

DESPATCH

EAST AFR. PROT.
No. 28032

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28032
REC
RFB 7 AUG 07

Number No.
Hall 26
1907
2 Aug
Previous Paper

(Subject)
Nairobi Incident
Enc: summary of judgment in case of Grogan
Does not think a new trial is desirable
the appeal is wholly in the original judgment

Next Paper

Mr. Justice (Minutes)
Mr. Cox
I saw a copy of the Indian
Press Code. I do not know why the
Judge ignored the Crown Prosecutor's statement
that the accused had refused their trial
to be tried by the Magistrate. We
shall in doubt get full details of
fact.
Put by
H. J. R.
S/S.
Sir J. Wood
Sobriety. We can only
await events. It is important that
we should see the actual just.
Wh. I suppose will be sent

Next Paper
25-05
9.1
some

9.1
some
1102
9/19

Paraphrase.

Telegram.

The Governor of the East Africa Protectorate to the
Secretary of State for the Colonies.

(Received, Colonial Office, 6th August, 1907)

Referring to the judgment in the case of
Grogan and Gray, the judge was of opinion that the
magistrate had rightly found that the accused had com-
mitted an offence under Section 143 of the I.P.C., but
held that, as there was some evidence before the
magistrate of offences committed under Sections 147,
323, and 302, the accused should have been committed
to the Sessions Court for trial, that if they had been
so committed they would have had the privilege of
trial by a jury and that that privilege was precluded
by not being committed. He had also ignored the Crown
Prosecutor's statement, which was corroborated by
Grogan's plea, that the accused had expressed their
wish to be tried by the magistrate. The judge con-
cluded his judgment by stating that the accused had
already suffered terms of imprisonment and that he
therefore refrained from ordering a new trial and ac-
quitted them. I do not think that a new trial is de-
sirable; the appeal is to uphold the original judgment.

SADLER.

Paraphrase of a Cypher telegram from
the Governor of the East Africa Protectorate
Received 6 August 1907

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19

Referring to the judgment of the
Magistrate in the case of Progan and Pray the
Judge was of opinion that the
Magistrate had rightly found that
the accused had committed an
offence under Section 143 of the
C. P. C. but held that, unless there was
some evidence before the Magistrate
of offences committed under Sections
147, 323, & 353, the accused
should have been committed to
the Sessions Court for trial -
that if they had been so committed
they would have had the privilege
of trial by a jury and had
to that extent been prejudiced by
not being committed. The Judge
ignored the Crown Prosecutor's
statement which was corroborated by
Progan's plea, that the accused
had expressed their wish to
be tried by the Magistrate. The
Judge contradicted his judgment by

stating that the accused had 19
already suffered terms of imprisonment
& that he therefore refrained from
ordering a new trial & acquitted
them. I do not think that a
new trial is desirable the appeal
is to uphold the original
judgment.

Sullivan