the escarpment by a path which leads towards Sanghar. About 5 miles from the duka and about an hour walk from the Lumbwa border we lost the tracks for good. Then I returned to the duka.

R.O.C.
Capt. S.N. Dowdall.

When I saw the cows had been stolen I ran and told the Indian. He brought a lamp and we inspected the henn. I took the lamp and searched along the various paths. I saw the foot prints for some way but it was very dark and I could not follow them for more than a few yards. I ran on ahead with the lamp along one of the only two possible paths. As I went I shouted for help at every house. About 1 a.m. Kipwet Arap Nwige, the L.N.C. Elder came up he asked me what I was doing and I told him that I was looking for thieves. He also shouted. Two other persons then came up Arap Karir and Arap Korot and later Arap Chameruok, and Arap Tee and an elder called Arap Kimsat.

Then I and Arap Karir went on to the river to see if we could see traces in the mud but without any luck. I then went on by myself looking every way and eventually returned to the duka about 4 a.m. Though I kept on calling upon people to help nobody else came to my assistance. I asked the people I have named to go on and start the two paths leading down the escarpment but they would not go.

As soon as it was dawn I returned to the henn. I soon picked up the tracks and followed them to Kabowa. I could not trace it further than this for the moment. I looked about everywhere and presently found the tracks again in a river bed about 1 1/2 miles from the duka. Here I called out for help but two persons only came. One was Arap Nwige, and Arap Kimo. We followed the tracks till they were lost about a mile further in some grass. Then we found them again and followed them down the escarpment by a path which leads towards Sanghor. About 3 miles from the duka and about an hour walk from the Lunba border we lost the tracks for good. Then I returned to the duka.

R.O.C.

ed/- G.H. Swallow.

IX by Arap Kapsigis.

Question:- Were you not drunk the night of the robbery.

ANSWER : Certainly not.

ed/- G.M.Deverell.

3rd WITNESS, ARAP MWISE, L.M.C. Representative duly sworn states:- One night about 11 p.m. I heard somebody shouting in the bush. I went out with my lamp and shouted. I heard that 4 cows had been stolen from the Indian. I then told Arap Tugwa, Arap Koir, Arap Kwech and some others to rouse everybody and run on ahead to close the roads. Then I went back to bed.

At dawn I went to the duka and I told some moran to call all the other moran and follow the tracks. I had to be in Kericho about another hour so I then left. When I came back I found that the moran had made no effort to follow the tracks. This I reported to you when you arrived here.

Question:- How do you know that the moran did not follow the tracks if you were in Kericho ?

ANSWER : When I returned I asked all the moran and my friends and I found they had done nothing.

R.O.C.

ed/- G.M.Deverell.

4th WITNESS, ARAP RINSON, Rider of Keret Nabwa duly affirmed states:- The people in our 'karet' never heard about this theft until the day before yesterday.

R.O.C.

ed/- G.M.Deverell

5th WITNESS, ARAP BOSHEEN, duly affirmed states:- I am a Maiba of Nabwa. I never heard about this theft until yesterday.

R.O.C.

ed/- G.M.Deverell

IX by Arap Kapsigis.

Question:- Were you not drunk the night of the robbery.

ANSWER : Certainly not.

sd/- G.M.Deverell.

3rd WITNESS, ARAP MWISH, L.M.C.Representative duly sworn states:- One night about 11 p.m. I heard somebody shouting in the bush. I went out with my lamp and shouted. I heard that 4 cows had been stolen from the Indian. I then told Arap Tembur, Arap Kair, Arap Kweth and some others to rouse everybody and run on ahead to close the roads. Then I went back to bed.

At dawn I went to the duka and I told some moran to call all the other moran and follow the tracks. I had to be in Kericho about another case so I then left. When I came back I found that the moran had, in no effort to follow the tracks. This I reported to you when you arrived here.

Question:- How do you know that the moran did not follow the tracks if you were in Kericho ?

ANSWER : When I returned I asked all the moran and my friends and I found they had done nothing.

R.O.C.

sd/- G.M.Deverell.

4th WITNESS, ARAP HINSON, Elder of Keret Nabwa duly affirmed states:- The people in our 'Keret' never heard about this theft until the day before yesterday.

R.O.C.

sd/- G.M.Deverell

5th WITNESS, ARAP BOSUREN, duly affirmed states:- I am a Moina of Nabwa. I never heard about this theft until yesterday.

R.O.C.

sd/- G.M.Deverell

Witness No.2 recalled.

XXby Court.

Question:-

Answer :

Did you realise the cry in Mabwa ?
No. The tracks were lost in this
Koret on the broad path which leads
to Kenghor. By the time I got there
the cattle would have been over the
border.

sd/- C.N.Devereall.

6th WITNESS, ARAP KOIR, Kipsigia Maran, Kabaswa
duly affirmed states:- On the day the cows were stolen I
was sleeping with Arap Tee. Sometime during the night we
heard shouting. We waked up another man Arap Koll and went
out to see what it was about.

When we came out we met Arap Shumruk on the
path and the four of us went along till we met Arap Tembur
who told us the Indian's cattle had been stolen. Then we
met Arap Mwaig who told us to close all the tracks. Then
we went down to the river but we did not see tracks of the
cattle. There were three of us now and we picked up a row
and shouted but no one came.

We searched a bit and then went home.

XX by Court.

Question:-

Answer :

Why did you not do as Arap Mwaig
said and close all the roads ?
We would have done so but could
get no assistance. We did our best
to raise the people but no one
came.

R.O.C.

sd/- C.N.Devereall

7th WITNESS, ARAP KDIL, youngish man of Kabaswa affirmed
says:- About 11 p.m. one night I heard shouting. I rushed
out and found Arap Tembur. He told me the Indian's cattle

had been stolen. We went down to the river but could find no tracks. Then Arap Koir and I went back and looked to see if our cattle was all right. Then we returned to the river. All this time we called out but no one came to help. If we had had help we might have been able to clear the paths. When we saw that no one came we went back to bed.

R.O.C.

sd/- G.M. Deverell

The inhabitants of the two 'Kerets' were then asked if they had any evidence to bring to contradict the evidence going to prove that the people of Kabaswa had not turned out in any numbers either the night of the robbery or the next day.

No evidence was forthcoming.

sd/- G.M. Deverell.

RECOMMENDATION:-

This inquiry has been undertaken following the complaint of Nanji Amba, Indian trader, Kapcomogot that four head of cattle were stolen from his barn behind his duka on the night of the 29th November 1952.

Evidence of the theft has been given by Nanji Amba and his herd Arap Tembur and has not been disputed. According to the evidence of Arap Tembur corroborated by that of Arap Nwige, Arap Koir and Arap Keil, the alarm was given as soon as the theft was discovered but was met by a very poor response. Apart from these witnesses and possibly one or two others no assistance was given to Arap Tembur immediately after the theft. The theft took place in Kapcomogot Trading Centre and the cattle were removed through the 'Keret' known as Kabaswa into the 'Keret' known as Kalva where the track was lost.

There is the evidence of the L.N.C. Elder Arap Nwige to show that the inhabitants of Kabaswa were given

again told to follow up the tracks the following day but failed to do so. There is no evidence that the people Malva were ever called upon to take up the tracks or necessarily knew anything about the theft. I have examined the route alleged to have been followed by the stolen cattle. After leaving the Trading Centre the track runs through a narrow valley the slopes of which are liberally sprinkled with huts. It is quite impossible to my mind that the inhabitants of these huts could fail to hear the shouts of a person following the tracks. If the evidence is to be believed the witnesses did shout repeatedly as they followed this track.

After leaving this ^{valley the} track made a detour of about one mile before finally meeting a broad path leading straight down the escarpment towards the Sanguer boundary.

It is common knowledge in this location that the bulk of stolen stock follows this path, across the border on to Sanguer farms or still further into the inland country at the base of the Mandi escarpment. It is my opinion that had the inhabitants of Kabasava turned out in large numbers and followed the advice given by Arap Nwige to run ahead and close the limited number of paths leading down the escarpment, the stolen stock would have been recovered.

I particularly noticed that whilst the representatives of Malva were very anxious to ^{deny} claim that they had any knowledge of the theft, not a single person of Kabasava came forward to rebut the evidence that this 'heret' had failed to respond to the "hue and cry".

In conclusion I consider it probable that the theft was committed by a local person. This is suggested by the knowledge shown by the thief or thieves of the arrangements made to protect the Indians stock, and the local knowledge shown by the route taken so as to avoid

streams where foot marks would be clearly visible.

I have therefore no hesitation in recommending imposition of a Collective Fine of Shs.10/- per head upon the twenty-six Maina whose names are contained in the schedule attached and includes all those written in the tax roll for 1932 under the headings of Kabasuva and Ketetzi but locally known together as Kabasuva.

I further recommend that the sum of Shs 165/- should be paid as compensation to Nanji Amba out of the total fine of Shs 260/-.

I also recommend that those Maina who assisted Arap Tembur on the night of the theft and the following morning should be exempted from any fine and these people have not been included in the 26 names attached.

sd/- C.M.Devereall
Third Class Magistrate
17/12/1932.

Note on Kabasuva and Ketetzi:-

The total adult population of this area is 119. The location possesses more ploughs than any other in the district and is therefore probably at least as wealthy as any other part of the district.

sd/- C.M.Devereall
Third Class Magistrate
17/12/1932.

SCHEDULE

- | | |
|--------------------------|------------------------------|
| 1. Chepkwain Arap Ruro. | 14. Bekibe Arap Murooi |
| 2. Bekibe Arap Tengoi | 15. Kiplole Arap Mase |
| 3. Kiblabel Arap Kolil | 16. Arap Lasa |
| 4. Kumbi Arap Kolil | 17. Kinabel Arap Keter |
| 5. Tlangik Arap Rute | 18. Kibigon Arap Keter |
| 6. Kimagony Arap Kuru | 19. Barchagak Arap Mangeso |
| 7. Kiptoo Arap Sang | 20. Kipsol Arap Marita |
| 8. Kiririchak Arap Sang | 21. Kinaru Arap Muroo |
| 9. Kiplangat Arap Tembur | 22. Chepkilat Arap Chepkwain |
| 10. Kibigon Arap Tembur | 23. Kiplangat Arap Chepkwain |
| 11. Shorogot Arap Tembur | 24. Kiprate Arap Teriria |
| 12. Kibichak Arap Koko | 25. Chelagot Arap Mugeker |
| 13. Kibot Arap Mee | 26. Kiptani Arap Kuru. |

streams where foot marks would be clearly visible. 74

I have therefore no hesitation in recommending imposition of a Collective Fine of Shs.10/- per head upon the twenty-six Maina whose names are contained in the schedule attached and includes all those written in the tax roll for 1932 under the headings of Kabasuva and Ketetui but locally known together as Kabasuva.

I further recommend that the sum of Shs 165/- should be paid as compensation to Nanji Amba out of the total fine of Shs 260/-.

I also recommend that those Maina who assisted Arap Tembur on the night of the theft and the following morning should be exempted from any fine and those people have not been included in the 26 names attached.

sd/- G.M. Devereill
Third Class Magistrate
17/12/1932.

Note on Kabasuva and Ketetui:-

The total adult population of this area is 119. The location possesses more ploughs than any other in the district and is therefore probably at least as wealthy as any other part of the district.

sd/- G.M. Devereill
Third Class Magistrate
17/12/1932.

SCHEDULE

- | | |
|--------------------------|-------------------------------|
| 1. Chepkwain Arap Raro. | 14. Bekibe Arap Mursoi |
| 2. Bekibe Arap Tengoi | 15. Kiplale Arap Mase |
| 3. Kibibedi Arap Kollil | 16. Arap Lasa |
| 4. Kumbul Arap Kalil | 17. Kimebel Arap Keter |
| 5. Tioagik Arap Rute | 18. Kibiagon Arap Keter |
| 6. Kimagony Arap Kurwo | 19. Barchagak Arap Mangeso |
| 7. Kiptoo Arap Sang | 20. Kipsai Arap Maritin |
| 8. Kiririchak Arap Sang | 21. Kinaru Arap Mutoro |
| 9. Kiplangit Arap Tembur | 22. Chepshilat Arap Chepkwain |
| 10. Kibiagon Arap Tembur | 23. Kiplangit Arap Chepkwain |
| 11. Chepogot Arap Tembur | 24. Kiprute Arap Teririn |
| 12. Kibibech Arap Koko | 25. Chelagat Arap Magesher |
| 13. Kibet Arap Koo | 26. Kiplangit Arap Kibwas. |

201-775



KENYA

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

No 110

R.F.
17
COL OFFICE

15th February 1933.

Sir,

I have the honour to transmit for your information a copy of the Proceedings in an Enquiry held by the 2nd Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishment Ordinance No. 54/1930, into the robbery with violence of Omolo Okello, a native of Kavirondo, by two unknown natives of the Korets of Moita and Chemalban, Location 10, South Lumbwa Native Reserve, together with a copy of the order made by the Provincial Commissioner, Nyanza, under section 2 of the Ordinance, which inflicts a fine of Shs. 200/- on the 113 adult male Kipsigis inhabitants of the two Korets mentioned above.

2. Concurring with the advice of my Executive Council, I have ordered that the proceeds of the fine, less any expenses incurred by Government in collection and after paying the sum of Shs. 30/- to Omolo Okello as compensation for his injuries, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

H. J. Jones
BRIGADIER-GENERAL.

G O V E R N O R.

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

COLLECTIVE PENITENTIARY ORDINANCE,
No. 54 of 1930.

Regulation No. 8 of 1932.

~~WHEREAS~~ WHEREAS it has been proved to my satisfaction that on 6th December, 1932, a native of Kavirundo, Omalu Omalu, was robbed with violence, on the border of hereto Beita and Chamedan, Location 10 in the South Lumbwa Native Reserve, by two unknown natives of Lumbwa.

AND WHEREAS it has been proved to my satisfaction that the Kipsigis inhabitants of hereto Beita and Chamedan though a public announcement was made, have failed to take all reasonable steps to arrest the offenders and have therefore rendered themselves liable under Section 2 (a) and (b) with which is to be read Section 3 of the Collective Penitentiary Ordinance No. 54 of 1930 to the imposition of a fine.

NOW, KNOWING, I, Harold Robert Montgomery, Provincial Commissioner of the Nyasa Province, in execution of the power delegated to me by Government Order No. 127 of the 30th August, 1927, DO HEREBY impose a collective fine of SHILLINGS TWO HUNDRED on the said Kipsigis inhabitants of the hereto Beita and Chamedan whose names appear in the Tax Register of Location 10 of the South Lumbwa Native Reserve.

AND I hereby order that out of the fine of SHILLINGS TWO HUNDRED, when collected, the sum of SHILLINGS THREETY be paid to Omalu Omalu as compensation for his injuries.

GIVEN at Lilongwe this 17th day of January One Thousand Nine Hundred and Thirty-three.

H. R. MONTGOMERY

PROVINCIAL COMMISSIONER NYASA.

my eyes were full of blood and I could not see them. After going a little way I met a Lumbwa elder, he asked me 'who has hit you?' I said 'some other Lumbwa but as my eyes were full of blood I could not recognize them even if all the Lumbwa were called'. I went on and met another Lumbwa elder and I gave the same reply. I then went onto my employer who took me into Kariako by car. None of my things have been recovered.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate
22nd December, 1952.

IN by Court.

They took my things after hitting me.

No other questions.

Elizabeth Njiru, Karot Chumbwa, Lumbwa elder, affirmed:-
I remember seeing the complainant he was walking and I did nothing. I was afraid I would get hurt myself. I saw blood coming from all over his head which was hurt.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate.

No questions.

Wanawa Chigir, Karot Kibumbur, Lumbwa elder, affirmed:-
I remember coming from herding my goats and seeing the complainant by the stream, I saw blood on his head, he said 'Kipwais have hit me' I did not say anything or do anything. I thought he might have been hit at Litcha.

R.O.C.

sd/- G. TOMKINSON
2nd Class Magistrate.

No questions.

Meeting asked if anything to say in defence.

Group Kariako states:- We have held meetings but found out nothing, it is unfortunate complainant not to be able to raise a cry.

sd/- G. TOMKINSON
22/12/52

A. N. Haler, Medical Officer Kericho, sworn states:- Omole was brought in on the 6th December, he had eight scalp wounds on the left side of the head, all about 2 inches long and was stitched up in such, it is probable that the wounds were caused by a stick. He made an uninterrupted recovery and was discharged on 13th.

R.O.C.

sd/- C. TOMKINSON
 Second Class Magistrate
 1st January, 1933.

The evidence of the N.O. was taken subsequently to save expense, the Karot concerned suffer no disability from being unable to ask him questions.

sd/- C. TOMKINSON
 1st January, 1933.

YAMBAI.

This is a case similar to several which have recently occurred in the Lumbwa native reserves. Evidence submitted by Lumbwa against alien natives. The evidence discloses a complete indifference on the part of the local inhabitants, in the sight of an alien native being 'hit up', an effort at all was made to arrest the offenders who could not have been far off. From my experience of the district I do not consider the offenders are far from that area, but to give the inhabitants of Kaita and Shambiben Location 10 a lesson to assist in the suppression of such crimes, I recommend a fine of Shs. 200/- on these Karots, of the fine if paid I award Shs. 50/- to complainant Omole Omole, the balance to be paid to South Lumbwa Local Native Council funds.

sd/- C. TOMKINSON
 2nd Class Magistrate.
 1st January, 1933.

KENYA

No



GOVERNMENT HOUSE,

NAIROBI,

KENYA

JANUARY, 1933.

Sir,

I have the honour to transmit for your information a copy of the Proceedings in an Enquiry held by the 2nd Class Magistrate, South Lumbwa District, Nyanza Province, under the Collective Punishment Ordinance No. 54/1930, into the theft of 7 head of cattle, valued in all at Shs. 350/-, the property of a Masai by name Murganda Olu-Olye, together with a copy of the Order made by the Provincial Commissioner under Section 2 of the Ordinance which inflicts a fine of Shs. 1500/- upon the 60 adult males of the maina Age of the Koret Lalaitich, Location 16, South Lumbwa Native Reserve.

2. Concurring with the advice of my Executive Council I have ordered that the balance of the fine of Shs. 1500/- after payment of any expenses incurred by Government in collection and less the sum of Shs. 350/- to be paid as compensation to the owner of the stolen property, be paid into the funds of the South Lumbwa Local Native Council under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

Your most obedient, humble servant,

W. A. Byrnes
W. A. BYRNES
BRIGADIER-GENERAL.

G O V E R N O R .

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W. 1.

COLLECTIVE SETTLEMENT ORDINANCE.

No. 24 of 1939.

WHEREAS it has been proved to my satisfaction that on or about 19th November, 1938, seven head of cattle valued in all at Rs. 250/- were stolen from Rangoda Gho Gijo, a Khasi living in Sulagan and were tracked to within the limits of Khasi Lalaitich, Location 16 in the South Lushai Native Reserve;

AND WHEREAS it has been proved to my satisfaction that the inhabitants of Khasi Lalaitich have neglected to restore the property or to take on the tracks beyond the limit of their Khasi and have themselves rendered themselves liable under Section 2(a) of the Collective Settlement Ordinance No. 24 of 1939, to the imposition of a fine.

NOW, WHEREAS, I, Harold Robert Hartman, Provincial Commissioner of the N. E. Frontier in exercise of the powers delegated to me by Government Notice No. 476 of 29th August, 1937, do hereby impose a collective fine of **SHILLINGS ONE HUNDRED FIVE SHILLINGS** on the Khasi inhabitants of the Khasi Lalaitich, Location 16 - in the South Lushai Native Reserve who are of the Indian Age.

AND I hereby order that out of the fine of **SHILLINGS ONE HUNDRED FIVE SHILLINGS**, when collected, the sum of **SHILLINGS THREE HUNDRED AND FIFTY** be paid to Rangoda Gho Gijo as compensation for his property stolen.

GIVEN at Kohima this twenty-eighth day of December one thousand nine hundred and thirty-nine.

H. R. MONTGOMERY

PROVINCIAL COMMISSIONER, N.E.F.A.

COLLECTIVE PUNISHMENT ORDINANCE
ORDINANCE 54 OF 1930

An inquiry as to whether the inhabitants of Korot Lalaitich, Location 16, stolen property to wit 10 head of cattle the property of Barganda Ole Olye, Hasei, having been tracked to within the limits of their Korot on or about Saturday 12th November, have failed to restore the property or to take on the track beyond the limits of their Korot.

This inquiry is attended by Chief Arap Kira, of Location 16, Kiptayat Arap Katan, Elders Kimgorochi Arap Ohoitan and Kitan Arap Ohoitret, Kiphalya Arap Ohoitret, Kiplangat Arap Katalangoch and about 50 others including a good attendance of Hasei, all of this Korot, except for Chief Arap Kira.

Sd/- P.J.de Brouckere
Second Class Magistrate.

Arap Katan is a Kiptayat of the Korot in question. An announcement made by him would appear to be sufficient for the requirements of the Ordinance.

Sd/- P.J.de Brouckere
Second Class Magistrate.

Complainant Barganda Ole Olye, male, pagan, duly affirmed states:- I am a Hasei living in Salaguan. At about 4 P.M. about 10 days ago, while my cattle were returning to their home 10 head were stolen. They were being herded by a child. I went out to meet them and I found that 10 head were missing. The child told me that he did not know where they were.

In the morning I went to the river Amala and I found their tracks and saw where they crossed the river into the Kipsigis country. I went back and reported to the Police at Hulot.

The tracks must have been of my cattle, as I counted them and there were no other cattle near.

I took one askari to the tracks at the river and then we followed them until the askari put up a mark and went to report to District Officer at Amala Camp. The next morning the askari came with a Tribal Policeman and again we followed the tracks.

We followed to a boma in Korot Lalaitich. On arriving at the boma, 4 moran saw us and ran away, leaving their cattle alone.

We found a child who told us he had seen a white bull with a bell on it and a roan cow and a black bull. We then took all these cattle and took them to Sigor Camp. I did not find mine in this herd.

In Lalaitich we called on Kiptayat Arap Katam to call his people. He did so, but they did not come, even though heard, and they knew why they were being called.

The cattle I lost were as follows:-

1 white bull with a bell, 1 roan cow with white back, 1 black bull, 1 black cow with white on its tail and in calf, 1 white heifer, 1 roan cow in calf, 1 grey cow, 1 grey cow with bull calf, 1 grey heifer, 1 small kaki bull.

The total value was about Shs.45/-.

R.O.C.

sd/- P.J.de Bromhead
Second Class Magistrate.

No XXN.

Prosecution Witness 1.

Reingwer Ole Munga, male, pagan, duly affirmed states:-
I followed the tracks with complainant. We followed them to the boma where we took the herd of cattle. We found the cattle by themselves, but saw no people in the boma. We saw no signs of people. In Lalaitich we called Kytayat Arap Katam. We called his people but they did not come.

come.

We did not see anyone besides Arap Katam. He gave us food at night.

R.O.C.

sd/- P.J.de Bromhead
Second Class Magistrate

IXH by Chief Arap Kirui.

Question:- Did you follow the tracks all the way to the boma or did you lose the tracks elsewhere, and then go to the boma to look for the cattle ?

Answer : The tracks went to the boma.

No further IXH.

R.O.C.

sd/- P.J.de Bromhead
Second Class Magistrate.

Prosecution Witness 2.

Chuma Arap Maruki, Kipsigis, male, pagan, duly as listed states:- I am a Tribal Policeman of Kipsigis country. I left Anala on Friday morning with a Police askari. That evening we picked up the tracks where the cattle had crossed the river and then went to sleep with Headman Arap Kibleban. In the morning Arap Kibleban and I followed the tracks. We could follow them as there was a big bull and a calf.

Other tracks crossed these but we could follow these quite easily as far as Lolaitich. When we came to the river which divides Location 15 and 16 which is called Lolaitich, we sent a man to call Kiptayet Arap Katam. Before Arap Katam came, this man, Kipkalya Arap Charoro = came. We told him that we were following the tracks of stolen cattle and that he had better do so too. He wanted to know how we knew they were tracks of Masai cattle. We showed him the marks of the big bull and the calf.

= present

Then, Kiptayet Arap Katam arrived. We

showed him the tracks as well. He said he could not understand them properly as this was the place where many cattle were watered.

Having lost the tracks among the other tracks at the water, I put up a stick to mark the place. Then in Lelaitich, we started to look for the tracks again. A bit further on we found them. We followed for about a mile and they went to a boma.

This was about 5 p.m. and there were no cattle in the boma. We searched around the boma for the tracks going out but could not find them. Then we looked for the cattle from that boma and found them at about 5 p.m. grazing. There was a child with them. He said he had seen no strange cattle but on Friday night while in the boma with his father sleeping he heard cattle outside the boma. His father went out and a white bull came into the boma. His father turned the bull out again. The next morning we returned to this boma and found that the cattle had been there by themselves. We then took the cattle.

While we were at the Lelaitich river, there were many people there. But when we started to look for the tracks again they all went away. From there we had only two people to help, Arap Katam and Arap Cheptelinet. They tried to collect people but the people refused to come. The two Masai were with us.

R.O.C.

sd/- P.J.de Bromhead
Second Class Magistrate.

NO 1111.

Prosecution Witness 3.

Chepchilat Arap Sonoiya, child, Kipsigia, states:- What I told the askari Kanga was lies because he frightened me and told me he would beat me. I said a white bull because I had seen one in a herd, herded by another Toto.

It was in another store and I do not know the name of the owner.

R.O.C.

sd/- P.J.de Bronhead
Second Class Magistrate.

NO XII.

This child is sneaking with fright and I cannot believe him.

sd/- P.J.de Bronhead
Second Class Magistrate.

Prosecution Witness 1.

Kimabwai Arap Bonoiya, Iipsigis, male, pagan, duly affirmed states:- I am father of that child (P.W.2) On Friday night I left a man called Arap Muchungor in the cattle bossa. I know nothing about this affair, except that my cattle were taken by the Tribal Policeman.

R.O.C.

sd/- P.J.de Bronhead
Second Class Magistrate.

NO XIII.

This concludes the Prosecution.

sd/- P.J.de Bronhead
Second Class Magistrate.

Defence Witness 1.

Kiptalya Arap Cherore, Iipsigis, male, pagan, duly affirmed states:- I live in Lalaitich. On Saturday a man called Arap Hagatal came to the Lalaitich river. There were 4 of us there. He came and asked us where Arap Iatan was. Arap Iatan was with us. He, Arap Cheptalimet and Arap Enruuche went with me to meet Arap Iibichen and the assai. I went in front. On arriving, the Tribal Policeman called us to look at the marks of some cattle. We crossed into Location 10. He showed me 12 marks of that day and said the cattle had been stolen on Thursday. He insisted that they were the marks, but how

could we tell, as a lot of cattle drink there. Then we crossed back into Location 16 and looked for the tracks. We did not find them. We looked for them for about an hour and did not find them. Then I went home as my wife was away and I left 3 people with the Tribal Policeman and the Masai.

R.O.C.

sd/- P.J.de Bromhead
Second Class Magistrate.

EXN by Court.

Question:- Did you call other people to help ?

Answer : I did not as there were many people there.

Question: Were these people from your Korat ?

Answer : They were from my Korat.

Question: Do you know that the marks were found a short way from the river ?

Answer : I heard the next day that they were found about a mile away.

Question: Have you looked for the cattle or the thieves since ?

Answer : Yes, I have looked everywhere.

sd/- P.J.de Bromhead
Second Class Magistrate.

HO re EXN.

Defence Witness 2.

Moset Arap Katam, male, pagan, duly affirmed states:-
I am Kiptayot of Korat Lelaitich. It is true that Arap Magatai called me when I was with 3 others. The Tribal Policeman showed us fresh marks, of that day, and said that the cattle were lost on Thursday. We went into Location 15 to look at the marks. Then we returned to Location 16 to look for them again.
Then, the Tribal Policeman called us and said he had got them again. We went and looked and they were like

yesterday's marks, as there had been rain during the night. We followed these tracks into the bush of Arap Samoiya. We looked for the marks leaving the Bush but could not find them.

We looked for his cattle and met Arap Kurwache when we told about the cattle and the tracks leading to the bush. He said that the tracks were of cattle that passed there two days before during the rain. They were cattle of Arap Samoiya.

I told Arap Kurwache to get food for the Khasi, the Tribal Policeman and Arap Kivichan. On Tuesday morning I called a barasa at the bush. By then, the Tribal Policeman and the Khasi had taken the cattle to Siger Camp.

I told them to leave the cattle until we had finished the barasa but they refused.

Then I went home.

H.O.G.

M. P. J. de Brouckere
Second Class Magistrate.

XXV by Court.

- Question:- Did you call out your people to help to look for the tracks ?
- Answer : No.
- Question: Why not ?
- Answer : Four people were enough.
- Question: Since then, what have you done ?
- Answer : I have told my people to look for the cattle everywhere.
- Question: You admit that the cattle came into Lolaitish ?
- Answer : I thought they had until I met Arap Kurwache.
- Question: Why did you believe Arap Kurwache ?
- Answer : Because I saw Arap Samoiya's cattle there.

I told him I had seen those tracks when Arap Sanyal's cattle were there, at the place of the tracks, during the rain.

R.O.C.

sd/- P. J. de Bruchard
Second Class Magistrate.

XXI by Court

Question:

Did Arap Sanyal call on people to help?

Answer :

I did not hear him.

Question:

Did you look for tracks in location 10 to see if the cattle doubled back?

Answer :

No.

Question:

Do you believe that the cattle came to the river?

Answer :

No.

Question:

Why not?

Answer :

I only saw fresh marks.

Question:

What marks did the Tribal Policeman follow?

Answer :

I don't know.

Question:

Were they not those fresh marks?

Answer :

He said so.

Question:

Did you believe him?

Answer :

No.

Question:

Did you work back along the tracks?

Answer :

I did not want to as other cattle had been over the track.

Question:

Then, how did he follow the track there?

Answer :

I don't know.

Question:

Why should the marks not be fresh, even though the cattle were stolen 3 days before? They came a long way.

Answer :

I don't know.

sd/- P. J. de Bruchard
Second Class Magistrate.

No one else wishes to give evidence for the defence.

sd/- P.J. de Bruchem
Second Class Magistrate.

Called by Court No. 1.

No. 155 J/Const. No. 1, duly affirmed, states:- I followed the tracks just across the Anala river. There they got lost among other tracks, so I put a stick to mark the place and returned to my house while another person went to report at Anala Camp.

R.O.C.

sd/- P.J. de Bruchem
Second Class Magistrate.

XIV by Court

Question:- How would you know these tracks from any other ?

Answer : I would not be able.

Question:- How did the other people find them again ?

Answer : I don't know.

sd/- P.J. de Bruchem
Second Class Magistrate.

XV by Chief Area Kiri.

Question:- When the tracks crossed the river, how many were there ?

Answer : Many. I don't know.

Question:- How did you know the tracks of the stolen cattle ?

Answer : We followed them.

Question:- Were there marks of a man with them ?

Answer : Two men. One with tyre sandals and one without.

sd/- P.J. de Bruchem
Second Class Magistrate.

Called by Court No. 2.

Kibishan Arap Ngigisho, male, pages, duly affirmed, states:- I am Headman of Location 15. I went with a Tribal Policeman to see the tracks of the cattle when they crossed the Anala river. This was on Saturday morning. We found a stick that the askari had put on the tracks. I went back to where the cattle had crossed.

They had crossed at a place where Kibisho cattle don't go to drink and there were no deep foot-marks. I counted tracks of 7 head of cattle.

At the place where the askari had put the stick, I met the 7 head and two others. We followed the tracks right up to Lalaitish river. We sent Arap Ngigisho to look for Arap Katan. Arap Chawere arrived before him and he asked where his people were. We showed him and he would not believe us. Then, we looked for the tracks across the river in Lalaitish. At first, near the river we could not find any tracks, but we found them a little bit away. Arap Katan saw the tracks and advised that they were of 7 days ago. Then we asked where his people were and he said they had gone. We lost the tracks again and then found them again. They led to a cattle boma. We looked for tracks of the cattle having left again but could not find them.

R.O.C.

sd/- P.J. de Brouckere
Second Class Magistrate.

Call by Court.

Question:- Did Arap Katan call his people to help ?

Answer : Yes, but they would not come. There were 4 with him. They helped a little and then went home.

sd/- P.J. de Brouckere
Second Class Magistrate.

No further KIN

No one wishes to run up for defence. No further statement from Prosecution.

sd/- P.J. de Brouckere
Second Class Magistrate.

EVIDENCE:-

It would appear that the first two witnesses for the Prosecution are speaking the plain truth, but, as is natural, they are exaggerating, both as to the number of cattle stolen and the lack of assistance they received. Furthermore, witness 1, the Tribal Policeman tells I believe, the true story, and this is borne out by the 2nd witness called by the Court.

The child, who was obviously speaking with fright, cannot be believed but I think it is significant that he should mention a white bull with a bell on its horn. I believe he did actually see such an animal in Arap Samiya's herd on the Friday night.

Thus I think there is ample evidence to show that some cattle were stolen from complainant and their tracks were followed as far as the Lolaitich river. I believe that the number was 7 and not 10, as 7 tracks entered the Kipsigin country from the Masai as was shown by the 2nd witness called by the Court, the Headman of Location 15.

As regards the crossing of the Lolaitich river and entry into the Keret Lolaitich of Location 16, the two Masai, the Tribal Policeman and the Headman of Location 15 all say that the tracks crossed and followed to the cattle herd where the tracks which they had followed from the Anala River. The Tribal Policeman and the Headman say that they could be identified by the marks of a big bull and a small cow.

ed/- P.J.de Bronhead
Second Class Magistrate. 93

No further ~~AM~~

No one wishes to ~~sta~~ up for defence. No further statement from Prosecution.

ed/- P.J.de Bronhead
Second Class Magistrate.

FINDINGS:-

It would appear that the first two witnesses for the Prosecution are speaking the main truth, but, as is natural, they are exaggerating, both as to the number of cattle stolen and the lack of assistance they received. Prosecution Witness 2, the Tribal Policeman tells I believe, the true story, and this is borne out by the 2nd witness called by the Court.

The child, who was literally shaking with fright, cannot be believed but I think it is significant that he should mention a white bull with a bell on it. I believe he did actually see such an animal in Arap Samsiya's boma on the Friday night.

Thus I think there is ample evidence to show that some cattle were stolen from complainant and their tracks were followed as far as the Lolaitich river. I believe that the number was 7 and not 10, as 7 tracks entered the Kipsigis country from the Masai as was shown by the 2nd witness called by the Court, the Headman of Location 15.

As regards the crossing of the Lolaitich river and entry into the Karet Lolaitich of Location 16, the two Masai, the Tribal Policeman and the Headman of Location 15 all say that the tracks found and followed to the cattle boma were the tracks which they had followed from the Anala River. The Tribal Policeman and the Headman say that they could be identified by the marks of a big bull and a small calf.

sd/- P.J.de Bronhead
Second Class Magistrate. 73

No further AEN

No one wishes to sum up for defence. No further statement from Prosecution.

sd/- P.J.de Bronhead
Second Class Magistrate.

FINDINGS

It would appear that the first two witnesses for the Prosecution are speaking the main truth, but, as is natural, they are exaggerating, both as to the number of cattle stolen and the lack of assistance they received. Prosecution Witness 2, the Tribal Policeman tells I believe, the true story, and this is borne out by the 2nd witness called by the Court.

The child, who was literally shaking with fright, cannot be believed but I think it is significant that he should mention a white bull with a bell on it. I believe he did actually see such an animal in Arap Senoiya's boma on the Friday night.

Thus I think there is ample evidence to show that some cattle were stolen from complainant and their tracks were followed as far as the Lelaitich river. I believe that the number was 7 and not 10, as 7 tracks entered the Kipaigis country from the Masai as was shown by the 2nd witness called by the Court, the Headman of Location 15.

As regards the crossing of the Lelaitich river and entry into the Karet Lelaitich of Location 16, the two Masai, the Tribal Policeman and the Headman of Location 15 all say that the tracks found and followed to the cattle boma were the tracks which they had followed from the Anala River. The Tribal Policeman and the Headman say that they could be identified by the marks of a big bull and a small calf.

Defence Witness 1 Arap Gherore does not appear to have done much. He considered that 4 people were enough, so he went home. Defence Witness 2, Kyitayot of Lalaitich, Arap Katam agrees with the general story of the arrival at the river. He states, as does Defence Witness 3, that the tracks were fresh at the river. If they were, all the more reason for following. He agreed that the tracks found in Lalaitich were of the right age but believed Arap Kumbani that they were made by Arap Bomeiya's cattle. If he believed that the cattle did not reach the river, he should have tracked back to find out where the tracks came from. If he thought they reached the river but did not cross, he should have looked for tracks doubling back. He did neither of these things. I believe that he did call his people and they would not come and he says he did not call them because he does not wish to show that his people were unwilling to help. He prefers to try and cover himself by saying that he thought 4 people sufficient.

Thus I am convinced that 7 head of cattle were stolen from the Masai, that the tracks were followed into the Karot Lalaitich and that they were lost in that Karot. And further, I am convinced that the people of that Karot did not attempt to follow the tracks to take them beyond the limits of their Karot. I am further convinced that the tracks leading into the cattle pens, showing the marks of a large bull and a calf could not have been made by Arap Bomeiya's cattle, as I have seen his cattle and he has a beast with large feet and he has a lot of calves which would have made a lot of small tracks.

Thus, I consider that a Collective Fine should be imposed on the members of the Masai age

Defence Witness 1 Arap Cheroro does not appear to have done much. He considered that 4 people were enough, so he went home. Defence Witness 2, Kyitayot of Lalaitich, Arap Katam agrees with the general story of the arrival at the river. He states, as does Defence Witness 3, that the tracks were fresh at the river. If they were, all the more reason for following. He agreed that the tracks found in Lalaitich were of the right age but believed Arap Kumshe that they were made by Arap Bamsiya's cattle. If he believed that the cattle did not reach the river, he should have tracked back to find out where the tracks came from. If he thought they reached the river but did not cross, he should have looked for tracks doubling back. He did neither of these things. I believe that he did call his people and they would not come and he says he did not call them because he does not wish to show that his people were unwilling to help. He prefers to try and cover himself by saying that he thought 4 people sufficient.

Thus I am convinced that 7 head of cattle were stolen from the Masai, that the tracks were followed into the Keret Lalaitich and that they were lost in that Keret. And further, I am convinced that the people of that Keret did not attempt to follow the tracks to take them beyond the limits of their Keret. I am further convinced that the tracks leading into the cattle pens, showing the marks of a large bull and a calf could not have been made by Arap Bamsiya's cattle, as I have seen his cattle and he has no beast with large feet and he has a lot of calves which would have made a lot of small tracks.

Thus, I consider that a Collective Fine should be imposed on the members of the Masai age

who are inhabitants of this Korot. All those who gave evidence are of the Mains age, and nearly all the thieving of stock in this district is done by members of the Mains age.

In this Korot there are 156 huts and the male population is about 150 persons. Of these I understand that about 60 are of the Mains age.

I recommend that a fine of Rs. 1,500/- be imposed on the members of the Mains age in Lalaitich Korot.

sd/- P.J. de Brouckere
Second Class Magistrate.

Sigor,
25th November 1952.

Further, I recommend that Rs. 350/- of this fine be paid to Complainant as compensation and the balance to the South Lambva, Local Native Council.

sd/- P.J. de Brouckere
Second Class Magistrate
25/11/1952.

who are inhabitants of this Koret. All those who gave evidence are of the Maina age, and nearly all the thieving of stock in this district is done by members of the Maina age.

In this Koret there are 156 huts and the male population is about 150 persons. Of these I understand that about 60 are of the Maina age.

I recommend that a fine of Shs.1,500/- be imposed on the members of the Maina age in Lelaitich Koret.

sd/- P.J.de Brouckere
Second Class Magistrate.

Sigor,
25th November 1932.

Further, I recommend that Shs.550/- of the fine be paid to Complainant as compensation and the balance to the South Luabwa, Local Native Council.

sd/- P.J.de Brouckere
Second Class Magistrate
25/11/1932.

546



GOVERNMENT HOUSE,
NAIROBI
KENYA.

No. 626.

23rd December 1933.

RECEIVED
12 JAN 1933
COL. OFFICE

I have the honour to transmit for your information the enclosed copy of the Proceedings before a Magistrate held by the 2nd Class Magistrate, Isiolo District, Northern Frontier Province, under the Collective Punishment Ordinance No. 1 of 1930, into the theft of 230 head of cattle and 2 Donkeys, the property of members of the Borah Tribe, together with a copy of the Order made by the Provincial Commissioner, Northern Frontier Province, under Section 2 of the Ordinance, which inflicts a fine of Shs. 10,000/- on the following Sections of the Aulihan Tribe:-

Rer Ali	...	...	Shs. 2000/-
Rer Aigab	...	...	2000/-
Rer Waffata	...	...	2000/-
Rer Kassim	...	...	2000/-
hiloli's followers	...	...	2000/-

into whose area the stolen animals were traced.

Concurring with the advice of my Executive Council I have ordered that the balance of the fine of Shs. 10,000/-, after payment of any expenses incurred by Government in collection and less the sum of Shs. 7500/- to be paid as compensation to the owners of the stolen stock, be paid into the natives' trust fund to the credit of the Northern Frontier Province Account, under the provisions of the Natives' Trust Fund Ordinance.

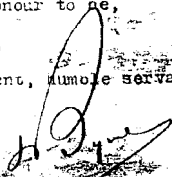
THE RIGHT HONOURABLE
MAJOR SIR PHILIP GUNLIFFE-LICHTER, P.C., C.B., D.S.O., D.I.,
SECRETARY OF STATE FOR THE DOMINIONS,
DOWNING STREET,
LONDON, S. W. 1.

3. It is estimated that the population upon whom this fine has been imposed numbers about four thousand.

I have the honour to be,

Sir,

Your most obedient, humble servant,



~~BRIGADIER-GENERAL~~
~~GOVERNOR~~

18
SECOND CLASS MAGISTRATE'S COURT

AT ISIOLO.

INQUIRY NO. 1.

Inquiry held under Order. 54/50.

Re: YA. The Anlihan Tribe.

21/8/52.

Representatives of the Anlihan Tribe present in person:-

- | | | | |
|---------------------|---|---------|---------------|
| (1) Aden Hassan | - | Sultan | |
| (2) Mohammed Ali | - | Headman | - Bar Ali |
| (3) Sheikh Ahmed | - | " | - Bar Afra |
| (4) Aden Abdi | - | " | - Bar Afrah |
| (5) Khrahin Digo | - | " | - Bar Haffala |
| (6) Mohammed Nur | - | " | - Bar Hassan |
| (7) Hilalo Mohammed | - | " | - Bar Ali |

R. G. Darroch

Representatives informed that their tribe and sections are charged for that members of the Anlihan Tribe

- (1) Suppressed evidence in a case of stock theft Sec. 2(b) Order. 54/50.
- (2) Failed to restore stolen property traced within their area, or to carry on the tracks beyond that area Sec. 2 (c) Order. 54/50.

R. G. Darroch

II Class Magistrate.

First witness Abdab Ula, Boran, pagan, 4/a stated:

9 months ago I was living near Hara Maiza also called Hara Chofta. One day the cattle of our manyatta were taken to graze by Gede Kora, Mola Kora, Ajan Kora and 4 women. Gede came running back to the manyatta later and told us that the cattle had been stolen.

I and others went to look for the tracks. Dubasa, Kabaga, Kanjawa Maba, Bab Ula, Murtalo Buraha, Gede Kora,

Dab Ebra, Did Ebra and others came with me. I do not remember all the names.

After following the tracks some distance we sent Santalo Baraka, and Dab Ulu to the Habaswein police. We all went up to Dugmach Sheikh Hassan's manyatta to meet the police. When they came they took Dab Ulu and Sanjaro Daba with them and the rest of us went home.

Of my cattle 55 were stolen, and 25 calves died in the manyatta whose mothers were taken. Of the 55, one cow and her calf, a bull, were returned to me some 5 months later by Dabasa Habaga. He said he got them from Adam Hassan's manyatta. Many others lost cattle but I do not know their exact numbers; they will be able to tell you themselves.

R. O. O.

R. O. Darrook.

QED by Adam Hassan: Did you come to my manyatta yourself? No. No further QED.

R. O. Darrook.

Second witness No. 1205 Corpl. Mahmood Mohamed, Isala Q's states:

I was in charge of the Habaswein Police Post in December 1931.

One evening about 3.0 p.m. two Ebra called Santalo, and Gaudish came and reported that their cattle had been stolen from Hara Maiga, two days earlier. Next morning I, and No. 599 1/2 Almarat went off with the 2 Ebra about 6.0 A.M. We went to Dugmach Sheikh Hassan's. There were no men there only women. About an hour later, some Ebra, 5 or perhaps more, came. They said they had left the tracks beyond Mado Gashi. I took two of them Dab Ulu and Sanjaro Daba, and told the rest to go home, lest if many went there should be a fight.

He went to Adam Hassan's manyatta which was between

Subm...

Dab Horn, Did Horn and others came with me. I do not remember all the names.

After following the tracks some distance we sent Samilo Bayala, and Dab Ulu to the Habaswein police. We all went up to Daganah Sheikh Hassan's manyatta to meet the police. When they came they took Dab Ulu and Emjaro Daba with them and the rest of us went home.

Of my cattle 55 were stolen, and 25 calves died in the manyatta whose mothers were taken. Of the 55, one cow and 2 calves, a bull, were returned to me some 5 months later by Dabaga Habaga. He said he got them from Adam Hassan's manyatta. Many others lost cattle but I do not know their names; they will be able to tell you themselves.

No. 103

K. S. Darroch.

QID by Adam Hassan: Did you come to my manyatta yourself? No. No further ID.

K. S. Darroch.

Second witness No. 1205 Oryl. Rahmoud Mohammed, Islem U/s states:

I was in charge of the Habaswein Police Post in December 1991.

One evening about 10 p.m. two Dorn called Samilo, and Gondish came and reported that their cattle had been stolen from Hara Madra, two days earlier. Next morning I, and No. 599 1/2 Kizaret went off with the 2 Dorn about 6:0 A.M. We went to Daganah Sheikh Hassan's. There were no men there only women. About an hour later, some Dorn, 5 or perhaps more, came. They said they had left the tracks beyond Hadda Gashi. I took two of them Dab Ulu and Emjaro Daba, and told the rest to go home, lest if any went there should be a fight.

He went to Adam Hassan's manyatta which was between

Saben and Lalalat. We reached it about 6.0 P.M. Adam Hassan and Mohammed Ali were both there. The manyatta was about half an hour's walk from the Uaso on the South side. We had not yet found the tracks. Adam Hassan and Mohammed Ali denied knowledge of the theft. I asked for people to go with me, and Adam Hassan produced a young man.

We left in the morning. After about an hour and a half we saw some Anlihan cattle coming from the direction of Madde Gashi. Before these cattle reached us we found cattle tracks, which the Boran recognized as those they had followed. The Anlihan cattle then came up. Two children were herding them. They said they came from Hara Mansa. They denied knowledge of Boran cattle except that they had found a cow and her calf straying the day they left Hara Mansa. These were identified by the Boran as theirs. I told the children to keep them till we returned. They said their father was named Kool.

We then followed the tracks which crossed the Uaso at Bmalaga about half way between Lalalat and Gardir. We followed on till about 2.0 P.M. The tracks crossed the river again and seemed to be going in the direction of Kismaya. The Anlihan said they could not go further as we had no water, so we returned. On our way out we had passed one small manyatta. We went into it on our way back. It was an Anlihan manyatta belonging to a man called Adam, on the South side of the Uaso. The manyatta was visible from the tracks of the cattle, possibly half an hour away. I spoke to the people in the manyatta. They denied knowledge of the theft or of stolen cattle being driven past, as cattle were taken to water near there every day.

We returned to where we had left the cow and her calf. I said to the Boran "take them if you like." If

Saben and Zulalat. We reached it about 6.0 p.m. Aden Hassan and Mohammed Ali were both there. The manyatta was about half an hour's walk from the Uaso on the South side. We had not yet found the tracks. Aden Hassan and Mohammed Ali denied knowledge of the theft. I asked for people to go with me, and Aden Hassan produced a young man.

We left in the morning. After about an hour and a half we saw some Aulihan cattle coming from the direction of Waddo Gashi. Before these cattle reached us we found cattle tracks, which the Boran recognized as those they had followed. The Aulihan cattle then came up. Two children were herding them. They said they came from Hara Maasa. They denied knowledge of Boran cattle except that they had found a cow and her calf straying the day they left Hara Maasa. These were identified by the Boran as theirs. I told the children to keep them till we returned. They said their father was named Bool.

We then followed the tracks which crossed the Uaso at Egnalaga about half way between Zulalat and Gerdif. We followed on till about 2.30 p.m. The tracks crossed the river again and seemed to be going in the direction of Kimmaya. The Aulihan said they could not go further as we had no water, so we returned. On our way out we had passed one small manyatta. We went into it on our way back. It was an Aulihan manyatta belonging to a man called Aden, on the South side of the Uaso. The manyatta was visible from the tracks of the cattle, possibly half an hour away. I spoke to the people in the manyatta. They denied knowledge of the theft or of stolen cattle being driven past, as cattle were taken to water near there every day.

We returned to where we had left the cow and her calf. I said to the Boran "take them if you like." If

not leave them with the sultan for the time ^{being}. We took them to Aden Hassan and left them there till they were removed later.

R. O. G.

R. O. Darroch.

QED by Aden Hassan: How far was my manyatta from Aden Dava's?

About 14 hours.

No further QED.

R. O. Darroch.

Third witness No. 599 1/0 Kisaret Larabo, Islam 1/2 states:

I am a police constable. About 9 months ago I was at Habarocin with last witness.

One evening 4 Boran came and reported that their cattle had been stolen near Kaddo Gashi. I identified Boran a little. I do not know the names of the Boran.

Next morning last witness, I, and 2 Boran went off together. The other 2 Boran went home. We went to Aden Hassan manyatta. He denied knowledge of the theft. The Corpl. told him to give us men, and he gave us two.

We went on and found some cattle tracks about 1 hour after leaving the manyatta. We followed the tracks till they crossed the Guse. We followed on the North side till Hababere. The tracks seemed to be making for Kiyaya. We left the tracks there on the North side as we had no water.

On our way back we saw some Aulihan cattle near Saben. A small child was herding these cattle, who said he had found a cow on the way of the theft above Kaddo Gashi, straying. The Boran identified it. We took it to Aden Hassan's manyatta, and told the Boran they could take it back with them or leave it there as they liked. They left it there. We had not seen it on our way out.

No QED.
R. O. Darroch.

R. O. G.
R. O. Darroch.

Fourth witness Gede Wit., Boran, pagen, d/a states:-

My cattle were at first witness' manyatta. I was away on a visit when the cattle were stolen. I lost 16 cattle, and 6 calves died in the manyatta.

R. O. G.

R. G. Darroch.

No. 111

R. G. Darroch.

Fifth witness Wabata Fai, Boran, pagen d/a states:

I had cattle at first witness' manyatta. I was at the goat manyatta at the time of the theft. I lost 24 cattle, and 11 calves died at the manyatta.

R. O. G.

R. G. Darroch.

No. 112.

R. G. Darroch.

Sixth witness Kuntulo Baruka, Boran, pagen d/a states:

I was living at first witness' manyatta when the cattle were stolen I heard of it about 4.00 p.m. the same day. I, Dab Ulu, Bida Daba, first witness, Gede Kora, Dida Kora, Babasa Habuga and many others went to look for the tracks. We found them and slept near Hara Manna. We followed the tracks next morning to Rusat Kona. We were thirsty and went to Mado Gashi. That night five of us went to report to the Police at Habarain, Dab Ulu, Bida Daba, Basha Hasha, Hara Adi, and I. We got there in the afternoon and saw the Corpl. Dab Ulu and I slept there and the others went back. We reported that Dagonia had taken our cattle. We thought it was Dagonia because we had fought them.

In the morning we went with 2 Police to Dagonah's manyatta. There we met the rest of the Boran. The Corpl. said there were too many of us and we might cause a fight. He took Dab Ulu and Kojare Daba with him and the rest went back.

Fourth witness Gado Awa, Boran, pages 4/a states:-

My cattle were at first witness' manyatta. I was away on a visit when the cattle were stolen. I lost 24 cattle, and 6 calves died in the manyatta.

R. O. G.

R. G. Darrooh.

No. XXII

R. G. Darrooh.

Fifth witness Wabata Fai, Boran, pages 4/a states:

I had cattle at first witness' manyatta. I was at the goat manyatta at the time of the theft. I lost 24 cattle, and 11 calves died at the manyatta.

R. O. G.

R. G. Darrooh.

No. XXIII

R. G. Darrooh.

Sixth witness Muntulo Baruka, Boran, pages 4/a states:

I was living at first witness' manyatta when the cattle were stolen I heard of it about 4.0. p.m. the same day. I, Dab Ulu, Bida Daba, first witness, Gado Kora, Bida Kora, Dabasa-Habaga and many others went to look for the tracks. We found them and slept near Hara Madina. We followed the tracks next morning to Ramat Kome. We were thirsty and went to Madde Gadia. That night five of us went to report to the Police at Habaswain, Dab Ulu, Bida Daba, Baskola Hacha, Haro-Adi, and I. We got there in the afternoon and saw the Corpl. Dab Ulu and I slept there and the others went back. We reported that Dagedia had taken our cattle. We thought it was Dagedia because we had fought them.

In the morning we went with 2 Police to Daganah's manyatta. There we met the rest of the Boran. The Corpl. said there were too many of us and we might cause a fight. He took Dab Ulu and Kanjare Daba with him and the rest went back.

Of my stock 2 donkeys, a male and a female were taken. A third donkey belonging to Rototo was taken. While we were following the tracks we could see the tracks of 3 donkeys among those of the cattle. We passed no manyattas between Hara Hama and Ramat Kona.

H. G. G.

H. G. Darrook.

No. 111
H. G. Darrook.

Equity adjourned for further evidence.

H. G. Darrook
21/8/32

22/8/32.

Seventh witness ^{Gd} Moku Kora, Boran, pagan, s/a witness.

I was living with first witness when the cattle were taken. I, Moku Kora, Ajan Kora, and 7 women and 1 girl were herding the cattle. We watered the cattle at Hara Hama. We saw 7 enemies sitting under trees the other side of the wall. I call them enemies because they had tied up their clothes as men do before fighting, and appeared to be excited. I did not know their names or faces. They all had bows and arrows. There were some Aulihan watering cattle at the same time. The eldest of them was called Sagare; the rest were young men.

When we had watered the cattle we drove them up from the wall. I was ahead and the others behind. The enemies came round the bush and surrounded the cattle. Three men came at me, and four attacked and drove off the others. Two arrows were fired at me. I ran away. Sagare and the Aulihan were not there. They had driven their cattle in another direction when we drove ours up from the wall.

I ran back to the manyatta. I got there in the evening.

evening. We went to find the tracks. It was dark when we found them, so we slept there. In the morning we followed the tracks. We were 9 at first and more came on behind us. The tracks led to Ramat Hama, North of Madho Gashi. We did not see any people or manyattas on the way. When we got out on to the plain we got thirsty and went back to Madho Gashi for water. Two men were sent to the Police. The rest of us went to Daganah's where we met the police. They took two men with them and sent the rest back. The place where we had left the tracks was less than an hour from the Mahawein - Madho Gashi road. The tracks were going parallel to the road. The place where we left the tracks was about as far from Daganah's as 'an Yala' from Mahawein (about 7 miles RSD).

Our cattle 1 pack ox, and 2 cows were taken. The cow had a calf. Both calves died at the sawfalls.

R. O. G.

R. O. G. Darrook.

No. 111

R. O. Darrook.

Eighth witness Mulu Kara, Barea, pages 4/a states:-

I am last witness' brother. I was with him herding the cattle the day they were stolen. My brother Ajan was also there. He has had eyes now and cannot come here.

We took the cattle to water at Kara Oheeta. Some Anlikan were watering cattle there also. One was named Sagar: but I do not know his name or the other. Near the well we saw 7 enemies. They had tied up their clothes and looked as if they wanted to fight. We

evening. We went to find the tracks. It was dark when we found them, so we slept there. In the morning we followed the tracks. We were 9 at first and more came on behind us. The tracks led to Hamat Kara, North of Mado Gashi. He did not see any people or manyattas on the way. When we got out on to the plain we got thirsty and went back to Mado Gashi for water. Two men were sent to the Police. The rest of us went to Daganch's where we met the police. They took two men with them and sent the rest back. The place where we had left the tracks was less than an hour from the Habaswein - Mado Gashi road. The tracks were going parallel to the road. The place where we left the tracks was about as far from Daganch's as Lam Tala is from Habaswein (about 7 miles NNE).

Of my cattle 1 pack ox, and 2 cows were taken. The cows each had a calf. Both calves died at the manyatta.

R. G. G.

R. G. Darrook.

No. 108

R. G. Darrook.

Eighth witness Main Kara, Kara, pages 4's statement-

I am last witness' brother. I was with him herding the cattle the day they were stolen. My brother Ajan was also there. He has bad eyes now and cannot come here.

We took the cattle to water at Kara Chatta. Some Amihan were watering cattle there also. One was named Sagara. I do not know the names of the other. Near the well we saw 7 amihan. They had tied up their clothes and looked as if they wanted to fight. We

again:

spoke to Bagara about them. He said he did not know them but they were Aulihim with bows and arrows, so we need not fear them.

Having watered our cattle we drove them up from the well. The Aulihim drove theirs away in another direction at the same time. The enemies ran round the bush and surrounded the cattle. I saw their faces, I knew they were the men we had seen near the well. I ran away to the manyatta. The people of the manyatta collected and went to follow the track, but I did not go with them.

R.O.C.

34/- R.O. Darrook.

No. 18

34/- R.O. Darrook.

Sixth witness Kangaro Daba, Borom Page, R's states:-

I belong to first witness' manyatta. On the day the cattle were stolen I was at Mudda Sari. I heard of it and went back to our manyatta I reached it the day after the theft. I and some other followed the tracks. Other Borom had gone ahead of us. The tracks led past El Dara to Koodi Kere and then into the plain. We were thirsty so we went to Bagash's to get water. There we met the Borom who had preceded us, and two policemen. The policemen took Dan Ulu and me to go with them to look for the cattle, and the other Borom went home.

We did not return to where we had left the tracks, but went across the plain to Adam Hassan's manyatta at Sabon. The manyatta was about half an hour's walk from the South bank of the Uase. Adam Hassan denied knowledge of our cattle, but a man who had come from another manyatta said he had seen a big lot of cattle headed by a red bull.

Next morning Adam Hassan gave us two youngsters to go with us. We followed the course of Uase. Near the Uase we found some cattle belonging to Mohamed Ismail, being herded by two children. We recognized a cow belonging to

belonging to first witness among these cattle. We told the children to keep it till we returned.

We then found the tracks of our cattle about 200 yds from the Uso. We knew the tracks because we could see the foot prints of 3 donkeys among those of the cattle, and also recognised the tracks of the men who had driven the cattle all together. At this point Adem Hassan's manyatta was still visible. The tracks led close to another manyatta belonging to Adem Dara. I should say they went within about 10 yards of it.

We did not go into Adem Dara's manyatta but followed the tracks which crossed the Uso at Kalalut. We followed the tracks on the North bank as far as Mabakura. The tracks seemed to be about 3 days old. At Mabakura the Fellins said they were thirsty and hungry and had no camel with us and must go back.

We returned to Adem Dara's manyatta. We asked the people there if they had seen our cattle and they said "no". We went back to Adem Hassan's and slept there. We took the cow we had and left it at Adem Hassan's. It was tired and in a bad condition so we could not take it on with us. We asked the children there they got it, and they said they found it among their cattle and did not know how it got there. Adem Hassan promised to keep it till we came back to fetch it, and that he would look for our cattle and return them if he found them.

I lost 6 cattle myself; also 3 calves of mine died at the manyatta. Okote Eoru who is not here lost 6 cattle and 2 calves died later.

R.O.C.

Sd/- R.O. Darroch.

QID by Adem Hassan: How long was the cow at my manyatta? I do not remember. Did anyone else hear me promise to look for your cattle? Dab Ala.

Re further QID

Sd/- R.O. Darroch.

Fourth Witness Dabasa Habaga, Joraa, pagna, d/a states:-

I was living with first witness when the cattle were stolen. I went with the first party to follow the tracks, but I did not see or hear anything.

I myself lost 63 cattle; also 60 calves died later.
My brother Guyo Habuga lost 59 cattle; also 20
calves died later.

R.O.C.

Sd/- R.G. Darrooh.

No XIX

Sd/- R.G. Darrooh.

Eleventh Witness Halo Chidas, Boran, pagah, d/a states:-
My cattle were at first witness' manyatta, but I was
not myself.

I lost 26 cattle; and 24 calves died later.

Sd/- R.G. Darrooh.

XII by Sheikh Ahmed: Did you show the calves to the Boran
Headman and prove they died from lack of milk? No Headman
lives near us. I took the tails to Sura Miba, son of
Headman Miba Boru.

Did the Headman know the number of your cattle
stolen? We reported the total loss, 253, not man by man.

No further XII

Sd/- R.G. Darrooh.

Twelfth Witness, Sora Waric, Boran, pagah, d/a states:-

I was ill when the cattle were stolen. I was at first
witness' manyatta. I lost 8 milk cows, each of which had
a calf at the manyatta. All 8 calves died.

R.O.C.

Sd/- R.G. Darrooh

No XIII

Sd/- R.G. Darrooh

Thirteenth Witness Rob Totoborogan, d/a states:-

I was at the goat manyatta when the cattle were
stolen. I had cattle at first witness manyatta of which
10 were stolen, and 4 calves died at the manyatta.

The

Two other calves, whose mothers went, survived. Also one male donkey of mine was stolen.

Sd/- R.G. Darroch.

XIX by Sheikh Ahmed: How can you prove you lost 10 cows? All the people in the manyatta know it.

Did you see the 4 calves die? My mother and brother who were at the cattle manyatta told me.

No further XIX

Sd/- R.G. Darroch

Fourteenth Witness, Sagar Sheikh Omar, Anlihan, Har Kassim, Islam d/s states states:-

I was living at Hara Mansa 9 months ago. First witness' manyatta was near mine. One day I met some Boran at the well. There were some other Anlihan, Ungan, there also. They belong to this country and still live here. I saw no one else there.

By Magistrate: Did the Boran point to anyone?

Statement continued: The Boran pointed to two Somalis and asked if I knew them. They said they were afraid of these two men who had bows and arrows. I did not know them. I went to these two men. They said they were Maghabul, hunting between Kora and Nisan Adi. I went to talk to them, but they had gone before I reached them. The Boran drove drove their cattle away from the water, and drove mine off in another direction. I had never seen these Maghabul before.

Next morning some Boran told me that someone had stolen their cattle. I and other Somalis collected and went down to, the water hole. Then we returned to our manyatta. We did not go to the place where the cattle were driven away. We did not send word to the Somali Headman, or to anyone else.

By Magistrate: ...

By Magistrate: Did you speak to the Maghabul? Yes; they told me themselves they were hunting between Kora and Nisan Ali.

Q: Why did you say they went away before you reached them? I only went to them once. I do not know where they had stayed the previous night.

Statement continued; There were no other small manyattas between mine and Nanda Gashi.

The Doras only pointed to two men. I saw no one else with bows and arrows.

R.O.C.

24/- R.S. Barrook.

No XII

24/- R.S. Barrook

Fifteenth Witness Ibrahim Saal, Anlikan, Bar Ali, Isala, 5/3 station:-

I was at Sabon 9 months ago. I did not see Police or Doras looking for cattle. My cattle were not at the manyatta where I was living. The children were herding my cattle. They told me they found a cow. I did not know where they found it. They were grazing my cattle near Kambila

R.O.C.

24/- R.S. Barrook

No XIII

24/- R.S. Barrook.

Sixteenth Witness Abdulla Adam, Anlikan, Bar Vaffata, Isala 4/3 station:-

I am Adam Baro's son. I was not at his manyatta 9 months ago.

R.O.C.

24/- R.S. Barrook

No XIV

24/- R.S. Barrook.

Seventeenth Witness Ahmed Aden, Aulihan, Rer Waffata, Islam, d/s states:-

I am Aden Dara's son. I was at his manyatta 9 months ago. The manyatta was at Ganlolo on the opposite side of the Uaso from Kabalut. I did not see Police or Boran looking for cattle. I never saw any cattle other than ours, taken past there. I never heard that Boran cattle had been stolen.

R.O.C.

Sd/- R.G. Darroch

No XIX

Sd/- R.G. Darroch

Enquiry adjourned for further evidence. 22/8/32

23/8/32

Eighteenth Witness Ahmed Gurroba, Aulihan, Rer Ali, d/s states:-

I was living at Aden Dara's manyatta 9 months ago. I remember Police and Boran coming to the Manyatta looking for lost cattle. There were 2 Police, 2 Boran, and 4 Aulihan. I had not seen any cattle pass that way shortly before; neither Aulihan cattle nor any other. There were no Aulihan manyattas near ours. The nearest was Aden Hassan's. That was as far away as from Habaswein to Saban (17 - 20) miles RGD). The Police were on their way back. I had not seen them on the way out. The police were on their way back, did not show us the tracks they had followed. I never saw any strange cattle tracks near the manyatta.

The police came in the evening after we had prayed. They only stayed a short time to get milk. They did not sleep there.

Sd/- R.G. Darroch

No XIX

Sd/- R.G. Darroch

111

Hineteenth Witness Dub Ulu, Koran, pagan, d/a states:-

I was living at First Witness's manyatta. I had been to the goat manyatta the day the cattle were taken, but returned to the cattle manyatta that day. The news of the theft reached the manyatta about 4.0 P.M. We went out to the place where the cattle had been driven off. It was dark when we reached it, so we slept there. In the morning we found the tracks and followed them to Ramat Koro. We could see the tracks of 7 men with those of the cattle.

At Ramat Koro we were thirsty and went to drink at Kuddo Gashi. Five men including myself went ahead to the Habeswein Police Post. We reported the theft and said if we went on by ourselves we might see a fight. Three of us went home; Kantiulo and I went with the police to Miguash's manyatta. There the feet of the Koran men were. The police told the others to go back and took Kantiulo and me with them. We went with the police to Adem Hassan's manyatta a little beyond Saben. The police spoke to Adem Hassan but I do not know understand Somali. There were many Somalis in the manyatta. The police asked me if there was a big red bull in our herd, because they told me a relation of Adem Hassan's who came from Gado, said he had seen a herd with such a bull in it driven past. I said there was such a bull in our herd. We slept there.

In the morning Adem Hassan sent 3 men with us. The relation of Adem Hassan who had mentioned the bull was one of them. About a quarter of a mile (distance gauged by piling the trees ²EQD) showed us the track of the cattle he had seen. We recognised the track because we knew the footprints of the men driving the cattle, and could see the tracks of 3 camels among those of the cattle.....

We followed the tracks which passed another manyatta belonging to Aden Dara, about 10 yards front. The tracks then led to the Uaso and crossed it at Kalalut.

We followed on the North bank as far as Kaba More. The corpl told us to come back as we had no food. He said he could report where the tracks were making for.

On our way back we entered Aden Dara's manyatta and stayed a short time. The police had come milk there. They offered us some milk which we did not drink. The police talked in Somali to the people there. We returned to Aden Hassan's and slept there.

On our way out we saw some cattle near Aden Dara's manyatta from the direction of Muddo Chagabo. There were 3 children herding them. In that herd we recognised a cow and her calf, a bull.

On the way back we took this cow and calf to Aden Hassan's. We asked him to keep it for us, because it was an old cow, very tired, and we could not carry water for it. We got it back later, but I forget how long afterwards.

R.O.C.

Sd/- R.G. Darroch

XIX by Aden Hassan: How many people did you see at Aden Dara's? There were people in the huts, but I was tired and thirsty and did not count them. Look

What did the man who mentioned the red bull like? He was about my height, and neither red or black.
No further XIX

Sd/- R.G. Darroch

Second Witness Corpl Mahamed, recalled, d/s statement - I do not remember anyone mentioning a red bull.

R.O.C.

Sd/- R.G. Darroch

Enquiry adjourned for further evidence. 25/8/52.

25/8/52.

Twentieth Witness Mohamed Dahir, Aulihan, Rer Ali Islam & s status:-

I live with Abdi Golir. About 9 months ago I saw 2 Fulbas and 2 Boran at Aden Hassan's manyatta. Aden Hassan told us and 3 others to go with them. On the way we saw some cattle at Ganololo, a long way from Aden Hassan's, as far as from Habarwein to Saben. There were no manyattas near there. Two children were with the cattle.

The Boran recognised a cow and a bull calf amongst those cattle. The corpi told the children to keep them till we came back.

Same way further on we found some tracks, which the Boran said were those, of their cattle: I do not know why they said so. We followed the tracks, which crossed the Dam at Samalaga. We followed on the North bank as far as Bahakore. The tracks seemed to be about 3 days old, and making for Kismayu. We saw no manyattas from the time we found the tracks till we got to Bahakore. We said we had no water, so the corpi agreed to return. We recrossed the river. In the evening we came to Aden Dara's where we got water. I do not know what happened to the cow we left with the children.

We found the tracks before noon, and followed them for about 3 hours. We turned back about 2.0 P.M. and reached Aden Dara's About 4.0 P.M. We did not see his manyatta on the way out.

I never saw or heard of cattle passing a few days before the police came.

R.O.C.

Sd/- R.O. Darroch

No 111

Sd/- R.O. Darroch.

Twentyfirst Witness Yaru Hamecin, Aalihan, Naw Ali, Talan
&/s states:-

I live in ^{in Mahamood} Hamecin's masjid. I never saw the
murder police 9 months ago.

At this point the witness collapsed and fell
unconscious fainting.

22/- R.S. Barrook

Tribal Representatives called upon to answer the
charge.

22/- R.S. Barrook

No. (1) Adam Hassan states:-

Some time ago the police came to me. Not then when
I was on my way to Hajir, and went back to my masjid with
them. The Const reported that the cattle had been stolen.
I had not heard of it before. He asked for me to go with
him, and I gave him 4 men. They slept at my masjid.
Next morning they all went off; there were 2 horses with the
police. I stayed at my masjid.

At sunset they came back with a cow and a bull calf.
The 4 Aalihan were with them, but went off to their own
masjids. The Const said that tracks had been taken across
the pass at Amalaga. That is beyond the Aalihan area.
They slept that night at my masjid and left next day.

They left the cow with me.

There were Aalihan living at Hama Hama at that time
but none between there and Hada Gashi, nor at Hada Gashi.
The cow was in my hands about 2 1/2 months.

R.O.C.

I certify that above statement was voluntarily
made before me.

22/- R.S. Barrook

II Class Magistrate

No.(2) Mohamed Ali states:-

I was with Adem Hassan when he left his manyatta. We met the police and went back to the manyatta with them. Next morning the police, 2 Boran, and some Anlihan went off. They came back at night with a cow and her calf. I had not heard of the theft before the police came.

R.O.C.

I certify that the above statement was voluntarily made before me.

3d/- R.O. Darroch

II Class Magistrate

No. 3. Sheikh Ahmed states:-

I was at Garislah and did not hear of the theft till about a month after it occurred.

R.O.C.

I certify that the above statement was voluntarily made before me.

3d/- R.O. Darroch

II Class Magistrate.

No. 4. asks that Sheikh Ahmed Jir, Kar Afgab, speak on his behalf. Sheikh Ahmed Jir states:-

I was at Garissa at the time of the theft. I heard of it when I returned. I heard that three of the thieves were Kar Afgab from Gado, in Italian Territory, who took the cattle back to Italian Territory. I heard that the three Kar Afgab were named Hassan Bahal, Gad Abdi, and Hassan Kar, and that there were 4 other thieves some Kar Mahamed and some Masarah. The 5 Kar Afgab are said to have got 15 cattle each when the stock was divided. I do not know whether any Kar Afgab were living near the scene of the theft.

R.O.C.

I certify.....

No. (2) Mohamed Ali states:-

I was with Adam Hassan when he left his manyatta. We met the police and went back to the manyatta with them. Next morning the police, 2 Boran, and some Anlihan went off. They came back at night with a cow and her calf. I had not heard of the theft before the police case.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.O. Darroch

II Class Magistrate

No. 3. Sheikh Ahmed states:-

I was at Garialah and did not hear of the theft till about a month after it occurred.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.O. Darroch

II Class Magistrate.

No. 4. asks that Sheikh Ahmed Jir, Her Afgab, speak on his behalf. Sheikh Ahmed Jir states:-

I was at Garialah at the time of the theft. I heard of it when I returned. I heard that three of the thieves were Her Afgab from Gede, in Italian Territory, who took the cattle back to Italian Territory. I heard that the three Her Afgab were named Hassan Sahal, Gad Abdi, and Hassan Bar, and that there were 4 other thieves some Her Mahamed and some Maarah. The 3 Her Afgab are said to have got 15 cattle each when the stock was divided. I do not know whether any Her Afgab were living near the scene of the theft.

R.O.C.

I certify

I certify that this statement was voluntarily made before me.

34/- R.G. Darroch
II Class Magistrate

No. 4 Adan Abdi wishes to add to the above:-

I am head of the Her Afgab. None of the thieves have any property in this country. None of the stolen stock has been returned from Italian Territory.

R.O.C.

I certify that the above statement was made voluntarily before me.

35/- R.G. Darroch
II Class Magistrate

No. 5 Ibrahim Dige states:-

When the cattle were taken I was at Haje Bora along way from the Uase near Hirc. I heard that 2 people came from Gado elephant hunting, but being unsuccessful stole the cattle. I heard this some time after the theft: after the police had been out to look for the cattle, I heard they were 2 Masarah, Mirsana (shegat to Her Omhamed), 1 Her Omhamed, and 3 Aulihan Her Afgab.

R.O.C.

I certify that the above statement was voluntarily made before me.

36/- R.G. Darroch
II Class Magistrate

No. 6. Mohamed Nur states:-

I have nothing to add to what the others say.

R.O.C.

I certify that the above statements were voluntarily made before me.

37/- R.G. Darroch
II Class Magistrate

No. 7. Hilole Mohamed states:-

I was at Isiolo at the time of theft. I returned to my home at Hara Bisan Acli about 10 days after the theft. Dub Ulu came and told me about the theft. I made enquiries and heard that 3 of the thieves were Rer Afgab, whose names Sheikh Ahmed Jir gave. I know these 3 personally. They sometimes live in British, and sometimes in Italian Territory. They have cattle, goats, and sheep in this country now with the Rer Afgab, Abdi Abdille, Anlihan Rer Kassia told me he saw them divide the steak at Afmudu.

There were 2 or 3 Anlihan men, of Rer Kassia and Rer Ali near Hara Haxsa at the time, but none from there to Muddo Gashi or at Muddo Gashi.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.G. Darroch
II Class Magistrate

First Witness for defence, called by No. 7, Abdi Abdille, Anlihan, Rer Kassia, Islam, d/s states:-

Three of the thieves were Anlihan, Rer Afgab. I saw them with the cattle in Italian Territory. One of them admitted that they had stolen the cattle from Hara Chofto. He said the other thieves were 3 Rer Ozahood, and one Hobbir. Two of the Rer Afgab said they came from British territory, and the third from Geco, but I never remember seeing them in this country.

R.O.C.

Sd/- R.O. Darroch

No 1 I F

Sd/- R.O. Darroch.

Flamingo ...

Winding: - In this enquiry 7 representatives of the Aulihan tribe have been called upon to show cause why a Collective Punishment should not be inflicted upon their tribe on the ground that members of their tribe (1) Suppressed evidence and (2) failed to restore stolen property traced within their area, or to follow the tracks beyond that area. S.2 Ordinance 51/30.

From the evidence it might appear that the charge should have been one of failing to prevent the escape of criminals under S.2 (a) Ordinance 51/30. As however the specific omissions alleged against Aulihan appear to fall under the charges framed, those charges seem fairer to the Aulihan, than the more general one.

Stated briefly the qualifications of the 7 Representatives are as follows:-

No(1) is the Sultan of the Tribe and a Govt. Headman.

No(2) is the Govt. Headman of the Max Hill section.

No(3) and 4
5) 6 are the tribal Headmen of the Aulihan sections.

No(7) is an ex-Govt. servant, the head of a number of Aulihan of different sections who have leave to live with the Baran.

A point of law which arises concerning the charge is as to the definition of the words "Native Authority" and "Proclamation", neither of which are defined in the Ordinance. If "Native Authority" means a Govt. Headman, the charge collapses, since there is no proof that any Govt. Headman knew of the theft before the police saw Aden Hassan. It seems to me however that in the absence of express definition "Native Authority" must be taken to mean "Authority normally recognized by the natives."

This

*x shd be
"an authority"*

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This

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This would include the class of people who are heads of families who customarily exercise jurisdiction and so come within the meaning of the native tribunals. This definition would include first witness Abau, 14, and other Boran elders who have appeared and claimed that their cattle were stolen, and fourteen witnesses Bagaro, Mook, Ar, Aulihan. "Proclamation" among people who are illiterate, and do not observe legal forms, I take to mean any imparting of information by or from an elder of the tribe.

Before examining the evidence in detail two points should be mentioned. First the theft, which is not disputed, occurred 9 months before the enquiry, which will, I think, account for some of the discrepancies in the evidence. Secondly ascertain account of evidence as to what others than the witness under examination said, has been recorded. The reasons for this are. First, part of the charge is that the Aulihan suppressed evidence: it appears to me impossible to prove what they knew and what they did not know without proving admissions or denials of knowledge: secondly, part of the Aulihan defence is that they reported the names of some of the thieves as soon as they knew them to refuse this on the ground that the evidence was indirect would be unfair to the Aulihan: thirdly the explanation of the finding of a cow and calf which had been stolen among an Aulihan herd, in itself a suspicious incident, depends entirely on indirect evidence the Boran appears to accept this explanation as the truth, and I think it unfair to the Aulihan to do so.

Apart from a few inconsistencies, to my mind attributable to the lapse of time, the evidence of the Boran and the police sufficiently sets out the story in general. To one point however I would draw attention, and that is that as the Boran, rightly in my opinion, decided not to go through Aulihan country by themselves without the police, the tracks were not picked up near the case till the 5th day after the theft, by which time there was little chance of catching the thieves, who by milking the cattle, could go without troubling about food.

There seem to me several specific reasons for believing the Aulihan, or certain sections thereof guilty under both counts. In general it is hard to believe that so large a herd could be driven through an inland country unnoticed, and there are definite reasons for holding that view.

First the witness Sagare admits seeing strangers of whom the Boran were nervous. His attitude, and his contradictions lead me to believe that he only saw 2 men. I believe the Boran statement that there were 7, which is borne out by Boran evidence as to the tracks of 7 men following the cattle, and Aulihan evidence that 7 men divided the cattle in Italian Somaliland. This witness further admits that he and others knew of the theft and went to the water hole, but made no effort even to find the tracks, or to send word to other Aulihan further on who might have picked up the tracks in time or intercepted the thieves, As he or his neighbours would not have had the Boran reason for going out of their way to Habassain, there would have been a chance of their being in time at least to restore the property, even if the thieves escaped.

Secondly

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Secondly

Secondly both the police corporal and the Boran refer to conversations with Aulihan, showing that some cattle had been seen near the Uaso, other than that of the manyatta there. There is it is true a discrepancy as to the whether this conversation took place at Aden Dara's or Aden Hassan's manyatta and as to whether a red bull was mentioned. I think however that the lapse of time may account for this, especially as the name of both manyatta heads was Aden. Also the evidence of the Boran and the police corporal tally so well otherwise, that I am of opinion that such a conversation did take place, and that some Aulihan possessed knowledge which has not appeared at the enquiry. Further from the evidence of the Aulihan it appears that there were other manyattas in the vicinity besides those which the police visited, which makes the probability of either the cattle, or the tracks, having been seen, stronger.

Thirdly both the police corporal and the Boran witnesses say the tracks passed within sight of Aden Dara's manyatta. In view of the evidence I think there is no doubt they were those of the stolen cattle. The Boran possibly exaggerate the proximity of the tracks to the manyatta, but I cannot accept the Aulihan estimates of the distances between the tracks and the manyatta, or between the manyattas of Aden Dara and Aden Hassan. Man on foot could not possibly cover such distances in one day. In the same connection I would mention that of the 4 men whom Aden Hassan sent with the police, only 2 were produced, of whom one denied having seen the police. As he fainted after saying this, perhaps he was barely conscious of what he was saying.

Further when called upon to produce people from Aden Dara's manyatta, the Aulihan first brought a man who had not been there at the time, and then one who denied meeting the

police

the police. This suggests either that the Aulihan made little effort to find out what had happened, or that the man produced gave information to the Headmen, which was withheld at the enquiry.

Fourthly there are contradictory statements by Aulihan, as to whether the thieves, or any of them, lived, or have property, in British Territory.

In favour of the Aulihan it must be admitted that when Adin Hassan saw the police he divulged knowledge of the theft, and sent men to help to follow the tracks, and the tracks were taken beyond the Aulihan area.

Secondly the Aulihan later reported the names of some of the thieves.

Thirdly there are inconsistencies between the evidence of the Boran, and that of the police, even to some extent that of the two police constables.

I do not however consider that these are strong enough to set aside the reasons for believing that the Aulihan, or some of them, suppressed evidence, and failed to follow the tracks or restore the property, which to my mind was within the power of the witness Sagare and those living near him.

The evidence appears to incriminate members of the Rer Ali, Rer Aghab, Rer Waffata, Rer Kassia, and Hilole's followers. I consider that a fine of Shs. 2,000/- in respect of each of these, or 10,000/- in all should be levied. Out of the fine I recommend that compensation should be paid to the Boran stock owners, in cash. It appears that 29 cattle were stolen, 2 being recovered. Of these the majority would be cows, but some bulls and calves were probably among them. I consider Shs. 30/- per head stolen a fair rate of compensation. I value the 2 male donkeys at 20/- each, and the female donkey at 25/-. The Boran also claim

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The evidence appears to incriminate members of the Rer Ali, Rer Afgab, Rer Gaffata, Rer Kassin, and Hilole's followers. I consider that a fine of Shs. 2,000/- in respect of each of these, or 10,050/- in all should be levied. Out of the fine I recommend that compensation should be paid to the Boran stock owners, in cash. It appears that 25 cattle were stolen, 4 being recovered. Of these the majority would be cows, but some bulls and calves were probably among them. I consider Shs. 30/- per head stolen a fair rate of compensation. I value the 2 male donkeys @ 20/- each, and the female donkey @ 25/-. The Boran also claim

claim that 165 calves died as a result of their mothers being taken. This figure seems to me too high, although the stolen cattle were the milk cattle. The statement of Rob Toto that of 10 cattle stolen, 6 had calves, 4 of which died, seems to me a fair average. I recommend therefore that compensation @ 5/- per calf be paid as follows:-

Abdoh Ulu	15 calves
Gedo Kite	6 "
Wabata Fai	10 "
Gedo Kara	1 "
Kangaro Duba	2 "
Orate Sero	2 "
Babama Babuja	25 "
Suyo Babuga	15 "
Male Suidas	10 "
Jedeah Duba	3 "
Rob Toto	4 "

Total 87

The total compensation which should be awarded to the Nares I compute @ 7,550/- viz:-

220 cattle @ 30/-	6600/-
87 calves @ 5/-	435/-
3 male donkeys @ 20/-	60/-
female " @ 15/-	75/-

Under 4.2 (b) and (c) Ordinance 54/50 I recommend therefore that a fine of 10,000/- be levied upon the Aulikas, out of which 7,550/- be paid to Nares in compensation, and the balance after payment of expenses be credited to the Native Trust Fund. I consider that the amount to be paid by the various sections of the tribe should be stated on the order.

I certify that this is a correct copy of the original.
 II Class Magistrate

226- R.O. Darroch
 II Class Magistrate
 24/7/52.

COLLECTIVE PUNISHMENT ORDINANCE 84/1930.

ORDER.

WHEREAS it has been proved to my satisfaction after due enquiry that in the month of December, 1931, in the vicinity of Mara Mausa in the Isiolo District of the Northern Frontier Province, a herd of two hundred and thirty cattle and two donkeys were stolen from the Boran tribe.

AND WHEREAS it has been proved to my satisfaction, after due enquiry, that the members of the Aulihan tribe who were living in the area through which the stolen stock was taken, have suppressed or combined to suppress evidence in a criminal enquiry about the theft concerning which the public announcement had previously been made by an authorised emissary of a District Officer or by a Native Authority.

AND WHEREAS it has been proved to my satisfaction, after due enquiry, that the aforesaid stolen stock having been traced to the Aulihan tribal villages and through the Aulihan area the Aulihan tribesman failed or neglected to restore the property or to take on the tracks beyond the limits of such villages or areas.

NOW therefore I, Robert George Stone, Provincial Commissioner, in exercise of the powers delegated to me by Government Notice No.519 of 26th September, 1928, do hereby impose collective fines under Sections 2(b) and (c) of Ordinance 84 of 1930 upon the following sections of the Aulihan tribe:-

Raf Ali, Shillings Two thousand.
Raf Afgha, Shillings Two thousand.
Raf Waraha, Shillings Two thousand.
Raf Kamin, Shillings Two thousand.
Hileli's followers, Shillings Two thousand.

and I further order that when these sums shall be recovered, or such part of them as may be recovered, the sum of Shillings seven thousand, three hundred and fifty shall be paid to the owners of the stolen property.

Dated this 10 of October, 1932.

R. Stone
Provincial Commissioner.

4



GOVERNMENT HOUSE
NAIROBI
KENYA

KENYA.

No. 625

RECEIVED
12 JAN 1933
COL. OFFICE

23rd December 1932.

Sir,

I have the honour to transmit for your information the enclosed copy of the Proceedings in which the 1st and 2nd Divisions of the 1st, 2nd and 3rd Divisions of the Frontier Province, which were established in the year 1930, into the 1st, 2nd and 3rd Divisions of the Province, and the names of the members of the 1st, 2nd and 3rd Divisions of the Province, under made by the Provincial Commissioner, Frontier Province, under Section 2 of the Act, which is as a fine of Shs. 2,000/- by the following Sections of the Aulian Tribe:-

Her Ali	...	...	Shs. 400/-
Her Acha	...	...	" 400/-
Her Waffata	...	...	" 400/-
Her Kassim	...	...	" 400/-
Riloli's Followers	...	...	" 400/-

into whose area the stolen animals were traced.

2. Concurring with the District Commissioner, the Council

I have ordered that the said fine of Shs. 2,000/- shall be paid after payment of any arrears due to the Government, and the collection thereof shall be made by the District Commissioner, and the amount shall be paid to the natives' trust fund established in the Frontier Province Account, under the name of the Natives' Trust Fund Committee.

3. It is estimated that the total population of the Aulian ...

Aulian ...

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CURLIFFE-LISHER, P.C., F.R.S., F.R.S.E., F.R.S.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W. 1.

impeded numbers about four thousand.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.

GOVERNOR.

IN THE II CLASS COURT AT ISIOLO.

INQUIRY NO. 2 HELD UNDER ORDINANCE 54/30

Prosecutor: Her. Accused: The Aulihan Tribe.

21/8/52

Representatives of the Aulihan Tribe present in person.

- | | | |
|--------------------|-----------|-----------------|
| (1) Aden Hassan | - Sultan | - Aulihan. |
| (2) Mohamed Ali | - Headman | " - Her Ali |
| (3) Sheikh Ahmed | - " " | " - Her Aja |
| (4) Aden Abdi | - " " | " - Her Ajaab |
| (5) Ibrahim Dige | - " " | " - Her Waffata |
| (6) Mohamed Nur | - " " | " - Her Kassim |
| (7) Hilole Mohamed | - " " | " - Her Ali. |

Sd. R.G. Darroch
II Class Magistrate.

Tribal Representatives informed that they are charged for that members of their tribe, the Aulihan:-

- (1) Suppressed evidence in a case of stock theft s.2(b) Ord. 54/30.
- (2) Failed to restore stolen property traced within/area, their or to carry the tracks beyond that area. s.2 Ord. 54/30

Sd. R.G. Darroch.
II Class Magistrate.

First witness Haro Kalich, Boran, pagan, duly affirmed states:-

I was living at Tokocho near Hemale about 5 months ago. One day my cattle were driven ^{down} to the well. I remained at the well after the cattle were driven away from the water. A woman was herding them. In the evening I counted my cattle. I counted and found that 8 bulls and 9 cows were missing.

I went to look for the tracks next day, and found them and the tracks of 2 men also. On the third day, two after the theft, I lost the tracks at Hara Koki where they got mixed with those ^{of} other cattle.

I went

IN THE II CLASS COURT AT ISIOLO.

INQUIRY NO. 2 HELD UNDER ORDINANCE 54/30

Prosecutor: Rev. Accused: The Aulihan Tribe.

21/8/32

Representatives of the Aulihan Tribe present in person.

- (1) Aden Hassan - Sultan Aulihan.
- (2) Mohamed Ali - Headman - " - Rer Ali
- (3) Sheikh Ahmed - " - " - Rer Afwa
- (4) Aden Abdi - " - " - Rer Afgab
- (5) Ibrahim Dige - " - " - Rer Waffata
- (6) Mohamed Nur - " - " - Rer Kassin
- (7) Hilole Mohamed - " - " - Rer Ali.

Sd. R.G. Darroch
II Class Magistrate.

Tribal Representatives admitted that they are charged for that members of their tribe, the Aulihan:-

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- (2) Failed to restore stolen property traced within ^{their} area, or to carry the tracks beyond that area. s.2 Ord. 54/30

Sd. R.G. Darroch.
II Class Magistrate.

First witness Haro Kalich, Boran, pagan, duly affirmed states:-

I was living at Tokocho near Hamale about 5 months ago. One day my cattle were driven ^{down} to the well. I remained at the well after the cattle were driven away from the water. A woman was herding them. In the evening I counted my cattle. I counted and found that 2 bulls and 9 cows were missing.

I went to look for the tracks next day, and found them and the tracks of 2 men also. On the third day, two after the theft, I lost the tracks at Hara Koki where they got mixed with those ^{of} other cattle.

I went

I went to see the Aulihan elders. I saw Aden Hassan and Ibrahim Dige. They said my cattle must have strayed. About 20 days later a woman named Abdub Halkero brought me 10 of the cattle. He said he got them from Hussein Ousero Ali Bochola, who got them from Mohamed Ali, Aulihan. One, a heifer, is still missing.

About 17 or 18 days after the first lot, 12 more were taken. Jilo Guyo was herding the cattle that day. In the evening we counted and found that 12 were missing. There was an Aulihan manyatta belonging to Ismail Abdulla and Mohamed Yussuf, Her Ali near our manyatta. The morning after loss of the cattle Jilo Guyo and I found the tracks. They led to this manyatta. On the way we found one of the 12 cows straying. We reached this Aulihan manyatta just after the stock had been taken out to graze. There were no men there only women. The track of our cattle entered this manyatta. The track of the Aulihan cattle could be seen quite distinct from the track we were following. We then returned to the well. There we heard that a lion had knocked down one of my bulls, and stampeded the rest of the cattle. We ran to round them up. We counted the cattle after this and found all correct as they had been that morning.

That evening I noticed that a cow which was ready to calve was not there. I counted again and found that 3 were missing. I went out but failed to find the tracks that evening.

Next morning Dub Walenso and I went out and found the tracks of our cattle between the well and the Aulihan manyatta. There were the tracks of three men with them. We left the tracks and went to Hilole's manyatta to report. He was ill and many elders were with him. The elders told me that the cattle tracks were mixed, and I had better follow them further and then come back to report what I found. None of them came with me. I wanted to follow the tracks, and not to

I went to see the Aulihan elders. I saw Aden Hassan and Ibrahim Sigt. They said my cattle must have strayed. About 20 days later a Moran named Abdub Malkano brought me 10 of the cattle. He said he got them from Hussein Ousero Ali Bochola, who got them from ~~Abdub~~ Ali, Aulihan. One, a heifer, is still missing.

About 17 or 18 days after the first lot, 12 more were taken. Jilo Guyo was herding the cattle that day. In the evening we counted and found that 12 were missing. There was an Aulihan manyatta belonging to Ismail Abdulla and Mohamed Yusuf, Bar Ali near our manyatta. The morning after loss of the 12 cattle Jilo Guyo and I found the tracks. They led to this manyatta. On the way we found one of the 12 cows straying. We reached this Aulihan manyatta just after the stock had been taken out to grass. There were 20 men there only women. The track of our cattle entered this manyatta. The track of the Aulihan cattle could be seen quite distinct from the track we were following. We then returned to the well. There we heard that a lion had knocked down one of my bulls, and stampeded the rest of the cattle. We ran to round them up. We counted the cattle after this and found all correct as they had been that morning.

That evening I noticed that a cow which was ready to calve was not there. I counted again and found that 3 were missing. I went out but failed to find the tracks that evening.

Next morning Dub Walenso and I went out and found the tracks of our cattle between the well and the Aulihan manyatta. There were the tracks of three men with them. We left the tracks and went to Hilole's manyatta to report. He was ill and many elders were with him. The elders told me that the cattle tracks were mixed, and I had better follow them further and then come back to report what I found. None of them came with me. I wanted to follow the tracks, and not to

go back to that manyatta.

Dub Walenso and I went on following the tracks for 3 days. They were those of the kras 3 cattle, not of the 12. The tracks headed towards Karirta between Saben and Gabarder on the Uaso we met Mohamed Ali. I reported the theft to him, and asked him to look for the cattle. He said he had not heard of it before, but would look. I went to Daganah Sheikh Hassan's manyatta to sleep. He was not there but his son was. Mohamed Ali came and made me up about midnight and told me he had got 10 cattle from Osman Samantar. The 10 were partly of the 12 and partly of the 3. Three were from the lot of 12, and 7 from that of 3.

When the first lot of 11 were taken I reported to Ibrahim Dige, and he said they had strayed; when 10 were returned he admitted that I was right in saying they had been stolen. When 10 out of the last 20 were returned Ibrahim Dige said "Aden Hassan is not here but you will get one of three things: either your cattle will be returned, or the thief will be arrested, or you will be given other cattle in their place".

When I went to Hilole about the last two thefts, he told Ibrahim Dige, Abdi-Golir, and Abderraman to go with me to see the tracks. They did not come.

R.O.C

Ed. R.O. Darroch.

LID by Aden Hassan: How often did you see me? Only once.

Mohamed Ali: Who gave the cattle to Hussein Osmo Ali Doshda? You told me that you and another man gave them to him.

Ibrahim Dige: Did you see me more than once? Yes.

At Ahmed Osman's manyatta. You were returning from Hilole's. Malin Abdi was there also. That was the second time. The first was at Hilole's.

go back to that manyatta.

Dad Walenso and I went on following the tracks for 5 days. They were those of the xmas 8 cattle, not of the 12. The tracks headed towards Karirta. Between Saben and Gabarder on the Uaso we met Mohamed Ali. I reported the theft to him, and asked him to look for the cattle. He said he had not heard of it before, but would look. I went to Degareh Sheikh Hassan's manyatta to sleep. He was not there but his son was. Mohamed Ali came and woke me up about midnight and told me he had got 10 cattle from Osman Samanter. The 10 were partly of the 12 and partly of the 8. Three were from the lot of 12, and 7 from that of 8.

When the first lot of 11 were taken I reported to Ibrahim Dige, and he said they had strayed; when 10 were returned he admitted that I was right in saying they had been stolen. When 10 out of the last 20 were returned Ibrahim Dige said "Aden Hassan is not here but you will get one of three things: either your cattle will be returned, or the thief will be arrested, or you will be given other cattle in their place".

When I went to Hilole about the last two thefts, he told Ibrahim Dige, Abdi Golis, and Abderman to go with me to see the tracks. They did not come.

NO.C
Ad. R.G. Darroch.

LIED by Aden Hassan: How often did you see me? Only once.

• Mohamed Ali: Who gave the cattle to Hussein Omuro Ali boahia? You told me that you and another man gave them to him.

• Ibrahim Dige: Did you see me more than once? Yes. At Ahmed Osman's manyatta. You were returning from Hilole's. Malin Abdi was there also. That was the second time. The first was at Hilole's.

No further IIN

Sd. R.O. Darrooh.

Second witness Malim Abdi Magan, Aulihan, Rer Kassim, Istak duly sworn states:-

I am one of Hilole's men, I have not first witness, but do not know him well. I met him once before at Kuria Ahmed's manyatta Ibrahim Dige was not there. First witness had some cattle with him which he said had been stolen and returned to him. He did not say others had been stolen.

No IIN

Sd. R.O. Darrooh.

R.O.C.

Sd. R.O. Darrooh.

Enquiry adjourned for further evidence. 21/3/52.

Sd. R.O. Darrooh.

Third witness Hilole Mohamed, Aulihan, Rer Ali, Islam duly sworn states:-

First witness reported to me that his cattle had been stolen and that the tracks went near Mohamed Yussuf's manyatta. I was till. I called Ibrahim Dige, and Abdernan Mohamed in and told them to go with first witness to see the tracks. They agreed. They went out side and talked. The only remark I heard was that Ibrahim told first witness to go and find out where the tracks went and then come back to tell us. First witness went away.

About 10 days later first witness returned with Dub Salenso. They had 10 cattle. Abderrahman Mohamed and Abdi Gollir were with me. First witness said these 10 cattle had been returned to him, but that they were of two different thefts mixed, and that 7 were still missing. He stayed the night and left next morning.

6 or 7 days later Aden Hassan came to see me. We discussed the matter. Aden Hassan told me to send first witness to him, and that if any cattle were still missing he would make up the balance rather than let the matter

go before Govt.

I saw first witness 4 or 5 days later, and told him to go to Aden Hassan. He said he had reported to the Provincial Commissioner who had told him to see the District Commissioner and would not return to Aden Hassan.

R.O.C.

Sd. R.G. Darroch.

KID by Aden Hassan: Where were we when I told you to send first witness to me again? Hear my manyatta. He two went outside together.

No further KID

Sd. R.G. Darroch.

Fourth witness Taib Musa, Anlihan, Rar Kassin, Islam duly sworn states:-

I was at Saben when first witness lost his cattle. I know him. I saw him and Ibrahim Dige together at Khadid Malis's manyatta. First witness said to Ibrahim Dige "When you said my cattle strayed, I said they were stolen. These are they". He pointed to some cattle he had with him. Ibrahim said "You were right." I did not hear Ibrahim say that first witness would get his back, or others in their place.

No KID

Sd. R.G. Darroch.

R.O.C.

Sd. R.G. Darroch.

Fifth witness Abdi Galir, Anlihan, Rar Ali, Islam, duly sworn states:-

I was in Nilole's manyatta when first witness case. First witness said he had lost some cattle and asked Nilole to give him some elders to go and see the tracks Nilole told me, Abderran Mohamed, and Ibrahim Dige to go with first witness. We did not go because we were not sure

whether

whether the cattle had been stolen or had strayed. There was a well there which many people were using, so we could not be sure if the cattle had been stolen or not. I am not one of Hilole's people, nor am I under Hassan or Mohamed Ali. I am now living near Kalalart.

No XXII

Sd. R.G. Darroch

R.O.C.

Sd. R.G. Darroch.

Sixth witness Abderrahmohamed, Aulihan, Mer Ali, Islam duly sworn states:-

I am one of Hilole's people. I remember first witness coming to Hilole's Kanyatta. Hilole was ill, and some elders were sitting with him. First witness said cattle had been taken from him. Hilole told me, Audi Golir and Ibrahim Dige to go with him to see the tracks. We did not go. We told first witness to go and see whether the cattle had been stolen and come back and report to us. He went away. He returned with the cattle some days later. That is all I know.

No XXIII

Sd. R.G. Darroch

R.O.C.

Sd. R.G. Darroch.

Enquiry adjourned for further evidence 22/8/32

Sd. R.G. Darroch

23/8/32

Seventh Witness Osman Samantar, Aulihan, Mer Ajwa Islam duly sworn states:-

About 5 months ago I was living at Gebidar, a little East of Saben. I received a message from Mohamed Ali to search for cattle which a Boran was reported to have lost. I asked how I should know the cattle, and the messenger said there were 5 bulls and 7 cows. I heard nothing about brands.

I went

I went out about 11.00 A.M. and found 10 cattle by themselves near Karirta in the afternoon. There were no other cattle near them. I recognised them because they were thin and in a bad state. There were no manyattas near there. I took these cattle to Mohamed Ali. I reached his manyatta about sunset. It was at Sabun, about 5 hours walk from Karirta. I was alone. When I found the cattle I looked for their tracks but found none. I looked for other tracks in case the Boran had counted wrong and more than 10 were missing. I found these cattle in the river. I did not find the track showing where they came.

R.O.G.

Sd. R.G. Darroch.

LED by Sheikh Ahmed: Who brought the message from Mohamed Aliy Dudul Matan.
No further LN.

Sd. R.G. Darroch.

Right Witness Dudul Matan, Malihan, Rer Ali, Islam
Only sworn witness:-

I was living at Mohamed Ali's 5 months ago. I remember first witness coming to Manyatta. Mohamed Ali sent me to last witness Osman Samanter to tell him to look for some cattle. There were many other manyattas near Mohamed Ali's. I do not know if messages were sent to them or not. I gave Osman the message and returned home. I told him 10 were missing as some one told me that number. About sunset Osman Samanter brought in 7 cows and 3 bulls. There was a Boran at our manyatta when these were brought in. I am not sure whether it was first witness or not. This Boran identified the cattle. I did not hear him say that more were missing.

R.O.G.

Sd. R.G. Darroch.

XKD by Sheikh Ahmed: Were there any manyattas between Mohamed Ali's and Osman Samanter's? Yes. I went to none except Osman's. No further XIX.

Sd. R.G. Darroch.

^{Anlihan}
Ninth Witness Mohamed Ali, ^{Ray} Ali, Islam duly sworn states:-

I am a Govt. Headman. I was living at Saben 5 months ago. I remember five witnesses and another Boran coming to my manyatta early one morning. They reported that they were looking for lost cattle. They reported that 10 were missing. I sent last witness Budul Matan to Osman Samanter at Gibidar to tell him to look for the cattle. There were some other manyattas near, some of whose inhabitants were with me. I informed them of it also.

After sunset Osman Samanter brought 10 cattle to me. The two Boran had gone to Daganah Sheikh Hassan's. There was no Boran at my manyatta. I went myself to Daganah's which was about half a mile from my manyatta. The Boran removed the cattle next morning and thanked me for getting them back. They did not say that others were still missing.

SR. R.O.C.

Sd. R.G. Darroch.

XKD by Sheikh Ahmed: Was Osman Samanter alone when he brought the cattle to you? Yes.

Who was there when you gave the cattle to the Boran? Osman Samanter, first witness, and I.

No further XIX

Sd. R.G. Darroch.

The Boran witness Dub Walenso could not be called because he had left on a journey to sell goats at Myeri before notice of the date of the enquiry could be sent to him. The other Boran mentioned Jilo Guyo was not called as he apparently took a very limited part in the proceedings

and it

and it seemed undesirable unduly to lengthen the evidence.

Sd. R.G. Darroch.

Tenth witness Maria Ahmed, Aulihan, Rer Kassim, Islam duly sworn states:-

I know nothing about this matter.

R.O.C.

Sd. R.G. Darroch.

QID by Sheikh Ahmed: Were you there when Mohamed Ali gave the cattle to first witness? No.

Did you tell me you were? No.

No further XKN

Sd. R.G. Darroch.

Eleventh Witness Malim Abdi Karim, Aulihan, Rer Kassim, Islam duly sworn states:-

I remember last witness, Maria Ahmed, telling Sheikh Ahmed and myself that he saw cattle given to first witness by Mohamed Ali.

R.O.C.

Sd. R.G. Darroch.

No X X B

Sd. R.G. Darroch.

Twelfth Witness Ibrahim Diga, Aulihan, Rer Warrata, Islam, refuses to swear, states:-

I remember seeing first witness at Hilele's manyatta. He came to me when I was praying under a tree in the afternoon. He reported that he had lost some cattle, and tracked them to Mohamedan manyattas. He thought Mohamedans had stolen his cattle, and asked me to come and see the tracks. I said they had strayed, and he had better go and look for them, and come back whether he found them or not. He went away and did not come back. There was none with us.

On the same day I saw him inside Hilele's manyatta.

I saw

and it seemed undesirable unduly to lengthen the evidence.

Sd. R.G. Darroch.

Tenth witness Muria Ahmad, Aulihan, Islam duly sworn states:-

I know nothing about this matter.

R.G.C.

Sd. R.G. Darroch.

XED by Sheikh Ahmad: Were you there when Mohamed Ali gave the cattle to first witness? No.

Did you tell me you were? No.

No further XEN

R.G. Darroch.

Eleventh Witness Malin Abdi Karim, Aulihan, Rer Kassim, Islam duly sworn states:-

I remember first witness, Muria Ahmad, telling Sheikh Ahmad and myself that he saw cattle given to first witness by Mohamed Ali.

R.G.C.

Sd. R.G. Darroch.

No X X H

Sd. R.G. Darroch.

Twelfth Witness Ibrahim Digo, Aulihan, Rer Waffata, Islam, refuses to swear, states:-

I remember seeing first witness at Hilole's manyatta. He came to me when I was praying under a tree in the afternoon. He reported that he had lost some cattle, and tracked them to Mohamedan manyattas. He thought Mohamedans had stolen his cattle, and asked me to come and see the tracks. I said they had strayed, and he had better go and look for them, and come back whether he found them or not. He went away and did not come back. There was none with us.

On the same day I saw him inside Hilole's manyatta.

I came

No.(1) Aden Hassan states:-

We have not suppressed evidence in this case. First witness came to me looking for his cattle, and we returned what we found. If Govt. prove that Aulihan stole the cattle we can say nothing whatever Govt. does to us. First witness alone says he found and followed the tracks. I was not there. The Aulihan who live near there say there was a wall to which many people went, near where the tracks passed. The elders told him to return to them if he failed to find his cattle and he did not do so. I do not admit that Aulihan took the cattle. I did not tell first witness that I would replace his cattle rather than let the matter go before Govt. First witness only said 10 were missing, so when Osman Samantar brought in 10 we did no more.

I certify that the above statement was voluntarily made before me.

Sd/- K.V. Darrook.

II Class Magistrate.

No.(2) Houssef Ali states:-

I was not near where the cattle were taken. I was on the bank near Sabas. First witness came to me and reported the loss of 10 cattle. I tried to do good work as a Govt. Headman, and went word round. First witness was frightened and I helped him and got 10 cattle back.

R.O.O.

I certify that above statement was voluntarily made before me.

Sd/- R.O. Darrook
II Class Magistrate.

No.(3) Sheikh Ahmed states:-

The Aulihan live in the one area and all know the secrets that occur. The other Aulihan have not told you the truth that occurs. The Sabas live near the Aulihan. There

used to be peace between the tribes. The Anlikan ought not to hide anything taken from the Boras. I was not there myself, but Odo Hussein told me that Osman Samster and Odo Wakari got the 10 cattle from Mohamed Yuseuf who had driven them a long way and was tired. Edig Anwar and Abdulla Yuseuf were with me when I received this information.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.O. Darroch
II Class Magistrate

No. (A) Adas Abdi states:-

The Bar Afgan had nothing to do with this case.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.O. Darroch
II Class Magistrate

No. (5) Ibrahim Higo states:-

Neither I nor any other Bar Waffata had anything to do with this case.

R.O.C.

I certify that above statement was voluntarily made before me.

Sd/- R.O. Darroch
II Class Magistrate

No. (6) Mohamed Bar states:-

I have nothing to add to what the others have said.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.O. Darroch
II Class Magistrate

No.(7) Hilele Mohamed states:-

I am Her Ali. I live in Beran Country. I was living near first witness manyatta when he lost his cattle, Mohamed Yusuf and Ismail Abdille were also near there. They are Her Ali, but Adam Hassan's people not mine. We heard that first witness had lost his cattle, and knew everyone living near there. All the Aaliban know that the son of Mohamed Yusuf and the son of Ismail Abdille stole those cattle. It is not good to hide it, or frequent thefts will occur. Those men ran away to Serenli after stealing the cattle. Mohamed Yusuf himself told me that he got 10 cattle back and gave them to Osman Samatar. He also went to Serenli; about 2 months ago.

R.O.C.

I certify that above statement was voluntarily made before me.

M/- E.S. Darroch.
II Class Magistrate

No.(1) Adam Hassan wishes to make a further statement:-

Can Hilele produce witness who say the son he named steal the cattle? Or anyone who saw the cattle given to Osman Samatar? Mohamed Yusuf left this country before the cattle were taken.

R.O.C.

I certify that the above statement was voluntarily made before me.

M/- E.S. Darroch.
II Class Magistrate

No.(7) Hilele Mohamed wishes to reply:-

Adam Hassan came to the Turcho 4 or 5 days before the theft and saw Mohamed Yusuf himself. Garahin Bigo, Abdourah Mohamed and I were also there. Mohamed Yusuf was the only man who told me how Osman Samatar got the cattle.

R.O.C.

I certify that the above statement was voluntarily made before me.

Sd/- R.O. Darrooh.
II Class Magistrate

By Magistrate: This wrangling must cease. Any of the Tribal Representatives who wish, may call evidence in support of their statements.

Sd/- R.O. Darrooh.

First Witness for defence, called by Adan Hassan, Hassan Kad, Aulihan, Shar Ali, Islam, duly sworn states:-

I live on the Uaso and have never been to Tokocho. I know Mohamed Yusuf. He went to Gede some years ago. I have not seen him since he went there.

No. I I N

Sd/- R.O. Darrooh.

R.O.C.

Sd/- R.O. Darrooh.

Second witness for defence, Ibrahim Saal, Aulihan, Shar Ali, called by Adan Hassan, Islam, duly sworn states:-

I live on the Uaso. I have never been to Tokocho. I know Mohamed Yusuf. He went to Gede 5 years ago. I have not seen him since. I know nothing about first witness's cattle.

No. I I N

Sd/- R.O. Darrooh

R.O.C.

Sd/- R.O. Darrooh.

Third witness for defence, Odoan Hussain, Aulihan, called on by Sheikh Ahmed, Islam, refuses to swear states:-

I know nothing of this matter.

No. I I N

R.O.C.

Sd/- R.O. Darrooh.

Sd/- R.O. Darrooh.

None of the others wish to call evidence.

Sd/- R.O. Darrooh.

Findings:-

Finding:- In this case the representatives of the Aulihan tribe have been called upon to show cause why a Collective Punishment should not be inflicted upon their tribes, or certain sections thereof, for that members of the tribe (1) suppressed evidence and (2) Failed to search the property traced within their area or to carry the tracks on beyond that area. S. (1) Dated 24/30.

Stated briefly the qualifications of the representatives are as follows:-

No. (1) is a Govt. Headman, Sultan of the whole tribe.
 No. (2) also a Govt. Headman is head of the Bar Ali Section.

No. (3) - (6) are the Tribal Headmen of their respective Sections.

No. (7) is head of certain Aulihan of various sections, who have leave to live in the same area, but are not allowed from their tribal authorities.

Three different thefts are alleged. Of these, I consider there is no case against the Aulihan as regards the first. It is stated that if cattle were taken, and so returned. As the man Mosekha Ombre Ali Eschala could not be found, there was no evidence on which to proceed. The livestock animal may have escaped from the thieves as did one from the second theft which was recovered.

Before considering the evidence as regards the two latter alleged thefts, there are two general points on which some comment seems necessary.

Some of the representatives were called as witnesses to ascertain what had happened in regard to events in connection with which they were named. It seems fairer to do this than to call all the tribe on behalf of their people, as it gave the other representatives fuller knowledge of the facts as they seemed to be stated against them.....

then.

Secondly a ~~quantity~~ amount of evidence has been recorded as to what others than the witness under examination had said. The charge being in part the suppression of evidence it appeared impossible to ascertain what, if anything, any members of the Aulihan knew, without recording such denials or admissions. Further the main part of the Aulihan defence is that first witness only reported the loss of 10 cattle of the later theft or thefts, and that as they found and returned 10, their responsibility ceased. It seemed manifestly unfair to them to refuse to record this, and therefore equally necessary to take evidence of a similar nature produced by other Aulihan.

Considering the last two thefts alleged by first witness there are several facts against the Aulihan.

To begin with I do not believe the statement that he only reported the loss of 10 to Mohamed Ali. In addition to his statement, there is the statement of Hilole Mohamed that when first witness brought 10 back with him, he still claimed 2 others. As ^{he} admits finding one the day after the 12 were taken, this tallies with his statements.

Secondly it is admitted that when first witness went to Hilole, three elders of the Aulihan, one of them Ibrahim Dige Headman of the Rer Waffata Section refused to go with him to see the tracks. The other two admit that Hilole told them to go: Ibrahim Dige in his evidence denies it. Situated as I am many miles from access to Law Books I am not certain of the admissibility of his evidence as he refused to swear. The same applies to the witness called by the defence, Odoa Hussein. To adjourn the enquiry seems to me most unfair to the complainant and to the Tribal Representatives.

I have decided therefore to admit the evidence, at such value as appears to me right to place upon it. Not only did this witness refuse to swear, but he contradicts himself badly, and absolutely disagrees with the other Aulihan and Boran evidence. I am satisfied that this witness withheld information, and that these elders were in fact told by Hilole to go, and see the tracks, and assist first witness, and refused to do so for no valid reason. As Hilole is recognised by the Aulihan as head of some of their member his orders seem to me a sufficient "proclamation by native authority" to meet the requirements of s.2 Ordinance 54/50. In the absence of express definition in the Ordinance "native authority" must presumably mean "authority normally recognised by the natives," which would include the headmen and elders of the tribe who customarily exercise jurisdiction.

Thirdly there is the evidence of first witness that the 10 cows recovered belonged in part to each of two different thefts. He further alleges that the first 12 were traced to an Aulihan Kanyatta whence all the men had gone. In this he is to some extent corroborated by Ibrahim Dige, and by the efforts of their sections to throw all the blame on to certain members of the Rer Ali. The contradictory Aulihan evidence as to whether the men named were or were not in British Territory at that time, strengthens any belief that important information was withheld at the time of the theft and during the enquiry. Further first witness states that while tracing the 8 cattle he could distinguish the tracks of men with those of the cattle. It is most unfortunate that Dub Walenco could not be produced, but I am satisfied that all 20 cattle were in fact stolen. The distance between the point of loss

of loss, and the point of recovery of the 10 make it almost impossible that the cattle can have strayed.

Fourthly there is the question of the recovery of the 10 cattle. It seems peculiar that Osman Samater should have been unable to find any tracks of the cattle he recovered. Moreover if he only heard that 10 were lost it is hard to believe that he really went to look for the tracks of others as he says. Other Aulihan have given a good deal of evidence on this point, and the statements of Osman himself, Nuria Ahmed, Malim Abdi Kerim, and Abas Ali are irreconcilable. Another witness called by the defence Odom, Hussein, refused to swear, as mentioned above. I am forced to the conclusion that some or all these witnesses have withheld information, and it must be remembered that other persons mentioned by the Aulihan were not produced. Regarding this point "proclamation" was made by a Government Headman, Mohamed Ali.

Fifthly there is Hilole's statement, that, Adon Hassan was anxious to prevent the affair from being brought to the notice of Government. It must be admitted that this, and first witness' statement that Ibrahim Dige made a similar remark are uncorroborated, and although there is contradictory Aulihan evidence from Taib Musa and Malim Abdi Magan, I think these allegations should be disregarded.

Summing up the case against the Aulihan therefore I consider that the following are proved:-

(a) a failure on the part of those living near to where the 10 cattle were recovered to trace the remainder the elders told by Hilole to assist the Boran to trace the cattle, to do so;

(b) a failure on the part of those living near to where the 10 cattle were recovered to trace the remainder.

(c)

(a) Suppression of evidence as to the circumstances under which those 10 were recovered, and as regards Ibrahim Dige, of the original report of the theft.

The defence in part is that only 10 cattle were reported to Mohamed A. as having been lost. With this I have already dealt.

The rest of the defence consists of attempts by some sections to absolve themselves of blame at the expense of others, and the production of contradictory statements about the identity of the thieves, who are said to have gone to Italian Territory.

I do not consider that the defence is sufficient to affect the accusations.

The evidence shows that those who failed to follow the tracks, or apparently have possessed knowledge of the matter belonged to the following sections: Rer Ali, Rer Afva, Rer Waffata, Rer Kassin, and Hilole's followers.

Under S.2 (b) and (c) Ordinance 54/30 I recommend that a fine of Shs.2,000/- be levied upon the Aulihan tribe, assessed @ Shs.400/- in respect of each guilty section. Out of the fine if paid I recommend that Shs.270/- be paid as compensation to Haro Kalich that is to say, Shs.30/- for each of the 9 cattle still missing, and that the balance after payment of expenses of collection, be credited to the Native Trust Fund.

I would also suggest that if any fine be inflicted, the proportions to be paid by the various sections, or at least as between those Aulihan living under Aden Hassan, and those living under Hilole, should be stated in the order.

Sd/- R.G. Darroch.

II CLASS MAGISTRATE
24/8/32.

I certify that this is a true copy of the original.

H. Bennett
II Class Magistrate.

COLLECTIVE PUNISHMENT ORDINANCE 54/1930.

ORDER.

WHEREAS it has been proved to my satisfaction after due enquiry that in the month of March 1932, in the vicinity of Benali in the Isiala District of the Northern Frontier Province, a herd of twenty cattle were stolen from the Deran tribe.

AND WHEREAS it has been proved to my satisfaction, after due enquiry, that the members of the Aulihan tribe who were living in the area through which the stolen stock was taken, have suppressed or combined to suppress evidence in a criminal enquiry about the theft concerning which due public announcement had previously been made by an authorised emissary of a District Officer or by a Native authority.

AND WHEREAS it has been proved to my satisfaction, after due enquiry, that the aforesaid stolen stock having been traced to the Aulihan tribal villages and through the Aulihan area the Aulihan tribesmen failed or neglected to restore the property or to take on the tracks beyond the limits of such villages or areas.

NOW therefore I, Robert George Stone, Provincial Commissioner, in exercise of the powers delegated to me by Government Notice No. 512 of 25th September, 1932, do hereby impose collective fines under Sections 2(b) and (c) of Ordinance 54 of 1930 upon the following sections of the Aulihan tribe:-

Row Ali	Shillings Four hundred.
Row Afua	Shillings Four hundred.
Row Waffala	Shillings Four hundred.
Row Kassin	Shillings Four hundred.
Kilali's followers	Shillings Four hundred.

and I further order that when these sums shall be recovered, or such part of them as may be recovered, the sum of shillings two hundred and seventy shall be paid to the owners of the stolen property.

Dated this 24th day of October, 1932.



II Class Court

Isiolo

Enquiry No.3

Date of hearing 26.8.32 - 28.8.32

Charges- (a) Suppressing Evidence Sec.2(b) Crd.54/30.
(b) Failing to restore stolen property or to follow the tracks Sec.2 (c) Crd.54/30.

Exhibits.

Representatives of the Aulihan tribe present in person:-

- (1) Aden Hassan - Sultan - Aulihan
- (2) Mohamed Ali - Headman - Aulihan Her Ali
- (3) Sheikh Ahmed - Headman - Aulihan Her Afan
- (4) Aden Abdi - Headman - Aulihan Her Afgab
- (5) Ibrahim Bigo - Headman - Aulihan Her Waffata
- (6) Mohamed Nur - Headman - Aulihan Her Kassin
- (7) Kileli Mohamed - Headman - Aulihan Her Ali

54/- H.O.Darrooch

Tribal representative informed that the Aulihan tribe are charged for that members of that tribe:-

- (1) Suppressing evidence in a case of stock Theft Sec.2(b) Ordinance 54/30.
- (2) Failed to restore stolen property traced within their area, or to follow the tracks beyond that area Sec 2(c) Ordinance 54/30.

54/- H.O.Darrooch
II Class Magistrate

Mr. Vigness, Jaldon Guro, Sakyo, Pagan, affirmed stated:-

I was living at Mado Chomcha five months ago. One day I and my wife took my camels to water. After watering the camels I found that 11 were missing. I went to look for tracks and found the tracks of the camels and of two men with them. It was evening. Before sleeping I sent Dub Ali to tell Aden Hassan, and Malali Kimo to tell Daganah Sheikh Hassan. Both returned that night saying that Aden and Daganah had promised to come next day. I myself followed the tracks for about half a mile that evening. I left them about quarter of a mile from Aden Hassan manyatta. There were several other manyattas of Aulihan near by, most of which belonged to Her Afgab.

Next morning Dub Ali and I went direct to Aden Hassan. I asked him to help me as he was a Govt. Headman. He said he had no one to send. Dub and I returned to our manyatta. We killed a goat

took food, and loaded a camel. Dub Ali, Kham Daba and I then went to follow the tracks.

Between Kudde Chancham and Kudde Gashi we passed a manyatta belonging to Malik Mohamed, Alihan Bey Ali, while we were on the track. I spoke to Malik, who said he was ill and had only just arrived, after the tracks had passed. We followed the tracks on to Kudde Gabab, where we saw some camels watering. We went on, and slept at Marjin. The tracks cross the Bankari road at Marjin and we followed it to Marwan Sah on the South side of the Wadi, beyond Gabab. We slept there. In the morning we followed the track which entered an empty manyatta. In this manyatta we found a camel ball which I recognized as mine, (the head of one of my camels. We were thirsty and afraid to go on and decided to go and call the police at Mahawain. On our way we went to Sheikh Ali Gannan's manyatta where we heard that an Officer had passed. We ran after him and caught him at Lak Dima. We slept there. Next day I was sent with an Ashari to Corporal Mohamed at Mahawain. We went on with him. Kham fell ill and we left him at Gabab. Dub I and two police went on and slept at Malalat. Next morning we went on to look for the tracks. We found them about mid day. We followed them and slept where we found water. Next morning I was sent on to look for the tracks. I did not go far, and did not find them. Then we returned. We slept that night East of Gabab. Next night we reached Mahawain and slept there.

Next day the Corporal told me to go and see the Alihan side, and he would enquire his side. I returned home, and found that my manyatta had been moved. Next day I went to Daganah Sheikh Hassan who told me that Omar Harod, Bay Afghab, had stolen my camels. I stayed there two days. The third day I and Sile Fudam went to see Adam Hassan. We slept on the way and reached his manyatta about 5 p.m. at El Bora near Fakhim. I complained that he had driven me away when I reported the loss of my camels. He told me to go away again. I said he was the Govt. Headman and ought to help me. He refused and told me to go to Garba Tulla or Mahawain. I

went to Hiloli's manyatta at night. He advised me to go to Garba Tulla. I went there and found a constable called Adem. We went together to Hiloli. Hiloli told us to arrest an Aulihan named Hared. I did not know where to look for him, and we did not find him. Aila Fatima was with me and Adem. I returned to my manyatta.

R.O.S.

Sd/- R.O.Darrook

No XXX

Sd/- R.O.Darrook.

First Witness: No. 1205 Cpl. Mohamed Mohamed, Islam, affirmed states:-

In March 1932 I was in charge of the Habarwein Police Post. One day a Tribal Policeman, first witness and two other Bakye came to me. The Tribal Policeman reported that the District Commissioner wanted me to go with the Bakye to look for some camels. I, another constable, and the three Bakye went off together. The Bakye had a camel with them. One of the Bakye fell ill and we left him at Sabon. We slept at Kalsint. We went on about 10 p.m. We reached Bahabere about 11 a.m. next day. There we went down to the Saso. We had travelled along the North side. At Bahabere we found the track of two men and 10 camels which crossed in lines from South to North. One of the men had sandals, and the other was bare foot. The Bakye identified the ^{tracks} steps of the men and the camels. They informed me that 11 camels had been lost, but they had evidence that one had been killed on the way, some distance back. Rather than lose time in going to see this, we followed the tracks till evening and camped. First witness went on a little and found water, so we went and slept there. Next morning we went back to where we had left the tracks and camped. First witness and I went on a short distance following the tracks. Then we abandoned them and returned to the others. We all returned to Habarwein sleeping one night on the way. About a month later Daghush Sheikh Hassan sent a Huzun, to me, to tell me that the thief was Omar Hared - Aulihan - Kay Afgha.

R.O.S.

Sd/- R.O.Darrook

No XXX

Sd/- R.O.Darrook

1st Witness Dub Ali, Sabuye, pagan, duly affirmed states:-

I live at 1st witness manyatta. I was out looking for grazing one day. On my way back to the manyatta, I met 1st witness who was looking for some lost camels. He did not find them and returned that night to the manyatta.

I did nothing next morning but in the evening I was sent to Aden Hassan, to tell him that the camels had been stolen and that the tracks were not far from his manyatta. Aden Hassan promised to come next day.

Aden Hassan did not come to us next morning, so 1st witness and I went to him. Aden Hassan told us to go away, as he had no one to send with us. We returned to our manyatta, killed a goat and loaded a camel. Kiopa Duba 1st witness and I then went out to follow the tracks. Between Kudde Chanda and Kudde Gashi we passed the manyatta of Kudde Saliba. I did not know his name or section. He denied having seen our camels, and had no one to send with us. We went on past Kudde Gasha where we saw some Abd Wah camels watering. We could get no more of our camels there. We slept near the Sankuri road, I do not know the name of the place. Next day we reached Maroon Goh, still following the tracks. We slept there. The tracks had crossed the Sankuri road. Next morning the tracks led us to an empty manyatta. In it we found a camel bell which we recognised, and the hide of one of the stolen camels, which had been buried. There had been goats and cattle at that manyatta. We were hungry and thirsty and decided to go and report to the Habaswain police. On the way we heard that an Officer had passed, so hurried after him at ^{last found him} Lak Dima. We slept there. Next morning we went with a Tribal Policeman to Habaswain. The Corporal and one constable came with us. At Saben Kiopa full ill, and we left him at a Gurreh manyatta. We went on and slept at Mikhid. We went on by night and halted at Habakere to eat. We resumed our march and soon after found the tracks of our camels. We recognised the tracks of the two men with them. Once you have seen a man's tracks you know them again. Of the two men, one had sandals and one had not. We followed the tracks of Kudde Saliba. The

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Corporal said we were near the boundary and ought to return. We slept there and went back next day. We slept one night on the way, and reached Habaswein the following evening.

Judging by the tracks I think our camels had been in the empty mangatta two days before we reached it. I examined the feet of the camels and dung of the cattle and goats also. The dung was dry outside, but moist in the middle. I should say they had left the mangatta two days before we reached it. The mangatta was south of the house.

R.O.J.

64/- R.O. Darroch

XIX & by Aden Hassan:

How many days after the theft did you first come to Habaswein? The day after it. The thief was there? A man whose name I do not know. I met him outside and we went in together. It was night and darkness was all round, so I did not see who was living in your mangatta. XIX B.

64/- R.O. Darroch

All witnesses, Kham, Mada, Bahari, Yagan, duly affirmed statements:-

I live with first witness. I was herding the cattle one day. In the evening I saw first witness who said 11 camels had been stolen. I did nothing about it that night, or next day. The day after that, 1st witness, 2nd witness, 3rd witness, and I went to follow the tracks. We picked them up about 150 yards from a mangatta which I believe was Aden Hassan's. There were other mangattas living near there but the tracks only led us within sight of that mangatta and another ledge between Kadda Gashan and Kadda Gashi. 1st witness went to the latter. I did not go with him and do not know to whom it belonged. The tracks led us pasted Kadda Gashan where we saw some Abd Wah watching camels. They could give us no news of our camels. We crossed the Bahari Road and slept at Bahari. Next day we followed the tracks to Bahari Goh and slept there. Early the following morning the tracks led us into an empty mangatta. In it we found a camel/bell which we knew, and the head and hide of one of

one of our camels. The hide had been buried. The camel tracks seemed to be 7 days old. There had been goats and cattle at that manyatta also. Judging by the dung I think the goats and cattle had left the manyatta the previous morning, when we left Barfin.

We decided to go and call the police as we were in enemy country and had not finished our food and water. We started off for Habaswein. On our way we passed Sheikh Ali Garrah's manyatta at Saben. There we learnt that an officer had passed. We went on and found the Officer at Lak Dima. Next morning the officer sent a man with us to the police at Habaswein. We and the police went together. When we reached Saben I fell ill, and was left at a Garrah manyatta.

No IIN

Sd/- R.G. Darroch

R.O.C.

Sd/- R.G. Darroch.

Fifth Witness Malaki Kumo, Sakuye, pagan, d/a states:-

I live at Sub Dima's manyatta. I met first witness one day. He said some camels had been taken that day, and asked me to inform Dagnach Sheikh Hassan. I went and told Dagnach who said "come back tomorrow and I will give you a man". I informed first witness. That is all I did in the matter.

R.O.C.

Sd/- R.G. Darroch.

KID by Adam Hassan. Did you see the trucks? No.

Which day did you go to Dagnach? I think it was the next day after the theft.

No further IIN

Sd/- R.G. Darroch.

Sixth Witness

Sixth Witness No. 563 s/o Aden Osman, Islan, d/s states:-

I am a police constable. I was at Garba Tula last March. On March 9th I received a report that some Sakuye camels had been stolen. I went to see Hilole, but he was not at his manyatta. I returned to Garba. I could not go to the scene of the theft because there was no other constable at Garba. The corporal had gone to Isiolo and the other constable posted at Garba, to Euro.

On March 16th first witness and another Sakuye came to me. I went with them to Hilole. Hilole was ill, but advised me to go to Aden Hassan, and get him to look for an Aulihan named Hared, whose son Omar was reported to have stolen the Sakuye camels and gone to Italian country. I returned to Garba and reported to the Corporal and sent the Sakuye back to their homes. Four days later the Corporal sent me to go and see Aden Hassan. I went alone. I found his manyatta at Rahole a little below Muddo Gashi. I reached the manyatta about 7.30 A.M. I asked for Aden Hassan and was told to wait under some trees. Aden Hassan came to me by himself about 4.0 P.M. I asked him for news of Hared and his son Omar. He denied knowing either. I asked if he had sent the Sakuye away, and he said he had and would send me away too, if I came from Hilole or Sakuye. I had heard that Aden Hassan had offered to recover the camels if the Sakuye gave him rhino horns: Aden Hassan denied this. I went away. Before I had gone for Aden Hassan followed me. He said he had lost his temper and asked me not to report it. I said I would. He then said he had only been joking. I returned to Garba.

About 5 days before the theft of camels I had been on patrol near Muddo Chanchu. There were a good many Aulihan living near there. I think they were mostly Her Ali and Her Afgab.

R.O.C.

3d/- R.O. Darroch.

XID Aden Hassan: How many times did you come to me? Twice. At Bahole and again between Kora and Gurialeh. Who was with you the second time? Corporal Mohamed Abdulla, 3/constable Marika and Lekere, a guide and a camel loader. We were on patrol from Hisan Adi.

How far is Bahole from Muddo-Gashi? I do not know. I heard it was not far. I went via Muddo Gurba Boda. How far was that? About 6 hours. I left Muddo Gurba Boda about 3.0 A.M. And reached you about 9.30 A.M.

No further XID

Sd/- R.O. Darrooh.

Seventh Witness Hilole Mohamed, Anlihan, Rer Ali, Islam, d/s states:-

I heard of the theft of the camels about 10 days after it occurred. Ibrahim Lagan Dere, Rer Afgab told me that Omar Hared stole them. Ibrahim is ill at his manyatta now. Hared, Omar's father was then near Takscho. About 3 or 4 days later first witness came to me. I sent him to Aden Hassan who was also at Takscho. Two days later he returned saying Aden Hassan had driven him away. I told him to report to the police. One day later first witness and the constable Aden came to me together. By that time all the manyattas at Takscho except mine had moved. The following day I saw first witness and the constable again. They had not found Hared.

R.O.C.

Sd/- R.O. Darrooh.

XID by Aden Hassan: Did you come to me with first witness? No.

No further XID

Sd/- R.O. Darrooh.

Eight witness Daganah Sheikh Hassan, Anlihan, Rer Kassim, Islam, d/s states:-

The witness.....

The witness Halaki Kuno came to me and reported that camels had been stolen the previous day. I said I would bring a man next day. I went with two men to first witness the following day, but he had gone.

I saw first witness some days later. By that time I had received information about the theft from Baro Gedi, Anlihan Kor-Afgab. I sent this information to Habaswein to Corporal Mahamed as soon as I knew it. Baro Gedi was living at Muddo Jalango about the time the camels were taken. Muddo Jalango is about 2 hours walk from Muddo Chanshu.

I know Omar Hared. I hear he has gone to Sereali.

No XIX

Sd/- R.G. Darroch.

R.O.C.

Sd/- R.G. Darroch.

Ninth Witness Jile Tutana, Sakuye, pagan d/a states:-

I belong to first witness' ~~camp~~ ^{camp}. I was with the cattle the day the camels were stolen.

First witness went to follow the tracks of the camels when he came back I went with him to Adam Hassan, who was then living at Tokocho. Adam Hassan drove us away, and refused to listen about our camels. We went to Hilole and thence to the police. We went back to Hilole with the constable. Hilole advised us to look for Hared. We failed to obtain any news of him.

Five or six days later I went to Habaswein. On my way I met Adam Hassan. I informed him that our camels ^{were} still missing. He offered to help if I gave him a rhino's head. I refused. There was no one else with us.

R.O.C.

Sd/- R.G. Darroch.

XIX by Adam Hassan: Where did you first meet? Near Tokocho.

Did you and Adam Osman come to me together? No.

No further XIX

Sd/- R.G. Darroch.

Tenth Witness Baro Gedi, Aulihan, Rer Afgab, Islam d/s states

I heard of the theft of some Sakuyo camels. I did not tell Daganah Sheikh Hassan anything about it. I was not living near where the camels were taken. I heard of it about 4 months ago. I do not know when it occurred.

I saw Daganah and Maria Abdi Karia together. They came out of their manyatta as I was passing. Daganah asked me if I had heard of the theft. I said I had not. Daganah himself then told me that some Rer Afgab had stolen the camels.

No further XIN

R.O.G.

Sd/- R.G. Darroch.

Sd/- R.G. Darroch.

Tribal Representatives called upon to answer the charge.

Sd/- R.G. Darroch.

II Class Magistrate.

Re(1) Alen Hassan states:-

Six months ago I moved my manyatta from Sakuyo Saben to Huddo Chanchn. There was no water at Huddo Chanchn and most of the people who had been there had gone. About midnight a man came to me, either a Boran or a Sakuyo I do not know which. I cannot speak Boran, and he could not speak Somali. There was no one else at my manyatta who could talk Boran.

Next morning first witness came. There was only one other man with me at the manyatta. First witness spoke Somali. He reported that he had lost some mittin camels two days before I reached Huddo Chanchn; that he had followed the tracks a short distance to Many Gabo, not far from Huddo Gashi, and lost them owing to the rains. I replied that I had no one to send with him, that every one had gone because there was no water, and he had better return to the tracks.

I moved to Toksabo. There I received information that

Rer

Rer Afgab had taken the camels. I learnt this about 15 days after the theft. First witness came to me once at Tchocho, after I had received this information. That was the last time I saw him.

The constable Adan Osman only met me once before to day. He and 3 other constables came to my manette about 3 months ago. Adan was the only one who spoke Somali. He did not know me, but asked which I was. The police stayed 3 nights with me. I gave them the names of the men reported to have stolen the camels.

I never saw Jilo Tutana. I never asked for rhino horns. The only Sakuye who came to me was first witness. He ^{came} twice: once each time alone.

Sd/- R.G. Darroch.

I certify that the above statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

Inquiry adjourned 4.0 P.M. 25/8/52.

26/8/52

No. 3 Mohammed Ali states:-

My people had nothing to do with these camels. There were members of the Rer Afgab, Rer Kassim, and Abd Wak, many people in all, living near where the camels were taken, but I was not. I never saw either police or Sakuyes.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch

II Class Magistrate

No. 3 Sheikh Ahmed states:-

These camels did not concern my people. I did not see either police or Sakuye about it. The thieves are said to have been Omar Hared and another man, both of the Rer Afgab:

not my people. None of my section the Rer Afwa, were living near Muddo Chamchu.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

No. 4 Godes Abdi, asks that Sheikh Ahmed Jir, Rer Afgab, speak in his place.

Sheikh Ahmed Jir states:-

I was at Daganah Sheikh Hassan's manyatta when news of the theft of the camels was brought. Three days later I went to Garissa. I went there because the D.C. Garissa summoned me as a witness in a case. During these three days we did nothing about the camels, because we were not sure whether they had stolen or not.

On my return from Garissa about a month later, I heard that two Rer Afgab, Omar Harod, and Takai Abdi had stolen the camels and taken them to Serenli. No one else, Anlihan or Abd Vak, had anything to do with the theft. Omar's father lives in this country.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

No. 5 Ibrahim Diga states:-

The Rer Waffa to have not been mentioned in this case. There were some living near the camels were taken.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

not my people. None of my section the Her Afwa, were living near Muddo Chanchu.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

No.4 Gedem Abdi Abdi, asks that Sheikh Ahmed Jir, Her Afgab, speak in his place.

Sheikh Ahmed Jir states:-

I was at Daganah Sheikh Hassan's manyatta when news of the theft of the camels was brought. Three days later I went to Garissa. I went there because the D.C. Garissa summoned me as a witness in a case. During these three days we did nothing about the camels, because we were not sure whether they had stolen or not.

On my return from Garissa about a month later, I heard that two Her Afgab, Omar Harod, and Takal Abdi had stolen the camels and taken them to Serenli. No one else, Anlihan or Abd Wah, had anything to do with the theft. Omar's father lives in this country.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

No.5 Ibrahim Diga states:-

The Her Waffa to have not been mentioned in this case. There were some living near the camels were taken.

R.O.C.

I certify that this statement was voluntarily made before me.

Sd/- R.G. Darroch.

II Class Magistrate.

No.6 Mohammed Nur call upon Nuria Ahmed, Her Kassin, to speak on his behalf.

Nuria Ahmed states:-

I was living at Sabem. I heard of the theft of casels by Her Afgab later. I do not know how long after. I do not know if any Her Kassin were living near Khado Chasaku at the time of the theft.

R.O.C.

I certify that above statement was voluntarily made before me.

Sd/- R.O. Darroch.

II Class Magistrate.

No.7 Hilole Mohamed states:-

I have nothing to add to my previous statement.

R.O.C.

I certify that above statement was voluntarily made before me.

Sd/- R.O. Darroch.

II Class Magistrate.

No.1. Adam Hassan asks to be allowed to make a further statement:-

The names of the thieves have been given to you. There were many people living near there, Her Ali, Her Afgab, Her Waffah, Her Ajma, and Her Kassin. There were Abd Wak and Hiran also near. There were all these people there when I got there, but the names of the thieves names of the thieves have been told to you.

R.O.C.

I certify that above statement was voluntarily made before me.

Sd/- R.O. Darroch.

II Class Magistrate.

First Witness for defence, Nur Ali, Aulihan, Rer Afwa, Islam d/s states:-

There were no Rer Afwa near Huddo Chanchu at the time the camels were taken.

R.O.C.

Sd/- R.O. Darroch.

ED by Hilole Mohamed: Do you know all the people who were there? No. I only know there were no Rer Afwa.
No further I.H.

Sd. - R.O. Darroch

Second Witness for Defence Suria Abdi, Aulihan, Rer Tur Ade, Islam, refuses to swear, states:-

One day I was at Huddo Jalango at Daganah Sheikh Hassan's sayatta. Tenth Witness Baro Gedi came there, and told me English that Omar Omar Harzi, Rer Afgab, had stolen Bakuye camels. I do not know how long after the theft this was.

ED by Hilole Mohamed. Was your sayatta near Huddo Chanchi? My goats were, but I was living at your sayatta myself.
No I.H.

R.O.C.

Sd/- R.O. Darroch

Sd/- R.O. Darroch.

Eleventh Witness for prosecution, called to give evidence as to part of Aden Hassan's statement, Dub Kulicha, Sakuye, Islam d/s states:-

I am a Govt. Headman. I have often met Aden Hassan and spoken to him. I speak no language other than Sooma. Aden Hassan has spoken to me in Sooma, frequently, both in the past and during the time we have been here for this enquiry.

R.O.C.

Sd. - R.O. Darroch.

ED by Aden Hassan. How long have you known me? A long time. I do not remember how many years.

Have ..

Have you ever spoken to me without an interpreter? Yes. Often.
No further XKB.

SA/- R.O. Darroch.

Third Witness for defence Mohamed Ali, Anlihan, Rer Ali,
Islam, &/s states:-

Aden Hassan cannot talk Boraa. I have often seen him
with Boraa, but always speaking through an interpreter.
No further XIX

R.O.C.

SA/- R.O. Darroch

SA/- R.O. Darroch

Fourth Witness for defence Ali Osman, Anlihan, Rer Ali,
Islam, &/s states:-

I know that Aden Hassan cannot speak Boraa.

No further

R.O.C.

SA/- R.O. Darroch

SA/- R.O. Darroch

Several other persons, Boraa, Sarays, and Anlihan wished
to give evidence on this point, but it seemed unnecessary to
record further statements, and the persons were not therefore
called.

SA/- R.O. Darroch

II Class Magistrate.

Tribal Representatives state they do not wish to call any
further evidence.

SA/- R.O. Darroch.

Findings:- In this enquiry / Representatives of the Anlihan
Tribe have been charged for that members of that tribe
(1) Suppressed evidence and (2) failed to restore stolen
property traced within their area as to follow the tracks
beyond that area. S.2. Order 54/50.

It might appear from the evidence that the more general
charge of failing to prevent the escape of criminals S.2 (a)
Order 54/50 should have been framed. As, however, the specific
accusations seem to be covered by the charges actually
framed, these seem fairer to the Anlihan.

In any

In any charge under S.2. Ordee. 31/30, it is necessary to show a proclamation^{kat} was made by Native Authority, as regards the matter in issue. In default of definition in the Ordinance, I take "Native Authority" to mean "Authority normally recognised by the Natives" which would include Govt. Headman, and the elders of the tribe who customarily exercise jurisdiction within the meaning of S.4 Ordee. 30/30. This definition would include the owner of the camels, a Sakye elder, and Adan Hassan and Daganah Sheikh Hassan the Aulihan Elders, the former a Govt. Headman, to whom he sent word. Daganah admits that he brought people down to the Sakye manyatta intending to assist; he must therefore have made some announcement. Adan Hassan states at one time that there was no one to inform, but contradicts it later. In view of the evidence as to the names of the thieves offered by the Aulihan, there can be little doubt that information as to the theft had been made known to a considerable number of Aulihan.

The 7 Representatives have been called by virtue of their positions in the Tribe which are as follows:-

No.(1) is a Govt. Headman, Sultan of the Tribe.

No.(2) is a Govt. Headman, head of the Bar Ali Section.

Nos.(3) - (6) are the Tribal Headmen of their respective sections.

No.(7) is head of a number of Aulihan of different sections who have permission to live in the Baran and Sakye area, but are not divorced from the normal Aulihan authority.

Before dealing with the evidence in detail there are two general points of which I feel I ought to make some mention. The matter in issue occurred some 5 months before the enquiry, which I think explains some of the inconsistencies in the evidence, especially as to how the news was

sent

In any charge under S.2. Ordce. 34/50, it is necessary to show a proclamation was made by Native Authority, as regards the matter in issue. In default of definition in the Ordinance, I take "Native Authority" to mean "Authority normally recognised by the Natives" which would include Govt. Headman, and the elders of the tribe who customarily exercise jurisdiction within the meaning of S.2. Ordce.

35/50. This definition would include the owner of the canals, a Sakye elder, and Adem Hassan and Daganah Sheikh Hassan the Anlihan Elders, the former a Govt. Headman, to whom he sent word. Daganah admits that he brought people down to the Sakye manyatta intending to assist; he must therefore have made some announcement. Adem Hassan states at one time that there was no one to inform, but contradicts it later. In view of the evidence as to the names of the thieves offered by the Anlihan, there can be little doubt that information as to the theft had been made known to a considerable number of Anlihan.

The 7 Representatives have been called by virtue of their positions in the Tribe which are as follows:-

No.(1) is a Govt. Headman, Daitan of the Tribe.

No.(2) is a Govt. Headman, head of the Kar Ali Section.

Nos.(3) - (6) are the Tribal Headmen of their respective sections.

No.(7) is head of a number of Anlihan of different sections who have permission to live in the Barua and Sakye area, but are not divorced from the normal Anlihan authority.

Before dealing with the evidence in detail there are two general points of which I feel I ought to make some mention. The matter in issue occurred some 5 months before the enquiry, which I think explains some of the inconsistencies in the evidence, especially as to the whether the news was

sent to Aden Hassan the night of the theft, or the next night. The balance of the evidence seems to prove the matter. Also there are slight differences in the accounts of the abandonment of the tracks. Secondly some evidence as to statements made by persons other than the witness under examination has been recorded. This seemed inevitable for several reasons. One of the charges is that of suppression of evidence, and the Aulihan themselves are anxious to prove that they reported the names of the thieves as soon as they could. It is therefore necessary to prove whence and when they learnt these names. Also the attitude adopted by Aden Hassan is highly relevant, since from the Sakuye evidence it appears that time was wasted before the tracks were followed, because the Sakuye hoped for Aulihan help.

There seem to be several points incriminating the Aulihan. It is admitted that news was sent to certain Aulihan elders. Daganah states that he brought men to assist, but found that the Sakuye were already following the tracks. As the Sakuye can only have left the day Daganah brought these men, if he in fact did so, he ought to have sent these men, or have sent warnings to Aulihan further away. Aden Hassan states that there was no one living near him, a statement utterly opposed to all the other evidence, including his own second statement.

Secondly there is evidence that many Aulihan, including the father of one of the alleged thieves, were living near the scene of the theft, and that the tracks passed within sight of two Aulihan manyattas one of which is believed to have been Aden Hassan's. It is hard to believe that none of these Aulihan had any knowledge of the matter. The Aulihan statements that they discovered the names of the thieves some days after the theft, but too late to be of any use, support this view. On this point the evidence of Daganah

Sheikh

Sheikh Hassan, who Bedi, and Nuria Abdi is inconsistent
some of all of these witnesses must have withheld information.
Situating as I am out of reach of Law Books, I am not certain
as to the admissibility of the evidence of Nuria Abdi who
refused to swear. Rather than adjourn the case I decided to
admit his statement but assess its value in view of his
attitude. I think there is no doubt he intended to refuse
any information at all, and hoped that if he refused to
swear, he need not say anything.

Thirdly there is the Sakuye evidence that the tracks
entered a 'uliban manyatta near Karera Goh, which had just
been abandoned. The police corporal's evidence that the
tracks of 10 camels were found later beyond the Gaso supports
this, and the Sakuye evidence seems genuine. The police
corporal's reason for not going to that manyatta on his way
out seems satisfactory. It is a pity he did not return that
way, or that the Sakuye did not bring the camel bell with them
but men who are tired and anxious, may not think as clearly
as those not immediately concerned, and I think the
overlooking of these points quite understandable. The fact
that one Sakuye thought the goats and cattle had left this
manyatta 1 day before they reached it, and another thought
2 days, seems to me to prove that this story was not
invented later in collusion. There is no evidence as to the
ownership of the manyatta, nor do the Auliban elders appear
to have made enquiries about it. There is no doubt in my
mind that the inhabitants of this manyatta possessed
information, and could have returned the property.

Fourthly Aden Hassan's defence is not unsatisfactory.
If the Sakuye had lost the tracks owing to rain, it is hard
to understand why water was scarce, or why Aden Hassan
advised the Sakuye to return to the tracks. He also denies

speaking ...

speaking Boran, and therefore alleges that he did not know what the first messenger came for. There is contrary evidence on this point. Personally I believe the Sakuye. If Aden Hassan really could not talk Boran as the Aulihan say, this fact must have been well known to the Sakuye, and a Somali speaker have been sent. Taking all the evidence I am convinced that Aden Hassan did refuse to help the Sakuye. His own contradictions as to whether there were other Aulihan living near him or not support this view.

The evidence of the police man Aden Osman as to Aden Hassan's later attitude, being uncorroborated, must I think be disregarded. The story that Aden Hassan demanded rhiao boras does not convince me. If Aden Hassan asked Jilo Tutana for rhiao boras after Jilo had seen the policeman Aden, I failed to understand how the latter mentioned it to Aden Hassan.

It may be said that the Sakuye are in part to blame through not informing the police earlier. I do not think so myself. The policeman Aden admits hearing of the theft at Garba Tula and gives his reason for doing nothing at the time. From the Sakuye evidence as to tracking, I think the Sakuye at first believed the tracks to be making for the Tana. There was therefore no reason to warn the Habaswein Police Post, till after the tracks had swung Northwards, as they must have done to cross the Bankari road. It was very natural for the Sakuye to go on till it seemed evident the tracks were going to cross the Gaso. Incidentally but for the delay experienced while they apparently hoped for help from Aden Hassan, it is quite possible they would have caught up with the thieves, or at least have met the District Commissioner Wajir on his safari, and obtained assistance from him in time.

The Aulihan defence consists in part of Aden Hassan's statements already considered.

Secondly several representatives have attempted to prove that no members of their sections were concerned. This is apparently what led Aden Hassan to make his second statement, presumably lest if a punishment were inflicted it would fall on part of the tribe only. Apart from this statement there is nothing to incriminate any of the Rer Afva, Rer Waffata, or Rer Kassia, though the manyatta near Marera Goh may have belonged to members of one of these sections.

Thirdly the Anlihan did report the names of those they believed to have stolen the camels, stating that they have gone to Italian Somaliland, which is borne out by the evidence as to the tracks.

I do not consider the Anlihan defence reports the accusation that persons living near Muddo Chanchu and Marera Goh suppressed information at the time of the theft and at the enquiry, and that there was opportunity for Anlihan to have followed the tracks with reasonable hope of recovering the property, which they failed to take.

Members of the Rer Ali, Rer Afgab, and Nilole's followers seem to have been directly mentioned. Under ^{and (c)} II (b) Ordinance No. 2. I recommend that a fine of Shs. 3,000/- be levied upon the Anlihan, that is to say Shs. 1,000/- in respect of each of these sections. Out of the fine if paid, I recommend that compensation in cash at the rate of Shs. 27/- per camel, or Shs. 22/- in all, be paid to the Sakuye, and that the balance after payment of expenses of collection, be credited to the Native Trust Fund. I further recommend that if any fine be levied, the proportion to be paid by any sections of the tribe, and should be stated in the order.

I certify that this is a true copy of the original.

II Class Magistrate

SA/- R.O. Darroch.

II CLASS MAGISTRATE

26/8/32.

COLLECTIVE PUNISHMENT ORDINANCE 24/1930.

ORDER

WHEREAS it has been proved to my satisfaction after due enquiry that in the month of March 1932, in the vicinity of Kudde Chanda in the Insala District of the Northern Frontier Province, a herd of eleven camels were stolen from the Sakye tribe.

AND WHEREAS it has been proved to my satisfaction, after due enquiry that the members of the Kuliban tribe who were living in the area through which the stolen stock was taken, have expressed or combined to suppress evidence in a criminal enquiry about the theft concerning which due public announcement had previously been made by an authorised Magistrate of a District Officer or by a Native Authority.

AND WHEREAS it has been proved to my satisfaction, after due enquiry, that the aforesaid stolen stock having been traced to the Kuliban tribal villages and through the Kuliban area the Kuliban tribesmen failed or neglected to restore the property or to take on the tracks beyond the limits of such villages or areas.

NOW therefore I, Robert George Stone, Provincial Commissioner, in exercise of the powers delegated to me by Government Notice No. 219 of 25th September, 1930, do hereby impose collective fines under sections 2(b) and (c) of Ordinance 24 of 1930 upon the following sections of the Kuliban tribes:-

Kor Ali	Shillings One thousand
Kor Afghab	Shillings One thousand
Hilali's followers	Shillings One thousand

and I further order that when these sums shall be recovered, or such part of them as may be recovered, the sum of Shillings five hundred and fifty shall be paid to the owners of the stolen property.

Dated this 26th day of October, 1932.

270



KENYA.

GOVERNMENT HOUSE
NAIROBI.

No. 6/0.

KENYA.

19 December 1952.

RECEIVED
JAN 1953
CO. OFFICE

Sir,

I have the honour to transmit for your information the enclosed copy of the Proceedings of an enquiry held by the District Magistrate, Mandi District, Nandi Province, on the collective title of the land No. 54/1/50, in the area of the Mandi District, Nandi Native Reserve, to the effect that the land was acquired by me under Section 2 of the Ordinance, which provided a fine of Shs. 112/00 upon the 40 immigrants of the Mandi of Mogoket in Location 1 of the Nandi Native Reserve, to which Location one of the 40 immigrants was traced.

2. Concurring with the advice of the Executive Council I have ordered that the balance of the fine of Shs. 112/00, after payment of any expenses incurred in collection and less the sum of Shs. 40/- to be paid as compensation to the heirs of the 40 immigrants, be paid into the funds of the Nandi Native Reserve in accordance with the provisions of the Ordinance.

THE SECRETARY
MAJOR SIR PHILIP ...
SECRETARY OF STATE FOR ...
DOWNING STREET,
LONDON, S. W. 1.

COLLECTIVE PUNISHMENT ORDINANCE
No. 34 of 1930.

STOCK THEFT ENQUIRY NO. 92 of 1932.

AN ENQUIRY as to whether the inhabitants of Mooket Keret, Location 8, Handi, stolen property to wit one head of sheep property of M.E. Southey having been tracked to within the limits of their location on or about 15.12.31 have failed restore the property, or take the track beyond the limits of their location.

Public notice of the enquiry to be held today made in the area on this instant.

Present - Headman Malsina Arey Chamngwa, Kikara Kikrooko Arey Chaga, Kaptingat Arey Ngungungwa, and some 50 members Mooket Keret of Location 8.

M.E. Southey, British, sworn:-

I occupy farm 6477 bordering on the Handi Reserve. On the morning of 13th December 1931, I received a report from one of my boys that 5 of my sheep had been stolen. The sheep were kept in a hut close to my house. It had a wooden door, and was locked with a hasp and staple and padlock. On receiving the report I counted the sheep and found 4 missing. The hasp of the door had been wrenched off. Later one of the sheep was found wandering about on the next farm. I reported this theft to the police that morning and the police came to the scene. Inspector Taylor of Kideret. After the arrival of the police I, with Arey Maimai endeavoured to track the stolen animals. We followed the tracks along a path leading toward Handi reserve.

... About ...

About a mile on the track, there is a fork. At this fork the tracks split up, one to look all except one, which we tracked along the left fork, to a stream in Nandi, and slightly beyond the stream, where it was strangled over by cattle tracks.

Later continuing we picked up what we considered was the same track in a shrub in front of the hut used by Moraa. At this spot the police called people together, but all denied knowledge of the theft. They were shown the tracks. The headman was sent for by the police. There were about 12 men gathered at this time.

It had been raining at this time, and the tracks were plainly visible. On the return to my house along the same path, we found a cow, one of the ones that was stolen killed, and lying in the grass. The tail had been cut off and taken away. This was close to the spot that I referred to, where the tracks forked.

That afternoon I recovered the one already referred to on Mr. Bait's farm next door, a ewe.

I value these animals at 20/- each, as at that time I had been offered 50 cents a lb for them by butchers in Eldoret, and I estimate their weights at 40 lbs each. I actually lost in the theft therefore after recovering the ewe, 3 animals.

XXN by an Elder:

I pointed out the tracks to you myself.

R.O.C.

3d/ K.L. Hunter,
Dist. Commissioner.

Some 25 more men have arrived.

3d/ K.L. Hunter,
R.O.C.

George M. Taylor, British, Sworn:-

I am Inspector of Police, stationed in Eldoret. On the morning of 15th December 1931, Mr. Jouthey reported to me personally that he had had some sheep stolen during the night. I proceeded to his farm immediately.

... On ...

On arrival at his farm Mr. Southey showed me a hut with a wooden door where he kept his sheep at night. This had been secured by a hasp and staple with padlock, the hasp was broken.

We took up the tracks from the door of the hut up through a maine chamba, there were the tracks of 4 sheep and 4 men, we followed them onto a track leading toward Nandi. About a mile from Mr. Southey's house and about a mile from the reserve boundary we lost all tracks with the exception of one sheep, but it was difficult to tell how many persons. The tracks of this one sheep we followed along the path to a river across the boundary in Nandi. Complainant pointed out to me some wire, which had been part of a wire fence, and told me this was the boundary.

The river I refer to was about 200 yds from the boundary at this point. At the stream we found speer of cattle on both sides. This was about 10 a.m.

Across the stream we picked up the track of one sheep again. I followed this into a shamba, to within a few yards of the hut of Kinagut Arap Sengok. I found Kinagut at his hut and showed him the track. I subsequently learnt that this hut was an unmarried man's hut, in which 4 Nandi Keins usually slept, that is Kinagut Arap Sengok, Mepenge Arap Kötter, Cherus Arap (?), Kimulvan Arap (?). I informed Kinagut that I brought this track from Complainant's farm, and I searched beyond the hut, but could find nothing. I then asked for the headman whose name was given to me as Arap Kiberich. He came, and was shown the tracks, also several other people, on the spot, at the hut in the shamba, and also before reaching the river.

There were approximately 12 persons present then. Arap Kiberich was instructed to obtain information as to who had brought the sheep into Nandi. Up to date no information has been obtained from him.

On our way back we found one sheep dead, throat cut just out of Handi. The tail was cut off.

XIX by Court. He was depicted the tracks at this time.

XIX by Arap Saugak:-

You were at the river when I reached there, but I called you to your hut. Yes I did send you to call Arap Saugak.

You actually walked with us as we followed the tracks.

R.O.C.

Sd/ K.L. Hunter,
D.C.

Chama Arap Kipte alias Arap Haindi, Handi pagon affirmed:-

I work for Complainant. I remember when my buong had come sheep stolen last year, near the end.

There were 4 sheep stolen from a hut. The hut had been locked with a padlock and heavy door staple.

Next morning the heavy door had been wrenched off. I took up the tracks of the thief or thieves with my buong, those of 4 sheep and a man. Next some track on Mr Salt's farm, my buong said he was going to Eldoret to report to the police, and told me to take the tracks as far as I could and then wait. I took on the tracks to where we found was.

This is the sheep referred to as found on a neighbouring farm.

After this I could only find one which had led along a path to near the boundary, there I left it and ran a head to a stream to try and find men's tracks, but failed. I then went back, and met my master and the buong of police. He went back to the track, and commenced tracing it again. He carried on with the track to a stream. Near the stream one stone, and just at the stream we lost the tracks in the stream, named Magolet, in Handi. He went over the stream, and looked about and in a chamba, at the back of a hut we found the track of one sheep.

... The ...

The bunch of police called some men to see the tracks, 8 or 9 arrived, and Aray Birech came the border guard, Arap Songok went to call him. We then returned to the other side of the stream and we pointed out the track to Aray Birech, and Kipkeke Aray Chaga. These people said nothing when we showed the tracks to them.

We then returned to the farm, on the way back we found sheep, just off the path, with its tail cut off, and the entrails cut out.

KIH by Court:-

I followed these tracks from the sheep hut into Mandi. The boundary was very plain then, there was wire stretched across the path, and I actually took the tracks over the wire. I then took the tracks quite plainly about 100 yds into Mandi.

There had been rain 40 hours before the theft and the tracks were visible in the earth, quite plainly. The grass was not burnt at that time.

KIH by Aray Chaga:-

Had you had the tracks pointed out to you in the Mandi reserve.

S.C.C.

60 E.L. Hunter,
D.C.

Kipkeke Aray Chaga, Mandi pagan, affirmed:-

I am Elder of this forest. I remember when these sheep were stolen, and I remember the two houses coming into Mandi at Mageset, a stream. I was called, and was told of these sheep that had been stolen, and that the tracks had been followed into Mandi. I could not be shown tracks at the stream, because, from the wire marking the boundary down to the stream, is all stone and no track could be seen.

I never saw any track at all. I never crossed the wire to see if there was any tracks on the farm side, because I could not see any track on my side.

... KIH by Police ...

IXN by Police:-

Yes you called me to the stream when you were returning, you called me to the stream to see the tracks. I was shown some tracks, but I don't know if they were the tracks of stolen sheep or not.

Yes, it was the track of a single sheep, this track was between the boundary and the stream, this track was on rock. This was the only track on the farm side of the stream, there were many tracks on the other side.

Re IXN.

R.O.C.

Sd/ K.L. Hunter,
D.C.

Exam/ Arup Birech, Mandi, began, affirmed:-

I am a Local Native Council Border Guard. I remember when complainant had some goats or sheep stolen, I was sent for. The house of police told me when I arrived that some sheep had been stolen, and pointed down saying, these are the tracks. This was stony ground. I saw a track where a sheep had slipped. I told them that my goats had been about there, and the house pointed out that it was a single track, and I agreed. The house went away then, and I went away, not to see the tracks, though I am a border guard and paid to see to these things.

IXN by Police:-

Yes, you told me that if the sheep were not found you were going to enquire for a Collective Punishment enquiry to be held.

IXN by Court:-

I spread this news amongst all our people.

Re IXN by baraza.

R.O.C.

Sd/ K.L. Hunter,
D.C.

Malsia Aray Chomigut, Hundi, began, affirmed:-

I am Government Headman of this Location 8. Some little time ago, I was told in the District Commissioner's Office, by the District Commissioner that if the sheep or a thief was not found, that a collective punishment enquiry would be held. I came to this area and told these people, and they replied that the tracks had not been traced into their Karet, but I went to the stream they have referred to and they pointed out where the horns of police had pointed out the one track, but they said they thought it was of their goats and not a stolen one. I asked if they had then gone back to the farm and tried to pick up the tracks there, and they said they had not. I told them that this was their mistake and they would probably be fined.

No. 111.

R.O.C.

SA/ K.L. Sanger,
Dist. Commissioner.

The assembled persons asked if they have any further evidence to offer, or questions to ask, state that they have not, but now await my decision.

SA/ K.L. Sanger,
Dist. Commissioner.

FINDINGS.

I have recorded the evidence brought by the Police Kladret, which is that of the complainant, his employee, and the police officer who investigated the case. I am satisfied that in fact a theft occurred, and from the evidence I feel in no doubt that the tracks entered the Hundi reserve.

... The Hundi ...

The Mandi employee is to my mind the strongest of evidence in this respect, because having had it explained to him that the penalty was in connection with the imposition of a collective fine, he knew that he could expect no quarter from his tribesmen, should he give false evidence against them. A further very strong piece of corroborative evidence is that the carcass of one of the stolen animals was found slaughtered about half way between the place of theft and the reserve boundary, showing that the thieves were travelling in that direction.

The Border Guard and the Elder who were shown the tracks both state that they saw no track, but when questioned by the Police, could being shown a track which they thought might have been the impression of one of their own sheep, but they did not have the trouble to walk a couple of hundred yards and see whether or not the report of the police was true, to the effect that a little way back, only a few yards, the track was clearly visible. The border guard who is paid by his Local Native Council for this express purpose did not even do so.

Considering all the facts I am satisfied that 4 sheep stolen, and that of the 4 one was recovered, and the carcass of one was found, while a 3rd was traced into the Mandi Reserve. That no thief has been disclosed, nor have the tracks of the stolen animal been traced beyond the limits of the Korot of MOCKET.

Having tracked the one animal to that korot, I think it logic to conclude that the thief of the slaughtered animal, and the one not accounted for, was of the same party.

I now recommend that under Ordinance 54 of 1930 a fine of Shs. 112/50 shall be imposed on the korot of MOCKET of Location 8, Mandi Reserve. The recommendation is based on the

... following.

following facts:-

This Korat has tax paying status, and I recommend imposition of a collective fine of 225/- per head.

The complainant has valued his lost animals at 20/- per head. This to my mind is unduly high, and in awarding him compensation I will value them at 15/- each.

Out of the fine I recommend that complainant be awarded compensation for 1 sheep at the above rate, i.e. 15/-.

Of the balance I recommend that 25/50 be credited to General Revenue being the mileage allowance payable to myself travelling to the scene and back, i.e. 40 miles @ 55 cents per mile, and the balance of 42/20 be paid to Local Native Council funds.

Kapanhat,
24/10/52.

Gd/ K.L. HUNTER,
District Commissioner.

N.B.

It is relevant to note that the realization of this fine will involve approximately the sale of 40 sheep, and will therefore amount to 10 times the number of animals stolen.

Gd/ K.L. Hunter,
District Commissioner.

ORDER.

WHEREAS it has been proved to my satisfaction that 3 sheep, the property of Mr. M. E. Southey of Farm No. 5477 bordering on the Mandi Native Reserve, have been stolen and that the said sheep have been tracked to the keret of Mogoket of Location No. 8 of the Mandi Native Reserve, Nzoia Province, and that the inhabitants of that keret have failed to restore the said property and have failed to take the tracks beyond the limits of the said Location and have therefore rendered themselves liable to the imposition of the fine under Section 2 (c) of the Collective Punishment Ordinance No. 54/1930;

NOW, THEREFORE, I, Joseph Aloysius Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by Section 2 of the said Ordinance do hereby impose a collective fine of Shs. 112/50 upon the inhabitants of the keret of Mogoket of Location No. 8 in the Mandi Native Reserve, Nzoia Province, and of this fine of Shs. 112/50 when recovered, I order that the sum of Shs. 45/- be paid to the said Mr. M. E. Southey as compensation for the sheep stolen as aforesaid.

GIVEN under my hand at Nairobi this 29th day of November 1932.

J. Byrne

BRIGADIER-GENERAL.

G O V E R N O R.

ORDER.

WHEREAS it has been proved to my satisfaction that 3 sheep, the property of Mr. M. E. Southey of Farm No. 5477 bordering on the Mandi Native Reserve, have been stolen and that the said sheep have been tracked to the keret of Mogoket of Location No. 8 of the Mandi Native Reserve, Nzoia Province, and that the inhabitants of that keret have failed to restore the said property and have failed to take the tracks beyond the limits of the said Location and have therefore rendered themselves liable to the imposition of the fine under Section 2 (c) of the Collective Punishment Ordinance No. 54/1950;

NOW, ~~WHEREAS~~, I, Joseph Aloysius Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the honorary rank of Brigadier-General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, in exercise of the powers conferred upon me by Section 2 of the said Ordinance do hereby impose a collective fine of Shs. 112/50 upon the inhabitants of the keret of Mogoket of Location No. 8 in the Mandi Native Reserve, Nzoia Province, and of this fine of Shs. 112/50 when recovered, I order that the sum of Shs. 45/- be paid to the said Mr. M. E. Southey as compensation for the sheep stolen as aforesaid.

GIVEN under my hand at Nairobi this 29th day
of November 1950.

J. Byrne.

BRIGADIER-GENERAL.

G O V E R N O R.

KENYA



GOVERNMENT HOUSE

NAIROBI.

KENYA.

9th December 1962.

Sir,

I have the honour to transmit, for your information, the enclosed copy of the Proceedings in an inquiry held by the 2nd Class Magistrate, Wajir District, Northern Frontier Province, under the Collective Punishment Ordinance no. 54 of 1960 into the murder of a member of the Mer Mohamad Bakatch Tribe named Aden Yusuf, together with a copy of the order made by the Provincial Commissioner, Northern Frontier Province under Section 2 of the Ordinance, which inflicts a fine of Shs. 1000/- upon approximately 40 members of the Mer Afgab-Bud-her Waffata Sections of the Aulihan Tribe in whose area Aden Yusuf was murdered.

2. Concurring with the advice of my Executive Council I have ordered that the fine of Shs. 1000/- less any expenses incurred in collection be paid into the Natives' Trust Fund for the benefit of the Wajir District under the provisions of the Natives' Trust Fund Ordinance.

I have the honour to be,

Sir,

your most obedient, humble servant,

BRIGADIER-GENERAL.

G O V E R N O R .

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,
LONDON, S. W. 1.

An enquiry under section 2 (b) of the Ordinance concerning the death of:

Adam Yusuf Nur Mohamed Sabatch

who was killed at Kalant in the wazir district of the North-West Frontier Province on February 25th 1952.

The charge is framed as follows:-

On or about February 25th 1952 a party of Aulihan attacked a party of Nur Mohamed Sabatch, a fight took place in which Adam Yusuf was killed. The Aulihan are deemed to have committed the offence.

Present:

ADAM HANSEN Sultan of the Aulihan tribe.

F. G. J. 111 - 65

II Class Magistrate.

Adm. Enquiry.

Mohamed Ali, Nur Mohamed Sabatch section Akhi Osman affirmed aforesaid. I was at Kalant on February 25th 1952 and was watching cattle with Khalid Rais. I heard shouting at one of the other walls and went over there, I saw about 20 Aulihan fighting with some Nur Mohamed Sabatch. Some other tribesmen Bughatal and Abd Wali separated them. I saw Adam Yusuf lying on the ground he had been speared through the chest. He was still alive but unable to speak. He died the same afternoon and we buried him.

By Court.

Q. Did you recognise any of the Aulihan.

A. No.

F. O. G.

F. G. J. 111 - 65

II Class Magistrate.

OBSCURATIVE EVIDENCE ORDINANCE

NO. 24 OF 1932.

182

An enquiry under Section 2 (b) of the Ordinance concerning the death of:

Adem Yusuf Ben Muhammad Bahatch who was killed at Kalabat in the wazir district of the Northern Frontier Province on February 25th 1932.

The charge is framed as follows:-

On or about February 25th 1932 a party of Anlihan attacked a party of Ben Muhammad Bahatch, a fight took place in which Adem Yusuf was killed. The Anlihan are deemed to have committed the offence.

Present:

Adem Hassan Sultan of the Anlihan tribe.

R. G. G. G.

II Class Magistrate.

Is a witness.

Mohamed Ali, Ben Muhammad Bahatch section Abdi Osman affirmed and stated. I was at Kalabat on February 25th 1932 and was watching cattle with Khalid Dala. I heard shouting at one of the other walls and went over there, I saw about 20 Anlihan fighting with some Ben Muhammad Bahatch. Some other tribesmen Maghbul and Abd Wah separated them. I saw Adem Yusuf lying on the ground he had been speared through the chest. He was still alive but unable to speak. He died the same afternoon and we buried him.

By Court.

- Q. Did you recognize any of the Anlihan.
A. No.

R. G. G.

II Class Magistrate.

and witness.

Muhammad Dala, Dar Muhammad Bahatch section Abdi 'aman affirmed states. On February 20th 1932 I was at Kalaat watering cattle. Adah Yusuf Issa Dar, Ibrahim Yusuf all of my tribe were watering their cattle at a well a short distance away. I heard a lot of shouting and quarrelling where they were watering and went over to see what was the matter. I found that the Dar Muhammad Bahatch had made a trough in the ground to water their cattle and some Malihan about five had driven their cattle to the trough. A fight was taking place both parties were fighting with sticks. I and some other elders separated them and we went back to our cattle, the Malihan went away. About an hour later I heard the Dar Muhammad Bahatch shout that the Malihan were coming, they started to run away followed by about twenty Malihan carrying spears. I and some other elders of the Dar Muhammad Bahatch slipped their spears and were all standing talking Adah Yusuf suddenly fell over with a great wound in his chest. I did not see who opened his chest Yusuf died later in the afternoon.

Ex. by Court.

Q.1 Muhammad Ali (1st witness) states he was with you at Kalaat, he refers to one fight only taking place, while you refer to two separate fights taking place. How many fights took place?

A.1 Two separate fights took place, Muhammad Ali, died me between the time the first and second fight took place.

Q.2 Did you recognize any of the Malihan present at the fight.

A.2 Yes. Mubkil Abdi and his brother Omar Abdi were among those present, but I cannot

say the deceased Aden Yusuf.

R. O. G.

R. G. JENNINGS

II Class Magistrate.

3rd Witness.

Yusuf Nur Nur Mohamed Bakatch section Abki Ahmed affirmed. I was present at Kalaicut on February 28th 1932. I was with Aden Yusuf (deceased) and Ibrahim Yusuf we were watering our cattle. About five Anlihan came with their cattle to our trough. I drove the cattle away. One of the Anlihan attacked me with a stick and we started to fight. Some elders came and separated us. The Anlihan went away and took their cattle with them. About one hour later 10 Anlihan with spears came to attack us, we ran away. Some other elders of the Maghul and Abd Nur tribe stopped the Anlihan and told them not to kill us without reason, while we were together talking an Anlihan speared Aden Yusuf in the chest and he fell down. I did not see who speared him.

R. O. G.

R. G. JENNINGS

II Class Magistrate.

No. 127.

4th Witness.

Ibrahim Yusuf Nur Mohamed Bakatch section Abki Osman affirmed states. I was at Kalaicut on February 28th 1932

I was watering

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I was watching my stock with Adm Yusuf (deceased) and Yusuf. About five Anlikan brought their cattle to where we were watching ours and drove their cattle to the trough we were using. We drove their cattle away. They attacked us with sticks and a fight started. Some elders came and separated us. The Anlikan went away and took their cattle with them. About an hour later 20 Anlikan came towards us armed with spears. We ran away, followed by the Anlikan. Some elders of Maghabel and Abd Sak followed us and enquired into the trouble, while we were all gathered together talking one of the Anlikan drove a spear into Adm Yusuf and hit him in the chest. Adm Yusuf fell down, he died later the same day. I did not see who threw the spear.

Re O. G.

F. G. JENNINGS

The general provisions of the Collective Punishment Ordinance with particular reference to para 1 having been explained, Adm Hassan Sultan of the Anlikan is called upon to show cause why a collective fine should not be levied on the Anlikan.

F. G. JENNINGS

II Class Magistrate.

Adm Hassan Sultan of the Anlikan states. At the time this fight took place I was returning from Hajir. When I reached my assignment I received information that there had been a fight at Hajir between some

Anlikan

Amihem of Her Argab and Her Waffata sections and some Her Mohamed Dakatch. A man named Adam Yusuf of the Her Mohamed Dakatch had been killed. I do not know who actually killed Adam Yusuf but I am satisfied that he was killed by an Amihem and I leave the matter entirely in the hands of Government to award such fine as they think fit.

F G JENNINGS

II Class Magistrate.

It is a fact that a Her Mohamed Dakatch named Adam Yusuf was killed by an unknown Amihem. This is not disputed.

I am satisfied that about 30 Amihem were concerned in the fight. There is no evidence to show which of the Amihem actually speared the deceased. Though the Amihem may know, they have failed to use all reasonable means of bringing the offender to justice. Adam Hassan the Sultan of the Amihem tribe has stated that the 30 men were members of the sub-sections, Her Argab, and Her Waffata. I accordingly recommend the imposition of a fine of one thousand shillings be inflicted on the Her Argab and Her Waffata sections of the Amihem tribe.

F G JENNINGS

II Class Magistrate.

Wajir, N.E.P.
May, 22nd, 1932.

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Aulihan of the Afghab and Her Waffata sections and some
Her Boharud-Dakatch. A man named Aden Yusuf of the Her
Boharud-Dakatch had been killed. I do not know who
actually killed Aden Yusuf but am satisfied that he
was killed by an Aulihan and I leave the matter entirely
in the hands of Government to award such fine as they
think fit.

F. G. JENNINGS

II Class Magistrate.

THE FACT that a Her Boharud-Dakatch named Aden
Yusuf was killed by an unknown Aulihan is not disputed.

I am satisfied that about 50 Aulihans were
concerned in the fight. There is no evidence to show which
of the Aulihans actually speared the deceased. Though the
Aulihans may know, they have failed to use all reasonable
means of bringing the offender to justice. Aden Hassan
the Sultan of the Aulihans tribe has stated that the 50
men were members of the sub-sections, Her Afghab, and Her
Waffata. I accordingly recommend the imposition of a fine
of one thousand shillings be inflicted on the Her Afghab
and Her Waffata sections of the Aulihans tribe.

F. G. JENNINGS

II Class Magistrate.

Wajiv, N.F.F.
May, 23rd, 1932.

COLLECTIVE PUNISHMENT

ORDINANCE No. 54 OF 1930.

O R D E R.

WHEREAS it has been proved to my satisfaction that on or about February 25th 1928, at Lalai in ~~the~~ Wajir District of the Northern Frontier Province, a party of twenty Somalis of the Anihan tribe attacked a party of Somalis of the Her Mahamad Dakatah tribe and one Somali of the latter tribe named Adam Yusuf was killed. That although the members of the Anihan tribe have had the opportunity of arresting the offender they have failed to do so and moreover did not use all reasonable means of bringing the offender to justice, they have rendered themselves liable to the imposition of a fine under Section 2 (b) of the Collective Punishment Ordinance No. 54 of 1930.

NOW, WHEREFORE, I Robert George Stone, Provincial Commissioner, in exercise of the powers delegated to me by Government Notice No. 519 of 28th September 1928, do hereby impose a Collective Fine of Shillings One thousand (Shs.1000/-) upon the members of the Her Afgab and Her Waffata sections of the Anihan tribe normally resident in the Wajir District.

SIGN at Wajir this day of 1928.

PROVINCIAL COMMISSIONER.