

EAST AFR. PROT.
No. 25267

C 5
25267
REC
REL 16 JUL 07

1907
June 11
25266

(Subject)

Amato Incident

action taken by Lt Logan and Capt Smith

Submits letters of explanation for these officers and mentions
by Major Hamilton to Comd that they did not display the proper
conduct in the matter.

Mr. B. C. ...

(Minute)

No. 25267

The fact is that
Lt Logan and Capt Smith did not
show the proper regard of
the King's authority with an understanding
of the King's will.

see the papers

H. J. R.

22/7

Advt July 25

Comd 3.8

Rec'd King

Mr. Amato
Lt Logan

26.8

East Africa Protectorate

Confidential No 40

Governor's Office
Number
June 18th 1907

[Large handwritten flourish or signature]

My Lord

With reference to my confidential
despatch no 31 of the 17th ultimo I
have the pleasure to inform you that
a explanation which have been
received from the Major and Captain
Smith regarding the action they
took in connection with the late
Hoggins incident together with the
minutes I have received on that
course of action on that occasion
said minutes are being examined
referred to the officers concerned
(a) I have considered Captain Smith's
action in connection with the
Hoggins incident as stated by him
in his evidence before the Magistrate

May 20th
May 21st
May 22nd
June 1st

Her Majesty's Principal Secretary of State
for the Colonies
Colonial Office
London

on the table made and in his
letter of explanation of the 14th
ultimo

Captain Smith went with
the Magistrate when he made his
proceedings from the steps of the Court
House and saw the three Wakitanga
on the ground. After retiring with
the Magistrate inside the Court
House Captain Smith returned,
pushed his way through the crowd
and laid his hand on Captain
Frogan's arm. As he did so the
crowd moved in and pressed him
outside. He then left the scene to
call for police aid.

Up to the time when Captain
Smith returned and made his
way through the crowd to Captain
Frogan he acted correctly and he
can hardly be blamed for not
calling on the crowd to disperse
when the Magistrate who was
present failed to do so.

But having reached Captain
Frogan I am certainly of opinion
that more energetic and decided
action

actions should have been taken than Captain Smith actually did take. It is not shown what degree of force was used to him by the crowd and how far the ~~temptation~~ would have prevented him from retaining his hold of Captain Hogan. He was alone but the circumstances were such as required the exercise of all the determination he could show, and I consider that as a Police Officer he should have run the risk of bodily injury before he released his hold of Captain Hogan and allowed himself to be hustled out of the crowd, and it was at this time, ~~for~~ that the Magistrate having retired it was ~~open~~ to him to call on the bystanders for assistance.

Whether this would have been rendered or not cannot now be said for certain but at any rate had he seized Captain Hogan and called for it, the most that was possible under

the

the circumstances would have ^{been} done.

The situation was a difficult one, but it might have been dangerous, but it behoved a police officer present as Captain Smith was to act up to it. It cannot be said in excuse that further action might have resulted in the natives being lynched, in the enforcement of the law this risk whatever it may have been should have been taken.

I am fixed to the conclusion that in this instance Captain Smith did not show the determination and readiness required of a police officer in dealing with an emergency.

(b) I have also carefully considered the course of action taken by the Hon. Magistrate on the occasion of the passing incident as stated by himself in the Magistrate's Court on the 25th of March last, and the reasons he

gave

gave in his letter of the 20th with
 in with drawing from the scene

On the occasion in question
 a crowd of Europeans, variously
 estimated at from 50 to 700, had
 collected in close vicinity to the
 Court House for the commission
 of an illegal act. Mr Logan, the
 Town Magistrate was in his Court
 at the time and having learnt
 that unlawful proceedings were
 about to be taken he went out
 side stood on the steps of the Court
 and protested against what was
 about to be done. Subsequently
 calling out to Mr Booth and
 Captain Fozan that they were not
 entitled to take the law into
 their own hands. Then, seeing
 that the men were determined to
 do what they intended he walked
 back into his own room.

At this distance of time when
 it is impossible to know how
 threatening the demeanour of the
 crowd toward, Mr Logan might
 have been Jewish particularly
 to guard myself against unjust
 criticism of his action, but
 making every allowance for the

Wm. P. C.

temper of a crowd, the majority
 of whom appeared to be under the
 impression that a warrant would
 have been offered to arrest someone,
 and for the fact that Mr Logan
 was taken unawares the course
 of action upon which he deter-
 mined cannot be looked upon in
 a favourable light.

It was open to him to have
 ordered the crowd to disperse and
 to have called upon those nearest
 to him to aid him in upholding
 law and order; whether this would
 have produced effective results
 or not it is impossible to say;
 possibly not, but still an attempt
 should have been made, whether
 thereby Mr Logan ran the risk
 of physical restraint or not. It
 was essentially a case where
 energetic action was required
 and the Magistrate should have
 shown a more determined atti-
 tude. Neither the one nor the
 other was done and the course
 of action taken was not such
 as

is to impress the crowd with the
determination of the Magistrate
to uphold law and order.

Mr Logan's excuse that he
retired because he did not wish
to lend countenance to the pro-
ceedings by his presence carries
no weight in view of the protest
he had already made.

I must hold that on the
occasion referred to Mr Logan
did not display that energy of
action which is called for from
a Magistrate in dealing with
a sudden emergency.

I have the honour to be,
with the highest respect,

My Sir,

Your obedient servant

J. B. The servant

J. B. The servant

C O
25267
REC
JUL 16 1907

Nairobi
May 20th 1907

Sir,

I have the honour to acknowledge receipt of your letter of the 15th inst in which you say that H E the Governor desires an explanation of the fact that at the recent shooting incident at Nairobi after protesting against the steps which Capt Egoen and others were taking I left the assembly and went back to my home.

My reason for withdrawing was that I was powerless to prevent what was being done and I did not wish to lend any countenance to the proceedings by my presence.

I have the honour to be,

Your most obedient servant
S. R. Logan

Magistrate

Deputy Judge
of the High Court

Police Head Quarters

To the Magistrate
25267

REC
REC 16 JUL 07

Sir,

With reference to the accompanying
letter I have the honour to state
that after I had endeavored to
prevent the natives from flogging
the natives and had been mustered
outside by the crowd, I saw clearly
from its demeanour that further
interference was absolutely useless
when Mission had any attempt
been made to stop these present
from carrying out their intention
the natives would have been
lynched, the crowd being under the
impression that white women had
been indecently assaulted. Capt.
Frosma, himself apparently thought
the crowd was in a dangerous mood
as he requested it to promise not to
molest the natives after he had
flogged them; in giving evidence he
used the following words "will you
promise me that when I have done
with these natives, you will not
touch them or do anything to them
I intend that I did not call upon
the bystanders to assist, but had I

Yours
Lore

done, so it would not have prevented the Hogging. Every person present was there for the purpose of seeing the natives flogged. When I saw that my personal interference was useless in preventing the crowd from carrying out its intention, I went as fast as I was able to inform the A. D. S. in charge of what was taking place. I could point out that the Town Magistrate, who is a senior officer himself, was present.

I have the honour to be,

Sir,

your obedient servant

(Sd.) G. Smith

Police Station, ...

Confidential

65
25267
REC
JUL 16 JUL 07

Moombasa
21.5.07

Your Excellency

In accordance with
your request of the 10th instant I
have the honour to inform you
that I called on Mr Logan to see
me an explanation of his con-
duct in connection with the
great logging incident at Nove

Mr Logan's letter to me (dated
the 10th instant) was to the fol-
lowing terms (for which see Sepa-
rate enclosure) Mr Logan's reply
received to day, unqualified here
with and I feel bound to state
with regard to it that it appears
to me to offer no adequate reason
for his want of more energetic
action on the occasion in question

The course which Mr Logan
adopted of retiring to his room
after a ^{verbal} protest does not commend
itself as one that a magistrate
determined

determined to uphold law and order
 should have adopted under any
 circumstances except those of a
 physical constraint. The reason
 given by Mr. Logan that he did
 not wish to lend any countenance
 to the proceedings by his presence
 now, appears to be tenable, for
 it can hardly be said that a
 magistrate protesting against dis-
 order countenances the proceedings
 against which he is protesting.

It is easy to be wise after the
 event, and to criticize Mr. Logan's
 actions without a full knowledge
 of the amount of force displayed
 or how threatening the demeanor
 of the crowd towards him was,
 without making all allowance in this
 respect and without presuming
 definitely to say what under the
 existing circumstances and on
 the spur of the moment he might
 or should have done, I cannot
 help feeling that the line of action,
 or rather of inaction, on which he
 decided after making his protest,
 was not calculated to impress

on

on the crowd the full value of
the illegality of what was going
forward or the idea that he as
Magistrate was bent on preven-
ting it to the best of his ability.

I have the honour to be,

Your Excellency,

Most Obedient Servant

(S.) W. Hamilton

Copy of letter Principal Judge to
Mr Logan dated 17 May 1907.

I am requested by H. E. the Govern-
ment to call upon you for an explana-
tion of your action in connection
with the Joggins incident at Nain.

The particular point on which
an explanation is required is the
fact that after protesting against
the steps which Capt. Logan and
others were taking, you left the
assembly and went back to your
office.

Your Excellency,

C S
25267

Captain Smith's action does not
appear to me to have shown the
boldness and determination
required to meet such an emer-
gency. But he can hardly be
blamed for not calling on the
assembly to disperse when the
Town Magistrate who was present
did not do so.

(Sd) J. H. Hamilton

11.6.07

Enclosure No 5 in Confidential
Despatch No 40 of June 13th 1967 11

FC 5
25267

16 JUL 67

Your Excellency

I am of opinion that
proceedings on the part of the Magis-
trate or Police officer would have
stopped the flogging from taking
place. It is a pity that the
provisions of Sections 127 & 128
of the Criminal Procedure Code
were not taken advantage of.

(Sd) R. Donald

14 5 67

Incly

DRAFT

Mr. Conf.
for

8th Aug 1901

Sir,

MINUTE.

- Mr. Read.
- Mr. Antrobus.
- Mr. Cox.
- Mr. Lucas.
- Mr. Graham.
- Sir M. O'Malley.
- Mr. Churchill.
- The Earl of Elgin.

I have the honor
to acknowledge the receipt of
your confidential letter of the 18th of June
regarding the action taken by
subordinates that
I am very sorry
that Mr. Logan & Capt.
Smith in connection
with the late flogging
incident at Nairobi.
I am sure your
view that these officials
did not show the energy
& decision required of
them

to see papers
to help me

Mr. Har...
14
Nov 1901