

DESPATCH

EAST AFR. PROT.
N^o. 30646

C O
30676
REL. 25 AUG 05

426

1905

July

at previous Paper.

30304

(Subject.)

Case of *Ellac Wehner*

In copy of *grays* petition & copy of his reply. a copy of judgement of appeal court was forwarded in despatch 297

(Signature.)

Mr. Cox

Now send a copy to *Majors Sanderson* &c in reply to 26111

Packet 30409

4/10/05

and to *Henry White*

HR

20/6 at once

(in 2009) to Lane 56, Italy, 1907

at Paper

239

627

Commissioner's Office

C. O.
30676
REC'D
AUG 05
1905

Mombasa

July 28th

EAST AFRICA PROTECTORATE.

No. 126

Sir,

In obedience to the instructions contained in your telegram of 28th instant, I have the honour to transmit to you herewith a copy of the petition which was forwarded to me by the jury who found the man Werner guilty of murder, together with a covering letter from the foreman of the jury and a copy of my reply.

I forwarded you a copy of the judgment of the Appeal Court in my despatch No. 247 of April 28th.

I have the honour to be,

Sir,

Your most obedient

humble servant,

D. Stewart

Principal Secretary of State

for the Colonies,

Downing Street,

LONDON.

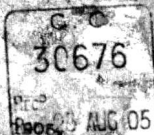
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GOPY.

Nairobi,

March 8th



628

His Excellency Sir Donald Stewart, K.C.M.G.

H. M. Commissioner of the East African Protectorate etc.

Sir,

I beg to enclose herewith a petition from the Jury who tried the condemned man Wehner now lying under sentence of death. I have delayed sending in the petition before, pending the result of the appeal. As I understand the sentence has been confirmed, with a recommendation to mercy, I now send in the Jury's memorial, hoping it may receive Your Excellency's favourable consideration.

I remain etc., etc.,

Sd/- Frank Watkins,

Foreman of Jury.

Commissioner's Office

Mombasa,

March 16th 1905.

Sir,

I am directed by His Majesty's Commissioner to acknowledge the receipt of your letter of 8th instant forwarding a petition from the jury who found the prisoner Max Herman Wehner guilty of murder.

I am to inform you in reply that in view of your recommendations and of the judgment of the Court of Appeal H. M. Commissioner has commuted the death sentence to one of penal servitude for life.

I am &c., &c.,

Sd/- A. C. Hollis,

Secretary.

Secretary, Esc.,

Nairobi.

Copy
Nairobi.

February 2nd 1905.

To

His Excellency Sir Donald Stewart, K.C.M.G.,
H. M. Commissioner,
East Africa Protectorate.

Sir,

We have the honour to ask that you will be so good as to receive this memorial from the foreman and the members of the Jury in the case of the Crown versus Wehner and to give it your most earnest consideration with the view of exercising the clemency of the Crown.

The grounds upon which we ask that the death penalty may not be inflicted in this case are as follows:-

- (1) That we as the jury were of opinion that the condemned man was guilty only of culpable homicide not amounting to murder in the sense in which those terms are used in English law.
- (2) That in our opinion the death of the native though due to the hand of the condemned man was not a premeditated crime.

We thought our verdict was one amounting to culpable homicide and not to the more serious crime of murder.

We have thought it our duty to lay the matter before Your Excellency, in the hope that you will see fit to use the prerogative of the Crown to relieve the condemned man from suffering the extreme penalty.

We have to., &c.,

Sd/- Frank Watkins,
" Robert J. Sturdy,
" Hugh H. Heatley, } members
" H. A. Guin } of Jury
" A. S. Cooper