

And (sic)

To save time I have
assumed that you ^{will} agree to
the course proposed. I therefore
send on with the papers a
submission ready for them
when signed by you.

15340

GOVERNMENT HOUSE,
NAIROBI. REC'D 21 MAY 1910
COLONIES EAST AFRICA.

EAST AFRICA PROTECTORATE.

April 23rd 1910.

No. 250

(Part 2)

My Lord,

I have the honour to transmit herewith copies of the files of Court in connection with one Xilunzo wa Kaaohgi, who has expressed a wish to petition His Majesty the King for remission of the sentence of death passed upon him by Judge Booth-Carter, upheld on appeal by the Court of Appeal for Eastern Africa, and subsequently confirmed by me with the concurrence of my Executive Council.

Petition
Files

1. The murder described by Judge Carter as deliberate and callous one and the accused belongs to a dangerous class of uneducated Wakanas living near Machakos, who prey upon the uneducated natives coming into the Station.

2. I forward the petition in recognition of the right of every person subject to me under the protection of His Majesty to appeal to Him, but I must recommend that the law be allowed to take its course.

I have the honour to be
Your faithful and humble
obedient servant,



GOVERNOR.

THE RIGHT HONOURABLE

THE EARL OF CREWE, K.G.

SECRETARY OF STATE FOR THE COLONIES

DOORING STREET, LONDON S.W.

IN HIS MAJESTY'S COURT OF APPEAL FOR EASTERN AFRICA.
AT MOMBASA.

Appellate Side.

C O
15340

Criminal Appeal No. 3 of 1919.

(From original sentence in Criminal Case No. 10 of 1918 of H.M.

High Court of East Africa at Mombasa).

Kilonzo wa Kasungi.....

Appellant
Original
Accused No. 2

versus

Crown..... Respondent.

J U D G M E N T:-

We are of opinion that ^{under} the circumstances found by the learned Judge was a probable consequence of Appellant's act and that the case falls entirely within Section III of the I. P. C. which makes the appellant liable for the act committed by a person in carrying out the conspiracy of theft.

It has therefore been rightly found guilty of the murder and we dismiss the appeal.

(Sgd) R. W. Hamilton
President of Court.

21. 3. 19.

I certify that this is a true copy of the original
Sd/- Thos. A. Hamner
Deputy Registrar.
24. 3. 19.

IN THE HIGH COURT
AT NAIROBI
EAST AFRICA PROTECTORATE.

Criminal Case No. 78 of 1930

Prosecutor

CROWN

Defendant

I. Kibara wa Muriu

II. Kilongo wa Muriu

Place of Issue

Place of hearing

Charge

Verdict :-

At Mwachakos.

21st February 1940.

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

In v. H. Mwanza for Crown.

Prisoners unrepresented.

KITOLA WA NUNDA, Mamba of Kilungu, Mwachakos. } Present
FIRST ACCUSED.

KILONZO WA KASONGI, Mamba of Mwachakos }
SECOND ACCUSED.

Charge read over and explained to Kitola.

Pls. I and II. (Sgt) A. T. B. Carter

Charge read over and explained to Kilonzo.

Pls. I and II. (Sgt) A. T. B. Carter

(Sgt) A. T. B. Carter.

The prisoners pleaded as a matter of fact:

proceeds with.

Assessors.

Mwathendo wa Mwachakos, Mwathendo,

and the wa Mwachakos, Mwachakos.

Rashid bin Kameo, Mwachakos.

Mwachakos.

Crown opens.

ALI JABU ALI - In all.

ALI JABU ALI - In all.

Major, S. A. Police Station: Mwachakos. A few months ago I reported a death in the town. Sergeant Munda to search for accused, they were brought to the Station, I searched them. Kilonzo had a blood mark on his ear and on his khaki shirt. Complacently took off mark on ear Ex. I. Trousers are Exhibit II. Sergeant Munda produced knife Ex. III. which had blood on it. I saw Corporal of guard undress Kitola and find many ropes in silver on him. Kitola pointed me out a place in the bush where

where there were Rs.21/- covered with paraffin.

XX. Kitola:-

It was Kilonzo not Kitola who had the nine Rupees.

XX. Kilonzo.

No questions.

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

NDUNDA WA KITABI duly affirmed states Mamba (Captain Sergeant E. A. Police stationed at Machakos. About two months ago, Sergeant Major told me to investigate a man killed. I went to house of Kitola's mother I found a dead man there, I did not know who he was. I found a stick at back of house (Exhibit 1) broken at the time as it is now. I had two men, Mabilambi and Mabilambi with me. I saw dead man had six knife wounds. I know Sikak belonged to Kilonzo he always walked with it. We went towards Kilonzo's house on the slope and saw both accused coming down. They were near all the time since we were sitting on slope. When they came we were up I examined them. They had wounds. I took Kilonzo I took his knife from pocket and found blood on it. He said "I killed a man yesterday at night". I tied up Kilonzo with a belt. I took the stick with me to make him tell I found Rs.9/- in Kitola's bag offered me Rs.9/- to let them go. I said I must take you to District Commissioner. I brought them to Sergeant Major then Rs.9/- were found on Kilonzo and blood stain on his car and blood on his trousers. Exhibit 1 was broken when I arrested the accused.

XX. Kitola:

It is true that you offered me Rs.9/- to let you go.

XX. Kilonzo.

No questions.

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

where there were Rs. 2/- covered with mud.

XX. KILOLA:

It was Kilonzo who killed the man. I saw him
 lupees.

XX. KILONZO.

No questions.

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

MUNDA WA KITANI duty officer states Mamba mentioned
 Sergeant E. A. Police stationed at Machakos. About two
 months ago, Sergeant Major told me to investigate a man
 killed. I went to house of Kilela's mother. I found a
 dead man there. I did not know who he was. I found
 a stick at back of house (EXHIBIT 1) on the wall at
 the time as it is now. I had two assistants, Muli and
 Mabilambi with me. I saw lead and bullet marks on the wall.
 I know Kilek belonged to Kilonzo he always walked with
 it. We went towards Kilonzo's house at the top and saw
 both accused coming after. They were then sitting down
 we were sitting on stone. They were then standing up.
 I examined them. They had no marks on their bodies.
 Kilonzo took his knife from Kilela and held it about
 on it. He said "I killed the man who was killed".
 I tied up Kilonzo with a cord. I took him to the station
 to make him tell I found the man. He told me they offered
 me Rs. 9/- to let them go. I said I must take you to
 District Commissioner. I brought them to Police station
 then Rs. 9/- were found on Kilonzo and also state on
 his car and blood on his trousers. Exhibit 2 got
 broken when I arrested the accused.

XX. KILOLA:

It is true that you offered me Rs. 9/- to let you
 go.

XX. KILONZO.

No questions.

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

SUDI

SUPV WEN KILVUS, duly sworn states Islam Mawana, Police 195, stationed at Machakos, about two months ago I went to house of Kitola's mother with last witness. I saw a dead man there inside the house lying on the floor. I saw stick (Exhibit 1) on the floor. It was broken then as it is now. It belonged to Kitola I saw him sell it on the market. I knew two accused. Kitola lives in his mother's house. We went to Kilonzo's house we arrested two accused about 5 minutes from Kilonzo's house. I found Kilonzo with a bloody knife. He said I killed a goat yesterday at noon. We tied them up. I hit Kilonzo with a stick to make him tell. I searched Kitola and found three coppers on him. Kitola offered us nine coppers to let them go. We took them to Sergeant Major at 7.35 a.m. in Kilonzo's house there was a blood stain, at first with no sand on it but afterwards after they had been at police station there was sand on it. Accused did not assault us when we arrested them.

Kitola XX.

I am sure you offered us coppers to let them go. We did not beat you hard we only pushed you when you refused to follow us.

Kilonzo XX.

No questions.

Lead over correct. S.I. V. T. M. Carter.

MUNCILA WA LABIA duly sworn states, Mamba Heathan, of Kijunga. About two months ago I came to Machakos to pay hut tax I brought \$8.15/- I came to town about 5 p.m. I found the office was closed so I went to sleep at Kitola's house. I knew him before. I knew Mutiova, he came and stayed at Kitola's he came after I came six days after. I gave my money to Kitola to keep and he could not give it me back. I was all time at Kitola's. Mutiova, Luta and Mumbua came. They were bringing hut

tax

(4).

tax. I do not know how much money. Mutlovou had a bag and Mumbua put his money into Mutlovou's bag. I did not see that myself. Kitola and Kilonzo saw the three Mutlovou, Lutu and Mumbua about 3 p.m. at Kitola's mother's house. Kitola and Kilonzo came inside stayed a little while and then went away. Lutu went away to sleep at another house. Three of us were left with Kitola's mother. I slept with Mutlovou, Mumbua slept some little way from us.



All our feet out side the house. (Witness points to floor, showing the place of the struggling of feet. I saw Mutlovou held by [unclear] away I tried to get up but I was [unclear] fell down I was hit on the [unclear] followed them. I saw [unclear] with a knife I saw that in the night I saw Mutlovou [unclear] his belt [unclear] next morning [unclear] Mutlovou was strangled I said "Call Lutu". [unclear] said "I can't make a noise at night". Mumbua went to call Lutu. Mutlovou was asked who cut him he did not know it was Kitola". Mutlovou died [unclear] I can't say at what time the matter happened it was mid night and all were asleep. I found stick (Exhibit A) in house in morning it was not then broken.

XX. Kitola No questions.

XX. Kilonzo. I saw you with Kitola about 3 p.m. Road over correct.

(Sgd) A. T. B. Carter

MWAMBWA WA KITOLA duly affirmed states Mwanasheheni
 Mwanasheheni I remember Mwanasheheni about two months ago.
 I came with Lutu and Mutlovua. We came to bring this
 tax I brought for 5 date (20/10/54). Tax for 16 date
 Mutlovua brought for 16 date. We came in at noon
 on Sunday and the office was closed so we could not pay
 the money. We meant to sleep with a Swahili called
 Mbaraka; but Mutlovua took us to sleep with his aunt
 Kitola's mother. Mutlovua and I put our money in
 Mutlovua's bag. Lutu kept his own money. We saw two
 accused that day at two p.m. near Kitola's mother's
 house. Lutu stayed at Mbaraka's. I and Mutlovua and
 Mungela and Kitola's mother slept at Kitola's mother's
 house.

I was asleep and I saw a sleeping of Lutu and
 saw Mutlovua at dawn. I saw Lutu with a stick
 and I saw him whispering with Mutlovua. I saw Lutu
 put to get a stick. I saw Mutlovua and Lutu
 after the persons I saw the persons I saw the
 accused with my own eyes. I went to call Lutu and told
 him. Lutu said "We will be taken to the prison". I
 returned and Kitola's mother came to make a
 light. At 1 a.m. Mutlovua died. Mutlovua said "I will
 die now as I have been stabbed by Lutu".

XX. Kitola's questions.

XXI. Kilonzo no questions.

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

(LUTU, MUTLOVUA AND MUNGELA)

Intro - A. T. B. C.

NDILI WA NGILI duly affirmed states Mwanasheheni.

I am mother of prisoner Kitola. I own a house in
 Machakos. I remember two months ago three Mwanasheheni
 sleeping.

sleeping at my house, Mumbua, Mungela and Matlovoa. Kitola and Kilonzo came to the house about 11 p.m. and then went away. We all went to sleep. I saw Kitola and Kilonzo come and cut Matlovoa's money belt and when Kitola caught hold of the belt he had a knife in his other hand and the knife inflicted a serious wound on the deceased. That was by chance and Kitola ran away with the money and knife. Matlovoa said "I have been cut in hand and stomach". Matlovoa died at 4 a.m.

I saw pulling belt with deceased. You were with second accused.

No questions. Deal over correct.

(Sgd) A. T. E. Carter.

—L. C. FERNANDES, duly sworn state Christian, Govt. Medical Comdander at Machelos. I remember on December 15th 1900 being called to look at a corpse of a man Matlovoa. I wrote report at the time.

Corps was full grown male healthy looking.

1st wound: - near left eye outside 1 1/2 inch long & 1/2 inch deep.

2nd wound: - left arm near shoulder three inches long, 1/2 inch deep.



- 3rd wound:- left arm 7 1/2 inches below Elnd wound, 3 inches length 1/2 inch deep.
- 4th wound:- left hand wrist outer side 1 1/2 length 3/4 in. deep bone above fractured.
- 5th wound:- back of left hand 2 inches length 1 inch deep thumb and first finger fractured.
- 6th wound:- right hand first ringer 1/2 inch length 3/4 inch deep.

Man was young about 20 years of age and well built? no marks on body except above wounds made by steel knife or sharp cutting implement. Kikongo, I would be so. Death was caused by loss of blood. I cannot say if any arteries severed. I examined body about 3 a.m. Man had probably been dead 4 or 5 hours.

I examined at road Kilonzo the number about 300 a.m. On the left ear he had a blood of 1/2 inch a paper slip over it. He had black tery jersey and no other clothes.

- XX.Kitolo No questions.
- XX.Kilonzo No questions. (24) A. J. Carter read over to

PROSECUTION PROSIS.

Statements of A caused by ... after

ADMIN TO PROSECUTE

- Q. Kitolo was ... against you do you wish to say anything to explain it?
- A. I have something to say, I speak the truth. On Sunday I and a Mumba Mgela went for a walk Matiova case and I and Mgela went to Kilonzo to make shauri to steal the rupees from the Mumba. We saw Kilonzo at market and Kikongue Kikongue left us and

(8)

and came to the home. Kilonzo went to buy oil. We then came to our village. Changed Kanzu for coat. I and Kilonzo went away. Went to Kilonzo's sat down. Left Kilonzo's and got to my village at 11. p.m. Kilonzo gave me a knife I went and tried to feel for Mutiovoa's belt. Mutiovoa caught my hand. He had belt round his neck. While I was cutting the belt I did not know I was cutting his body. When I had cut the belt I ran away. We divided money and buried some. Kilonzo went to sleep at his uncle's and I slept at Kilonzo's father's house. Next morning we were arrested. We did not all admit in court that we were. I did not say anything and I did not say anything until this I was only cutting the belt.

I hereby certify that I have read and heard my presence and hearing and confirmed it as true record of the statement of the accused.

(Sd/-) A. T. B. Carter.

Kitola wa Karungu - do you wish to explain any thing? I - On Sunday I was at home and called my goat and went to the field at 5 p.m. and came to market and saw Kitola and Mita. They were coming to the place to take a share for stealing money. He said "What? go to buy gun?" I went to buy they met me and we arranged share and I agreed. We went to Kitola's he took off his gun. Kitola went inside house with his mother and then came out without her. We arranged we should go back and take rupees. We went to my house and fed then left my house and went to Kitola's house and we both went in - We each had

(U)

a stick, very small house. Kitola said "where are they sleeping?" One had gone. I caught Kitola's goat we went out. I said "Let us go", Kitola said "I will not leave the money the Mungwa has there". Kitola said "Give me your knife". I gave it him he went inside the house. Kitola gave me his stick. I remained outside with two sticks. I heard say "MVA" and a tink of rupees and then I ran away as far as here to Noma (about 80 yds.) I waited for Kitola. I heard "MVA" again I saw Kitola coming again he went another way. He did not reach my place. Kitola said "I have got the rupees" and he showed them. He gave me a knife and nine rupees. Kitola slept at my father's house I slept at my table's he did not tell me he had killed the man. I sheathed the knife without realizing it. We were arrested. I thought Kitola had only Rs. 13/- We were much beaten. Kitola went with Sergeant Ndundu who beat him and he then said "I have Rupees 21/-" we were handcuffed. We were stripped and our clothes torn. Kitola showed where he had buried money. We were three days in Gaol and on fourth were brought to Court. I was told to pay Rs. 21 I did so. Accused told truth I did not tell a true statement. And we were told to wait for the Judge. The whole sum was Rs. 39/-.

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

I hereby certify that the above was taken in my presence and hearing and contains a full and true record of the statement of the accused.

Both accused say we have no witnesses.
Judge sums up.

ASSESSOR.

MATHENDU:- It is true knife is Kilonzo and Kitola went inside his mother's house and cut the man who had the rupees and Kilonzo ran away. The offence was committed by Kitola.

NGOTHI:- It is true knife was Kilonzo and he gave it to Kitola because he was afraid - Kitola went in as it was his own house.

DASHID BIN HAWD:-

Both accused made a shari. They went together to steal they went to where offence took place. Kitola went in but Kilonzo remained outside. Kitola talked to his mother. Both returned. Accused No.1 went in accused No.2 stayed out to prevent any one coming. Accused No.1 stabbed the deceased and the Accused No.2 ran away. Offence was committed by the one who had the knife.

1891 A.T.H. Carter.

EVIDENCE:-

On Sunday December 12th 1909 three Wakamba - Mutiovoa, Lutu and Mwambua came into Machakos to pay mil tax. Mutiovoa had Rs.27/- and Mwambua Rs.13/- Lutu probably Rs.48/- They found the District Commissioner's office closed and so decided to sleep the night at Machakos. Lutu slept with a Swahili but Mutiovoa and Mwambua slept at the house of the mother of one of the accused Kitola, who was also Mutiovoa's aunt. Mwambua gave his hut tax to Mutiovoa to keep as Mutiovoa had a bag. Another Wakamba named Mungeta was also staying in the hut.

The

(11)

The two accused came to the hut in the evening and learnt about this money - they appear to be counting their cupidity was excited and they decided to steal the same. They stayed at Kilonzo's house until about 11.00 p.m. when they approached the hut. They each had a stick and Kilonzo was carrying a sheath knife known as a "Sportsman's friend" with a blade of 6 inches. On arrival at the house Kilonzo gave this knife to Kitolo while he himself waited outside keeping guard. Kitolo went in and tried to take the bag or bag from Kilonzo and on his return he was cut in several places on his face, arms and legs. The knife was used in the following manner:

I gather

ble

man not only being the guest of one of the hut but his own relative.

guilty

on perjury.

I am

Curt

Judge

February 1910

Prisoners informed they have 14 days to appeal.

(Sd/-) A. J. D. Carter.

21.2.1910

I certify that this is a true copy of the original
Sd/- Thos. A. Hamer
Deputy Registrar.
5. 3. 1910

STATEMENT OF ACCUSED.

No. 1 in Lower Court.

on Dec: 16th 1909.

---000---

ACCUSED No. 1 asked if he wishes to make any statement states:-

We stayed in the market on Sunday 12th till nearly 4 p.m. We went to my mother's house which is near her shamba. We found some Akamba of Kilungu in her shamba. Kilonzo said to us the Akamba have rupees and said when the Akamba are asleep we will take the rupees. Kifelo said it is no good for us they are not sleeping. Kilonzo said let us go home. We went and stayed at Kilonzo's village till 12 p.m. Next day we went with the stick (produced Exhibit VI) to my mother's house - Kilonzo had a knife and I had a stick at the door of the house.

We made a plan Kilonzo was to go inside and I was to stand outside the door and strike anyone who came out. Kilonzo went inside leaving me outside. When Kilonzo got inside I heard a sound (Inya) twice or an Akamba I went in. I saw a man and hit him on the chest with my stick on the shoulder. I then went outside and ran away and Kilonzo outside Kilonzo followed me. I asked Kilonzo if he had got the rupees. We went along and buried 21 rupees near Kilonzo's home I was given Ru. 5. Kilonzo went and slept at Ndunda's his Uncle's. I returned and slept at Kilonzo's own father Chuli wa Mthuku - in the morning Kilonzo called me to tea next day and then we started off and were caught.

I certify that the above voluntary statement was taken

taken in my presence and hearing and is a full and true record of the same and that no offer of pardon was made by me before this statement was made.

sgd) H. V. Osborne.

Ag. D. C.

STATEMENT OF ACCUSED.

No. 2 in Lower Court
on Dec. 18th 1909.

---000---

ACCUSED No. 2 KILONZO asked if he wishes to make a statement states:-

I stayed at my house at Kilima Kima and killed a goat - We killed a goat at 12 midday I and my wife - When we had skinned it it was 3 o'clock. I stayed till 4 p.m. My uncle came and stayed with him all night. I took a cup and went to buy oil in the market. I saw Kioko wa Nguti askari on the road coming from safari. I saw Kitolo call me from his side when I was at the end. We sat on the road Kioko and Kitolo. I asked Kioko why he had called me. He said I will tell you later. I met him near the Indian's shop. I caught the oil and went his way. I began to return to our village. I forgot Kitolo's words. I came to my house. I said there was food at our house as they had no oil. I said you can go at once - I went to my house. I met his mother in the shamba. He went into the house. Kitolo took off his kangu. He called at the house and a shuka. Then he called his mother. He was in the house. Kitolo said let us go to your house. He did not tell me that any strangers had come to his house. When we reached our place about 6 p.m. Before we reached he asked me for my knife. I asked him what he wanted to do with it. He said he had work to do. He said he would return it next day. I gave him the knife and sheath. After this

This we entered our house. I left him outside. I took off
 my clothes as I wanted to sleep. He called me I went out
 in my jersey only I said I would return. I went out and
 Kitolo said come as our place. I said I would not go to
 the bazaar - He said come as far as the river and then
 return. I said let us be quick as I have no clothes and
 food etc. We came along the road. We reached the road
 about 8 p.m. He said I will give you the knife tomorrow
 go and sleep. I said return it early tomorrow as I want to
 use it. When I got near our house I heard 9 o'clock go.
 I found my aunt asleep and uncle. I went into an uncle's
 house I took my clothes and washed my feet. I got into
 bed and went to sleep. I slept till 9 o'clock I saw Kitolo
 coming I asked why he came every morning I got up put on
 my trousers khaki and jersey. Then Kitolo said come outside
 I said I went till I have had tea - we finished tea - We
 went outside. When he got outside I think he gave me Rs.9
 and my knife - I asked him what the rupees were for. He
 said he would tell me afterward. He said if any one asks
 you where I slept say at your place. I said I could not
 say such things. Let us go far to the bazaar. He said
 all right. I asked where he had got the rupees. As he
 had never given me rupees before. He said if any one asks
 you where I slept say at your place. As we were going we
 met Sergeant Ndundu I had put my knife into my sheath when
 Kitolo gave it me and had looked at it. The askaris
 came out and arrested us. They asked us what we had done
 that night Kitolo said nothing - We were brought to the
 Sergeant Major. Kitolo had Rs.9/- taken from his pocket.
 Sergeant Ndundu asked us what we had done that night - I
 said I only knew that Kitolo came to me this morning when
 he came he gave me Rs.9 and my knife. Sergeant Ndundu said


the knife had blood on it. He asked me where the Rs.9/- were. I gave him them. We then came to Court. Kitolo was asked by Ndunda where the rest of the rupees were he said he had buried them near Kilonzo's - We were taken to the lines and Sergeant Ndunda was called to Court. When he came back he said Swana Mubwa had ordered both to be stripped and we were to go as we were. The clothes were torn. We were then taken to see the rupees place. We were bound together and taken. We came to a place where the earth had been turned over by feet. I saw buried ^{here} Rs.21/- This is my statement.

I certify that the above voluntary statement was taken in my presence and hearing and is a full and true account of the same and that no offer of pardon was made by me previous to the above statement.

Sgd/- G.H. Osborne.

Ag: Dist: Commr:

16. 12. 09.



I wish to petition against the Sentence of death on the grounds that I did not commit the murder, neither was I present when the murder was committed in Kilelo's hut (Kilelo is the name of the other accused). On the Sunday, before the murder, Kilelo came to me at noon, at one o'clock Kilelo took my knife and went away. He came back at 7 o'clock and gave to me again with the knife and said, and told me to trade with the other and to give him the profits.

On going to the market after this I met Sudi and Sergeant Ndandu and was arrested.

Kilelo will confirm this if asked and furthermore he stated that this was the case of Sergeant Ndandu arrested us.

THUMB MARK OF

VITENZO.

achakos,

April 12th, 1910.



Lord Greve presents his humble duty to Your Majesty and begs to submit a Petition presented by one Kilunzo wa Kasongi, a native of the East Africa Protectorate, who is lying under sentence of death for the murder of one Mutiova wa Chango.

The prisoner appealed from his conviction to the Court of Appeal for Eastern Africa, but the sentence of death was upheld by the Court of Appeal, and has subsequently been confirmed by the Governor of the East Africa Protectorate with the concurrence of his Executive Council.

The evidence for reprieve is presented to Your Majesty on the ground that he did not commit the murder and that he was not present when the murder was committed.

Mr

Mr Bonham Carter, the Judge who tried the case, states that the murder was a deliberate and a callous one, and Kajunze is said to belong to a dangerous class of Mahomedan Wakamba.

Lord Cresswell has carefully considered the case, and regrets that he sees no reason for interference with the ordinary course of the law.

By Article XIV of the Letters Patent of October 22nd 1906, the Governor of the Protectorate has been empowered to exercise on Your Majesty's behalf the power of granting a pardon or remission of sentence, and Lord Cresswell is unable to find any reason for interference with that power.

Lord Cresswell therefore humbly submits that the Petitioner should be told that the Petition has been laid before Your Majesty and that he regrets that he has been unable to advise Your Majesty to interfere with the discretion of the Governor in the matter, and that the Governor should

Mr Bonham Carter, the Judge who tried the case, states that the murder was a deliberate and a malicious one, and Kilense is said to belong to a dangerous class of abominable wakamba.

Lord Crewe has carefully considered the case, and regrets that he sees no reason for interference with the ordinary course of the law.

By Article XIV of the Letters Patent of October 22nd 1906, the Governor of the Protectorate has been empowered to exercise on Your Majesty's behalf the power of granting a pardon or remission of sentence, and Lord Crewe is unable to find any reason for interference with that power.

Lord Crewe therefore humbly submits that the Petitioner should be advised that the Petition has been laid before Your Majesty but that he regrets that he has been unable to advise Your Majesty to interfere with the discretion of the Governor in the matter, and that the Governor should



should be informed accordingly by telegraph.

Downing Street,

27th May, 1910.

Grew

Govt 153000 R.P.

DRAFT

MINUTE.

- Mr. Petheram 20/30
- Mr. Burtless 20
- Mr. Pidda 25
- Mr. Shaw
- Mr. Cox 25/30
- Mr. Linton
- Mr. Ho. Gwynn 20
- Col. Selby
- Lord Cross

Lord Cross presents his
 humble duty to you
 Major, who has to
 submit a petition
 presented by one
 change wa Kasangi,
 a slave of the Govt
 who is lying under
 sentence of death
 for the murder of one
 Mutioroa wa Changa.

Lord Cross
 signature
 230-230 of the
 signature on file
 signature
 sent to King 27
 28/30

The prisoner
 affected

appealed from
his conviction to
the Court of Appeal
for Eastern Africa,
but the sentence of
death was upheld
by the Court of Appeal,
and has subsequently
been confirmed by
the Governor of the
territory with the
concurrence of his
Executive Council.

The petition for
reprieve is presented
to your Majesty
on the ground that
Kudunzo did

not commit the murder
& that he was not
present when the murder
was committed —
~~the kind of mistake,~~
~~the~~
Mr. Bonham Carter, the Judge

who tried the case, states
that the murder was
a deliberate & a
cold-blooded one, & that
Kudunzo is said to
belong to a dangerous
class of Mohammedan
Wakamba living near
Machakos in the E.A.,
who prey upon
the weak & the
helpless.

Lord Cresswell has

Genl 15360 Sab

Sent 2:45 pm
JH 28/5

has carefully considered
the case, and regrets
that he sees no reason
for interference in the
ordinary course of the law.

By which one of the
letters Patent of October 22nd
1860, the Governor of the Straits has
been empowered to exercise in Your
Majesty's behalf the power of
granting a pardon or remission of
sentence & to exercise it is unable
to find any reason for interference
with that power.

has since therefore thought
submit that the Petitioner
should be told that the Petition
has been laid before Your
Majesty but that he regrets
that he has been unable to advise
Your Majesty to interfere with the
discretion of the Governor in the
matter, & that the Governor should
be informed accordingly by
retelegram.

DRAFT Telegram

Girmand
Nairobi marshfield
28 May

MINUTE

- Mr. Parkinmes,
- Mr. Butler 28
- Mr. F. Wilson
- Mr. Just. 28/5/5
- Mr. C. Lewis
- Sir F. H. Wood
- Col. ...
- ...

with ref to your ltr 23 April
checking particulars
230 petition of Kikumzo
plegmanas
has been presented to
His Majesty & I regret
that I have been unable
to advise His H. M.
to interfere with your
discretion in the matter

during reading
Tel: m 26/52/08
ack
28/5

admission

and it now remains
fruitless

for you to assist

what course to

proceed ^{residence} having regard

to article fourteen

of the Letters Patent

October 22 1906