

EAST AFR. PROT
41868

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REC
DEC 5 DEC 13

January 8/14

1913

6 Nov.

Last previous Paper.

Fine under Collective Punishment Order

Report cases in which fine of Rs 5000 has been
imposed on Kamahora Clan of Headman
Ongandha's division of Kisumu Dist. for cattle
killing. Requests approval.

Mr. Lyngby
Mr. G. Fiddes

They have let off lightly

approval of the Govⁿ action?

L. R.

11/12/13

Ans? 1066 17 Dec

I suppose we can assume
that the trial of the 29 accused
was so conducted as to form
an enquiry under s. 2 of the
1509. Act. I am not at all
clear how such an enquiry should
be conducted - viz. who should be
before the court - & as the fine
has been paid without protest
he can proceed as proposed
along P.M.B. Ct. 12/12/13

Next subsequent Paper

EAST AFRICA PROTECTORATE.

November 6th 1913.

No. B74

Sir,

I have the honour to inform you of the circumstances under which I have considered it desirable to inflict a communal fine under the Collective Punishments Ordinance 1909 on the Kichora Clan of Headman Onyancha's division of the Kisii District.

2. It appears from the facts of the case that a certain woman in that locality who was accused of being a witch was instructed by two Elders to go to a Medicine man for the purpose of undergoing the test by ordeal of plunging her arm into boiling water. It was alleged by certain elders that she had failed in this test whereupon a number of warriors were instructed to kill the woman with the result that the order was carried into effect. There can be but little doubt that the whole affair was conducted in an unorthodox fashion even under Native custom, the meeting of the Elders was not properly convened and the order to the warriors was issued in an irregular manner.

3. The preliminary inquiry was held by the District Commissioner, Kisii, a Magistrate of the 2nd Class, who committed twenty-nine of the accused for trial

THE RIGHT HONOURABLE

LEWIS HARCOURT, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

trial by the High Court at the sessions at Kisumu. The evidence adduced before the learned Judge failed to connect any particular person or persons either with abetment of the crime or the actual murder which doubtless took place.

4. It is, however, equally certain that practically the whole of the village was implicated and after referring the matter to the Attorney General for opinion I have sanctioned the imposition of a Collective fine on the clan in question under the Ordinance to the extent of 30 cows or the monetary equivalent of Rs.3,000.

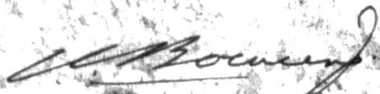
5. I have, therefore, now to report, in accordance with Section 8 of the Ordinance, that this fine has been collected in full from the clan implicated and that no trouble was experienced in its collection. The amount has been credited to Revenue and of this a sum of Rs.600 has been paid as compensation to the son of the murdered woman.

6. I trust, therefore, that I may receive in due course an expression of your approval of my action in the matter.

I have the honour to be,

Sir,

Your humble, obedient servant,


GOVERNOR.

For 4/1868/1913
G.A.P.

135

REC
61

17 Dec 1913.

Sir

I have the honour to acknowledge the receipt of Mr Bowring's despatch, No. 84, of the 6th of Nov and to inform you that I approve of your action in inflicting a fine of Rs. 3000, under the Collective Punishments Order 1909, on the Kachora Class of Kadma, Orissa Division of the Khasi District in connection with the murder of a native woman accused of being a witch.

DRAFT

G.A.P.

No 1066

to Selfield

MINUTE.

Mr. Harper 13/12/13

Mr. Bottomley 15/12/13

Sir G. Fiddes.

Sir H. Justice

Sir J. Anderson.

Lord Emmott.

Mr. Harcourt.

SIR J. HARCOURT.