

IN THE High COURT

AT \_\_\_\_\_

EAST AFRICA PROTECTORATE.

CRIMINAL CASE No. 55 of 1909.

Prosecutor.

Brown

Accused ...

James Edward Stocker

Date of issue

Date of hearing

Charge

I Certify that this is a true copy of the original.  
M. A. Anderson  
1st 10 09

27. VIII. 69.

Cor (Sgd) A. T. B. Carter.

Crown Advocate for Crown.

Prisoner unrepresented.

Charge of simple hurt added.

Charge read over and explained.

Plea - not guilty to both charges.

(Sgd) A. T. B. Carter.

C. W. Martelli.

H. A. Bennett.

Thomas Coulson.

R. E. Hale.

A. A. LeSai.

JURY

Chosen Fore-man.

JURY SWORE:-

Crown Advocate opens.

MORDECAI HULLYER duly sworn states:- Corporal East Africa Protectorate Police, English Christian stationed at Salcebi.

On August 3rd there was a public dinner held at Railway Institute I was on duty to regulate traffic from 7 p.m. until guests departed. Guests departed between midnight at 12.30 a.m.

After all traffic had departed I reported to Inspector McClymont that all traffic was clear. 12.30 a.m. I conversed with him for some time this was at the back of the Institute. I looked through back door and saw a little trouble between Mr. Stecker and Mr. Imbert of Norfolk Hotel who was serving the dinner. Stecker had a bottle of liquor in his hand and Imbert was trying to wrest it from him.

He did not succeed but emptied contents of bottle on the floor while Stecker was still holding the bottle. Inspector McClymont and myself, then went into the Institute





I could do. Only attraction was you four gentlemen remaining. I did not stay behind on purpose to show feats of strength. We were going combined tricks you were trying to pull my finger apart and lift my hand from my head. I think I asked you to lift my hand from head. Conversation was so ordinary I cannot say for certain. As far as I can guess others left at 8 a.m. I had no watch. Outside you said "I will show you a trick in wushu". We were then standing talking. I do not remember saying, "I am good at gu gitou" You did not say "I knew nothing of gu gitou but I am good at catch as catch can". I don't remember your going to fetch bicycle. You had nothing in your hand when the row started. I did not throw you down on your head. I put two first fingers of my right hand up your nose. I did not put any fingers into your eyes. It is possible that with two fingers in your nose you can bite mine. Blow that rendered me insensible was left temple high up. I stood on my head on table in Institute. I failed twice at a short arm balance as my belts were too tight. I had no cause to think you were prejudiced, against me except that one night when persons were being turned out of Stanley Hotel. Several men outside 12.15 a.m. disorderly. I was informed that Stecker had told Mc Glynn I was over officious. I did not see Stecker that night.

At the Chinese Institute another night I stepped some trouble. I am not sure whether it was another night or same night. You did nothing at the Institute except ask me what was the matter. I warned people that if there was trouble I should arrest them. I did not hear people say "we will let him out" you came up immediately after they dispersed.

I don't think your reports told me would make me have animosity against you and not you against me.

I always saluted you I never said 'good morning'

Evid. pp. 5, 6, (5)

I think bloodstains see on arms as I put my arms round my face when you caught me. Blood goes over your clothes if you bleed against arms.

Blood on my face does when I was trying to push you off I cannot remember how you bit my nose with my fingers on yours.

Read over correct. (Sgd) A. T. B. Carter.

FREDERICK LOUIS HENDERSON duly sworn states - L.R.C.R. M.R.C.S. Medical Officer S. A. P. National Hospital about 5.30 a.m. on morning of August 4th I examined Corporal Hellyer I found lacerated wound on nose. Portion of tip, septum and left nostril missing. Two black eyes, eyes too swollen to examine, wound on left eyelid, superficial skin wound one inch long. Two contusions on face one on right cheek middle of cheek. one on left cheek bone, skin was broken. Scratches etc on top of head such as you would get off a head. Left thumb nail torn at the root. Slight wound on right wrist - no wound on right thumb.

Portion of left nostril missing it will not grow. Very difficult to say how wound on nose was caused - It might have been caused by a bite. Injuries to eyes could have been caused as described by Hellyer. Hellyer came into Hospital on August 4th and left on August 12th. Eyes are not quite right yet, I don't find them seriously wrong I think they will be quite all right. I did not pay much attention to the blood.

11. There was a very severe blow on left cheek bone I cannot state definitely whether it would have caused insensibility I found no mark of blow on temple.

Disfiguration I think will always be - I think a slight scar on nose is a serious disfiguration.

Read over correct. (Sgd) A. T. B. Carter

John

Evid. pp. 7, 8, (8)

JOHN MC CLYMONT duly sworn states Inspector Police

Nairobi -

On August 3rd on duty at Institute I left about mid-night I saw Corporal Hellyer about time I left I spoke to him - he was on duty - when I left I think 5 persons inside accused was one of them. They were talking noisily, some under influence of liquor - I think Stecker was, he was excited over a minute. I produce Exhibit 2 given to me by accused.

I think I told Hellyer at the Institute that he could go. I went to your house next day at 2 p.m. I found you injured. You appeared to be upset. Face was considerably disfigured. Abscess on right temple skin. Cut I think about right eye, several small scratches on face mostly considerable swollen.

Headkerchief (?) was shown to me by accused same state as it is now. Your nose bleed that day - eyes were blood shot several small pieces of the eyelids. One black eye.

I remember to hear making a report on Hellyer's indiscretions. I can't remember words you used. You may have said he ought to be more discrete in his line a crowd that was the effect.

Read over correct.

(Sgd) A. S. J. Carter

WILLIAM BILLINGS duly sworn states:-

I was at Railway Institute on August 3rd handing drinks round to visitors and guests. Liquor was supplied with the dinner. Free drink was not served at bar afterwards. At 12.30 five people left included self Stecker and Hellyer. I left about 2.30 a.m. I left with Stecker and Hellyer. I closed the Institute - Last hour or so they had been talking gymnastic feats performing tricks, perfectly unicable. I had been serving drink. Only three drinks were served between

10.30 and 11.30 Corporal Hellyer was sober. Stood on his  
 head on table and did the same on chair. Succeeded  
 Mr. Stocker was slightly under the influence of liquor he  
 knew what he was doing. I parted from Hellyer and Stocker  
 at the top of the stairs. They turned to right and I to  
 the left.

A man who I think is not sober if he has had  
 a drink.

I called Mr. Stocker and I did not see him for  
 some time. I saw him when he was under the influence  
 of liquor. He behaved as if he was  
 drunk over board.

(Sgt) A. V. S. Carter.

Part 2 (Sgt) Carter My first state of mind with live  
 shot bullet to shoulder lives in a house early hours of  
 night with I heard Police whistle. In direction of Institute  
 I saw a man. I heard whistle for <sup>Times</sup> ~~whistle~~ as if  
 it was interrupted at the point of blowing sounded as if it  
 was a very low note. I came out of bed and went to  
 the door. I went out with children to <sup>see</sup> ~~see~~ Institute. We  
 found a man in the street. I could not recognise him.  
 He said "where I was if you want  
 me." I said "I'll be all right. Oh, chap, I don't want you."  
 He turned round and ran back at the  
 door of the Institute. I searched for his whistle and  
 found broken chain. His face was all covered with blood and  
 he could hardly breathe through his nose. I went for Police.  
 I immediately left a man (Sgt) native askari. Another  
 man I saw to take Hellyer to Police Station I found  
 Hellyer's overcoat and bicycle pump ten or 15 yards from  
 where Hellyer was lying.

Man at gate held his head down. I cannot say if he  
 was holding his face or not.

Send over correct. (Sgt) A. V. S. Carter.

Evid. pp. 9, 10, (8)

JOSEPH FINCH duly sworn states European Constable at Nairobi - On morning of August 4th I was on duty at Police Station and report was made to me I proceeded to Institute just outside the gate I saw Corporal Hellyer lying on his back - I asked him "What is the matter?". His face was smothered in blood and dust. He could speak. He seemed dazed could not see where he was going. I obtained a rickshaw and took Hellyer to Hospital. I received report shortly after three, nearly 5 a.m. before I got Hellyer to Hospital. I reported to Mr. Glyment after leaving Hospital. On my way down at 6 a.m. I met a man I took to be Stocker riding a bicycle up towards the hill. I shouted "Mr. Stocker" the man did not answer.

(11) I had heard several people say Hellyer would get into trouble. I have heard people say that they thought he was too efficient. I do not think he stayed unnecessarily about. A policeman is likely get knocked about.

Read over correct.

(SG4) A. T. B. Carter.

Prosecution closes.

Examination of Accused.

You have heard evidence against you do you wish to

*444* explain anything about it?

Ans. I wish to make a statement on oath and call witnesses

Read over correct. (SG4) A. T. B. Carter.

I hereby certify that the above was taken in my presence and hearing and contains a full account of the examination of the accused.

(SG4) A. T. B. Carter.

JAMES EDWARD STOCKER duly sworn states - Assistant District Commissioner E. A. P. and the accused in this case.

After Roosevelt dinner on August 3rd I stayed behind talking to some friends. Shortly after Corporal Hellyer

came in. In course of things he started gymnastics. Later  
 on my friends left. We sat talking for a short time. Finally  
 leaving Institute at about 9.15 a.m. all quite enjoying no  
 trouble. Billings left leaving Hellyer and myself together.  
 I left Hellyer at corner of Institute nearest the Railway  
 went round behind Institute to get my bicycle, brought it  
 back to where I had left Hellyer and went up hedge a bit  
 towards gate of compound and loaned my bicycle up against  
 the hedge. Noticed tyre soft took of my pump. Hellyer came  
 up and spoke to me. He said "I know something about ja jit<sup>ku</sup>  
 I said "I know nothing about it, I know something about  
<sup>Lock</sup> ~~Can~~ <sup>Can</sup>. Almost simultaneously, we got into scuffle. I got  
 my right arm somehow pinned behind my back. We walked about  
 like this for some time. I was trying to free myself. I got  
 a trip and a blow on my head. I came down on my right  
 forehead. I was a little dazed at the time. When I recovered  
 myself. Colonel Hellyer was across my chest. Had a pre-  
 fallen (both our heads) on the ground. I thought this was  
 all over. I laughed and said "as you don't" and treated him  
 over with a leg and a <sup>Lock</sup> ~~mark~~. Left hand across shoulder and  
 right foot behind knee. That put me on top. I pressed his  
 down and pressed myself up on my knees, as I got on my  
 knees and was about to leave the house - Hellyer brought  
 held of my nose. shoved a thumb into each nostril fingers of  
 each hand into the eyes. I said "Let go of my nose you  
 dirty cad". He pulled me forward towards him I lost my  
 balance. I had to press my hands on the ground to keep my-  
 self up. I took my hands off the ground to punch him. I hit  
 him once or twice. The pulling on my nose made me lose  
 my balance again. Blood was gushing out of my nostrils and  
 down my throat inside. I was in danger of being suffocated.  
 I pressed my hands on his eyes. The more I pressed the more  
 he pressed on my nose and eyes. I was nearly mad with the  
 pain. I let his eyes alone and fell forward, came in contact







Evid. pp. 17, 18, (15)

BARNAN and self. As far as I remember feats of strength were discussed. Feats of strength and balancing tricks done by Corporal Hellyer. Party was quite sober.

IX They were sober to my idea there was nothing that night to prevent my remembering.

XI I do not remember Mr. Imbert doing anything. Mr. Imbert is barman of Norfolk Hotel.

Read over correct. (Sgt) A. T. S. Carter.

WILFRED STEWART AKERS, duly sworn states Clerk Land Department U. S. P. present at Roosevelt dinner stayed on afterwards, left between one and two. Stecker, Hellyer, Stewart, Brumbridge Barnan Imbert and self. I remained with Stewart and Brumbridge and talked with Stecker and Hellyer performed feats of strength and we went home. Every one was absolutely sober. Discussion between Imbert and Stecker. Imbert wanted to upset a bottle of wine and Stecker said it was a waste and tried to prove him.

XI Imbert is in Court.

Read over correct. (Sgt) A. T. S. Carter.

AUGUSTUS IMBERT duly sworn states - in charge of bar of Norfolk Hotel. I was working at Roosevelt dinner. Norfolk had entered and was serving drinks. Dinner finished about midnight. Certain people stayed on I among them. Stecker, Hellyer, S Land Office, Billings and self. All were sober in my opinion - I found Stecker with a bottle of wine I tried to wrench it from him. I think red wine. My opinion was that of a man drinks red wine on whisky and soon it makes him drunk that's why I took it away.

XI. It takes him drunk or sick as a rule, I have considerable experience I think it would have upset Stecker altogether. It would have made him drunk I did not say "you have had enough" I made a statement to Police, next

Evid. pp. 18, 19. (14)

morning. I do not think I told Police that I told Stecker he had enough. I knew Stecker had been drinking whiskey as I served him myself, that was one of three drinks I served. I gave evidence to Maturick. (Evidence part 1A) I do not think I told Stecker he had had enough. He was under the influence of liquor everybody was. Stewart, Brunsidge and Akers were I cannot say Corporal Hellyer he was not at dinner. Stecker was ambive.

Re BK. If three or four drinks make people under influence every one was. I do not know what each drank as bottles were dished out and people helped themselves. I saw Billings drinking - I did not see Hellyer drinking. I went to back where liquor was kept. I saw Hellyer there - People who were not at dinner got drinks there.

URT. I did not charge for the three drinks I served after dinner. I left Hall between 1.00 and 1.15 they were all talking quietly then.

Read over correct. (Sgt) A. C. H. Carter.

JOHN BRIGGS duly sworn states traveller on business. I remember party going to Geese Institute & Co. Ltd. She or he went inside I was waiting to take her was rudely turned out by an Indian. Retaliated and Hellyer came up and said he would run me in I complained to Stecker who came up. Hellyer would not listen to me. I may have heard voices saying "Blot him out" Stecker told us all to go away you noted in interest Stecker of peace. I know at 12.00 we were outside <sup>Stanley</sup> Hellyer came up we left, as far as I remember exit quiet.

Stecker and I noted in way of peace I did not think about disobeying him.

RE. I do not remember how you said we were to go away. I got my money back. You told me to - In order on your part.

Read over correct. (Sgt) A. C. H. Carter.

Defence closed.

Stecker addresses.

Section 28 I. P. C.

Chell - Hellyer threw him.

Scar on eyelids. bleed on tunic. Drink.

Crown Advocate replies.

Stecker on top on attack.

Whistle.

Judge sums up.

Hurt or grievous hurt for jury on Hand-reen's evidence

Action admitted.

Defense self defense.

Need not believe either story Crown has to satisfy  
you that they have made case.

Certainly drink taken.

Medical evidence.

Blood on coat.

Mordecai Hellyer recalled by a jurymen with consent  
of Judge and parties.

On same oath.

I had two drinks between 7 p.m. and 8.30 a whisky and  
soda at the back before the dinner was over. I had a drink  
when I saw Mr Clyment at 12.30 about. I had no drink between  
12.30 and 2.30 I am sure of that. I succeeded in doing two  
short arm balances I failed in a third on table.

Read over correct.

(Sgd) A. T. B. Carter.

Jury retire.

Jury return 4.35 p.m.

Verdict.

Not guilty. (Sgd) A. T. B. Carter.

Prisoner HIRAKHWA discharged.

(Sgd) A. T. B. Carter.

Genl

34233

Sat

C	3
R	4
D	

*[Handwritten signature]*

DRAFT. V.S. Conf.

*[Handwritten signature]*

~~July~~

Sir P Girmand

5 Nov. 1914.

MINUTE.

Air

- Mr. Parkin 1/1
- Mr. ~~Butter~~ 2
- Mr. ~~W. Read~~ 2
- Mr. Fiddes 3
- Mr. Just
- Mr. Cox
- Mr. C. Lucas
- Mr. F. Hopwood
- Mr. Seely
- Mr. Crewe

*[Handwritten signature]*

I have the honour to  
 ack. the receipt of  
 your  
 Sir Percy Girmand's Conf.  
 Dec. 1 of the 25<sup>th</sup> of  
 Sept. relating to  
 the ~~transmission of~~  
 copies of the ~~minutes~~  
 proceedings in which  
 Mr. J. E.  
 Mr. J. E. Stocker, took  
 an active part ~~in~~  
 in the ~~Conf.~~  
 to inform you that