1932 Kenya

No. 18327.

SUBJECT C0533/427

Murder charge : death sentence

on L. W. Ross.

(Two enclosures to No 11 attached.)

Previous

Subsequent

FILE C.

Extract from Daily Herald of 2nd December 32.

The draft Ltr herein can do no harm?

2/12

Reading his I than, & the letter to [illegible]
Reuters & [illegible] made
? Inserting Extract [illegible]
Turkish Memo & arrival in
Constantinople & the Kl agent that if
the Entente has any further objection
in receiving at the Pof Conte
that to have them though it
[illegible] the [illegible] the treasure
may be available locally

2/12/32

Russia should locally. But if not do you think
so can reply without details?

He will say to Commandant — But he has
despatches Nationale Austria Czechoslovakia
But if does not follow that if he does
Did Jn tell Jones Rivo Rome & Grey
H. Min. etc. Ltr [illegible] for the same
Nothg. H.

3/12

Extract from Daily Herald of 3 December 32.

This draft W: herein can do no harm?

2/12

Reading by Mr Hough of a letter he [illegible]
Gisborne [illegible] made.
Question asked [illegible]
Hunter extradited [illegible]
Cut to Venice & airmail us
Cafernalia & the Kl Injunction that if
the Fascists take any steps further obstruct
us steering at the Top Castle
that to have them. Though it
should the Kent & the message
may be available locally.

2/12/32.

Elliott
Must [illegible] locally. But if not do you think
for Can safely without details?

He will say to Commander — Did he use
Despise Methods? Question Certainly not.
But it does not follow that he does —
Did you tell Ross doing [illegible] Grey
to Mrs Elliott — Glad he was for the Page
Safely.

H.B.

2/12

J.G.D.

Mr Chatterley spoke to me about this Grosvenor Road case with a view to discussing the file with me.

H.W. Keen

3/12 at 3 a.m.

By Air Mail 6/12/32

2 Lo 2057 883 (1/5 mm) 15 DEC 1932

3. Home Office _____ 5 Dec 32.

Encls. A letter from Mr Eyre enclosing a file relating to Ross.

Reply saying that there is no doubt that the suspect is the case mentioned by Mr Eyre and that the application will be considered by the Secretary of State when the case is ripe for that consideration, i.e. after expiry of the period allowed for appeal.

H.S. Pinsent
13/12/32

Please keep the Records case where Mr Eyre's letter of 30th November refers to appeal hearing dates.

H.W. Keen

15/12 at 11 a.m.

Mr Eyre (Encl = 3 sheets) 20/12/32

A

3

4. C.W.S. Peachey _____ 15 Dec 32.

Suggests parental influence may have had some bearing on the Ross murders & makes suggestions as to action to be taken.

5. Governor Byrne (Holloway) _____ 17 Dec 32

Furnishes observations on Dr Forbes-Winslow's Report, stating Ross was at the time in the hands of the Defence Counsel & giving details of his interrogation.

4. The matter is apparently somewhat unbalanced (see 20 in 20828 Bdl) I ack and say that his views have been noted.

H.S.P.
21/12/32

Miss Stevenson

Mrs Ross had stated that she was alive and that he knew her hiding place there was undoubtedly every reason to question him about her whereabouts. It seems clear that the statement obtained in the circumstances indicated was not used in evidence - and Ross was convicted of the murder of Mrs Kaplan.

It seems desirable to await the result of the appeal and full report of the proceedings before considering the matter further.

H.S. Pinsent
21/12/32

4. This letter from Dr Forbes-Winslow may be put by.

H.W.K.
21/12

5 was called for in case of Parliamentary Question. There are now available 20.

(The Bulk may can keep)

21/12

21/12

A despatch will one day.

J.V.Bell
21/12/32

Secretary of State

W.C.S.
21.12.32

6 The Howard League for Penal Reform (extract) - 21 Dec 32
Draws attention to press report of the use of third degree methods in the Ross case. ~~Requests~~ Suggests that if report is untrue S.O. should deny statement. NO.

4 To Howard League for Penal Reform - herewith - 22 Dec 32.

If there unnecessary to make any more detailed statement and no further reply to 7 5th can be called for.

Pultney Pownall
23/12/32

[illegible]
23 Dec

Governor Byrne 624 — 23rd Dec 32.

Furnishes a full report of the murder by Ross & of his interrogation & states no doubts & the Defence Force were conveyed by any undesirable person.

Pultney (Mr Brooke should see)
H.P. Pownall
3/1/33

J.V.Bell
3/1/33

Mr. Preston.

The Howard League are very friendly and, generally speaking, helpful. I am not sure whether we are wise in not sending them some further particulars about this case. The Governor's despatch seems to me to provide a reasonable defence, and I wish you would consider whether it might not be a good thing to send them a short summary confidentially.

All I think it would be necessary to say is that Ross was arrested on the 4th October, charged with murdering Miss Kepple. At that time Miss Stevenson had not been found. Ross, during the first days of his confinement, stated that she was alive, and that if he was sent back to Nakuru he could find her. He then purported to have lost his memory. On the 14th October no trace of Miss Stevenson had been found, and it was obvious that no further time should be lost. He was sent to Nakuru under police supervision, and was interrogated there by some of his friends as to the whereabouts of Miss Stevenson. The Kenya Defence Force were only used in order to protect Ross against the possibility of an attack in view of the strong local feeling.

A3

As a result of information which he gave, the body was eventually found. The object of the interrogation was to find Miss Stevenson, and not to obtain a confession, and the Crown, in its conduct of the case against Ross for the murder of Miss Keppie, made no reference to the finding of Miss Stevenson's body or to the confession subsequently made by Ross to the District Commissioner. Both of these facts were elicited by the Counsel for the Defence in the course of cross-examination.

11.1.33.

R. Bush

I [illegible] to make a confidential
No 8 was called for with a view to
publication, if a [illegible] occurred.

11/1.

To The Howard League (Secretary &c) 16/1/33

Encl Extract from Times 6 January 33

16/1/33.

16.1.33

at Times

KENYA

No. 61

GOVERNMENT HOUSE,
NAIROBI,
KENYA

19th January, 1933.

Sir,

With reference to my Air Mail despatch No.624 of the 23rd December, 1932, regarding the trial of Charles William Ross for murder, I have the honour to transmit for your information the accompanying copies of a transcript of shorthand notes taken at the trial.

2. Ross appealed against the sentence of death to His Majesty's Court of Appeal for Eastern Africa. The appeal was dismissed on the 29th December, 1932, and he was executed on the 11th January at Nairobi Prison.

Copies of the Court of Appeal Judgment are also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

BRIGADIER-GENERAL.
GOVERNOR.

THE RT. HON.
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

IN HIS MAJESTY'S COURT OF APPEAL FOR EASTERN AFRICA.
Sessions held at Nairobi.
Criminal Appeal No. 205 of 1932.
(From Criminal Case No.133 of 1932 of H.M.Supreme Court of Kenya at Nairobi).

REX ..... Respondent
v.
CHARLES WILLIAM ROSS ..... Appellant.

J U D G M E N T

The Appellant was convicted of murder in a trial before a Judge and Jury on the 1st December, 1932. His defence at the trial was that he was insane at the time he committed the murder. The Jury in finding him guilty of murder rejected the defence of insanity. He has appealed to this Court from the finding of the Jury and we have been asked to set aside the verdict of the Jury and either to substitute therefor a verdict of guilty but insane or to order a new trial. To take the grounds of appeal seriatim. The first ground is that the learned Judge misdirected the Jury in directing them that the plea of insanity must be clearly proved beyond reasonable doubt and in failing to direct that if they were in doubt on the matter, the benefit of such doubt must be given to the Appellant. The law on the subject of insanity as an excuse for crime is laid down in Cap.IV of the Penal Code, Sections 12 and 13 reading respectively:-

(12) Every person is presumed to be of sound mind, and to have been of sound mind at any time which comes in question, until the contrary is proved.

(13) A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind incapable of understanding what he is doing, or of knowing that he ought not to do the act or make the omission. But a person may be criminally responsible for an act or omission, although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects above mentioned in reference to that act or omission.

It has been urged upon us by Counsel for the Appellant that once it is established by the defence that a prisoner is suffering from disease of the mind of whatever nature or degree the onus shifts to the Crown and has to prove that the prisoner at the time he did the act or made the omission was through disease

affecting

affecting his mind incapable of understanding what he was doing or of knowing that he ought not to have done the act or made the omission. This is not our reading of the law. Section 12 in enacting that every person is presumed to be of sound mind must be taken to mean that every person is presumed to be sane. Section 13 speaks as to what legal insanity such as will afford an excuse or exemption from criminal responsibility is. The point in our minds is clear and the law is nodifferent from the rule in McNaughton's case which shortly stated is that before a person can rely on a defence of insanity as an excuse or exemption from criminal responsibility it must be shown to the satisfaction of the Jury (in a case tried by a Jury) that at the time of committing the act he was labouring under such a defect of reason from disease of the mind as not to know the nature and quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong. Differently expressed, the law on the subject in Kenya is the same as in England. Once the murder is proved the Crown has discharged the burden imposed upon it and the onus of proving legal insanity, where that is the defence, rests on the accused. Just as the Crown is obliged to prove its case beyond a reasonable doubt, so must an accused person, to exempt himself from criminal responsibility, satisfy the Jury beyond any reasonable doubt that he was insane in the legal sense at the time of committing the act. The learned Judge in his summing-up said, "If you find the accused killed the woman, you must be satisfied that the accused suffered from what has been described as legal insanity. If you are not so satisfied and find the fact of killing proved then you should convict the accused of murder. If you are satisfied the accused was insane at the time of committing the act and find that act also proved, then you will find that the accused killed Miss Koppie but was insane at the time he did so". To the learned Judge proceeded to read the rule in McNaughton's case. The first ground of appeal fails. The second ground of appeal is "That the learned Judge failed to

direct

direct the Jury clearly and adequately on the defence of insanity by neglecting to explain fully in relation to this case the circumstances in which such a defence could be made out, and in neglecting to indicate the relation of mental deficiency to such circumstances. Dr. Gordon was the principal medical witness for the defence and the learned Judge reviewed at length his evidence and put before the Jury what Dr. Gordon's opinion was and we can discover no reason in this ground of appeal for complaining of the summing-up. The third ground of appeal is that the learned Judge erred in refusing to permit Counsel for the defence to read reports of the case of Rex v. Ware and Rex v. Thick. These reports are contained in The Journal of Mental Science and do not purport to be reports of cases by a barrister. We consider the learned Judge acted correctly in not allowing them to be read to the Jury. We go further and say that reports dealing with questions of law are for the Judge not for the Jury. There is no substance in this ground of appeal. The fourth ground of appeal is that the learned Judge excluded evidence that statements were made by Mr. Thorpe in relation to the killing of a hippo at Lake Nakuru. Counsel for the defence has conceded that the point is a minor one. We are unable to perceive that it has any weight. The circumstances connected with the incident and the alleged peculiar behaviour of the accused in unnecessarily plunging his knife into the dead beast, were fully before the Jury and it was for them and not for Mr. Thorpe to infer what indication of abnormality the incident established. Mr. Thorpe's opinion in the matter is of little moment and Mr. Thorpe himself said that at the time he thought it was nothing worth taking notice of. This ground of appeal fails. The fifth ground of appeal is "that the learned Judge misdirected the Jury in regard to certain facts of the life of the accused's (appellant's) father, in regard to the circumstances and characteristics of the accused, in regard to the actions of the accused immediately after the alleged crime

and

and in regard to the medical evidence". At page 5 of the summing-up the learned Judge reviewed the evidence as to accused's father in such a manner as not to be open to criticism and Dr. Gordon's evidence after his having heard the evidence in regard to Major Ross was that he was a type of a man who might be called insane by the laity and yet not be insane, that he would not like to say more than that he suffered from mental instability of a pronounced type. According to the witness Greenslade who served under him during the Boer War Major Ross was a man who had no value for life whatever. That he was an abnormally cruel man is borne out by the evidence. In a hearing lasting over several days the Jury must have had present to their minds the evidence bearing on the character and behaviour of Major Ross and the summing-up cannot fairly be attacked on the ground that it might have been more detailed. This criticism might be levelled at any summing-up. The circumstances and characteristics of the accused were also reviewed by the learned Judge and we can find no ground for complaint on this head. The reference to the actions of the accused immediately after the crime in the summing-up is brief, but as to what happened at this stage nobody but the accused could tell and the Jury's attention was attracted to the statements made to Mr. Hodge and Mr. Allen by the accused. Reference was also made to his visit to his step-father's home at Maji Mazuri, where according to the evidence based on what the accused himself said he did not quite know what he had been doing at the critical time. Here again we are of the opinion that there was not any failure on the part of the learned Judge to which a Court of Appeal should take exception. There was no misdirection as to the medical evidence; that evidence, particularly Dr. Gordon's, was [illegible] the Jury at some length and it was for the Jury to weigh that evidence and consider, with the other evidence in the case, whether the accused at the time he committed the crime was insane in the legal sense. The sixth ground of appeal is "That the comments of the learned Judge were not justified by the evidence, were

prejudicial

prejudicial to the accused and materially affected the verdict of the Jury". Having regard to what we have said concerning the fifth ground or appeal, it suffices to say that we find no substance in the sixth ground of appeal. The seventh and final ground of appeal is "That the verdict is unreasonable and against the weight of evidence". This ground has not been substantiated. It was for the accused to establish that he was legally insane at the time he committed the crime. By that we mean that the evidence in the case must be such as to prove affirmatively the insanity of the accused. In the case before us the accused in a voluntary statement made to Mr. Hodge, the District Commissioner, Nakuru, in admitting that he killed Miss Kepple said "She was sitting next to me in the car and she grabbed at my revolver which was in my left pocket so I ordered her out of the car and took her 50 yards from the camp". In another statement volunteered to Mr. Allen, the Chief Officer of the Nakuru Police, the accused said that when the car was stuck in the ditch he got out to push and Miss Stevenson drove, that they got out of the ditch and as they got towards the camp Miss Kepple tried to take the revolver from his pocket, that he then became infuriated, saw red, let go the steering wheel of the car which ran into a tree and stopped, that he dragged Miss Kepple from the car, took her about 50 or 60 yards away, held her with his left hand and shot her with his right. So that according to the account given by the accused, which there is no reason to doubt, and which the Jury were entitled to accept as true, his reason for shooting Miss Kepple was that her action in attempting to take his revolver from him infuriated him. In referring to the case of Rex. v. Stokes (1918) Volume 14 The English and Empire Digest at p. [illegible] contains the following paragraphs-

"(1) Where the defence of insanity is set up, in order to warrant the Jury in acquitting prisoner, it must be proved, affirmatively, that he is insane; if the fact be left in doubt and if crime charged in the indictment be proved, it is their duty to convict him."

In Rex

In Rex v. Coelho 30 T.L.R. 535 (1914) it was laid down by the Court of Criminal Appeal, England, that on a trial for murder where the defence is insanity, the prisoner must be presumed to be sane and possessed of sufficient reason to be conscious of his crime unless he establishes the contary and proves that he was suffering from such a disease of the kind as to be unconscious of the nature and quality of his act or so conscious, not to be conscious of the difference between right and wrong. Before interfering with the verdict of a Jury we should have to be satisfied that it was unreasonable or could not be supported having regard to the evidence or that the judgment of the Court before whom the Appellant was convicted should be set aside on the ground of a wrong decision of any question or law or that on any ground there was a miscarriage of justice. Applying that principle to the present case we can find no reason for interfering with the verdict and dismiss the appeal. Counsel for the Appellant asked us at the conclusion of the appeal to make a recommendation to the Governor in favour of the Appellant. The duty of reporting to the Governor is one for the presiding Judge and not the Court of Appeal (Section 315 Criminal Procedure Code).

(Signed) Joseph Sheridan.
(Signed) C.K. Law.
(Signed) S.J. Thomas.

29.12.32.

I hereby certify that this is a true copy of the original.

(Signed) Murray M. Jack.
Registrar,
H.M. Court of Appeal for
29.12.32.

10

The Times of 6 January 13

KENYA MURDER CASE

FROM OUR CORRESPONDENT

NAIROBI, Jan. 5

The Governor has decided not to exercise the prerogative of mercy in favour of Charles Wilson [illegible] to death for the murder of Mr. Kitt.

8

AIR MAIL.

KENYA.

No. 624

GOVERNMENT HOUSE,
NAIROBI,
KENYA

RECEIVED
-3 JAN
COL. O

23rd December, 193..

Sir,

No 2

I have the honour to refer to your despatch No. 883 of the 5th December transmitting an extract from the "Daily Herald" of the 2nd December regarding the trial of Charles William Ross for murder.

2. The essential facts were conveyed to you in my telegram No. 244 of the 17th December, a copy of which is attached for purposes of reference; and I submit the following account in amplification:-

Ross was arrested on Saturday, the 8th October, and was sent under escort to Nairobi Prison on the 10th October. At that time the body of Miss Koppie had been found, but Miss Stevenson was still missing. Owing to the uncertainty as to Miss Stevenson's fate, public feeling in Nakuru - and, indeed, throughout the Colony - was running very high, and not only the whole male population of that town, but the whole of the local Defence Force in and around Nakuru voluntarily turned out and organized search parties.

Ross, on more than one occasion during the four days of his first period of confinement in Nairobi Prison, stated that Miss Stevenson was still alive

To the Missionary League - 14/1/33

THE RIGHT HONOURABLE
MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

alive and that if he were sent back to Nakuru he could find her. He stated that he had left her alive in the Menengai crater, and he actually prepared sketch plans purporting to indicate where she could be found, adding, however, that he and he alone could find her.

In view of the contradictory nature of many of Ross's statements, and the fact that the search for Miss Stevenson was still being rigorously prosecuted no immediate action was taken. But when by October 11th no trace of Miss Stevenson had been found, it was obvious that no further time could be lost, if any Ross's statement was true, and there was possibility of Miss Stevenson being still alive. Accordingly, in response to a request from the residents of Nakuru that Ross should be returned to Nakuru and interrogated on the spot in the hope that he would there recover his alleged loss of memory, I decided, after consultation with the Colonial Secretary, the Attorney General and the Commissioner of Police, that Ross should be sent to Nakuru, but that he must not leave Police or Prison custody when being interrogated by his friends there. On that condition he was taken to Nakuru on the 14th October. This condition was strictly observed.

He left Nairobi in the forenoon but, owing to a breakdown of the car in which he travelled, he did not reach Nakuru until about 6 p.m. About 6.30 p.m. he was taken under a strong prison guard to the site of his camp. The Provincial Commissioner, the District Commissioner and the Commissioner of Police were present. In view of the strong local feeling against Ross certain members of the Defence Force formed a ring round the camp

camp, all being at some considerable distance from the camp, to protect Ross against the possibility of attack.

Ross was seated on a box in a tent; about half a dozen prominent members of the Nakuru public, all personal friends of Ross, were present in the tent, and they systematically reiterated the question "Where is Winnie?".

There is no truth in the statement that Ross was seated on a one-legged stool from which he frequently fell. As previously stated he was seated on a box, and there is no foundation for the suggestion that he shewed signs of physical distress. A police officer, or officers, were present throughout the inquiry.

The body was finally found about 8.30 a.m. about two hours' hard going from the camp. After Ross left the camp to shew where the body was only the prison guard, two police officers and four civilians, one of whom was Miss Stevenson's employer, were present.

The sole object of the interrogation was to find Miss Stevenson in view of the strong feeling that it might be still possible to save her life. There was no intention of extorting a confession which could be used against Ross on his trial: indeed it was to obviate the possibility of anything of the kind that police officers were present throughout the interrogation, as any self-incriminatory statement he might make in the presence of the police would be inadmissible in evidence against him at his trial. At that time the police investigation of the charge against Ross for the murder of Miss Kappie was complete.

Ross

Ross was ultimately brought to trial on the charge of murdering Miss Koppie, and during the course of the trial counsel for the Crown made no reference either to the finding of Miss Stevenson's body, or to the confession subsequently made by Ross to the District Commissioner, Nakuru, on the forenoon of 15th October. Both of these facts were elicited by counsel for the defence in the course of the cross-examination of Mr. Hodge, District Commissioner, Nakuru.

Sentence was passed on Ross by the Chief Justice shortly before 1 p.m. on the 1st December. No mention of the Defence Force was made, either by the learned Judge, by counsel or by witness, at any stage of the trial. Certainly no thanks to the Defence Force were conveyed by anyone connected with the trial or by the police, or, so far as I have been able to ascertain, by any other responsible person.

Ross has appealed on the grounds, I understand, of mis-direction of the Jury by the Chief Justice on the question of legal insanity. The judgment of the Court of Appeal has not yet been pronounced.

I have the honour to be,

Sir,

Your most obedient, humble servant,

[illegible]-Quarter-General.

G O V E R N O R.

TELEGRAM TO THE COLONIAL OFFICE.,
Despatched 17th December, 1932.

No.244. Your despatch No.633 of 5th December. Daily Herald report as to circumstances leading up to discovery of Miss Stevenson's body, though inaccurate in certain important details, is substantially correct. The implication in article that Rose's conviction for murder was based on a confession obtained by these degree methods is quite unfounded and seriously misleading.

Rose was at no time in the hands of the Defence Force, nor have I any information that members of the Force were thanked after conclusion of Rose's trial for murder of Miss Keppie.

Facts are that conviction recorded against Rose is for murder of Miss Keppie. Crown Case was based on circumstantial evidence, and it was the defence which put in a voluntary confession made by Rose before the magistrate in support of defence of insanity.

Rose was arrested on Saturday October 8th. At that time body of Miss Keppie had been found but Miss Stevenson was still missing. Rose on more than one occasion had stated to prison officers that Miss Stevenson was still alive and that he could point out her hiding place if he returned to Nakuru. He was therefore sent to Nakuru on October 14th under prison escort and accommodated for the night in the compound he had made near Memorial Cross in the hope that if interrogated on the spot by some of his own associates he would remain his alleged loss of memory. As feeling was running very high at Nakuru, the local members of the Defence Force volunteered to provide a guard at a distance from the camp to ensure Rose was subjected to no violence. Throughout the night he was interrogated by certain local residents as to the whereabouts of Miss Stevenson, but he was seated on a box, had a steel and the supposition that he suffered from

any mention physical distress is quite unfounded. Police and Prison officers were present throughout so as to ensure the propriety of the proceedings and an admission made by him could be put in evidence at his subsequent trial.

Finally many expressed his willingness to show there that Mr. Thompson's boy who was executed in the past by prison and police officers

1

22 December, 1939.

Dear Miss Craven,

I am in receipt of your letter of the 21st instant, about certain Ordinances of British Honduras, and about the case of [redacted], in Kenya.

As regards the first matter, I have not seen the Ordinances in question, and I am referring your letter to the Department for consideration of the position.

As regards Ross, we know something about this, and you may take it that the facts are not [redacted]. Here again, however, I am referring your letter to the Kenya Department, in order that they may consider whether they wish to make [redacted].

Yours sincerely,

EXTRACT from a letter from The Howard League for Penal Reform to H.G.Bushe, Esq., C.M.G., Colonial Office.

Dated 21st December, 1932.

x x x

British East Africa. I wonder whether you saw a report from the Daily Herald Special Correspondent in Nairobi, who alleged that the man Kimoso, who has recently been convicted, obviously quite justly, of the murder of Miss Kepple, was induced to confess by third degree methods on the part of the Kenya Defence Force. In case you have not, I am sending you the cutting in question, dated 2nd December. It is quite possible that the whole story is untrue, and I hope it is. It is because we realise that such statements are very often made without foundation that we have not got someone to put a question in Parliament about it. But I think if it is untrue it would be a very good thing if some opportunity were taken by the Colonial Office to deny the truth of the statement. Perhaps you would let me know whether an enquiry has been made and whether the tale is true? Personally, I feel sceptical as to the possibility of any one sitting on a one-legged stool.

Answd. 24 Dec. 32

I have just written a formal letter to the Permanent Under Secretary to ask whether any progress has been made with the establishment of a Standing Joint Committee. I hope he may be able to give an affirmative answer and hold out some hope of its coming into operation soon.

x x x

Yrs truly, H Cummings

Dead. P 23

DURRANT'S PRESS CUTTINGS

St. Andrew's House, 32 to 34 Holborn Viaduct, and 3 St. Andrew Street, Holborn Circus, E.C.1.

Telephone: CITY 4063.

Daily Herald

67 Long Acre, W.C.2.

Cutting from issue dated 2 DEC 1932

HOW JUNGLE SLAYER CONFESSED

ALL-NIGHT THIRD DEGREE QUESTIONS

From a Special Correspondent

NAIROBI, Thursday

CHARLES WILLIAM ROSS, the 20-year-old son of Major Ross, the hunter, was arraigned to death here to-day for the murder of Miss Margaret Kepple, of Leeds.

With Miss Winifred Stevenson, of Glasgow, she was shot in the Kenya jungle after a motor-drive with Ross.

A defence of insanity was rejected by the Court. "There was no recommendation to mercy, for the crime has shocked the whole colony.

I am able to reveal, now that the trial is over, the way in which Ross' confession to the murder was obtained.

After to-day's judgment the members of the Kenya Defence Force were thanked for obtaining the admission of guilt.

ARMED GUARD

Ross was taken to a tent in the camp which the Defence Force had set up while searching for Miss Stevenson, whose body was not found until a week after Miss Kepple's.

A strong armed guard was thrown round the camp to prevent people approaching while Ross was there.

He was seated on a "bibi," or native stool, which, normally possessing three legs, had on this occasion only one.

One of the men in the tent held a watch in his hand. Every 15 minutes Ross was asked: "Where is Winnie?"

The questioning began in the evening after the men had returned, tattered and weary, from searching the pit of the Menengai crater.



Miss M. Kepple

At first Ross was defiant. But at 4 a.m. he was dripping with perspiration, for the "question" was repeated exactly every 15 minutes.

He was not allowed to sleep, and was replaced on the one-legged stool every time he began to show signs of falling over.

About 5 a.m. Ross gave in. He told the men round him exactly what had occurred, and promised to lead them to the spot where Miss Stevenson's body was lying.

It was at this that he asked them to shoot him the moment they found the dead girl.

Guarded by men from the Scots Rifles, he led the way to the crater, where the bodies were found.

COPY FOR REGISTRATION

RECEIVED
19 DEC 1932
C.O.

35

Telegram from Governor Kenya to the Secretary of State for the Colonies

Dated 17th December Received 4.5.p.m. 17th December 1932

No. 2444. No. 496. Your despatch of 5th December No. 883. Daily Herald report as to circumstances leading up to discovery of Miss Stevenson's body though inaccurate in certain important details is substantially correct. But implication in article that Ross's conviction for murder was based on a confession obtained by third degree methods is quite unfounded and seriously misleading.

Ross was at no time in the hands of Defence Force nor have I any information that members of Force were thanked after the conclusion of Ross's trial for murder of Miss Keppie. The fact is that conviction recorded against Ross is for murder of Miss Keppie. Crown case was based on circumstantial evidence and it was defence that put in a voluntary confession made by Ross before magistrate in support of defence of insanity.

Ross was arrested on Saturday 8th October. At that time bodies of Miss Keppie had been found but Miss Stevenson was still missing. Ross on more than one occasion had stated to Prison officers that Miss Stevenson was still alive and that he could point out her hiding place if he returned to Nakuru. He was therefore sent to Nakuru on 14th October under Prison escort and accommodated for the night in encampment he had made near Menengai crater in hopes that if interrogated on the spot by some of his own associates he would regain his alleged loss of memory. As feeling was running very high at Nakuru local members of Defence Force volunteered to provide a guard at a distance from camp to ensure that Ross was subjected to no violence. Throughout the night he was interrogated by certain leading citizens as to whereabouts of Miss Stevenson but he was seated on a box not on a stool and suggestion that he suffered from any serious

COPY FOR REGISTRATION

RECEIVED
19DEC1932

Telegram from Governor Kenya to the Secretary of State for the Colonies

Dated 17th December Received 4.5.p.m. 17th December 1932

No. 444. Your despatch of 5th December No. 885/7, Daily Herald report as to circumstances leading up to discovery of Miss Stevenson's body though inaccurate in certain important details is substantially correct. But implication in article that Ross's conviction for murder was based on a confession obtained by third degree methods is quite unfounded and seriously misleading.

Ross was at no time in the hands of Defence Force nor have I any information that members of Force were thanked after the conclusion of Ross's trial for murder of Miss Keppie. Fact is that conviction recorded against Ross is for murder of Miss Keppie. Crown case was based on circumstantial evidence and it was defence which put in a voluntary confession made by Ross before magistrate in support of defence of insanity.

Ross was arrested on Saturday 8th October. At that time bodies of Miss Keppie had been found but Miss Stevenson was still missing. Ross on more than one occasion had stated to Prison officers that Miss Stevenson was still alive and that he could point out her hiding place if he returned to Nakuru. He was therefore sent to Nakuru on 14th October under Prison escort and accommodated for the night in encampment he had made near Menengai crater in hopes that if interrogated on the spot by some of his own associates he would regain his alleged loss of memory. As feeling was running very high at Nakuru local members of Defence Force volunteered to provide a guard at at a distance from camp to ensure that Ross was subjected to no violence. Throughout the night he was interrogated by certain local residents as to whereabouts of Miss Stevenson but he was seated on a box not on a stool and suggestion that he suffered from any serious

serious physical distress is quite unfounded. Police and prison officers were present throughout ~~the~~ so as to ensure propriety of proceedings and that no admission made by him could be put in evidence at his subsequent trial. Finally Ross expressed his willingness to show where Miss Stevenson's body was and was conducted to spot by prison and police officers.

[illegible] expenditure on this score is approximately £18,000,000 less than during the corresponding period of last year.

In the emergency, circumstances of having to provide for this light payment, the City will forget its orthodoxy and not be disgruntled at [illegible] fund being raided.

* * *

THE POUND'S EXCHANGE VALUE rose from 3.37½ U.S. dollars on Tuesday to 3.38 at one time yesterday. It closed at 3.38. A main cause was the additional attractiveness of London to foreign bankers by reason of the slight rise that has taken place in discount rates.

A more important cause was continued buying of pounds by French investors.

Furthermore, the fact that the debt payment is to be made in gold and thus not involving any direct offering of pounds for dollars has removed such few fears as there were that the pound might have suffered for that reason.

60, SUTHERLAND ROAD,
CHORLTON-CUM-HARDY,
MANCHESTER
15th Dec. 1932.

J.Q.886

RECEIVED
19 DEC 1932
COLONIAL OFFICE

THE UNDER SECRETARY
OF THE COLONIES,
LONDON, S.W.1.

SIR,

APPEAL OF CHARLES W. ROSS. KENYA
AGAINST SENTENCE OF DEATH
AND
COLONIAL OFFICE REFERANCE 20828 E.A.

In view of the appeal of CHARLES W. ROSS announced in the attached cutting from to-day's "News Chronicle," I venture to direct the attention of the Colonial Office to a possible factor in this case — namely, paren[illegible] influence. I believe instances of [illegible] were cited in the evidence as indicating paternal insanity. On the other hand, though ignorant of particulars touching in this case, my own experience as a servant of the Crown in Kenya (1924-5, both as Marketing Operator, Govt. Press, and as Education[illegible]) and in subsequent domestic relationships may be considered to have some bearing.

To put the matter concisely, my failure to achieve advancement, following upon the introduction of my wife to a small community claiming (or aspiring to) a common European prestige, had many disastrous effects upon her attitude toward me, which had found its reflex in her influence upon my two sons. That influence has definitely been to pamper, to create a feeling of discontent, to prevent the development of self-reliance, with a consequent tendency to chronic nervous irritation, lack of control, a distorted and misleading impression of objective realities, and irresponsibility.

In my view, should similar factors have operated in the case of Ross, a more adequate and just method of dealing with the delinquent would be to place him under [illegible] and develop his faculties and develop a rational perspective. Perhaps a practical test of the feasibility of such policy would be to give him the direct choice.

Should this letter be found to be of any value, I would always be glad, of course, of any acknowledgment which would take cognisance of the position of my own two sons.

I have the honour to be,

Sir,

Yours faithfully,

Christopher W. Pawley.

In my view, should similar factors have operated in the case of Ross, a more adequate and just method of dealing with the delinquent would be to place him, under [illegible] supervision, for [illegible] where he would have an opportunity of developing his faculties and developing a rational perspective. Such a practical test of the feasibility of such policy would be to give him the direct choice.

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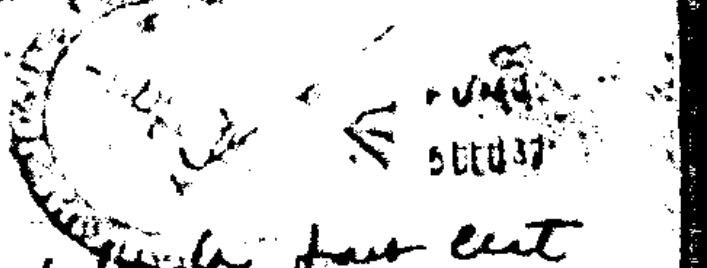
Sir,

Yours faithfully,

Christopher W. Pemberton.

To the Right Honble
Lord Hobhouse
Secy of
State for India
Whitehall

From Mr Egerton
Calcutta



Dear Sir

I am so ashamed that I have not written a short letter to Lord Ripon when in Simla that I venture to write a few lines to you instead. I am not in his right mind — It seems true he is really not to blame, but he accepts the responsibility for his acts and is entitled to it. I should.

But I have always considered in the Viceroy of India, deliberately in less than normal times — I saw the effect of the climate and late evening on Lytton & Dufferin, but hitherto I have not touched this one note in any way — but as an

To the Hon. Secretary
Lunacy Commission
Dec 6

From Mr Eyre
Medical Superintendent
Claybury

Dear Sir

I write to inform you that last night at about 8 o'clock a woman (Mary Ann Ross) was found in the right mind. It seems that she is nearly [illegible] but it is impossible to say at present whether she will recover or not. Dec 2/12

But I have thought it desirable to inform you of the circumstances under which she was found by [illegible] and to state the [illegible]

understanding on both sides of imputation. M of course in crime but no complete breach from – temporarily the reason applies.

When Ross died the deed he cannot have been sane.

Another point is – the agreement of considerable antiquity – his father (dead) – his mother married again – the Father was a Big Game Hunter.

Did not prosecute that fact among the list of the man entered the list to kill kill – the obsession from before realised? Hereby retrieve as to why the awful deed was conceived in moments [illegible] madness – we do not know what led him on – but we may form some idea.

My writing may be absolutely useless – but on the other hand it may be add to order Imprisonment – pleading for mercy and saving the unfortunate boy altogether to make my appeal I am sorry to –

Yours faithfully

(Mrs Jane Boyle

C. O.

Mr. Austin 3/12
Mr. Thomas 3/12
Mr.
Mr. Tomlinson
Sir D. Bushby
Sir C. Strachey
Sir O. Crosbie
Perm. U.S. of S.
Parly. U.S. of S.
Secretary of State

1827

Kenya

Pc 233

C.D.

D

Air Mail of 7 Dec.
No 558

Answered by

6 DEC 1932

DRAFT.

Kenya

No. 883

Governor.

I am ... [illegible] ...
... you an extract from the ...
... Parliamentary Debates (Hansard) ...
... containing a message from His ...
... Speech Conferment on March ...
... regarding the kind of ...
... which ...

... to give it ...
... consideration when you next ...
... generally in regard to the working ...
... of the Legislature and to the ...
... influence in particular which ...
... you may think it desirable ...
... in the light of the Defence ...
... Bill; if so, how far you ...

Cutting enclosed in Air Mail (Despatch No. 558)

trusted; whether the members of the
force were thanked for obtaining
the admission in each case of guilt, and,
if so, by whom.

3. A summary of your
reply on these points should be
communicated to me by telegraph,
and a full report should be
sent by the earliest possible
opportunity.

(Sgd.) P. CUNLIFFE-LISTER.

HOW JUNGLE SLAYER CONFESSED

ALL-NIGHT THIRD DEGREE QUESTIONS

From a Special Correspondent

NAIROBI, Thursday.

CHARLES WILLIAM ROSS, the 28-year-old son of Major Ross, the hunter, was sentenced to death here to-day for the murder of Miss Margaret Hepple, of Leeds.

With Miss Winifred Stevenson, of Glasgow, she was also in the Kenya Jungle when a motor-drive with Ross

A defence of insanity was rejected by the Court. There was no recommendation to mercy for the crime has shocked the whole colony.

I am able to reveal how that the trial is over, the way in which Ross' confession to the murder was obtained.

After lengthy interviews two members of the Kenya Defence Force were charged for obtaining the admission of guilt.

HAMMER STROKE

A long cane whip to a foot in the colony which the Defence Force had set up since enrolment for Miss Stevenson's case, but was not issued until a week after Miss Hepple's

A strong armed guard was chosen. Except the army to prevent people approaching where Ross was there.

He was seated on a "bed," or native stool, while, constantly questioning three men, had on this occasion only spoke.

One of the men in the spot held a watch in his hand. Every 15 minutes Ross was asked, "Where is Whisper?"

The questioning began at the evening after the Ross had been taken, tortured and weary, from searching the pit of the Mau-mau's stolen

At 8.30 Ross was [illegible] with [illegible] and the questioning [illegible] Meanwhile [illegible] every 30 minutes, by the [illegible] Ross was reminded of the one-legged man every time he began to [illegible] [illegible]



Miss M. Hepple

About 5 a.m. Ross threw up. He had [illegible] [illegible] [illegible]

COLONY AND PROTECTORATE OF KENYA.

IN HIS MAJESTY'S SUPREME COURT AT NAIROBI.

R E X

V.

CHARLES WILLIAM ROSS

Date of Trial:-

28th November to 1st December 1953.

I N D E X

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IN HIS MAJESTY'S SUPREME COURT OF KENYA

SESSIONS HOLDEN AT NAIROBI

Monday, 28th November, 1952

Before -

HIS HONOUR THE CHIEF JUSTICE
SIR JACOB BARTH

(and a Jury)

R. E. X

- v -

CHARLES WILLIAM ROSS

(Criminal Case No. 135 of 1952)

(Transcript of Shorthand Notes of Walter Lee and J.H.Gitsham Official Shorthand-writers to the Supreme Court of Kenya.)

MR A.D.A.MACGREGOR, K.C. (ATTORNEY GENERAL)
with him MR P.F.BRANIGAN, Acting Crown Counsel,
appeared for the Prosecution.

MR HUMPHREY SLADE, with him MR MICHAEL J. HOGAN,
appeared for the Accused.

P L E A

REGISTRAR: Charles William Ross, you are charged on an Information at the instance of the Attorney General on behalf of Our Lord the King that on or about the 6th day of October 1952 in the Rift Valley Province you murdered Margaret Elizabeth Keppie contrary to Section 187 of the Penal Code. How say you?

ACCUSED: I plead NOT GUILTY, Sir.

The following Jury was impanelled and sworn:-

1. L.P.ROBINSON
2. R.A.SUTCLIFFE
3. H.W.LANE
4. W.H.MACKENZIE
5. JAMES REZIN
6. J.H.PEDIER
7. E.C.PARKER
8. H.O.BLUNDEN
9. D.DEWAR
10. W.C.ARCHIBALD
11. H.NIEBERG
12. D.H.GENOA

There was one challenge by the defence.

Mr Genoa was elected Foreman.

THE ATTORNEY GENERAL OPENED THE CASE ON BEHALF OF THE PROSECUTION.

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6. J.H.PEDLER
7. E.C.PARKER
8. H.O.BLUNDEN
9. D.DEWAR
10. W.G.ARCHIBALD
11. H.NIEBERG
12. D.H.GENOA

There was one challenge by the defence.

Mr Genoa was elected Foreman.

THE ATTORNEY GENERAL OPENED THE CASE ON BEHALF OF THE PROSECUTION.

THE ATTORNEY GENERAL: — May it please Your Honour and gentlemen of the Jury, as you have just heard the accused stands charged before you with the murder in the Rift Valley Province near Nakuru on Thursday the 6th of October last of Miss Keppie. A murder, gentlemen, is defined in the Penal Code which codifies the local criminal law of this Colony as the causing of the death of another person by an unlawful act or omission of malice aforethought, and malice aforethought, among other things, is established by evidence of the knowledge that the act or omission causing death will probably cause the death of the other person. Furthermore, gentlemen, by the law of this Colony any person who is shown to have caused the death of another is presumed to have committed murder until the contrary is proved. In other words the duty which is imposed upon me, as representing the prosecution in this case, by law is that of showing that Miss Keppie was killed by the accused. If I do that, gentlemen, then it is for the accused in turn to show that that killing took place in such circumstances as to justify his killing her or under such provocation as to reduce that killing from murder to manslaughter. That, very shortly, gentlemen, is the legal position regarding a charge of murder in this Colony, and at this moment I do not conceive that it is necessary for me to say anything more to you on the purely legal aspect of the case. I shall come to the facts gentlemen.

The accused Ross is a young man of 20 years of age, only just 20 a few months ago, and he lives in Nakuru, where also there lives a family called Stevenson - Mr. and Mrs. Stevenson with a young daughter of 20 years of age, Miss Winnie Stevenson, and a son Donald. I will prove to you, gentlemen, that the accused and the son Donald were

THE ATTORNEY GENERAL OPENED THE CASE OF
BEHALF OF THE PROSECUTION.

There was one objection by the defence.

Mr. Jones was elected Foreman.

12.	D.H.GRAY
11.	H.MILLWARD
10.	W.G.ARCHIBALD
9.	D.DEWAR
8.	B.O.BLUNDEN
7.	P.O.GRIFFEN
6.	J.H.KEPPIE
5.	J.E.JONES
4.	M.N.MACKENZIE
3.	H.W.LANE
2.	R.W.SCOTCHER
1.	L.P.ROBINSON

The following jury was empanelled and sworn:-

ACCUSED: I plead NOT GUILTY Sir.

Penal Code. How say you?

Margaret Elizabeth Keppie contrary to Section 187 of the

on October 1955 in the Rift Valley Province, you murdered

DETAILS OF OFFENCE: Charge Statement: That on or about the 6th day

Information on the Charges of Two Witnesses Jointly on

Charles Kenneth Ross, you are charged on an

R. T. B. V

on terms of friendship and were in the habit of going out together shooting and for other forms of sport and amusement. I will call evidence, gentlemen, to show that not only was the accused on terms of friendship with Donald Stevenson, but that he had a very great admiration, a very real and pure admiration, for Miss Winnie Stevenson whom he had been heard to refer to as his ideal of a young girl.

Now gentlemen I will take you to the 26th Sept. last. On that date, gentlemen, the accused procured a Colt revolver, being careful to have the transfer from the previous owner duly approved by the District Commissioner as Licensing Officer, and to have a licence issued in his own name. That, gentlemen, is the 26th September. On the 27th September, the following day, you will hear that the accused went to Messrs. Thackrah in Nakuru and there purchased 100 rounds of ammunition .32 for that revolver. On Saturday the 31st October, the accused went to the lake side taking his revolver with him and on returning to the mess where he lived with three other young men, he explained that he had been out practising with his revolver and that he had made some very good practice and had fired off 47 rounds. He explained that the last one which was aimed at a branch split it and apparently gave him very great pleasure. The following day, Sunday, the accused was out with Donald Stevenson and returned with Donald Stevenson to Mrs. Stevenson's house. Mr. Stevenson was at that time absent in Kipi. Miss Keppie who was employed by Messrs. Hoyes & McKechnie of Nakuru was at that time staying temporarily with Mrs. and Miss Winnie Stevenson and while the accused was there that day Mrs. Stevenson will tell you that it is her impression that he learned that they meditated a trip to Nairobi (Mrs. Stevenson, Miss Keppie and Miss Winnie

Stevenson) that week end. Mrs. Stevenson will tell you that to the best of her recollection it was discussed as it was much in the mind of all of them. That gentlemen, is the Sunday.

I come now to the Tuesday. On that day, gentlemen, the accused, who is employed in the Accounts Branch of the Kenya Farmers' Association at Nakuru, approached one of the young men with whom he lives and asked him whether he could get him a car to take the accused through to Nairobi on Thursday the 6th October. He gave the impression, as you will hear, that he was going to Nairobi on Kenya Farmers' Association business, and that he was going alone. On the 6th October the accused learned that it was not possible for him to procure a car as he had hoped to do on hire from the Motor Mart, so early that morning, some time about 8.30, he approached another of his friends who messed with him and asked whether he might have his car, a box-body Chevrolet, to go through to Nairobi, and it was arranged that he was to hire the car to take him through to Nairobi that evening. He stated that he would return either on Friday night or Saturday morning as he had to be back at business on the Saturday morning. That, gentlemen, was somewhere about 8.30 on that morning.

The next stage, gentlemen, is that about 11 or 11.30 Miss Winnie Stevenson received a letter, which I will prove to you to be in the accused's handwriting and written on K.F.A. notepaper, inviting her to accompany him to the Pictures that evening, and as a postscript to that note is a suggestion that she should urge her brother Donald to come too. To that note Miss Winnie Stevenson replied that she was in rather an awkward dilemma as her mother and her brother Donald were going out to dinner

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and Miss Keppie was staying with them and she did not like to leave Miss Keppie alone. The reply to that was: "I think it is a very good suggestion of yours - bring Miss Keppie along."

Let us go back a day, gentlemen. I have told you how on the 4th October the accused had endeavoured to get a car from the Motor Mart. On the 5th October you will hear that he went to the Manager in Nakuru of Messrs. Choitram and ordered a number of goods, ladies silk shawls, scent, face powder, etc. and 4 cushions. That was on the 5th of October. On the 6th October having arranged for a car in the morning, having written those letters, we come to the afternoon and early evening. At that time in the afternoon a K.P.A. driver arrived for the car bringing a note from the accused asking for the car and the car was sent away. The driver took it away. A little later the accused arrived driving the car and announced that something had gone wrong with it. The owner went out. He found it was stopped and that there was nothing the matter with it, and the accused drove it round the banda so that the owner might see that he could drive. Shortly after the accused returned to the house. At that time he was wearing a blue blazer with his Public School badge on the pocket - Ashburton Grammar School badge. He changed into a new blue suit and had dinner and announced he was going. One of his fellow lodgers is a Mr. Maryon, who is a baker in Nakuru and who in the performance of his duties as a baker has to get up at 2 a.m. each morning. He suggested to the accused that it would be much better for him to go to bed and that he, Maryon, would call him at 2 o'clock and that he could then start and get into Nairobi in time for breakfast. The accused

and Miss Keppie was staying with them and she did not like to leave Miss Keppie alone. The reply to that was: "I think it is a very good suggestion of yours - bring Miss Keppie along."

Let us go back a day, gentlemen. I have told you how on the 4th October the accused had endeavoured to get a car from the Motor Mart. On the 5th October you will hear that he went to the Manager in Nakuru of Messrs. Choitrem and ordered a number of goods, ladies silk shawls, scent, face powder, etc. and 4 cushions. That was on the 5th of October. On the 6th October having arranged for a car in the morning, having written those letters, we come to the afternoon and early evening. At that time in the afternoon a K.F.A. driver arrived for the car bringing a note from the accused asking for the car and the car was sent away. The driver took it away. A little later the accused arrived driving the car and announced that something had gone wrong with it. The owner went out. He found it was stopped and that there was nothing the matter with it, and the accused drove it round the banda so that the owner might see that he could drive. Shortly after the accused returned to the house. At that time he was wearing a blue blazer with his Public School badge on the pocket - Ashburton Grammar School badge. He changed into a new blue suit and had dinner and announced he was going. One of his fellow lodgers is a Mr. Maryon, who is a baker in Nakuru and who in the performance of his duties as a baker has to get up at 2 a.m. each morning. He suggested to the accused that it would be much better for him to go to bed and that he, Maryon, would call him at 2 o'clock and that he could then start and get into Nairobi in time for breakfast. The accused

said "No", he was going at once, he knew two families in Nairobi where he would be welcome and could get a shake-down for the night. After dinner the accused left. You will hear that before dinner he called at the K.F.A. Petrol Pump and ordered six gallons of petrol which was put into two tins, that those tins were collected after the attendant had left that pump and they were found there empty the following morning. You will hear also, gentlemen, that at 5.45 that evening the accused called with the car on the local branch of another Indian shop, Messrs. Hari Singh Gujarbhai, and there ordered a very long and comprehensive list of goods: 4 rugs, a large amount of food stuffs, a considerable amount of drink, mineral waters, fruit, plates, glasses; obviously the type of thing that one would order if one was contemplating a lengthy camp away from the ordinary amenities of civilisation. The same afternoon, gentlemen, he paid a second visit to Messrs. Chotiram, where, as I have already explained, the previous day he had ordered a certain number of goods, and on this second occasion he ordered and took away with him further articles: two shawls, a bottle of scent, a tin of powder and safety pins. You will then hear that somewhere about 8.50 he arrived at Mrs. Stevenson's house and left about that hour accompanied by Miss Keppie and Miss Winnie Stevenson. And there, gentlemen, my description must for the time at least end.

I can suggest to you what happened but it is no part of my task to make suggestions, it is my duty to prove facts to you, gentlemen. What happened in the course of that night and the following morning, no one knows. There sits the only person who does know. He is the only person who returned from that ill-fated expedition.

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Mrs. Stevenson sleeps in the same room with her daughter, Winnie. She retired that night, having every reason to believe that her daughter and Miss Keppie had gone under the escort of the accused to the Pictures, about 10.30 and she left the light burning in her room so that her daughter might find a light when she came back. She wakened in the early morning befor dawn, found that the light was still burning and that her daughter had not returned. She at once called her son Donald and sent him to make enquiries. She then got up herself and then for the first time she discovered on the table, placed where she would find it without any difficulty, a letter which you will see, gentlemen, and which will be identified as in the handwriting of the accused, in which he said: "Dear Mrs. Stevenson, Miss Keppie and Winnie and I have decided to go to Nairobi, so I am afraid we won't see you until Saturday."

On the morning of the Saturday, gentlemen, the alarm had been given, a search was going on, and I must take this episode of the case from two angles. I will take you first, gentlemen, to the house of Major Whitridge the step-father of the accused who lives at Maji Mazuri. Early that Saturday morning he had heard that all was not well. He called the accused's elder brother, a boy of some 15 months older than accused, and asked him to go off and look for his brother, the accused, suggesting that it might be wise to look both on the edge of the Menengai Crater and along the side of the lake. The brother set off. The distance from Major Whitridge's house to the point to which I am leading you is some 40 odd miles, and having covered that distance on his motor cycle, his brother found the accused standing at the side of the road

alongside a green box body Chevrolet car, the front wheels of which were ditched and the engine of which was still running. From the position in which the car was found it would appear that the accused had been endeavouring to drive it from the bush across this ditch on to the road again - the main Nakuru-Ravine road - and that he had failed to do so and got the front wheels ditched. With his brother's assistance he was unable to get the car out and the engine was stopped and the brother suggested that the best thing to do was to go into Nakuru and get help. The accused would not have that, so he got on to the back of his brother's motor cycle and they set off for his step-father's house at Lanet Kamri. On the way the brother noticed that the accused was keeping a hand in his pocket. He asked him why and he said he had his revolver there and that it was loaded. Some 3 miles from the house the road becomes very bad. At that point the accused said he would sooner get off and walk. His brother therefore went on ahead and had time to make a report to the father with the result that when the accused finally came to the house, Major Whitridge, standing near the door, caught his arm, his brother put his hand in his pocket and took from it a Colt revolver fully loaded in each of the six chambers. As I have already told you the accused was then taken, after a conversation with his mother, to the Police and was handed over into custody.

Let us go back to Nakuru, gentlemen. There, as I have just stated, the alarm had been given and search was being made. The news of the discovery of the car 7 miles from Nakuru and on the Ravine road, speedily got about and the District Commissioner, Mr. Hodge, among others, proceeded at once to the spot.

Car tracks were seen going from the road into the bush and those were followed up. They proceeded for roughly a mile off the road into the bush and at the end of that mile there was found a clearing in the bush and in that clearing were all the foodstuffs, cutlery, crockery and glass which the Accused, as I will prove to you, had purchased and taken delivery of from Hari Singh, and also those shawls, scents, powder and other things which he had purchased and taken delivery of from Choitram. In the car when it was found was a rifle and ammunition, which we shall identify as being the accused's, his mackintosh and a number of other small items and articles, all of which can be identified as the property of the accused. A further search was made, gentlemen, About 100 yards from the site of the camp there is a gully with a sheer drop of some 25/30 feet. At the foot of that gully was found the body of Lieutenant Hepple. The body was brought up to the top of the gully again with the aid of ropes, was taken into Nakuru and there a post mortem examination was held. You will hear the Doctor tell you that death was caused by a gun shot wound in the back of the head, that the bullet which caused that gun shot wound was a .32 or .303, and that death was instantaneous. You will hear, further, gentlemen, from the Government Analyst who has conducted a long and elaborate series of experiments of a kind that I daresay many of you will recollect played such a large part in the conviction of the two men, Brown and Kennedy, for the murder of Police Constable Gutteridge in 1928, experiments the result of which is to enable the Government Analyst with all conviction and on his oath to depose emphatically that the cartridge case which was found at the Camp was fired from the accused's revolver and from no other revolver, and further that the bullet which was

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extracted from Miss Keppie's head was discharged from that revolver and from no other.

After the discovery of the body, gentlemen, the Police visited the house in Nakuru in which the accused lived and there they found a blue Ashburton Grammar School blazer, the blazer which you will hear the accused had been wearing that very afternoon of Thursday the 6th Oct. In the pocket of that blazer there was a very strange and I shall suggest to you later a very significant list, a list prepared by the accused. It shows the various preparations he had deemed it necessary to make and carefully to note. He records the necessity of getting petrol; he records the articles which he proposes to get from each of the two Indian stores; and at the end there is a more intimate and personal list, one of the items of which is: revolver and 52 rounds of ammunition.

You will recollect, gentlemen, that a few minutes ago I mentioned the purchase of 100 rounds and the accused's statement that on the preceding Saturday he had fired off 47 rounds. That leaves 53. Where the other one had gone to I suggest does not concern us at all. The accused in his own list which I hope to convince you, gentlemen, was obviously prepared for the purpose of this escapade, talks of 52 rounds of ammunition. What happened to those 52, gentlemen? I will call evidence which I am confident will convince each one of you that of those 52 rounds, 50 were discovered intact either in the pocket of the accused, in the six chambers of the revolver which he had in his pocket, or in a cleaning box which will be identified as his and which was left at the camp. Of those 52 rounds, gentlemen, I can account in that way for 50, which when found were intact; and I account for the other two,

gentlemen, also. Each of them was fired from the revolver. Each of them will be produced before you. As to each of them you will hear the emphatic testimony of the Government analyst that each was fired from the accused's revolver and from no other revolver. And, gentlemen, you will hear that one of those two was extracted from the head of Miss Keppie.

That, gentlemen, as briefly as I can put it, is the case for the Crown. It is largely circumstantial as you will see, but I am confident that as the case unfolds itself, as witness succeeds witness, it will be one of those cases in which circumstantial evidence is the strongest and most cogent form of testimony that can be produced. So much for the facts, gentlemen.

Before I resume my seat, before I call my first witness, there are two matters on which I desire to touch very briefly indeed. One is another matter of law which unfortunately I deem it to be my duty to put before you as shortly as I can. It is this, gentlemen, in law every person is deemed to be sane and responsible for his actions until and unless the contrary is proved. It is no part of my task, today, gentlemen, to call evidence of the sanity of the accused. [illegible] this charge as sane in law, as responsible in law, as any one of us. The burden of proving legal insanity in any case rests upon the accused and not upon the Crown as represented by myself.

Before I sit down, gentlemen, I would say only this. It is happily very seldom indeed that the Colony is shocked by a case of this nature. It is happily very seldom indeed that so much public interest is aroused by any case in Kenya, and I would ask you, gentlemen, with

all the earnestness at my command to forget all the prejudices and presuppositions which you may have formed in this case, to put out of your mind entirely everything that you have read about the case, everything that you have heard about the case. I take it that you the terms of the oath which only a few minutes ago you took - the oath which each of you took to give a true verdict according to the evidence. It is according to the evidence and according to nothing else, gentlemen, that I ask you to approach this case - approach it with an open mind bearing in mind only two matters. Firstly, that the accused must be presumed to be innocent until he is proved to be guilty, and that it is by duty, as representing the Crown, to satisfy you of his guilt beyond any reasonable doubt. If you entertain a reasonable doubt then he is entitled to it, and, gentlemen, insofar as the issue of murder is concerned, insofar as that issue stands alone, divorced from any suggestion that the accused may or may not be responsible for his actions, I would remind you of this - that a conviction must be based and ought to be based on the strength of the case for the Crown and not on the weakness of any defence that may be put up for the defence.

I will now, gentlemen, call my first witness, who is Sub-Inspector May.

JAMES ROWE MAY, sworn:

EXAMINED BY MR BRANIGAN.

Q You are an Assistant Inspector of Police stationed at Kampi ya Moto?

A Yes, sir.

Q On the 10th October did you apply before the Resident Magistrate at Nakuru for a warrant of arrest of Charles William Ross?

A No, sir.

Q Do you know who did?

A No.

COURT: I am merely tendering him for cross-examination.

NO CROSS-EXAMINATION

CHIEF JUSTICE: Did you in fact arrest the accused?

A I did not, Sir.

CHIEF JUSTICE: Thank you.

(The witness withdrew)

EMILY STEVENSON, sworn:

EXAMINED BY MR BRANIGAN.

Q You are the mother of Winnie Stevenson?

A Yes.

Q She was 20 years of age?

A Yes.

Q And was employed at Baigety & Co. at Nakuru?

A Yes.

Q I want to bring your mind to Sunday the 2nd October when the accused, C.W.Ross, came to your house. Do you remember that day?

A I do.

Q He came I believe with your son Donald?

A Yes.

Q They had been out shooting together?

A Yes.

Q For how long did Ross remain in your house to the best of your recollection?

A About one hour, say?

Q Can you remember whether you had a discussion or talk in the presence of Ross with regard to your proposed trip to Nairobi the following week-end?

A I cannot remember quite clearly but it is quite possible because it was very much in our minds.

Q That is as far as you can recollect?

A Yes.

Q I want to bring your mind back to the following Thursday, the 6th October. Your daughter Winnie was at work that day as usual?

A Yes.

Q At about 11 o'clock in the forenoon of the 6th did you receive any communication from your daughter?

A Yes.

Q What was it?

A It was a letter from Ross inviting her to go to the Pictures that evening.

Q You are acquainted with the hand-writing of Ross?

A Yes. That is the letter I received. (Ex.1).

(Put in and marked Exhibit 1).

Q The letter is addressed to Miss W. Stevenson, Dalgety & Co. Ltd.; it is written on Kenya Farmers' Association notepaper and is dated 6th of the 10th. 1952. (Learned Counsel reads letter Ex.1). "Dear Winnie, If per chance you are not engaged this evening may I have the pleasure of taking you to the pictures. Should the reply be in the affirmative, would 8-30 to-night be a convenient time to collect you. Yours, G.W.Ross". And there is a post-cript: "Please encourage Donald to come along".

CHIEF JUSTICE: Are you able to say that is in the accused's hand-writing?

A Oh. Yes.

DUNIGAN: You had I believe staying with you at the time a friend of Winnie's, a Miss Margaret Koppie?

A Yes.

Q As a result of that communication which your daughter received from Ross did you have a conversation with Winnie with regard to the invitation? Did you give her any instructions whether she should go or not?

A I replied to that note saying that if you wish to go to the Pictures with Ross it is quite all right. Something to that effect.

Q And as a result of that did your daughter write a letter

to Ross that day?

A Yes. That is it.

(Letter put in and marked Exhibit 2).

Q It is a letter dated 6 - 10 - 52. (Learned Counsel reads letter, Ex. 2). "Dear Bill, Very many thanks for your note. I should love to have gone to the pictures with you this evening but it is rather awkward as Don and Mother are going out to dinner and I can't leave Miss Keppie up at the house alone. Would you mind if she came along too? or would you rather leave it over till one day next week? Let me know what you decide. I think I am going to Nairobi for the weekend - so I'm quite excited. Cheerio and again many thanks, Yours in haste, Winnie". The letter is addressed to C.W. Ross Esq. C/o The K.F.A. Ltd. (To witness) As a result of that letter which your daughter wrote to Ross, Ross replied on the same day?

A Yes. The same morning.

Q Is that in Ross's handwriting? (Letter handed to witness)

A Yes.

Q Your daughter received that letter?

A Yes.

(Letter put in and marked Exhibit 3.)

Q Do you know what time of day it was?

A Before lunch.

Q It is written on K.F.A. notepaper and is dated the same day. (Learned Counsel reads Letter Ex. 3). "Dear Winnie, I suggest it is a stout idea of yours regarding Miss Keppie and I shall therefore be up to collect you at 8-30 p.m. Yours C.W. Ross". (To witness) Did you hand these notes to Inspector Waldie subsequently?

A Yes.

A I did.

CHIEF JUSTICE: Where did you get them from, Mrs Stevenson?

A Winnie sent them to me in the morning.

MANIGAN: Coming to the evening of that day, at about 6-15 you and your son Donald went out to dinner as you had proposed doing?

A Yes.

Q At that time was Miss Keppie dressed to go out or was she preparing to go?

A She was quite ready.

Q And your daughter Winnie?

A I told the boys to get ready before I went to get the girls?

Q And your daughter Winnie?

A She was not ready.

Q She was preparing?

A Yes.

Q When did you return from this dinner? At what time?

A About 10-15.

Q And I think you went straight to your bedroom?

A I did.

Q Your daughter shared your bedroom with you?

A Yes.

Q She had not returned by that time?

A No.

Q When did you awaken?

A About 5 o'clock the next morning.

Q And what did you notice?

A I realised that something was wrong because the lamp was not in its proper place, according to the usual custom in the house, and I immediately got up. It is always the usual thing to put the lamp in a certain place.

Q And not being there you felt something strange had happened?

A Yes.

Q What did you do?

A When I realised Minnie was not in her bed I immediately went to Miss Kepple's room and found she also was not there.

Q Your husband I believe was at Nairobi at that time?

A Yes.

Q What did you do then, when you found Miss Kepple had not returned?

A I went at once to my son and told him that the girls had not returned and he suggested going down to the Lake.

Q Did he go?

A Yes. He went to the Lake.

Q That was before sunrise?

A Yes.

Q What did you do when Donald had left to search for the girls?

A I told the boys to get water boiling and went to my room to dress.

Approximately how long?

Q Did you notice anything else?

A Not until I came from my room. I saw a letter on the table.

Q Was that the tabel in the sitting-room?

A Yes.

Q To whom was the letter addressed?

A To myself.

Q Is that the letter which you found on the table? (Letter handed to witness).

A Yes.

Q It is signed by him?

A C. W. Ross. (Letter put in and marked exhibit 4).

(Learned Counsel reads letter Ex. 4). "Dear Mrs Stevenson, As both Winnie and Miss Kepple have persuaded me to take them down to Nairobi for the week-end I am afraid that we shall not see you again until Sunday. Yours, C.W.Ross". This letter is not written on K.F.A. notepaper.

CHIEF JUSTICE: That is in the accused's handwriting, is it?

A Yes.

KANIGAN: Is that notepaper yours?

A No.

Q Now previous to this Thursday had Ross ever taken your daughter Winnie out to your knowledge?

A No.

Q To the best of your recollection on how many occasions previous to the Sunday had Ross been a visitor at your house?

A Roughly three or four times.

Q That would be within the previous three years?

A Yes. Three years.

Q But previous to this and some time ago when Ross was a very young lad did he stay with you?

A Yes. I was running a boarding-house down at the lake.

Q And Ross was attending the school at Nakuru?

A Yes.

Q And he stayed with you?

A For a short time.

Q Approximately how long?

A I cannot remember. Certainly not more than a term.

CHIEF JUSTICE: What year was that?

A 1926, I should think.

RANIGAN: Do you remember what aged lad he was at that time?

A I don't remember.

Q At all events it was at least 1926 if not before?

A About 1926.

Q The other question which I have to ask, Mrs Stevenson, is: Can you remember what clothes your daughter was wearing that night when she was going out with Ross?

A Yes. A silk voile dress, blue; a dark blue serge coat; brown fancy shoes, high heels.

Q Since your daughter and Miss Keppie left your house on that Thursday night have you seen either of those two girls?

A No.

CROSS-EXAMINED BY MR. HOGAN.

Q Have you any idea at all, Mrs. Stevenson, as to what your daughter's attitude to the accused was?

A Just as a friend.

Q She knew him only slightly, I take it?

A Well she knew him as a boy in the town and she rarely saw him except passing through. As we came up from town she would pass him walking to his place. That is all.

Q And you have no reason to suspect that her feelings towards him were anything other than friendly?

A Oh no.

Q What was the accused's general character like?

A I have always heard him spoken very well of in Nakuru.

Q Now when the two girls failed to return on that Friday morning, you were naturally full of anxiety. Tell me, would you have been less anxious if they had been out with anybody other than Rosa? Did that increase your anxiety at all?

A Oh no.

Q Now that letter which you found on Friday morning - could that letter have been on the table on the previous evening when you came home without your noticing it?

A Yes.

Q Now on the previous Sunday evening did the accused stay to dinner at your house?

A No.

Q During what hours was he there?

A Oh they would be back about 6.15 for a sundowner and he would be leaving about 7 I should think.

Q Could you tell me if Miss Keppie wore pyjamas on that evening while he was in the house?

A That I could not say, but she had dinner in pyjamas. I don't know that she wore them that night.

Q Do you think it probable that accused may have seen her in pyjamas that evening?

A I cannot say unless she wore them that evening as usual for dinner. She did not always wear them but other than that he certainly could not.

Q And your daughter - she did not wear pyjamas?

A That I cannot say. They both had beach pyjamas - smart affairs. They wore them for dinner and sometimes they did not.

NO RE-EXAMINATION.

(The witness withdrew)

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NO RE-EXAMINATION.

(The witness withdrew)

BITOLO S/O INYONNYI affirmed:

EXAMINED BY MR. BRANIGAN.

Q Are you a cook working for Mrs. Stevenson?

A Yes.

Q You have been working there for a long time, have you?

A 5 years.

Q Do you know the accused?

A Yes I know him - Mr. Ross.

Q Do you remember on Thursday the 6th October when Miss Stevenson and Miss Keppie disappeared? You remember that day?

A Yes.

Q Now on that evening did the accused come to Mrs. Stevenson's house?

A Yes.

Q At what time did he come?

A 8 p.m.

Q Do you know how he arrived whether on foot or by car?

A He arrived by motor car.

Q Had Miss Stevenson and Miss Keppie finished their dinner or were they having dinner when he arrived?

A He arrived after dinner, after they had had their coffee.

Q Do you know into what room he came in the house, whether the dining room or the sitting room?

A In the sitting room.

Q Do you know for how long, what time, he remained there?

A Half an hour.

Q Did he leave alone or leave with somebody else?

A He went with the two ladies.

Q Did you hear the car go when they left?

A Yes.

Q Before that day, had you ever seen Ross at your Mistress's house before?

A Yes.

Q Now I want you to restrict your answer to the last two or three years. I don't want you to tell us whether he had been to the house more than 3 years ago, but within

the last two or three years I want you to tell us how many times Ross had been in your Mistress's house?

A During the last year(12 months) I have seen him twice. I saw him going to the bush with "bwana kidogo" (Donald Stevenson).

Q And on those two occasions you say he came to the house?

A Yes.

Q Now a long time ago, more than 4 years ago, do you remember was Ross staying at your Mistress's house? When the accused was quite a young lad.

A Yes.

Q Would you be able to tell us for how long he remained there as a small boy?

A About 3 months.

CHIEF JUSTICE -- What house was that?

A Hotel (Boarding house).

Q How long ago was that, do you say?

A 5 years ago.

CROSS-EXAMINED BY MR. HOGAN

Q When the accused left the house with the two girls, who left last?

A Miss Stevenson left last. The accused left first and he was followed by Miss Keppie the strange lady.

Q You are perfectly certain of that?

A Yes.

Q Did you see a note on the sitting room table that evening?

A I did not see it - the boy saw it.

Q What do you mean - the boy saw it?

A Okolo saw it.

NO RE-EXAMINATION.

(Judge's notes of evidence read over and found correct)

(The witness withdrew).

OKELO S/O WERE affirmed:

Tendered for cross-examination only.

CROSS-EXAMINED BY MR. HOGAN.

Q You remember the evening when the accused came to the house of your mistress and went away with Miss Keppie and Miss Stevenson?

A Yes.

Q Did you see a note on the sitting room table that evening?

A I did not.

Q Did you see a note on any table?

A No.

NO RE-EXAMINATION.

(The witness withdrew).

RONALD INGLEBY SHAW, sworn:

EXAMINED BY THE ATTORNEY GENERAL.

Q You are employed by the Motor Mart & Exchange at Nakuru?

A Yes.

Q How long have you known the accused Rose?

A About three months.

Q Is that three months from to-day or three months before the incident we are investigating?

A About three months before.

Q I believe that on the 1st October you started messing with him?

A Yes.

Q Besides the accused, who else was in the mess?

A Mr Maryon, Mr Price and Mr Milligan.

Q I think I am correct in saying that Mr Maryon, Mr Price and the accused lived together?

A Yes.

Q Mr Milligan and you lived elsewhere, but had your meals with them from the 1st October?

A Yes.

Q I want you to take your mind back to Tuesday the 4th October, the Tuesday after you went to the mess. Do you remember the accused having a conversation on that day with Mr Price?

A Yes.

Q What was the subject?

A On borrowing a car from the Motor Mart.

Q What exactly was it you heard?

A He asked Price to ask his brother who works at the Motor Mart whether there was a car obtainable for hire the following Thursday the 6th.

Q Did he give any indication what he wanted the car for?

A He did not exactly say but we understood he wanted to go to Nairobi on K.P.A. business.

Q What do you mean when you say we understood?

A From his words when he said he wanted the car.

Q On the Thursday morning did you again see the accused?

A Yes.

Q Had he a conversation with you about the car?

A Yes.

Q Will you tell His Honour and the Jury what that conversation was?

A He came down and said he was unable to borrow a car, would I lend him mine; and I said if he would take it on a hire system he could have it, and he agreed.

Q You agreed to let him your car?

A Yes.

Q Did he say what he wanted it for?

A Yes. To go to Nairobi to sell his motor cycle.

Q And did he intimate when he was going?

A The same night.

Q Where did the conversation take place?

A In the garage at the Motor Mart.

Q At about what hour?

A Approximately 8-30 in the morning.

Q What was the next next thing that happened?

A I was working latish at the garage and I remember looking at my watch between 5-30 and 6-30 in the evening. I left the garage approximately 20 minutes to 6 and I went to my bands.

Q Where was your car in the meantime?

A The car had been called for by a K.F.A. driver.

Q About what time did he come for the car?

A About 4-30.

Q Did he bring any authority with him?

A A note addressed to me.

Q And from whom was that note?

A From Ross, the accused.

Q Have you got that note now?

A No. I destroyed it.

Q Can you recollect what the contents of that note were?

A Yes. It said "Dear Kay, Here is the driver for your car. Please let him have it as soon as possible. Yours, C.M.Ross".

Q And you allowed the driver then to take the car away?

A Yes.

Q You have already told us that about an hour later you yourself left the garage and went back to your house. Did you after you reached your house see either Ross or your car again that evening?

A Yes. About 6 o'clock Ross came to me in the banda and said that the car had stopped a little way along the road, would I go along and see what the trouble was. I went along and I started it without any difficulty and I drove it back to my banda.

Q Was Ross in it when you drove it back?

A Yes.

Q And did you see him drive it off?

A Yes.

Q What type of car was it?

A Chevrolet Box Body 1928 model, No. B.8655.

Q Colour?

A The bonnet was a faded blue.

Q What time would it be when he drove the car away from your banda?

A About half past [illegible].

Q Can you recollect how he was dressed at that time?

A No.

Q When did you next see the accused?

A Between 7 and 7-15 the same night down at the mess.

Q That is about your normal dinner hour?

A Half past 7.

Q Were you all present on that occasion? Mr Maryon, Mr Price, Mr Milligan, and yourself?

A Mr Milligan was out to dinner. The rest were there.

Q Did anything strike you about the accused that evening?

A Only that he did not eat his usual meal but seemed a little anxious to get off to Nairobi.

Q You thought he was in a hurry to get away?

A Yes.

Q Was there any conversation during the dinner between the accused and any one of you about the journey?

A Not that I can remember.

A Yes.

Q You have already told us that about an hour later you yourself left the garage and went back to your house. Did you after you reached your house see either Ross or your car again that evening?

A Yes. About 6 o'clock Ross came to me in the banda and said that the car had stopped a little way along the road, would I go along and see what the trouble was. I went along and I started it without any difficulty and I drove it back to my banda.

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A About half past 6.

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A No.

Q When did you next see the accused?

A Between 7 and 7-15 the same night down at the mess.

Q That is about your normal dinner hour?

A Half past 7.

Q Were you all present on that occasion? Mr Maryon, Mr Price, Mr Milligan, and yourself?

A Mr Milligan was out to dinner. The rest were there.

Q Did anything strike you about the accused that evening?

A Only that he did not eat his usual meal but seemed a little anxious to get off to Nairobi.

Q You thought he was in a hurry to get away?

A Yes.

Q Was there any conversation during the dinner between you the accused and any one of you about the journey?

A Not that I can remember.

Q Before dinner?

A Yes.

Q What was it?

A Mr Maryon has to get up at 2 in the morning to go to work and he suggested to the accused that he should go to bed and he would give him a call and he could get up at that time.

Q The idea being that he could go round Nairobi about breakfast time?

A Yes.

Q And did you hear the accused say anything in answer to that suggestion?

A Yes. He said there were two families he could stay with in Nairobi.

Q After this rather brief dinner did he go off?

A Yes.

Q Dressed as he had been before, or did he change?

A He was dressed in a dark blue suit, blue and white striped shirt, black crepe-soled shoes. He wore a Trilby hat.

Q Was that a costume that he normally wore or was it one he kept for special occasions?

A It was a fairly new suit.

Q And when he started off dressed as you describe did he take anything with him?

A A suitcase.

Q Would you recognise that suitcase?

A Yes. This is it.

(Suitcase put in and marked Exhibit 5).

Q And you saw him take that away that evening?

A Yes.

Q I think there are rope straps on the outside which you are unable to identify?

A Yes.

Q Did he ever suggest he was taking anyone with him to Nairobi?

A No, sir.

Q Now let me come to Saturday evening the 8th. I think about lunchtime you got certain information and in consequence of that information you went out along the Ravine Road?

A Yes.

Q What did you discover?

A My car, B.8655, was in the ditch. The front wheels were in the ditch.

Q Which way was the car facing?

A Facing the road.

CHIEF JUSTICE: At right angles?

A Yes, Sir.

ATTORNEY GENERAL: Then if the front wheels were in the ditch and it was facing the road, does that mean it must at one time have crossed the ditch and turned round in order to get into that position?

A Yes, sir.

CHIEF JUSTICE: How do you know that?

ATTORNEY GENERAL: (to witness): Could that car have got into the position in which you found it unless it had been driven across the ditch, turned round and tipped into the ditch, or backed across the ditch and the rear wheels had got in the ditch?

A It must have crossed the ditch to reach the position in which I found it.

CHIEF JUSTICE: It need not necessarily have crossed the ditch at that point?

A No, my lord.

ATTORNEY GENERAL: Was the car in working order?

A No, Sir. I had to have it towed back.

CROSS-EXAMINED BY MR SLADE

CHIEF JUSTICE: It was on the Ravine Road?

A Yes, Sir.

Q On the right-hand side?

A Yes, going to Ravine.

SLADE: During the three months that you knew the accused did you get to know him well?

A Not particularly well.

Q You were not much more than acquainted with him?

A No.

Q Did you get to know him well enough to form any opinion?

A I formed the opinion that he was an extremely nice young fellow; very polite. It was never too much to do anything for one; that is at the mess.

A No.

Q What did you discover?

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A No.

Q Did you get to know him well enough to form any opinion?

A I formed the opinion that he was an extremely nice young fellow; very polite. It was never too much to do anything for one, that is at the mess.

No.

Q Did he ever indicate any particular liking for solitude, to your knowledge?

A He seemed to like to go out by himself.

Q Did he ever actually seem to shun company?

A No.

Q Simply fond of going out by himself?

A Yes.

Q Did you ever have an opportunity of learning what kind of views he held about things in general?

A He was usually inclined to listen to the general conversation at the mess.

CHIEF JUSTICE: Rather than take a part, you mean?

A Yes, Your Honour.

ADE: Did you think that was because he was not interested, or not qualified to express opinions?

A I think he was just interested.

Q You do not know what sort of views he held?

A I think he just had general views.

Q He did not strike you as being particularly childish?

A No.

Q Did you ever go out shooting with him?

A Only once.

Q Was his behaviour in any way unusual?

A It was night at the time and he left the car. I did not accompany him and did not see him until he got back.

Q Did he seem excited when he got back?

A Not particularly.

Q Have you ever heard him describe shooting incidents?

A Not that I can remember.

Q In the mess did he ever join in any discussion of members of the opposite sex?

A He seemed to just hold Miss Stevenson as an ideal.

Q Did you know him before?

A Only as from 1st October.

Q Are you in a position to say how many times he wore that suit he went out in?

A No.

Q Did he ever indicate any particular liking for solitude, to your knowledge?

A He seemed to like to go out by himself.

Q Did he ever actually seem to shun company?

A No.

Q Simply fond of going out himself?

A Yes.

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A Not particularly.

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A Not that I can remember.

Q In the mess did he ever join in any discussion of members of the opposite sex?

A He seemed to just hold Miss Stevenson as an ideal.

Q Did you know him before?

A Only as from 1st October.

Q Are you in a position to say how many times he wore that suit he went out in?

A No.

Q You know it was a new one?

A Fairly new.

Q On the occasions on which you saw him in the morning, afternoon and again at dinner on the 6th did his behaviour at any time strike you as abnormal?

A No.

Q He was not in the least excited except at dinner?

A Just a little excited at dinner. That was all.

Q When he came in and told you the car had stopped and you went out and started, could you explain why it had stopped?

A I cannot. I simply got in, pulled out the choke a little, and it started perfectly. It may have stopped through changing over on petrol or some mechanical trouble like that.

Q He might have stalled it?

A Yes.

Q Did he offer any explanation why he thought it had stopped?

A No. He just said it had stopped.

Q Are you sure when he went out after dinner that evening he only carried a suitcase and rug?

A No.

Q Are you sure that the shirt he wore was a blue and white striped shirt?

A Yes.

Q Can you say whether he ever knew Miss Keppie?

A I could not say.

A To the Last Question

RE-EXAMINED BY THE ATTORNEY GENERAL

Q Mr. Shaw, you found him a very good fellow, you say?

A Very.

Q And not a very good conversationalist, is that correct?

A He liked to sit and listen.

Q Is there anything in your [illegible] normal about that?

A No.

Q What exactly do you mean that he was a little excited at the end of dinner that evening? Was it any more than you would normally have expected from a man anxious to get away?

A No.

Q It was getting late?

A It was getting late.

Q Was that what you put his excitement down to?

A Yes.

(The witness withdrew).

ATTORNEY GENERAL -- Your Honour asked a question a moment ago about the site of the road in which the car was found. I have plans, Your Honour, prepared by Police officers that possibly might be of assistance to the Jury and I would suggest that we might call the two Police officers concerned merely to prove and put in those plans at the moment. They give a mass of other evidence which will come rather out of sequence at this moment. I think my learned friends will agree to that.

CHIEF JUSTICE -- I think that would be a good course.

STEWART LEE VINCENT sworn:

EXAMINED BY MR. BRANIGAN

Q You are an Assistant Superintendent of Police stationed at Nakuru?

A Yes.

Q You are acquainted with the area around the Menengai Crater leading from the Ravine road about 7 miles out?

A I am.

Q On the 4th November last did you prepare a sketch plan of this area around Menengai Crater?

A On the 31st October.

Q Will you tell His Honour what you did?

A May I see the plan?

HE CHIEF JUSTICE -- Is that the plan you prepared?

A Yes.

(Put in and marked Exhibit No.66).

R. BRANIGAN -- What scale -- 1"?

A One inch to the mile.

Q And from that sketch plan you made a number of certified copies?

A I did.

Q And you signed them?

A I did.

Q Is that your certification at the bottom?

A Yes.

Q Now Mr. Vincent, I want to take you through this map so that it may be elicitated to the Jury where the particular spot is where: From where you marked the township on it there is a dotted line going in a N.W. direction which presumably is the Ravine road.

A Yes, that is so.

Q And just above where a road branches off to Rongai there is an arrow pointing to what you call road to Camp.

A Yes.

Q In fact there is no road there at all but it is a track made by cars?

A That is so.

Q Now prior to this Thursday the 6th October, as far as you were aware there was no road there at all leading to this what you call the camp.

A To the best of my knowledge - no.

Q And the distance between that point and the Nakuru township is approximately 7½ miles?

A 7½ miles.

Q Now approximately what is the distance from the Ravine-road from the point where the road turns off to the camp to the camp, the actual camp where the car was?

A 9/10ths of a mile from the junction of the main Eldama Ravine-Nakuru road to what is known as "Ross's Camp".

Q At the point that you have marked "camp" there is what appears to be a gully penetrating inwards from crater?

Ravine.

Q Will you tell His Honour what you did?

A May I see the plan?

HE CHIEF JUSTICE -- Is that the plan you prepared?

A Yes.

(Put in and marked Exhibit No.[illegible])

R. BRANIGAN -- What scale is it?

A One inch to the mile.

Q And from that sketch plan you made a number of certified copies?

A I did.

Q And you signed them?

A I did.

Q Is that your certification at the bottom?

A Yes.

Q Now Mr. Vincent, I want to take you through this map so that it may be elicited by the Jury where the particular positions are. ... Now there you marked the township on it there is a dotted line going in a N.W. direction which presumably is the Ravine road.

A Yes, that is so.

Q And just above where a road branches off to N.Ngai there is an arrow pointing ... what you call road to Camp.

A Yes.

Q In fact there is no road there at all but it is a track made by cars?

A That is so.

Q Now prior to this Thursday the 6th October, as far as you were aware there was no road there at all ... this what you call the camp.

A To the best of my knowledge - no.

Q And the distance between that point and the Nakuru township is approximately 7½ miles?

A 7½ miles.

Q Now approximately what is the distance from the Ravine-road from the point where the road turns off to the camp, the camp, the actual camp where the car was?

A 9/10ths of a mile from the junction of the main Eldama Ravine-Nakuru road to what is known as "Ross's Camp".

Q At the point that you have marked "camp" there is what appears to be a gully penetrating inwards from the crater?

A Yes.

A Yes to the camp.

Q What distance is the uttermost point of that?

A 102 paces.

Q And at the juncture between the Ravine road and the road to the camp on the right hand side of the Ravine road there is a deep water shed or water drain?

A Running alongside the main Eldama Ravine road there is a deep ditch about 8 feet deep.

Q And this track which you have called the road to the camp passes over that ditch?

A It does.

NO CROSS-EXAMINATION.

(The witness withdrew).

HAROLD GEORGE BEVERTON sworn.

EXAMINED BY MR. BRANIGAN.

Q You are an Assistant Inspector of Police?

A Yes.

Q Stationed at?

A Njoro.

Q Now you made a sketch plan of the area around the Menengai Crater between the Eldama Ravine road and the Crater itself?

A On the 12th October.

Q That is the original sketch plan you made?

A That is the sketch plan I made.

(Put in and marked Exhibit No.35)

Q And from that plan ~~xx~~ did you prepare certified copies which you signed?

A The copies are correct.

Q This map, Your Honour, is made in greater detail than Mr. Vincent's. What is the scale?

A It was not prepared exact to scale although I have taken measurements of the various points.

Q What approximately is the scale?

A It would be about 7 inches to a mile.

Q Now along the left hand side of this plan there are two straight lines and a dotted line on the right hand side - what does that represent?

A The two straight lines represent the Ravine road from Nakuru to Ravine.

A Yes to the camp.

Q What distance is the uttermost point of that?

A 102 paces.

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NO CROSS-EXAMINATION.

(The witness withdrew).

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Q What approximately is the scale?

A It would be about 7 inches to a mile.

Q Now along the left hand side of this plan there are two straight lines and a dotted line on the right hand side - what does that represent?

A The two straight lines represent the Ravine road from Nakuru to Ravine.

Q And the dotted line represents the ditch?

A Yes.

Q Going away from those two straight lines to the right at a right angle approximately there are 2 dotted lines in a direct towards the crater - what does that represent?

A That represents the track of the car B.8655 which I noticed in the c...ch at the spot where it joins the road.

Q Well then those two dotted lines reach a point which you have marked by a circle of dotted lines - what does that represent?

A That represents the camp, namely Ross's camp, where on arriving I found a large number of provision boxes.

Q You will give evidence of that later, not now. And the distance approximately by your measurement?

A By the speedometer exactly 9/10th of a mile.

Q To where the camp was?

A Yes.

Q Now coming away from that dotted circle there is one dotted line leading down towards the crater?

A That is so.

Q What does that point which it reaches represent?

A That path leads to the spot where the body of Miss Keppie was recovered.

Q Were you there?

A I was not there but the spot was pointed out to me the following day by the District Commissioner, of Nakuru, Mr. Hodge.

Q CROSS-EXAMINED BY MR. SLADE

Q I see you describe that dotted line from the camp to the crater as a path. Of course it is a path now, but are you in a position to say that it was a path?

A The country at that spot is sparsely wooded and long grass and there were certain indications, definite indications that someone had gone along there.

Q When did you first see the country?

A I noticed the path in that direction on the 8th instant (October) but I did not follow it at that time.

Q When was the first time you followed it up?

A The following night.

Q I take it a very good many people have been going to and fro over it?

A I noticed no other paths but there were two converging at that point.

Q When you saw it, did it look as if many people had gone over it?

A I should imagine several had done.

(The witness withdrew)

RAYMOND HENRY PRICE sworn.

EXAMINED BY THE ATTORNEY GENERAL.

Q You work at the [redacted] for Mart & Exchange in Nakuru?

A Yes.

Q How long have you known the accused Ross?

A About 5½ years.

Q And how long have you actually been living with him?

A The last 14 or 15 months.

Q Is that before the incident that we are investigating now?

A Yes.

Q You have a room to yourself, Mr. Price?

A No we all sleep in the same room.

Q The accused, Mr. Maryon and yourself?

A Yes.

Q I think it was on the 1st October that two other members of the mess joined - is not that so?

A Yes.

Q Mr. Milligan and Mr. Shaw?

A Yes.

Q I want you to throw your mind back to Tuesday the 4th October. Do you remember a conversation with the accused on that day?

A Yes.

Q What was it about, Mr. Price?

A He asked me whether I was able to get a car from the Motor Mart saying that he wanted to go to Nairobi.

Q Did he tell you when he was going to Nairobi?

A On the Thursday night possibly returning next day.

Q He said he wished to go on the night of Thursday, the 6th and possibly return the following day.

A Yes.

Q Did he tell you if anyone was going with him?

A No.

Q What did he say about that?

A I think he meant he was going by himself.

Q Did you make enquiries about a car?

A Yes and I was told there was not one available.

Q On the afternoon of Thursday the 6th, did you again see the accused?

A Yes.

Q Where was that?

A At the top of our shamba.

Q About what o'clock?

A About 6.30.

Q How was he dressed then, can you tell me?

A He had a school blazer, shorts and a soft felt hat and stockings and shoes.

Q You are sure that he was wearing a blue school blazer?

A Yes.

Q Is that the blazer, Mr. Price? (produced)

A Yes.

(Put in and marked Exhibit No.6)

Q I think later that evening you saw him in the mess at 7 p.m.

A Yes. I also saw him somewhere round about 7. He happened to be passing in the car. I was returning from a walk and I recognised the car. I could not recognise him definitely but I saw the car.

Q Whose car was it?

A Mr. Shaw's car.

Q And you formed the impression that it was being driven by the accused. Is that correct?

A Yes.

Q Did you see him about 7 o'clock?

A It was round about 7 when I saw him in the car.

Q Shortly after that did you again see him and have a conversation with him?

A We did not have any conversation. I cannot remember any conversation.

Q In the mess?

A Oh! later on. Yes.

Q You saw him in the mess and I think you had a conversation with him then?

A Oh yes yes.

Q What was that about?

A I asked him whether he was taking a rifle down to Nairobi with him and he said he might as well. He might see something on the road.

Q Did he tell you when he was starting for Nairobi?

A Straight after dinner.

Q Did you hear Mr. Maryon make any remark to him?

A Yes, Mr. Maryon said he thought it would be rather a good idea if he gave him a call at 2 in the morning so that he could go to Nairobi in the morning.

Q Is that the hour Mr. Maryon usually gets up at?

A Yes.

Q What did Ross say to that?

A He thought he wanted definitely to start after dinner as he wanted to be down at Nairobi at night.

Q Did he dine with you?

A Yes.

Q And after dinner what did he do, Mr. Price?

A Just went off straight after dinner.

Q Dressed just as you had seen him earlier?

A I believe he was in his shirt sleeves during dinner.

Q And then did he go and change after dinner?

A He put on his coat and I heard him tell the shamba boy to collect his stuff.

Q What suit was he wearing?

A Blue serge.

Q Was that the suit he usually wore, Mr. Price?

A

Q Shortly after that did you again see him and have a conversation with him?

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A He put on his coat and I heard him tell the shamba boy to collect his stuff.

Q What suit was he wearing?

A Blue serge.

Q Was that the suit he usually wore, Mr. Price?

A

A Only on special occasions.

Q And after you heard him ask one of the boys to collect his stuff and take it to the K.F.A.

A Yes.

Q Did Ross himself take anything away?

A He may have taken the gun himself.

Q Did you see a suit case?

A Yes.

Q Who was carrying that?

A I did not see the shamba boy go away but I saw the suit case on the bed.

Q Will you look at that suitcase (Ex. 5). Have you seen that suitcase before?

A I have certainly seen one similar to that.

Q And whose is that?

A Ross's.

Q Had the accused to your knowledge got a revolver?

A Yes.

Q Where was it?

A I had seen it with the previous owner Mr Bowles and I had seen Ross with it himself.

Q When you say you had seen Ross with it had he it in his pocket or where?

A He showed it to us just a few days earlier. I recognised it when he brought it in.

Q Had he to your knowledge any ammunition for that revolver?

A Yes. One day he had two packets of ammunition [illegible] holster.

Q What do you mean by [illegible]? How many?

A Two packets of 50 each.

Q And had he any cleaning tackle?

A Yes.

Q You have seen that yourself?

A Yes.

Q Is <u>that</u> revolver similar to the revolver which you saw? (Revolver handed to witness)

A Yes, it is similar.

Q Can you say whether it is the same revolver or not?

A I cannot say whether it is the same one or not.

(Colt revolver put in and marked Exhibit 7).

Q What can you tell us about that box? (Box handed to witness).

A I can only say I have seen him using this box.

Q You can definitely say that is Ross's box?

A I cannot definitely say. He certainly had a box like that.

(Box put in and marked Exhibit 8)

Q Similar contents?

A Yes.

Q You never made any enquiries?

A No. I may have been told later.

Q Where did he keep that box?

A In the top drawer of his chest of drawers.

Q Where did he keep the revolver?

A The same place, I believe.

Q Had you any conversation the previous Saturday with Ross about this revolver?

A Yes. He said he was going down by the lake for a spot of shooting and when he returned and I asked him how he had been doing he said he had fired at a tin something like 47 rounds and as he was coming away he made rather a good ~~hit~~ shot by hitting a rather thick branch which he thought had been rather a good effort.

Q The was on the Saturday, the day Milligan and Shaw joined your mess?

A Yes.

Q Will you have a look at that holster, Mr Price. (Holster handed to witness).

A It was one similar to that. I cannot say definitely.

(Holster put in and marked Exhibit 9).

Q As far as you know they are exactly alike?

A Yes.

Q When the accused left on the evening of the Thursday did he take ~~the revolver~~ a rifle with him?

A Yes.

Q Do you know what kind?

A A Mannlicher 256.

Q You have seen it before?

A Yes.

Q Will you look at that rifle. (Same handed to witness).

A That is the same one.

(Rifle put in and marked Exhibit 10).

CHIEF JUSTICE: Whose rifle is that?

A It belonged to Mr Thorpe of the K.F.A.

ATTORNEY GENERAL: After the disappearance of Ross did you at any time look in his chest of drawers for the revolver or for the box of cleaning materials?

A No.

Q You never made any enquiries?

A No. I may have been told later.

Q Where did he keep that box?

A In the top drawer of his chest of drawers.

Q Where did he keep the revolver?

A The same place, I believe.

Q Had you any conversation the previous Saturday with Ross about this revolver?

A Yes. He said he was going down by the lake for a spot of shooting and when he returned and I asked him how he had been doing he said he had fired at a tin something like 47 rounds and as he was coming away he made rather a good ~~hit~~ shot by hitting a rather thick branch which he thought had been rather a good effort.

Q The was on the Saturday, the day Milligan and Shaw joined your mess?

A Yes.

Q Will you have a look at that holster, Mr Price. (Holster handed to witness).

A It was one similar to that. I cannot say definitely.

(Holster put in and marked Exhibit 9).

Q As far as you know they are exactly alike?

A Yes.

Q When the accused left on the evening of the Thursday did he take ~~the revolver~~ a rifle with him?

A Yes.

Q Do you know what kind?

A A Mannlicher 256.

Q You have seen it before?

A Yes.

Q Will you look at that rifle. (Same handed to witness).

A That is the same one.

(Rifle put in and marked Exhibit 10).

CHIEF JUSTICE: Whose rifle is that?

A It belonged to Mr Thorpe of the K.P.A.

ATTORNEY GENERAL: After the disappearance of Ross did you at any time look in his chest of drawers for the revolver or for the box of cleaning materials?

A No.

Q You never made any enquiries?

A No. I may have been told later.

CROSS-EXAMINED BY MR HOGAN

Q I gather that you knew Ross probably better than anyone else in the mess?

A Yes.

Q Of what sort of disposition was he?

A He was a quiet sort of fellow; he rather wanted to keep to himself. I went out to the cinema with him occasionally. I don't think he went out with anyone else.

Q Was he a sulky type?

A No, not unless he was annoyed.

Q Did he get easily annoyed?

A We may have had one or two small arguments; he would not speak for two or three days.

Q But did he strike you as being easily upset about little things?

A No, I should not think.

Q Did you not have an argument with him about a dog at one time?

A No.

Q Did you frequently go out hunting with him?

A When I first came to the country.

Q What was he like out hunting?

A He seemed a rather keen hunter.

Q You would not put it higher than that?

A He was a pretty good shot.

Q Would you say extremely keen on tracking?

A Yes.

Q Was there anything peculiar about his method of tracking?

A He had a rather uncanny way of tracking. When I first came out to the country he struck me as being rather wonderful.

Q Would it strike you as being rather like a native method of tracking?

A I don't think so.

Q When he was out shooting was he keen on killing for killings sake?

A Certainly when he saw a buck he wanted to shoot it there and then.

Another follow in the cross.

Q Pretty well everything?

A Not everything. He would rather track it up close and then shoot it.

Q Have you ever seen him kill anything and leave it?

A Yes.

Q Frequently?

A Not frequently.

Q Quite often?

A Yes. He may have taken a back leg as meat for the boys.

Q Do you know if he frequently left his kills?

A Yes.

Q Did he get very excited when he shot anything?

A He certainly was excited.

Q Rather unusually excited?

A Yes. He struck me as more excited than the average person.

Q Did he ever describe his hunting exploits to you?

A He has often remarked he has been out on his own and shot several buck.

Q Did it ever strike you as a large number?

A Yes.

Q What was the largest you can recollect?

A I cannot recollect by himself. But he has been out with a crowd and shot 21.

Q You have no idea how many of the 21 he shot?

A No.

Q When he talked about that was he excited?

A No.

Q Not very vivid in his description?

A No.

Q When he shot those 21 buck did you call him a murderer, or did anyone in the mess call him a murderer?

A I think it was mentioned as slaughterer.

Q Did you call him that?

A No,

Q Who did?

A Another fellow in the mess.

Q Prior to the acquisition of this revolver, do you know if he had another?

A I have never seen one.

Q Did he ever mention having one at home?

A No.

Q In connection with getting that revolver from Mr Bowles did he tell any lies?

A Yes. He said he had won it in a bet and later said he had paid Shs.100/- for it.

Q Did he strike you as being a bit of a liar?

A We have certainly found out things later on which we know were not true.

Q You do agree he was a bit of a liar?

A Yes,

Q Unusually so?

A No. Not unusually.

Q Do you think he was more of a liar than most people?

A Yes.

Q Do you know if he had been trying to buy this revolver some considerable time before he actually did acquire it?

A I do not know.

Q You sleep in the same room with him. Did you notice anything peculiar about his habits. Did he get up early in the morning?

A He used to go to Jim. at 6-30 for about maybe 4 or 5 months.

Q You are sure it was Jim.?

A He told us it was Jim.

Q You do not actually know where he did go?

A No.

Q Did he strike you as a fellow with very strong sexual instincts?

A No.

Q The reverse?

A Yes.

Q What gave you that impression?

A He never talked about women and I should not say he was unusually excited in the morning.

Q I presume you occasionally did talk about women in the mess. What was his attitude during these conversations?

A He never used to discuss them.

Q Did he listen?

A Yes.

Q Attentively?

A Yes.

Q Did he ask questions?

A Invariably did so.

Q What did you think of the questions he asked? Did they strike you as being peculiar?

A Personally I thought that he knew all along but he liked to hear them mentioned.

CHIEF JUSTICE: He knew the answers, you mean?

A Yes, Sir.

[illegible]AN: You thought he assumed a sort of ignorance which was not there?

A Yes.

Q What type of book did Robs usually read?

A He used to read love-books; adventure.

Q Was there anything striking at all about his reading?

A No.

Q What about his ideas? Did you have any clear idea what he thought about sex?

A No.

Q What were his aspirations in general? What did he think about most?

A I never heard him say anything. He was rather keen on the Foreign Legion - up to October.

Q Did he strike you as a boy who on occasions had to exercise control over himself?

A No.

Q Did you think he was capable of exercising considerable control over himself?

A I think so.

Q You felt he had a strong will?

A Yes.

Q Just prior to this tragedy had he been working rather hard?

A Yes.

Q A considerable amount of overwork?

A Yes. Quite a lot.

Q And did you notice any difference in his behaviour for the last 6 months? Did he change at all?

A He seemed to be doing a real good hard job of work.

Q I mean his general character. Did you notice any change?

A No.

Q What was his attitude to Miss Stevenson?

A He was very keen on Miss Stevenson, and when we talked about other girls nobody was as good as Miss Stevenson.

Q She was a sort of ideal to him?

A Yes.

Q That suit in which he left hat Thursday evening. Could you say about how long he had worn it before that night?

A It may have been four or five times.

Q When he bought that revolver he never made any attempt to conceal it from the other people in the mess?

A No.

CHIEF JUSTICE: Who did you say he bought the revolver from?

A Mr Bowles.

MAN OF JURY: Can the witness say for what reason he considered Ross had a wish to join the Foreign Legion - whether there was any reason for such a wish?

A He had been reading books lately about the Foreign Legion and he thought it was rather a good idea if he could get into the Foreign Legion.

CHIEF JUSTICE: Would you describe that as from a romantic motive or any other?

A Romantic.

NO RE-EXAMINATION.

(The witness withdrew)

WAKHONYE S/O WASAKWE affirmed:

EXAMINED BY ATTORNEY GENERAL.

Q You work for the Kenya Farmers Association at Nakuru?

A Yes.

Q What work do you do?

A I sell petrol.

Q Do you keep a sales book?

A Yes.

Q Will you look at that book (produced) - Is that yours?

A Yes.

(Put in and marked Exhibit No.11)

Q How do you know the accused?

A Yes.

Q Do you remember him coming to you on the 6th [illegible]?

A Yes.

Q Did he buy anything from you?

A Yes, petrol.

Q How much?

A 6 gallons.

Q Did he pay money for it or sign your book?

A He signed the book.

Q Is that (Exhibit 11) the book he signed?

A Yes.

Q What did you do with the petrol. Had he got a car there?

A No. I put it in two drums.

Q I think there was a 4-gallon and a 2-gallon drum.

A Yes.

Q About what time was it became to you?

A I gave him petrol at 4.30.

Q What do you mean by saying you gave him the petrol. What did you do with the two drums?

A I left them outside.

Q What time did you go off work that day?

A 4.30.

(447)

Q And when you came back the next morning did you find the drums?

A Yes in the big office.

Q Was there petrol in them or empty?

A Empty.

CROSS-EXAMINED BY MR. HOGAN

Q Now this note which Ross signed, there appears at the end of it "98.50". What was that figure?

A That was his number.

NO RE-EXAMINATION.

The Court adjourned until 2.15 p.m.

HARRY LOUIS MARYON sworn:

EXAMINED BY ATTORNEY GENERAL.

Q I think you are a baker, Mr. Maryon, in Hamilton?

A Yes, Sir.

Q And you have been living for some time with the accused?

A Yes, Sir.

Q And Mr. Price has lived with you also?

A Yes, Sir.

Q ~~Mr. Price and I~~ Can you tell us when you began to live together?

A Mr. Price and I at the beginning of June of last year and Ross joined us in the beginning of August 1931.

Q And we have been told Mr. Maryon that at the beginning of October of this year --

A Either August or September - I am not prepared to say, Sir.

Q We have been told that at the beginning of October Mr. Shaw and Mr. Milligan came to join your mess though they did not live with you?

A No, Sir.

Q And we have also been told that Mr. Price, yourself and the accused shared a bedroom?

A Yes, Sir.

Q On Tuesday the 4th October this year do you recollect any conversation that the accused had with Mr. Price?

A Yes, Sir.

Q What was that about?

A About the loan of a car.

CHIEF JUSTICE -- When was that?

A On Tuesday the 4th October.

ATTORNEY GENERAL -- Did he say what he wanted the car for?

A He inferred the Kenya Farmers Association business.

Q Did he say where he wanted to go?

A Nairobi.

Q On Thursday the 6th did you see the accused again?

A Yes.

Q Did you all dine together that day?

A All with the exception of Milligan.

Q The other 4 of you dined together?

A Dined together.

Q Did you know whether the accused had managed to hire a car by that time?

A Yes, Rex (Mr.Shaw) told me he was borrowing his car.

Q Was the accused there when Rex told you?

A I am not in a position to say.

Q How was the accused dressed when he went out after dinner that day?

A Blue serge suit and Trilby hat carrying a mack.

Q What sort of a suit was this blue serge - was it one he usually wore?

A A new suit.

Q Do you know whether the accused had a rifle?

A He had one and sold it.

Q Do you know whether at the time we are considering the accused was in possession of a rifle?

A I do not.

Do you know whether at that time he was in possession of a revolver?

A Yes, Sir.

Q How do you know that?

A He showed me and I saw him cleaning it.

Q About how many days previous to the Thursday 6th October was it that he showed you the revolver?

A I am not in a position to say with any surety.

Q Was it only a few days or some considerable time?

A A few days.

Q Do you know where he kept that revolver?

A Yes, Sir. In the top drawer of the chest of drawers in the bedroom.

Q What else did he keep in that drawer - any ammunition there?

A I never saw.

Q Did he never show you any?

A One day at the lunch table he showed us 100 rounds and a holster.

Q You said a month ago you saw him cleaning the revolver. Had he cleaning material?

A Oh yes in a box.

Q And do you know where he was in the habit of keeping that?

A In the same drawer.

Q Will you look at that revolver, first, Mr. [illegible] Do you recognise that? (produced)

A That (Exhibit 7) is identical with the revolver that was in his possession and that (Exhibit 8) is definitely the box that I saw and handled.

Q And the holster (Exhibit 9)?

A Similar.

Q Identical with that which he showed you?

A Yes.

Q Before we pass on may I go back to the mack you spoke of. Will you look at this one here please (produced)?

A That is the mackintosh.

Q That is Ross's mackintosh?

A Yes.

(Put in and marked Exhibit No.30)

Q You have told us that after dinner on the night of Thursday the 6th October, Ross left?

A Yes, Sir.

Q Can you say how he went? Do you know whether he went on foot?

A

A I am not in a position to say with [illegible] surety.

Q Was it only a few days or some considerable time?

A A few days.

Q Do you know where he kept that revolver?

A Yes, Sir. In the top drawer of the chest of drawers in the bedroom.

Q What else did he keep in that drawer - any ammunition there?

A I never saw.

Q Did he never show you [illegible]?

A One day at the lunch table he showed us [illegible] and a holster.

Q You said a moment ago you saw him cleaning the revolver. Had he cleaning material?

A Oh yes in a box.

Q And do you know where he was in the habit of keeping that?

A In the same drawer.

Q Will you look at that revolver, first, Mr. Bryon. Do you recognise that? (produced)

A That (Exhibit 7) is identical with the revolver that was in his possession and that (Exhibit 8) is [illegible] the box that I saw and handled.

Q And the holster (Exhibit 9)?

A Similar.

Q Identical with that which he showed you?

A Yes.

Q Before we pass on may I go back to the mack you spoke of. Will you look at this one here please (produced)?

A That is the mackintosh.

Q That is Ross's mackintosh?

A Yes.

(Put in and marked Exhibit No.10)

Q You have told us that after dinner on the night of Thursday the 6th October, Ross left?

A Yes, Sir.

Q Can you say how he went? Do you know whether he went on foot?

A

A He went on foot accompanied by the shamba boy.

Q Did he take anything with him beyond the mackintosh?

A The boy carried a bag and a blanket strapped to it.

Q Will you look at Exhibit 5. ~~that is xxxxxxxxxxxx~~

A That is the suit case.

Q What kind of blanket was it?

A A dark Scotch plaid thing. I am not in a position to recognise the blanket.

Q Was it of a similar nature to those (produced)?

A Similar kind. (Exhibit 28 - 5 rugs)

Q Mr. Maryon - the accused did not return that night?

A To the best of my knowledge, No, Sir.

Q And I think you would have known - you sleep in the same room?

A Yes. He was definitely not there when I got up at 2 a.m.

Q In connection with his absence had you occasion to look in the drawer in his room?

A No Sir not till after I heard what ----

Q In consequence of something you heard, did you in fact look in the drawer?

A I did.

Q Which drawer was that?

A The one in which he usually kept the revolver and the cleaning material.

Q Was the revolver there?

A No, Sir.

Q Was the box of cleaning material there?

A No, Sir.

Q Will you look at that blazer, Mr. Maryon, please. (Exhibit 6) Do you know that?

A Yes.

Q Whose is that?

A Rossi's.

Q When did you last see him wearing that?

A I am not in a position to say.

Q

A He went on foot accompanied by the shamba boy.

Q Did he take anything with him beyond the mackintosh?

A The boy carried a bag and a blanket strapped to it.

Q Will you look at Exhibit 5. ~~that is the xxxxxxxxxxxx~~

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Q In consequence of something you heard, did you in fact look in the drawer?

A I did.

Q Which drawer was that?

A The one in which he usually kept the revolver and the cleaning material.

Q Was the revolver there?

A No, Sir.

Q Was the box of cleaning material there?

A No, Sir.

Q Will you look at that blazer, Mr. Maryon, please. (Exhibit 6) Do you know that?

A Yes.

Q Whose is that?

A Ross's.

Q When did you last see him wearing that?

A I am not in a position to say.

Q

Q. Did he wear it from [redacted] to time about the house and Ishamba?

A Occasionally.

Q I think it was you Mr. Maryon who handed that to the police?

A It was.

Q On what date was that, can you recollect?

A No, Sir.

Q Was it when the Police first visited the house?

A The police first visited the house on Friday which would be October 7th and that was after the week [redacted] that was handed to the police.

Q As the property of Ross?

A Yes.

How did you [redacted]

Very well indeed.

You liked him?

Very much indeed.

[redacted]

No, I did.

Did you have [redacted] to ride?

Yes.

For a long time?

Two or three days.

Did he have any [redacted]

Over a little [redacted]

That was one particular [redacted]

Yes.

What was that about?

Pony.

Was it rivalry [redacted]

Yes.

Something very small?

Very small indeed.

Q. Did he wear it from time to time [illegible] the house and shamba?

A Occasionally.

Q I think it was you Mr. Mervyn who handed that to the police?

A It was.

Q On what date was that, can you recollect?

A No, Sir.

Q Was it when the Police first visited the house?

A The police first visited the house on Friday which would be October 7th and that was after the week end that was handed to the police.

Q Is the property of Ross?

A Yes.

How did you [illegible]

Very well indeed.

You liked him?

Very much indeed.

But did you ever [illegible] on occasions even though

No, I did not.

Did you never know [illegible]?

Yes.

For a long time?

Two or three days.

Did he have any [illegible]

Over a little argument [illegible]

That was one particular [illegible]

Yes.

What was that about?

Rou[illegible]

Was it rivalry [illegible]

A Yes.

Q Something very small?

Very small indeed.

And yet he

CROSS-EXAMINED BY MR SLADE

Q Mr Maryon, I think I am right in saying you knew the accused pretty well?

A I am not in a position to agree with you. I do not agree with that.

Q How is that? You lived with him for 14 or 15 months.

A Quite true. But my hours of duty are different, and except at meal-times we saw little of each other.

Q Had it been anyone else do you think you would have got to know him better?

A Probably.

Q Because he was probably of a rather secretive disposition?

A Yes, he was.

Q Did he seem to prefer his own company?

A I should say yes.

Q How did you get on with him?

A Very well indeed.

Q You liked him?

A Very much indeed.

Q But did you ever find he was difficult to get on with on occasions even if you liked him?

A No, I did not.

Q Did you never know him to sulk?

A Yes.

Q For a long time?

A Two or three days.

Q Did he have any cause for his sulks?

A Over a little argument we had.

Q That was one particular argument?

A Yes, over the animal with a knife.

Q What was that about?

A Dogs, quickly an

Q Was it rivalry between two dogs - your dog and his?

A Yes.

Q But in spite of that he came up with a knife?

Q Something very small?

A Very small indeed.

Q And yet he sulked for two or three days?

A It may have been my fault. We just did not speak and I do not say who spoke first and who last.

Q But if you did not give him any encouragement?

A The same applies to me.

Q Did that ever happen at any other time?

A Not to my recollection.

Q Neither to you nor anyone else you knew?

A He might have had one or two shauris with Price. That is not my business.

Q Did you ever notice he showed these sulks with anyone else for small causes?

A Only with Price. If you live with two people and you sit down and you are the only one who makes conversation it is fairly obvious something is wrong.

Q Did you ever go out shooting with Ross?

A Once or twice.

Q Did you think there was anything curious about his behaviour when going out shooting?

A He was very excitable.

Q Before he shot or after he shot?

A After.

Q He was calm and keen before he shot?

A Very keen indeed.

Q And quiet?

A Yes.

Q What form of excitement did his take? A quivering excitement or talkative?

A I should say the excitement of a hunter who has got a bag.

Q But describe how it showed itself in him?

A As soon as the animal was down he would run for it with a knife.

Q Would he simply confine himself to killing the animal as quickly as possible?

A As far as I recollect I was present only once and I believe the animal was dead before we reached it.

Q But in spite of that he ran up with a knife?

A Yes.

A I should say roughly speaking it was 1-30 on a Saturday lunch-time. Price and I came down together to the mess for lunch and Ross was just going off on his motor-cycle and said he was going to Entebbe, and so far as I remember after he went Price and I had a few words because Price said he could not do it and I said Why doubt the man's words. I did not then know how far it was. When I knew the distance I said it was impossible.

Q Did he say he had been when he came back?

A He said he had been to a place called Tororo.

Q Did you believe that?

A Yes.

Q But then you did not know how far away Tororo is?

A I had not the foggiest notion.

Q I think there was another incident when you found he told lies and that was the occasion when he showed you his revolver?

A Oh! yes. Quite so.

Q He showed you that of his own accord?

A Yes.

Q And was it of his own accord that he told you how he had got it?

A Yes.

Q And next day was it of his own accord that he told a different story?

A Yes.

Q What did he tell you the first time?

A He told me he won it in a bet from a man called Bowles and the next day that he had bought it for Shs.100/- from the self-same man.

Q Would you say in other instances, even if you cannot remember details, he was a liar?

A To the best of my recollection, no.

Q You would agree, I think, that in these two instances they were apparently quite senseless lies?

A Unless there was some hidden motive.

Q But no apparent motive?

A No.

Q I want you to tell me something about his attitude towards women. Did you gather anything from him of that attitude? Was he fond of the society of women?

A No. The reverse.

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A No.

Q I want you to tell me something about his attitude towards women. Did you gather anything from him of that attitude? Was he fond of the society of women?

A No. The reverse.

Q Did he ever speak of Miss Keppie?

A Never so far as I can remember in my hearing with the exception of coming after he had visited Mrs Stevenson's house and saying he had seen Miss Keppie there.

Q Did he say he had seen Miss Keppie in pyjamas?

A He did.

Q You noticed that at the time?

A It struck me as being odd.

Q Because it was not like him to mention things like that?

A No, I suppose it was not.

Q And did it strike you that she had made some impression on Ross?

A No.

Q In examination you said he had sold his rifle. Can you remember about when that was?

A No. I could not remember.

Q Not at all?

A Not at all.

Q Can you remember whether he had more than one rifle?

A With the exception of the K.D.F. rifle I only saw him with one.

Q Did he ever seem to you cruel in any way?

A In some of his talking of shooting I considered it cruel, but what I consider cruel many people perhaps would not.

Q You could not remember the exact particulars of his talk which you thought cruel?

A I cannot remember.

Q Did you ever see him cruel, to natives?

A I saw him give a boy a hiding one night.

Q Only once?

A To the best of my knowledge only once.

Q Was it a savage hiding?

A No, hardly.

Q Did Ross have a good appetite?

A Always.

Q Would you describe it as marvellous?

A It was the appetite of a healthy growing young man. Nothing extraordinary.

Q You would not describe it as marvellous?

A Hardly marvellous.

Q Did you notice any change in him during the six months preceding this incident on the 6th October?

A No, I do not think so.

Q Do you know if he started doing more work than usual at the K.P.A.?

A That I am not in a position to say.

Q Did he talk to you about his work?

A Sometimes.

Q But not particularly much during those last six months?

A No.

Q At dinner on the 6th did he seem unusually excited?

A No.

Q Did he finish his dinner?

A No. He left in the middle of the second course.

IN OF JURY: Can the witness say what period of time elapsed between the setting out and the return of the accused at the time when he was supposed to have gone to Tororo?

A To the best of my knowledge he left at 1-30 and was back somewhere about 4 o'clock on Sunday afternoon.

[redacted]-EXAMINATION

(Judge's notes of evidence read over and found correct)

(The witness withdrew)

RAM RATHA SETHI (Hindu) sworn:

EXAMINED BY THE ATTORNEY-GENERAL.

Q You are a lawyer for Hari Singh Sujabhai [illegible]?

A Yes, Sir.

Q You see the accused in the dock over [illegible] know him?

A Yes, Sir.

Q Has he been a customer of yours for [illegible]

A He was buying for cash but not on [illegible]

Q And he came to you on the afternoon [illegible]

A Yes, Sir.

Q And did he [illegible]

A Yes, Sir.

Q Will you look at [illegible] Now, [illegible] he brought to you? (sample)

A Yes, Sir.

Q That is dated [illegible]

KEMP JUSTICE -- Is that the [illegible] list?

ATTORNEY-GENERAL -- Yes, Sir. [illegible] the A.V.A. Order [illegible]

(Put in and marked Exhibit No. 12.

Q That was received [illegible] yesterday?

A Yes, Sir.

Q Did you supply those articles?

A Yes, Sir.

Q What time was it [illegible]

A [illegible] came it was [illegible]

Q And the order [illegible]

A Yes, Sir.

Q Are they [illegible]

A Witness indicates [illegible]

(Put in and marked Exhibits A, B [illegible] D.

Q A torch and 36 spare batteries - [illegible] you supply that also?

A Yes, Sir.

Q Is that the torch (produced)?

A Yes, Sir. (put in and marked Exhibit No.24)

Q Large glasses?

A Yes, Sir.

Q Knives, spoons, forks, soup plates - did you supply all of those?

A Yes, Sir.

(These all form part of Exhibit No.14 contained in several wooden cases)

Q Will you look at that rope? (produced) Did you among other things supply 56 yards of rope? Is that the rope you supplied?

A It was 5½ lbs in weight. Similar rope.

(Put in and marked Exhibit No.14.A)

Q Did you notice who that order was purported to be signed by?

A Yes.

Q Who was that?

A It was signed by Mr. C. W. Ross and made the signature of Mr. Bennett.

Q Do you know Mr. Bennett's signature?

A Yes, Sir.

Q Is that his signature?

A No, Sir.

Q Did you speak to Ross about that signature?

A Yes, Sir.

Q What did ~~xxxxxx~~ he say to you?

A He said he was too busy and the order has been made out on the instructions of Mr. Bennett.

Q Did he tell you what the order was required for?

A For a grand dinner at the time of his departure.

Q Did he say where the dinner was?

A At Rongai.

Q What time did he take the goods away?

A In the evening at 7.

Q And how?

A In the car.

Q What sort of a car was it?

A A box body with screens all round.

Q Do you know what make of car it was?

A I do not know.

Q You know it was a box body car?

A Yes, Sir.

You subsequently took that order up to Mr. Bennett?

A At the time of his departure Mr. Ross told me that the order (? dinner) was to be given on Friday night. Of course the following morning in that order there was some fruit which we could not supply, in consequence of that I telephoned to the K.F.A. and Mr. Bennett asked me to take the order to them.

Q And you took the order to Mr. Bennett the next morning?

A Yes and gave it to Mr. Bennett.

Q Can you say those are the types of knives, forks and spoons you supplied (produced)?

A. Yes.

(Marked Exhibit No.14.B)

CROSS-EXAMINED BY MR. HOGAN

Q You knew from the outset that the signature at the foot of that order (Exhibit No.12) was not Mr. Bennett's?

A Yes, Sir. Mr. Bennett is on our permanent list and is a permanent customer and I recognise it veryv well.

Q Was there any attempt to make you believe it was Mr. Bennett's signature?

A No. Mr. Ross told me that he made out the order himself and signed it under instructions of Mr. Bennett.

Q Why did you accept that order?

A Of course it was on the printed form of the K.F.A. which was serially numbered and we could not know whether it was right or wrong.

Q Had you ever supplied Mr. Ross with goods of that type before?

A No - never.

Q Did not the order strike you as being very odd?

CHIEF JUSTICE -- We are not trying the witness, Mr. Hogan.

Witness Yes it struck me, Sir, and Mr. Ross told me it was for a grand dinner.

RE-EXAMINED BY THE ATTORNEY GENERAL.

Q Had you supplied orders on K.F.A. printed forms before?

A Yes when we got the printed form but this was separate along with that order.

Q You made out this invoice (produced). That was handed to Mr. Ross by you when he went away?

A Yes, Sir.

(Put in and marked Exhibit No.13)

E CHIEF JUSTICE -- Does that invoice include all the things?

A Except some fruit. It was on the order. It was about Sh.4/50.

Q And Mr. Ross took those things away did he?

A Yes, Sir.

(The witness withdrew)

TULJA RAM S/O BHAGWAN DAS (Hindu) sworn:

EXAMINED BY MR. BHAGWAN:

Q You are a salesman at Choitram's shop at Nakuru?

A Yes, Sir.

Q Do you know the accused?

A Yes, Sir.

Q Do you remember Wednesday the 5th Oct. the afternoon - did accused come to your shop?

A Yes.

Q About what time?

A About 5 o'clock.

Q Did he bring an order with him?

A Yes, Sir.

Q Did you supply him with the goods which he ordered?

A He ordered some and said he would come tomorrow.

Q And is that invoice made out in your handwriting?

A Yes, Sir.

(put in and marked Exhibit No.15)

Q It reads as follows and you can tell me if you supplied him with these goods:-

RE-EXAMINED BY THE ATTORNEY GENERAL.

Q Had you supplied orders on K.F.A. printed forms before?

A Yes when we got the printed form but this was separate along with that order.

Q You made out this invoice (produced). That was handed to Mr. Ross by you when he went away?

A. Yes, Sir.

(Put in and marked Exhibit No.13)

THE CHIEF JUSTICE -- Does that invoice include all the things?

A Except some fruit. It was on the order. It was about Sh.4/50.

Q And Mr. Ross took those things away did he?

A Yes, Sir.

(The witness withdrew)

THEJA RAM S/O BHAGWAN DAS (Hindu) sworn:

EXAMINED BY MR. BRANIGAN:

Q You are a salesman at Choitram's shop at Nakuru?

A Yes, Sir.

Q Do you know the accused?

A Yes, Sir.

Q Do you remember Wednesday [illegible] the afternoon - did accused come to your shop?

A Yes.

Q About what time?

A About 5 o'clock.

Q Did he bring an order with him?

A Yes, Sir.

Q Did you supply him with the goods which he ordered?

A He ordered some and said he would come tomrow.

Q And is that invoice made out in your handwriting?

A Yes, Sir.

(put in and marked Exhibit No.15)

Q It reads as follows and you can tell me if you supplied him with these goods:-

(learned Counsel reads from invoice)

1 Ladies Silk shawl
1 Bed spread
1 pair bed sheets
6 silk handkerchiefs
1 bottle scent
1 box Coty powder
1 bottle Bourjois
4 cushions

A Yes, Sir.

That was on Wednesday the 5th - [illegible] the following day the 6th)

A Yes, Sir.

At what time?

A About 5 p.m.

He ordered some more goods then?

A Yes, Sir.

Is that your handwriting [illegible] invoice (produced)

A Yes Sir that is my handwriting.

(put in and marked Exhibit No.17)

Did you supply him with those goods?

A Yes.

At what time did he take them away on Thursday?

A About 5 minutes to 6 [illegible]

It contains the following list of goods:-

2 silk shawls
1 bottle scent
1 tin powder
1 dozen pins

Had he ever made a purchase of this type of goods before?

A Not of that sort. These things are ladies'.

Do you know how he took them?

A He took them by hand.

(Various articles produced to witness)

Are those the 4 cushions you supplied him, the bottle of scent and pot of cream?

A Yes. (Articles put in & marked Exhibits Nos.16 & 18)

Those are the goods you supplied to the accused?

A Yes, Sir.

NO CROSS-EXAMINATION.
(The witness withdrew)

DONALD BRIGHTWELL CAMPBELL

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a partner in Thackrah's Ltd of Nakuru?

A Yes.

Q Do you know the accused Ross?

A Yes, sir.

Q You have that ~~receipt~~ invoice. (Same handed to witness). Is that in your handwriting?

A Yes.

(Invoice ~~receipt~~ is and marked Exhibit 35)

Q That is an invoice for 100 rounds of .38 long revolver ammunition, a holster.....?

A Yes.

Q And a plug?

A No, sir.

Q Railage?

A Yes, sir.

Q Were those goods supplied to the accused?

A Yes.

Q On what date?

A On the 27th September of this year.

Q Will you look at this holster in Court here (Ex.9) Is that the holster which you supplied?

A Yes, sir.

Q Is the ammunition which you supplied such as would fit an ordinary Colt 6-chamber revolver (Ex.7)?

A Yes, sir. .32 calibre.

CROSS-EXAMINED BY MR HOGAN

Q Did you often supply ammunition to the accused?

A Occasionally.

Q Did you ever supply him with revolver ammunition before now?

A I do not think so.

Q You are not certain?

A I am not certain.

DONALD BRIGHTWELL CAMPBELL

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a partner in Thackrah's Ltd of Nakuru?

A Yes.

Q Do you know the accused Ross?

A Yes, sir.

Q You have that ~~receipt~~ invoice. (Same handed to witness). Is that in your handwriting?

A Yes.

(Invoice put in and marked Exhibit 33)

Q That is an invoice for 100 rounds of .38 long revolver ammunition, a holster.....?

A Yes.

Q And a plug?

A No, sir.

Q Railage?

A Yes, sir.

Q Were those goods supplied to the accused?

A Yes.

Q On what date?

A On the 27th September of this year.

Q Will you look at this holster in Court here (Ex.6) Is that the holster which you supplied?

A Yes, sir.

Q Is the ammunition which you supplied such as would fit an ordinary Colt 6-chamber revolver (Ex.7)?

A Yes, sir. .38 calibre.

CROSS-EXAMINED BY MR HOGAN

Q Did you often supply ammunition to the accused?

A Occasionally.

Q Did you ever supply him with revolver ammunition before now?

A I do not think so.

Q You are not certain?

A I am not certain.

No.

Q Do you know him well?

A As a customer in the shop.

Q Did you know him outside at all?

A I have met him outside.

Q What was the general opinion of him?

A In what way?

Q As to character?

A Very straightforward. An ordinary man.

Q He had not a peculiar reputation as being a very keen shot?

A Yes. He was a keen shot.

Q Excessively so?

A Not more than the ordinary young man of Kenya.

Q You are sure of that?

A Yes.

Q You do not think he did more shooting than most?

A No, sir. I would not say an exceptional amount.

NO RE-EXAMINATION

(The witness withdrew)

EDMUND WELLS THORPE sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q I think you have known the accused for some time?

A Yes, sir.

CHIEF JUSTICE: What is your occupation?

A Clerk in the Kenya Farmer's Association.

ATTORNEY GENERAL: That is where the accused was working?

A Yes.

Q Are you in the same branch - the accounts branch?

A Yes.

Q Are you the owner of a Mannlicher-Schoennor rifle?

A Yes.

Q How did it find its way here?

A I lent it to the accused on Saturday the 1st October.

Q And you had not seen it since then until you saw it at the police station?

A No.

CROSS-EXAMINED BY MR HOGAN.

Q You knew the accused before in and out of work?

A Yes.

Q What sort of a worker was he?

A Exceptionally good.

Q What type of work did he do? Was it work involving a discretion or purely mechanical?

A He needed a certain amount of discretion.

Q A slight amount?

A For his age quite a lot.

Q What kind of discretion?

A Simply ledger keeping.

Q That does not involve any discretion. It is merely entering up figures?

A It is a matter of how much credit to give.

Q You mean he had a control over the credit?

A Not at all. He was certainly responsible to a certain amount.

Q He had nothing else to do but keep the ledgers?

CHIEF JUSTICE: He had no discretion as to what to put in the Ledgers?

A Oh! no, Sir. Not at all.

OGAN: Could you tell us whether some time prior to this incident he had been doing a good deal of overwork?

A I do not know.

Q Did you often go shooting with him?

A Not recently.

Q But previously?

A From 1929 and during 1930 quite a lot.

Q He was very keen was he not?

A Yes.

A I really cannot say that because we always used to split up. He went in one direction and he in another, and we did not meet again [illegible] the afternoon.

Q When he met you in the afternoon he might have spoken as to what he had shot?

A He did occasionally say he had shot such and such a thing.

Q Did it strike you that he told you he had shot rather a lot?

A No. It struck me he might have shot at a number but certainly not killed all.

Q He was rather a bad shot?

A In those days.

Q Have you ever actually seen him shoot an animal?

A I cannot remember.

Q Have you ever seen him kill an animal?

A No.

Q Have you ever seen him use a knife on an animal?

A Not a live animal.

Q On a dead one?

A Yes.

Q Was there anything curious about the way he used it?

A Looking back now, I should say he was more excited than it warranted.

Q What I was getting at was the way he used a knife. Did he do anything rather odd with it?

A To me, yes. He would get excited, just like you would imagine a nigger would get excited, but to anyone who has always lived in the country I myself would not do a thing like that. He had been out here all his life. It is quite feasible to think that anyone who had been out here so long might pick up the habits of the natives. It have seen him stick a knife into a dead animal.

Q Do you think he got pleasure out of it? Did it give him satisfaction do you think?

A I should say probably yes.

Q Do you think he liked to see the blood flow?

A No. I have never given the matter thought. I should say no.

A I really cannot say that because we always used to split up. I went in one direction and he in another, and we did not meet again until the afternoon.

Q When he met you in the afternoon he might have spoken as to what he had shot?

A He did occasionally say he had shot such and such a thing.

Q Did it strike you that he told you he had shot rather a lot?

A No. It struck me he might have shot at a number but certainly not killed all.

Q He was rather a bad shot?

A In those days.

Q Have you ever actually seen him shoot an animal?

A I cannot remember.

Q Have you ever seen him kill an animal?

A No.

Q Have you ever seen him use a knife on an animal?

A Not a live animal.

Q On a dead one?

A Yes.

Q Was there anything curious about the way he used it?

A Looking back now one might say he was more excited than it warranted.

Q What I was getting at was the way he used a knife. Did he do anything rather odd with it?

A To me, yes. He would get excited, just like you would imagine a nigger would get excited, but to anyone who has always lived in the country - I myself would not do a thing like that. He had been out here all his life. It is quite feasible to think that anyone who had been out here so long might pick up the habits of the natives. I have seen him stick a knife into a dead animal.

Q Do you think he got pleasure out of it? Did it give him satisfaction do you think?

A I should say probably yes.

Q Do you think he liked to see the blood flow?

A No. I have never given the matter thought. I should say no.

hyaena on the edge of Menengai Crater?

A Yes.

Q Was there anything peculiar about the incident?

A Yes, peculiar. Merely his excitement and going to so much trouble. He brought it down to where I was living at the time and he was riding a motor-cycle with the skin of the hyaena strapped on and he showed it and said it was a very nice skin, but the accused was certainly very excited about it. His hands were covered with blood but that was natural having skinned the animal and we went into the house and I was rather bored that anyone should get so excited at having killed something.

Q You say his hands were covered with blood. Were his arms?

A It is such a long time ago, but my impression is that it was more or less all over him.

Q I understand he was a very expert skinner?

A Yes.

Q And an expert skinner would not get himself covered with blood merely skinning an animal?

A It was a very wet night.

Q You agree an expert skinner would not get himself covered with blood; in fact he would have very little blood on him?

A I do not know at all.

Q Do you remember another occasion down at the Lake when someone shot a hippo? I don't think it was the accused; it was someone else.

A Yes.

Q Did the accused behave in any way strange on that occasion?

A He got very excited.

Q Was that all?

A He stuck a knife into the dead hippo several times.

Q Was there any reason why he should do that?

A Not the slightest.

Q Did he at the time make any sort of curious noises or anything like that?

A It is such a long time ago I cannot give an answer to that question.

Q You think it possible that he did?

A I think it is possible that he did. He may have made noises; on the other hand he may not.

A [redacted]'o.

Q What type was he?

A On occasions he would be very quiet, possibly for two or three weeks on end.

Q Unusually so?

A At first one thought so, and when one got to know him better one took no notice.

Q Did that quietude attain to the stage of moroseness, or merely detached?

A Just detached.

Q Was he cruel?

A Not to my knowledge.

Q Did you know him during the period of Christmas 1956?

A Yes.

Q He went home for Christmas to his home about 6 miles from Nakuru?

A Yes.

Q When he returned did you notice anything peculiar about him? Did he stammer, or anything like that?

A I am certain - but I do not want to say I am certain - but I feel certain he did stammer.

Q He did not before?

A No, not before.

Q Shortly before this incident occurred did he boast to you about a job he had got in Tanganyika?

A He did have a little conversation with me. He had just bought an Aerial motor-cycle and he said "I wish I had not bought the Ariel, I wish I had the money instead and I would be out of Kenya. I have a job when I get to the other end". That is all.

Q That was a lie?

A I don't know.

Q Did he generally strike you as being a bit of a liar?

A He never struck me that way.

RE-EXAMINED BY THE ATTORNEY GENERAL

Q Does the accused still stammer?

A No.

A For about a week or so.

Q You told us a few minutes ago that none of these things occurred as strange to you at the time but looking back now they strike you as curious. The first episode you told us about was seeing him use a knife on a dead animal. Is that so? At the time you thought it was nothing worth taking notice of?

A Exactly.

Q And the other episodes?

A Certainly.

Q And in spite of all those peculiarities you still consider him a safe and proper person to lend your rifle to?

A Yes, certainly.

(The witness withdrew.)

WILLIAM MORRISON sworn:-

EXAMINED BY MR. BRANNIGAN.

Q What is your occupation?

A Baker.

Q Where?

A Nakuru Bakery.

Q You remember Saturday the 8th October last?

A Yes, Sir.

Q You were searching near the Menengai Crater for some people who were missing - Miss [redacted] Keppie was one?

A Yes, Sir.

Q Were you present when Miss Keppie's body was recovered from the gully?

A Yes, Sir.

Q Did you notice quite close to the gully from which her body was recovered a place which had the appearance of being used as a temporary camp?

A Yes, Sir.

Q You saw many things there?

A Yes, Sir.

Q Did you pick up anything in particular yourself?

A Some cartridges.

Q Where did you find them?

A In a box.

Q Do you recognise that (produced) as the box in which you found the cartridges?

A Yes, Sir. (Exhibit No.8)

Q How many?

A Five.

Q Were they revolver cartridges?

A I could not say.

F JUSTICE — Were they live cartridges or dead?

A They were live cartridges.

IGAN — These cartridges, I believe, Your Honour, are with the Government Analyst. He should have handed them into Court but it seems to have beenn overlooked.

Q At allevents what did you do with those [illegible]e cartridges?

A I handed them to Mr. Beverton of the Police.

NO. 1 CROSS-EXAMINATION

(The witness withdrew)

E R N E S T W I L L I A M B E N N E T T sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are the Chief Accountant of the Kenya Farmers Association at Nakuru?

A I am.

Q And the accused Ross is I think employed in your department of the K.F.A.

A Yes.

Q Will you look at the handwriting on those letters (produced) Mr. Bennett please?

In whose handwriting are those Mr. Bennett?

(Exhibits Nos. 1, 3 & 4 handed to witness)

A In the writing of the accused.

Q You know it well?

A I do - very well.

Q Now Exhibit No.12 (produced). You see what purports to be the signature of C. W. Ross?

A That is the accused's signature.

Q And the second list (part of Exhibit 12)

A That is in the accused's handwriting.

Q The name at the bottom of the second sheet is yours?

A That is my name.

Q I believe it is not your signature?

A It is not my signature.

Q It makes no attempt to resemble your signature?

A None whatever.

Q In whose handwriting?

A The accused's.

Q Undisguised ordinary handwriting - is that correct?

A Correct.

Q Had he any authority from you, Mr. Bennett, to order these goods for the K.F.A. or [illegible] your name to the order?

A None whatever.

Q Had he any leave of absence from you for either Friday the 7th October or Saturday the 8th October?

A No.

Q Will you look at those two lists also Mr. Bennett please. Those have not been produced yet. They are Exhibit 34 in the Court below and will be properly identified and exhibited later.

A They are in the handwriting of the accused - both of them.

(Marked Exhibit 34 for identification)

CROSS-EXAMINED BY MR. SLADE

Q Mr. Bennett, is it the habit or custom for Members of the K.F.A. to sign forms in the name of any other Member or employee?

A No.

Q And do you think that this shop from whom the goods were ordered by the accused had any good reason whatsoever to suppose that he had any authority to write your name?

A I should say not.

Q How long have you known the accused?

A About 4 years.

Q Has he been employed with you all that time?

A Yes.

Q Did he come to you straight from school?

A Straight from school, yes.

Q With good recommendations?

A Very good recommendations from the headmaster of his school.

Q That is Mr. Pratt?

A Mr. Pratt.

Q I suppose when he came into your employment he required training?

A He did, yes.

Q And was it you who trained him throughout?

A Yes and my assistants.

Q Did you find him an apt pupil?

A A very apt pupil indeed.

Q Did you ever have to reprimand him?

A Yes but not very often.

Q I suppose like all other boys he needed [illegible]?

A Yes.

Q And did you find that he could be handled?

A Yes, I did.

Q Did you find that in any respect he required specially tactful handling?

A Yes. Most boys have their peculiarities and one of the peculiarities of the [illegible] was that he needed handling rather differently to the rest of the staff.

Q What would you say was the chief difficulty in handling him?

A He was a very proud boy. Very proud of his position and if it were necessary to take him to task over small matters his pride showed itself.

Q Would you say that he resented criticism?

A I should say definitely yes.

Q More than most boys?

A Yes.

Q And how did he show his resentment?

A By not answering immediately; by [illegible] appearing to be morose.

Q I see you are doing this (referring to attitude of sadness)

A Yes that is the sort of attitude.

Q Did it last long. I take it it was a kind of momentary, really.

A Yes I really never had any difficulty. I would talk with him the subject under discussion and Ross was a boy who always carried out instructions and I took it next day he saw the reasonableness of the correction and there was no more trouble.

Q And you found really that obviously the best treatment was gentle treatment?

A Undoubtedly.

Q And you cannot say that his moroseness [illegible] lasted an appreciable time?

A Not as far as I was concerned - no.

Q You must have had a fairly long experience with training clerks?

A Yes I have yes. About 26 years of it.

Q Would you tell us whether during that experience you had met a clerk who at any rate resented criticism so much?

A No I cannot remember a clerk of the same age as Ross who resented criticism in the way he did.

Q And do you think it possible that if some other person had been handling him who did not know how to handle him there might have been a serious flare up?

A I would not say a serious flare up but there might have been trouble.

Q You are not able of your own knowledge to say whether there ever was a flare up outside his work?

A No only by hearsay.

Q Do you know at all whether he was ever snubbed or told?

A I have always understood that [illegible] clerk was treated. I have never seen him [illegible] rebuke.

Q Was he ever seen about with women?

A I never saw him and as a matter of fact his reputation was that of a manly boy who had no time for women whatever.

Q What was his position in the office exactly?

A He was the ledger keeper on the 1st October for what we call the debtors section of the Kenya Farmers Association - the non-members section. [illegible] a very large ledgers for the non-members section of the A.

Q Which he kept very well?

A Very well indeed.

Q It would be right to say that the work involved no exercise of discretion whatsoever?

A Not very much discretion. It [illegible] say that the boy had an ordered mind.

Q ~~It~~ Did he exercise judgment?

A To a certain extent in a small way but if he were in difficulty whatever he would either ask my assistant or myself.

Q Can you explain in what way he had to exercise judgment for ordinarily a man posting figures into books does not have to do this?

A Yes in the K.F.A. we have perhaps 2 portals [illegible] for the Government say and there would be times when he would be doubtful as to which account to pass a certain item to.

Q It was simply a discretion of bookkeeping as to which account to post into.

A Yes that is all.

but he was a proud boy who took a pride in his work and shooting exploits and so on.

Q It was not conceit?

A It was not conceit - a natural pride.

Q Did you notice any change in him during the last six months?

A No I cannot say that I did.

Q Can you tell us whether he had any particularly heavy work to do during that period?

A Yes our year ends on the 31st August and every member of the staff after the end of the year until the balance sheet is out works extra hours.

Q It is pretty heavy extra work for a time I suppose?

A It is for a time yes.

Q Did you know that he actually took work home with him on a good many evenings?

A I did not know that but I knew that he very often worked overtime at the office.

Q How did he behave on the morning of the 6th October do you remember?

A As far as I remember quite normal.

Q Had there been any suggestion of promoting him just before the 6th October?

A No.

Q You do not remember whether about the beginning of 1931 he had a slight stammer?

A I do not remember that.

RE-EXAMINED BY ATTORNEY GENERAL:

Q If I understood you correctly you said that the way in which he kept his ledger in your opinion showed he had a very ordered mind?

A I did, Sir.

Q Personally you were very fond of him - a good clerk?

A Yes. A very good clerk indeed. A boy who would never let one down.

Q Did Colonel Griffiths to your knowledge know the accused Ross?

A Oh very well indeed.

Q Personally?

Q Do you know that of your own knowledge?

A Of my own knowledge.

Q Have you any evidence to give us as to the degree of reliance which Colonel Griffiths placed in the accused?

A Yes in July Colonel Griffiths went to India on business and he told me before he left that he had suggested to his wife the accused remaining in the house as a protection.

Q Try to remember what you saw yourself and not what Colonel Griffiths told you. Were you actually in Colonel Griffith's house during his absence?

A Yes I was. As a matter of fact after Colonel Griffiths had gone ---

Q We must not have what people told you unless in the presence of the accused.

A I was asked to go to the house by Mrs. Griffiths with the accused. I had met him at the house on my way home about 6 o'clock.

Q At Colonel Griffiths' house?

A Yes.

Q And was he staying in the house?

A He was to return the next day as Mrs. Griffiths was going down to Nairobi.

Q To return to?

A To the house of Colonel Griffiths to look after the place while Mrs. Griffiths was in Nairobi.

Q To your personal knowledge did he do so?

A He did.

Court adjourned until 9 a.m. 29th Nov. 1935.

Accused present.

Jury present.

Counsel as before.

HAROLD GEORGE BEVERTON on former oath:

EXAMINED BY MR BRANIGAN.

Q You remember the 8th October?

A I do.

Q You arrived at the camp on Menengai Crater in the afternoon?

A At 4-50 p.m.

Q Was that ~~th~~ at the time or shortly after Miss Keppie's body had been recovered?

A It was after. The body was lying in the camp on my arrival.

HIS LORDSHIP JUSTICE: That is Ross's camp?

A Yes, Your Honour.

BRANIGAN: You saw a number of boxes there?

A There were a number of boxes strewn about containing provisions.

Q You found some articles which you can particularise?

A In one box I found a small cardboard box (Exh. 8) That is the box.

Q Where did you find that?

A I found this in the provision box which I examined immediately on my arrival.

Q Were those cleaning materials in it?

A They were.

Q Was anything handed to you there?

A Almost immediately afterwards a Mr Morrison, Nakuru, handed me five rounds of revolver ammunition, .32.

Q Kynock?

A Yes. The box and the ammunition were handed over by me to Mr Vincent of the Police at Nakuru the same evening.

NO CROSS-EXAMINATION.

(The witness withdrew).

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are the District Commissioner at Nakuru?

A Yes.

Q I think you were at lunch on Saturday the8th October when you received certain information?

A I did.

Q On receipt of that information what did you do?

A I left Nakuru by car with six askaris and proceeded along the Nakuru-Ravine Road for about 7 miles. I then saw a car on the east side of the road.

Q What position was the car in?

A The car was facing the road and the front wheels were in the ditch.

Q Type of car?

A I did not examine the car.

Q When you discovered the car there what was the next thing you did?

A I proceeded up the track on the east side of the road with four askaris.

Q What type of country was it?

A Open country with long grass.

Q Was the car track easily perceptible?

A Yes.

Q Did it appear to you to be a regular track or merely the track of one car?

A It gave me the impression a car had passed over more than once.

Q Did the track end, so far as you could see, where the car was standing?

A Yes.

CHIEF JUSTICE: In the ditch? The track ended in the ditch?

A Yes.

ATTORNEY GENERAL: Will you look at the plan, Mr Hodge? (Ex.35) Does that plan accord with your recollection of what you saw?

A It does.

A I came to wooded bush country on top of a hill. Further on in the bush I came to what appeared to be a temporary camp.

Q What gave it that appearance?

A There were cases of provisions and other things and rugs, and some of the bush had been cut down.

Q Did you see anything there besides provisions and rugs?

A I saw a suitcase. Ex. 5 is the suitcase.

Q You opened that case?

A Yes.

Q And did you find anything in it?

A I found in it a letter (Ex. 2) and two bills (Ex. 13 & 15).

Q That letter and those invoices I think you took out and handed subsequently to the police?

A To Insp. Waldie.

Q Did you see any rope there?

A Two pieces. One a small length of rope and the other which would appear to be the main coil on the ground. (Ex. 18a and 14a).

Q There are five short lengths in the small piece?

A Yes.

Q At the time you saw it there was one length only?

A Yes.

Q It was attached to a tree?

A Hanging on a tree.

Q Can you explain how that length of rope came to be cut into five pieces?

A Later on, when the body of Miss Keppie was found at the bottom of the ravine we had to get it to the top and we tied one of the rugs round it with that piece of rope and it was subsequently taken to Hospital where I understand the rope was cut.

Q Where was the rest of the rope?

A On the ground to one side.

Q Was anything handed to you there?

A An empty cartridge case, Kynoch, .32.

CHIEF JUSTICE: Who handed you that?

A A native askari.

A I came to wooded bush country on top of a hill. Further on in the bush I came to what appeared to be a temporary camp.

Q What gave it that appearance?

A There were cases of provisions and other things and rugs, and some of the bush had been cut down.

Q Did you see anything there besides provisions and rugs?

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A Yes.

Q At the time you saw it there was one length only?

A Yes.

Q It was attached to a tree?

A Hanging on a tree.

Q Can you explain how that length of rope came to be cut into five pieces?

A Later on, when the body of Miss Kerrid was found at the bottom of the ravine we had to get it to the top and we tied one of the rugs round it with that piece of rope. And it was subsequently taken to hospital where I understand the rope was cut.

Q Where was the rest of the rope?

A On the ground to one side.

Q Was anything handed to you there?

A An empty cartridge case, Kynoch, .22.

HIS JUSTICE: Who handed you that?

A A native askari.

(Cartridge case not yet put in. Marked 42 for ref.)

Q Did you hand that to [redacted] Waldie also?

A Yes.

Q Shortly after you got there ----- You have told us about the discovery of the body. You were present at that time?

A Yes. The body was found lying at the bottom of the Ravine 100 paces from the temporary camp.

Q Could you indicate roughly with reference to the plan (Ex.58) where the body was.

A It was found here (Witness indicates position on map). Running from the circular camp you will see a dotted line which appears to indicate a path. The body was found at the end of the dotted line.

Q About what depth was the gully?

A About 50 feet.

Q Sheer?

A A sheer drop.

Q And the body was at the foot?

A Yes. It was lying on its back, feet against the cliff wall and arms above the head.

Q Did you notice any injuries?

A I noticed a wound at the back of the head. I also noticed blood round the mouth and nostrils. There were faint scratches on the stomach.

Q The body was identified to you?

A I was informed who the body belonged to by Mr Ritchie.

Q You have already told us that with the aid of one of the rugs and the piece of rope the body was raised.

A Yes, and taken to the temporary camp.

Q About how far would you put in from the point where the cartridge case was discovered to the top of this drop into the gully?

A About 100 paces.

Q As District Commissioner of Nakuru are you the proper licensing authority under the Arms Ordinance?

A I am.

Q Do you produce your counterfoil permit-book?

(Cartridge case not yet put in. Marked 42 for ref.)

Q Did you hand that to Insp. Waldie [illegible]?

A Yes.

Q Shortly after you got there ----- You have told us about the discovery of the body. You were present at that time?

A Yes. The body was found lying at the bottom of the Ravine 100 paces from the temporary camp.

Q Could you indicate roughly with reference to the plan (Ex.38) where the body was.

A It was found here (Witness indicates position on map). Running from the circular camp you will see a dotted line which appears to indicate a path. The body was found at the end of the dotted line.

Q About what depth was the gully?

A About 50 feet.

Q Sheer?

A A sheer drop.

Q And the body was at the foot?

A Yes. It was lying on its back, feet against the cliff wall and arms above the head.

Q Did you notice any injuries?

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A Yes, and taken to the temporary camp.

Q About how far would you put in from the point where the cartridge case was discovered to the top of this drop into the gully?

A About 100 paces.

Q As District Commissioner of Nakuru are you the [illegible] licensing authority under the Arms Ordinance?

A I am.

Q Do you produce your counterfoil permit-book?

Q Do you find an entry in respect of a revolver 519583?

A Yes.

Q That is a transfer and sale authority?

A Permission was granted to Mr Bowles to transfer this revolver to Mr C.W. Ross.

Q What is the date of that?

A 26th of the 9th of this year. (Exhibit 20 a).

Q Do you also produce your Arms Licence Book?

A Yes. (Put in and marked Exhibit 21a).

Q No. 010264?

A Yes.

Q What does that represent?

A That is for a .38 Colt 519583 licence granted to C.W.Ross of Nakuru. Date 26-9-50.

Q Will you look at that weapon? (Revolver Ex.7).

A That is also marked 519583.

CHIEF JUSTICE: And that is a Colt?

A I cannot say. Yes, it is a Colt.

Q Mr. Hodge, would you say that that track which led up to the camp had been very frequently used?

A I could not say how frequently. It had been used in my opinion more than once.

Q You could not say more than that?

A No I could not say.

Q Was there to your mind any attempt to cover [illegible]?

A No.

Q When you examined that suit case which was produced just now, did you find inside it any article of clothing?

A I cannot remember definitely. I had an impression there were articles of clothing in but I did not examine them at all.

Q You did not report details of the contents?

A No not all of them only [illegible].

Q Do you know if anybody reported details of all the contents.

A I do not know.

Q I take it if there had been a large quantity of clothing you would have noticed it?

A Yes.

Q Can you remember whether it seemed full or empty?

A It was about 3/4 full.

Q In any case you took no clothes out of it?

A I took no clothes out of it.

Q On or about the 16th October did the accused make a voluntary statement to you?

A He did.

Q Is that the statement (produced) he made?

A Yes.

Q Signed by you?

A Signed by me.

Q Will you read that to the Jury?

(Witness reads statement and Exhibit 1 [illegible] as follows)

I wish to make a voluntary statement. I promised to show the body of the girl Miss Stevenson if I was shot immediately afterwards. Capt Southon, Capt. Pierson and Mr. Russel and others were present. Mr. Beeston said that he had got papers ready. I admit killing both Miss Keppie and Miss Steverson for nothing. This was on Thursday night. I shot Miss Keppie near the camp. She was sitting next to me in the car and she grabbed at my revolver which was in my left pocket so I ordered her out of the car and took her about 50 yards from the camp. She was about a yard away from me when I shot her. I threw her down a sort of [illegible] pit where I shot her. That was about 9.30 p.m. on Thursday night. I then returned for Winnie. She was in the car as when I took Miss Keppie away I made her get back into the car. She had not moved as she was terrified. She wanted to go home so I told her I would lead the way and she would follow. We got nearly to her home and [illegible] any further. She left [illegible] in the [illegible] She did not know what was going to happen to her. I shot her in the side of the head.

CHIEF JUSTICE -- All this is not material to this charge, Mr. Slade.

SLADE -- Sir, I think it is material.

CHIEF JUSTICE -- Material to your defence is it?

SLADE -- Yes, Sir.

BESS (continues reading)

I had no reason for shooting her. I covered [illegible] but straight back to the car. I waited in that car [illegible] Saturday morning. I had lemonade and oranges. I then threw everything out of the car and made [illegible] to go home to Ravine. I got as far as the ditch and stuck.

the clutch burnt or something broke. Just before I reached there a native I presume he was in plain clothes askari passed on his cycle going to Ka[illegible] Moto. Then another passed in entirely different dress going from Kampi ya Moto to Nakuru. I waited. My brother came along and I asked him to take me home on the back of a motor cycle. I left home and my revolver was taken away from me. I had already [illegible] revolver and put in [illegible] revolver. [illegible] some fool to do it. I also [illegible]

(Signed) C. W. Ross. [illegible]

Magistrate II Class. [illegible]

SLADE -- When Miss Keppie's body [illegible] given the opportunity [illegible]

A No.

Were any photographs taken?

A No.

Was any diagram made?

No.

And I think I am right in saying that at the time any policeman was on the scene the ground round the place where the body had been found was so trampled about that no investigation was worth making?

I do not think so. Three of us found the body and that was all who were down there at the time.

Three people were down there?

Three people.

The grass in that part is very thick?

Yes.

And really difficult to walk in?

Not difficult to walk in. It is thick.

It would be very tiring to go a long way?

Yes.

NO RE-EXAMINATION.

camp?

A I think it was about 7 yards across.

Q Circular?

A Roughly circular.

Q And can the witness state how long, what time would be involved in making such a clearance?

A A few minutes.

(The witness withdrew)

RAWELL [illegible]

EXAMINED BY [illegible]

You are the Manager of [illegible] Kopia?

A Yes.

Was Miss Keppie employed by you as a [illegible]?

A Yes.

How long had she been in the employ of your firm?

A About 2½ months.

I think she had just arrived from England, had she not?

A Yes.

Were you one of the search party on Saturday 6th Oct.?

A Yes.

Were you up at the [illegible] Road's camp?

A Yes.

Q And I think it was you who actually discovered the body of Miss Keppie?

A Yes.

Where was the body?

A Just at the top of the Menengai Crater down a small ravine about 20-30 feet across lying at the bottom of the ravine..

Sheer drop?

A Yes perfectly.

And how was the body lying when you found it?

Q You are an Inspector of Police [illegible]?

A Yes.

Q And on the 6th October Saturday [illegible] the Ruvido Road?

A I did.

Q About 7 miles out [illegible] what [illegible]?

A A car.

Q Number?

A B. 8855.

Q Ditched?

A Beside the road.

Q What did you find in the car?

A There were a number of articles [illegible] I produce?

Q Yes, can.

A There were found [illegible] Exhibit 10.

Q Is that the rifle (Exhibit 10)?

A That is the rifle, [illegible].

A Four boxes each containing 10 rounds of ammunition -- those are they (Exhibit 11).
One 6 cell electric torch - (that is it (Exhibit 24)
A box containing a quantity of oranges and bananas -- that is the box (Exhibit 25) the contents were destroyed.
A pair of brown leather driving gloves [illegible] they (Exhibit 26)
A leather pistol holster [illegible]
And an empty bottle which [illegible] that is it (Exhibit 27).

Q You and [illegible] I [illegible]?

A That is correct.

Q Afterwards you recorded what was then [illegible] in this Court as Rose's car?

A That is so.

Q And there you found [illegible]?

A A large [illegible]

Q And what did you do with them?

A Had them taken to the Police Station.

A To Mr. Vincent the Superintendent of Police.

Q Subsequently, the following day I think it was, did you check all these articles with two invoices made out in the name of the accused by Harisingh & Sons of Nakuru?

A I did. I made a detailed check of everything.

Q And did the articles which you found in the camp correspond with those enumerated on the invoices of Harisingh?

A There were a few discrepancies.

Q Will you tell us.

A On checking the articles in the Police Lorry with those enumerated on Harisingh's invoices I found the following discrepancies: three tumblers, contents of one bottle of lemonade, one box of matches, the contents of one bottle of minerals and eight electric torch bulbs that was the lot.

CHIEF JUSTICE -- They were missing?

A Yes, Your Honour.

BRANIGAN -- Did you receive anything from Mr. Harisingh?

A Yes I did. At Hos's office during the investigation I received one envelope.

Q Similar to that (produced)?

A Similar to that (Exhibit No. 42).

Q A letter written by Mr. Stevenson enclosing two bills, one from Harisingh and one from Choitram (Exhibits 14 and 15)?

A That is the letter and that is the bill which I made the detailed check.

Q You have just mentioned generally the things you found at the camp. Read out exactly what you found at the camp.

A The articles in detail were -

5 woollen rugs
9 boxes of matches
6 table knives
6 table spoons
6 dinner plates
5 bottles of whiskey
2 bottles of orange squash
4 tins of cream cracker biscuits
4 tins of assorted biscuits
24 [illegible]s of salmon
1 tin containing 500 cigarettes
22 electric torch cells
5 tumblers
6 tab[illegible] forks
6 soup plates
6 bottles of Port wine
9 packets of chocolate intact and one small portion of another broken
24 tins of fruit, assorted
1 [illegible]pener
6½ doz. assorted mineral waters
6 bottles of lemon squash
5 ladies' shawls
1 pair of bed sheets
4 small cushions
1 box of face powder
1 bush knife in a sheath
1 man's raincoat
1 bedspread
4 silk handkerchiefs
2 bottles Eau de Cologne
1 jar [illegible]do brilliantine
1 p[illegible] of safety pins
1 Gurkha knife in a sheath.

Q Did you compare these with Choitram's invoice?

A I did, and hour of arrival at [illegible]

Q Is there something missing from Choitram's invoice?

A I am not quite certain. I could not make an exact check as I only had one bill given to me.

Q Does that bill say how many handkerchiefs in the box? It refers to a box of handkerchiefs. (Ex.15)

A It says here "6 silk handkerchiefs".

Q The six bottles of minerals missing. Were the bottles missing or merely the contents?

A The contents only.

NO RE-EXAMINATION.

(The witness withdrew).

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a Member of the Royal College of Surgeons of England and Licentiate of the Royal College of Physicians of London and District Surgeon at Nakuru?

A Yes.

Q I believe that for many years you were a Government Medical Officer?

A Yes.

Q On the afternoon of Saturday the8th October I believe that you went out yourself to the camp which is known as Ross's Camp?

A Yes.

Q And I believe that there you found a body?

A I was shown a body at the camp by Mr Hodge the D. .

Q Was that body personally known to you?

A She was known to me - Miss Keppie.

Q And the body was that of Miss Keppie?

A Yes.

Q Was it moved to Nakuru Hospital?

A I took it over to the Mortuary and the next morning I performed a post-mortem at 9 o'clock on Sunday morning. This is my post-mortem report. (Exhibit 51).

Q Will you read that?

(Witness reads Post-mortem Report, Ex. 51).

"Date and hour of arrival at Mortuary 6p.m. 8-10-52.

Condition of corpse on arrival Fresh

Mode in which packed Cotton dress - knickers - stockings (knickers wet from urine).

Date and hour at which post mortem was held 9 a.m. 9.10.52

M.O.'s report and probable cause of death.

Body identified by Mr Hodge D.C. as that of the European woman Miss Keppie found at the lip of the crater off the Rongai Road on Saturday afternoon and seen by me near the site where body found - body was examined by me at the Camp on the crater lip. Body was cold and rigor

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

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Q Was that body personally known to you?

A She was known to me - Miss Keppie.

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(Witness reads Post-mortem Report, Ex. 51).

"Date and hour of arrival at Mortuary 6p.m. 8-10-32.

Condition of corpse on arrival Fresh

Mode in which packed Cotton dress - knickers - stockings (knickers wet from urine).

Date and hour at which post mortem was held 9 a.m. 9.10.32

M.O's report and probable cause of death.

Body identified by Mr Hodge D.C. as that of the European woman Miss Keppie found at the lip of the crater off the Rongai Road on Saturday afternoon and seen by me near the site where body found - body was examined by me at the Camp on the crater lip. Body was cold and rigor

wound at back of head. Face was purple. Eyes had extensive subconjunctival haemorrhages. Mouth wide open - pupils medium dilation. Blood issuing (dried) from nose and mouth.

Examination in P.M.room at European Hospital.

Present: Mr Vincent, Supt. Police Nakuru
Sister Clelland - Assisting at P.M.
Supt. Stewart)
E.P.C.Sharp) C. I. D.

External examination. Face purple, blood issuing from mouth and nose, mouth wide open subconjunctival haemorrhage - both eyes. Abrasions over lower right chest and across abdomen abrasions as if body had been dragged (or possibly fallen down a slope). Abrasions over outer side top of R. thigh. Abrasions top and front of left thigh. Abrasions over lower right ribs were fairly severe. Few abrasions left thumb. 3 blood blisters on 1st and 2nd fingers of right hand over first metacarpal bones. Rigor mortis fairly well marked but not so marked as on 8th (Rigor mortis was passing off rapidly). There was a scar of an old appendix wound. Post mortem staining well marked over back of shoulders. There was a small round hole in back of head left side from which a little blood was issuing. Hair was not burnt round the hole - very slight bruising just round the hole.

Internal examination. On removing the scalp it was found that the hole in the scalp and skull was slightly to the left of the middle line 1¼ inches from apex of occipital bone near its margin adjacent to the left parietal bone. Brain substance was issuing from the hole. Hole about the size of an 0.32 or 0.303. There was no fracture of the vault of the skull. Hole through

wound at back of head. Face was purple. Eyes had extensive subconjunctival haemorrhages. Mouth wide open - pupils medium dilation. Blood issuing (dried) from nose and mouth.

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skull was larger on the inner [redacted] of the skull than the outer. There had been extensive subdural harmorrhage. The brain was placed in basin and after a little search a lead bullet dropped out - mushroomed. There was a small fracture of the sella turcica on the right side, (not the left side as stated in my report). There was no other fracture of the skull. A portion of bone where bullet entered was removed and together with the bullet (of lead) handed over labelled to Supt. Vincent. A smear taken from the vagina was examined and found negative for semen. Specimens of hair from the head and pubic hairs were taken and handed over to D.P.C. Sharp. The bullet had entered slightly to the left side and traversed the b[redacted] of the brain obliquely slightly to the right.

Cause of death was gunshot wound of head. Death must have been instantaneous."

Q Will you look at that bullet. (Same handed to witness - marked 43 for identification). Is that the [redacted] you refer to?

A Yes.

Q That is the mus[redacted]d bullet which dropped out of the brain?

A Yes.

Q Did you prepare that diagram attached to the written Postmortem Report?

A Yes.

Q That is a diagram indicating the entrance point of the wound in the head, the line of the bullet and the damage which it did to the brain tissues?

A Yes. (Diagram marked Exhibit 51a)

Q You told us in the report of a certain number of bruises and in respect of the first of those bruises you record the opinion that the bruises over the lower ribs and across the abdomen might have been accounted for by the body falling down a slope?

A Or being dragged.

Q In your opinion might either of those explanations

of the right thigh, top and [redacted] the lower ribs and all the others?

A Yes.

Q So all might have been caused by the body being dragged or the body falling?

A Yes.

Q Were they in your opinion caused before death or after?

A After death, or just at the time of death.

Q And death was instantaneous?

A Yes. Must have been instantaneous.

CROSS-EXAMINED BY MR HOGAN.

Q You were present on the morning of the ~~25~~ 15th when Miss Stevenson was discovered?

A Yes. I was not present when the body was discovered. I was taken to the body subsequently.

Q At 8-50 on the morning of the 15th?

A Yes.

Q Where did you find it and in what position?

A Miss Stevenson's body was lying on her back. She was covered with branches of trees under which she was lying, and her left arm was lying across her body and her right arm alongside her right side.

CHIEF JUSTICE: Where did you see it?

A It was found about [redacted] or so from Ross's camp towards Nakuru. South-[redacted] corner of Menengai Crater.

HOGAN: Were her clothes disarranged in any way?

A No.

Q No visible signs of an attempt at rape?

A No.

Q Quite satisfied there had been no rape?

A Quite.

Q You subsequently conducted a post-mortem examination on Miss Stevenson and you found that she died from a gunshot wound practically identical with that which caused Miss Keppie's death.

A Yes.

NO RE-EXAMINATION.

(The witness withdrew)

Q You are the step-father of the accused Ross?

A Yes.

Q And you live at Maji Mazuri?

A Yes.

Q Your other stepson Gordon Ross lives with you?

A He does.

Q Gordon Ross II believe is some 15 months older than the accused?

A Yes.

Q The accused I think is aged 20?

A Yes.

Q On the morning of Saturday the 8th October certain information came to you and in consequence of that you sent Gordon Ross out on his motor-cycle?

A Yes.

Q That I think, was fairly early in the morning about 8-30?

A About 8-30.

Q About what time did Gordon return?

A Between 1 and half-past 1.

Q Alone?

A Alone.

Q And on his return I believe he made a statement to you?

A Yes.

Q And in consequence of that statement you waited at your house?

A Yes.

Q Did the accused arrive shortly after that?

A The accused arrived I should think about half an hour after that followed by his brother Gordon.

Q That would be round about 2 o'clock, Major Whitridge?

A Yes.

Q Where were you standing at that moment?

A Outside my garage.

Q You are the step-father of the accused Ross?

A Yes.

Q And you live at Haji Mazuri?

A Yes.

Q Your other stepson Gordon Ross lives with you?

A He does.

Q Gordon Ross I believe is some 15 months older than the accused?

A Yes.

Q The accused I think is aged 20?

A Yes.

Q On the morning of Saturday the 8th October certain information came to you and in consequence of that you sent Gordon Ross out of his motor-cycle?

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A Yes.

Q Did the accused arrive shortly after that?

A The accused arrived I should think about half an hour after that followed by his brother Gordon.

Q That would be round about 2 o'clock, Major Whitridge?

A Yes.

Q Where were you standing at that moment?

A Outside my garage.

Q Did you say anything to the accused?

A Oh, the accused did not come up then; he was still about 100 yards away.

Q What happened next?

A I sent my wife in-to the house and followed her in and waited for the accused to enter.

Q And as he entered the house?

A I caught him by his left arm.

Q Did you say anything to him?

A I asked if he was armed.

Q What was his reply?

A After hesitating a moment or two he said Yes. I then told Gordon Ross to disarm him.

Q And he did so?

A He did so.

Q What did he take from his pocket?

A A loaded revolver. Exhibit 7 is the revolver.

Q Fully loaded?

A Fully loaded.

CHIEF JUSTICE: Which pocket did he take it from?

A The right hand coat pocket.

ATTORNEY GENERAL: That recolver, loaded as it was, I think you took from him.

A Gordon took it, Gordon unloaded it and handed me the cartridges and the revolver.

Q And can I say that those cartridges and the revolver were subsequently handed over to the Police?

A Yes.

Q What was that about?

A About the loan of a car.

CHIEF JUSTICE -- When was that?

A On Tuesday the 4th October.

ATTORNEY GENERAL -- Did he say what he wanted the car for?

A He inferred the Kenya Farmers Association business.

Q Did he say where he wanted to go?

A Nairobi.

Q On Thursday the 6th did you see the accused again?

A Yes.

Q Did you all dine together that day?

A All with the exception of Hilligan.

Q The other 4 of you dined together?

A Dined together.

Q Did you know whether the accused had managed to hire a car by that time?

A Yes, Rex (Mr.Shaw) told me he was borrowing his car.

Q Was the accused there when Rex told you?

A I am not in a position to say.

Q How was the accused dressed when he went out after dinner that day?

A Blue serge suit and Trilby hat carrying a mack.

Q What sort of a suit was this blue serge - was it one he usually wore?

A A new suit.

Q Do you know whether the accused had a rifle?

A He had one and sold it.

Q Do you know whether at the time we are considering the accused was in possession of a rifle?

A I do not.

Q Do you know whether at that time he was in possession of a revolver?

A Yes, Sir.

Q How do you know that?

A He showed me and I saw him cleaning it.

Q About how many days previous to the Thursday 6th October was it that he showed you the revolver?

A I am not in a position to say with any surety.

Q Was it only a few days or some considerable time?

A A few days.

Q Do you know where he kept that revolver?

A Yes, Sir. In the top drawer of the chest of drawers in the bedroom.

Q What else did he keep in that drawer - any ammunition there?

A I never saw.

Q Did he never show you any?

A One day at the lunch table he showed us 100 rounds and a holster.

Q You said a moment ago you saw him cleaning the revolver. Had he cleaning material?

A Oh yes in a box.

Q And do you know where he was in the habit of keeping that?

A In the same drawer.

Q Will you look at that revolver, first, Mr. Maryon. Do you recognise that? (produced)

A That (Exhibit 7) is identical with the revolver that was in his possession and that (Exhibit 8) is definitely the box that I saw and handled.

Q And the holster (Exhibit 9)?

A Similar.

Q Identical with that which he showed you?

A Yes.

Q Before we pass on may I go back to the mack you spoke of. Will you look at this one here please (produced)?

A That is the mackintosh.

Q That is Ross's mackintosh?

A Yes.

(Put in and marked Exhibit No.10)

Q You have told us that after dinner on the night of Thursday the 6th October, Ross left?

A Yes, Sir.

Q Can you say how he went? Do you know whether he went on foot?

A

A He went on foot accompanied by the shamba boy.

Q Did he take anything with him beyond the mackintosh?

A The boy carried a bag and a blanket strapped to it.

Q Will you look at Exhibit 5. ~~that is the xxxxxxxxxxx~~

A That is the suit case.

Q What kind of blanket was it?

A A dark Scotch plaid thing. I am not in a position to recognise the blanket.

Q Was it of a similar nature to those (produced)?

A Similar kind. (Exhibit 28 - 5 rugs)

Q Mr. Maryon - the accused did not return that night?

A To the best of my knowledge, No, Sir.

Q And I think you would have known - you slept in the same room?

A Yes. He was definitely not there when I got up at 2 a.m.

Q In connection with his absence had you occasion to look in the drawer in his room?

A No Sir not till after I heard what ----

Q In consequence of something you heard, did you in fact look in the drawer?

A I did.

Q Which drawer was that?

A The one in which he usually kept the revolver and the cleaning material.

Q Was the revolver there?

A No, Sir.

Q Was the box of cleaning material there?

A No, Sir.

Q Will you look at that blazer, Mr. Maryon, please. (Exhibit 6) Do you know that?

A Yes.

Q Whose is that?

A Ross's.

Q When did you last see him wearing that?

A I am not in a position to say.

Q

Q Did he wear it from time to time about the house and shamba?

A Occasionally.

Q I think it was you Mr. Maryon who handed that to the police?

A It was.

Q On what date was that, can you recollect?

A No, Sir.

Q Was it when the Police first visited the house?

A The police first visited the house on Friday which would be October 2nd and that was after the week end that was handed to the police.

Q As the property of Ross?

A Yes.

And yet he

CROSS-EXAMINED BY MR. SLADE

Q Mr Maryon, I think I am right in saying you knew the accused pretty well?

A I am not in a position to agree with you. I do not agree with that.

Q How is that? You lived with him for 14 or 15 months.

A Quite true. But my hours of duty are different, and except at meal-times we saw little of each other.

Q Had it been anyone else do you think you would have got to know him better?

A Probably.

Q Because he was probably of a rather secretive disposition?

A Yes, he was.

Q Did he seem to prefer his own company?

A I should say yes.

Q How did you get on with him?

A Very well indeed.

Q You liked him?

A Very much indeed.

Q But did you ever find he was difficult to get on with on occasions even though you liked him?

A No, I did not.

Q Did you never know him to sulk?

A Yes.

Q For a long time?

A Two or three days.

Q Did he have any cause for his sulks?

A Over a little argument we had.

Q That was one particular argument?

A Yes, on as the animal [illegible] a knife.

Q What was that about?

A Dogs quickly as possible.

Q Was it rivalry between two dogs - your dog and his?

A Yes.

Q But in spite of that he ran up with a knife?

A Very small indeed.

Q And yet he sulked for two or three days?

A It may have been my fault. We just did not speak and I do not say who spoke first and who last.

Q But if you did not give him any encouragement?

A The same applies to me.

Q Did that ever happen at any other time?

A Not to my recollection.

Q Neither to you nor anyone else you knew?

A He might have had one or two shauris with Price. That is not my business.

Q Did you ever notice he showed these sulks with anyone else for small causes?

A Only with Price. If you live with two people and you sit down and you are the only one who makes conversation it is fairly obvious something is wrong.

Q Did you ever go out shooting with Ross?

A Once or twice.

Q Did you think there was anything curious about his behaviour when going out shooting?

A He was very excitable.

Q Before he shot or after he shot?

A After.

Q He was calm and keen before he shot?

A Very keen indeed.

Q And quiet?

A Yes.

Q What form of excitement did his take? A quivering excitement or talkative?

A I should say the excitement of a hunter who has got a bag.

Q But describe how it showed itself in him?

A As soon as the animal was down he would run for it with a knife.

Q Would he simply confine himself to killing the animal as quickly as possible?

A As far as I recollect I was present only once and I believe the animal was dead before we reached it.

Q But in spite of that he ran up with a knife?

A Yes.

Q Almost in a hurry?

A Yes.

Q Except for that one occasion you cannot describe his behaviour at a kill?

A No, sir.

Q But would you say he was excited?

A Yes.

Q Have you heard him describe his shooting experiences?

A Yes.

Q Did he describe them with excitement?

A Yes.

Q In what way - graphic descriptions of what happened?

A Yes, I should say so.

Q But very excited. Has he ever boasted about the number he shoots?

A Yes.

Q How many has he boasted he has shot?

A 21 I believe on one occasion.

Q Did you say anything to him about that?

A Yes. I told him he was a murderer and a slaughterer.

Q Did he mind?

A I am not in a position to say.

Q He did not answer?

A I cannot recollect.

Q Did he boast like that again afterwards?

A Not as far as numbers.

Q Are you in a position to say whether he was a teetotaller?

A To the best of my knowledge a staunch teetotaller.

Q Have you any reason to suppose he was a liar?

A On two occasions, yes.

Q What were those occasions?

A The first occasion he told us on a Saturday lunch-time he was going to Entebbe, and the second when he was going to Nairobi and never went.

Q Will you just describe the incident when he said he was going to Entebbe?

roughly speaking it was 1-30 on a Saturday lunch-time. Price and I came down together to the mess for lunch and Ross was just going off on his motor-cycle and said he was going to Entebbe, and so far as I remember after he went Price and I had a few words because Price said he could not do it and I said Why doubt the man's words. I did not then know how far it was. When I knew the distance I said it was impossible.

Q Did he say he had been when he came back?

A He said he had been to a place called Tororo.

Q Did you believe that?

A Yes.

Q But then you did not know how far it was to Tororo is?

A I had not the foggiest notion.

Q I think there was another incident when you found he told lies and that was the occasion when he showed you his revolver?

A Oh! yes. Quite true.

Q He showed you that of his own accord?

A Yes.

Q And was it of hisown accord that he told you how he had got it?

A Yes.

Q And next day was it of his own accord that he told a different story?

A Yes.

Q What did he tell you the first time?

A He told me he won it in a bet from a man called Bowles and the next day that he had bought it for Shs.100/- from the self-same man.

Q Would you say in other instances, even if you cannot remember details, he was a liar?

A To the best of my recollection, no.

Q You would agree, I think, that in these two instances they were apparently quite senseless lies?

A Unless there was some hidden motive.

Q But no apparent motive?

A No.

Q I want you to tell me something about his attitude towards women. Did you gather anything from him of that attitude? Was he fond of the society of women?

A No. The reverse.

Q And yet he sulked for two or three days?

A It may have been my fault. We just did not speak and I do not say who spoke first and who last.

Q But if you did not give him any encouragement?

A The same applies to me.

Q Did that ever happen at any other time?

A Not to my recollection.

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A Very keen indeed.

Q And quiet?

A Yes.

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Q He showed you that of his own accord?

A Yes.

Q And was it of hisown accord that he told you how he had got it?

A Yes.

Q And next day was it of his own accord that he told a different story?

A Yes.

Q What did he tell you the first time?

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Q Would you say in other instances, even if you cannot remember details, he was a liar?

A To the best of my recollection, no.

Q You would agree, I think, that in these two instances they were apparently quite senseless lies?

A Unless there was some hidden motive.

Q But no apparent motive?

A No.

Q I want you to tell me something about his attitude towards women. Did you gather anything from him of that attitude? Was he fond of the society of women?

A No. The reverse.

Q And that was what he said?

A No. I think more his actions.

Q In what way?

A Well, once or twice when we have had a lady to tea in the mess he has gone out and I inferred from his attitude that he was not keen on the society of women.

Q Would you say he was an unusually modest man?

A Yes, I would.

Q For instance, have you ever seen him strip in your presence?

A Never. No, I think I can say never.

Q Has that actually struck you as odd?

A No, if a man is modest.

Q But he was more modest than most?

A Yes.

Q Did he ever join in any discussions or women or sexual matter to your knowledge?

A No, he never joined in.

Q They did take place sometimes, I suppose?

A Naturally.

Q But he would stay and listen?

A Yes.

Q Would he ask questions?

A Sometimes.

Q Sensible questions?

A The questions of a man enquiring after knowledge.

Q Did it never occur to you that he knew?

A Never.

Q Did he ever talk about any particular woman?

A Yes, one.

Q Was that Miss Stevenson?

A That was.

Q And what was his attitude?

A One of worship.

Q Not love?

A No.

Q Did he ever speak of Miss Keppie?

A Never so far as I can remember in my hearing with the exception of coming after he had visited Mrs Stevenson's house and saying he had seen Miss Keppie there.

Q Did he say he had seen Miss Keppie in pyjamas?

A He did.

Q You noticed that at the time?

A It struck me as being odd.

Q Because it was not like him to mention things like that?

A No, I suppose it was not.

Q And did it strike you that she had made some impression on Ross?

A No.

Q In examination you said he had sold his rifle. Can you remember about when that was?

A No. I could not remember.

Q Not at all?

A Not at all.

Q Can you remember whether he had more than one rifle?

A With the exception of the K.L.F. rifle I only saw him with one.

Q Did he ever seem to you cruel in any way?

A In some of his talking of shooting I considered it cruel, but what I consider cruel many people perhaps would not.

Q You could not remember the exact particulars of his talk which you thought cruel?

A I cannot remember.

Q Did you ever see him cruel to natives?

A I saw him give a boy a hiding one night.

Q Only once?

A To the best of my knowledge only once.

Q Was it a savage hiding?

A No, hardly.

Q Did Ross have a good appetite?

A Always.

Q Would you describe it as marvellous?

A It was the appetite of a healthy growing young man. Nothing extraordinary.

Q You would not describe it as marvellous?

A Hardly marvellous.

Q Did you notice any change in him during the six months preceding this incident on the 6th October?

A No, I do not think so.

Q Do you know if he started doing more work than usual at the K.F.A.?

A That I am not in a position to say.

Q Did he talk to you about his work?

A Sometimes.

Q But not particularly much during those last six months?

A No.

Q At dinner on the 6th did he seem unusually excited?

A No.

Q Did he finish his dinner?

A No. He left in the middle of the second course.

MAN OF JURY: Can the witness say what period of time elapsed between the setting out and the return of the accused at the time when he was supposed to have gone to Tororo?

A To the best of my knowledge he left at 1-30 and was back somewhere about 4 o'clock on Sunday afternoon.

NO RE-EXAMINATION

(Judge's notes of evidence read over and found correct)

(The witness withdrew)

RAM RATHA SETHI (Hindu) SWORN:

EXAMINED BY THE ATTORNEY GENERAL.

Q You are Manager for Hari Singh Gujabhai at Sukuru?

A Yes, Sir.

Q You see the accused in the dock over [illegible] know him?

A Yes, Sir.

Q Has he been a customer of yours from time [illegible]?

A He was buying for cash but not on permanent [illegible].

Q And he came to you on the afternoon of [illegible]?

A Yes, Sir.

Q And did he [illegible] an order on that occasion?

A Yes, Sir.

Q Will you look at that order, dated [illegible] that be brought to you? (handed)

A Yes, Sir.

Q That is dated 31st October.

CHIEF JUSTICE -- Is that the accused's list?

ATTORNEY GENERAL -- No, Sir. It is the E.P.A. Order form.

(Put in and marked Exhibit No.12)

Q That was supplied [illegible] the accused?

A Yes, Sir.

Q Did you supply those goods?

A Yes, Sir.

Q What time was it when [illegible]?

A I do not remember it was about 4.45.

Q And the order is for 4 rugs?

A Yes, Sir.

Q Are they among those [illegible]?

A Witness indicates 4 rugs.

(Put in and marked Exhibit No.26 A,B,C & D.)

Q A torch and 20 spare batteries - did you supply that also?

A Yes, Sir.

Q Is that the torch (produced)?

RAM RATHA SETHI (Hindu) Sworn:

EXAMINED BY THE ATTORNEY GENERAL.

Q You are Manager for Hari Singh Gujabhai at Mukuru?

A Yes, Sir.

Q You see the accused in the dock over there - do you know him?

A Yes, Sir.

Q Has he been a customer of yours from time to time?

A He was buying for cash but not on permanent basis.

Q And he came to you on the afternoon of Thursday, the

A Yes, Sir.

Q And did he bring an order of that description?

A Yes, Sir.

Q Will you look at that order, I see that the ... brought to you? (handed)

A Yes, Sir.

Q That is dated 6th October.

CHIEF JUSTICE -- Is that the accused's list?

ATTORNEY GENERAL -- Yes, Sir. It is the K.P.A. Order form.

(Put in and marked Exhibit No.12)

Q What was presented ... with?

A Yes, Sir.

Q Did you supply those ...?

A Yes, Sir.

Q What time was it when ...

A When he came it was about ...

Q And the order is for 4 rugs?

A Yes, Sir.

Q Are they among those ...

A Witness indicates 4 rugs.

(put in and marked Exhibit No.26 A,B,C & D.)

Q A torch and 30 spare batteries - did you supply that also?

A Yes, Sir.

Q Is that the torch (produced)?

RAM RATHA SETHI (Hindu)

EXAMINED BY THE ATTORNEY GENERAL.

Q You are Manager for Hari Singh Gujabhai [illegible]kum?

A Yes, Sir.

Q You see the accused in the dock over [illegible] know him?

A Yes, Sir.

Q Has he been a customer of yours from [illegible]

A He was buying for cash but not on permanent [illegible]

Q And he came to you on the afternoon [illegible]

A Yes, Sir.

Q And did he [illegible] order [illegible]

A Yes, Sir.

Q Will you look at that order, I [illegible] be brought to you? (handed)

A Yes, Sir.

Q That is dated 21st [illegible]

HIS JUSTICE -- Is that the accused's list?

ATTY GENERAL -- Yes, Sir. It is the K.P.A. [illegible]

(Put in and marked Exhibit [illegible])

Q That was [illegible] 17

A Yes, Sir.

Q Did you supply those goods?

A Yes, Sir.

Q What time was it when he came [illegible]

A When he came it was about [illegible].45.

Q And the order is for 4 rugs?

A Yes, Sir.

Q Are they among those (4 rugs shown [illegible])

A Witness indicates 4 rugs.

(put in and marked Exhibit No.20 A,B,C & D.)

Q A torch and 20 spare batteries - did you supply that also?

A Yes, Sir.

Q Is that the torch (produced)?

A Yes, Sir. (put in and marked Exhibit No.24).

Q Large glasses?

A Yes, Sir.

Q Knives, spoons, forks, soup plates - did you supply all of those?

A Yes, Sir.

(These all form part of Exhibit No.14 contained in several wooden cases)

Q Will you look at that rope? (produced) Did you among other things supply 56 yards of rope like the rope you supplied?

A It was 5½ lbs in weight. Similar rope.

(Put in and marked Exhibit No.14.A)

Q Did you notice who that order was purported to be signed by?

A Yes.

Q Who was that?

A It was signed by Mr. C. W. Ross and made the signature of Mr. Bennett.

Q Do you know Mr. Bennett's signature?

A Yes, Sir.

Q Is that his signature?

A No, Sir.

Q Did you speak to Ross about that signature?

A Yes, Sir.

Q What did ~~xxxxxx~~ he say to you?

A He said he was too busy and the order has been made out on the instructions of Mr. Bennett.

Q Did he tell you what the order was required for?

A For a grand dinner at the time of his departure.

Q Did he say where the dinner was?

A At Rongai.

Q What time did he take the goods away?

A In the evening at 7.

Q And how?

A In the car.

Q What sort of a car was it?

A A box body with screens all round.

Q Do you know what make of car it was?

A I do not know.

Q You know it was a box body car?

A Yes, Sir.

Q You subsequently took that order up to Mr. Bennett?

A At the time of his departure Mr. Ross told me that the order (? dinner) was to be given on Friday night. Of course the following morning in the [illegible] there was some fruit which we could not supply, in consequence of that I telephoned to the K.F.A. and Mr. Bennett asked me to take the order to them.

Q And you took the order to Mr. Bennett the next morning?

A. Yes and gave it to Mr. Bennett.

Q Can you say those are the types of knives, forks and spoons you supplied (produced)?

A. Yes.

(Marked Exhibit No.14.B)

CROSS-EXAMINED BY MR. HOGAN

Q You knew from the outset that the signature to the foot of that order (Exhibit No.12) was not Mr. Bennett's?

A Yes, Sir. Mr. Bennett is on our [illegible] list and is a permanent customer and I recognise it very well.

Q Was there any attempt to make you believe it was Mr. Bennett's signature?

A No. Mr. Ross told me that he made out the order himself and signed it under instructions of Mr. Bennett.

Q Why did you accept that order?

A Of course it was on the printed form of the K.F.A. which was serially numbered and we could not know whether it was right or wrong.

Q Had you ever supplied Mr. Ross with goods of that type before?

A No - never.

Q Did not the order strike you as being very odd?

CHIEF JUSTICE - We are not trying the witness, Mr. Hogan.

Witness Yes it struck me, Sir, and Mr. Ross told me it was for a grand dinner.

A A box body with screens all round.

Q Do you know what make of car it was?

A I do not know.

Q You know it was a box body car?

A Yes, Sir.

Q You subsequently took that order up to Mr. Bennett?

A At the time of his departure Mr. Ross told me that the order (? dinner) was to be given on Friday night. Of course the following morning in that order there some fruit which we could not supply, in consequence of that I telephoned to the K.F.A. and Mr. Bennett asked me to take the order to them.

Q And you took the order to Mr. Bennett the next morning?

A. Yes and gave it to Mr. Bennett.

Q Can you say those are the types of knives, forks and spoons you supplied (produced)?

A. Yes.

(Marked Exhibit No.14.B)

CROSS-EXAMINED BY MR. HOGAN

Q You knew from the outset that the signature at the foot of that order (Exhibit No.12) was not Mr. Bennett's?

A Yes, Sir. Mr. Bennett is on our permanent list and is a permanent customer and I recognise it veryy well.

Q Was there any attempt to make you believe it was Mr. Bennett's signature?

A No. Mr. Ross told me that he made out the order himself and signed it under instructions of Mr. Bennett.

Q Why did you accept that order?

A Of course it was on the printed form of the K.F.A. which was serially numbered and we could not know whether it was right or wrong.

Q Had you ever supplied Mr. Ross with goods of that type before?

A No - never.

Q Did not the order strike you as being very odd?

HER JUSTICE - We are not trying the witness, Mr. Hogan.

tness Yes it struck me, Sir, and Mr. Ross told me it was for a grand dinner.

RE-EXAMINED BY THE ATTORNEY GENERAL.

Q Had you supplied orders on K.F.A. printed forms before?

A Yes when we got the printed form but this was separate along with that order.

Q You made out this invoice (produced). That was handed to Mr. Ross by you when he went away?

A. Yes, Sir.

(Put in and marked Exhibit No.13)

CHIEF JUSTICE -- Does that invoice include all the things?

A Except some fruit. It was on the order. It was about Sh.4/50.

Q And Mr. Ross took those things away did he?

A Yes, Sir.

(The witness withdrew)

THEJA RAM S/O BHAGWAN DAS (Hindu) sworn:

EXAMINED BY MR. BRANIGAN:

Q You are a salesman at Choitram's shop at Nakuru?

A Yes, Sir.

Q Do you know the accused?

A Yes, Sir.

Q Do you remember Wednesday the 5th Oct. the afternoon did accused come to your shop?

A Yes.

Q About what time?

A About 5 o'clock.

Q Did he bring an order with him?

A Yes, Sir.

Q Did you supply him with the goods which he ordered?

A He ordered some and said he would come tomorrow.

Q And is that invoice made out in your handwriting?

A Yes, Sir.

(put in and marked Exhibit No.15)

Q It reads as follows and you can tell me if you supplied him with these goods:-

RE-EXAMINED BY THE ATTORNEY GENERAL.

Q Had you supplied orders on K.F.A. printed forms before?

A Yes when we got the printed form but this was separate along with that order.

Q You made out this invoice (produced). That was handed to Mr. Ross by you when he went away?

A Yes, Sir.

(Put in and marked Exhibit No.13)

CHIEF JUSTICE -- Does that invoice include all the things?

A Except some fruit. It was on the order. It was about Sh.4/50.

Q And Mr. Ross took those things away did he?

A Yes, Sir.

(The witness withdrew)

TULJA RAM S/O BHAGWAN DAS (Hindu) sworn:

EXAMINED BY MR. BRANIGAN:

Q You are a salesman at Choitram's shop at Nakuru?

A Yes, Sir.

Q Do you know the accused?

A Yes, Sir.

Q Do you remember Wednesday the 5th Oct. the afternoon did accused come to your shop?

A Yes.

Q About what time?

A About 5 o'clock.

Q Did he bring an order with him?

A Yes, Sir.

Q Did you supply him with the goods which he ordered?

A He ordered some and said he would come tomorrow.

Q And is that invoice made out in your handwriting?

A Yes, Sir.

(put in and marked Exhibit No.15)

Q It reads as follows and you can tell me if you supplied him with these goods:-

(learned Counsel reads from invoice)

1 Ladies Silk shawl
1 Bed spread
1 pair bed sheets
6 silk handkerchiefs
1 bottle scent
1 box Coty powder
1 bottle Bourjois
4 cushions

A Yes, Sir.

Q That was on Wednesday the 5th - did he come back on the following day the 6th.

A Yes, Sir.

Q At what time?

A About 5 p.m.

Q He ordered some more goods then?

A Yes, Sir.

Q Is that your handwriting on the invoice (produced)

A Yes Sir that is my handwriting.

(put in and marked Exhibit No.17)

Q Did you supply him with those goods?

A Yes.

Q At what time did he take them away on Thursday?

A About 5 minutes to 6.

Q It contains the following list of goods:-

2 silk shawls
1 bottle scent
1 tin powder
1 dozen pins

Had he ever made a purchase of this type of goods before?

A Not of that sort. These things are ladies'.

Q Do you know how he took them?

A He took them by hand.

(Various articles produced to witness)

Q Are those the 4 cushions you supplied him, the bottle of scent and pot of cream?

A Yes. (Articles put in & marked Exhibits Nos.16 & 18)

Q Those are the goods you supplied to the accused?

A Yes, Sir.

NO CROSS-EXAMINATION.
(The witness withdrew)

DONALD BRIGHTWELL CAMPBELL

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a partner in Thackrah's Ltd of Nakuru?

A Yes.

Q Do you know the accused Ross?

A Yes, sir.

Q You have that ~~receipt~~ invoice. (Shown handed to witness). Is that in your handwriting?

A Yes.

(Invoice put in and marked Exhibit 33)

Q That is an invoice for 100 rounds .32 long revolver ammunition, a holster.....?

A Yes.

Q And a plug?

A No, sir.

Q Railage?

A Yes, sir.

Q Were those goods supplied to the accused?

A Yes.

Q On what date?

A On the 27th September of this year.

Q Will you look at this holster in Court here (Ex.9) Is that the holster which you supplied?

A Yes, sir.

Q Is the ammunition which you supplied such as would fit an ordinary Colt 6-chamber revolver (Ex.7)?

A Yes, sir. .32 calibre.

CROSS-EXAMINED BY MR HOGAN

Q Did you often supply ammunition to the accused?

A Occasionally.

Q Did you ever supply him with revolver ammunition before now?

A I do not think so.

Q You are not certain?

A I am not certain.

DONALD BRIGHTWELL CAMPBELL

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a partner in Thackrah's Ltd of Nakuru?

A Yes.

Q Do you know the accused Ross?

A Yes, sir.

Q You have that ~~receipt~~ invoice. (Same handed to witness). Is that in your handwriting?

A Yes.

(Invoice put in and marked Exhibit 33)

Q That is an invoice for 100 rounds of .32 long revelver ammunition, a holster.....?

A Yes.

Q And a plug.

A No, sir.

Q Railage?

A Yes, sir.

Q Were those goods supplied to the accused?

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A On the 27th September of this year.

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A Yes, sir.

Q Is the ammunition which you supplied such as would fit an ordinary Colt 6-chamber revolver (Ex.7)?

A Yes, sir. .32 calibre.

CROSS-EXAMINED BY MR HOGAN

Q Did you often supply ammunition to the accused?

A Occasionally.

Q Did you ever supply him with revolver ammunition before now?

A I do not think so.

Q You are not certain?

A I am not certain.

I...

Q Do you know the accused at all?

A Yes, sir.

Q Do you know him well?

A As a customer in the shop.

Q Did you know him outside at all?

A I have met him outside.

Q What was the general opinion of him?

A In what way?

Q As to character?

A Very straightforward. An ordinary man.

Q He had not a peculiar reputation as being a very keen shot?

A Yes. He was a keen shot.

Q Excessively so?

A Not more than the ordinary young man of Kenya.

Q You are sure of that?

A Yes.

Q You do not think he did more shooting than most?

A No, sir. I would not say an exceptional amount.

NO RE-EXAMINATION

(The witness withdrew).

EDMUND WELLS THORPE sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q I think you have known the accused for some time?

A Yes, sir.

EF JUSTICE: What is your occupation?

A Clerk in the Kenya Farmer's Association.

ORNEY GENERAL: That is where the accused was working?

A Yes.

Q Are you in the same branch - the accounts branch?

A Yes.

Q Are you the owner of a Mannlicher-Schoenner rifle?

A Yes.

Q Will you look at this one? (Exhibit 10)

A That is the one.

Q How did it find its way here?

A I lent it to the accused on Saturday the 1st October.

Q And you had not seen it since then until you saw it at the police station?

A No.

CROSS-EXAMINED BY MR HOGAN.

Q You knew the accused before in and out of work?

A Yes.

Q What sort of a worker was he?

A Exceptionally good.

Q What type of work did he do? Was it work involving a discretion or purely mechanical?

A He needed a certain amount of discretion.

Q A slight amount?

A For his age quite a lot.

Q What kind of discretion?

A Simply ledger keeping.

Q That does not involve any discretion. Merely entering up figures?

A It is a matter of how much credit to give.

Q You mean he had a control over the credit?

A Not at all. He was certainly responsible to a certain amount.

Q He had nothing else to do but keep the ledgers?

CHIEF JUSTICE: He had no discretion as to what to put in the Ledgers?

A Oh! no, Sir. Not at all.

Q: Could you tell us whether some time prior to this incident he had been doing a good deal of overwork?

A I do not know.

Q Did you often go shooting with him?

A Not recently.

Q But previously?

A From 1929 and during 1930 quite a lot.

Q He was very keen was he not?

A Yes, very keen indeed; and anything to do with nature.

Q And when he shot was he keen on getting a lot?

A Yes.

A I really cannot say that because we always used to split up. I went in one direction and he in another, and we did not meet again until the afternoon.

Q When he met you in the afternoon he might have spoken as to what he had shot?

A He did occasionally say he had shot such and such a thing.

Q Did it strike you that he told you he had shot rather a lot?

A No. It struck me he might have shot at a number but certainly not killed all.

Q He was rather a bad shot?

A In those days.

Q Have you ever actually seen him shoot an animal?

A I cannot remember.

Q Have you ever seen him kill an animal?

A No.

Q Have you ever seen him use a knife on an animal?

A Not a live animal.

Q On a dead one?

A Yes.

Q Was there anything curious about the way he used it?

A Looking back now one might say he was more excited than it warranted.

Q What I was getting at was the way he used a knife. Did he do anything rather odd with it?

A To me, yes. He would get excited, just like you would imagine a nigger would get excited, but to anyone who has always lived in the country, I myself would not do a thing like that. He had been out here all his life. It is quite feasible to think that anyone who had been out here so long might pick up the habits of the natives. Had have seen him stick a knife into a dead animal.

Q Do you think he got pleasure out of it? Did it give him satisfaction do you think?

A I should say probably yes.

Q Do you think he liked to see the blood flow?

A No. I have never given the matter thought. I should say no.

Q Do you remember a particular occasion when he killed a Hyaena on the edge of Menengai Crater?

A Yes.

Q Was there anything peculiar about that incident?

A Yes, peculiar. Merely his excitement and going to so much trouble. He brought it down to where I was living at the time and he was riding a motor-cycle with the skin of the hyaena strapped on and he showed it and said it was a very nice skin, but the accused was certainly very excited about it. His hands were covered with blood but that was natural having skinned the animal and we went into the house and I was rather bored that anyone should get so excited at having killed something.

Q You say his hads were covered with blood. How his arms?

A It is such a long time ago, but my impression is that it was more or less all over him.

Q I understand he was a very expert skinner?

A Yes.

Q And an expert skinner would not get himself covered with blood merely skinning an animal?

A It was a very wet night.

Q You agree an expert skinner would not get himself covered with blood: in fact he would have very little blood on him?

A I do not know at all.

Q Do you remember another occasion down at the Lake when someone shot a hippo? I don't think it was the accused, it was someone else.

A Yes.

Q Did the accused behave in any way strange on that occasion?

A He got very excited.

Q Was that all?

A He stuck a knife into the dead hippo several times.

Q Was there any reason why he should do that?

A Not the slightest.

Q Did he at the time make any sort of curious noises or anything like that?

A It is such a long time ago I cannot give an answer to that question.

Q You think it possible that he did?

A I think it is possible that he did. He may have made noises; on the other hand he may not.

Q What was Ross's general disposition? What type was he? Talkative?

A No.

Q What type was he?

A On occasions he would be very quiet, possibly for two or three weeks on end.

Q Unusually so?

A At first one thought so, and when one got to know him better one took no notice.

Q Did that quietude attain to the stage of moroseness, or merely detached?

A Just detached.

Q Was he cruel?

A Not to my knowledge.

Q Did you know him round the period of Christmas 1950?

A Yes.

Q He went home for Christmas to his home about 50 miles from Nakuru?

A Yes.

Q When he returned did you notice anything particular about him? Did he stammer, or anything like that?

A I am certain - but I do not want to say certain - but I feel certain he did stammer.

Q He did not before?

A No, not before.

Q Shortly before this incident occurred did he boast to you about a job he had got in Tanganyika?

A He did have a little conversation with me. He had just bought an Aerial motor-cycle and he said "I wish I had not bought the Ariel; I wish I had the money instead and I would be out of Kenya. I have a job when I get to the other end". That is all.

Q That was a lie?

A I don't know.

Q Did he generally strike you as being a bit of a liar?

A He never struck me that way.

RE-EXAMINED BY THE ATTORNEY GENERAL

Q Does the accused still stammer?

A No.

Q It was just the effect of his visit home. How long did the stammer last?

A For about a week or so.

Q You told us a few minutes ago that none of these things occurred as strange to you at the time but looking back now they strike you as curious. The first episode you told us about was seeing him use a knife on a dead animal. Is that so? At the time you thought it was nothing worth taking notice of?

A Exactly.

Q And the other episodes?

A Certainly.

Q And in spite of all those peculiarities you still consider him a safe and proper person to lend your rifle to?

A Yes, certainly.

(The witness withdrew).

WILLIAM MORRISON sworn:-

EXAMINED BY MR. BRANIGAN.

Q What is your occupation?

A Baker.

Q Where?

A Nakuru Bakery.

Q You remember Saturday the 8th October last?

A Yes, Sir.

Q You were searching near the Menengai Crater for some people who were missing - Miss Margaret Keppie was one?

A Yes, Sir.

Q Were you present when Miss Keppie's body was recovered from the gully?

A Yes, Sir.

Q Did you notice quite close to the gully from which her body was recovered a place which had the appearance of being used as a temporary camp?

A Yes, Sir.

Q You saw many things there?

A Yes, Sir.

Q Did you pick up anything in particular yourself?

A Some cartridges.

Q Where did you find them?

A In a box.

Q Do you recognise that (produced) as the box in which you found the cartridges?

A Yes, Sir. (Exhibit No.8)

Q How many?

A Five.

Q Were they revolver cartridges?

A I could not say.

HIEF JUSTICE — Were they live cartridges or dead?

A They were live cartridges.

RANIGAN — These cartridges, I believe, Your Honour, are with the Government Analyst. He should have handed them into Court but it seems to have beenn overlooked.

Q At allevents what did you do with those five cartridges?
A I handed them to Mr. Severton of the Police.

NO CROSS-EXAMINATION

(The witness withdrew)

ERNEST WILLIAM BENNETT sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are the Chief Accountant of the Kenya Farmers Association at Nakuru?
A I am.
Q And the accused Ross is I think employed in your department of the K.F.A.
A Yes.
Q Will you look at the handwriting on those letters (produced) Mr. Bennett please?
A In whose handwriting are those Mr. Bennett?

(Exhibits Nos. 1, 3 & 4 handed to witness)

A In the writing of the accused.
Q You know it well?
A I do - very well.
Q Now Exhibit No.12 (produced). You see what purports to be the signature of C. T. Ross?
A That is the accused's signature.
Q And the second list (part of Exhibit 12)
A That is in the accused's handwriting.
Q The name at the bottom of the second sheet is yours?
A That is my name.
Q I believe it is not your signature?
A It is not my signature.
Q It makes no attempt to resemble your signature?
A None whatever.
Q In whose handwriting?
A The accused's.
Q Undisguised ordinary handwriting - is that correct?
A Correct.

Q Had he any authority from you, Mr. Bennett, to order these goods for the K.F.A. or to append your name to the order?

A None whatever.

Q Had he any leave of absence from you for either Friday the 7th October or Saturday the 8th October?

A No.

Q Will you look at those two lists also Mr. Bennett, please. Those have not been produced yet. They are Exhibit 34 in the Court below and will be properly identified and exhibited later.

A They are in the handwriting of the accused - both of them.

(Marked Exhibit 34 for identification)

CROSS-EXAMINED BY MR. SLADE

Q Mr. Bennett, is it the habit or custom for members of the K.F.A. to sign forms in the name of any other member or employee?

A No.

Q And do you think that this shop from whom the goods were ordered by the accused had any good reason whatsoever to suppose that he had any authority to write your name?

A I should say not.

Q How long have you known the accused?

A About 4 years.

Q Has he been employed with you all that time?

A Yes.

Q Did he come to you straight from school?

A Straight from school, yes.

Q With good recommendations?

A Very good recommendations from the headmaster of his school.

Q That is Mr. Pratt?

A Mr. Pratt.

Q I suppose when he came into your employment he required training?

A He did, yes.

Q And was it you who trained him throughout?

A Yes and my assistants.

Q Did you find him an apt pupil?

A A very apt pupil indeed.

Q Did you ever have to reprimand him?

A Yes but not very often.

Q I suppose like all other boys he needed handling?

A Yes.

Q And did you find that he could be handled?

A Yes, I did.

Q Did you find that in any respect he required specially tactful handling?

A Yes. Most boys have their peculiarities and one of the peculiarities of the accused was that he needed handling rather differently to the rest of the staff.

Q What would you say was the chief difficulty in handling him?

A He was a very proud boy. very proud of his work and if it were necessary to take him to task over even small matters his pride showed itself.

Q Would you say that he resented criticism?

A I should say definitely yes.

Q More than most boys?

A Yes.

Q And how did he show his resentment?

A By not answering immediately; by drawing himself up and appearing to be morose.

Q I see you are doing this (referring to attitude of witness)

A Yes that is the sort of attitude.

Q Did it last long. I take it it was a kind of moroseness, really.

A Yes I really never had any difficulty. I would talk over with him the subject under discussion and Ross was a boy who always carried out instructions and I took it next day he saw the reasonableness of the correction and there was no more trouble.

Q And you found really that obviously the best treatment was gentle treatment?

A Undoubtedly.

Q And you cannot say that his moroseness or sulks ever lasted an appreciable time?

A Not as far as I was concerned - no.

Q You must have had a fairly long experience with training clerks?

A Yes I have yes. About 26 years of it.

Q Would you tell us whether during that experience you had met a clerk who at any rate resented criticism so much?

A No I cannot remember a clerk of the same age as Ross who resented criticism in the way he did.

Q And do you think it possible that if some other person had been handling him who did not know how to handle him there might have been a serious flare up?

A I would not say a serious flare up but there might have been trouble.

Q You are not able of your own knowledge to say whether there ever was trouble up outside his work?

A No only by hearsay.

Q Do you know at all whether he ever smoked or drank?

A I have always understood that he neither drank nor smoked. I have never seen him either drink or smoke.

Q Was he ever seen about with women?

A I never saw him as a matter of fact his reputation was that of a manly boy who had no time for women whatever.

Q What was his position in the office exactly?

A He was the ledger keeper on the 1st October for what we call the debtors section of the Farmers Association - the non-members section. He kept very large ledgers for the non-members and [illegible]

Q Which he kept very well?

A Very well indeed.

Q It would be right to say that there was no level of exercise of discretion whatsoever?

A Not very much discretion. I would say that the boy had an ordered mind.

~~It xxxxxd~~

Q Did he exercise judgment?

A To a certain extent in a small way but if we were in any difficulty whatever he would either ask my assistant or myself.

Q Can you explain in what way he had to exercise judgment for ordinarily a man posting figures into books does not have to do this?

A Yes in the E.P.A. we have perhaps 2 perhaps 3 accounts for the Government say etc. there would be times when he would be doubtful as to which account to pass a certain item to.

Q It was simply a discretion of bookkeeping as to which account to post into.

A Yes that is all.

Q Would you say that he ever appeared conceited?

A No I should say that the accused was not a conceited boy but he was a proud boy who took a pride in his work and shooting exploits and so on.

Q It was not conceit?

A It was not conceit - a natural pride.

Q Did you notice any change in him during the last six months?

A No I cannot say that I did.

Q Can you tell us whether he had any particularly heavy work to do during that period?

A Yes our year ends on the 31st August and every member of the staff, after the end of the year until the balance sheet is out works extra hours.

Q It is pretty heavy extra work for a time I suppose?

A It is for a time yes.

Q Did you know that he actually took work home with him on a good many evenings?

A I did not know that but I knew that he often worked overtime at the office.

Q How did he behave on the morning of the 6th October, do you remember?

A As far as I remember, quite normal.

Q Had there been any suggestion of illness with him just before the 6th October?

A No.

Q You do not remember whether about the beginning of 1941 he had a slight stammer?

A I do not remember that.

RE-EXAMINED BY ATTORNEY GENERAL:

Q If I understood you correctly you said that the way in which he kept his ledger in your opinion showed he had a very ordered mind?

A I did, Sir.

Q Personally you were very fond of him - a good clerk?

A Yes. A very good clerk indeed. A boy who would never let one down.

Q Did Colonel Griffiths to your knowledge know the accused Ross?

A Oh very well indeed.

Q Personally?

Q Would you say that he ever appeared conceited?

A No I should say that the accused was not a conceited boy but he was a proud boy who took a pride in his work and shooting exploits and so on.

Q It was not conceit?

A It was not conceit - a natural pride.

Q Did you notice any change in him during the last six months?

A No I cannot say that I did.

Q Can you tell us whether we had any particularly heavy work to do during that period?

A Yes our year ends on the 31st August and every member of the staff after the end of the year until the balance sheet is out works extra hours.

Q It is pretty heavy extra work for a time I suppose?

A It is for a time yes.

Q Did you know that he frequently took work home with him on a good many evenings?

A I did not know that but I knew that he very often worked overtime at the office.

Q How did he behave on the morning of the 6th October, do you remember?

A As far as I remember quite normal.

Q Had there been any suggestion of promoting him [illegible] before the 6th October?

A No.

Q You do not remember whether about the beginning of 1941 he had a slight stammer?

A I do not remember that.

RE-EXAMINED BY ATTORNEY GENERAL:

Q If I understood you correctly you said that the way in which he kept his ledger in your opinion showed a very ordered mind?

A I did, Sir.

Q Personally you were very fond of him - a good clerk?

A Yes. A very good clerk indeed. A boy who would never let one down.

Q Did Colonel Griffiths to your knowledge know the accused Rous?

A Oh very well indeed.

Q Personally?

A Personally.

Q And you know that of your own knowledge?

A Of my own knowledge.

Q Have you any evidence to give us as to the degree of reliance which Colonel Griffiths placed in the accused?

A Yes in July Colonel Griffiths went to Addis on business and he told me before he left that he had suggested to his wife the accused remaining in the house as a protection.

Q Try to remember what you saw yourself and not what Colonel Griffiths told you. Were you actually in Colonel Griffith's house during his absence?

A Yes I was. As a matter of fact after Colonel Griffiths had gone ——

Q We must not have what people told you unless in the presence of the accused.

A I was asked to go to the house by Mrs. Griffiths and the accused. I had met him at the House on my way home about 6 o'clock.

Q At Colonel Griffith's house?

A Yes.

Q And was he staying in the house?

A He was to return the next day as Mrs. Griffiths was going down to Nairobi.

Q To return to?

A To the house of Colonel Griffiths to look after the place while Mrs. Griffiths was to Nairobi.

Q To your personal knowledge did he do so?

A He did.

Court adjourned until 9 a.m. 20th Nov. 1941.

TUESDAY, 20th NOVEMBER, 1952. At 9 a.m.

Accused present.

Jury present.

Counsel as before.

HAROLD GEORGE BEVERTON on former oath:

EXAMINED BY MR BRANIGAN.

Q You remember the 8th October?

A I do.

Q You arrived at the camp on Menengai Crater in the afternoon?

A At 4-30 p.m.

Q Was that ~~th~~ at the time or shortly after Miss Keppie's body had been recovered?

A It was after. The body was lying in the camp on my arrival.

CHIEF JUSTICE: That is Ross's camp?

A Yes, Your Honour.

BRANIGAN: You saw a number of boxes there?

A There were a number of boxes strewn about containing provisions.

Q You found some articles which you can particularise?

A In one box I found a small cardboard box (Ex. 8) That is the box.

Q Where did you find that?

A I found this in the provision box which I examined immediately on my arrival.

Q Were those cleaning materials in it?

A They were.

Q Was anything handed to you there?

A Almost immediately afterwards a Mr Morrison, Nakuru, handed me five rounds of revolver ammunition, .32.

Q Kynoch?

A Yes. The box and the ammunition were handed over by me to Mr Vincent of the Police at Nakuru the same evening.

NO CROSS-EXAMINATION.

(The witness withdrew).

STEPHEN OSWALD VERE HODGE

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are the District Commissioner at Nakuru?

A Yes.

Q I think you were at lunch on Saturday the8th October when you received certain information?

A I did.

Q On receipt of that information what did you do?

A I left Nakuru by car with six askaris and proceeded along the Nakuru-Ravine Road for about 7 miles. I then saw a car on the east side of the road.

Q What position was the car in?

A The car was facing the road and the front wheels were in the ditch.

Q Type of car?

A I did not examine the car.

Q When you discovered the car there what was the next thing you did?

A I proceeded up the track on the east side of the road with four askaris.

Q What type of country was it?

A Open country with long grass.

Q Was the car track easily perceptible?

A Yes.

Q Did it appear to you to be a regular track or merely the track of one car?

A It gave me the impression a car had passed over more than once.

Q Did the track end, so far as you could see, where the car was standing?

A Yes.

CHIEF JUSTICE: In the ditch? The track ended in the ditch?

A Yes.

ATTORNEY GENERAL: Will you look at the plan, Mr Hodge? (Ex.35) Does that plan accord with your recollection of what you saw?

A It does.

Q You have told us you followed up the wheel tracks through the grass from the point where you found the car in the ditch. What did you come to?

A I came to wooded bush country on top of a hill. Further on in the bush I came to what appeared to be a temporary camp.

Q What gave it that appearance?

A There were cases of provisions and other things and rugs, and some of the bush had been cut down.

Q Did you see anything there besides provisions and rugs?

A I saw a suitcase. Ex. 5 is the suitcase.

Q You opened that case?

A Yes.

Q And did you find anything in it?

A I found in it a letter (Ex. 2) and two bills (Ex. 15 & 16).

Q That letter and those invoices I think you took out and handed subsequently to the police?

A To Insp. Waldie.

Q Did you see any rope there?

A Two pieces. One a small length of rope and the other which would appear to be the main coil on the ground. (Ex. 18a and 18b).

Q There are five short lengths in the small piece?

A Yes.

Q At the time you saw it there was one length only?

A Yes.

Q It was attached to a tree?

A Hanging on a tree.

Q Can you explain how that length of rope came to be cut into five pieces?

A Later on, when the body of Miss Kepple was found at the bottom of the ravine we had to get it to the top and we tied one of the rugs round it with that piece of rope and it was subsequently taken to hospital where I understand the rope was cut.

Q Where was the rest of the rope?

A On the ground to one side.

Q Was anything handed to you there?

A An empty cartridge case, Kynoch, .32.

COURT JUSTICE: Who handed you that?

A A native askari.

ATTORNEY GENERAL: Will you look at that cartridge case? Is that similar to the one? (Cartridge case handed to witness).

A It is similar to the one I saw picked up.

(Cartridge case not yet put in. Marked 42 for ref.)

Q Did you hand that to Insp. Waldie also?

A Yes.

Q Shortly after you got there ----- You have told us about the discovery of the body. You were present at that time?

A Yes. The body was found lying at the bottom of the Ravine 100 paces from the temporary camp.

Q Could you indicate roughly with reference to the plan (Ex 58) where the body was.

A It was found here (Witness indicates position on map). Running from the circular camp you will see a dotted line which appears to indicate a path. The body was found at the end of the dotted line.

Q About what depth was the gully?

A About 50 feet.

Q Sheer?

A A sheer drop.

Q And the body was at the foot?

A Yes. It was lying on its back, feet against the cliff wall and arms above the head.

Q Did you notice any injuries?

A I noticed a wound at the back of the head. Also noticed blood round the mouth and nostril. There were faint scratches on the stomach.

Q The body was identified to you?

A I was informed who the body belonged to by Mr Ritchie.

Q You have already told us that with the aid of one of the rope and the piece of rope the body was raised.

A Yes, and taken to the temporary camp.

Q About how far would you put in from the point where the cartridge case was discovered to the top of this drop into the gully?

A About 100 paces.

Q As District Commissioner of Nakuru are you the proper licensing authority under the Arms Ordinance?

A I am.

Q Do you produce your counterfoil permit-book?

A Yes. (Put in and marked Exhibit 20). What is the Permit Transfer.

Q Do you find an entry in respect of a revolver 319533?

A Yes.

Q That is a transfer and sale authority?

A Permission was granted to Mr Bowles to transfer this revolver to Mr C.W.Ross.

Q What is the date of that?

A 26th of the 8th of this year. (Exhibit 20 a).

Q Do you also produce your Arms Licence Book?

A Yes. (Put in and marked Exhibit 21a).

Q No. 010264?

A Yes.

Q What does that represent?

A That is for a .38 Colt 319533 licence granted to C.W.Ross of Nakuru. Date 26-9-50.

Q Will you look at that weapon? (Revolver Ex.7).

A That is also marked 319533.

BY JUSTICE: And that is a Colt?

A I cannot say. Yes, it is a Colt.

A Yes. (Put in and marked Exhibit 20). That is the Permit for Transfer.

Q Do you find an entry in respect of a revolver 8196538?

A Yes.

Q That is a transfer [illegible] authority?

A Permission was granted to Mr Bowles to transfer this revolver to Mr C.W.Ross.

Q What is the date of that?

A 26th of the 8th of this year. (Exhibit 20 a).

Q Do you also produce your Arms Licence [illegible]?

A Yes. (Put in and marked Exhibit 21).

Q No. 0102647

A Yes.

Q What does that represent?

A That is for a .32 Colt 8196538 licence granted to C.W.Ross of Nakuru. Date 26-9-52.

Q Will you look at that weapon? (Revolver).

A That is also marked 8196538.

THE JUSTICE: And that is a Colt?

A I cannot say. It is a Colt.

CROSS-EXAMINED BY MR. SLADE

Q Mr. Hodge, would you say that that track which led up to the camp had been very frequently used?

A I could not say how frequently. It had been used in my opinion more than once.

Q You could not say more than that?

A No I could not say.

Q Was there to your mind any attempt to cover the body?

A No.

Q When you examined that suit case which you produced just now, did you find inside it any articles of clothing?

A I cannot remember definitely. I had an impression there were articles of clothing in but I did not examine them at all.

Q You did not report details of all the contents?

A No not all of them only certain ones.

Q Do you know if anybody reported details of all the contents?

A I do not know.

Q I take it if there had been a large quantity of clothing you would have noticed it?

A Yes.

Q Can you remember whether it seemed full or not?

A It was about 3/4 full.

Q In any case you took no clothes out of it?

A I took no clothes out of it.

Q On or about the 15th October did the accused make a voluntary statement to you?

A He did.

Q Is that the statement (produced) he made?

A Yes.

Q Signed by you?

A Signed by me.

Q Will you read that to the Jury?

(Witness reads statement made by the accused - Exhibit No.52 - as follows)

CROSS-EXAMINED BY MR. SLADE

Q Mr. Hodge, would you say that that track which led [illegible] to the camp had been very frequently used?

A I could not say how frequently. I had been used in my opinion more than once.

Q You could not say more than that?

A No I could not say.

Q Was there to your mind any attempt to cover [illegible]

A No.

Q When you examined that suit case which was produced [illegible] now, did you find inside it any articles of clothing?

A I cannot remember definitely. I had an impression there were articles of clothing in but I did not examine them at all.

Q You did not report details [illegible] the contents?

A No not all of them only [illegible]

Q Do you know if anybody reported details of all the contents.

A I do not know.

Q I take it if there had been a large quantity of clothing you would have noticed it?

A Yes.

Q Can you remember whether it seemed full or empty?

A It was about 3/4 full.

Q In any case you took no clothes out of it?

A I took no clothes out of it.

Q On or about the 15th October did the accused give a voluntary statement to you?

A He did.

Q Is that the statement (produced) he made?

A Yes.

Q Signed by you?

A Signed by me.

Q Will you read that to the Jury?

(Witness reads statement made by the accused Exhibit No.22 - as follows)

11 a.m. 15.10.32. Charles William Ross, st[illegible] I wish to make a voluntary statement. I promised to show the body of the girl Miss Stevenson if I was shot immediately afterwards. Capt Southon, Capt. Pierson and Mr. Russel and others were present. Mr. Beeston said that he had got papers ready. I admit killing both Miss Keppie and Miss Steverson for nothing. This was on Thursday night. I shot Miss Keppie near the camp. She was sitting next to me in the car and [illegible] at my revolver which was in my left pocket so I ordered her out of the car and took her about 50 yards from the camp. She was about a yard away from me when I shot her. I threw her down a sort of a square pit that was near. That was about 9.30 p.m. on Thursday night. I then returned for Winnie. She was in the car [illegible] when I took Miss Keppie away I made her get back into the car. She had not moved as she was terrified. She wanted to go home so I told her I would lead the way and she would follow. We got nearly to her home and she could not go any further. She lay down in the grass under a tree. She did not know what was going to happen to her. I shot her in the side of the head.

CHIEF JUSTICE -- All this is not material to this charge, Mr. Slade.

SLADE -- Sir, I think it is material.

CHIEF JUSTICE -- Material to your defence is it?

SLADE -- Yes, Sir.

LESS (continues reading)

... no reason for shooting her. I covered her [illegible] went straight back to the car. I waited in that car [illegible] Saturday morning. I had lemonade and orangos. I then threw everything out of the car and made up my mind to go home to Ravine. I got as far as the ditch and stuck.

I reversed and backed out. I then rushed the ditch but the clutch burnt or something broke. Just before I reached there a native I presume the man in plain clothes askari passed on his cycle going to Kampi ya Moto. Then another passed in entirely different dress going from Kampi ya Moto to Nakuru. I waited. My brother came along and I asked him to take me home on the back of his motor cycle. I lost mine and my revolver was taken away from me. I used already [illegible] revolver and put in [illegible]. I lost [illegible] revolver. [illegible] Police, Sir. I had some food to eat. I also washed [illegible]

(Signed) C. W. Ross. [illegible] (Sgd.) C.C.Y. [illegible], P.C. Magistrate II Class. [illegible]

LADE -- When Miss Kappie's body was found and [illegible] P.C. officer given the opportunity of seeing it as it was moved?

No.

Were any photographs taken?

No.

Was any diagram made?

No.

And I think I am right in saying that by the time any policeman was on the scene the ground about the place where the body had been found was so trampled about that no investigation was worth making?

I do not think so. Three of us found the body and that was all who were down there at the time.

Three people were down there?

Three people.

The grass in that part is very thick?

Yes.

And really difficult to walk in?

Not difficult to walk in. It is thick.

It would be very tiring to go a long way?

Yes.

NO RE-EXAMINATION.

OF JURY -- Your Honour, can the witness give us any idea as to the extent of the cleared area referred to as the camp?

A I think it was about 7 yards across.

Q Circular?

A Roughly circular.

Q And can the witness state how long that time would be ... clearing?

A A few minutes.

(Witness withdrew)

RAYMILL ROBERTS sworn:

EXAMINED BY MR. ...

You are ... Mr. Roberts?

A Yes.

Q Was Miss Kepple employed by you?

A Yes.

Q How long was she with the employment of your firm?

A About 2½ years.

Q ... and last saw Miss Kepple alive?

A Yes.

Q Were you one of the search party on Saturday 8th Oct.?

A Yes.

Q Were you ... at the Jones' camp?

A Yes.

Q And I think it was you who actually discovered the body of Miss Kepple?

A Yes.

Q Where was the body?

A Just at the top of the Menengai Crater down a small ravine about 20-30 feet across lying at the bottom of the ravine.

Q Sheer drop?

A Yes perfectly.

Q And how was the body lying when you found it?

A Lying on the flat of her back [illegible] the arm [illegible] is position above the head and [illegible] slightly tilted back; [illegible] legs bare and the body bare [illegible] here (indicates [illegible]).

Q You [illegible]

A The clothes [illegible] up to [illegible] no part of the body showing [illegible] covering [illegible] stomach.

Q The [illegible] to breast.

A [illegible] What was [illegible] here. A [illegible] the position was [illegible] stocking [illegible] bare [illegible]

Q As if [illegible]

A Yes sir.

Q During [illegible]

A Probably.

Q Did you notice [illegible]

A There [illegible] the stocking [illegible] hands and in the last [illegible] to see if any wound [illegible] found what [illegible] the knee [illegible] the ankle.

Q Did you [illegible]

A Yes with shoes were [illegible] the stocking feet. Lead furthest away from the wall [illegible] very close to the feet and close to the wall. Shoe as far as I remember was [illegible] and the [illegible] was tilted to the side.

Q Both shoes had come off?

A Yes.

Q I resent Mr. Judge [illegible] that you [illegible]

A Mr. Norris [illegible] not [illegible]

Q In [illegible] were [illegible]

A Yes.

Q And you gave the alarm and with [illegible] the body was rolled up to the flat ground round the camp and taken to the camp.

A Yes.

NO CROSS-EXAMINATION.

Judge's notes of evidence read [illegible] found correct.

ALFRED [illegible]

WA[illegible]

Q You are an Inspector of Police [illegible]

A Yes.

Q And on the 8th October Saturday [illegible] Hamble road?

A I did.

Q About 7 miles out [illegible]

A A car.

Q Number?

A B. 8652.

Q Ditched?

A Double the road.

Q What did you find [illegible]

A There were a number [illegible] right [illegible]

Q Yes.

A There were [illegible]

Q Is that the rifle (Exhibit 2C)?

A That is the rifle.

A Four boxes each containing [illegible] a certificate upon are they (Exhibit 2D).
Six 6 coil electric terms - that is [illegible] (Exhibit 2E)
A box containing a quantity of [illegible]
that is the box (Exhibit 2F) [illegible]
A pair of binoculars [illegible]
they (Exhibit 2G)
A leather pistol holster
And ammunition bottle [illegible]
that is it (Exhibit 2H)

Q You had [illegible] Police Station?

A That is correct.

Q After that you proceeded [illegible] to this Court as Mrs's car.)

A That is so.

Q And there you found a lot of articles?

A A large number of incriminating articles, yes.

Q And what did you do with them?

A And them later to the Police Station.

Q To whom were they handed over?

A To Mr. Vincent the Superintendent of Police.

Q Subsequently, the following [illegible] you check all these articles with [illegible] out in the name of the accused by Harris [illegible] Nakuru?

A I did. I made a detailed check of everything.

Q And did the articles which you found in the dump correspond with those enumerated on the Inventory of Exhibits?

A There were a few discrepancies.

Q Will you tell us,

A On checking the articles in the [illegible] with those enumerated on Harris's [illegible] found the following discrepancies: [illegible] three tumblers, contents of one [illegible] of matches, the contents of [illegible] bottles of minerals and eight electric [illegible] - that is the lot.

CHIEF JUSTICE -- Were they missing?

A Yes, Your Honour.

BRANIGAN -- Did you receive anything from [illegible] Nakuru?

A Yes I did. At Nakuru's camp during the course of my investigation I received one envelope [illegible]

Q Similar to that (produced)?

A Similar to that (Exhibit No. 42).

Q A letter written by Miss Stevenson [illegible] two bills, one from Harris and [illegible] Cheltram (Exhibits 12 and 13)?

A That is the letter and that [illegible] I made the detailed check.

P R E CROSS-EXAMINED BY MR HOGAN.

Q You have just mentioned generally the things you found at the camp. Read out exactly what you found at the camp.

A The articles in detail were:-

5 woollen rugs
9 boxes of matches
6 table knives
6 table spoons
6 dinner plates
3 bottles of whiskey
2 bottles of orange squash
4 tins of cream cracker biscuits
4 tins of assorted biscuits
24 tins of salmon
1 tin containing 500 cigarettes
22 electric torch cells
3 tumblers
6 table forks
6 soup plates
6 bottles of Port wine
9 packets of chocolate intact and one small portion of another broken
24 tins of fruit, assorted
1 tin opener
6½ doz. assorted mineral waters
8 bottles of lemon squash
3 ladies' shawls
1 pair of bed sheets
4 small cushions
1 box of face powder
1 bush knife in a sheath
1 man's raincoat
1 bedspread
4 silk handkerchiefs
2 bottles of Eau de Cologne
1 jar of Pomado brilliantine
1 paper of safety pins
1 Gurkha knife in a sheath.

Q Did you compare these with Choitram's invoice?

A I did.

Q Is there something missing from Choitram's invoice?

A I am not quite certain. I could not make an exact check as I only had one bill given to me.

Q Does that bill say how many handkerchiefs in the box? It refers to a box of handkerchiefs. (Ex.15)

A It says here "6 silk handkerchiefs".

Q The six bottles of minerals missing. Were the bottles missing or merely the contents?

A The contents only.

NO RE-EXAMINATION.

(The witness withdrew).

FREDERICK LOUIS HENDERSON

Sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are a Member of the Royal College of Surgeons of England and Licentiate of the Royal College of Physicians of London and District Surgeon at Nakuru?

A Yes.

Q I believe that for many years you were Government Medical Officer?

A Yes.

Q On the afternoon of Saturday the8th October I believe that you went out yourself to the camp which is known as Ross's Camp?

A Yes.

Q And I believe that there you found a body?

A I was shown a body at the camp by Mr Hodge the D...

Q Was that body personally known to you?

A She was known to me - Miss Keppie.

Q And the body was that of Miss Keppie?

A Yes.

Q Was it moved to Nakuru Hospital?

A I took it over to the Mortuary and the next morning I performed a post-mortem at 9 o'clock on Sunday morning. This is my post-mortem report. (Exhibit 51).

Q Will you read that?

(Witness reads Post-mortem Report, Ex. 51).

"Date and hour of arrival at Mortuary 6p.m. 8-10-32.

Condition of corpse on arrival Fresh

Mode in which packed Cotton dress - knickers - stockings (knickers wet from urine).

Date and hour at which post mortem was held 9 a.m. 9.10.32

M.O's report and probable cause of death.

Body identified by Mr Hodge D.C. as that of the European woman Miss Keppie found at the lip of the crater off the Rongai Road on Saturday afternoon and seen by me near the site where body found - body was examined by me at the Camp on the crater lip. Body was cold and rigor

mortis well marked. There was a wound like a bullet wound at back of head. Face was purple. Eyes had extensive subconjunctival haemorrhages. Mouth wide open, pupils medium dilation. Blood issuing (dried) from nose and mouth.

Examination in P.M. room at European Hospital.

Present: Mr Vincent, Supt. Police Nakuru
Sister Cleland - assisting at P.M.
Supt. Stewart)
E.P.G. Sharp) C. I. D.

External examination. Face purple, blood issuing from mouth and nose, mouth wide open, subconjunctival haemorrhage - both eyes. Abrasions on lower right chest and across abdomen abrasions as if body had been dragged (or possibly fallen down a slope). Abrasions over outer side top of R. thigh. Abrasion top and front of left thigh. Abrasions over lower right ribs were fairly severe. Few abrasions left thumb. 3 blood blisters on 1st and 2nd fingers of right [illegible] over first metacarpal bones. Rigor mortis fairly well marked but not so marked as on 8th (Rigor Mortis passing off rapidly). There was a scar of an old appendix wound. Post mortem staining well marked over back of shoulders. There was a small round hole in back of head left side from which a little blood was issuing. Hair was not burnt round the hole - very slight bruising just round the hole.

Internal examination. On removing the scalp it was found that the hole in the scalp and skull was slightly to the left of the middle line 1¼ inches from apex of occipital bone near its margin adjacent to the left parietal bone. Brain substance was issuing from the hole. Hole about the size of an 0.32 or 0.303. There was no fracture of the vault of the skull. Hole through

mortis well marked. There was a wound like a bullet wound at back of head. Face was purple. Eyes had extensive subconjunctival haemorrhages. Mouth wide open. pupils medium dilation. Blood issuing (dried) from nose and mouth.

Examination in P.M. room at European Hospital.

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External examination. Face purple, blood issuing from mouth and nose, mouth wide open, subconjunctival haemorrhage - both eyes. Abrasions over lower right chest and across abdomen abrasions as if body had been dragged (possibly fallen down a slope). Abrasions over outer side top of R. thigh. Abrasions top and front of left thigh. Abrasions over lower right ribs were fairly severe. Few abrasions left thumb. 3 blood blisters on 1st and 2nd fingers of right hand over first metacarpal bones. Rigor mortis fairly well marked but not so marked as on 8th (Rigor Mortis was passing off rapidly). There was a scar of an old appendix wound. Post mortem staining well marked over back of shoulders. There was a small round hole in back of head left side from which a little blood was issuing. Hair was not burnt round the hole - very slight bruising just round the hole.

Internal examination. On removing the new scalp it was found that the hole in the scalp and skull was slightly to the left of the middle line 1½ inches from apex of occipital bone near its margin adjacent to the left parietal bone. Brain substance was issuing from the hole. Hole about the size of an O.32 or O.303. There was no fracture of the vault of the skull. Hole through

skull was larger on the inner side of the skull than the outer. There had been extensive subdural harmorrhage. The brain was placed in a basin and after a little search a lead bullet dropped out - mushroomed. There was a small fracture of the sella turcica on the right side, (not the left side as stated in my report). There was no other fracture of the skull. A portion of bone where bullet entered was removed and together with the bullet (of lead) handed over labelled to Supt. Vincent. A smear taken from the vagina was examined and found negative for semen. Specimens of hair from the head and pubic hairs were taken and handed over to E.P.C.Sharp. The bullet had entered slightly to the left side and traversed the base of the brain obliquely slightly to the right.

Cause of death was gunshot wound of head. Death must have been instantaneous."

Q Will you look at that bullet. (Same handed. Witness marked 45 for identification). Is that the bullet you refer to?

A Yes,

Q That is the mushroomed bullet which dropped out of the brain?

A Yes.

Q Did you prepare that diagram attached to the written Postmortem Report?

A Yes.

Q That is a diagram indicating the entrance point of the wound in the head, the line of the bullet and the damage which it did to the brain tissues?

A Yes. (Diagram marked Exhibit 51a)

Q You told us in the report of a certain number of bruises and in respect of the first of those bruises you record the opinion that the bruises over the lower ribs and across the abdomen might have been accounted for by the body falling down a slope?

A Or being dragged.

Q In your opinion might either of those explanations

skull was larger on the inner side of the skull than the outer. There had been extensive subdural harmorrhage. The brain was placed in a basin and after a little search a lead bullet droppped out - mushroomed. There was a small fracture of the sella turcica on the right side, (not the left side as stated in my report). There was no other fracture of the skull. A portion of bone where bullet entered was removed and together with the bullet (of lead) handed over labelled to Supt. Vincent. A smear taken from the vagina was examined and found negative for semen. Specimens of hair from the head and pubic hairs were taken and handed over to E.P.C. Sharp. The bullet had entered slightly to the left side and traversed the base of the brain obliquely slightly to the right.

Cause of death was gunshot wound of head. Death must have been instantaneous."

Q Will you look at that bullet. (Same handed to witness marked 43 for identification). Is that the bullet you refer to?

A Yes,

Q That is the mushroomed bullet which dropped out of the brain?

A Yes.

Q Did you prepare that diagram attached to the written Postmortem Report?

A Yes.

Q That is a diagram indicating the entrance point of the wound in the head, the line of the bullet and the damage which it did to the brain tissues?

A Yes. (Diagram marked Exhibit 51a)

Q You told us in the report of certain number of bruises and in respect of the first of those bruises you record the opinion that the bruises over the lower ribs and across the abdomen might have been accounted for by the body falling down a slope?

A Or being dragged.

Q In your opinion might either of those explanations

account for the other bruises on the outer top [illegible] of the right thigh, top and front of the left [illegible], the lower ribs and all the others?

A Yes.

Q So all might have been caused by the body being dragged or the body falling?

A Yes.

Q Were they in your [illegible] caused before death or after?

A After death, or just at the time of death.

Q And death was instantaneous?

A Yes. Must have been instantaneous.

CROSS-EXAMINED BY MR HOGAN.

Q You were present on the morning of the XB 16th when Miss Stevenson was discovered?

A Yes. I was not present when the body was discovered. I was taken to the body subsequently.

Q At 8.30 on the morning of the 16th?

A Yes.

Q Where did you find it and in what position?

A Miss Stevenson's body was lying on her back. She was covered with branches of trees under which she was lying, and her left arm was lying across her body and her right arm alongside her right side.

HIS HONOUR: Where did you see it?

A It was found about 4 miles or so from Ross's camp towards Kakarui. South-west corner of Wonenggel Crater.

Q Were her clothes disarranged in any way?

A No.

Q No visible signs of an attempt at rape?

A No.

Q Quite satisfied there had been no rape?

A Quite.

Q You subsequently conducted a post-mortem examination on Miss Stevenson and you found that she died from a gunshot wound practically identical with that which caused Miss Keppie's death.

A Yes.

NO RE-EXAMINATION.

(The witness withdrew)

MATTHEW WILLIAM WHITRIDGE sworn.

EXAMINED BY THE ATTORNEY GENERAL

Q You are the step-father of the accused Ross?

A Yes.

Q And you live at Maji Mazuri?

A Yes.

Q Your other stepson Gordon Ross lives with you?

A He does.

Q Gordon Ross I believe is some 15 months older than the accused?

A Yes.

Q The accused I think is aged 20?

A Yes.

Q On the morning of Saturday the 6th October certain information came to you and in consequence of that you sent Gordon Ross out on his motor-cycle?

A I sent him out.

Q That, I think, was fairly early in the morning about 8-30?

A About 8-30.

Q About what time did Gordon return?

A Between 1 and half-past 1.

Q Alone?

A Alone.

Q And on his return I believe he made a statement to you?

A Yes.

Q And in consequence of that statement you waited at your house?

A Yes.

Q Did the accused arrive shortly after that?

A The accused arrived I should think about half an hour after that followed by his brother Gordon.

Q That would be round about 2 o'clock, Major Whitridge?

A Yes.

Q Where were you standing at that moment?

A Outside my garage.

MATTHEW WILLIAM WHITRIDGE sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q You are the step-father of the accused Ross?

A Yes.

Q And you live at [redacted] Mazuri?

A Yes.

Q Your other stepson Gordon Ross lives with you?

A He does.

Q Gordon Ross I believe is some 15 months older than the accused?

A Yes.

Q The accused I think is aged 20?

A Yes.

Q On the morning of Saturday the 8th October certain information came to you and in consequence of that you sent Gordon Ross out on his motor-cycle?

A Yes.

Q That, I think, was fairly early in the morning about 8-30?

A About 8-30.

Q About what time did Gordon return?

A Between 1 and half-past 1.

Q Alone?

A Alone.

Q And on his return I believe he made a statement to you?

A Yes.

Q And in consequence of that statement you waited at your house?

A Yes.

Q Did the accused arrive shortly after that?

A The accused arrived I should think about half an hour after that followed by his brother Gordon.

Q That would be round about 2 o'clock, Major Whitridge?

A Yes.

Q Where were you standing at that moment?

A Outside my garage.

Q Did you say anything to the accused?

A Oh, the accused did not come up then; he was still about 100 yards away.

Q What happened next?

A I sent my wife in-to the house and followed her in and waited for the accused to enter.

Q And as he entered the house?

A I caught him by his left arm.

Q Did you say anything to him?

A I asked if he was armed.

Q What was his reply?

A After hesitating a moment or two he said Yes. I then told Gordon Ross to disarm him.

Q And he did so?

A He did so.

Q What did he take from his pocket?

A A loaded revolver. Exhibit 7 is the revolver.

Q Fully loaded?

A Fully loaded.

CHIEF JUSTICE: Which pocket did he take it from?

A The right hand coat pocket.

ATTORNEY GENERAL: That revolver, loaded as it was, I think you took from him.

A Gordon took it, Gordon unloaded it and handed me the cartridges and the revolver.

Q And can I say that those cartridges and the revolver were subsequently handed over to the Police?

A Yes.

Q After the accused had been disarmed he went into the house?

A He went into the house.

Q And I believe he had a conversation with his mother?

A Yes.

Q Were you present at that?

A I was.

Q Will you tell us, Major Whitridge, what form that conversation took?

A His mother was asking him what he had done with the two girls particularly Winnie Stevenson who was known to his mother.

Q And what reply did he give his mother?

A He did not know.

Q And did his mother again ask him - press him?

A His mother repeatedly asked him.

Q With what result?

A He did not know. He said he had gone out hunting with a party and that he had lost that party.

Q And did you then question him yourself?

A I then questioned him myself and asked him what he had done with the girls and told him the Police had been there enquiring for him and the girls about the [illegible] was responsible.

Q And what did he say?

A He said he did not know.

Q I think, taking it very shortly, he then had a wash and something to eat?

A He then had a wash but could not eat anything. He drank several glasses of water and I then took him to the Police at the Ravine.

CROSS-EXAMINED BY MR. SLADE:

Q How long ago did you marry Mrs. Ross-as she then was?

A I do not know the exact date - it is about 5 years ago.

Q Did you know the family at all long before that?

A I knew my wife and her two younger children six for about a year before that. The other three older children were in England at School.

Q Since Billy came back from England you have known him

Q After the accused had been disarmed he went into the house?

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A Yes.

Q Were you present at that?

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Q And did you then question him yourself?

A I then questioned him myself and asked him what he had done with the girls and told him the Police had been there enquiring for him and the girls and that he was responsible.

Q And what did he say?

A He said he did not know.

Q I think, taking it very shortly, he then had a wash and something to eat?

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Q Did you know the family at all long before that?

A I knew my wife and her two younger children six for about a year before that. The other three elder children were in England at School.

Q Since Billy came back from England you have known him

and his brother and sister?

A Yes.

Q How long is that?

A Well I think I must be a year out with my marriage because it is about 5 years since the boy returned from home.

THE CHIEF JUSTICE -- You say there were 5 children at school in England and they returned about six years ago?

A About 5 years ago.

Q You must have been married six years then?

A Yes.

MR. SLADE -- What does the family consist of - how many boys and girls are there?

A Three boys and two girls.

Q Leaving out of account for the moment the accused, would you say that they all had ungovernable tempers?

A They all have with the exception of the accused, bad

Q tempers - ungovernable tempers.

Remarkably so?

A Quite, to me.

Q Have you in fact on one occasion seen his brother Gordon in such a rage that his mouth was filled with grass and he was foaming?

A I have - with leaves not grass.

Q Have you seen manifestations of that kind more than once?

A I have only seen that once when I told him to go away and come back an hour afterwards when he was better.

Q Did you ever see any sign of cruelty in any of the children?

A No, I have not.

Q Not even John the youngest?

A Oh, I have seen John as a youngster being cruel to kittens that he was playing with.

Q What did he do?

A Well he was hanging them up by a piece of string.

THE CHIEF JUSTICE -- What age was he?

A Oh, he must have been about 6 or 7 years.

MR. SLADE -- Do you know whether the accused knew many local native languages?

A Oh, yes. He knew Kikuyu and Kavirondo and the Kamasia languages, which are local languages.

Q He knew them well?

A Oh, very well.

THE CHIEF JUSTICE -- By Kavirondo, what do you mean - Jalno?

A The Jalnu language.

MR. SLADE -- Would you say that he was of a solitary disposition?

A Yes he was very much inclined to go out by himself, shooting.

Q Wandering about in the forest?

A Yes he would be out for a whole day at a time.

Q As far as you knew he was quite fearless?

A Oh, absolutely.

Q Can you give any instance or any remarkable case in this way?

A I have known him to get out of the train at Sabatia and without a light at night and walk across to our place and think nothing of it. The average man would think a great deal about it because there are leopards and all sorts of things.

Q How far is it to the station at Sabatia?

A 5½ miles.

Q And is it all forest?

A At that time it was. It has been cut down since.

Q When he went out shooting, did you ever go with him?

A When he first came out from school I took him out frequently in the car and we camped out for the night.

Q He was frightfully keen?

A He was very keen.

Q Was he a good shot?

A A very good shot.

Q And a marvellously good stalker?

A I think so. I am not so experienced with his stalking, but he always looked for tracks, which is an indication of a good stalker.

Q You did not go shooting with him just recently - it was in the early days more?

A Not recently, no.

Q When he came back from his expeditions alone, he was always very excited, was he not?

A Oh, yes. He knew Kikuyu and Kavirondo and the Kamasia languages, which are local languages.

Q He knew them well?

A Oh, very well.

THE CHIEF JUSTICE -- By Kavirondo do what do you mean - Jalno?

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Q You did not go shooting with him just recently - it was in the early days more?

A Not recently, no.

Q When he came back from his expeditions alone, he was always very excited, was he not?

A Well, if he shot anything he was excited.

Q What kind of excitement - talkative?

A He would describe the circumstances under which he shot the buck.

Q With graphic descriptions?

A To me it was perfectly natural. He was following out what I used to do as a youngster. I used to get very excited when I shot a buck.

Q There never seemed anything queer to you about his behaviour in that respect?

A No.

Q Is it true that when he came home from shooting he was sometimes covered with blood?

A Only if he brought something with him. He invariably carried his own buck. When he shot it his clothes would get covered with blood from the buck. It would be invariably behind his back where the blood would be visible.

Q Not particularly on his hands and arms?

A No.

Q He always carried the animal home himself?

A Always.

Q Was he very generous?

A Not remarkably so.

Q He was very kind?

A He gave us all presents last year at Christmas when he came up to spend the Christmas with us.

Q But you would not say he was unusually kind or generous?

A I think that he was very kind. I have never seen him otherwise excepting the last six months when he has been different.

Q Oh yes but I want to know not whether he was otherwise but whether he was particularly kind?

A Well I don't think out of the way - just like an ordinary child.

Q Did he come home to you at Christmas of 1950?

A Yes.

Q Do you remember an accident at that time?

A Yes.

Q What exactly happened?

A The gramophone was playing and the children were dancing up and down the room when the accused was kicked by his brother John.

Q Where was he kicked?

A In his private parts.

Q What happened then?

A He went out of the room and disappeared and when he had been away about 20 minutes we started searching for him and found him about 2 hours afterwards in the field.

Q Did you find him yourself?

A No, Gordon his brother found him.

THE CHIEF JUSTICE — Two hours after?

A About two hours afterwards.

Mr. BLAIR — He had his clothes on when he came in, did he?

A All his clothes on, yes.

Q What sort of state was he in?

A He was in great pain and he was off his head.

Q You say he was off his head?

A Oh absolutely. He could get nothing out of him.

Q Was he unable to talk?

A Unable to talk. He was gripping with his hands like this (witness demonstrates).

Q Was he able to walk?

A No he was carried.

Q Was he struggling?

A No.

Q Were his eyes open?

A His eyes were staring.

Q Fixed stare?

A Yes.

Q And you put him to bed?

A Yes.

Q And how long did he stay in bed?

A He was in bed until the following evening when he became normal and rationable - you could talk to him.

Q Until the following evening what was his condition?

A He was gripping the blankets and sheets most of the time during that time.

Q Was he talking at all?

A He became normal during the day after he had been put to bed but I kept him in bed. I would not allow him to participate in the games that day. I told him to stay in bed.

Q Do you know whether he suffered from any illness, an unusual kind for a boy of his age, then or very soon after?

A No.

Q Was there any occasion when Mrs. Whitridge brought some pyjamas to you?

A That was at that time when he was in bed - the following morning.

Q And the pyjamas were covered with blood?

A Yes.

Q That is the pyjama trousers?

A Yes.

Q Was he given at all to sulking or moroseness?

A If he got in a temper he would be sulky for a day or two afterwards.

Q That was his way of showing temper?

A Yes.

Q Because you said he was different to the others?

A Yes.

Q He never flared up?

A He never flared into a temper like the others.

Q Would it last for some time when he became morose?

A Yes a day or two.

Q Was he very inclined to cry?

A I have only seen him cry on about 2 or 3 occasions during the time I have known him.

Q Were they good causes for crying?

A Well I think it was temper.

Q You were very proud of him, were you not?

A I thought a great deal of him.

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A Well I think it was temper.

Q You were very proud of him, were you not?

A I thought a great deal of him.

Q A little time before the beginning of October you had a bit of a row with him, had you not?

A Yes.

Q What exactly was the row about? When did it happen first of all?

A It was during the Easter holidays of this year. I had asked him to make enquiries on my behalf from the Kenya Farmers Association - the people he was working for - about prices of potatoes, and he replied saying that he had made enquiries here and there in the town and giving me the views of those people had given him, and it struck me that he was suffering from a swollen head, and I thought I was right to tell him off. I wrote and told him off.

THE CHIEF JUSTICE -- Did he give those views in writing that he had heard?

A Yes.

MR. SLADE -- You wrote and told him off?

A Yes.

Q Then you thought that he was swollen-headed?

A At that time, yes.

Q Had you been thinking that for some time before?

A No, I had not seen indications of it before.

Q It was simply a result of his letter? Something that you had not seen before?

A Well I thought it was in the boy's own interests and I thought I would bring him back.

Q This was a new development, this swollen headedness?

A I attributed it to the fact that he was making progress with the firm he was working for.

Q But it was something new?

A Yes, something new.

Q What was the result of your letter?

A He stopped coming to see his mother or writing her his usual weekly or fortnightly letters. We became so concerned at this that on four occasions we drove down to Nakuru specially so that my wife could see him.

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A He stopped coming to see his mother or writing her his usual weekly or fortnightly letters. We became so concerned at this that on four occasions we drove down to Nakuru specially so that my wife could see him.

Q And how did he behave?

A He would come out and say "Good-morning" to his mother in a very indifferent way and talk to her very indifferently and never recognised me at all or said "Good-morning" or anything to me.

Q Had he a sneer on his face?

A Yes.

Q Did you notice anything else queer about his behaviour? After that. Did he become more solitary or dreamy?

A He appeared to be the same up to within 10 days of this tragedy.

Q But you did not ever see him sitting by himself for long periods?

A He was always inclined to be solitary.

Q But when you were describing his solitary habits before you simply said he went off shooting by himself?

A Or walking. I have seen him sitting on a rock meditating for a long time.

Q Would you say that this change in the last six months was very marked?

A Oh! very marked.

Q Did it seem to you that he had lost all his [illegible]?

A He did.

Q And yet suddenly just before the beginning of October he came back and made it all up?

A He came back for the week-end.

Q And you were perfectly happy again?

A Very.

Q Do you know whether he came back with a loaded revolver?

A Yes. He had a loaded revolver.

Q Did you see it yourself?

A I was told about it.

Q I want you to go on to the time when you sent Gordon out to look for him on the morning of the 8th. You told Gordon to look on the Menagai Crater?

A Over the top of Menagai Crater.

Q What made you send Gordon there?

A Because it occurred to me that he had probably taken the girls there to look at something he had seen and that he had been unable to stop the car and they had gone over

Q And how did he behave?

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Q Would you say that this change in the last six months was very marked?

A Oh, very marked.

Q Did it seem to you that he had lost all his good points?

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Q What made you send Gordon there?

A Because it occurred to me that he had probably taken the girls there to look at something he had seen and that he had been unable to stop the car and they had gone over

the top. He was not known to be a motor-driver.

Q Do you know whether he had a particular fondness for that spot?

A He used to spend the week-ends there if he did not spend them with us in the old days.

Q I suppose you did not know he had this camp there?

A No.

Q And then the next you knew about it is that Gordon came back and reported that he had found Billy and Billy was coming up?

A Yes.

Q And what did you think then?

A That he was coming home for some other reason.

Q Had you any idea what reason?

A I jumped to the conclusion that he had not yet done his job and I was the next he had to deal with.

Q You thought he had come to kill you?

A Yes.

Q He had come home specially for that?

A Yes.

Q Did you believe that he had a devil in him?

A I felt pretty sure he had.

Q For how long had you had that belief?

A Only from the time that Gordon had returned home.

ATTORNEY GENERAL: The same day?

A A few minutes before.

CODE: And so when he came in you took him by surprise and held him by the arm, so that he could not resist and asked him if he was armed?

A That is why I took those precautions.

Q When you asked him if he was armed he did not answer at once?

A He hesitated - it seemed quite a long time but I suppose it was only a few moments - whelle we were looking eye to eye at each other.

Q And what did he look like?

A He had the same mad look in his eye as when he was kicked.

Q The same look that he had in 1930?

A Yes.

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Q The same look that he had in 1930?

A Yes.

Q Were his eyes staring?

A Yes.

Q What else made his look like that?

A Merely his eyes.

Q How was his mouth - open or shut?

A My glance was concentrated on his eyes in case of the revolver.

Q Then you went in and talked to his mother. All I want you to tell me now is whether his answers to her questions made sense?

A Oh! no. He was looking on the ground when he was being asked those questions.

Q But did his answers seem in any way continuous or to make sense?

A They were all the same. He did not know where the girls were.

Q He said something about being out with a shooting party?

A Yes.

Q Did that fit in?

A And he also said if Winnie Stevenson had been there she could have driven the car home.

Q He said nothing about eyes?

A He said "I can see eyes - eyes," and my [illegible] said, "Those eyes?"

Q You understand the meaning of the word Coherent?

A I cannot catch it. Coherent? Oh! yes.

Q I want to know whether his answers were coherent?

A I think they were not. His mind was wandering.

Q You had that impression?

A Yes.

Q And all the time he seemed to be seeing eyes?

A Seeing eyes.

Q Then you took him to the police at Ravine?

A Yes.

Q And how did he behave as you took him?

A He behaved all right.

Q Were his eyes staring?

A Yes.

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A Merely his eyes.

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Q You had that impression?

A Yes.

Q And all the time he seemed to be seeing eyes?

A Seeing eyes.

Q Then you took him to the police at Rawlins?

A Yes.

Q And how did he behave as you took him?

A He behaved all right.

Q Quite calm?

A Quite calm.

Q Did he talk at all?

A No.

Q Did he resist?

A Not at all.

Q Did you think that when he had shot you his job would have been finished?

A I thought he was coming to shoot me and then he would have shot himself.

Q Where is his father's grave?

A At Revine.

Q Did you examine him to see how much money he had on him when he came back?

A I did not. I was told by Mr Poskitt that he had 15/- odd.

Q Do you know whether about 6 months ago - that would be about the same time as the row you had with him - he sold his guns?

A Yes. He sold all his guns I believe at that time. I was told so.

Q Did he tell you so?

A He did not tell me. I think he told Corporal [illegible].

Q He never spoke to you about it?

A No.

RE-EXAMINED BY THE ATTORNEY GENERAL

Q Major Whitridge, you know now what did happen on the Thursday night, just some 40 hours before you saw him?

A I know now.

Q Do you think in the light of that knowledge that it was strange that his eyes should be fixed, that he should be a little incoherent in the light of what had happened so shortly before?

A I do not think so.

Q Do you agree that on the Friday after killing those two girls the accused must have gone through hell?

[illegible]E: I object to these questions.

[illegible]ELF JUSTICE: What is your objection?

[illegible]AE: They are leading questions.

ATTORNEY GENERAL: Do you think, Major Whitridge, that the [illegible] of the accusadduring Friday after this double killing would be pleasant?

A Unpleasant.

Q Highly so?

A Yes.

Q Do you think it [illegible] he would have displayed the symptoms you have described?

A I think it is quite natural.

Those are leading questions.

ATTORNEY GENERAL: I shall put it [illegible] How would you expect a normal [illegible] person after going through [illegible] leave, Major Whitridge?

A Well, as if he were [illegible]

Q May I take you back [illegible] You have described [illegible] at that little [illegible] accused suffered probably, very [illegible] that it those were

A Yes.

Q [illegible] your observation [illegible] behaviour [illegible] was shocking, did his suffering [illegible] with [illegible] realize that he was

A Yes.

Q The state of his [illegible] was indicated by [illegible] and that [illegible] was indicated by [illegible] mind with the [illegible] in your

A In bed?

Q In bed?

A No.

Q You have [illegible] received [illegible] he had risins. [illegible] of blood [illegible] in any way?

A Not with the [illegible]

Q You have told us about the occasion when his brother Gordon got into such a temper that he filled his mouth with leaves and you invited him to go away and come back in an hour when he was better?

A Yes.

Q Did he?

A Yes.

Q He was better?

A He was better.



E ATTORNEY GENERAL: Do you think, Major Whitridge, that the sensations of the accusedduring Friday after this double killing would be pleasant?

A Unpleasant.

Q Highly so?

A Yes.



Q [illegible] unnatural [illegible]
he should have [illegible] the shooting [illegible]

A I think it is quite [illegible]

STATE: These are leading [illegible]

ATTORNEY GENERAL: I [illegible]
How would you [illegible] through [illegible] after the

A Well, as if he were not [illegible]

Q May I take you back [illegible]
You have [illegible] at that little [illegible] probably very [illegible] suffered

A Yes.

Q [illegible]
behaviour [illegible] suffering [illegible]

A Yes.

Q The state of [illegible]
and that [illegible]
mind with the [illegible]

A In 1950?

Q In 1950?

A No.

Q You have to [illegible]
received a [illegible]
stains. [illegible]

A Not with the [illegible]

Q You have told me about the wrestling which his brother Gordon got into and a letter that he filled his mouth with leaves and you invited him to go away and come back in an hour when he was better?

A Yes.

Q Did he?

A Yes.

Q He was better?

A He was better.

OREMAN OF JURY: The Jury wish to know whether any doctor was called in on the occasion referred to when the accused received an injury?

A A Goan doctor was called in - a Dr Dyas.

OREMAN OF JURY: Will the witness say what led him to expect that the accused would kill whe him when he returned with his brother Gordon? Did he know then that either of the girls had been killed?

A Yes.

R CHIEF JUSTICE: You had knowledge that the girls had been killed?

A Yes.

SLADE: Your Honour, with reference to the Foreman's question might it be asked the witness whether the doctor did anything?

CHIEF JUSTICE: Did the Goan doctor do anything to the accused?

A I do not know whether he prescribed anything. He saw the accused.

CHIEF JUSTICE: About this blood. Did you make any enquiries where the blood came from which was on his pyjamas?

A It came from his private parts. His penis.

(The witness withdrew

THE COURT ADJOURNED AT 11-10 a.m. for ten minutes.

THE COURT RESUMED at 11-30 a.m.

GORDON CHARLES HOSS sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q Charles William Ross is your brother?

A Yes, sir.

Q I believe you are 21?

A Yes.

Q And that your brother is some 15 months younger?

A Yes.

Q He is employed at the Kenya Farmers Association at Nakuru?

A Yes.

Q And you live with your mother and stepfather Major Whitridge at Hill Nakuru?

A Yes.

FOREMAN OF JURY: The Jury wish to know whether any doctor was called in on the occasion referred to when the accused received an injury?

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THE COURT RESUMED at 11-20 a.m.

GORDON CHARLES ROSS sworn:

EXAMINED BY THE ATTORNEY GENERAL

Q Charles William Ross is your brother?

A Yes, sir.

Q I believe you are 21?

A Yes.

Q And that your brother is some 18 months younger?

A Yes.

Q He is employed at the Kenya Farmers Association at Nakuru?

A Yes.

Q And you live with your mother and stepfather Major Whitridge at Wanjohi Nakuru?

A Yes.

Q I think your brother and you were at school together in England at Ashburton Grammar School?

A Yes.

Q What years were you at Home?

A About 7 years.

Q When did you return to Kenya?

A 1927.

Q I want you to take your mind back to the morning of Saturday the 8th October. That morning you had a talk with your stepfather?

A Yes.

Q And in consequence of that talk where did you go?

A I went on the main road to Nakuru on my motor-cycle down the main Ravine Road towards Nakuru.

Q About what time did you start?

A Between 8 and 9 in the morning.

Q And the distance between Nakuru and your stepfather's house is what?

A Just over 50 miles.

Q When you were between 7 and 8 miles from Nakuru?

A I saw my brother standing on one side of the road and behind him was a motor-car.

Q Close to him?

A Yes, sir.

Q Did you see the car?

A It was in the ditch facing right-angles to the road.

Q The car was facing the road?

A Yes, sir.

Q Which wheels were in the ditch?

A The front wheels.

Q What type of car was it?

A Chevrolet box body.

Q Was the engine still running?

A Yes, sir.

Q Did you say anything to your brother about it?

Q I think your brother and you were at school together in England at Ashburton Grammar School?

A Yes.

Q What years were you at Home?

A About 7 years.

Q When did you return to Kenya?

A 1927.

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A The front wheels.

Q What type of car was it?

A Chevrolet box body.

Q Was the engine still running?

A Yes, sir.

Q Did you say anything to your brother about it?

A I just asked him what he was doing and he asked me also where I was going to and he asked me to help him get the car out of the ditch. I told him we could not get it out of the ditch and we had better leave it until we got assistance. I suggested going to Nakuru or waiting for a passing car and after a little discussion ——

Q You suggested going into Nakuru to get assistance?

A Yes. And my brother said he would sooner potter about. I suggested switching off the engine and going back to Maji Mazuri ——

Q What did your brother say to that?

A He said "All right, we will go along".

Q You stopped the car?

A Yes, sir.

Q And did you start off to go to Maji Mazuri?

A Yes.

Q Had you any conversation before starting?

A I just asked him where he intended going and what he intended doing. He said he did not know.

Q You have told us you started off. On the way to Maji Mazuri did you discuss what had been happening?

A Yes. I asked him if he had seen Miss Stevenson or Miss Koppie and that the police had made enquiries, and he said he did not know anything about them and he had had nothing to do with them. I asked him if he knew the police wanted him and he said No. After proceeding a little distance I noticed he had his hand in his pocket. I asked him if he had a revolver and he said Yes, and I asked him if it was loaded and he said it was. I asked him to let me have it and he said No.

Q Did he refuse to do so?

A Yes. He said he would take it himself.

Q I think about 3 miles from your house the road becomes very bad?

A Yes.

Q And am I right in saying that at that point your brother got off the motor-cycle to walk to the house?

A Yes.

Q And did you go on your motor-cycle to make a report to your stepfather?

A Yes.

Q When your brother finally reached the house will you tell us very shortly what happened?

A When I got to the house, after discussing with Major Whitridge about him, I returned to meet him on the way. When we were walking up towards the house Major Whitridge was outside and when he saw us he went in and stood behind the door and when my brother entered he caught him by the arm and asked him if he was armed and he said Yes. Major Whitridge told me to take the recolver.

Q Where did you find the revolver?

A In his right-hand jacket pocket.

Q Will you look at that? (Exhibit 7 handed to witness).

A This is the revolver.

Q Had you seen it before?

A I had seen it before two or three weeks previously.

Q And you can swear that that is the revolver that you took?

A Yes.

Q Was it loaded at that time with 6 shots?

A Fully loaded.

Q And you were in fact yourself present when that was handed to Superintendent Stewart of the Police?

A Yes.

CROSS-EXAMINED BY MR. SLADE

Q Would it be right to say that pretty well throughout your life you and the accused have been together?

A Yes.

Q Do you remember whether you went to school during the first 8 years of your life?

A Not exactly, Sir.

Q You don't exactly remember?

A I was about 7 when I went to school.

Q Was that Nakuru School?

A We went before to a little school at Londiani.

Q Was that when you were 7 ?

A Yes and then we went to Nakuru later on.

Q How old were you when you went to Nakuru School?

A About 6 or 8 years, Sir.

Q Did the accused go at the same time?

A Yes.

Q And he would be how old? 7 or 8?

A Yes.

Q Then you stayed there for one or two years and then went home?

A We stayed there 3 to 4 years.

Q That would be till you were 11 or 12?

A Yes.

Q And then where did you go to?

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Q And he would be how old? 7 or 8?

A Yes.

Q Then you stayed there for one or two years and then went home?

A We stayed there 3 to 4 years.

Q That would be till you were 11 or 12?

A Yes.

Q And then where did you go to?

A We went to Ashburton Grammar School.

Q Did you stay there many years?

A About 5 - between 4 and 5.

Q And then you came back to Nakuru School?

A No I did not go to Nakuru School. After I returned to the country I did not go to school again in this country.

Q But your brother did?

A Yes.

Q You both got on very well together?

A Yes.

Q How old were you when your father died?

A About 12, Sir.

Q Do you remember your father?

A Yes.

Q You were fond of him, were you not?

A Yes.

Q And proud of him?

A Yes.

Q Did you notice that your brother ever used to get moody?

A Yes, very often.

Q What was he like then?

A Just go off on his own accord.

Q Would he go off aimlessly or with a gun or something like that?

A He used to go off with a gun.

Q But you thought him moody? He did not just go off with a gun with the obvious object of shooting because that would not have made you think he was moody.

A No, it all depends when he got moody. If he quarrelled he would not have anything to do with you for 2 or 5 days and then he used to come back for his meals and go off again.

Q When he came back for his meals, would he be silent?

A Sometimes, unless one made conversation with him.

Q These little quarrels which made him go silent for two or three days, were they big quarrels?

A No Sir.

Q Did your brother run away from school the first time when you were at Nakuru School, at the age of 8 or 9?

A Yes.

Q Do you know why he ran away?

A I am not quite sure but I think it was bullying or homesick. I am not quite sure.

Q Did he ever tell you?

A No, Sir.

Q Did he ever give you to understand that he thought he was being bullied?

A No, Sir.

Q Do you know whether he was in fact bullied?

A Not in my presence, Sir.

Q But you would probably know?

A They used to have little scraps amongst themselves, but I am not exactly sure about the bullying.

Q You would say you did not think he was bullied?

A Yes, Sir.

Q Did he ever shows signs of imagining things that did not happen? For instance, might he imagine he was being bullied when he was not?

A I do not know.

Q When you were very little boys, you saw a good deal of the Wanderobo, did you not?

A Yes, Sir.

Q Did you go about with them a lot ?

A We used to go round a bit with them.

Q After game?

A After birds, mostly.

Q Trapping them?

A We used to shoot them with a gun or bow and arrow.

Q And that was the state of affairs, I suppose, right until you went to school at Londiani?

A Yes.

Q The Wanderobo are great hunters?

A They are.

Q That is their chief form of life?

A Yes.

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Q And that was the state of affairs, I suppose, right until you went to school at Londiani?

A Yes.

Q The Wanderobo are great hunters?

A They are.

Q That is their chief form of life?

A Yes.

Q Did you find that your brother ever communicated his thoughts to you, very much?

A No, Sir.

Q Would you have called him secretive? Did he seem to have a lot of thoughts which he kept very much to himself?

A I don't think so. Not that I know of.

Q Then you say he did not have very many thoughts?

A He never exposed them.

Q Up to 1950 you used to go out shooting a [illegible] deal with him?

A Yes.

Q Did he always get very excited when shooting?

A Yes he seemed to get very excited over things.

Q Would he be excited before he shot the thing or afterwards?

A He was excited all the way through, really. Anxious to get off and so on.

Q But from 1950 onwards you did not go shooting with him?

A No, Sir.

Q Because he was in Nakuru?

A Yes.

Q Do you know at all what his relations with w[illegible] were?

A What I saw of him or knew, he had no [illegible] at all.

Q No interest?

A No, Sir.

Q Did he say that?

A Yes when we used to ask him when we went to dances.

Q Said he had no use for women?

A Yes.

Q Do you remember Christmas 1950 he had an accident?

A Yes.

Q It was a kick in the testes, was it not?

A Yes.

Q And we have been told already that he went out of the house and disappeared for a bit and then you went out and found him?

A Yes.

Q Where did you find him?

A About 300-400 yards away from the house in the s[illegible]

Q What was he doing?

A He was lying down on the ground and kicking and yelling, and when I got there he was frothy from the mouth.

Q Was he chewing earth?

A Yes.

Q Was he shouting?

A He was shouting out that I wanted to murder him and so on.

Q Was he saying this - "Don't murder me" ?

A Yes.

Q Did he recognise you ?

A No, Sir.

Q What did you do when you found him like that ?

A There happened to be two or three other boys close who were actually searching for him so I called for assistance and we took him to the house.

Q You had to carry him?

A Yes.

Q Did he resist?

A Yes he was trying to resist, kicking and pushi[illegible] on.

Q And you had to get assistance to bring him in ?

A Yes.

Q Do you remember whether after that incident he had a stammer?

A I think I left the place when he was still there about a day after and he returned to Nakuru when I was away.

Q And when did you see him again?

A About a month or two.

Q You understand what I mean by stammer, don't you?

A Yes, Sir.

Q When you found him on the 6th October this year, did you notice that he was dirty?

A Yes he was very dirty.

Q Of course you would expect him to be dirty after two days out in the bush?

A

Q Where did you find him?

A About 300-400 yards away from the house in the shamba.

Q What was he doing?

A He was lying down on the ground and kicking and yelling, and when I got there he was frothy from the mouth.

Q Was he chewing earth?

A Yes.

Q Was he shouting?

A He was shouting out that I wanted to murder him and so on.

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Q And when did you see him again?

A About a month or two.

Q You understand what I mean by stammer, don't you?

A Yes, Sir.

Q When you found him on the 5th October this year, did you notice that he was dirty?

A Yes he was very dirty.

Q Of course you would expect him to be dirty after two days out in the bush?

A

A Yes but it was a different kind of dirt to what you expect from a man in the bush. He was all grey [illegible] dust all over him and his hands were very dirty and his trousers had some grass deposit on him - grass seed or something.

Q Was his face very dirty ?

A Yes.

Q And altogether he struck you as very much more dirty than he would be even after two days in the bush?

A Yes.

Q Did you notice his shirt ?

A Yes, Sir.

Q Was that dirty too ?

A No I do not think it was very dirty.

Q It was his coat mostly. Did his shirt look clean?

A It looked clean.

Q Surprisingly clean?

A No, Sir.

Q What colour shirt was it?

A A light blue shirt.

Q Stripes?

A Not quite sure about stripes - a blue shirt without a collar.

Q But you are not certain whether it was blue or blue and white stripes? When you found him like that what did you think had happened?

A I did not know exactly at all what to make of it. He was in a bad condition.

Q You could not get anything out of him?

A No, Sir.

Q Did he strike you as deliberately not wanting you to know or did he just seem vague?

A When I asked him different questions he occasionally said he did not know and so on. He seemed very hazy.

Q When you found that he had got his hand in his right coat pocket on the back of your motor bike, you thought he had a revolver there?

A Yes, Sir.

Q What made you think that he had his hand in his pocket because he had a revolver there ?

A When I have been out with him he usually hangs on to the back of me on the bike.

Q So you know he had something in his pocket?

A I asked him if he had a revolver and he said yes. I had seen him with it two weeks previously up at the house.

Q Did it occur to you that he had a revolver before you actually asked him?

A I think Inspector May had reported that he had a revolver and rifle with him.

Q And you remembered about 2 weeks previous you had seen him with a revolver at Maji Mazuri ?

A Yes.

Q Was it loaded?

A Yes and he left in in his glove on one of the chairs in the house.

Q And was that an unusual thing for him to have a loaded firearm in the house?

A Yes he usually unloaded before he got to the house.

Q He was careful with firearms?

A Yes.

Q Was there any indication that he was trying to hide the revolver in his glove?

A I don't think so.

Q He did not seem annoyed?

A No. If he wanted to hide it he would not put the gloves on his chair but would put it in his coat.

Q Do you remember whether he sold his guns?

A I am not quite sure about his rifle that they found in the car but on the same day he went out with this revolver he had the same rifle the .256.

Q You cannot remember whether about six months before that he had suddenly sold all his firearms?

A My mother told me about it that he had disposed of his rifle.

Q But he never talked to you about it?

A No, Sir.

Q What have you yourself done since you came back from England?

A I have been working with Major Whitridge on the farm - logging for the saw mills.

Q Did you ever pass any examinations when you were at school?

A No, Sir.

Q Did you try for any?

A No, Sir.

Q Could you tell us what standard you left school in?

A In England they had forms. We were in form 4. We had been shifted up into the fifth when we left.

Q And how old were you when you left?

A Nearly 16.

Q Then was there only one form above that?

A There was the lower fifth and upper fifth and then the sixth.

Q You were in the lower fifth?

A Yes.

Q How many forms were there altogether?

A They had all from a and b, 1a and 1b and so on.

Q Is there any likelihood of your going back to England?

A Not that I know of, Sir.

NO RE-EXAMINATION.

FOREMAN OF JURY. — Your Honour, the Court has been informed by a previous witness, Major Whitridge, that when the two boys Ross returned, he, Major Whitridge, knew that one of the girls had been killed. Will the present witness inform the Court whether he told Major Whitridge that one of the girls had been killed and if so from whence he obtained such information?

A I told him that I found my brother in this state and he asked me what had become of the girls and it was a mere suggestion that perhaps he had shot the girls or hidden them away.

CHIEF JUSTICE — You suggested it?

A Yes, Sir.

Q You had no absolute knowledge?

A No, Sir.

(The witness withdrew)

ARTHUR POSKITT sworn:

EXAMINED BY MR BRANIGAN.

Q You are an Assistant Inspector of Police at Ravine Station?

A Yes.

Q On Saturday the 8th October at about 3-15 in the afternoon Major Whitridge paid a visit to the station?

A Yes.

Q Who did he bring with him?

A He brought the accused and one Gordon Ross.

Q And handed the accused over to you?

A Yes.

Q Was anything handed over with him?

A I was handed six rounds of revolver ammunition by Major Whitridge.

Q .32 Kynoch?

A Yes.

Q Did you search the accused?

A Yes.

Q What did you find?

A A box containing 39 rounds of revolver ammunition the same as the six which had been handed over by Major Whitridge.

Q Did you hand those over?

A Yes. To Mr Vincent, Supt. of Police at Nakuru.

Q You took the accused to Nakuru Police Station?

A Yes.

CROSS-EXAMINED BY MR HOGAN.

Q Did you search the accused for money?

A Yes. I found a purse containing about 15/-.

Q That was all he had on him in the way of money?

A Yes.

Q He was wearing a blue suit and a blue shirt?

A Yes.

Q Did the shirt strike you as being rather clean in comparison with the suit?

(121)

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Q He was wearing a blue suit and a blue shirt?

A Yes.

Q Did the shirt strike you as being rather clean in comparison with the suit?

A Yes.

Q Strikingly so?

A Yes.

Q Did you get the idea he might have changed it?

A I did at the time?

Q Had he a collar?

A The collar was in his pocket.

Q That was also clean?

A Yes.

NO RE-EXAMINATION

(The witness withdrew)

STEWART LEE VINCENT on former oath

EXAMINED BY MR BRANIGAN

Q On the 8th October Inspector Waldie handed over to you all the exhibits in this case?

A Yes, sir.

Q You took them into your possession and subsequently handed them over to Supt. Stewart?

A I did.

Q On the 9th October you were present at the post-mortem held on Miss Keppie?

A Yes.

Q Did you receive a bullet from Dr Henderson, a .32?

A Yes.

Q Was that the bullet he had extracted from the head of Miss Keppie? (Bullet Exhibit 46 handed to witness).

A Yes. That is the bullet.

Q On the 10th October, the following day, did you go to the house of the accused?

A Yes.

Q And there did you examine the personal effects of Ross?

A I did.

Q A blue blazer with an Ashburton Grammar School badge was handed to you, or did you see one?

A I saw a blue blazer there. Ex.6 is the blazer.

Q You went through the pockets. What did you find?

A Two sheets of double entry foolscap. (Exhibit 34).

Q Giving a list of articles?

A Yes. Giving a list of articles.

Q Read out the second list [illegible]

(Witness [illegible]

Cord
Suitcase
Revolver
Rifle
Knife
Gloves
Bag
Clothes
Shoes
Letter

[illegible] items mentioned [illegible] produced [illegible] handed [illegible] he had found at the [illegible]

Q How did he [illegible]

[illegible] were missing.

Q [illegible]

A The gun was missing.

Q And on the 11th October you measured the distance from Major Whitfield's house at Wait Measure to the place where this gun [illegible] was found?

A Yes. It was 40 miles.

CROSS-EXAMINED BY MR. [illegible]

Q Were you present when Miss Stevenson's body was found?

A Yes.

Q Can you show us on the plan Ex.33 exactly where it was found?

A I can show you approximately. (Witness refers to plan). It was two and a half miles in a sort of easterly direction from the camp, and I have shown a clump of bushes or rather I have indicated bushes in the locality where the body was found.

CHIEF JUSTICE: Miss Stevenson's?

A Miss Stevenson's.

[illegible]: It was just about in the middle of the clump of trees?

A Yes.

CHIEF JUSTICE: It is not marked on this plan?

A No, Sir.

[illegible]: Where is Mrs Stevenson's house?

A It is marked on Trafford's Road.

Q So the body was just about half way from the camp to the house in a straight line?

A Yes.

Q Was it very rough going between there and the camp?

A Yes. Particularly so.

Q Referring to those lists on the double notepaper which you have produced. I see you checked the personal list with the articles found at the camp?

A Yes.

Q Did you check the other list, the list of provisions, with the invoices which have been produced? You have not actually checked the invoices with the list, have you?

A May I refer to the list again.

Q All I want to know is whether certain items here are some of the items which were found. You did find on that list, among other things, 1 packet of matches, 6 of various kinds of cutlery and glasses, 6 bottles of Port, 8 bottles of whiskey ------

CHIEF JUSTICE: What list is this?

[illegible]: This is the list which the accused made out personally apparently and which the witness has just produced. Ex. 34. (To witness) Just immediately before the one packet of matches there is 6 cell torch and batteries, 30 spares?

A There was eight spare batteries short according to the list.

Q Now, referring to the list headed "Personal". You say that everything there except a gag was found. Could you identify the article representing knife maradadi?

A Yes. Ex. 29.

[illegible]

A I can show you approximately. (Witness refers to plan). It was two and a half miles in a sort of easterly direction from the camp, and I have shown a clump of bushes or rather I have indicated bushes in the locality where the body was found.

CHIEF JUSTICE: Miss Stevenson's?

A Miss Stevenson's.

LADE: It was just about in the middle of the clump of trees?

A Yes.

CHIEF JUSTICE: It is not marked on this plan?

A No, Sir.

LADE: Where is Mrs Stevenson's house?

A It is marked on Trafford's Road.

Q So the body was just about half way from the camp to the house in a straight line?

A Yes.

Q Was it very rough going between there and the camp?

A Yes. Particularly so.

Q Referring to those lists on the double notepaper which you have produced. I see you checked the personal list with the articles found at the camp?

A Yes.

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A There was eight spare batteries short according to the list.

Q Now, referring to the list headed "Personal". You say that everything there except a gag was found. Could you identify the article representing knife maradadi?

A Yes. Ex. 29.

Q Is that a quite new article or does it look as if it had been used before?

A It struck me as being new. I did not examine it very carefully.

Q Was there also in that personal list 2 cases of mineral water? No, not the personal list....

A I think it is in Hav. Singh's list.

NO RE-EXAMINATION

(The witness withdrew)

N E I L - S T E W A R T sworn:

EXAMINED BY THE ATTORNEY GENERAL:

Q You are a Superintendent of Police at present in charge of the Criminal Investigation Department?

A Yes.

Q You have in fact been in charge of this particular investigation?

A Yes.

Q I think that early on the morning of the 9th October you took over all the exhibits of which we have been told in this case?

A Yes.

Q Some questions have been asked about a shirt which the accused was wearing?

A It was a blue striped shirt.

Q Was there any other shirt found among his property at the camp?

A In his suitcase there was another shirt. This (Ex. 44) is the shirt he was wearing at the time of his arrest.

Q Were there also among the clothing he was wearing two silk handkerchiefs?

A Yes. (Exhibit 45).

THE JUSTICE: Where did you find these?

A They were on his person, Your Honour.

ATTORNEY GENERAL: How many rounds of ammunition altogether were found and handed on to you?

A 50 rounds.

Q Intact?

A Intact. 45 were actually found on the accused and five

rounds in the cleaning box (Ex. 8)

Q Did you get any revolver cartridge cases?

A I was handed one by Asst.-Supt. Vincent. Same type. (Exhibit 42)

Q Did you subsequently hand that particular cartridge case to the Government Analyst?

A I did.

Q Did you also get any revolver bullets - fired bullets?

A Yes, sir. I got one mushroomed bullet from Asst.-Supt. Vincent. I actually saw it extracted at the post-mortem on Miss Keppie.

Q Is that the bullet? (Ex. 43 handed to witness)

A This is the bullet.

Q And did you at any time receive another mushroomed bullet?

A I later received another one.

Q I think on the 28th October you personally made experiments with a number of different types of reveolver?

A Eight different revolvers.

Q From each of which you fired a certain number of shots?

A Yes, sir.

Q Are those the cases which you fired from each of the different types of revolvers?

A Yes, sir.

Q Did you hand those cartridge cases and the bullets fired to the Government Analyst?

A Just the cartridge cases: not the bullets.

(Cartridge cases put in and marked Exhibit 46(8)).

CROSS-EXAMINED BY MR. HOGAN.

Q Will you be good enough to identify the actual coat worn by the accused at the time you examined him?

A I never saw the accused wearing this. It was handed over to me by Mr. Vincent.

Q Was it torn like that?

A That is the result of it having been to the Government Analyst.

Q And the trousers?

A These are the trousers and this is the waist co... the same suit.

(Exhibits Nos. 47, 48 and 49)

NO RE-EXAMINATION.

(The witness withdrew)

MAURICE HENRY FOX sworn:

EXAMINED BY THE ATTORNEY GENERAL.

Q You are the Government Analyst?

A Yes.

Q On the 15th October last did you receive certain packages from Superintendent Stewart?

A Not from Superintendent Stewart.

Q Sealed with the Police seal?

A Yes.

Q May I direct your attention first, Mr. Fox, to that package which you have numbered 2 in your report. That was received in an official envelope sealed with the red wax seal impressed Kenya Police Nakuru and contained one .32 empty cartridge case said to be found by Mr. Hodge?

A Yes.

Q Is that (produced) the cartridge case in question, Mr. Fox?

A Yes I marked it "Z".

Q That is the very cartridge case which you received?

A Yes.

(Put in and marked Exhibit 49)

Q Did you also receive a Colt Revolver No.T.319553 (Ex.7) ?

A Yes that is the revolver.

CROSS-EXAMINED BY MR. HOGAN.

Q Will you be good enough to identify the actual coat worn by the accused at the time you examined him?

A I never saw the accused wearing this. It was handed over to me by Mr. Vincent.

Q Was it torn like that?

A That is the result of it having been to the Government Analyst.

Q And the trousers?

A These are the trousers and this is the waist coat of the same suit.

(Exhibits Nos. 47, 48 and 49)

NO RE-EXAMINATION.

(The witness withdrew)

MAURICE HENRY FOX sworn:

EXAMINED BY THE ATTORNEY GENERAL.

Q You are the Government Analyst?

A Yes.

Q On the 15th October last did you receive certain packages from Superintendent Stewart?

A Not from Superintendent Stewart.

Q Sealed with the Police seal?

A Yes.

Q May I direct your attention first, Mr. Fox, to that package which you have numbered 8 in your report. That was received in an official envelope, sealed with the red wax seal impressed Kenya Police Nakuru and contained one .53 empty cartridge case said to be found by Mr. Hodge?

A Yes.

Q Is that (produced) the cartridge case in question, Mr. Fox?

A Yes I marked it myself.

Q That is the very cartridge case which you received?

A Yes.

(Put in and marked Exhibit 43)

Q Did you also receive a Colt Revolver No. T.319533 (Ex.7) ?

A Yes that is the revolver.

Q Also the two mushroomed bullets?

A Yes.

Q Is that one of them (Exhibit 45)?

A Yes.

Q Is that the other? (Exhibit 50) -- A. Yes.

Q Mr. Fox, did you also receive a quantity of .38 revolver ammunition?

A Yes.

Q Apparently of the same make as that you marked "Z" (Ex.42)

A Yes.

Q And a number of fired cartridge cases. And did you also receive those from Inspector Stewart (Exhibit 46)?

A Yes.

Q You made a large number of experiments with those various things, Mr. Fox?

A Yes.

Q As a result of those experiments are you in a position to tell the Court what revolver it was from which Exhibit 42 (the cartridge case which you have marked "Z") was fired?

A Yes.

Q What revolver was that?

A It was fired with Colt No. 510353 (Exhibit Y).

Q On what do you base that opinion?

A On a microscopic examination of the cartridge case itself and comparison with cartridge cases which I fired with that revolver with the same ammunition. I used some of the ammunition that was handed to me Kynoch .38 ammunition C V and L.

Q And is that opinion based on the effect on each of those fired cartridge cases of the impact of the trigger pin?

A Yes.

Q I think, Mr. Fox, you have prepared micro photographs showing the effect of firing a number of those .38 cartridges from that particular revolver. Is that the sheet of those photographs?

A Yes. (Put in and marked Exhibit No.51)

Q And have you also prepared a corresponding sheet of photographs showing what happens to cartridge cases of that particular type when fired from other revolvers?

A Yes.

Q Also the two mushroomed bullets?

A Yes.

Q Is that one of them (Exhibit 45) ?

A Yes.

Q Is that the other? (Exhibit 50) -- A. Yes.

Q Mr. Fox, did you also receive a quantity of .38 revolver ammunition?

A Yes.

Q Apparently of the same make as that you marked "Z" (Ex.42)

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A Yes.

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A Yes.

Q What revolver was that?

A It was fired with Colt No. 510033 (Exhibit 7).

Q On what do you base that opinion?

A On a microscopic examination of the cartridge case itself and comparison with cartridge cases which I fired with that revolver with the same ammunition. I used some of the ammunition that was handed to me: Kynoch .38 ammunition S V and L.

Q And is that opinion based on the effect on each of those fired cartridge cases of the impact of the trigger pin?

A Yes.

Q I think, Mr. Fox, you have prepared micro photographs showing the effect of firing a number of those .38 cartridges from that particular revolver. Is that the sheet of those photographs ?

A Yes. (Put in and marked Exhibit No. 51)

Q And have you also prepared a corresponding sheet of photographs showing what happens to cartridge cases of that particular type when fired from other revolvers?

A Yes.

Q And is that the second sheet, Mr. Fox?

A. Yes. (put in and marked Exhibit No.52)

Q I think you have made a number of notes at the foot of Sheet A indicating what the points of identity really are?

A Yes.

Q Are the marks on Exhibit 42 when microscopically examined in all material particulars the same as those shown on Sheet A.

A Yes.

(Exhibits 51 & 52 shown to the Jury)

Q Have you also examined the two mushroomed bullets - Exhibits 45 and 50 ?

A Yes I have examined them.

Q Are you able as a result of your examination to express an opinion as to the weapon from which those two bullets were fired?

A I can express more than an opinion.

Q Are you able to state with certainty with which one those were fired from?

A Yes.

Q What was that weapon?

A It was the same Colt (Exhibit 7).

Q And have you prepared another set of photographs here showing exactly what marks there are microscopically on those bullets and another bullet fired from that revolver?

A Yes.

Q Does that sheet "C" indicate the points occurring in each of those cases which lead you to the emphatic conclusion that those two bullets were fired from that revolver and no other?

In conjunction with others which I shall put to the witness personally this sheet "C" is photographs of bullets fired from that revolver?

A Yes.

Q Do you also produce as sheet "D" micro-photographs of bullets fired from other similar revolvers?

A From the same weapon.

Q And sheet "E" from experiments of the same nature all fired from the same weapon?

A Yes.

Q

Q Do those photographs disclose such peculiarities as enable you to state emphatically that those bullets must have been fired from that revolver and from no other.

A Yes. In the case of one bullet there are eight points of identity.

(Photographs put in and marked Exhibits Nos. 55, 56 and 56x)

Q Did you also, in what I will call the Miss Keppie bullet, (Exhibit No.45) find attached to the trailing piece a fragment of undecomposed explosive substance?

A Yes.

Q Did you detach that and mount it here (produced)?

A Yes. (put in and marked Exhibit No.57)

Q Have you compared that substance with the contents of the charge of a Kynoch .32 revolver cartridge?

A Yes with one of the cartridges actually handed to me.

Q With what result?

A They are similar.

Q And do you now produce a photograph showing that small portion of the matter and correspondingly similar substance in the other Kynoch cartridges?

A Yes. (Put in and marked Exhibit No.58)

Q Were you able to state whether any of those cartridges had been fired from the revolver?

A No not one.

Q I think you conducted the final set of experiments using three revolvers?

A Yes.

Q May I put it in this way. You fired from those 3 revolvers of which the revolver in question was one, a number of shots?

A Yes.

Q You recovered the bullets which you had fired?

A Yes.

Q Were you able from your examination to sort those bullets out into those fired from this revolver and those fired from each of the other two revolvers?

A Yes.

Q The peculiarities of each revolver are sufficiently salient and noticeable to enable you even to do that?

Q Do those photographs disclose such peculiarities as to enable you to state emphatically that those bullets must have been fired from that revolver and from no other.

A Yes. In the case of one bullet there are eight points of identity.

(Photographs put in and marked Exhibits Nos. 55, 56 and 55) and 58)

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Q With what result?

A They are similar.

Q And do you now produce a photograph showing that small portion of the matter and correspondingly similar substance in the other Kynoch cartridges?

A Yes. (Put in and marked Exhibit No.56)

Q Were you able to state whether any of those cartridges had been fired from the revolver?

A No not one.

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A Yes.

Q May I put it in this way. You fired from those 3 revolvers of which the revolver in question was one, a number of shots?

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A Yes.

Q Were you able from your examination to sort those bullets out into those fired from this revolver and those fired from each of the other two revolvers?

A Yes.

Q The peculiarities of each revolver are sufficiently salient and noticeable to enable you even to do that?

A Yes. All Colts.

CROSS-EXAMINED BY MR HOGAN

Q I take it Mr. Fox from your examination that you are able to say with absolute conviction that the bullet which was taken from the skull of Miss Stevenson was fired from that revolver Exhibit No.7?

A Yes.

(The witness withdrew)

Court adjourned until 2.15 p.m.

AT 2-15 p.m.

VICTOR DE VERE ALLEN sworn

EXAMINED BY MR BRANIGAN

Q You are Chief Officer in charge of Nakuru Prison?

A Yes.

Q The accused was confined to Nakuru Prison I think from the 15th to the 22nd of October?

A Yes.

Q During that time you had frequent access to the prisoner?

A I had.

Q You had many conversations with him?

A Many.

Q And information with regard to this matter into which this Court is inquiring was given to you by Ross during that period?

A Yes.

Q Not, I think, in answer to any questions put by you, but freely?

A Quite freely.

Q Will you tell us the gist of the information. My learned friend can take you through more detail if he wishes. I want the gist of the information you received from the 15th and 22nd October beginning with his reference to the 5th October.

A He told me on the 5th October in the afternoon he went out to shoot zebra and shot 7 or 8 on the side of Menengai. He told me he became very excited.

Q As the result of the shooting?

A Yes. And that he could take anyone to the place where the zebra were actually shot. The blood excited him and he became very excited over the blood.

Q At that time did he mention to you the effect of blood upon him?

A He said that blood affected his head and he became very excited.

Q And then to come to the 6th October what did he tell you?

A He told me that he got a car and went up to Mrs Stevenson's and got these girls and went out and went up the Ravine Road 7 or 8 miles and as they were turning off the car stuck in the ditch.

Q Did he say why he went up there?

A He said that when he left his home he really intended to go to the Pictures. He saw Miss Stevenson and Miss Keppie

AT 2-15 p.m.

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A He told me that he got a car and went up to Mrs Stevenson's and got these girls and went out and went up the Ravine Road 7 or 8 miles and as they were turning off the car stuck in the ditch.

Q Did he say why he went up there?

A He said that when he left his home he really intended to go to the Pictures. He saw Miss Stevenson and Miss Keppie

and asked them to go to the Pictures and they said they would go with him. When they came out of the house they enquired as to the things in the back of the car, what they were. He said they were for a P.W.D. man working on the Ravine Road.

Q And then what was suggested?

A He said they suggested they should take the things out before they went to the Pictures as it was an hour or an hour and a half before the Pictures started. The girls made that suggestion.

Q That was agreed to?

A Yes.

Q You said that when they left the Ravine Road the car was ditched. He said that?

A He told me the car was ditched - back wheels ditched in a drain.

Q A car passed travelling from Ravine at a fast rate and the girls screamed as the car passed?

CHIEF JUSTICE: Both girls?

A Both girls, Sir. He said that when the car was stuck in the ditch he got out to push and Miss Stevenson drive. Then they got out of the ditch and as they got towards the camp Miss Keppie tried to take the revolver from his pocket. He became infuriated and he saw red. He let the steering wheel of the car go and the car ran into a tree and stopped.

MAN: When the car stopped what happened?

A He dragged Miss Keppie from the car and took her about 50 or 60 paces away from the car. He held her with his left hand and shot her with his right. He then went back to the car.

Q Did he mention to you anything about what happened to the body of Miss Keppie?

A To the best of my memory he said it fell down into the hole in the ground where the body was found.

Q What did he say then?

A He then went back to the car.

Q Did he say who was in the car?

A Miss Stevenson was in the car crying when he went back. She said she was tired and she wanted to go home. He said "Yes; come on; we will walk home". They started off home along the edge of the crater walking. Miss Stevenson was walking behind him holding his coat as she was frightened of wild animals, and she was crying. When they had got to about - he did not say actually the place - they had gone some distance and Miss Stevenson fell down and said she could not go any further.

Q What else did he say?

A She was lying down and her hair was over her face and she had some beads on her neck which she was playing with. He said that she asked him not to shoot her but to tie her up and leave her.

Q The statements immediately following what you have told me I do not want. Those referring to what happened to Miss Stevenson. Did he tell you he returned to the car?

A He told me he returned to the car sometime later and that he had put the car so that the bonnet was under a tree. He cut off limbs and camouflaged the top of the car so that in case there was a search by aeroplane the car could not be found. He sat down; took some things from the car to eat and drink and he thought over what he should do.

Q Did he tell you what time of the day or night?

A When he left Miss Stevenson he said the moon was just rising over the hills.

Q Then did he say whether he stayed in the camp all day on Friday or not?

A As far as I remember I don't think he said he stayed in the camp all day. He decided then he would go home and see his people and then go to his father's grave and commit suicide, at Kaji Mazuri. He went down with the car to the road and got stuck in the same ditch he got stuck in when he was going in. While he was there three natives passed on bicycles. He told me that three natives passed while he was stuck on the road and he contemplated whether he would shoot them and put their bodies and bicycles across the road and hold up everyone who came along the road.

Q What was the next thing?

A The natives went past and his brother came along and met him.

CROSS-EXAMINED BY MR HOGAN.

Q In connection with this statement with regard to shooting Miss Stevenson, he told you that she was lying on her side playing with some beads, her hair was over her face, she looked so pretty. He considered for about 10 minutes and then he shot her. Are you sure the word was "considered" or "hesitated"?

A As far as I remember he said "considered". He might possibly have said "hesitated".

Q It goes on - She did not cry out but just rolled over. He covered her with branches and the moon was just coming up over the hill.

A Those were his words as far as I remember. I had so many conversations that I cannot say word for word.

~~Q This cycle~~

Q What else did he say?

A She was lying down and her hair was over her face and she had some beads on her neck which she was playing with. He said that she asked him not to shoot her but to tie her up and leave her.

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A Those were his words as far as I remember. I had so many conversations that I cannot say word for word.

Q ~~This only~~

Q It is a peculiar phrase and you are satisfied it followed the form substantially?

A Yes.

Q He told you practically nothing at all about Friday?

A No. He told me nothing. As far as I remember he said he went back to the camp and considered what he should do.

Q Did you gather the impression that he did not actually remember about Friday?

No. I cannot say that. He just went on from one thing to another.

Q Do you think had he remembered he would have told you?

A Had there been anything of importance he might have told me.

Q Did he indicate to you how long he spent beside the road on Saturday morning?

A As far as I remember he did not say.

Q You do not know what time his brother actually met him on that road?

A No, I do not.

Q You mentioned just a moment ago that he told you when he came to the road and saw the natives he meditated whether he would shoot them, barricade the road and hold up everything?

A I could not swear whether he said shoot or hold up everyone.

Q You actually used the word shoot?

A He might have said shoot. He might have said hold up and he might have said shoot.

Q And he told you that when he went out he had no idea of killing the girls and that he fully intended going to the Cinema?

A Yes.

NO RE-EXAMINATION.

(The witness withdrew)

DORNEY GENERAL: That, Your Honour, is the case for the Crown.

HE CHIEF JUSTICE — (to accused) — Do you want to give evidence?

CCUSED — No, Sir.

HE CHIEF JUSTICE — Have you got any witnesses?

CCUSED — No, Sir.

. HOGAN — The accused is incorrect there, Sir, as we have evidence to call. I do not think he understands the procedure.

Mr. Hogan addresses the Court on behalf of the defence.

Your Honour and Gentlemen,

It is not my duty at this stage to endeavour to emulate the very able and thorough explanation of the case for the prosecution which has been given by the learned Attorney General in his opening address. The case for the defence will be fully dealt with by my colleague at the close of the evidence. My sole task is to indicate very briefly indeed the general trend of the evidence that will be called on behalf of the accused. When you come to determine your verdict at the close of the trial you will have to be satisfied that not only was it the act and hand of the prisoner which killed Miss Keppie, but at the time that he was responsible for his actions, that is, that he was legallyb sane.

The case as disclosed by the prosecution shows an apparently entirely motiveless and savage murder of a girl against whom he bore no malice. It discloses that this boy up to that time had an excellent character and was in fact very popular. He makes to the Prison officer a strange confession and says paints a curious picture of how he shot Miss Keppie and Miss Stevenson for no reason whatever.

In the course of the prosecution evidence the defence has brought out certain peculiar features of the accused's

conduct prior to that time. It has shown that he had a sudden blood lust. He behaved curiously when shooting. He had an apparently a love of killing for killing's sake, also that he was rather of a morose disposition; that he was secretive and kept to himself; that for the last six months there had been a complete change in his personality; he had lost most of his good points; also, gentlemen, that his own step-father was convinced, when he had got some impression of the curious incidents that had occurred over the Thursday and Friday, that the accused was coming back to shoot him. Those incidents, gentlemen, may seem fairly trivial; at this stage it is our duty to collect them together and to present them as a more complete whole indicating clearly the state of the accused's mind.

The first evidence we shall call on behalf of the defence is to show you, gentlemen, that the accused's father, in whom he had rather a pathetic pride, was in a very very strange creature. His conduct was extraordinary; all his actions were utterly erratic and he had an insensate cruelty and a lust for killing. The evidence we shall bring on this point I think will convince you that the accused's father was in fact insane and that had he lived in a more settled country than Kenya in the early days he would have been confined. The taint of his father's blood must run through the accused and We shall also show you, gentlemen, that amongst the more observant of his companions he had been regarded as a boy with a screw loose. We shall also develop further his peculiarities when young and particularly those two incidents in regard to the hyaena and the hippopotamus. In regard to the hyaena the pleasure he seemed to get out of covering himself with blood and in regard to the hippo

the pleasure he got then. We shall also show you that Mr. Thorpe stated here that the incidents which happened did not appear to be very strange at the time, but that looking back now he thought them unusual. We shall show you that he did speak about them to people and mentioned them as appearing very queer to him. We shall also show you that the accused's step-father was not the only person who, when he heard the accused had done someth[illegible] unusual, expected him to come back and shoot. Friends of the accused also expected that when Ross returned he would shoot. We shall bring a witness who will say that he took the precaution to bar his doors and windows although he (accused) had no particular malice against him because he thought had a feeling that when Ross returned he would shoot. That will be the main outline of the witnesses we shall call.

There remains by far the most important part [illegible] is the medical evidence. This evidence is expert evidence and I am not now in a position to forecast it or [illegible] it. The evidence itself is at the moment not finally formulated but it is absolutely a vital portion of the case for the defence. That is all that I can say about it at this stage.

Before calling the first witness for the defence I would just like to say one thing. We are here now investigating not merely a sordid crime but what is a very ghastly tragedy not only for every relative and friend of the two girls but also for the accused, who as you have seen from the evidence for the prosecution bore no malice against one of them and actually worshipped the other. It will be the suggestion of the defence that the accused is really the victim of rather a cruel trick of fate. He has been sent out into the world with a

finely developed body as you see, with the ability to do and do well at a certain type of job and with the apparent ability to live in a social community as a normal person. We shall endeavour to show you, gentlemen, that he was sent out with mental equipment so entirely deficient as to render him in certain circumstances absolutely oblivious to reason and bearing in mind that suggestion that he is not one who knowing the difference between right and wrong deliberately chose to do wrong but one who not through his own fault this mental deficiency and an unfavourable environment put him in this position today; bearing that in mind, gentlemen, I trust that you will listen not only with patience but with sympathy to the evidence advanced on behalf of the defence.

GEORGE CHUICKSHANK GRIFFITHS

EXAMINED BY MR. SLADE:

Q You are the Manager of the Kenya Farmers' Association?

A I am.

Q Was the accused employed with you?

A Yes.

Q How long?

A In October 1928 he came to our employment.

Q Right up to October 1932?

A Yes.

Q What opinion did you form of him when he was in your employment?

A Well I naturally employ quite a considerable number of people and I consider the accused one of the best clerks I have ever employed.

Q At his work only?

A Yes at his work. Not only that I would go further than that. After all Nakuru is not a very big town and one knows the actual opinion of your staff and I was interested

and myself considered Ross as being a clerk who has been held in very high esteem by everyone who had any connection with him. The position is this: quite recently I went to India and during the time I was in India my wife came down here (Nairobi) for a meeting. I have a European nurse and I asked Ross to live in my house for a couple of days to look after my nurse and children. That is an indication of the feeling I had towards Ross at that time.

Q You mean that it was a feeling of confidence apart from his work?

A Entirely. Absolute confidence - yes.

Q Did you actually know him away from his work?

A Well no I did not know that I did know him away from his work to any great extent. I have encouraged Ross to take part in the sports of the staff - football. He was a very good servant indeed and one of those type of people quite willing to work overtime and did indeed work overtime and I have on more than one occasion thought he ought to take a little more active interest in sport. Outside his work as a member of the Kenya Defence Force, he was a keen active member of the machine gun section at Kuru and did his work extremely well.

Q You mentioned overtime just now. Are you in a position to know when he is doing overtime and when he is not?

A Yes to a great extent. I would not say I am in a position to know actually - I am aware to a certain extent.

Q Can you remember whether he was doing overtime in the course of the last six months before this tragedy occurred?

A Yes he certainly was at certain periods. The end of financial year is in August and the busiest time of the firm is at the end of its financial year.

NO CROSS-EXAMINATION.

(The witness withdrew)

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NO CROSS-EXAMINATION.

(The witness withdrew)

DANIEL GREENSLADE sworn:

EXAMINED BY MR HOGAN

CHIEF JUSTICE: What is your occupation?

A Builder.

Q Where do you live?

A Nairobi.

HOGAN: Q You knew Major Ross the father of the accused?

A Yes.

Q You knew him well?

A Yes, very well.

Q Were you in the Boer War with him?

A Yes.

Q And the East African Campaign?

A Yes.

Q What sort of a temper had he?

A At times he had a very violent temper.

Q Had he much control over himself?

A Not if the least thing went wrong with him he had little control over himself.

Q Would he lose control completely?

A Practically lose control of everything if he got excited.

Q Did he get easily excited?

A I cannot say that. It took very very little to put him out.

Q Was he a cruel man?

A He certainly had no value for life - none whatever.

Q Do you remember any particular incident illustrating that feature in his character?

A Yes, I can. I remember one incident in particular that as we were in hot pursuit of the enemy I remember him very well; he handed over his rifle to his batman, a native, and as we dropped them behind I know he gave the native orders to shoot them - him with his revolver and the native with the gun.

CHIEF JUSTICE: Were you there?

A I do not quite understand.

HOGAN: Q Where was this?

A At the Sand(?) River.

Q In the Boer War?

A Yes.

Q They were defeated - broken up?

A Yes.

Q How far did you chase them?

A About 7 miles.

Q What were you picking up with?

A There was a fairly big quantity but they were dropping in ones and twos behind. Many of them were shot after they dropped behind.

Q Quite unnecessary?

A Oh! absolutely. Quite unnecessary.

CHIEF JUSTICE: Who shot them?

A Major Ross shot a good many and the native shot a good few.

HOGAN: Under Major Ross's orders?

A He was his Orderly.

Q How did his conduct at the time strike you?

A It varied considerably.

Q I mean this particular incident?

A He would lose control of himself after anything like that.

Q Were there any other incidents? How did he treat prisoners?

A I never saw him cruel to the prisoners after they once came into camp.

Q Did he ever shoot them?

A I do not remember after they had once been taken prisoner.

Q But you mean before he reached camp he might?

A Oh, yes. I know that has been done several times.

CHIEF JUSTICE: You were there?

A I was nearly all my time with him as Orderly Sergeant.

Q Did he ever let them run and then shoot them?

A I never saw him do that.

Q What was his attitude towards authority - towards people in authority over him?

A He treated them just the same as the men. He had no

regard whatever. No discipline whatever.

Q What was the general attitude towards him amongst people who knew him? What did they think of him?

A I know on one occasion we took it into our own hands and refused to go any further unless he altered his tactics.

Q What didhe do when you mutinied?

A He went to his tent and cried.

Q Where there any incidents in the East Af[illegible] campaign illustrating this cruelty of his?

A I do not remember anything.

Q Was he young when these things occurred?

A I should say he would be a man round about 40 during the Boer War.

Q Did you ever go on safari with him in this country?

A No.

Q After the close of the East African Campaign did you see much of him?

A No.

CROSS-EXAMINED BY THE ATTORNEY GENERAL

Q How long were you in South Africa during the Boer War with the accused's father?

A Ten months.

Q What rank did he hold at that time?

A Major.

Q What year was that?

A That was in the latter part of 1901 up to May 1902.

Q That was a very aggravating part of the campaign? A great deal of sniping going on?

A No, not much. We just got them on the run.

Q There had been a great deal of feeling against the Boers at that time?

A Yes.

Q It was still pretty lively at that time?

A Yes.

Q And all you had to say against Major Ross was that if he saw the Boers in possession of his arms he was better dead than alive?

A Yes.

Q He retained his commission?

A Up to the end.

Q He took a perfectly honourable discharge at the end of the campaign?

A Yes.

Q And he was commissioned again with the same rank in the East African Campaign?

A Yes.

Q And again he retained that commission throughout that campaign?

A To my knowledge.

Q And thereafter I think he was made an Honorary Game Warden in this Colony?

A Yes. Up to his death.

CHIEF JUSTICE: I think he was employed by the Game Department.

ATTORNEY GENERAL: I have not been able to varify that.

CHIEF JUSTICE: That is a fact.

ATTORNEY GENERAL (to witness): He was in fact regarded by Government as a fit and proper person to superintend the game in this country?

A Undoubtedly.

Q Is it in your knowledge that Major Ross won the D.S.O. in the South African War?

A Yes. He got the D.S.O. at Wagon Hill.

RE-EXAMINED BY MR HOGAN.

Q Do you know whether he did or did not retain his rank during the East African Campaign?

A He did to the end. I am sure of that.

Q Did he form a body of Troopers during that time?

A He formed a body of Scouts.

Q And what happened to them?

A They were disbanded in 1915.

Q Why?

A I don't know really. He went up on an Inquiry but what really happened I don't know. The corps was disbanded and the men joined other forces.

Q Have you any knowledge as to the reason for the Inquiry?

A I have not.

Q What happened to Major Ross after that?

A He had several appointments with the Military after that before the end. One portion he went out cattle buying for the Government.

(The witness withdrew)

F R E D R A P E R sworn:

EXAMINED BY MR SLADE.

CHIEF JUSTICE: What is your occupation?

A I have a saddlery shop in Nairobi.

SLADE: Were you acquainted with the late Major Ross, the father of the accused?

A Yes.

Q Did you serve with him?

A Yes. In the Boer War.

Q Were you with him long?

A About 10 months.

Q What sort of man was he? A brave man?

A Very brave. He did not know fear.

Q Was he a fierce man?

A I should not call him a fierce man.

Q Very calm?

A During the time I was with him I only saw him in a temper once.

Q What was that occasion?

A He had ordered one troop to take a kopje and the lieutenant in charge said it was murder. He then lost his temper and lashed out with a kiboko and said he would drive them.

Q Was that an European Trooper?

A Yes.

Q Was his rage then very great?

A It did not last long.

Q While it lasted?

A It did not last long because he got the troop moving.

Q While he was in a rage what was he like? Like an ordinary man?

A Just like an ordinary man with a kiboko.

Q Was it the last time you ever saw him like it?

A I only saw him in a rage once.

Q Was there any sequel to that rage when he struck the trooper?

A That night we all put down out arms and refused to go any further with him.

CHIEF JUSTICE: What was your rank?

A Trooper, Sir.

SLADE: Q And what was your reason? Because he had struck a Trooper?

A Yes.

Q Is that the only reason?

A I think the men were getting a bit tired of him; he had got to the stage when it was pretty hard to put up with him.

Q What was the trouble?

A Only a few days previous to that some of our flanks had been captured by the Boers and they were sent in practically naked and they were made to walk all day bare-footed.

Q He was punishing his own Troopers?

A They had been taken prisoners by the Boers and they were made to march behind the wagons practically naked.

Q How far did they have to march?

A From about 2 in the afternoon to about 4-30.

Q Had they shoes?

A No.

Q So you objected to that?

A Yes.

Q Were there other things you objected to?

A I think that was the only one.

Q What happened to Major Ross when you put down your arms?

A I don't know what became of the force. I and a few others were sent down to Capetown next day.

Q The arms were still down when you went away?

A We picked them up. Some Imperial Officer came up that night.

Q Did the mutiny stop?

A An Imperial Officer came up that night and Major Ross went

away. We formed a ring round his tent and we shouted at him and when the Imperial Officer came up he took charge.

Q Was Major Ross inside his tent?

A Yes.

Q What was he doing?

A Just looking at us.

Q Was he angry or frightened?

A He did not take the slightest notice.

Q Did he show any signs of crying?

A No, he certainly did not.

Q Would you say that Major Ross was a cruel man?

A I do not know. We saw him in War-time conditions. He was a hard man.

Q Was he hard on himself as well as others?

A He was hard on everyone, including himself.

Q Was he not cruel?

A He certainly was not cruel to horses. If he found a man riding a horse with a sore back he would get punished. He would get about two days' marching with the Black Watch.

ATTORNEY GENERAL: I do not want to interrupt my learned friend but I do hope he will remember that this is his own witness and I do suggest he should not put words into the witness' mouth.

THE JUSTICE: So far that is a graphic description: other people may have a different view.

Q: A I take it if I am wrong it does no harm?

THE JUSTICE: I do not think it does any harm.

Q (to witness): In the face of the two instances you have given us would you say he was not cruel?

A I do not know, sir. They were men in charge of a regiment where there was very little discipline. He probably thought it necessary.

Q Can you say that he was not very cruel when there was no necessity for being cruel?

A He always had a very good excuse for it. Probably in times like that there are other people who would say the same thing.

Q What sort of excuse?

A Well - wartime.

Can you not think of any other incidents when he was cruel in such a manner as to disgust anybody?

A Yes. I think I could tell of one which might be against him. It was when looting a kraal, taking the chickens, and the native asked for payment and he laid him out with the butt of his revolver and emptied his revolver into the kraal.

Q Was he quite calm when he did that?

A Yes absolutely.

Q You say he was quite calm when he did that?

A Yes absolutely.

Q Would you call it - would cold-blooded be too strong?

A It was natural Ross.

Q It was like him all over?

A Yes.

Q Had there been like instances of the same kind?

A I had heard of lots.

Q But you were never an eye-witness?

A No.

Q Would you say then that you were surprised when he this, when he behaved in this manner to the native?

A No I was not surprised.

CROSS-EXAMINED BY THE ATTORNEY GENERAL

Q Major Ross was your Commanding officer and there was a war on?

A Yes.

Q And I think you said a few moments ago that he had rather a difficult team to control - very fine material but not perhaps as well disciplined as certain of the other regiments. Would that be putting it too high?

A But there was very little discipline.

Q And if I understood you correctly, at the time when he attacked the trooper with a kiboko was when he gave a direct order to attack a kopje held by the enemy?

A Yes that is right.

Q And some of the troop at least refused to advance?

A No, Sir, there was no refusal.

Q I understand some of them said it was murder?

A No, Sir, the lieutenant said it was murder.

Q And it was in those circumstances only that his order had been questioned that he struck the trooper?

A He put spurs into his horse, galloped into the troop and laid out right and left.

Q And something was made of the point that you never saw any other officers go like that. Did you ever see any other commanding officer who had his orders questioned in the face of the enemy?

A No, Sir.

NO RE-EXAMINATION.

(The witness withdrew)

BEATRICE MABEL WHITRIDGE

SWORN:

EXAMINED BY MR. SLADE.

Q Are you the mother of Charles William Ross?

A I am.

Q And his father was Major Ross?

A Yes.

Q When were you married to Major Ross?

A 24th May 1910.

Q And when did he die?

A June 1922. I cannot quite remember the date.

Q What sort of man was Major Ross? Was he kind to you?

A No, Sir.

Q Was he unkind?

A Very, at times.

Q Was this so always, or only at one period of your married life?

A Whenever he came home - he was a man that was always on safari and I only saw him a few days or a week or two at the end of every month when he came to pay his boys that is - I used to be bullied or beaten.

Q Was that so even in the early days of your married life?

A Yes before I left England.

Q Did you marry him in England?

A I did.

Q Did he ever show signs of temper?

A Yes he had a very bad temper, a most uncontrollable temper.

Q Can you describe a little what he was like when in a temper?

A - Well for instance he used to get into a temper for nothing at all sort of and then he would - I don't know exactly how to say it - he sort of saw red and all he wanted to do was to beat, beat, beat.

Q When he saw red did he ever want to kill?

A It all depended on what he was thinking about.

Q But I mean have you ever seen him when he was in a rage looking for something to kill or wanting to kill?

A He was always looking for someone to beat or hit - usually it was myself.

Q But you would not be able to say it was more than that?

A Oh yes, several times I was threatened.

Q Your life?

A In fact that was why I never left the man because I knew if I ever ran away he would have followed me up and killed me.

Q You knew that?

A Oh yes.

Q Was he cruel at all when in a temper?

A Oh very cruel.

Q Was he only cruel to you?

A I would never allow him to be cruel to my children and my children never saw any of his temper.

Q What sort of things did he use to do?

A In what way?

Q Just when he was being cruel?

A He once smashed the whole of my face in when he was in a very great rage and another time he took me by my hair and beat me.

Q With his open hand or fist?

A Yes. His fist.

Q And what did he use to beat you with?

A Whatever he could get hold of - sticks or a broom or anything.

Q Did he seem to know what he was doing?

A No he had a most uncontrollable temper. I don't think he ever know what he was doing. Because after he beat me he used to come and kneel at my feet and say how sorry he was and ask me to forgive him and then I used to forgive him.

Q

Q Did his cruelty ever take forms other than that of beating you?

A In what way, Sir?

Q Any way if you can think of it? Did he ever touch the babies?

A No he did not touch them because I would never allow it. He once threatened to put my eldest baby on the fire before my other boy was born, but I would not allow it.

Q You say that after these bursts he used to cry. Was that always so?

A Always so. Whenever he got in a passion he always cried afterwards and asked to be forgiven.

Q Did he ever threaten you with firearms at all?

A Yes, twice he did that in the course of my married life.

Q Can you describe the incidents a little in detail?

A It has been always whenever I had a party. He used to get frightfully jealous and run from one room to another and say if I danced too much he would shoot me. Two or three times he has done that.

Q Was he like [illegible] up to the time he died?

A He was much worse up to the time he died, more brutal towards the [illegible], especially from 1919 when he returned from England because he was keeping a woman in England and he wanted to go back to her I suppose.

Q Did he ever have bad dreams?

A Oh yes, he dreamed every night practically.

Q Did he talk in his sleep?

A He did but I could never understand what he said. More often than not he was shooting somebody I don't know whom.

Q Did he ever drink?

A No very seldom he had anything and then it was only Port wine. He never drank any strong drinks.

Q Did he use bad language ever?

A Very bad language.

Q What was he like as a husband - I mean sexually? Was he passionate?

A Very.

Q Was he ever unnatural?

A I suppose it would be called unnatural if you mean in sexual intercourse?

Q Yes.

A Yes.

Q Would it be an overstatement to say that his conduct generally throughout your married life was abnormal?

A Yes.

Q I mean would that be saying too much?

A No.

Q I am speaking now not only sexually but every kind of way?

A Oh yes, he was a brute in every way.

Q By brute do you mean just horrid or like an animal actually?

A I suppose so.

E CHIEF JUSTICE -- It is your witness, Mr. Slade.

. SLADE -- Yes, Sir. I am asking her ---

E CHIEF JUSTICE -- You are putting words into her mouth.

. SLADE -- I only want to know what she means by brute.

E CHIEF JUSTICE -- You can ask what was he like.

. SLADE -- Can you explain what you mean by brute a little?

A A brute. I cannot exactly explain a brute in that way. In what way can I explain?

Q All right, don't bother. Was there ever any sign of madness?

A Well he acted like a madman when he was in these tempers.

Q But out of his tempers?

A He was a very kind man and very generous.

Q When was your son Charles William Ross born?

A He was born on the 6th August 1912.

Q So that he is just over 20 now?

A Yes - 20 years last August.

Q Was he good tempered as a little boy?

A Very. He was a very good tempered baby.

Q Did he cry?

A Not more than an ordinary baby.

Q And as he grew up did he cry less and less as boys do when they grow up?

A He was just the ordinary child.

Q Did he ever show any signs of wandering away?

A Oh yes he wandered away quite a lot.

Q At what age?

A Quite a small child, when he was 3 or 4.

Q What did he weigh at birth?

A He was a very small baby. He weighed just over 4 lbs I think. But he soon made up his weight. He grew very quickly.

Q Can you remember at what age he started walking?

A My babies never walked under the age of 22 months. They all walked about the same time 20/22 months.

Q To come back now to his wandering as a little boy. Did that worry you at all?

A Yes it worried me and then I did not mind so much. He was lost once or twice. We had to have search parties out for him. He was always found in a Wanderobo camp or somewhere just a few miles away. The Wanderobo brought him home once to me when they sort of made him a chief. They called him the chief of the Wanderobo and then I did not mind. Probably he went to that camp when he went out on his own.

Q What was the longest period he was away like that?

A From morning to evening when they brought him home. He was away the whole day.

Q Did he tell lies?

A I found him out in lies sometimes when quite a small child.

Q Of course most children tell a good many lies; did he tell as many as most?

A I think so. I don't think he was any different. He would take little things and give them to the boys and lie about it and I think they all did that.

Q He took things away from you? Stole them?

A He stole some money once from me when he was quite a small child.

Q How did Major Ross treat his children?

A He treated them very well I think. When he came in from safari he used to take the two boys on safari, he very often took them in the wagon for a month and then brought them back again. Of course these children went to school very early. I cannot quite remember the age when they went to school in Londiani and then they went to Nakuru and when they were in Nakuru the war started.

Q You don't know what happened on these safaris?

A I never went.

Q Have you ever seen Billy sulky at all?

A No I don't think you would call it sulky because he might brood a little bit of course he was not sulky. The other brother, you see was quick tempered. This boy never showed his temper. I have never seen the boy in a temper.

Q I suppose sometimes you had to correct him like other children?

A Oh yes.

Q Did he show any resentment at all?

A I don't think so.

Q After he had gone to school did you see much of him?

A When he came home for his holidays if he did not go on safari. They used to stay their holidays with me and then he used to go out shooting or doing the shamba, things like that.

Q What you have been telling me, does that relate to those times when he came home as well as his early childhood?

A His early childhood when I told you about the child running off before he went to school.

Q But the brooding?

CHIEF JUSTICE — What was your answer?? Did he brood or not?

A He brooded but he was not sulky.

SIMS — Did you ever see him hysterical?

A Yes.

Q What occasion was that? Was that only once?

A He was very hysterical when his father died. Or if anything was hurt he would cry. He was a very sensitive child in that way with animals or anything like that. He would cry over anything.

Q Was it hysterical crying or normal crying?

A I suppose you would call it hysterical crying. He was much more hysterical than an ordinary child would cry.

Q And I think you said he was like this when animals were hurt or killed?

A Yes.

Q Has he always been like that or only in his early childhood?

A I have not seen much of him. I forget the age when I took him away from school.

Q The time that his father died he was at school?

A At Nakuru school but he ran away one night. I think he ran away in the middle of the night and was found on the road 18 miles out of Nakuru coming home to me.

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Q Was it hysterical crying or normal crying?

A I suppose you would call it hysterical crying. He was much more hysterical than an ordinary child would cry.

Q And I think you said he was like this when animals were hurt or killed?

A Yes.

Q Has he always been like that or only in his early childhood?

A I have not seen much of him. I forget the age when I took him away from school.

Q The time that his father died he was at school?

A At Nakuru school but he ran away one night. I think he ran away in the middle of the night and was found on the road 18 miles out of Nakuru coming home to me.

Q You said he was hysterical then?

A I went to Nakuru then and he cried to me and said he wanted to come home because he thought I would be lonely.

Q You left him there?

A Yes I left him at school.

Q Was he hysterical about that?

A He cried quite a lot.

Q Did he stop crying before you went away?

A Yes.

Q You were able to quiet him?

A Yes I was.

Q Do you remember how Christmas 1950 when he had an accident - you need not trouble to describe it all?

A Yes there was an accident. We had a party and during the dancing my son Billy was playing leap frog with another small boy of mine and instead of the boy jumping on Billy's back he kicked him and the boy ———

CHIEF JUSTICE — What boy was that?

A My son John. He was 10 then.

SLADE — Can you remember whether after that he had any stammer at all?

A He could not speak after he was kicked. I saw him after he was kicked and he could not speak or get his speech at all and he began to speak the next day. I did not see much of him the next day because I was [illegible] and in the evening or in the night when going to bed my small son came along and said Billy was missing again. All that day he did not talk very much. Probably he did stammer a bit but I did not notice it very much. The day after that he had to return to his work in Nakuru.

Q But when you were told he was missing again, was he missing?

A He came home on his own but where he had been I don't know: Probably he said he had just been out for a walk.

Q How long was he out?

A We went to bed very early about 8/30 or 9 and I don't know what time he came home. My husband went to look for him but he came back on his own I think between 9 and 11 I think he must have come back.

Q At night?

A Yes.

THE CHIEF JUSTICE — You don't know when he returned?

A. I think it must have been about that time.

Q. You did not see him return?

A. I think he must have come up to the house. You see this boy did not sleep in the house - they have a house to themselves.

EQ When did you actually see him again?

A The next morning he left me to go to his work in Nakuru.

Q Can you remember if about that time he had any unusual ailments?

A He was with me two months before that. He came up for a fortnight's holiday as he was very much rundown and he looked very queer and he said he was suffering from something the matter with his kidneys he told me.

Q Did you see any signs of disease?

A I was making up his bed and I saw a lot of blood on his sheets. So I said to him "Billy, what is the matter? You have got a lot of blood on the sheets", and he said "That is from my nose". I said "That is a funny place to have blood on the sheets at the bottom of the bed instead of the top." That is all that was said. The next morning I saw it again and I began to wonder what had happened. So I went to a suitcase of his and opened it and there I found two pairs of pyjama trousers covered with blood. I went and spoke to my husband then. I did not say any more to the boy and my husband spoke to my child and he still insisted that there was something the matter with his kidneys and he had got some medicine from the doctor. He got better before he left my house and nothing more was said about it.

Q Did you see any medicines actually in the suitcase?

A I just saw the pyjamas. He was taking a mixture. I forget what it was now. It was just a sort of ..... I gave it to my children. I cannot remember the name.

[illegible] (to The Chief Justice): May I remind her, Sir?

[illegible] JUSTICE: If the Attorney General has no objection?

[illegible] (to witness): Parrish's Food?

A Yes, Parrish's Food. And he took Doan's Backache Pills for the kidney complaint he was told he had. I don't know which doctor he went to. He did not tell me.

Q From that time up to October this year did you see any change in him at all?

[illegible] JUSTICE: You mean from Christmas 1953?

[illegible]: Yes, Sir.

Since 1953 up to October this year I have seen lots of changes in him. He has grown such a lot for one thing. I saw a lot of change in him these last six months. Not before. He was always home every week-end before.

Q You say he has grown a lot?

A Yes. Very much.

Q How much?

A I don't know. He was not so tall as my other son but he

is now. I should say he has grown 2½ inches. He was only 5 ft. 10 ins. when he went to the K.F.A.

Q You say there was a change in the last six months?

A Yes. A great change. I have lost my boy in the last six months. In every way. For one thing he never came home and when I went to see him at Nakuru he was never very nice to me - not like he used to be. Whenever I went to see him at the office he almost ignored me all the time, but I insisted on going to see my boy. It was only a few weeks ago he came back to me. The last week in September I think it was, because it was just before this terrible thing happened. I think it was the last week in September. And then he promised me he would come home to me every weekend or as often as he could.

Q Then he promised to come home every weekend or as often as he could?

A He had also arranged to go with his brother shooting and fishing. He said he had an appointment the following weekend. That was the first of the month because I happened to be in Nakuru and saw him again and he promised if it did not rain the following weekend he was coming up to us. He seemed to have realised that he had been slogging(?) me for all those months because he was such a different boy when he came back to me. He was like he was of old. These last six months I have lost him.

Q Did you ever see him with a revolver?

A Yes. He had a revolver when he came up the last weekend. I saw a pair of gloves on a small table just as he was leaving me to go back to the office and I went to pick up the gloves and they were very heavy and I said, "Billy, what have you got in these gloves?" I had the in my hand and he said "Mother, there is a loaded revolver in them". I said "Why have you got a loaded revolver?". He said "Because I can shoot buck at close quarters with a revolver from my motor-bike". "Well", I said, "be very careful". That was all.

Q Did he often bring firearms into the house loaded?

A He never brought firearms into the house loaded.

Q Did you understand why he did it in this instance?

A No. I don't know the reason why.

Q Did you think about it afterwards at all?

A Not until he was brought to my house.

Q I would just like you to tell me what happened on the morning of the 8th when he came to the house. When did you first see him?

A I happened to be outside the house talking to my husband because my son had returned and said that Billy was coming, walking. My husband told him to go and meet him on the road. I said "No. You take the car and

take him right away. Don't bring him here". Because my son said he had a loaded revolver in his pocket and I said he might be coming home to hurt us.

Q Why did you think he might be coming home to hurt you?

A Because Gordon said he had a loaded revolver in his pocket.

Q But he had brought a loaded revolver before?

A Yes. But I had already heard from the police that he was wanted; that he had taken two girls out and had not returned. So I thought: What is he coming here for with a loaded revolver? Why didn't my son take him to the police station? I happened to turn round while I was speaking to my husband and I saw the boy walking behind my son in the drive, and my husband said to me "Run into the house", because I had a small child. We ran into the house. We waited until my husband ran into the house. I turned round and saw my husband. He grasped the boy's arm while Gordon was unloading the revolver. Then he came in. I said "What have done, Billy?" He said "Nothing, mother". He said "I am very hungry; can you give me some food?" We were just going to sit down to lunch. I said "Come along and have some food". He looked at the food on the table and he put his hand up to his throat and said "I cannot eat". He drank two jugs of water. He was very thirsty. So I put another dish of fruit before him. He again could not eat that. He had nothing to eat. Then I took him across and sat with him for a few minutes on the couch. I sat quite close. I tried to find out what had happened. He said "I took a party out; I don't know when. I took a part out shooting". He said "I have lost the car, my guns, the people; I have lost everybody". I said "Who were they, Billy?" He said "I don't know. I can see eyes staring at me. Look at those eyes, eyes." I said "Whose eyes are they, Billy?" He said "I don't know". I said "Are they Minnie's eyes?" He said "Minnie? Minnie who?" I said "Minnie Stevenson". He said "Minnie Stevenson can drive a car and she could drive herself home. No, I had no girls with me". So his stepfather looked at him and said "Come along, Billy. You are responsible for the two girls. If you cannot tell where they are I must take you to Mr Ray at Kensington Gate". He said "Mother, let me stay a minute and I may be able to think and tell you". Then he turned to his stepfather and he said "The police if they want me, they can come and fetch me". Then his father took him away.

I looked at the boy to see whether I could find anything on his clothing, to see if he had done anything. On his hand - his thumb - he had a scar; on his little finger he had a bruise. So I said to him "How did you get by these, Billy?" He said "I don't know; I have just hurt it." He washed himself in my house and combed his hair with my comb and washed his face. I went with him to the bathroom. I also had a good look at the boy to see if I could find anything on him. But I could find nothing; not a hair or anything. What I saw was that he had a brand-new suit; in fact he asked me if I liked his suit. He looked at his sleeve. He said "Why do you like my new suit? I have just put it on to-day." I said "Very nice, Billy". He then [illegible] you.

were very wet and covered in some nasty stuff, to me like murrum stuff. His socks were all wet and nasty. His father was waiting to take him away. When he was leaving me I asked him again to tell me where the girls were. Again he said "I have not been out with the girls; I know nothing about them". All he could say was eyes staring at him.

Q Did he mention "eyes" again?

A He told me about the eyes three times and then I said to him "Well Billy you will be taken from me now", so he said "goodbye" and he said "What does it matter, there is such a lot of us. You have Gordon and John to look after [illegible]." He started to cry but his step-father pulled him away from me and took him away and that was the last I saw of him.

Q There are just two more things I want to refer to. Where you there when Major Ross died?

A Yes. I was there the whole time and nursed my husband the whole time. He was taken ill on the Sunday and died on the following Monday week. I had no one to help me neither night nor day, until Dr. Williams came on the Sunday and told me I ought to have some one and he sent a nurse and a lady friend of mine came to help and he died the Monday night as they turned up.

Q And how did he behave?

A He was a madman all the time he was ill but of course they told me it was natural with double pneumonia.

Q Did he talk?

A All the time and how I was trying to put him away into a mad house but the Doctor said it was just pneumonia.

Q But did he do more than talk?

A He nearly killed me. He managed to catch hold of me and caught my throat and I had long hair at that time but he caught me by the hair and he was too weak to be able to do anything else and then he got out of bed and jumped out of the window.

Q Can you tell me how long you have been in this country?

A Since May 1908.

Q Were you married when you came out?

A No I was a single girl.

Q Did you come out to some employment?

A I came out employed.

Q In what capacity?

A Nurse girl.

MR. SLADE — Thank you.

I have no questions to ask this witness, Your Honour.

(The witness withdrew)

MR. SLADE — At the end of our evidence we have some medical evidence to call. The doctors have been in Court and their evidence will depend in a great degree on the evidence they have heard in this Court. It is awfully important for them to make a clear report that they should have a night between the close of the evidence and their being able to make their report.

THE CHIEF JUSTICE — They have got tonight.

MR. SLADE — The evidence is not finished tonight.

THE CHIEF JUSTICE — I cannot keep the Jury and I am very anxious to finish this case tomorrow. I really cannot adjourn for the doctors to make up their minds what they are going to say.

MR. SLADE — Can the case possibly be finished tomorrow.

THE CHIEF JUSTICE — I do not know at all. It depends on the witnesses. We will make an endeavour to finish tomorrow.

COURT ADJOURNED TILL 9 a.m. 30.XI.32.

Accused present.

Jury present.

Counsel as before.

ERNEST REGINALD PRATT sworn:

EXAMINED BY MR CLAIR

Q Are you Headmaster of Nukuru School?

A I am.

Q Can you remember when the accused was at the school there?

A He was there in 1921 and 1922, again in 1927 until October 1928.

Q Can you remember at all what he was like at the first of those two periods?

A During the first of those two periods he was not altogether a satisfactory pupil. He was very young at first and altogether unsatisfactory.

Q In what sort of way was he unsatisfactory?

A Mostly petty misdemeanours; no keenness in school activities or games.

Q Did he ever strike you as a liar?

A In the first period, yes. He was untruthful.

Q Do you remember whether at any time he ran away from school?

A He ran away sometime during the first period.

Q Did you know why?

A I did not know the reason then. I still do not know the reason.

Q Do you think there probably was a reason?

A I think there probably was a reason.

Q You do not know it?

A Only as a matter of surmise. I never found out definitely.

Q On what would your surmise be based?

A Experience of other boys generally. A misdirected sense of adventure in that case.

Q When he came back to your school in 1927 was there any change in him at all?

Q In what way? For the better or worse?

A I thought he was in every way a most satisfactory pupil.

Q Could you account for that at all?

A In his early part I should say he did not submit kindly to an institution and institutional rules but he had benefitted by his school career and that was mainly entirely responsible for the change.

Q Can you remember whether he did any drawing during the second part?

A Yes, he did. He was remarkably good at it, not from an artistic point of view but from the point of view of careful draughtsmanship - meticulous done.

Q Do you keep any records of each boy as he comes here? Permanent records?

A Of what type?

Q Any outstanding points about the boy?

A Only with regard to his attendance, his age, and progress through the school. None as regards character.

Q Can you tell us whether he ever passed any examination?

A He passed no examination while he was at Nakuru School. I do not know about examinations at home.

Q Was there any question that he should try to pass any examination?

A He was entered for the Cambridge Preliminary in 1938 but he left before it took place.

Q What age was he when he was entered?

A 15 or 16.

Q Is that about the usual age?

A It is about a year about the usual age for this school.

Q A year older?

A Yes.

MR. CROSS-EXAMINATION

(The witness withdrew)

FRED WALLER sworn

EXAMINED BY MR. SLADE.

Q Where do you live and what is your occupation?

A Works Manager of Motor Mart & Exchange, Nakuru.

A The accused when he left school came to live with me. That was approximately 3 or 4 months.

Q Did you make a habit of taking in guests?

A I was asked as a favour to take him in by Major Whitridge.

Q Did you find it was a satisfactory arrangement?

A No.

Q Why?

A In the first place it was owing to the lies he put about the town regarding our ways of living, drinking etc.

Q At the time that he put these lies about had there been any quarrelling between you?

A None.

Q Can you think of any reason why he had put the lies about?

A I can think of no reason whatever.

Q Were there any other occasions on which you know him to tell lies?

A That was the only time and then I got rid of him.

Q Do you know at all whether he associated with natives?

A When he first came to me I often found him in the kitchen with the boys. I told him I did not like anyone living with me becoming too familiar with the native boys and this practice then ceased.

Q Apart from that you had no experience of his association with natives?

A Apart from that nothing.

Q Was there any cause for dissatisfaction?

A Everything else was quite all right. He seemed to be quite a nice boy. The time between the time I told him about the natives probably a month elapsed before I told him about the lies. In the meantime he was quite satisfactory.

NO CROSS-EXAMINATION

(The witness withdrew)

FRANK PHILIP GILBERT DE SCHMIDT sworn.

EXAMINED BY MR HOGAN

Q Your occupation?

A Bacteriologist.

CHIEF JUSTICE: Qualifications?

A M.R.C.S., L.R.C.P., L.P.H.

Q You examined a urethral smear taken from the [illegible]

A Not myself. My assistant.

Q Did you supervise the examination?

A I merely issued the report.

Q Do you know anything about the examination?

A I can vouch for the accuracy.

MORGAN (to Chief Justice) I am afraid, Your Honour, we shall have to call the assistant.

(The witness withdrew)

NATBARLAL MANEKLAL SHAH

HINDU, Sworn:

EXAMINED BY MR. SHAH:

Q You are practising at Nakuru?

A Yes.

CHIEF JUSTICE: As what?

A Medical Practitioner. M.B., ..., Bombay.

SHAH: Have you ever attended the accused previously?

A Yes.

Q How many times?

A Once only.

Q Can you remember about when that was?

A I attended him first on 21st October 1950.

CHIEF JUSTICE: Where was that?

A In Nakuru.

SHAH: Will you tell us what his complaint was?

A He was suffering from gonorrhoea.

Q That was his only complaint?

A Yes.

Q Did you examine him?

A Yes.

Q And what did you diagnose?

A Gonorrhea.

Q Can you tell us whether gonorrhea is an hereditary complaint?

A It cannot be.

Q Were you able to form any opinion as to about how long it had been contracted?

A Somewhere about three or four weeks before.

CHIEF JUSTICE: Before you saw the accused?

A Yes.

CLERK: Is that the only occasion on which you attended him?

A Yes. I attended him on that occasion and later he came in in January 1952. He said he wanted to make a proposal to an Insurance Company and wanted to know whether there was any trace of the disease now.

Q Did you examine him then?

A Yes.

Q Was there any sign then?

A I did not find any sign of the previous complaint then.

Q Was it a complete examination?

A Yes.

Q Do you think if he had been suffering seriously you would have found it?

(No answer given) NO CROSS-EXAMINATION

(The witness withdrew)

A Gonorrhea.

Q Can you tell us whether gonorrhea is an hereditary complaint?

A It cannot be.

Q Were you able to form any opinion as to about how long it had been contracted?

A Somewhere about three or four weeks before.

CHIEF JUSTICE: Before you saw the accused?

A Yes.

[illegible]: Is that the only occasion on which you attended him?

A Yes. I attended him on that occasion and later [illegible] in January 1952. He said he wante[illegible] proposal to an Insurance Company and wanted to know whether there was any trace of the disease now.

Q Did you examine him then?

A Yes.

Q Was there any sign then?

A I did not find any sign of the previous [illegible].

Q Was it a complete examination?

A Yes.

Q Do you think if he had been suffering [illegible] have found it?

(No answer given) NO CROSS-EXAMINATION

(The witness withdrew)

Q ... GERARDUS JACOBUS ENGLEBRECHT sworn:-

A Mostly, yes. EXAMINED BY MR. HOGAN.

Q Your occupation?

A Motor mechanic.

Q Where do you work?

A Hughes & Co., Nakuru.

Q You have known the accused for some time, Mr.Englebrecht?

A Yes, Sir.

Q When did you first become acquainted with him?

A Just shortly after the war, about 1919, if I remember right.

Q Have you seen much of him during the last 4 years?

A Yes, practically every day.

Q That is since he has come to live in Nakuru?

A Yes.

Q When he first came to live in Nakuru was there some suggestion to live with you?

A Yes. His step-father came and asked me if I had room for him to come and stay with me.

Q But that could not be managed?

A No, I did not have room at the time.

Q How did you come to see him every day?

A He used to pass my door every day going to work.

Q Did he ever come into your house?

A Yes very often in the evenings.

Q Came in to talk?

A Yes to have a chat.

Q When he came in to talk to you, did you notice anything unusual about him then?

A He struck me as being very excitable when he started speaking about big game hunting and shooting.

Q Were his actions or his gestures at all unusual on those occasions?

A Yes the way he caught hold of his hands and sat right on the edge of the sofa and moved forward full of excitement.

Q How about his eyes?

A Yes he used to roll his eyes round and stare.

GERARDUS JACOBUS ENGLEBRECHT sworn:-

EXAMINED BY MR. HOGAN.

Q Your occupation?

A Motor mechanic.

Q Where do you work?

A Hughes & Co., Nakuru.

Q You have known the accused for some time, Mr. Englebrecht?

A Yes, Sir.

Q When did you first become acquainted with him?

A Just shortly after the war, about 1919, if I remember right.

Q Have you seen much of him during the last 4 years?

A Yes, practically every day.

Q That is since he has come to live in Nakuru?

A Yes.

Q When he first came to live in Nakuru was there some question to live with you?

A Yes. His step-father came and asked me if I had room for him to come and stay with me.

Q But that could not be managed?

A No, I did not have room at the time.

Q How did you come to see him every day?

A He used to pass my door every day going to work.

Q Did he ever come into your house?

A Yes very often in the evenings.

Q Came in to talk?

A Yes to have a chat.

Q When he came in to talk to you, did you notice anything unusual about him then?

A He struck me as being very excitable when he started speaking about big game hunting and shooting.

Q Were his actions or his gestures at all unusual on those occasions?

A Yes the way he caught hold of his hands and sat right on the edge of the sofa and moved forward full of excitement.

Q How about his eyes?

A Yes he used to roll his eyes round and stare.

Q Was that only when he talked about hunting?

A Mostly, yes.

Q Did that strike you at the time as being very unusual?

A No I should not say it struck me as being unusual. I thought it was just his queer nature.

Q Have you noticed it in other people?

A No I cannot say really.

Q Have you ever been with him hunting and shooting?

A No I have not been out with him but he has been with me when I shot a couple of birds and he has been out fishing.

Q Did you notice anything unusual about his behaviour on those occasions?

A When he caught a fish he usually went up in a cloud of smoke full of excitement about the first fish.

Q Would he do anything with the fish at all?

A Catch hold of it and squeeze it and murmur to himself.

Q Did he make odd noises?

A Just sort of mumblings.

Q Did that strike you as being odd at the time?

A It just struck me as being odd but I just put it down to be his nature.

Q Apart from those particular occasions did you ever notice anything odd about his natural actions?

A Well he has a very queer walk. We often talked about the funny way he used to walk.

Q Can you describe it in any way as being like anything you have seen?

A It is a lot like a native moran trying to show off - a swinging sort of walk.

Q Anything odd about his eyes at all?

A Occasionally a really wild look in his eyes.

Q Did you ever talk to anybody about this at the time?

A With my wife - yes.

Q It struck you as sufficiently odd for that?

A Yes.

Q Was there anything else that made you at all suspicious of him?

Q Was that only when he talked about hunting?

A Mostly, yes.

Q Did that strike you at the time as being very unusual?

A No I should not say it struck me as being unusual. I thought it was just his xxxx nature.

Q Have you noticed it in other people?

A No I cannot say really.

Q Have you ever been with him hunting and shooting?

A No I have not been out with him but he has been with me when I shot a couple of birds and he has been out fishing.

Q Did you notice anything unusual about his behaviour on those occasions?

A When he caught a fish he usually went up in a cloud of smoke full of excitement about the first fish.

Q Would he do anything with the fish at all?

A Catch hold of it and squeeze it and murmur to himself.

Q Did he make odd noises?

A Just sort of mumblings.

Q Did that strike you as being odd at the time?

A It just struck me as being odd but I just put it down to be his nature.

Q Apart from those particular occasions did you ever notice anything odd about his natural actions?

A Well he had a very queer walk. We often talked about the funny way he used to walk.

Q Can you describe it in any way as being like anything you have seen?

A It is a lot like a native woman trying to show off - a swinging sort of walk.

Q Anything odd about his eyes at all?

A Occasionally a really wild look in his eyes.

Q Did he ever talk to anybody about this at the time?

A With my wife & yes.

Q It struck you as sufficiently odd for that?

A Yes.

Q Was there anything else that made you at all suspicious of him?

A Well we could never put him into a team to play a game of soccer. He was too scared. He used to lose heart and become scared.

Q Was that the only occasion?

A Well when in company with a woman he was very shy and would make an exit as soon as he could.

Q Did he ever express any views to you about women about his attitude?

A He he used to say he did not like women.

Q That is expressing a view all right. Was he at all moody?

A On occasions yes. He used to get very moody.

Q Sort of morose?

A Yes.

Q Is there anything at all odd about him that ever made you suspicious - anything else that you knew? You know his father did you not?

A Yes I knew his father Major Ross. He was often after me for poaching game. As a youth I always thought his father was not quite all there. He would put the wind up me badly. I always thought him mad.

Q Apart from putting the wind up you, did you think him mad?

A I was positive in my own mind but I don't know what others thought of it.

Q Did that ever make you at all suspicuous about his son?

A Well no. I thought occasionally that I wonder if it is going to show up somewhere.

Q On Friday 7th October when you heard that he had gone out with those two girls and did not come back, what was your first thought?

A The first thing I thought was that it was madness. For him to take 2 girls it was madness for him to do a thing like that.

Q Apart from taking the girls out, when you heard he had not come back, did you really get a serious thought that he had gone mad?

A I thought so knowing his attitude towards women. I thought something had gone wrong.

NO CROSS-EXAMINATION.

(The witness withdrew)

RUDOLF BENJAMIN SMART sworn:

EXAMINED BY MR. SLADE.

Q Where do you work? And what is your employment?

A Miller in Kenya Grain Mills in Nairobi.

Q Have you known the accused?

A Yes.

Q When did you first get to know him?

A About 4 years ago.

Q Whon he was still at school or not?

A When still at school.

CHIEF JUSTICE -- Were you at the same school?

A Yes, Sir.

Q Nakuru School?

A Yes, Sir.

SLADE -- Can you remember what he was like at school? Was he the same as everybody?

A Yes.

Q Quite normal in every way?

A Yes.

Q Did he ever seem to prefer his own company?

A Yes he did sir.

Q Did he ever seem dreamy?

A Occasionally, Sir.

Q Did he ever show any bad temper?

A No, Sir.

Q Did he ever show any cruelty?

A On one occasion yes.

Q What was that occasion?

A When a cat was kicked to death.

CHIEF JUSTICE -- By whom?

A By Ross.

Q By him alone?

A Yes.

MR. SLADE -- Did anyone say anything to him about that?

A He was told it was not the right thing to do.

Q And how did he behave when told that?

A I can hardly say, Sir. It is so long ago.

Q You cannot remember whether he seemed to mind or not?

A No Sir, I cannot.

Q Did you ever see him sulking?

A No, Sir.

Q After school you were at the Kenya Farmers Association, were you not?

A Yes, Sir.

Q Were you working in close contact with him?

A No, Sir.

Q Did you see anything of him outside the work?

A Yes occasionally, Sir.

Q Did you gather any idea from him of what his attitude towards his work was?

A He appeared very conscientious.

Q Did you ever go shooting with him?

A Yes, Sir.

Q Many times?

A On several occasions.

Q Did you ever remark anything unusual about his behaviour when he was out shooting?

A No, Sir. He was very keen.

Q What was he keen on do you think? Was he keen on trophies?

A Yes, he was.

Q Was he interested in getting many?

A Yes, he was.

Q When he had got one or two, would he stop?

A No he was inclined to go on.

Q Have you ever seen him get into a herd of any game?

A Yes.

Q Would he single out one and shoot it?

A Yes.

Q And would he leave the rest?

A No not if they were still in view. He would still go on shooting.

Q What is the greatest number you have ever seen him shoot, yourself?

A Nine.

E CHIEF JUSTICE -- Nine what? All the same kind?

A Yes.

Q What were they?

A Impalla.

. SLADE -- When he had shot them, was his behaviour ever unusual in any way?

A He was excited, Sir.

Q Still excited after the thing was dead?

A Yes, Sir.

Q Have you ever seen him skinning an animal?

A Yes, Sir.

Q Have you seen him in the act of paunching an animal?

A No, Sir.

Q Have you seen him in the act of finishing it off?

A Yes, Sir.

Q Would you say that his behaviour when doing those things was simply that of a man doing a necessary job?

A Yes.

Q Would you say that his interest in it never appeared to be a greater interest?

A No.

Q You would not say that?

A No.

Q Why would you not say that?

A Well he did not appear to be more excited or more keen than the average.

Q And did he show any particular interest over in the sight of blood?

A No.

Q He did not?

A No.

Q After he had shot these 9 impalla, did he take them home?

A No.

Q Did he just leave them?

A Yes I think he had one or two trophies from them and possibly a leg.

Q When you knew him apart from shooting did he ever seem different from other people?

A Yes.

Q In what way?

A Well he preferred being alone and his own company.

Q Did he seem to have many thoughts of his own which he kept to himself?

A Yes.

Q Did you ever discuss him with other people? Not seriously I mean but casually?

No.

Q Have you ever said to anybody that you thought he had a screw loose?

E CHIEF JUSTICE -- You don't object to this, I suppose, Mr.Attorney?

TORNEY GENERAL -- Not quite, yet. I reserve the right to,shortly.

Witness: No, I have not.

SLADE -- Did you form any opinion at all as to his mentality?

A No.

Q Did you ever learn anything of his attitude towards natives?

A He was very familiar with them.

Q Did you ever visit him at the mess where he was living?

A Yes.

Q Were you ever there in the evening?

A Yes.

Q Did he usually stay with you?

A Yes.

CHIEF JUSTICE -- Where? In Nairobi?

SLADE -- The Mess with Maryon and Shaw in Nakuru.

Q Have you ever seen him go out when you were there?

A No, Sir.

NO CROSS-EXAMINATION.
(The witness withdrew)

ERIC BRYAN BOWLES sworn:

EXAMINED BY MR SLADE:

Q Are you employed at the Kenya Farmers Association?

A ~~This~~ That is correct.

Q At Nakuru?

A Yes.

Q Were you acquainted with the accused?

A Yes.

Q Did he work in the same department with you?

A Under me.

Q For how long prior to October of this year?

A My position has not always been the same. We have all worked together until 12 months back. I have worked with him since 1929 July. Just for three years.

Q Did you know him at all outside his work?

A Very little.

Q In his work did you ever notice he had a sense of humour at all?

A I do not notice much humour in work at all. He was always cheery round the office; at least, generally speaking.

Q Would you say that his sense of humour was similar in all respects to the average?

A Yes, I should say so. Most decidedly.

Q Have you ever been out shooting with him?

A To the best of my knowledge on one occasion the first week I was in Nakuru, some time in July 1929. There might have been another occasion but it has slipped my memory. I have not been out within the last two years.

Q Did you ever share a house with Mr Thorpe?

A That is correct.

Q And did the accused ever visit you?

A Sometimes he came down on matters connected with a motor-cycle. Thorpe was a bit of a fundi. It was more Thorpe he came to see.

Q When he talked about sport did he always talk in a perfectly normal manner?

A He spoke as a keen sportsman.

~~Q Did he ever strike you being more th~~

MR. SLADE — Did anyone say anything to him about that?

A He was told it was not the right thing to do.

Q And how did he behave when told that?

A I can hardly say, Sir. It is so long ago.

Q You cannot remember whether he seemed to mind or not?

A No Sir, I cannot.

Q Did you ever see him sulking?

A No, Sir.

Q After school you were at the Kenya Farmers Association, were you not?

A Yes, Sir.

Q Were you working in close contact with him?

A No, Sir.

Q Did you see anything of him outside thework?

A Yes occasionally, Sir.

Q Did you gather any idea from him of what his attitude towards his work was?

A He appeared very conscientious.

Q Did you ever go shooting with him?

A Yes, Sir.

Q Many times?

A On several occasions.

Q Did you ever remark anything unusual about his behaviour when he was out shooting?

A No, Sir. He was very keen.

Q What was he keen on do you think? Was he keen on trophies?

A Yes, he was.

Q Was he interested in getting many?

A Yes, he was.

Q Were he had got one or two, would he stop?

A No he was inclined to go on.

Q Have you ever seen him get into a herd of any game?

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Q Would he single out one and shoot it?

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A Yes.

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A No.

Q Have you ever said to anybody that you thought he had a screw loose?

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A Yes.

Q Were you ever there in the evening?

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Q Did he usually stay with you?

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A He spoke as a keen sportsman.

Q ~~Did he ever strike you being more th~~

Q Did he never strike you as being more than a mere keen sportsman?

A Probably a little excited at times. On the one occasion I am acquainted with.

Q What occasion is that?

A The occasion of shooting a hyaena on Mengwi.

Q What was his behaviour then?

A Bearing in mind that he was a collector of specimens he was certainly very excited. He was pleased at having shot it.

Q Can you describe what he looked like when he came in?

A It was a very wet night - pouring with rain. When he came down to us there had been a large quantity of rain, like, but it doesn't mean to say up on Mengwi. He was certainly wet; just a little bedraggled owing to the weather. He had skinned the thing and probably there was a little blood about his hands.

Q You say probably?

A It was some six years ago. I am not particularly keen on shooting and therefore took no particular interest in the matter. I was amused at the time that anyone should get so excited on going out on a night like that, and shooting a hyaena.

Q Had you often seen people excited like that?

A I tell you I am not very keen on shooting.

Q Have you ever seen people excited like that?

A No.

Q Was that the reason why you were amused?

A I was amused because I thought it peculiar going out to shoot a hyaena on a night like that. It probably was not. I do not know.

Q Do you know anything about other people's attitude towards shooting?

A Nothing.

LANE (to Chief Justice) Am I at liberty, Sir, to examine this witness as a hostile witness?

CHIEF JUSTICE: No, certainly not. He has not shown any hostility. He has shown a desire to tell the truth.

LANE (to witness) Do you like the accused?

A Very much indeed. Especially in connection with my work.

Q Did you ever have any trouble?

A ~~There was one occasion~~

A One occasion that I can remember any trouble. When I first came to the office I was not in charge. I was brought out with the intention of being in a short time chief bookkeeper. There was one little point I did not agree with something I knew I spoke to him very sharply and he took offence. Had I known him better I probably should not have spoken to him in that way.

Q Why?

A Because he is very very sensitive to rebuke.

Q And what was the result of [illegible] to him?

A He met me at the Stag's Head [illegible] a few words. We walked up and down the road and talked and talked and talked. The next morning we spoke a bit and the following days the thing was finished.

Q Can you remember anything he said [illegible] walking up and down?

A Yes. What he said I attached no importance to at all, because I knew him to be of an inoffensive nature very, when roused. He said "Gee, if I had my knife I would kill you". I maintain I did not take any notice of that statement. I took it as a matter of being in a bad temper.

Q He was of an inoffensive [illegible]

A That is how I felt myself.

Q Did he seem roused then?

A At the time I spoke to him, No. [illegible] afterwards. He probably met me at the Stag's Head [illegible] the best of my recollection.

Q Do you mean he had calmed down then?

A He showed no signs of being [illegible] to him.

Q It was sometime after that you had the interview at the Stag's Head?

A Yes.

Q Can you remember the occasion when [illegible] down at the Lake?

A Yes.

Q Were you there at all?

A I was staying at the house about 200 or 300 yards from where it was shot. I was not present at the shooting.

Q Did Mr Thorpe speak to you about it?

A We were both living together. As far as I remember the hippo was shot by Gus Cook and I was up at the cinema at the time and he suggested we should go out and shoot

it. We spent many nights trying to shoot it. While we were up at the cinema Gus Cook sent a boy up and said he had shot it. We both - Thorpe and I - went to see the hippo.

Q Was the accused there?

A No.

Q Had he been there?

A That is a point on which I am not quite clear.

Q Did Mr Thorpe speak to you about him having been there?

THE JUSTICE: You have examined Mr Thorpe himself on this matter.

He appeared to show some unwillingness to answer. (to witness): Did you ever possess a revolver?

A That is correct. (Exhibit 7 handed to witness). I would not say if this is it. It is somewhat like it.

Q Have you still got it?

A No. I sold it to the native boy.

Q When did the native boy buy it?

A A few days ----- I believe before the end of September.

Q Was that the first occasion on which the boy had asked you to buy it?

A No.

Q When did he first suggest buying it?

A I bought it myself I believe in March last, when I was practising with bottles and things like that. He had been there. He may have said it was a nice gun or he would like one like it.

Q You cannot remember when?

A I think probably at the time I purchased it.

Q Do you remember some cases of ammunition being at Nauru?

A I believe they have some restrictions up there at the present moment.

Q Did the accused ever say anything to you about that?

A I believe he spoke to the office in general. When we got there one morning he said he was going to try to get permission to shoot those dogs. At the time there were dozens of them and they were a confounded nuisance.

Q Were you in the office on the 5th October?

A Thursday. Yes, most decidedly.

Q Did you see the accused in the office that day?

A I saw him every day up to the day boy went away.

Q What did you do?

A What could I do? I advised Mr Bernet[illegible] my knowledge that he was present.

Q Did you on the night of the 7th leave [illegible]

A Did I? I don't think I did [illegible]

Q You mean you locked it?

A Yes.

Q Do you usually lock [illegible]

A Not as a rule, No.

Q Could you tell us why [illegible]

A It certainly occurred to me [illegible] he had one off, and [illegible] people [illegible] another.

CHIEF JUSTICE: What occurred [illegible]

A [illegible] lock my [illegible]

Q Can you remember - [illegible] the accused had [illegible] preceding [illegible]

A [illegible] very large [illegible] small accounts naturally [illegible] the close of the financial [illegible] several weeks [illegible] every year.

MR [illegible]

(Sd) [illegible]

MR. HOGAN -- I might say at this stage, Your Honour and gentlemen of the Jury, that two of our witnesses have not been able to attend. Major Drought is unfortunately in hospital and Mr. Merton has not been traced, so that we may not be able to do all that we had hoped to do in the way of evidence for you, but still it cannot be avoided.

AUDREY BIRDSALL sworn :

EXAMINED BY MR. HOGAN.

Q You are a Mistress at the European Girls' School, Nairobi?

A Yes.

Q Did you training for your present position include any course in psychology in the observation of children?

A Yes. At Bedford Physical Training College.

Q Now the sister of the accused was a pupil at the European Girls School for some time?

A Yes.

Q Did you see much of her there?

A Yes I saw a great deal of her.

Q Was she in any way different from the other girls?

A In many respects she was quite normal but she was subject to fits of sulky temper.

Q Were these remarkable?

A Yes I think they were.

Q Do you know if they were generally inspired by a good cause or just trivial?

A Usually inspired by trivial matters.

Q Have you any idea as to how the other girls regarded her?

A I do not think they liked her very much. She had not very many friends.

Q You don't know if they regarded her as being in any way peculiar?

A I don't know that they regarded her as peculiar. They just did not like her very much.

Q You don't know what they thought of this temper of hers?

A I think they thought it was just one of her sulky fits again.

Q What was her brain work like?

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A I think they thought it was just one of her sulky fits again.

Q What was her brain work like?

A I think below the average.

Q What led you to that conclusion?

A She came to the school in January 1951 and left in July 1951. She came to us when she was 16 and left when 17 and during that time she was in a class whose average age is 14.

NO CROSS-EXAMINATION.

(The witness withdrew)

JOSEPH ST.ANNE MATTHEW DE SOUZA Roman Catholic
Sworn:

EXAMINED BY MR. HOGAN

Q Your occupation?

A Laboratory Assistant, Nairobi.

Q Did you on the 15th October examine a urethral smear taken from Mr. Ross?

A Yes.

THE ATTORNEY GENERAL -- You will prove where it came from?

MR. HOGAN -- If you wish to object on that ground I am afraid it will be difficult.

Q You received the specimen marked on the report. How was it in fact received? ~~with a wrapper on~~

A Received with a wrapper on?

Q And what did that wrapper purport to state?

A It was recorded exactly as typed.

Q What was on the outside?

A The date; the name of the patient Mr. Ross, Prison Hospital, Nairobi; Medical attendant's specimen of urethral smear to be examined.

Q You received that and examined it?

A Yes and found it positive for gonococci.

(Wrapper with report put in and marked Exhibit No.58)

NO CROSS-EXAMINATION

(The witness withdrew)

HAROLD DENNIS TONKING sworn:

EXAMINED BY MR. HOGAN:

Q What are your qualifications?

A M.R.C.S., L.R.C.P. working at Government Laboratory.

Q You received certain clothing purporting to belong to the accused?

A Yes.

Q Who handed you that clothing?

A They were personally handed to me by Dr. Kauntze the Director of the Laboratory.

Q Would you recognise those exhibits again?

A I would.

Q Are those they (Exhibits 48 & 49 produced)

A They are they.

Q You examined those?

A I examined them for blood and for spermatozoa.

Q What was the result of your examination?

A I found spermatozoa on both the trousers and on the waist coat.

Q Did you also examine the coat?

A I also examined the coat.

Q Is that the coat? (Exhibit No.47 produced)

A That is the coat.

Q Did you find anything on that?

A No spermatozoa.

Q Any blood?

A On all the clothing there were minute traces of blood, but nowhere was there enough blood to ascertain if it were human or other origin.

Q Did you also receive what purported to be the shirt of the accused?

A I did.

Q Would you recognise that again?

A Yes. That is the shirt (Exhibit No.44)

Q Did you also examine that?

A I examined that and I found no spermatozoa on it.

Q The witnesses did not say whether he drew his legs up together and shot them both out or whether he kicked with both legs alternatively.

You have also heard that the accused for some time had a stammer?

A I did not think the evidence ----

Q Assuming that evidence was correct ----

CHIEF JUSTICE -- Let the witness answer.

HOGAN -- I think witnesses of this nature - they are not entitled to an expression of opinion on the evidence.

CHIEF JUSTICE -- At the same time you are not entitled to cross-examine.

HOGAN -- Assuming that evidence to be correct ----

CHIEF JUSTICE -- You mean the evidence of stammering?

HOGAN -- What would you consider that was evidence of?

A I did not consider the evidence of stammering was positive enough.

Q But assuming that he did stammer for some time?

A But ... are asking me to go on the evidence I have heard and make my judgment on that alone and I do not consider the evidence positive enough to give an opinion.

Q But assuming that he did stammer for some time after this incident, what would you think that indicated?

A I should think it indicated some guilty semi-nervous derangement.

Q Would you consider that this peculiar behaviour for some 24 hours after and stammering indicative of hysteria?

A It is very hard to say. I have never examined the accused and I cannot give an opinion on one or two isolated facts.

Q I do not ask for a definite opinion but would you consider it indicative?

A Hysteria is a very large subject and would cover a multitude of sins.

Q Well I will put it this way. Would it be consistent with hysteria?

A It would be consistent with hysteria.

(The Witness withdrew)

Court adjourned for 10 minutes.

ROBERT FRANCIS GOLDRICK

DOCTOR SWORN:

EXAMINED BY MR HOGAN:

Q What are your qualifications, Doctor?

A M.R.C.S., L.R.C.P., of Ireland and Diploma Public Health. I am at present employed as Medical Officer in charge of the Prison, Nairobi, and Medical Officer for Nairobi District Council and Superintendent of Infectious Diseases Hospital.

Q In your capacity as doctor to the prison you have examined the accused?

A I have.

Q On many occasions?

A I have seen him on many occasions.

Q And you have made your own personal observation of him?

A Yes. I have also arranged that he should be observed, carefully by the Prison Authorities and reports of his conduct entered in the Prison books.

Q Now bearing in mind your own personal observation and having regard to the evidence you have heard in Court as to this boy being a liar, this peculiar behaviour when shooting, that he was morose, resented correction, that he had paroxysms of excitement, do you consider that there are indications of insanity in the accused? Assuming the evidence to be proved? [illegible] the Court?

[illegible] the evidence that he did his job as a ledger-keeper for the K.F.A. extremely well. Assuming that to be true and correct would that be reconcilable with the presence of insanity in the accused?

A No.

Q You have heard this alleged crime outlined by the Attorney General in his opening address and assuming that it occurred as he has outlined it and that the evidence for the prosecution was correct, and bearing in mind the peculiar preparations made by the accused, and having regard to the confession he has made and assuming that to be correct, would you be prepared to say that the accused when committing this act (if he did commit it) would know the difference between right and wrong?

A I am afraid I am unable to answer that question because I was not there when the act was committed.

Q Do you think it probable that he did know the difference between right and wrong?

A I think it is probable that he did not. I cannot go further than say that. I would even put it lower and say it is possible he did not know the difference.

Q I take it you mean you are very doubtful?

A Very doubtful indeed.

Q Would you say that an ordinary person, not presenting the abnormalities we have observed in the accused, would under similar circumstances know the difference between right and wrong?

A Undoubtedly.

Q During the time that the accused has been under your observation have you seen any attempts to sham insanity?

A None whatever. I must qualify that answer: He said that he had a loss of memory for a certain time which is proved not true. If that can be called sham insanity, I don't know.

Q In your opinion could that loss of memory have been true?

A I don't think so.

Q You think that was entirely pretended?

A I don't say that was shamming insanity, but I think it was done from the point of view of self-preservation more than anything else.

Q Could you indicate to us a person in Kenya who has the best qualifications for dealing with mental disorder?

A I don't think there is any doubt. Dr H.L.Gordon is the acknowledged expert on that question.

CROSS-EXAMINED BY THE ATTORNEY GENERAL.

Q You never saw the accused until he came under your care in Nairobi Prison?

A No. I can give the date. The 10th October - the evening of the 10th.

Q And on your personal observation - leaving out anything you have heard in this Court - on your personal observation on what do you base your statement that he is insane?

A Well, first of all his demeanour was unusually quiet calm and collected if one is to believe that he did this tragedy. Furthermore, I found that he was an unmitigated liar.

Q And those are the only two factors?

A I don't know. He slept very well and ate extremely well.

Q And all that indicates insanity?

A In my view it does in this case.

Q May I suggest it is consistent with a young man with a healthy appetite realising the inevitable and making the best of it?

A That is a possibility.

A Very doubtful indeed.

Q Would you say that an ordinary person, not presenting the abnormalities we have observed in the accused, would under similar circumstances know the difference between right and wrong?

A Undoubtedly.

Q During the time that the accused has been under your observation have you seen any attempts to shew insanity?

A None whatever. I must qualify that answer. He stated that he had a loss of memory for a certain time which is proved not true. If that can be called shew insanity, I don't know.

Q In your opinion could that loss of memory have been true?

A I don't think so.

Q You think that was entirely pretended?

A I don't say that was shewing insanity, but I think it was done from the point of view of self-preservation more than anything else.

Q Could you indicate to us a person in Kenya who has the best qualifications for dealing with mental disorder?

A I don't think there is any doubt. Dr H.L.Gordon is the acknowledged expert on that question.

CROSS-EXAMINED BY THE ATTORNEY GENERAL.

Q You never saw the accused until he came under your ken in Nairobi Prison?

A No. I can give the date. The 10th October - the evening of the 10th.

Q And on your personal observation - leaving out anything you have heard in this Court - on your personal observation on what do you base your statement that he is insane?

A Well, first of all his demeanour was unusually quiet calm and collected if one is to believe that he did this tragedy. Furthermore, I found that he was an unmitigated liar.

Q And those are the only two factors?

A I don't know. He slept very well and ate extremely well.

Q And all that indicates insanity?

A In my view it does in this case.

Q May I suggest it is consistent with a young man/realising the inevitable and making the best of it? with a healthy appetite

A That is a possibility.

Q What do you mean by insanity? I want to make it clear when I mention insanity as legal insanity. You know what is generally known as the ruling in the McNaghten case? I would like to call your attention to legal insanity.

A I am quite unable to say whether he knew what he was doing was wrong when this took place, because I was not there.

Q Let me take a leaf out of my friend's book. When that tragedy took place you say he was possibly unable from disease of the mind to appreciate the difference between right and wrong?

A Possibly. I will not go beyond that.

Q Why do you say he was possibly?

A Because I have formed the opinion that the man was not mentally sound, in fact, I believe he is insane.

Q So it is a vicious circle: you have formed the opinion he is not mentally sound, ergo - he must have been insane at the commission of the offence. A moment ago you told me the alleged loss of memory was feigned.

A It was untrue.

Q And you suggested he alleged that [illegible] purposes of self-preservation?

A That is the impression.

Q From what? Self-preservation or what? From the punishment that he knew he deserved?

A Possibly.

Q Can there be any motive of self-preservation unless he has the knowledge that he has to be protected?

A He possibly had that knowledge.

Q He possibly had the knowledge he had done something for which he was liable to be punished?

A I formed that impression.

Q And yet you say he possibly did not know what he had done was wrong. How can you reconcile the two? You agree it was from motives of self-preservation that in your opinion he feigned loss of memory?

A I agree with that entirely.

Q Was self-preservation meant an instinct to protect himself from what he knew was punishable?

A Certainly.

Q If a man knows a thing is punishable he knows it is wrong in the eyes of the ordinary morality - that it is against the law of the land?

A Yes.

Q And at its highest, Dr Dickson, you are prepared no more than theorise?

A Well, possibly. But I have got a more profound conviction than that.

Q Are you prepared to vouch for insanity or are you not prepared to go further than suggest there may be insanity?

A I should have to go on and describe the various reasons why I think there is.

Q Let us come now to what you have heard in the last two days in this Court. The accused has been caught out lies?

A Absolutely.

Q Very serious lies?

A Very serious lies and extravagant lies.

Q I am talking of the evidence given in court now. He said he had won a revolver in a lottery, he had actually bought it.

A Yes.

Q And he once said on a Saturday he was going to Entebbe and he only got as far as Tororo?

A Yes.

Q And on the day which we have been discussing he announced he was going to Nairobi and he did not go? Those are the only three lies alleged in the last two days?

A Well, yes. But you must say I based my opinion upon more than that.

Q I appreciate that. But I have told or already from your personal observation you found him to be an unmitigated liar. Extravagant as well. But prior to this tragedy all we know about his habits of falsehood are the three I have given.

A That is what I have heard.

Q Do you seriously regard those as very grave lies?

A I regard them as lies and extravagant lies.

Q Tororo is on the way to Entebbe, is it not?

A I believe so.

Q And you believe it is a very extravagant lie for a man to say I am going to Entebbe and then suddenly cannot go so far?

Q In a lifetime of 20 years we have three lies, one of which is directly associated with this tragedy. What other evidence have you heard. We have heard about his moroseness. Is it in your considered opinion symptomatic of legal insanity that a man has a slow smouldering temper and sulks?

A We have heard of his moroseness and we have also heard of his excitements, alternating and persistent, and it may not be symptomatic of legal insanity but it is certainly symptomatic of insanity as I understand it.

Q Impulsive?

A Changes of temper persistent. I illustrate in this way the moroseness lasted for say two or three weeks we have been told and we have also heard that at times he was excited.

THE ATTORNEY GENERAL -- I do not think Your Honour the statement that it lasted two or three weeks is correct.

THE CHIEF JUSTICE -- Two or three days.

THE ATTORNEY GENERAL -- Do you attach any importance in coming to your conclusion in the fact that accused did not pass any examinations at school?

A I do.

Q He was mentally a little backward. Would you put it higher than that?

A I do not think that. I cannot remember having heard that he was mentally backward at school. I have heard the very highest praise not only from the schoolmaster but the persons who employed him.

Q What are the other facts which have been elicited in the evidence in the last two days on which you base this theory?

A Let me start from the beginning. I base this on the alternating moroseness and excitement. I think there is definite evidence of these things: also the solitaryness and shyness which I think is also quite definitely shown. We have his sitting by himself on a rock for hours meditating. He went by himself, without anybody, alone hunting and stayed away all day. He did not like the society of ladies. He was definitely shy and he left them and in addition to that he also showed what I consider emotional outbursts. He attacked dead animals with knives and he shot quite a number of animals unnecessarily. He killed the wretched hyaena and he covered himself with the blood of the hyaena.

RE-EXAMINED BY MR. HOGAN:

Q In the cross-examination by the learned Attorney, he has elicited the fact that you considered that if the accused shammed this loss of memory when you saw him in the Prison he then knew the difference between right and wrong?

A In the Prison undoubtedly.

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A In the Prison undoubtedly.

Q Would that mean he knew the difference when he did this act?

A No because from my view of the nature of his insanity he would not know. No it is possible that he would not know the difference but I could not say because I was not there to see it.

Q Do medical men find, Dr. Dickson, that vice, crimes like killing human beings, are associated with the early stages of insanity, the stages before it is obvious to everybody that the man is a raving lunatic?

A Yes, certainly.

Q Would you go further with it and say that they are more frequently associated with the early stages?

A Well - will say that they are more unexpected because the insanity has not become obvious to everybody. Insanity when well established is an obvious thing to most observant people. Insanity does not attack people suddenly.

Q You have mentioned that his demeanour in the Prison was calm and collected?

A Absolutely calm and collected until recently, until the trial started, then he showed some agitation.

Q Are insane people usually calm and collected after committing a crime in comparison with people whose mental powers are of normal capacity? Is that a symptom of mania?

A Well I won't say that all insane persons are, but it is not unknown.

Q No - what I mean is: is it common?

A Oh, quite common.

(The witness withdrew)

WILLIAM GERALD STEWART H O P K I R K sworn:

EXAMINED BY MR. SLADE.

Q What are your qualifications?

A M.B. (Cambridge), M.R.C.S. and L.R.C.P.

Q You took an ex-ray photograph of the head of the accused?

A I did.

Q Can you identify it?

A Yes. That is the photograph I took. I placed on the film container a small lead star which I made for the occasion and which is shown so I can identify it myself and until it went into Dr. Gordon's hands it was in my care.

(Put in and marked Exhibit No.59).

Q Did you notice any abnormality of any kind in that skull?

A There are three points which attracted my attention in that ex-ray that are not completely normal. In the first place there is a small hollow in the skull which is normally present in which the pituitary gland lies and that is undoubtedly rather smaller in this case than is usual and its bony roof is rather more complete than it is in an ordinary case.

Q Is that the part you call the sella turcica?

A Yes. This is a rough tracing that I made from that X-ray yesterday. This is sufficiently accurate to show two of the points. The third is not one that one can draw.

(Put in and marked Exhibit No.80)

Q Here (produced) is a diagram of a normal skull - a rough diagram - as far as the sella turcica goes that you see marked there, would you say that is a proper picture of a normal sella turcica?

A I would. I would say that that was the completely normal.

(Put in and marked Exhibit No.81)

R. SLADE -- I would like the Jury to have an opportunity of seeing the difference between the normal and the one in this case.

(Exhibits handed to Jury and position of sella turcica pointed out)

Q You mentioned certain other peculiarities you noticed?

A Yes. There are two other features in that skull which caught my attention. In the first place there is a depression in the top of the skull, quite a small one in the position that I am indicating (witness demonstrates) In the second place, further back in the skull over what is known as the parietal bones, there is a shadow - it is not even as it is in a normal bone. Its mottling is not very marked but it is not completely normal.

Q And that mottling, could that be merely a fault in the picture?

A I think not.

Q Would you say that it was probable or more than probable that it is really something more in the brain?

A I do not think it is in the brain. I think it is something in the skull on the ground that it is limited to the bone and there is no trace of any definite spreading away from the bone.

Q Are you prepared to express any opinion as to what those abnormalities might indicate?

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Q Are you prepared to express any opinion as to what those abnormalities might indicate?

A No. I have not had an opportunity of examining the prisoner and it is exceedingly dangerous except in such things as fractures, which are perfectly obvious, to make inferences from X-ray pictures without backing them up with other observations, and therefore I feel it would be quite wrong to say anything more than what I see.

NO CROSS-EXAMINATION

(The witness withdrew)

H E N R Y L A I N G G O R D O N sworn.

EXAMINED BY MR SLADE:

Q What is your degree?

A Doctor of Medicine of the University of Edinburgh.

Q Are you a Specialist in any particular branch?

A Neurology, which includes Psychology and Psychopathy, otherwise the normal and abnormal mind.

Q Would it be said to cover the science of mental disorders?

A Certainly.

Q Were you employed by the Government in England as a Specialist?

A Yes. I was employed for 7 years as Neurological Specialist to the Ministry of Pensions at the Clinic for pensioners suffering from mental and nervous disorders. At the same time I was on the Outpatients Staff of the West End Hospital for Nervous Disorders in Welbeck Street.

Q Are you now employed by the Government here as Mental Specialist and Consultant?

A Yes.

Q Are you in charge of Mathari?

A I am visiting Psychologist Physician to Mathari.

Q Have you made any particularly special study in any direction or sub-head of Neurology?

A Since I came to this country I paid special attention to mental deficiency.

Q Have you published any papers relating to mental deficiency?

A Oh yes.

ATTORNEY GENERAL: I accept his statements. I accept all this.

SLADE: Have you published any papers relating to mental deficiency which are referred to outside this Colony?

A I have published a number of things from time to time which are quoted in text books and in America and ever since I have come here I have seen them quoted in England, America and even Japan.

Q And are you making a particular study on the same line now?

A I am.

Q I would like you to tell the Jury which exactly is meant by mental deficiency and what relation it has to insanity if it is not the same thing an insanity in the laymen's sense?

A Mental deficiency is due to an arrest of development of the brain generally in the womb. Mental disorder is due to degeneration or lack of durability of the brain during life. In mental disorder the person loses part of the mind that he had, and that part is not always the intellect. In mental deficiency the person has only part of a mind from the start and that part may be quite a satisfactory intellect, but on the other hand he may have no mind at all. There are many degrees of mental deficiency, and it is present before birth. Another contrast is that much mental disorder is curable and mental deficiency is not durable, it can only be ameliorated.

Q Before we go further I would like you to tell the Jury whether you have seen any indication in the accused of an attempt to feign insanity?

A No.

Q Would it be correct to say that it takes ——— Is it easy for feign insanity without being detected?

A Some people can be very clever at it.

Q Who? A sane man?

A And also an insane men.

Q Do they have to be clever at it to get away with it?

A That all depends who is observing them.

SLADE (to Chief Justice): Your Honour, Dr Gordon as a result of hearing the evidence and examination of the accused has made a short report in writing. I don't know whether it would be in order for him to read that report to the Court to give a concise successive statement of all his findings?

CHIEF JUSTICE: Dr Gordon is giving evidence. He must give oral evidence.

ATTORNEY-GENERAL: Insofar as the notes are notes made at the time the ordinary rules apply.

CHIEF JUSTICE: Yes, if they are notes made at the time.

SLADE: But these are not notes made at the time. It is a summary of the result of those notes and also his examination of

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SLADE: But these are not notes made at the time. It is a summary of the result of those notes and also his examination of

the accused and to simplify the matter I thought he might read it.

CHIEF JUSTICE: I don't think he ought to read it. He has formed opinions of what he has heard and seen and he can tell us what those opinions are.

SLADE (to witness): Have you heard the evidence relating to Major Ross?

A Yes.

Q Assuming all that evidence to be true, would you be able to express any opinion as to the mental condition of Major Ross?

A I could give an opinion but not a scientific opinion.

Q Why not?

A Because I have not sufficient evidence to base one on.

Q What further evidence would you want to examine the man? You would be prepared to express an opinion on probability only?

A That is all.

Q And taking it in that way, the probabilities only, have you any opinion to express with regard to Major Ross on the evidence you have heard?

A Yes. I think he conforms to a type which would be called Constitutional Psychopathic Inferiority. An alternative term is Mental Instability.

Q Do you think that mental instability would be understood by the layman as insanity or not?

A No. I think he is a type of man who might be called insane by the laity and yet not be insane. The alternative is to call him a border-line case.

Q Were there any indications in what you heard of him, assuming that evidence to be true, of mental deficiency?

A I would not like to say more than that he suffered from mental instability of a pronounced type.

Q Would it be possible that such mental instability might reappear in any form in any of his children?

A Certainly. It would reappear.

Q You have seen Gordon Ross and you have heard his evidence. You have heard Mrs Whitridge's evidence as to him; you have heard all the incidents - admittedly only one incident of cruelty in John Ross at a remarkably early age - and you have heard certain evidence about the accused's sister. If all that evidence is true would you consider that there were signs of mental instability having actually reappeared in both or any of those children?

A If the parents had brought those children to me and

narrated those symptoms I should not have given an opinion without examination, but I would say that the symptoms were such as to necessitate examination for the purpose.

Q That is regardless of any knowledge of the parents' history, or knowing the parents' history?

A Of course, one of the points for diagnosis would include a knowledge of the children's history.

Q In your definition of mental deficiency, sir, I think you said that it often - or did you say it always? starts in the womb?

A I said generally because I was giving a more or less popular simple statement of the difference between disorder and insanity, and I think it is correct to say generally; but I have to go into scientific explanation if you want to know why I call it like that. You may say in 99 out of a 100 cases the child is born with it.

Q Mrs Whitridge gave us certain informa evidence as to her husband having threatened to put her eldest boy on a fire and she told us that at that time she was about to have her second child, the accused. She managed to stop him putting the child on the fire but she clearly remembers the incident. The child was born with a weight of 4 lbs. May those circumstances at birth have any effect, mentally, on the child born?

A I cannot answer that question with certainty, but scientifically speaking it is not impossible.

Q 4 lbs. Is that a normal weight for a child?

A No. Ask Dr Hopkirk, he knows better than I. I think it is very abnormally low.

Q You have heard the evidence given in Court and I want to draw your attention at the moment to six points proved there, and only on the assumption that those points to which I draw your attention have been proved. Take it to be proved that at a very early age he was given to wandering; that he spent a large part of his early life in the society of natives; that he has (although we have not very definite evidence, we have some evidence) that he has shown a liking for such society up to the present; that he has always been given to lying; assuming now we have proved this (although I see doubt in case) that he is of a solitary and secretive disposition, that he has from time to time shown a delight in killing, and that he has shown unusual resentment at correction, and that he was apt to be moody and sulky; assuming all these things to be proved and without regard to any personal examination you may have made, would you be prepared to express any opinion as to the mental condition of the accused without reference to the tragedy of 6th October?

A I can only say that those points indicate some mental abnormality.

Q You have heard the evidence of the accused's behaviour at Christmas 1930. How would you describe that

behaviour?

A Do you mean after he was kicked?

Q Yes, after he was kicked?

A Simply a case of hysteria. It may be a symptom of something else.

Q Would you say what it might be a symptom of?

A Oh, no. There are many things.

Q In hysteria is found sometimes in the conduct of normal people?

A Hysteria is regarded as a mental disorder.

Q Assuming it to be proved that at Christmas 1930, he exhibited this hysteria would you put it - looking it on as it were to this opinion you have expressed regarding his early life - would you alter that opinion or express any other opinion?

A After hearing what I may hear in Court, do you mean?

Q On the facts I have put before you now you have said they indicate mental abnormality?

A So does hysteria.

Q Having heard certain evidence as to the [illegible] accused's upbringing and his circumstances [illegible] and his association with natives, would that affect your opinion as to his mental abnormality?

A But you have not asked me any opinion as to his mental abnormality, is that so?

Q Are you prepared to say that [illegible]

A [illegible]

Q Assuming now that it is further proved that the accused showed remarkable efficiency at work of a clerical nature and that he was generally liked by some, apparently respected, would these facts affect your opinion one way or the other as regards abnormality?

A Of course they would affect my opinion.

Q In what way?

A I would take them into consideration.

Q And taking them into consideration would they tell for or against abnormality?

A Perhaps the best way to answer is to say that there are certain forms of mental abnormality in which the person may be an excellent clerk and generally liked. He may be suffering from mental abnormality and yet be an efficient clerk and a generally popular person.

Q You consider that fully established or just occasional instances of that happening?

A Oh dear no. It is a well known fact.

Q Before I go on any further, would you please mention any points in the evidence which I have omitted to mention and upon which you might alter or strengthen your opinion as to his mental abnormality?

A I cannot recall all the evidence now and I have not had time to consider, as I wished to do, all the evidence before I gave my evidence.

Q You cannot remember then anything that impressed you that I missed out?

A No but if you tell me anything I will tell you whether it impressed me.

Q Have you examined the accused?

A I have.

Q When?

A I saw the accused on the 27th and 28th October in Nairobi Prison by request of the Crown. Later on, on the 28th the Crown asked me to suspend my inquiry. On the 17th November the defence asked for my services. I ascertained that the Crown no longer wished my services and then informed the defence that I would resume my inquiry provided the defence understood that my opinion would be formed and given irrespective of whether it favoured Crown or defence. On 19th and 20th November I interviewed persons in Nakuru who had known accused: the local Police Superintendent and at Maji Mazuri relations of accused. I also visited the scene of the tragedy. Between 21st and 25th November I had four lengthy interviews with accused. I have therefore seen accused on six occasions.

Q And will you now tell us the results of your examinations?

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Q And will you now tell us the results of your examination?

A Up to my last interview on the 25th November I had formed two opinions: first, that further observation and examination is necessary in order to ascertain with any certainty whether accused now suffers or has been suffering lately from a certain mental disorder in its early stage, that is in the stage before disorder of behaviour became so evident that legal insanity cannot be doubted. That was my first opinion. My second opinion is that accused is now suffering beyond doubt from mental deficiency, primary in character, that is from before birth, and that this deficiency is such as to make him certifiable under the Mental Deficiency Act of 1927 of England if he were in England.

Q Will you tell us now, Sir, whether that opinion is based on any evidence other than that obtained from witnesses in this case and heard in this Court, or from personal examination?

A Oh no, no other evidence. It is based on my examination which was upon four lines: first, inquiry into the family and personal history which taken by itself is not sufficient; secondly, clinical physical neurological laboratory ex-ray examinations; thirdly, mental tests; fourthly, ordinary mental examination and observation. Each of these lines led to the same conclusion but I ought to point out that mental deficiency and mental disorder may and often do exist together in the same person.

Q You have referred to the line of investigation which took you into an enquiry of the family history and his early life and you have stated that you interviewed certain persons at Nakuru?

A Yes.

Q I want to know, Sir, whether your opinion expressed now is based in any way upon what you have heard from people at Nakuru interviewed by yourself but who has not appeared in this Court?

A Well that opinion was formed and formulated on Sunday and I had not then heard the evidence.

Q Now supposing that the evidence you have heard in this Court is not what you imagined to be the truth before hand as regards the facts?

A I see some of the witnesses have not quite said the same thing in the box that they said to me. But that is not unusual. I am accustomed to that. I have to size things up.

Q Would it be true, Sir, that the evidence in this Court confirms your opinion or otherwise - the evidence especially given by

A On partially it confirms it.

Q Both the evidence brought by both sides?

Q The opinion based upon mental tests and mental examination is that more or less an arbitrary opinion, Sir?

A No, Sir, there is concrete evidence of it.

Q Could you explain very shortly what that represents?

A Well, Sir, this is a system for diagnosing mental deficiency which was devised by Professor Berry, who is now, after a prolonged career elsewhere, the head of the Stoke Park Colony for mental defectives near Bristol. He was also Chairman of the recent Mental Deficiency Committee to the British Medical Association. He devised this system and I have employed it here in my researches on the native and I have also employed it in private practice amongst Europeans and I have applied it to the accused. But I really don't know how to explain it to you.

Q So perhaps if I asked a question or two ——

A There is a graph here. It shows the accused's average position in relation to the average European both in what we call physical neuromuscular and mental tests. The most marked feature is that his brain capacity which is calculated from measurements devised for the purpose by the Royal Society is that of a person 4 to 5 years younger than Himself. In the physical he is about the average in height standing; xxx he is below in another important feature sitting height, his weight is above, but his total physical average is just the average of the average European. His neuromuscular average is taken [illegible] tests. In two of those he is away below the [illegible] in one he is very high above the average, [illegible] if you take 60 as the average in that, he [illegible] mental tests I tested him with [illegible] as the Porteous and the other as [illegible] of the Binet-Seymour tests. [illegible] Porteous test gave him a mental age [illegible] results in the Binet test gave him a mental age of 11 years and 8 months, and those two results together give him what the psycologists call an intelligence quotient of 68.7.

HE CHIEF JUSTICE — What does that mean? What is the normal quotient?

A Anything below 80 is abnormal.

MR. WADE — Have you seen the ex-ray picture exhibited in this case?

A Yes.

Q That is the one you have seen (Exhibit No.59 produced)?

A Yes.

Q From what you have seen in that picture are you inclined to vary or add to your opinion as to mental deficiency in any way?

A Perhaps I had better explain that I asked for the ex-ray because owing to his mental history and to certain physical signs that I found on examination of him I suspected that there was trouble in the sella turcica. I got Dr. Hopkirk to take the ex-ray and he brought it to me at 10 o'clock the same evening and handed it in my door

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door saying "Look at the sella turcica." I had not mentioned to him what I wanted the thing for. This form, this smallness of the sella turcica is associated with certain forms of mental deficiency.

Q What is the peculiarity about the sella turcica exactly?

A The thing about it is that the gland that it contains is the gland essential to life. It is very very carefully protected there inside the skull. It has a bony sella, Turkish saddle they call it, and it has, as the Jury must have seen in the diagram, this processus coming over like that. In the normal they are open and this gland can grow up. In this boy heredity has given him one in which the processus are nearly closing the roof and the gland cannot grow. It never can grow and certain effects follow on mind and body.

Q This malformation of the sella turcica you have said bears a definite relation to mental deficiency?

A Yes it bears a definite relation to mental deficiency in so much as certain groups of symptoms are associated with that.

E CHIEF JUSTICE -- What is the gland you referred to?

A The Pituitary gland.

SLADE:- Has it any relation to mental disorder?

A I do not know.

Q Were there any other points about the case and which affect your opinion?

A This depression - they are all secondary to that, but there was this depression of course which shows maldevelopment I think only. The brain is ~~right~~ there by the depression but I did not find that there were any symptoms that it gave rise to. Then there is this curious mottled appearance. All I know about that is that I have never seen it before, but I have heard about it. They found it in South Africa in a great number of natives skulls on ex ray. I have never seen it myself in natives or Europeans.

Q I think there are several sub-divisions of mental deficiency?

A Yes. There are four, according to the English Law, but I am afraid we cannot go by that strictly.

Q Would it be possible for you to say which legal category it falls into?

A I think he is a midway between the feeble-minded and the morally deficient. No case of mental deficiency is true to legal type.

Q Under two separate tests you found two different mental ages and then you found as a result of your tests a percentage. Could you place one mental age?

A No. I would rather not. I do not want you to overvalue

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A No. I would rather not. I do not want you to overvalue

ny mental tests. They only can be judged in conjunction with all the other tests; to separate them is unfair both to the accused and to my opinion. But what I can do is this to say that the tests work out 11.8 Binet and 9½ for the Porteous. I would like to say that the circumstances under which the tests were done - a prison cell, and I did not have full time to get into thorough rapport with the prisoner, and I think it would be only fair to give him a higher mental age than I have given.

Q But would you say it must be a mental age lower than his real age?

A There is no doubt about that; but the important thing about those two is that the Binet test is universally accepted by Psychologists as a test of reason, reason, planning, foresight, and judgment, and it is in that that he is so specially deficient.

Q Would you call mental disorder a disease of the mind?

A I think in the popular sense, Yes. But it is error of development.

Q Would it or would it not be true to say that the little reasoning power possessed by a mental defective may be temporarily upset by a slighter emotional strain than would be required in the case of a more normal man?

A That is emotional strain.

Q Can there be a temporary upset of the reasoning power of a mental defective without the existence of any permanent mental disorder?

A Oh! yes.

Q Would you say that mentally deficients are more prone to upsets of reasoning power during any particular stage in life?

A Yes.

Q At what stage?

A Puberty, and a few years after.

Q I want to consider these emotional stresses which might effect such an upset in the case of a mental defective. Might, for instance, very exacting or very heavy mental work suddenly put upon him be sufficient to cause an upset of his reasoning power?

A Yes.

Q Assuming it was proved that he had suffered much pain from a bout of gonorrhoea, might that have had any effect?

MR. [illegible]: I think there is no evidence of that. That was the Carlisle incident.

(To witness): Might rapid growth of the body be sufficient to upset his reasoning?

A Not by itself, usually not. That is a conundrum. It

would only be a symptom of something. Rapid growth of the body would be possibly due to a like excessive activity of the anterior portion of his pituitary body. It is a symptom of the irregularity of his pituitary development.

THE COURT ADJOURNED TILL 2.15 p.m.

AT 2-15 p.m.

Accused present

Jury present

Counsel as before.

HENRY LAING GORDON - still on oath.

CLAIR continues examination.

Mr Gordon, you remember that [illegible] off at the time there we were discussing the possibility of a temporary upset of reasoning [illegible] of a mental defective, regarding for the accused [illegible] Gordon, and I was putting [illegible] sufficient [illegible] might be [illegible] you [illegible] Henry [illegible] what I ask you [illegible] early enough [illegible] system [illegible] the possibility [illegible] authorities [illegible] reports to [illegible]

HIS HONOR: Before you [illegible]

We have had before [illegible] evidence that there was a lot of work [illegible] involving overtime during the four months preceding October. If you believe that evidence is [illegible] sufficient cause for temporary upset

A I think it would constitute. I suppose any evidence I got from the accused himself on that matter ----- May I be at liberty to repeat it?

HIS JUSTICE: I do not think you are at liberty to repeat what the accused told you, Mr Gordon.

CLAIR (to witness to Chief Justice): Sir, would he not be at liberty to repeat it and the Court attach such weight as it thought fit?

HIS JUSTICE: You can put it [illegible] hypothetical [illegible]

CLAIR (to witness): Well may I ask then whether this evidence that has been before the Court is confirmed or more than confirmed by anything you have heard from the accused -

HIS JUSTICE: You cannot put it that way. The accused has elected not to give evidence before the Court and you cannot give his evidence by anyone else.

would only be a symptom of something. Rapid growth of the body would be possibly due to a like excessive activity of the anterior portion of his pituitary body. It is a symptom of the irregularity of his pituitary development.

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CROSS EXAMINATION continues examination.

Gordon, I remember that [illegible] the time where we were discussing the [illegible] of a temporary upset of reasonable [illegible] defective, regarding for the second [illegible], and I was putting [illegible] might be [illegible] sufficient [illegible] you (I have [illegible] Julie [illegible] enough [illegible] Graham [illegible] [illegible] [illegible]

SLADE (to witness): Now, still on the question of what might be sufficient emotional strain to cause an upset of reasoning power. Would a sudden sexual impulse be sufficient?

A In some mental defectives, and particularly in the class of which the accused is in my opinion one, and I can give a concrete reason for that. This little pituitary gland which in him is so deficient is concerned in any control of sexual impulse - a portion of it.

Q From your personal examination of the accused have you formed any opinion as to whether he has a strong or weak sexual urge?

A I have had evidence of a very strong one.

CHIEF JUSTICE: In the accused?

A In the accused.

SLADE: And is that born out or otherwise by the X-ray photographs your opinion?

A In that the pituitary(?) exercises a control over the sex urge and therefore the inference is that he was deficient in control because of this deficiency in the pituitary gland. When you liberate control you then get a strong urge.

Q Now suppose there was some such temporary upset of reasoning power, would that upset be a momentary thing or might it last for a period. Leaving out the question of a permanent mental disorder - we are discussing a temporary one only?

A As a rule an urge lasts until it is gratified and it might be either momentary or it might be a week or 10 days.

Q It is not quite the question. I was talking about an upset of reason?

A Of course, I am looking upon a strong urge or impulse as interfering with reasoning power.

Q I want to know whether the interference can last for a considerable period?

A Yes, it can.

Q Could it last for as long as 6 months?

A I am afraid I could not give you a definite answer to that out of experience, but what I think is that if it lasted as long as 6 months you would then get definite mental disorder.

Q At the end of the six months?

A Sometime in the six months. In other words, if it is prolonged then you get the mind affected.

Q Could it be violent for a period of hours?

A Certainly.

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Q Could it be violent for a period of hours?

A Certainly.

Q And would it or would it not be untrue to say that while it was on it would be increasing in violence, or is that not correct?

A Oh, I think that is correct. Gradually upward to a climax.

Q You may remember that in the evidence there was a report that about the Tuesday before the Thursday he mentioned to his friends having seen Miss Keppie in pyjamas?

A Yes.

Q Now does that convey anything to you at all in connection with what we are considering now?

A It did. In the one line of investigation that I was making.

Q Is that the line we are considering now?

A Yes. If I may explain? When I examined Him I understood I had two duties; one was to inquire into his mental state quite independent of the crime; the other was to see if I could ascertain any psychological connection between his mental state such as I found and the crime.

Q Might a mental defective such as the accused, supposing for the moment that he was coming under some such strain as we have referred to, might he in the early stages remain quiet, keep on carrying on his work so that his upset was not apparent to others?

A Yes. Up to breaking point.

Q You have heard certain evidence from the relations of the accused as to a curious change in about the last six months preceding the tragedy. If you believe that evidence do you attribute any importance to that change?

A I do.

Q What does it indicate to you?

A You will recollect that I informed you that I considered further investigation necessary to determine whether the accused was suffering from the early stages of a definite mental disorder; that if there was any change in him, a definite change in character in the last six months that would be one of the facts that I should place on the plus side in estimating whether he was suffering from mental disorder or not.

CHIEF JUSTICE: By the plus side you mean?

A In favour of it.

CLAIM: Leaving out the question of any permanent mental disorder, might that change in the last six months bear any relation to a temporary upset of a more mental deficient?

A Yes. This is a little complicated. The tendency of a mentally deficient is to go into definite mental disorder under any strain, particularly a strain on

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Q Might a mental defective such as the accused [illegible] for the moment that he was coming under some [illegible] as we have referred to, might he in the early stages remain quiet, keep on carrying on [illegible] that upset was not apparent to others?

A Yes. Up to breaking point.

Q You have heard certain evidence from [illegible] of the accused as to a curious change [illegible] last six months preceding the tragedy. If you believe that evidence do you attribute any importance to the change?

A I do.

Q What does it indicate to you?

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the instinct.

Q You have heard evidence that only very shortly before the tragedy he went home and made up his quarrel with his stepfather and his mother and they all thought that evrything was all right again... Does that affect the position at all?

A Are you implying, if I may ask, that he was then back at his usual?

Q Yes. Would it indicate that?

A One of the remarkable features of mental disorder which men - defectives tend to go into is remission of the symptoms. When the disorder becomes pronounced you have perhaps months in which he lost all his symptoms and seems quite normal, and these are known commonly as lucid interval. And in the early stages of this disorder (I am not at all that he has got it, I am not wanting to imply that he has got it - my mind is not made up) but there you have another point in favour of that mental disorder.

I want you to consider the actions of the accused very shortly before the tragedy occurred. We must suppose for the moment that he conceived the plan of going away with these two girls for some nefarious purpose. You will have heard that he made certain preparations with a view to this departure. I am not prepared to suggest what the objective was but he must have made plans, and I want to comment on one or two points in his plans, and then ask your opinion. You may remember in the first instance that he made certain statements and wrote a note to explain his intended disappearance, that he forged Mr Bennett's name to an order without attempting to imitate his handwriting; that he took with him enough provisions to last say three people 10 days - that may be an overestimate - at any rate a large quantity of provisions; and among such provisions were 5 bottles of whiskey and 6 bottles of Port, and that he is a Teetotaller; and that he only had 13/- in his pocket. Now these are just some points; they are not all I would like to comment on, but just bearing those in mind would you say there were indications of some preliminary upset of reasoning power?

A Not necessarily in my opinion an upset, but the whole preparations and the carrying out of his plans are indications to support the diagnosis of mental deficiency and they are to my mind amply accounted for by his poor result in the Porteous test. The whole affair shows a deficiency of reasoning, of planning, of foresight, and of judgment.

Q Do you mean that his ordinary state of mental deficiency without anything supervening he might have made plans of that kind?

A Under the necessary urge. If I make make a quotation: it was just natural Ross.

Q Supposing it is proved that this boy at some time between the 6th and 8th October killed two young girls without apparent motive and that during the same period whether

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Q Supposing it is proved that this boy at some time between the 6th and 8th October killed two young girls without apparent motive and that during the same period whether

before or after killing them we do not know he underwent some sexual excitement would you or would you not say that at the time of killing those two girls there was the possibility that he was without the power of passing a rational judgment as to his action in killing those two girls?

A I am afraid I must ask you to be kind enough to repeat that. It is rather a long question.

Q Supposing it is proved that sometime during the 6th and 8th October this boy has killed two young girls without apparent motive, and we are also supposing that it is proved that during the same period, whether before or after killing we do not know, he underwent some sexual excitement; now I want to ask you on those suppositions whether there is a possibility that at the time when he killed those two girls he was without the power of passing a rational judgment as to his action in killing them?

A Yes.

Q There is a possibility?

A Yes.

before or after killing them we do not know he underwent some sexual excitement would you or would you not say that at the time of killing those two girls there was the possibility that he was without the power of passing a rational judgment as to his action in killing those two girls?

A I am afraid I must ask you to be kind enough to repeat that. It is rather a long question.

Q Supposing it is proved that sometime during the 6th and 8th October this boy has killed two young girls without apparent motive, and we are also supposing that it is proved that during the same period, whether before or after killing we do not know, he underwent some sexual excitement; now I want to ask you on those suppositions whether there is a possibility that at the time when he killed those two girls he was without the power of passing a rational judgment as to his action in killing them?

A Yes.

Q There is a possibility?

A Yes.

Q Is there any probability?

A Yes.

Q A high probability?

A Yes.

Q Will you go any further than that, Sir?

A I can only say that all the facts I have accumulated so far point to my mind to the fact that he was so suffering from an immense urge.

Q And this urge was that capable of preventing him from passing a rational judgment?

A I have no doubt whatever.

Q Owing to the various interpretations which have been placed upon the meaning the legal meaning of knowing the nature and quality of the act or not knowing that it was wrong, I want to ask you one or two further questions on exactly the same supposition which we have just had, the same supposition of facts. I want to ask you whether you think it was possible that at the time of killing those two girls he was unable to think calmly and rationally of all the different reasons to which a man refers in considering the rightness or wrongness of an act.

A Obviously he could not think calmly. Your other question is rationally. I should say no he could not think rationally and I would like to qualify, not to qualify but to add to it that my examination of him confirms that. Moreover we have definite evidence that he did not have the usual environmental training in early childhood in order to teach him properly the difference between right and wrong and make use of the small reasoning power with which nature had provided him.

Q There is one third question, Sir, on the same supposition of facts. Do you think it possible that at the time of killing those two girls he was without control of his actions?

A I am afraid I do not understand that question: "possible that at the time of killing he was without control of his actions".

Q Yes.

A I was just wondering if you could have any actions without some amount of control. I am very anxious to assist the Court as far as I can, but this is putting to me very very difficult questions.

Q I am afraid we are forced to do that.

A And they require a little consideration.

Q If you would rather not give an answer to that question I will leave it. Or shall I frame it differently?

A I think if I could only phrase things as admirably as lawyers do I might give you a good answer. Provided he was suffering from what I have definite evidence that he has got, provided he was suffering from a tremendous sexual urge which the poor boy could no more understand than he could understand relativity, then in that case he would be without control of his actions.

Q There is still another line which we ought to pursue a little although you say you have come to no conclusive opinion. It was the question or whether there are any indications of permanent mental disorder.

A I thought I had answered that. I thought I had said that I saw certain indications of the possibility of his having, as Dr. Dickson, who has had more opportunity than I have to examine him, most evidently had seen, some indications which I don't think he was quite prepared to describe of an early mental disorder which is very apt to come on in a mental deficient at or within a few years of puberty. I myself have seen some of those indications but I have not seen sufficient to express a definite opinion on the subject.

Q On the evidence that we have had before the Court of his behaviour with regard to animals, killing and when killed; I would just mention the evidence of Mrs. Whitridge of his hysterical crying over animals which were hurt - she attributed it to kindness; and I would just mention Mr. Englebrecht's evidence with regard to his curious behaviour over fish; and one other instance of the hippopotamus down by the lake. On that evidence, which I know is scanty enough, are you prepared to draw any conclusion as to his behaviour on those occasions?

A I don't think much of the fish at all, but I think the mother's evidence, what she said about the crying, and the hippo, if it is correct that he stuck knives simply out of apparent glee into a dead hippo, both those instances suggest loss of emotional control such as some types of mental defectives may suffer from; and in thinking of that I beg you to remember that there are innumerable types of mental defectives. Perhaps I should add that the loss of emotional control, that particular kind of control of it - because there are many varieties of the loss of emotional control - is also one of the early symptoms that you may look for in the form of mental disorder that it is possible he may be suffering from in its early stage in addition to his mental deficiency and there is no greater difficulty in diagnosing than in trying to distinguish between the early symptoms of that mental disorder and an ordinary mental deficiency of a certain type. And I would beg you to understand that it was only say practically since the War (because the War was of immense assistance to us) that we have been able to get this efficient method of a concrete diagnosis of mental deficiency. Into the Army went crowds of men like the accused who were thought absolutely normal and I have had through my hands many and many up to thousands of those fellows and there were hundreds who collapsed in the first few weeks, some of them in the first week, because their mind was so deficient it could not stand the strain even of arriving at Calais.

Q In cases, Sir, where you found people suffering from

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Q In cases, Sir, where you found people suffering from

mental disorder committing violent crimes, at what stage in the development of the mental disorder would you say that those crimes were most frequently committed?

A It depends on the mental disorder.

Q So you would not assign any particular stage?

A I think from the legal point of view it is important to recognise that in the experience of the great Prison and Medical Officers in England and America who pass many criminals through their hands, their experience is that the bulk of crimes and delinquencies are committed before the mental disorder has been discovered.

R. SLADE -- Thank you, Sir.

CROSS-EXAMINED BY THE ATTORNEY GENERAL.

Q Dr. Gordon, I would like first to give you an assurance of the very great interest with which I at least and I am sure every one here has listened to your exposition of this subject and I hope you won't think that I am remaining grateful to you when I say that there has been a good deal of hypotheses, a good deal of speculation throughout your statement.

A You disappoint me, Sir. I thought that the great advantage I was placing before the Court was that I am placing before them concrete evidence of my facts.

Q Of mental deficiency but of legal insanity none except hypotheses, and speculations.

A I beg your pardon. I am afraid I don't agree.

Q I think I am correct, Dr. Gordon, that on the issue of legal insanity all your answers were prefixed by the word "possible" with one exception. I will put it to you this way. There is one exception so far as my memory serves me and that is the matter of a very strong sex urge. On that you are emphatic.

A I am.

Q Assuming the continuance of that sex urge at the time of this double tragedy, am I correct in saying that you are equally emphatic that the effect of that sex urge would be to deprive the accused of control temporarily?

A I do.

Q In other words your theory, if I correctly understand it, Dr. Gordon, is that this murder which we are investigating but as you appreciate we are investigating one only, this murder was committed by the accused under an impulse which was caused by this sex urge which he was unable to resist - an irresistible impulse?

A You may call it that if it is the legal term.

Q I am putting it at its highest - I might say an irresistible impulse. I will give the accused the benefit.

A I call it lack of control.

Q And the difference is largely one of terminology?

A No, Sir.

Q Lack of control, inability to exercise control. Now Dr. Gordon we all know the very deep and real interest that you take in this subject and I am sure that you have studied the legal side of this problem just as much as the purely scientific and medical side.

A I have tried to, Sir, but it is very difficult to understand the legal side.

Q You are probably aware that the Courts -----

Witness - I do not get a chance to answer.

A. G. I heard your answer. I heard of your inability to understand the legal side. I have no doubt you are aware of the attitude which the Courts of Justice have taken on this doctrine of inability to control actions?

A I have more or less.

Q And may I put it in this way that it is within your knowledge that consistently the Courts of Justice have refused to recognise it as legal insanity?

A It is not so. The reverse is the case.

Q You surprise me, Dr. Gordon. May I refresh your memory from its most recent case - the case in 1925 of Kopsch - the defence of uncontrollable impulse is unknown to English law.

A That may be so in that case but I think there have been more recent cases have there not?

Q That is the most recently reported case that I have been able to trace. Now Dr. Gordon may I take you to another point - the test which I wish you to apply to the actions of the accused so far as we are able to gauge them on Thursday the 6th October, is the test of whether he was by reason of disease of the mind unable to distinguish between and right and wrong.

A What reference has right and wrong to it, may I ask, Sir?

Q That is the legal test.

A Where is it mentioned in McNaughton's rules.

Q The ordinary test is unable to distinguish between right and wrong or not to know the nature and quality of the act he was committing or if he did know it that he did not know it was wrong?

A It is a very difficult thing.

Q

Q Was he in your opinion aware of the nature and quality of the act which he was committing?

A How can I possibly answer that except as you would answer it yourself by inferring from the man's condition and the circumstances what was the most likely thing.

THE CHIEF JUSTICE — You cannot go further than that.

A The most likely thing is that he did not know the nature and quality of the act and that it was wrong at the moment that he did it.

ATTORNEY GENERAL — Do you agree with Dr. Dickson when he expressed the opinion that the story of the loss of memory was probably untrue?

A I have arrived at a period in my examination of him in which I have got to that loss of memory. I have had some difficulty as Dr. Dickson owing to the fact that he does not speak the truth always, but to the best of my ability I have eliminated the untruths in regard to the loss of memory and I believe that for a certain period his loss of memory was psycologically a genuine one.

Q Do you seriously suggest Dr. Gordon - you have heard the accused's own statements - I am taking only those proved in this Court - the only ones which we as a Court are concerned - the statement to the District Commissioner really. May I put it this way. Will you for the sake of this question consider the accused's statements as made to Mr. Hodge and to Mr. Allan, the only two of which we as a Court are aware. Do you seriously suggest, Dr. Gordon, that a man who tells us that he was irritated by Miss Keppie and saw red, ordered her out of the car, took her 50 or 60 paces, shot her, came back to the car, was suffering from any loss of memory?

A When he did it - no.

Q Or was unaware that he was doing wrong, punishable by law?

A I have already given you my opinion on that. I did not say that he had lost his memory when he committed the act.

Q The loss came afterwards?

A Yes.

Q And it returned we know before he met the first human being after the tragedy?

A Yes. I have as far as possible, Sir, tried as I told you to work out the false loss of memory and to see if there was a residue of true loss of memory which is a not unusual thing in mental disorder after any terrible crisis.

Q I have only one more point to come to, Dr. Gordon. You have heard the evidence of the accused's mother. Do you remember her saying that, right at the end of her conversation

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Q I have only one more point to come to, Dr. Gordon. You have heard the evidence of the accused's mother. Do you remember her saying that, right at the end of her conversation

conversation with him, he turned to her and said : "Don't worry, mother" or "That's all right, there are such a lot of us and Gordon and John will look after you." That was when he was being taken off to the Police Station.

A I remember.

Q Does not that statement strike you as a perfectly open avowal by him that he was aware at that time that he had done something for which he was liable for punishment?

A I think perfectly open avowal is rather strong.

Q Would it not be perfectly reasonable to be considered as an admission by him that he had done something that he knew rendered him liable to punishment?

A It could. It might possibly be interpreted otherwise.

Q Equally reasonably?

A Equally reasonably.

Q For instance?

A It might be the boy had arrived t... and he had ... in my opinion when he met his mother definite suggestions of his mind being really upset then. He had visual hallucinations at that time. He talked of "eyes, eyes, eyes." He gave a somewhat confused answer to his mother when she spoke about Winnie and I think that that statement might have been influenced by a temporarily slightly disordered mind. That's ... that way of looking at it, Sir, but I admit that ... may be just as good, but I am not going to say it is so.

Q In the very last place may I ask you what frame of mind, what mental state was the accused in in your opinion at the moment he killed Miss Kepple?

A Oh! sir, how can I answer that?

Q I hope you will not give me the answer which Dr Dickson gave me?

A I forget that.

Q That he was not sure.

A I should say that my opinion is from all the evidence before me - a great deal more than I have been allowed to put before the Court - in my opinion his mind was temporarily disordered.

Q As a result of this very strong sex urge?

A Tremendous sex urge.

Q Which deprived him of the power of forming an opinion?

A That is a thing to be seen to be believed.

RE- EXAMINED BY MR SLADE.

Q In the cross-examination there was a certain amount of talk of uncontrollable impulse. Can you remember whether that expression was first used by you in this conversation?

A I don't think so. I have no recollection of using it first.

THE CHIEF JUSTICE: The witness did not use it first. Learned Counsel used it.

FOREMAN OF JURY: Your Honour, the Jury would be grateful if Dr Gordon would tell them with reference to his statement concerning the Lunacy Act in England ------

THE CHIEF JUSTICE: It has nothing to do with lunacy.

FOREMAN OF JURY: As to whether there is a similar act in Kenya?

THE CHIEF JUSTICE: It has nothing to do with this trial.

WITNESS: There is no such act in Kenya; I have been trying to get one.

FOREMAN OF JURY: I think the Jury want to know whether had the accused been submitted for examination, without a crime having been committed, whether he would have been certified insane in this Colony?

WITNESS: No. We are very chary about certifying people. But perhaps I may say that I would have placed him under treatment.

FOREMAN OF JURY: There is one other question. Whether the witness would expect to find in a person who had committed any act during a period of temporary insanity or mental

deficiency when that person recovered normal conditions would he have a recollection of what had transpired during such period?

ITNESS: He might and he might not. He might have a temporary loss of memory which is quite genuine but eventually, of course, all the circumstances would be recalled and he would probably get the memory back.

E CHIEF JUSTICE: Thank you, Dr Gordon.

(The witness withdrew)

SLADE: That closes the evidence for the defence, Your Honour.

MR SLADE addressed the Jury on behalf of the Accused.

Gentlemen of the Jury,

In this case there is a certain amount, not only of fact, but of law involved, and it will have to be discussed. It is not my place to direct you as to law, and I therefore propose, before referring to the facts of the case, to address to His Honour my view of the law so that before I turn to you he can correct me in any mis-statements and at the same time you can gather an accurate idea of the position of the law in regard to legal insanity.

Sir, the great principle of law in all criminal cases is that for a man to be criminally responsible for his act he must have criminal intent. It was for this reason that under the early law in England an insane man being found not capable of any crime or of the intent was found not guilty. As to what constituted insanity sufficient for the man to be acquitted the law was uncertain till 1843. Then certain questions were put to the English Judges and in answer to those questions they framed certain rules upon which the decision as to whether or not a man was insane enought to be irresponsible

for his acts was to be based.

I think I must now read you those rules. (Learned Counsel quotes Rules). Now the law on that point, and generally the criminal law applied to this Colony, is not exactly that because we have our own Penal Code, and the relative sections of the Penal Code I will read to (Learned Counsel quotes Sections 12 and 13.) I think that although the wording is slightly different it will be agreed - and certainly [illegible] will agree we are prepared to agree - that in substance those two sections of our Penal Code re-enact the M'Naughton Rules.

M'Naughton Rules are still the law in England, but since they were formed in 1845 there have been many cases [illegible] these rules have been interpreted by the Judge in his direction to the Jury, and so I think for the purpose of understanding the meaning of these two sections that we have [illegible] are entitled to have regard to the interpretation [illegible] English Courts [illegible] would like by the evidence of Dr. Whitney and Dr. Carver [illegible] Vol. Infancy and since then there has been great development and probably for that reason these interpretations have become necessary. People have inquired further into the nature of a man's mind, his emotions, impulses and nerves.

Now, Sir, I would like to draw your attention to two cases which appear, one to propound and the other to confirm perpetuate a firm interpretation of the McNaughton Rules. The first is Reg. v Davis, 1881, reported in Cox's Criminal Law Cases, Vol. 14 p. 563. The Judge was Stephen, J. and he directed the Jury as follows: 'As I understand the law, any disease which so

disturbs the mind that you cannot think calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of an action - any disease which so disturbs the mind that you cannot perform the duty with some moderate degree of calmness and reason may be fairly said to prevent a man from knowing that what he did was wrong." And that is the interpretation of the McNaughton rules for the purposes of this case. There was another case, Sir, in 1904, the case of Rex v Kay. I am afraid the only report we have is the Empire Digest, Vol. 14, p. 58. The Judge was Mr Justice Channell, and he says - this is as far as the report goes - "Any disease which so disturbs the mind that you cannot think calmly and rationally of all the different reasons to which we refer in considering the rightness or wrongness of any action, any disease which so disturbs the mind that you cannot perform that duty with some moderate degree of calmness and reason, may be fairly said to prevent a man from knowing that what he did was wrong." It seems to me, Sir, word for word what Stephen, J. said. But that was in 1904, and the case of Davis in 1881.

Of course, we are not in a position to examine those cases more fully, but an examination of the earlier will make it quite clear that there is no suggestion there of any extension of the McNaughton rules, it is simply an interpretation of them for the benefit of the Jury.

I would just like to turn now to a particular line of cases showing in a certain direction a considerably wider interpretation of those rules than I have just quoted. I may say it is not necessary for us to rely on those cases, but I do think it important to bring them forward to show the extent to which a proper interpretation

of the Rules has been carried. The first of this line of cases is the case of Rex v Hay, 1911, 22 Cox, 268. The important part of this case, Sir, is the evidence on which the medical officer based his opinion and the Judge's direction in regard to that evidence. The Medical Officer of Brixton Prison, Dr Dyer, gave evidence and he said he thought it was a unique case; he had formed the opinion that the prisoner was of unsound mind present at the time and at the time he committed the offence. (Learned Counsel quotes from report.) "the prisoner in his opinion suffered from impulsive homicidal mania etc." On that evidence, Sir, which is all the evidence that appears in the report of the case, Mr Justice Darling directed the Jury that if they believed the evidence of Dr Dyer they would be justified in finding the prisoner guilty but insane at the time he committed the act so as not to be responsible according to law.

The next case is Rex v Fryer (1915) Cox 24, p.405. Mr Justice Bray summing-up told the Jury that there was no real doubt that the prisoner committed the act with which he was charged, and continued: "What was his frame of mind?" (Learned Counsel quotes summing-up at length - p.405).

The last case, Sir, I want to quote - again we only have the Empire Digest - is the case of Rex v Jolly, 1919, Vol 14 of the Empire Digest, page 59. This is the extract. "On an indictment for murder a plea that prisoner was guilty of the act charged but insane at the time he did it was based on evidence that prisoner was an epileptic and acted under the influence of an uncontrollable impulse: - Held - if prisoner's mental condition at the time was such that by reason of disease of mind he was in fact deprived for the moment of all control over

his actions the jury would be right in finding that he was insane."

These cases that I have quoted, Sir, I think are all entirely consistent with the definition of that famous Judge Stephen contained in his History of the Criminal Law of England. I am afraid that the extract I have here is not Stephen's book itself. I do not think it is in this Colony but this is a quotation from the book contained in Taylor's Principles and Practice of Medical Jurisprudence, Volume I, 7th Edition, at page 874. The only part that I want to quote is (I don't think the sense is spoiled in any way by omitting other parts speaking of knowledge of right & wrong) "I think that anyone would fall within that description (incapable of knowing the quality of his act) who was deprived by disease .....
of the act which he was about to do."

In case it is [illegible] we have quoted the [illegible] to enlarge or explain [illegible] to refer to what the Lord Chancellor said in the House of Lords upon the discussion of a Bill to amend the McNaughton Rules. He said this:- "It is a great mistake to suppose that the rules which absolve a person who does not know what he is doing and does not know the distinction between right and wrong are hard and fast rules which cannot be in any way extended in their application. I think this bill might create a misunderstanding on this point. ....."

Now, Sir, just to close my legal discussion with very special reference to this case and to the legal aspect of mental deficiency. I have got two cases here which are unreported cases. The only report I have of them is the Journal of Mental Science.

THE CHIEF JUSTICE — I do not think that is a good authority.

THE ATTORNEY GENERAL — I want a little more than that.

MR. SLADE — The "Times" has been allowed some times.

THE ATTORNEY GENERAL -- The "Times" is in a different category. The reports are prepared by barristers.

MR. SLADE — This is the official journal of the Royal Medical Association a Psycological Association.

THE CHIEF JUSTICE — I am afraid that does not carry any authority as a legal authority.

MR. SLADE -- Can it be quoted as a comprehensive authority?

THE CHIEF JUSTICE -- I do not think so. We are concerned with the legal aspect of the case.

MR. SLADE — May I not read it to you, Sir?

THE CHIEF JUSTICE -- No.

MR. SLADE — Sir, will you record a ruling that it is not admissible?

THE CHIEF JUSTICE -- Yes - what is the book?

MR. SLADE -- The Journal of Mental Science. It has, Sir, a special section on law reports. Should I give you the names of the two cases in question?

THE CHIEF JUSTICE -- Yes you can.

MR. SLADE — The one is Rex v. Ware and the other Rex v. Thick.

Gentlemen of the Jury,

I have said now all that I have to say about the law in the case. It is my duty to go over very briefly before you the evidence which you have heard in this Court in relation to the duty which you will soon perform. Before I start there are two things which I should like to say to you. The first is simply to remind you of the very fair statement the learned Attorney General made to you in his address, that your duty as a Jury in this Court is entirely a duty with the facts that have been put before you, and whether or not you have ever heard or seen or imagined anything before the trial started, those

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things must be put out of your mind. There is another point on which I feel bound to say a few words: that is a thing I am sure you will understand that I wish to emphasize, that you are not concerned with any result of your verdict. You are simply concerned to find on the facts before you. But Jurymen are only human and some in a case like this might be influenced by the thought that a man who has committed acts such as these, even if he was not responsible, must not be allowed to go free to do such things again. Well, let me assure you that if he is found guilty but insane he will not go free; he will be detained at the King's pleasure and he will only be freed when those in authority are satisfied that he is entirely cured of whatever disease he suffered from when he committed the act, and which compelled him to do it.

Now the facts of the case. First of all before we discuss details I just want you to consider the general circumstances and I am sure that if you have considered them or if you will now consider them with me you will agree that to any layman, quite apart from medical evidence, those facts do indicate an extraordinary crime which it is very hard to believe was the crime of a sane man. This boy - you know his age, 20 years - has murdered has killed two girls. The prosecution of course has said quite correctly that they are only investigating the killing of one, but for the purpose of this defence we are investigating the killing of two girls - one of whom you have been told he worshipped, the other of whom you have been told he hardly knew. He takes them out and kills them and no motive is found and not even an adequate attempt to escape. Don't those facts alone indicate at least that the mentality of the boy who did it requires investigation?

Now it has been our painful duty to bring forward evidence for our case to prove insanity of a nature almost in every case either cruel to someone or painful to some other whether the accused or some other person, and just before I go on from there I want you to realise that we have endeavoured not to call any such evidence which we did not consider necessary and further to bear in mind that almost all the people who were in the unfortunate circumstance of having to give such evidence were asked to do a difficult thing. Some were bound by ties of loyalty to the persons about whom they were giving evidence; some [illegible], some by pride and some by a feeling of responsibility for the person of whom they spoke; and some, again, from the fact that they had taken the measure shared with such person in the actions under discussion. I would ask you to bear these circumstances in mind.

[illegible] I cannot hope to cover all the ground [illegible] I hope that you will rely on your own memories and just allow me to draw your attention to a few salient points which I do believe point conclusively to the irresponsibility of this poor lad.

First of all we had the evidence as to his father, and does. Now you have been told various stories by Mrs. Whitridge, by Mr. Grdensdale and Mr. Raper (who were troopers with him) and by Mr. Englebrecht of his uncontrollable temper and of the way that he cried afterwards; of his extraordinary sexual habits, and of the general opinion with regard to him. I will leave you to form your own conclusions from what you have heard about him and from what Dr. Gordon said about him on the evidence supposing all that evidence is to be believed. I will only refer you

to that one particular example: you will remember Mr. Raper told us of the incident with the native in the kraal and he smashed the native's face with the butt of his revolver and fired his revolver into the ~~ground~~ kraal, and all the time he was quite calm, and Mr. Raper's comment was "Natural Ross". Now the question is whether we have any reason to suppose that whatever taint we believe to have been in that man - and I am quite sure that on the very least of the evidence you must be convinced that there was some taint - I want to enquire now whether that taint was ~~transmitted~~ handed on to his children. You have heard from Dr. Gordon that it was almost certain that whatever mental abnormality he suffered from would be handed on to his children, but we can go further than that. You have seen Gordon Ross in the box and it is best for you to form your own conclusions. You have heard evidence as to his temper, uncontrollable temper, almost hysteria. You have heard of the incident - true, it is only one incident - it is all part of the picture - of the man John Ross who hanged kittens by the neck at the age of, I think it was 6, but I know it was a very early age; and you have the evidence as to the sister of the accused, who, like him, is given to sulks for no apparent cause and whose mental standard was very much below the average. That must be sufficient, Sirs, to convince you that the taint that was in the father has been handed on to the son.

Now I want you to consider the son. His early life. We have not very much evidence - it is vague and it only depends on the evidence of one or two witnesses. I don't want to emphasize that evidence unduly, but there is some. Whatever evidence there is tells us of his association with natives; his wandering habits; his solitariness even given.

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at an early age, and his untruthfulness. There was a little more than that. There is his hysterical crying and you will remember that one of the occasions upon which he would be seen to cry in that manner was when animals were hurt or killed. We have no evidence as to why he cried then. Mrs. Whitridge had some idea. You may or you may not think that hers was the right idea. But before we go on I should like you to consider the atmosphere in which this boy was born and ~~xxxx~~ brought up. You remember the circumstances of his birth. You have heard that when I was questioning Dr. Gordon when his mother was pregnant she had, to say the least, a shock and he was born weighing 4 lbs. For the first 10 years of his life his father was alive and you have heard of the relations between his father and his mother. He spent much time on safaris with his father. Was that a good influence? He spent a large part of the rest of his time wandering in the forest or associating with the Wanderobo. Now just for a moment what I want to enlarge upon later, you have heard what Dr. Gordon said about his mental deficiency. A mental deficient is incurable but with very fine treatment his circumstances can be ameliorated. What chance had. Did he have fine treatment? He has gone to school now and there is not much evidence about that. Mr. Pratt told us that he was untruthful and you know that he ran away from school. While there was nothing very queer about either of those things, but they do just fit into the picture, don't they? He was an unhappy boy and an impulsive boy and I think you will agree an abnormal boy. There are several points with regard to his later life that I have tried to bring out. They are all important from the point of view of whether or not he was a mental

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defective. There are his lies. It has been suggested that that has not been proved. Well, it is for you to judge.

To Dr Dickson in the box were put three questions instances, and it was suggested that these were the only instances we had. I do not know whether you will think thewsame. We have his mother's evidence as to his untruthfulne... as a child; Price, Waller's and Meryan's evidence; and we have the evidence as to the curious and unnecessary behaviour over the purchase of the revolver. I want to emphasise these lies were [illegible] a normal man's [illegible] adequate reason, to achieve some object, that was [illegible] less of them; but [illegible] perhaps, [illegible] fact [illegible] [illegible] [illegible]

evidence we have had. I leave it to you to attach such great or little importance to what you have heard as you think fit. We have some evidence of his cruelty, and we have that one instance at Christmas 1930 when it is true he suffered great pain. That might have been an excuse for peculiar behaviour, or a cause for peculiar behaviour. But was his behaviour that of a normal man in pain? Hysteria - that is what Dr Gordon calls it; Dr Tonking said it might be hysteria, and you have heard what Dr Tonking also said about his stammer which followed, that it was evidence of serious nervous disorder or derangement. It was suggested we had not had evidence of that stammer, but perhaps you will recollect the evidence of Mr Thorpe who said that he did not like to say that he was certain but he was quite certain the accused suffered from a stammer for some time after that event.

I don't want to dwell on any of these points, but I want you to bear them in mind when you take your great responsibility.

Now we come to the medical evidence and that evidence is based not only on what you have heard in this Court but on what the doctors have seen of the boy for themselves. You have the uncontroverted evidence of the X-ray picture which tells a very great deal. You heard what Dr Gordon said about the pituitary bone. Its chief importance is in development, but in particular its influence is on sexual impulse. You have heard Dr Gordon's qualifications and you have heard that he would be prepared to take the responsibility of certifying this boy as a mental defective under the Mental Defectives Act. You have heard Dr Dickson's evidence. Dr Dickson is, among other

evidence we have had. I leave it to you to attach such great or little importance to what you have heard as you think fit. We have some evidence of his cruelty, and we have that one instance at Christmas 1930 when it is true he suffered great pain which might have been an excuse for peculiar behaviour, or a cause for peculiar behaviour. But was his behaviour that of a normal man in pain? Hysteria - that is what Dr Gordon calls it; Dr Tonking said it might be hysteria, and you have heard what Dr Tonking also said about his stammer which followed, that it was evidence of serious nervous disorder or derangement. It was suggested we had not had evidence of that stammer, but perhaps you will recollect the evidence of Mr Thorpe who said that he did not like to say that he was certain but he was quite certain the accused suffered from a stammer for some time after that event.

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duties, the Prison Doctor and he has had opportunity for examination and observation of the conduct of the accused, and he and Dr Gordon are entirely in agreement in what they say.

At this point I want to break off from the evidence and I want you to consider the picture as now put before you. You have heard what Dr Gordon said as to the boy's mental age; he would not be definite, but according to the tests his mental age in one case is 11½ and in the other 9 years and 8 months. I am not pretending that his mentality in all respects is as low as that, but you can be sure - and I believe if you had an opportunity of observing him throughout the trial you would be more sure - that his mind is only a child's. That is not all. He is a child in his mind, but he has the body of a man. You all see him; he is tall, well-built, he has attained puberty, and he has the strong, almost overwhelming impulses of a man and but only the brain of a child with which to cope with them. It is too, heavy, is it not? It is all right if you have a man's brain and a man's control; but don't you see how easily in his case he could be overbalanced without the necessary equipment to combat them?

And so we come to the six months before this tragedy. In those last six months there have been signs of a change in him. You only have the evidence of his family as regards this, but it is striking evidence. They have noticed exactly the same in his behaviour to his stepfather and mother; his refusal to speak to his stepfather; that curious incident of bringing a loaded revolver into the house when he had never done so before. Does not all that indicate some further breaking up? - some emotional stress on this poor, already irrational,

childish brain? You have heard that just about a fortnight before the tragedy he suddenly came back and made it all up, at the same time that he performed this extraordinary act of bringing a loaded revolver with him. We do not know why, but it was quite unlike him.

And now, with that picture in your mind of the lad being overwhelmed, just the first flow of the tide, we come to the tragedy itself and the few days preceding it. And I want you to consider the preparations he made. We do not know how he conceived the plan, we can think of no motive. It is possible that the instance when he said Miss Kemp in pyjamas might have started some queer train of thought, but if it is not, then we simply do not know what it is. But I think we must take it that he had started thinking about going away for a considerable time and taking, at any rate, Miss Stevenson with him. [illegible] to make his plans. What plans did he make? He thought, I must explain that I am going away (and that was natural enough) and he made a few plans, began talking, and wrote a note to Mrs Stevenson, and he must get a car. But it was never certain he had the car until a few hours before he went off. Then he thought "I want provisions" and so he started to collect provisions. But before dealing with the goods he ordered I would just like to remind you that to the order he wrote Mr Bennett's name. Why did he do that? He had no authority to write Mr Bennett's name, and with the lack of authority to order goods at all he had just as good a chance by writing his own name, unless he thought he was forging Mr Bennett's name. But, you know, he wrote it in his own handwriting.

And now, gentlemen, just consider some of the goods he ordered. He ordered 1 packet of matches. Against

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And now, gentlemen, just consider some of the goods he ordered. He ordered 1 packet of matches. Against

that he ordered 30 electric torch bulbs, he ordered 24 tins of salmon, 4 tins of biscuits. These things would be sufficient to last two people, well, for a night - at any rate for a week. He orders 6 bottles of Port, 5 bottles of Whiskey. Is there any explanation of that? What could he want with them? - you have heard the evidence that he is a Teetotaller. Can you fathom his idea?

And then look at the things he did not take. He took no bread, tea, sugar, salt, butter, milk, but he did take I think it was half a dozen cases of mineral water. Why? And then there is the other list of goods he ordered, women's goods. He ordered a few quite useful things. Well he ordered of course rugs. He took sheets and cushions, but then he did not take any blankets but he did take bottles of [redacted] face cream, little odds and ends. Coming to the list marked personal, that may strike you as queer. Consider one item in it - knife, maradadi. He had already proposed to take a large Gurkha knife. Knife maradadi and you see the knife he bought. It is quite new. He bought it for this expedition. So you see it is a few sensible things he takes but leaves out a lot more sensible things and all the rest is just the flashes of an absolutely childish mind. These little fancy things to please the women or to please his own fancy.

Then suddenly he finds on the morning of the 6th that Miss Keppie is coming too, and what does he do? Goes out and gets some more little women's goods. I cannot remember off-hand what he got. I think it was another shawl. I know he got some safety pins. A few more things - little fancy things again.

Supposing it was three quarters full of clothes, it would be rather poor equipment for even a week's outing.

How much money did he take with him? Shs.15/-. He was examined you remember. Brought back to Major Whitridge's house. Mr. Poskitt examined him and found 15/-.

How much petrol did he take — 6 gallons.

So we reach the tragedy itself. I hope you will understand by now that everybody must admit of course that whatever happened out there, it was a horrible thing and a terrible tragedy for the two girls and their families concerned in this. But I want you to understand that there was a greater tragedy than that. It is not only those two girls and their families — it is this boy. You see where he has been brought, not through his own fault, but the fault of heredity and environment, and you must look at it in that light.

We do not know what happened there. We have got hardly any evidence except his own statements and you may or may not believe those statements. There is a comment I would like to make on them. You remember he said that he tried to conceal the car from aeroplanes. Now that was a flash of intelligence, but don't you think it also has the ring of truth. I myself do not know whether to believe those statements or not but if we do not believe them we have nothing to work on. If we do believe them we have just a little to indicate his state of mind. I think there are some reasons to suggest that we may believe them or a large part of them. There are such graphic instances in them. I give that case of hiding from the aeroplanes as an example and I might add that if he was just telling a tissue of lies, he has deliberately

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put in a lie that tells against him and indicates very reasonable action. You won't attach too much confidence to that reasonable evidence after the evidence of Dr. Gordon.

To now consider these few other points. He said about Miss Stevenson "She looked so pretty. I shot her" and he said he considered or perhaps he hesitated for ten minutes. We do not suppose he hesitated all that time but he perhaps was standing there ready to shoot but not shooting - no response - just frightful suspense. Can you picture to yourselves what that suspense meant? It was possibly a terrible struggle with this rising tide which flooded across his brain and made him do these acts. You have had some evidence that 5 or 6 months ago he got rid of his guns. We have no reason told any reason but somewhere in his statement we find that he has always suffered from bloodlust - that is what he says. Now if he believed he was suffering from bloodlust, whether true or not, the fact that he sold his guns indicates that some time before he has also undergone this terrible fight with his impulses, real or imagined, and you see again the case of shooting that he could not win because he borrowed back the gun he had sold - he is shooting again.

Now we come to what we have to consider - what was the actual state of his mind at the time when he shot Miss Keppie. Of course you will understand that it is quite impossible for any person to know with any degree of certainty what the state of his poor mind was. We can only go on probabilities, perhaps even only on possibilities. But what are the possibilities? I should say what are the probabilities? You have heard the evidence of Dr. Gordon on the temporary upset of mental deficients - how easily it comes and how serious it is. We put before him one or two things which might be sufficient to cause such upset, facts which we are sure have been sufficiently proved to you. There is the overwork and there is this insistent sexual urge.

Now we have got to decide was that sex urge in any way responsible for this act, because of course although he may sometimes he subject to stress of that kind it is no defence unless it was that stress which caused this particular act. How can we say? We cannot know for certain, but have here evidence that during that period from the 6th to the 8th in which he killed these two girls, during that very period I think you will agree [illegible] no doubt he had had some sexual excitement. You [illegible] evidence as to what was found [illegible] the wash-hand [illegible] you have heard [illegible] evidence [illegible] you [illegible] heard [illegible] the accused [illegible] return [illegible] to be [illegible] clean shirt and that [illegible] [illegible] and you have heard the evidence [illegible]

[illegible] afterwards, and just [illegible] that I would like you [illegible] consider the [illegible] [illegible] people who knew him when they knew he had gone away [illegible] when they knew he was coming back [illegible] before they knew he had killed the girls. Mr Bowles locked his door on Friday night. Why did he do that? Ross was only a young chap; had taken out two girls. Mr Bowles locked his door. Major Whitridge, what did he say? He was convinced - he could not give an adequate reason - but he was convinced that the accused was coming back to shoot him, and it is curious how that falls in with the accused's own statement that he wanted to shoot his

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stepfather and then himself on his own father's grave. And there is also the evidence of Mr Englebrecht whose first thought was that the boy had gone off his head.

Now take his actions when he reached home. Major Whitridge saw him at the time and you know what he told you. He said he looked mad and fierce. His mother described a conversation - he was seeing eyes. Then he could not answer sensibly at all, and then he made funny little remarks which I don't think any of us could understand. And so he was taken off to the police quite quiet and calm.

Now that is the story and the responsibility falls upon you. You have heard the medical evidence, but no doctor can lift that responsibility from your shoulders. I am sure you realise the greatness of the responsibility. It is a matter of life and death; but not only that. Death is not so very terrible, but to find as a fact that a poor lad of 20 with a good reputation behind him, with so clearly the mind of a child, with malice aforethought killed two people in circumstances so apparently cold-blooded and purposeless as this - that is a great responsibility.

You have heard what I had to say as to the law of insanity, you have heard what Dr Gordon thought of his capacity to pass a rational judgment, and you will remember the expression used by Stephen. You have heard Dr Gordon's opinion as to the ability to refer to those reasons to which normal men refer in coming to a moral judgment, and that is the interpretation used in the case of Rex v Davis and the case which followed it, Rex v Kay. You have heard Dr Gordon's evidence as to the possibility or probability of temporary loss of

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control of his actions, and you will remember the expression used in the interpretation in the case of Rex v Jolly.

You have heard all those things, and I would just like you to consider once again the real mental age of this boy and its relation to the onus of proof. because I am not pursuing that because his mental age is put by doctors much lower than his real age, but I say this that you will find in the Penal Code in the case of a child under the age of 12 it is for the Crown to prove that he knew the nature and quality of his act or that he knew that what he was doing was wrong .....

CHIEF JUSTICE: That is a new principle of law.

ATTORNEY GENERAL: The evidence is that accused is of the age of 20.

SLADE: I am not stating that the onus shifts, but I am stating that it shows the attitude of the law towards a man knowing the nature and quality of his acts.

Now, gentlemen, that is that we must clearly prove that he knew the nature and quality of his act and if he did know it he knew he was doing wrong. How can it be proved beyond all doubt? How can you think it was proved beyond all doubt in those cases where prisoners have been found guilty but insane? You must use your common sense, but remember a man is deemed to be innocent until he is proved guilty, and that although our law now says if you find a person insane you have to find him guilty, but insane, it is a paradox. A man who is insane is not criminally responsible. We have to find him insane, but make sure he is not allowed to go free. But I am asking you to find him guilty but insane because it will mean that the poor lad was not responsible for what he did.

Now, Sirs, I am afraid you have been rather awkwardly placed in this Court for the purpose of seeing the accused. I would just like everyone of you to look at him now. Do you or do you not see there a child with a man's body? You will know very well that love and sexual passions can make fools of most men; perhaps you will realise, if you have not realised it before this case, that it can make madmen of some. I will not plead with you: I tell you it is your duty to find the child guilty but insane.

THE COURT ADJOURNED TO 1 A.M. NUMBER TWO.

Now, Sirs, I am afraid you have been rather awkwardly placed in this Court for the purpose of seeing the accused. I would just like everyone of you to look at him now. Do you or do you not see there a child with a man's body? You all know very well that love and sexual passions can make fools of most men; perhaps you will realise, if you have not realised it before this case, that it can make madmen of some. I do not plead with you; I tell you it is your duty to find this child guilty but insane.

THE COURT ADJOURNED TO [illegible] NUMBER

THURSDAY, 1st DECEMBER 1932. 10 a.m.

Accused present.

Jury present.

Counsel as before.

THE ATTORNEY GENERAL addresses the Jury on behalf of the Prosecution.

May it please Your Honour,

Before I come to address the gentlemen of the Jury, Sir, on the facts of this case and the inferences which I shall ask them to draw from those facts, I trust that Your Honour will accord me an opportunity of shortly dealing with the long argument which my friend put to you at the beginning of his speech.

My friend, Sir, relied, as Your Honour will recollect, exclusively on five cases and my first comment, Sir, is that each of those cases was a case of first instance - a case of a Judge and Jury trial - and not one of them was ever the subject of consideration either by the Court of Crown Cases Reserved or by the Court of Criminal Appeal. Unfortunately for my friend, Sir, each of the cases on which he has relied was specifically dealt with by the Court of Criminal Appeal in 1923 in the case of True. It is reported in Volume 16 of the Criminal Appeal Reports at page 164. In that particular case, Sir Henry Curtis Bennett, who represented the appellant, argued practically along the same lines that my friend adopted yesterday and in that case of that argument he relied not only on the cases of Davis, Jones, May, Freyer and Jolley, to all of which my friend referred, but went further and cited with approval, inviting the Court to accept with approval, the statement of Sir James Stephens from his Criminal Digest,

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Again, Sir, in the case of Quarmby 1921 reported at page 165 of Volume 15 of the Criminal Appeal Reports; the headnote I think is possibly the shortest on record. It is "Uncontrollable impulse is not a defence in law."

Similarly, Sir, in the same volume, the case of Holt reported at page 10. The Court held that uncontrollable impulse is not a defence unless it amounts to absolute insanity and the Court will not regard medical evidence which is merely a speculation on such a theory and does not prove such insanity in the sense defined by the Judge in the Mc'Naghten case.

Finally, Sir, in this particular aspect of the case I would refer Your Honour to the case of Kopsch reported 1925 reported in Volume 19 of the Criminal Appeal Reports at page 50. There again the Court held emphatically that the doctrine of uncontrollable impulse is unknown to English law. (Quotes judgment of the Court delivered by the Lord Chief Justice)

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the conclusions of Sir James Stephens himself in his painstaking endeavour to prepare a perfect code and not in any sense based on judicial decisions of any Court.

On the question of the nature and quality of the act, Your Honour, I would refer Your Honour to the case of Codere (1916) which is reported in Volume 12 of the Criminal Appeal Reports at page 21. The Court there laid down that in interpreting the words "nature and quality of the act" the standard to be applied is whether according to the ordinary standard adopted by a reasonable man the act was right or wrong. "Once it is clear that the applicant knew that the act was wrong in law, then he was doing an act which he was conscious he ought not to do, and as it was against the law, it was punishable by law." I cite that case Your Honour because it has been suggested that the test to be applied should be the capacity of the accused himself to exercise a proper judgment in considering the difference between right and wrong. That I submit is not the test as the Court of Criminal Appeal has laid down. The short test is: Is the offence one punishable by law? Was the accused at the time aware that he was doing that which rendered him liable to punishment?

Gentlemen of the Jury,

This is the fourth day of the trial, throughout the whole of which you have been very patient indeed, and I feel that it would be a very poor return on my part for that patience were I to take up more of your time than it is absolutely necessary for me to occupy. I shall endeavour to be as short as possible but there is a good deal of ground that I shall have to cover. I think that all of you will agree that it has been an extremely

pleasant feature of this case that the defence has been so forcefully put before you. Everything that can be said for the accused has been said and said well, but I am going to suggest to you, gentlemen, that even my friends cannot do the impossible. They cannot make bricks without straw and that in fact there is no defence to this case, because there can be no defence.

The position as we face it this morning, gentlemen, is that the accused has admitted to killing Miss Keppie. The legal [illegible] admission, in the absence of any attempt on [illegible] to that killing, is that that killing [illegible] the sole defence which has been [illegible] that murder the [illegible] of sanity [illegible] mind as [illegible] guilty of the act which [illegible] did [illegible]

[illegible] I am not [illegible] mental deficiency [illegible] Produce like that are [illegible] They do but fog the issue. [illegible] since 1845 a perfectly cle[illegible] a presumption of sanity. It is for [illegible] that presumption of sanity to your satisfaction can only do so if he satisfies you, not by speculation not by hypotheses or vague theories, that at the time when he shot Miss Keppie he was by reason of disease of the mind unable to appreciate the nature and quality of his act, or unable to understand that what he was doing was wrong. A very simple issue indeed, gentlemen.

Has the accused made any real attempt to satisfy you on that all-important issue from his point of view? I say with all confidence, No.

Let us now recall some of the facts. The killing is admitted. You remember the very careful preparations the accused made for this curious, almost inexplicable trip into the blue. I don't want you to imagine, for a moment, gentlemen, that I am suggesting to you that the accused when he made those preparations intended to kill anyone. That is not so. What he intended we do not know. It is no part of my task - it is no part of my duty - to surmise what he intended to do. We can content ourselves with a careful examination of the facts, and the facts are there and undisputed.

Preparations were made, gentlemen, careful preparations were made, preparations involving a considerable amount of forethought and planning, for disappearing from Nakuru for at least one, and possibly two nights, because you will recollect that there is evidence that the accused stated he was going to Nairobi, and would not be back before Friday and possibly Saturday morning. He had planned that he would be for one and possibly two nights at that camp with Winnie Stevenson, and either her brother Donald, who in the first instance was invited, or Miss Keppie. Deliberation, gentlemen, and planning. Everything arranged in advance.

What was his purpose? Is it an unfair inference to draw that his purpose was a sinister one? Does the ordinary person, when planning a weekend in the country, be at pains to put down in a list such a thing as a gag, such things as tapes, such a thing as a revolver and 52 cartridges? A rifle one can understand, gentlemen, but why a revolver and 52 rounds? Careful planning.

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No sign of insanity I suggest to you there. Capacity to form a judgment, capacity to lay a plan and carry it out.

We come to the killing, and on that killing, on the circumstances surrounding it, we have no evidence whatsoever except that of the accused himself, and it is difficult to imagine what better evidence anyone could have. Quite frankly he has said: "Miss Keppie irritated me, I lost my temper, I took her out of the car, took her 50 or 60 paces away, held her by my left hand and shot her". He remembers it perfectly well. He puts it down himself, you will recollect, to what he calls blood lust, because you will remember he told us through the witness Allen that for some time he had found that blood was getting too great a hold on him. Not an irresistible impulse, gentlemen, because he resisted it to very good effect. He got rid of his weapons. But just before this plan he was at pains to acquire both a rifle and a revolver.

You may well ask yourselves if he was able successfully to resist the urge, why did he not play the man again? He chose not to. That is his own story, gentlemen.

Now what is the story to which the defence is driving back. It is - oh, no, not the blood lust - it is an overwhelming sex urge. And you will remember, gentlemen, how very carefully that was worked out for your edification. The poor boy could do nothing, so overwhelming was this urge that he had no choice in the matter at all. He had to shoot this poor girl. There is no suggestion - there never has been any suggestion - of any attack upon Miss Keppie; there is nothing sexual insofar as the murder itself is concerned.

You can take whichever you like, the accused's own story or blood-lust - I will not call it irresistible impulse (I cannot in the light of what he did previously in reference to his weapons) - I call it an unresisted impulse. "I saw red: the girl irritated me; I shot her" That won't do for the defence. Strengthened a bit, yes. We'll bring in this overwhelming sex urge. A nice, round sonorous phrase. What does it mean? Nothing.

Let me ask you to consider this, gentlemen. You, sitting here as a Jury, have a very great duty and a very great responsibility to discharge. A Jury has to protect society, and to protect society from people such as this accused. Unless that duty, that paramount duty, is clearly understood it is the end of all recognised and organised society.

What sweet evidence of insanity in this accused is there, gentlemen? You have had before you his Schoolmaster, a man trained by his very profession to form sound on the mentality, the habits and ways of the young. When he came back from England he was a model pupil, not very keen on games, passionately fond of anything to do with nature, a model pupil.

I have called in this Court, gentlemen, three young men, all approximately his own age, with whom he lived, with two of whom he had shared a room for 15 months. A pretty good way of getting to know one another. Did you hear the slightest suggestion from anyone of them that the accused had been anything but perfectly normal and natural? No. Everyone of us has idiosyncrasies; we all have peculiarities, it would be a poor world if we were all cast in the same mould. Of course, one man likes company and another does not; but we don't go about this world saying: "Look at him, he is sitting ...

alone; he is mad." There has never been a suggestion from beginning to end of any trace of insanity in the accused. You have heard his employer, Mr. Bennett, 25 years experience breaking in clerks, say :"first rate clerk; a good fellow; of course they all have their own particular ways, I have my own particular ways with every one of them. He wanted careful handling, treating tactfully." Mr. Bowles said "I could not help laughing at him. He was so keen on shooting and I am not. I once thought he was mad (using the word in its ordinary sense) because it was ining cats and dogs and he went out shooting on a night like that." And that is solemnly invoked by the defence as evidence of insanity. Think of it, if any one of you is overheard saying about your greatest friend: "That is mad sort of thing to do" you will stand here and be asked to depose that early age you saw si[illegible] insanity in him [illegible] suppose you will do [illegible] Bowles friend was quite upset by [illegible] ful attitude that he actually [illegible] hostile witness. That is the sort of the[illegible] built up on. Colonel Griffiths:- "First rate fellow in every way and in the office. Quite fond of Ross. Keen member of the Kenya Defence Force." Never from start to finish has there ever been any breath of suspicion until this week end. And then what does happen? What must inevitably happen. Nakuru is a small society: everyone knows everyone else and the whole of that society is shocked to the very core by the news of this terrible tragedy. What does everyone say: "Good Lord, young Ross! He must have been mad to do a thing like that." It is the normal reaction of everyone to say, gentlemen. It is a normal way of expressing your horror and your

overwhelming surprise that someone whom you knew, with whom you had mixed on terms of mental and moral equality, could have proved so depraved. A very natural point of view, I submit. The course has been pursued which has been run to death by the defence: "Oh yes, everyone said he was mad." Mr. Englebrecht comes along and says he used to get fearfully excited when talking about hunting and shooting. Why not? He is a young man. We have been told that he is always very keen on shooting, that he is an expert tracker, devoted to anything to do with nature. Is it not natural and perfectly reasonable to imagine that he is very keen on shooting? We are not all made alike. One man certainly will kill a great deal more than another. One man will kill when another will only take photographs. It is only a question of degree. If you accept that, standing alone and unsupported as it does, as evidence of legal insanity, then it will be unsafe to take a rifle out in this country at all because the next case will be that you know he went out and shot that buck and he really ought to have taken its photograph. He rejoices in slaughter instead of buying a Kodak or something of that and making a real of it. It is all a question of degree, gentlemen.

There is no evidence whatsoever, gentlemen, I submit, with all confidence, that suggests for one moment that anyone before the 6th October ever regarded Ross as anything but a perfectly normal young man. Nothing. But there comes the week end. There comes this terrible shock; and inevitably there comes, as there always will come so long as we are a nation, that wave of sentimentality over a certain part of the public. Everyone as a first instinct says "He must have been mad." A few people say "Well, I think he really was mad."

We are greatly fortified and reinforced by that opinion because we have a whole town saying he must have been mad. Now let us see what we can find and they set out to look for symptoms. Let me remind you what those symptoms are. If you go round a little town like Nakuru and you say to A: you knew so and so; he says, oh yes, knew him quite well for 4 or 5 years; very good fellow, very popular, we all liked him; good at his work, good at play; keen. Did you ever see anything curious about him? Well after all this is the fellow who did that murder the other day and he cannot have been perfectly normal when he did it. Let's see. I remember once he went and sat on a rock alone, 5 or 4 years ago. I am quite serious, gentlemen; that has been given as one of the manifestations of legal insanity: that he preferred his own company to that of other people. Quite inexplicable, because / A question was specifically put to a witness: When you called at the mess, did he always go out? No, he said. Have some of you felt that when people came round to see you, you would much sooner go out and leave them. If you have not, you have been very fortunate. It has been very well said "The more I see my fellow-man, the more I love my dog." And because a man who can get all the pleasure in the world through his senses of sight, and hearing and smell and going out into the bush alone, he is insane. You see, gentlemen, this is quite a good game. You say to yourself, now what have we here. We get, given to wandering. I think he was 3 or 4 years old at the time when he went out. But not in itself an extravagant sign I suggest to go out of the house. He was given to wandering. I am reading, gentlemen, from the specific questions put by my friend to Dr. Gordon in which he asked him to assume those symptoms. The man spent

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a good deal of his early life with natives; he has a liking for the society of natives. — Up to the present. I think that is based entirely on the statement of one witness who said that when the accused lived with him for a month he once found him talking to the boys in the kitchen. He never meant that as a symptom but that is the only occasion on which there can be any suggestion that the accused still shows a liking for the society of natives. Many people do. There are many great Missionary Societies working in this country completely on that footing. I suppose as a result of the medical evidence in this case they will have to refuse that point of view. We cannot have them going round the world with the stigma of insanity lying over their heads.

The accused was given to lying. He was of a solitary and secretive disposition. — was when he went out and got on the stones too. He took a delight in killing, shooting; impatient of restraint or correction, moody and sulky. Before I sit down, gentlemen, specifically let me go back. It is quite a good game. You can have it both ways. You find A who is apt to be moody and sulky and who likes to be alone and is shy in the company of women. Abnormality, mental deficiency, mental derangement, call it what you like. Then you find about B who has a very quick temper, who likes society of women, who hates being alone? Of course, crossed diplopia. Does it matter which way you put it? It is sufficient detail. Half a dozen symptoms; shake them up together and what does it come to - insanity. A liar, a trivial liar. The evidence is overwhelming against him; his untruthfulness and such trivial lies. Do you remember his mother's evidence? I hardly like to remind you. When he was a

small boy he once took things from the house and then denied it. Seriously, gentlemen, is there any one of you who can say he did not do it as a youngster? Of course. If it were not so there would be no need for the perpetuation of the name of George Washington. He was a child at the time but had continued to be a liar all his life; and look at the trivial instance when he said he was going to Entebbe and never got farther than Tororo. Very, very difficult to explain a thing like that away. A fellow who says to you "I am going to win my match this afternoon" and is beaten is a frightful liar. There is no suggestion that Ross did not do his best to get to Entebbe, but he got to Tororo and had to come back. All this is indicative of insanity. Solemnly, gentlemen, I do suggest to you that never before in this or any other Court has such a grandiose structure been erected on such a pitifully flimsy foundation.

What are we driving back to? There is no evidence he was insane before the 6th October, but it is a recognised principle that even medical science notices that usually the first symptom of insanity is the commission of a serious crime, so when a serious crime is committed then you first begin to investigate the perpetrator of that crime with a view to testing his mental stability. If it were accepted killing would always be ascribed to insanity. If you are going to accept that doctrine then you might as well close all your prisons and put asylums in their place. It is a comforting doctrine that crime is a disease and not an offence. That is not the law of England, and as long as you gentlemen sit there discharging your duty it will

not become the law.

Is there any evidence, gentlemen, that the accused did not know the nature and quality of his act? I suggest to you none at all, gentlemen. How do you test a thing like that? My submission, as you appreciate, is that the accused has never been insane, and there has never been any real attempt to prove it. We are dealing with his insanity on the 6th October. The usual way to establish such a thing is to show he was insane prior to and on that date and then it is not an unreasonable presumption to say that his insanity continued over the period in question. But all we are concerned with is his legal insanity on the 6th October. What have we got as evidence of that? A repeat careful planning, premeditated absence, admitted shooting, and after the shooting what does he do? What do we know that he did? He went back to the car; he cut branches from a tree and covered the car up. Why? He tells us himself - so that he could not be spotted from an aeroplane. Is not that, gentlemen, absolutely conclusive? Can you doubt for a moment that a man who had done a thing like that was aware that he had done something for which he was liable to punishment? What does he do after that? Puts the car in the ditch; his brother meets him and says "Let us go into Nakuru and get help". "No", he says, "I will just potter about here". Why? What would anyone of us do, gentlemen? If you put your car into a ditch you go to the nearest place where you can get assistance; still more so if you put your friend's car into a ditch. Would not the natural, the obvious thing to do be to go into Nakuru. But no, he goes home and when he gets to Magi Mazuri he cannot remember anything. Very convenient, gentlemen, but

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I suggest with the utmost confidence, gentlemen, that there is only one construction which any reasonable man can put on that evidence. "I have done it now, and I know I have to pay for it, and there is only one consolation. Well, don't worry, there are other sons to look after you." It can mean nothing but a complete and full realisation that what he had done had rendered him liable to the criminal law of the country and that he would have to suffer the consequences of his crime. For the accused then there can be one verdict only; that is a complete negation of criminal insanity.

Uncontrollable impulse, irresistible impulse, impulsive insanity, an overwhelming sex urge depriving the accused of all rational control. As you have heard, gentlemen, I have already submitted to His Honour that that defence is unknown to English law. You will, of course, take the law not from my friend or myself, but from His Honour. That is my very confident submission. I dare say you heard me read the words of the Lord Chief

very very damning I suggest to you, because Dr Dickson has told you that in his considered opinion that forgetfulness was feigned. Very important evidence. It is always much easier to say I don't know than explain the shooting of the girl. "I see eyes, eyes." Do you wonder. Is it surprising that the accused was haunted by the eyes of that girl; is it not a perfectly normal and natural consequence to be haunted by the eyes of that girl who had been the victim of a diabolical murder? Would they not haunt a man until his dying day? No surprise that the police want him; and finally, gentlemen, the most convincing of all: "Don't worry, mum, there are such a lot of us. You have still got Gordon and John to look after you."

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Uncontrollable impulse, irresistible impulse, impulsive insanity, an overwhelming sex urge depriving the accused of all rational control. As you have heard, gentlemen, I have already submitted to His Honour that that defence is unknown to English law. You will, of course, take the law not from my friend or myself, but from His Honour. That is my very confident submission. I dare say you heard me read the words of the Lord Chief

Justice of England in the last case I cited. The doctrine of uncontrollable impulse is not part of the English law. If it were part of the English law it would be merely subversive and the end of all discipline and lawfulness. And the Lord Chief Justice went on to say "We hope that the day is far distant when it ever will be part of the law of the land".

Medical science has no doubt made great strides since 1843 and I dare say that to eminent medical men the law seems perhaps more than usually a hass in this particular respect because it is not keeping pace with the times. But, gentlemen, we are a Court of Justice; we are not applying to a case such as this the abstract and modern tests of medical science. We are squaring the facts of this case with the well-known ruling in McNaughton's case and at that our task begins and ends. Whether it be blood-lust or an overwhelming sex impulse matters nothing; neither of them excuses unless they are of so extraordinary a character as to amount to actual insanity.

And again you come back to the same test: Did the accused know the nature and quality of the act or did he know he was doing wrong? And to that there can be but one answer.

Yesterday, gentlemen, Dr Gordon in evidence referred to the English Act of 1927, the Mental Deficiency Act, and your Foreman, gentlemen, asked certain questions about it. I have the Act here and all that I desire to say on the subject is that it is an Act dealing only with Mental Deficiency. It does not touch in any way on the question of insanity, least of all legal insanity, with which we are dealing to-day. It is very largely concerned with providing suitable training schools,

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housing and so forth for those of a lower degree of mental capacity than the normal. It does not in any way affect the problem before us - the question of the legal insanity of the accused.

Gentlemen, you have a very grave and a very real responsibility to perform as a Jury in a case such as this; but I would remind you gentlemen, that not only is it your duty to face that responsibility, however unpleasant it may be, but you are bound in my opinion to remember that sitting here as a jury perpetuating one of the oldest institutions known to our judicial system in the Home country you are sitting here as ministers of Justice and as guardians of society. It may be easy, it may sometimes be fatally easy to take the line of least resistance and shirk what is a very terrible responsibility but I feel confident you will not take that line. Society has a right to be protected. It will be the end of all organised, disciplined government if juries are swayed by sentiment and not by the evidence and the law.

The law will be given to you personally by His Honour the Chief Justice.

I have taken a great deal of your time, gentlemen, and I am content now. I do with all confidence leave the issue to you as I feel emphatically that, grave though the responsibility before you is, it is one which you will face manfully and discharge conscientiously.

S U M M I N G - U P

Gentlemen of the Jury -

You have listened with great care and attention to the evidence given in this case and to the very able addresses given both by the Counsel for the Defence and the Attorney General. The charge is, as you know, that the accused on or about the 6th October murdered Margaret Keppie. The defence which you have heard is one of insanity. There are, therefore, two issues. With regard to the first the onus is on the prosecution: did the accused kill Margaret Keppie? The other is on the defence and that is to prove whether or not the accused is legally insane. Now if the killing is proved and the insanity is not proved, your verdict will obviously be one of guilty. If the killing is proved and the insanity is proved to your satisfaction, then the verdict will be what is known as "guilty but insane". If the killing is not proved, then of course you will acquit the accused.

What are the facts? They begin with the early acquaintance of the accused with the Stevenson family about five or so years ago when the accused was apparently a small boy. At that period the accused lived in the Stevenson house for one term - that is Mrs Stevenson's evidence. During the last three years Mrs Stevenson told you the accused had only been to their house three or four times and that in the last 12 months he had been twice.

The story starts on Sunday the 2nd October when the accused had been out shooting with Donald Stevenson; they went home to the Stevenson house and on that occasion the accused may have seen Miss Keppie in pyjamas, described

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The story starts on Sunday the 2nd October when the accused had been out shooting with Donald Stevenson; they went home to the Stevenson house and on that occasion the accused may have seen Miss Keppie in pyjamas, described

by Mrs Stevenson as "beach pyjamas". Then follows the preparation that has been referred to. An attempt to secure a car was made on the 4th October. A reason the car was stated to be wanted was that the accused was going to Nairobi. That could not be arranged and then Mr Shaw said that he would lend his own car on a hire basis. That was the car which was found on the Ravine Road on the 8th October. The car was fetched on the 6th about 4-30 and you have heard the evidence of the difficulty of the accused in starting the car after presumably he had stalled the engine. Mr Shaw helped him to start the car and he got off. He dined at the mess that night and the evidence is that he did not eat a very good dinner but left after the second course and that he was excited. According to the native witness got off with the girls at 8 p.m.

Now we come to the preparations for this expedition. On the 5th and 6th October he got provisions from Hari Singh and various other articles, such as scent, rugs and pillows from Choitram's. The defence has pointed out the inadequacy of these preparations. The provisions did not include such things as tea, sugar and bread. Regarding the provisions and things we have seen a list of them and you can see that they are not very satisfactory for a prolonged camping expedition. The provisions were ordered on the 6th, on the afternoon of the 6th. The order was signed in Mr Bennett's name. Choitram's articles were ordered on the 5th; goods delivered on the 6th at 5-55 p.m. Then the preparation in regard to ammunition. He borrowed a rifle on the 1st October, but preceding that he got ammunition and so on from Messrs Thackrah on the 27th September. The letter left for Mrs Stevenson showed that he intended to be away

some days. He said he was going to Nairobi, that was to account presumably for the absence of her daughter over one or more nights. The invitation you remember invited Donald to go but that was impossible owing to the fact that Mrs Stevenson and Donald were going out to dinner. Finally Miss Keppie was suggested and she went.

Now the next thing we know was on the 8th October when a search part found the body of Miss Keppie and the accused was standing by or near the car, the engine of which was still running, by his brother. You have been told that the accused refused to go to ~~Nakuru~~ Nakuru for help and wanted to go back to Maji Mazuri to his mother and step-father. He went on the back of his brother's motor-bicycle until they had got about three miles from the house when they walked, presumably because the road was rough. On him was found the revolver (Exhibit 7). His step-father apparently had some fear and managed to catch hold of the accused's arm while his brother relieved him of Exhibit 7. You will probably have no difficulty in finding that Exhibit 7 was the weapon which was used to shoot Miss Keppie. It was transferred as you remember by Mr Bowles to the accused on the 26th September. The post-mortem revealed a bullet in Miss Keppie's brain. The evidence of Mr Fox shows that that bullet had been fired by Exhibit 7. He is perfectly positive about it and you have had an opportunity of seeing the micro-photographs he took.

What is the step-father's evidence? He feared he would be shot. You have heard a lot of evidence about the characteristics of the accused. You have been told that the temper of the other children is very explosive and that they were easily aroused to temper. You have

heard of the incident at Christmas 1950 when his small brother John kicked the accused in the testicles and no doubt caused him considerable pain. The accused's behaviour has been stated by the medical evidence as to that as being hysterical. Further evidence has been given that at Easter of this year the accused appeared different. You have the step-father's version of the fact that the accused appeared to be swollen-headed over the potato enquiry in the market at Nakuru. There was a change in his conduct during the last six months. His behaviour was different on his return home.

When he came back into the house at Maji Mazuri on this occasion he said he did not quite know what he had been doing. He told them about a hunting party. He said if Winnie had been there she could have driven the car home. All he could say was "Eyes". The step-father said the accused's mind was wandering. He was then taken to the police station.

The learned Attorney has stated to you that this loss of memory was feigned. He is supported in that statement by Dr. Dickson, and the Attorney General says that the eyes the accused saw were perfectly natural in view of the fact that he had killed this girl and would be haunted by seeing her eyes.

The explanation of the shooting was given by Mr Hodge who wrote a statement made by the accused, and by Mr Allen the Prison Officer. The accused said that Miss Keppie tried to take his revolver away and he lost his temper, took her out and shot her.

The explanation of going to that place is that the girls asked what he was doing with the provisions on the back of the car. The accused said he was taking them to a P.W.D. man and it was suggested they had time to

go and take them and even then to the cinema.

Now the defence has gone into the behaviour of the accused's father. The accused's father was apparently a Major in the South African War and a Major in the late War. You have been given instances by Mr Greenslade and Mr Raper of Major Ross's behaviour in South Africa. It is said that he shot armed Boers who were drifting back from a party which Major Ross's unit was at the moment chasing and as they came back they were shot either by Major Ross or someone else. You have got the incident of knocking anboy down who demanded payment for the loot which was taken out of his kraal and the fact that Major Ross shot into the kraal; and you have the further instance when his subaltern refused to obey orders when Major Ross ordered his troopers to attack a kopje; that he went in and leshed out troopers. Those are all relied on as being evidence of the father's mental disability instability. Probably some of you gentlemen have experience of war conditions and you can put the proper weight on those incidents.

Mrs Whitridge's evidence is that the father of the accused was both brutal to her and unnatural; he assaulted her; he had dreams; he was a brute. She said that on one occasion when she was carrying unborn in her womb the father attempted or said he was going to put the eldest child on the fire.

What was the character of the accused? It was generally excellent. He was well liked by the people he lived with and by his employers, so much so that Colonel Griffiths asked him to go and live in his house with his children and his nurse whilst he was in India and Mrs Griffiths in Nairobi.

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What is the evidence on the other side? It is suggested he had a sulky temper; he was solitary; used to kill an abnormal number of animals. Then there is the hyaena incident. That only aroused a certain amount of amusement in Mr. Bowles that the accused wanted to go out on a wet night to shoot a hyaena and come down with the skin just taken off the beast in its bloody condition. Then there is the evidence that he was excited when shooting. His Step-father says he was not unusually excited. It is not an unusual thing for people to get excited when going shooting.

The evidence of excitement when shooting was presumably introduced with a view to showing the accused suffered from blood lust. A further characteristic which has been commented on by the learned Attorney is that he told lies. His schoolmaster Mr. Pratt said he was a young liar when he first went there, but when he came back he was a satisfactory pupil. Mr. Waller tells you he lived with him for a short time and he found out that various slanders were being put about the town and he got rid of the accused, the suggestion being that the accused started those stories going.

Another abnormality - if it was an abnormality - was the accused's attitude towards women. It is said he had no use for them; that he was shy with them. The defence has said in opposition to that, that he was proved to have gonorrhea in 1930 and that spermatozoa was found on his trousers and waistcoat on the 8th October. It was properly pointed out by the learned Attorney that there was no evidence of the age of those stains: but those marks on his clothes are proof that at any rate he had had some intercourse. Mr. Englebrecht's evidence is also of his excitement when talking about shooting.

With regard to cruelty, the only incident is the evidence of Mr. Smart of the cat incident when a cat was kicked to death; and he says that he knew of one occasion when the accused shot nine impalla. You will remember that on one occasion in the mess he said he had shot twenty-one head of game and was called by Mr. Maryon a murderer and slaughterer. Whether you kill one or two or go in and kill game wholesale is, in my view, quite insufficient on which to base any theory of insanity, and the medical evidence in this case has suggested insanity on those characteristics.

Now you had Dr. Dickson's evidence. It was not very satisfactory in proving legal insanity. He said he formed the opinion that the accused was not mentally backward but that he showed signs of insanity. He could not express an opinion of the accused's state of mind at the time of the alleged offence because he was not there.

First I will deal with the other medical evidence dealing with the accused's skull. The ex-ray plate shows that the hollow of the pituitary gland is smaller than usual. That is a part of the anatomy which is known as the sella turcica. Dr. Gordon's opinion is based partly on what he heard of the accused's father. He went up to Nakuru, interviewed various people and saw the site and he formed the opinion that the father was a border-line case and the effect would be transmitted to his children. He says that the accused's characteristics indicate some mental abnormality. 1950 hysteria indicates mental abnormality. He says in his opinion that the accused was a mental defective certifiable in England under the Mental Deficiency Act of 1927. He says he examined the accused and says his brain capacity was 6 years below his

age. He talked to you about his mental age - the Porteous and Binet tests by which the accused's age is apparently 9½ under the Porteous test and 11 years and 8 months under the Binet test. Now it is not in evidence what those tests consist of, but Dr. Gordon safeguarded himself by saying that he does not want them overvalued. In his evidence he says he would rather not give accused one mental age. "I don't want mental tests overvalued. They can only be used in conjunction with other tests. Tests done in a prison cell. Have not had time to get en rapport with accused. It would be a fair thing to say that his mental exhibition is lower than his real age." So that does not give us much. Nothing in saying that he is backward. We are told that the strain of work might cause a temporary upset. Dr. Gordon depended very largely on the sex urge in accused. He was deficient in judgment and foresight. He says definitely the accused was suffering from an immense urge capable of preventing the accused from passing a rational judgment. That is very largely, I gather from Dr. Gordon, based on the fact that his pituitary gland, owing to the shape of the sella turcica, could not normally grow and was not in a condition that would be normal for a boy of the accused's age. Dr. Gordon has said that if there were sexual urge the accused would be without control. He suggests that there were indications of mental disorder, but there is no definite evidence. He says definite evidence of mental deficiency but cannot say there is definite evidence of mental disorder. He suggests that the evidence shows a loss of emotional control. In Dr. Gordon's opinion the accused did not know the nature and quality of his act or that it was wrong at the moment that he committed it.

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He is positive on the sex urge point but, as the learned Attorney has pointed out, the evidence of that, so far as it goes as to spermatozoa on the clothes, does not show the age of those stains. He says that loss of memory may be genuine psychologically. He would not certify the accused as insane but suggests he should be under restraint as a mental defective.

The defence has suggested that the accused sold his guns to combat this rising lust of blood. You will probably think it of some weight that this alleged blood lust was not dealt with by Dr. Gordon at all.

As the Counsel for the Crown has said the law is the same as that laid down by the judges in 1843 in the Daughten case. The onus of proving insanity is entirely on the accused and that insanity must be so proved that in your opinion the accused did not know the nature and quality of the act which he committed or alternatively that he did not know it was wrong. The learned Attorney very properly told you that in English law irresistible impulse is no defence. It has been described that if irresistible impulse were a defence it would be subversive to the safety of the people and subversive to all discipline, but theMcNaughten rule is based on the history of the law applicable to the defence of insanity. It is based if I may say so on common sense and on the protection of the public.

It is for you to say whether the prosecution has discharged the onus which lies upon it of proving that the accused killed this woman and if you agree that it has discharged it, then you will consider the defence and will give your opinion as to whether or not the defence has discharged the onus that it undertook to show that the

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accused was legally insane at the time he committed the act. That onus has got to be discharged in both cases beyond any reasonable doubt.

You are the judges of those facts. If you find the accused killed the women, you must be satisfied that the accused suffered from what has been described as legal insanity. If you are not so satisfied and find the fact of killing proved then you should convict the accused of murder. If you are satisfied the accused was insane at the time of committing the act and find that act also proved, then you will find that the accused killed Miss Keppie but was insane at the time he did so.

I will just read the rule in McNaughten's case for your information before you consider your verdict.

There were two questions:

(I) What are the proper questions to be submitted to the jury where a person alleged to be afflicted with insane delusion respecting one or more particular subjects or persons, is charged with the commission of a crime (murder, for example) and insanity is set up as a defence?

(II) In what terms ought the question to be left to the jury as to the prisoner's state of mind, at the time when the act was committed?

The answer to the two questions was that the jury ought to be told in all cases that every man is to be presumed to be sane, and to possess a sufficient degree of reason to be responsible for his crimes, until the contrary be proved to their satisfaction; and that to establish a defence on the ground of insanity it must be clearly proved that, at the time of committing the act, the accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and

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quality of the act he was doing, or, if he did know it, that he did not know he was doing what was wrong.

Now the nature and quality refers to the physical nature and quality of the act.

You have listened to the very able speech of the learned Attorney and now it is for you to decide on those two issues which I have put before you. You will probably want to retire to consider your verdict. Will you please follow the Registrar.

The Jury retired at 11.37 a.m. to consider their verdict.

The Jury returned at 12.30 p.m.

THE REGISTRAR -- Gentlemen of the Jury, have you agreed upon your verdict?

FOREMAN OF JURY -- We have.

THE REGISTRAR -- How say you? Do you find the accused guilty or not guilty?

FOREMAN OF JURY -- Guilty.

THE CHIEF JUSTICE -- That is your unanimous verdict?

FOREMAN OF JURY -- Unanimous, Sir.

THE REGISTRAR -- Let the accused stand up.

Charles William Ross, the Jury have convicted you of the felony of murder and it is my duty to ask you if you have anything to say why sentence should not be passed upon you according to law. If you have anything to say, say it now.

THE ACCUSED -- I wish to make no statement at all, Sir.

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Now the nature and quality refers to the physical nature and quality of the act.

You have listened to the very able speech of the learned Attorney and now it is for you to decide on those two issues which I have put before you. You will probably want to retire to consider your verdict. Will you please follow the Registrar.

The Jury retired at 11.57 a.m. to consider their verdict.

The Jury returned at 12.30 p.m.

THE REGISTRAR — Gentlemen of the Jury, have you agreed upon your verdict?

FOREMAN OF JURY — We have.

THE REGISTRAR — How say you? Do you find the accused guilty or not guilty?

FOREMAN OF JURY — Guilty.

THE CHIEF JUSTICE — That is your unanimous verdict?

FOREMAN OF JURY — Unanimous, Sir.

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S E N T E N C E.

THE CHIEF JUSTICE -- Ross, the Jury have found you guilty of a terrible crime and the sentence the law demands is that you be hanged by the neck until you be dead.

Gentlemen of the Jury,

I entirely agree with your verdict and you are discharged from service for twelve months. I regret I cannot exempt you for a longer period. It has been suggested to me that it might be useful if I said that it is not advisable for you to talk to people outside about your deliberations. You are discharged.

Ross, you have 30 days in which to appeal.

THE ATTORNEY GENERAL -- There is another Information against the accused on the file of the Court, Your Honour. May I apply for that Information to remain on the file pending till the expiration of the period for appeal.

THE CHIEF JUSTICE -- Very well, Mr. Attorney.

THE ATTORNEY GENERAL -- As Your Honour pleases.

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