

EAST AFR. PROT.  
18438

G. O.  
18438  
CT  
MAY 14 1912

of Commission  
Date,  
1912  
13 June.  
at previous Paper.

SENTENCE OF DEATH ON THREE NATIVES  
LEGAL ASSISTANCE IN CASES INVOLVING CAPITAL CHARGE

\*98. Mr. Edmund Harvey, — To ask the Secretary of State for the Colonies, whether his attention has been called to the condemnation to death of three Natives at the Nakuru High Court, British East Africa, for the murder of a Native on 6th March last; whether he is aware that the accused persons had no legal defence provided for them, while the case against them was conducted by the Crown advocate; and whether steps will be taken to provide legal assistance in the future in similar cases involving a capital charge. [Thursday 20th June.]

Sir G. Zoller

Please see the account of the trial in the leader of British East Africa of the 14th of May. The leader is essentially the white settler paper & cannot be accused of any bias & favour. I am therefore all the more impressed by their comments on the case.

? Reply -

[My attention has not been called to the case but I have

subsequent Paper  
J.C.  
18438

now seen an account of the trial  
in one of the local newspapers and  
in connection with the friends of  
I am ~~consulting the local authorities~~  
the Protestants, who are now in leave of this country,  
with regard to the matter raised in  
the last part of my Hon<sup>ble</sup> friend's  
question ]

- + then send copy of the question +  
of our reply, with the comments of  
the Leader, to the S.A.F. & ask  
for a report on the question of providing  
counsel in cases of this kind? I assume  
that nature, & the position of these men, will be  
unable to pay for counsel themselves.  
H. J. R.

15/VI

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Dr. G. Fiddler

Please see accompanying copy  
of a letter from the ass<sup>t</sup>. Crown Advocate  
which was left here to day by Mr. P.  
Smyth. I do not think that we  
can make use of the letter & our reply  
e.g. Mr. Young intimates at the end of the  
1<sup>st</sup> para. that Advocate will not go  
outside Xanthi or Monbasa because  
they

Orohardknowes

Dalbeattie

18th June, 1912.

Dear Sir Percy,

The High Court have a vote from which they can pay advocates to defend pauper persons charged with murder in the High Court only, the fee paid is Rs.40. A person charged with murder in Nairobi or Mombasa is in every case assigned an Advocate, though elsewhere unless an advocate happens to be present he is not defended, the reason being that there is no vote from which the High Court can pay the railway fare of the Advocate.

Assessors are called in for the High Court only but not in the Lower Court - All murder cases whether from Native reserves or not are tried with the aid of assessors. The only cases to be tried at Nakuro or Naivasha were (1) the 2 men charged with the murder of Mr. Van Breda (2) a case in which some natives had murdered a Railway Indian Subidar, in both cases I understand Mr. Combe went up to take personally. The date of hearing was APRIL 23rd and not March as mentioned in the question. As far as I remember there were no cases in Nakuro in March otherwise I would have taken them myself.

Personally I think it would only be fair to assign legal assistance in all capital cases, but it is almost

almost impossible to get advocates to go to Kisumu &c. the only other way would be to bring all murder cases into either Mombasa or Nairobi which I am afraid would not work well, and the natives of the district would not know anything about the trial and it would be expensive bringing assessors and witnesses in - though it is done in Uganda where all cases tried by the High Court are brought into Entebbe.

Yours sincerely

(Sd.) E. A. Young.

42, Great Cumberland Place,  
Marble Arch, W.

8th July, 1912.

Mr Reed.

I had an occasion of speaking to the Secretary of State on this matter. There will be no difficulty at present in providing convenient funds necessary for the provision of Counsel for the defence of natives who may be undergoing trial on capital offences, but I would beg to suggest that the provision of such Counsel if approved should be deemed to be necessary as a temporary expedient in view of the lack of education and fortune of certain native inhabitants of the East Africa Protectorate.

I do not think the concession should be extended to Indians or to any native who is sufficiently well off to provide Counsel at their own expense.

their railway fares are not paid, & in  
the last place, to give us the impression  
that they will not go to other stations  
whether their railway fares are or any terms.  
There seems to be a great deal of force  
in the arguments against imposing these  
cases to purchase a number out of the  
various similar practices followed in  
England, it is difficult to justify  
the difference in procedure.

175

? Reply as altered & not with  
+ consult the J<sup>r</sup> further on  
the subject.

H. J. R.

19/VI

Pr. 19

Ch 19.6

E 19.6

Ch 20.6.12

Dr G. Diller

His enclosed minute by Dr R.  
provided.

Now write to the J<sup>r</sup> of my suggestion  
including copy of the construction & 1 to the J<sup>r</sup>

I am quite satisfied with this  
 as qualified by Mr J. Anderson

H. C. 12

THE SECRETARY  
 COLONIES Mr. Higginson, Mr. ...  
 had not been called to the ...  
 have now been called to the ...  
 one of the ...  
 ...  
 Protectorate was ...  
 ... with reason ...  
 in the last part of ...

H. J. C.  
18458

Cap.

477

O.D.  
16 JUL  
1912

23 July 1912

DRAFT.

Cap. to 428

ref

MINUTE.

- Mr. H. J. C. 18.7
- Mr. Bute 16.7
- Mr. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

Ames 29/7/12

I have been thinking  
 I have been thinking  
 accompanying copy of  
 a letter and have  
 in the light of the  
 subject of the plan of  
 legal assistance  
 in the cases involving  
 a Capital Charge  
 I have decided that  
 I have decided that

Question to June  
Answer



nation inhabitant, of the  
 East, and that the  
 concession is not to  
 be extended to persons  
 or to any nation other  
 than the one to which  
 it is granted as has  
 been explained

f

SECRET