

1923

KENYA

410

C. O.  
28493

DATE

6 June 1923.

7 JUN 23

KIT. COL. J. SCOTT

SUBJECT

MR. J. E. CAMPBELL.

MANAGEMENT OF COL. SCOTT'S FARM.

Forwards report of trial of Mr. Campbell and of his acquittal by Supreme Court. Asserts that a Kenya jury invariably finds persons "Not Guilty" and that in consequence there is a growing disinclination to prosecute. Requests enquiries be made into case.

CIRCULATION -

*Burke*  
*Bitter*

U.S. of S.

U.S. of S.

U.S. of S.

Previous Paper

*24503*

MINUTES

1. It is unclear that Col. Scott does not refer to Col. Baker of 23 May in 24502/23; the proceedings wd. surely be useful in connection to him.
2. You will see from page 24502/23 that Mr. Pickering expects Col. Scott to put together where the law is concerned. It is not clear on his memo of 2 April '23 however only a public & time wasting exercise with him!
3. I recall receipt - viz that Sgt. has already received a copy of the proceedings & the trial

Subsequent Paper

*S.*  
*24532*

*copy cancelled...*

MINUTES

MINUTES NOT TO BE WRITTEN ON THIS SIDE.

Mr. E. Campbell -  
 that [of Mr. Pickering's  
 statement] he cannot  
 accept the view that  
 there was any  
 misarrangement of  
 justice in this  
 case or that the  
 jury gave an  
 improper verdict -  
 as to Co. after  
 25 may make  
 whether Col. Scott  
 leaves copy of the  
 proceedings as found  
 therein. when  
 the writ is then  
 filled

I should  
 not say  
 this  
 surely will?  
 It appears that the  
 first term conducted the  
 prosecution (which is  
 acc. to his own evidence  
 very ably, & S/S transfer  
 must accept the verdict  
 of the jury, & cannot  
 [term that be as any  
 R. 116] any further  
 H 116

11/6/23

I have read the evidence & it is  
 one of those cases in which justice  
 may often be done. It is  
 necessary inference of personal  
 intent. In any case it is to  
 see Mr. Scott's evidence. The fact  
 is not clear, & acc. to his own  
 story the car was ably conducted.  
 If the jury don't convict that  
 is not a personal grievance and  
 if it is wrong, Mr. Scott is  
 not a party to the case at all  
 H 116 13/6

Sir H. Ross. Mr. Ormsby-Jones

Clearly we are in for trouble.  
 You will see that the Scott case  
 attacks the jury system in E.A.  
 We have done that ourselves, but  
 without getting any thing tangible  
 or check to cost.

The main point appears  
 to have been that the chief  
 witness for the prosecution  
 proved a deal - and that  
 would hamper the most  
 efficacious of juries.

As proposed?

12.6.23

all the same I am not  
 happy about the jury system  
 in E.A. In a small community  
 where everyone knows everyone, the  
 pressure of public opinion is  
 bound to be very great.

The fact is that the European  
 community in Kenya is not  
 sufficiently large to ensure a  
 sound public opinion, & this to  
 my mind is one of the chief  
 arguments against the present  
 self-government in existing cases.

H. J. R.  
 13/6/23

See it back

Should we not  
forward a copy  
of Col Scott's letter  
to the O. A. G.?

14.6.23 - 2073

to roughly - fine

Yes. I think that  
we will send a copy &  
also copies of our reply,  
in case of any info.

1.2.22

1.2.23

1.2.23

1.2.23

Sir H. B. ...

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forward a copy  
of Col Scott's letter  
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14.6.23 WJ

Mr. Ormby - fire

Yes. I think that  
we will send a copy &  
also copy of our reply,  
for the O. A. G. info.

H. J. R.

14/6/23

WJ

DOWNING STREET,

25 June, 1923.

Sir,

I am directed by the Duke of Devonshire to acknowledge the receipt of your letter of the 6th of June regarding the trial of Mr. J.E. Campbell in Kenya.

2. His Grace has already received a copy of the proceedings at the trial. It appears that the Government conducted the prosecution for you and, according to your own Agents, very ably. He therefore must accept the verdict of the jury and cannot carry the matter further.

3. In this connexion I am to refer to the letter from this Department No. 24503/23 of the 2nd of May, and to enquire whether you desire a copy of the proceedings to be sent to you on payment of the sum mentioned in that letter.

4. The original enclosures to your letter are returned

MAJORITY COLONEL J. SCOTT, M.B. &c.,

DOWNING STREET,  
25 June, 1923.

20493/23.  
K.

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returned

MAJORITY COLONEL J. SCOTT, M.D., &amp;c.,

ed herewith.

I am,

Sir,

Your obedient servant,

(Signed) H. J. READ



44 Minto Street,

Edinburgh 411

6<sup>th</sup> June 1923.

The Under Secretary of State,  
Colonial Office.

London. S.W.1.



Re: <sup>Gov</sup> <sup>22</sup>  
Reference your memo No 1679/23. dated 16<sup>th</sup> January 1923.

Subject: Rex <sup>versus</sup> Prosecutor.

John Edwin Campbell: Accused

Criminal Case No: 102 of 1922.

I have the honour to inform you that I have received information from His Excellency The Governor Kenya Colony that John Edwin Campbell was tried and acquitted. I also attach a letter I received from Mr. W. C. Hunter Nairobi, which letter I trust you will read. The information that J. E. Campbell had been acquitted came to me as a very great surprise. The evidence was documentary, in his own handwriting, the evidence given by the witnesses was conclusive and admitted of only one finding according to law that J. E. Campbell was guilty. Since that judgment was given I have received letters from several people in Kenya Colony in which they state for several years past, juries have been favouring accused persons, and the natural consequence are that many men who have been wronged by criminals will not take action against them because they can never depend upon juries dispensing justice. Other men have

charges against J. E. Campbell but they will not prosecute on account of the uncertainty of the result and the expenses. I myself in other charges against him but the law agent advised me to prosecute on one charge only as the evidence on that charge is clear and convincing. The Crown Authorities in Kenya Colony will never have taken up my case had they not been content with the issue. I have also received a letter from a professional gentleman who had been in South Africa for many years and is at present in Kenya Colony stating that there is no justice in the decisions. I have lost over £2000 in cash, and much more in animals and kind through J. E. Campbell. The charge was "Breach of Trust by a Servant". He issued a cheque for £250 drawing to me and I have now no further claims upon that cheque. He had also put £700 of mine into a bank in his name and used most of it for his own purposes. I shall not submit to such treatment by any Court of Law. The decision is a flagrant miscarriage of justice and could not take place in any other part of the British Empire. It is not in accordance with any law and justice, and if such a miscarriage of justice is allowed to pass Kenya Colony will very quickly be in a state of corruption and ruin. That verdict has created a precedent which will very quickly be taken advantage of by John Brown Campbell and his class. John Brown Campbell has succeeded in accomplishing a great crime and nothing can now prevent him and others from repeating similar acts of issuing bounced cheques and receiving others. John Brown Campbell has caused serious losses to Mr. Wiggins and others but they do not take action because they cannot depend upon having justice given them. Every man even the humblest native in Kenya has a claim upon justice but it is being denied to me.

In 1919 while I was on foreign service in Egypt a Land No 882 B was allotted to me. The General Information given in the book issued by the Overseas Settlement Office, Victoria St. London, states that a sum of £2000 was

£1000 capital will be sufficient. I have spent over £3000  
two years and there is not £300 to be seen for it. Many  
ex-soldiers who placed absolute trust in those statements  
themselves ruined men, some of them are home, others cannot  
on account of the want of funds. Had many of us only  
right that we were to be run into such difficulties and losses  
sure we would never have gone to Kenya Colony. I myself  
been compelled to borrow money at  $6\frac{1}{2}\%$  interest and to pay  
tax in addition. I have given over twenty years of much  
time voluntarily in the Volunteer and Territorial Force,  
absent from home six and a half years during the war,  
a practice that has taken me twenty years to build up,  
many thousands of pounds during these years. And now  
cannot have justice in a Court of Law and am being  
treated as if I were a criminal. No soldier or citizen should  
mistreat his own Government.

Previously to taking action against John Edwin Campbell  
I laid my case in detail before lawyers in Edinburgh and was  
advised by them to take action. Their opinion was that the case was  
a strong one, the evidence so clear that he would be convicted. One  
of the reasons for that decision that it is only dishonest scoundrels that are  
wanted in Kenya Colony, and that men who are investing money and  
their best to build up that country are not wanted. But no country  
can be built upon the shoulders of dishonest men. It is time the  
country was being told that Kenya Colony is not the country for crimi-  
nals to go to and hide themselves. I regret very much ever having heard  
of the ex-soldiers' Settlement Scheme.

Will you kindly cause enquiries to be made into this  
I shall be greatly obliged if you yourself will read the evidence  
and it considered impartially. If I am not to have justice I  
have my case brought up in the British Parliament.

I have the honour to be,

Sir,

Your Obedient Servant,  
James Scott,  
Lieut-Col.

ony and Protectorate of Kenya.

No. M/1491.

Government House,

Nairobi,

Kenya, East Africa.

11th January, 1923.

Sir,

I am directed by His Excellency to acknowledge the receipt of your letter of the 8th of December, 1922, on the subject of your allegations against Mr. J.E.Campbell.

2. I am to add that His Excellency has been informed that proceedings were taken out by your attorneys against Mr. Campbell, and that he was subsequently acquitted.

I have, etc.,

(Sgd.) E.A.T.DUTTON,

Major.

PRIVATE SECRETARY.

Col. J.Scott,

44, Minto Street,

EDINBURGH.

HUNTER & CO.

Sixth Avenue,  
NAIROBI,  
Kenya Colony,  
EAST AFRICA.

29th December, 1922.

Col. James Scott,  
44, Minto Street.  
EDINBURGH.

Dear Sir,

We attach hereto certified copy of the  
judgment in the Supreme Court of Kenya, Criminal  
Case No. 102 of 1922. Rex versus Campbell.

Yours faithfully,  
(Sgd.) W.C.HUNTER & CO.

IN HIS MAJESTY'S SUPREME COURT OF KENYA AT  
NAIROBI.

Criminal Case No. 102 of 1922.

Rex

versus

Prosecutor.

J.E.Campbell

Accused.

-----

VERDICT Not Guilty.

JUDGMENT:-

An acquittal is entered and his discharge.

I certify this is a true  
copy of the original

(Sgd.) G.H.PICKERING.

(Sgd.)

19.12.22.

Deputy Registrar.

HUNTER & CO.

Sixth Avenue,  
Nairobi,

420

Kenya Colony,  
East Africa.

20th December, 1922.

Col. James Scott,  
44, Minto Street,  
EDINBURGH.

Dear Sir,

CAPT. J. E. CAMPBELL.

The case Rex v. Campbell came up for trial before the High Court and a Jury yesterday, the 19th instant. Our Major Nicholson attended and gave full and clear evidence on your behalf, being in the witness box for two hours. Mr. Haywood and Mr. Parker (the Manager of the Nyeri Bank), also gave evidence on your behalf. The Jury returned a verdict of "Not Guilty". The Crown Counsel who conducted the case was Mr. Law, and we think he conducted the case extremely well.

When Mr. Law addressed the Jury at the conclusion of the case and before the verdict was given, he pointed out to them that Capt. Campbell put your money into his own private banking account. When he

signed

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signed the cheque for Fl.2,500/- there was not sufficient money in his Bank account to meet it and this fact he knew himself. Whether Capt. Campbell issued that cheque with the absolute knowledge that it would not be met, and further, whether his action in that respect was dishonest, Mr. Law asked the Jury to decide by the subsequent results, namely that the cheque had never been met from the day it was issued to this date.

The defence was, of course, that Capt. Campbell did not issue the cheque with the knowledge that it would not be met and had no dishonest intentions when he issued same. The Jury were only absent a few minutes but were unanimous in their decision that Capt. Campbell was not guilty. The matter is therefore at an end as far as we can do anything on your behalf.

Prior to the case we had several long interviews with the Crown Counsel and the fullest details and information were at Counsel's disposal, and we were informed that from a legal point of view Capt. Campbell had not got a leg to stand on, but Crown Counsel was most emphatic in stating that the  
verdict

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verdict was entirely in the hands of the Jury and it was impossible to say what view they would take, and in view of the fact that previous cases held in this country have shown that that Jury always favours the accused, Crown Counsel stated that though from a legal point of view Capt. Campbell was entirely in the wrong, it was impossible to say prior to the case what verdict the Jury would give.

We shall be glad if you will give us any further instructions with regard to any other action you may wish us to take in this matter. It appears to us to be extremely bad luck that you have lost this case and in our opinion there seems to be no justice in it whatever. Capt. Campbell was undoubtedly guilty and should have been convicted and sentenced. The case, of course, is decided by a Jury, and they have now given their verdict.

We are endeavouring to obtain a certified copy of the Judgment from the Registrar, and when received we will send same to you.

Yours faithfully,  
(Sgd.) W.C.HUNTER & CO.

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D. 28493/23 Kenya

JH

C. D  
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Amount  
36482

25 June 1923.

DRAFT.

J. Scott, M.D. & Co

MINUTE.

- Mr. Baill June 18
- Mr. Mackinnon 19/6/23
- Mr. Fitzsimons 24.6.23
- Mr. Davis.
- Sir G. Grindle.
- Sir H. Road.
- Sir J. Masterton Smith
- Mr. Omsley-Gore.
- Duke of Devonshire.

I have written to you on 27/6/23

Sir,

I am in ack. the recd of your letter of the 6<sup>th</sup> of June regarding the ~~case~~ <sup>trial of</sup> ~~against~~ in Kenya of J. E. Campbell ~~to improve~~ (2) this case, ~~you~~ <sup>but he</sup> has already received a copy of the proceedings at the trial.

It appears that the Govt concluded the prosecution for you and, according to your own agents, very ably. ~~The Govt~~ therefore must accept

note to you of 22/10/23 with copy of your letter + trial + this note + letter to Govt on 22/10/23 all enclosed 20/6/23 (Keep a copy to M)

JK

the verdict of the jury and  
cannot carry the matter  
further.

<sup>in this connection</sup>  
3/ I am to refer to the

letter from this Dept No 24503/23

of the 23<sup>rd</sup> of May, ~~on the subject,~~

and to enquire whether you

desire a copy of the proceedings

to be sent to you on payment of the  
~~sum offered therein~~

sum mentioned in that letter.

4. <sup>orig.</sup> The enclosed to

your letter are returned

herewith.

Jr

(Signed) H. J. READ