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MAY 25 1897

Date 209

1907

May 25

Printing Paper

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(Subject)

Hansel Inland
Admiral & High Court

Letter on ... of ... of ... and ...
of ... and ...

(Number)

McBry

The ... will be ...
There is nothing to be done ...
and the receipt of ...
the office.

MAY 25/6

M & R

21/6

The ... letter
shows that it was a mistake to
suppose that the ... had anything
to prevent the ... from being
sent by ...

M. J. ...

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338

Governor's Office,

Nairobi.

May 27th 1907.

POST OFFICE PROVISIONS

No. 200

(Incl. 2)

My Lord,

I beg to have the honour to submit a Memorandum of the
Appeal preferred to the High Court by Captain Groves against
the judgment of the Resident in the Criminal Case in
which he and others were convicted under Section 142 of
the Indian Penal Code. Attached is a letter containing
the remarks of the Crown Advocate.

The Appeal will be heard by His Honour
Justice Bigham at Nairobi in July next.

I have the honour to be,
with the highest respect,
Your Lordship's obedient
servant.

W. J. ...

Principal Secretary of State

for the Colonies.

Downing Street,

LONDON, W.C.

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18 JUN 07

In the District and Territory of the High Court of Justice at

On the 1st day of June 1907.

Between
[Name] (original defendant)
and
[Name] (original complainant)

The above named parties have agreed to refer an
arbitration to the arbitration of B. J. [Name] and to
submit to him the period of 21 days to be the date of the
award and to pay to the arbitrator a sum of £100
as a fee for his services and to pay the costs of the
arbitration.

The arbitrator has appointed to try the
case under the Arbitration Act of 1901, Section 1, subsection 1,
and has appointed B. J. [Name] as arbitrator and
has appointed B. J. [Name] as umpire and has
appointed B. J. [Name] as referee.

The arbitrator has not yet tried the case and
has not yet made an award and has not yet
appointed an umpire or a referee.

The arbitrator has not yet appointed an umpire or a referee
and has not yet made an award and has not yet
appointed an umpire or a referee.

(1)

(4) The learned Magistrate had no jurisdiction to try the case under sections 223 or 224 of the Criminal Procedure Code, 1908, sections 147, 148, 149, 150 and 151.

(5) The learned Magistrate was not justified in withdrawing or referring the greater charges and proceeding under the Indian Penal Code, section 147 thereby withdrawing the case from the proper tribunal.

(6) Although the greater charges have been found by the learned Magistrate to be justified in law, the case is one of judicial acquittal.

(7) The learned Magistrate was incompetent to try the case having found as a fact that the accused is not a member of the assembly that had been called for the purpose of the offence under section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(8) That the learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(9) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(10) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(11) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(12) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(13) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(14) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(15) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

(16) The learned Magistrate acted in violation of the provisions of section 147, 148, 149, 150 and 151 of the Criminal Procedure Code, 1908.

CROWN ADVOCATE'S OFFICE,

BOMBAY,

MAY 21st 1907.

Sir,

In accordance with the request contained in your telegram to Mr. Hudson, I have the honour to forward a copy of the Memorandum of Appeal which has been entered on behalf of Captain H.S. Drogen.

I understand that Captain Thord Gray has also appealed but I have not been served with a copy of his Memorandum of Appeal.

From the report in a local newspaper I gather that the 'Dor' in Gray is appealing on the ground that the Magistrate had no jurisdiction to try the case. I should be glad if you would inform His Excellency the Viceroy there is no foundation for the suggestion. It has been held in the local press to the effect that the accused persons were prevented from having their case tried by Jury. Although I was of opinion that the case was one which should be dealt with by the Magistrate and would be so dealt with in any other country, I anticipated that such suggestions as are being made would be made and I therefore before closing the case for the prosecution personally asked the accused whether they wished to be tried by a Jury, and also requested Mr. Allan, Counsel for Captain Drogen, to explain to them that if they wished to be tried by Jury I would press for their being committed on charges which entitle the Magistrate to try the case and it was only after they had stated

The Secretary to the

Magistrate.

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2.

that the witness to have the case dealt with by the
Magistrate. I informed the Magistrate that I did not
press the more serious charges.

I have the honor to be

Sir,

Your most obedient

servant,

Sydney MacArthur

CHIEF ADVOCATE