

EAST AFR. PROT.

C. O.  
45954

45954

543

McDonnell G.A.

Complaint against Govt

1915

18 Aug.

Last previous Page.

- Submit complaints & enclose copies resp.
- (1) deprivation of his employment as land surveyor
  - (2) treatment & refusal to concession under title of demogon Spear Saw mills
  - (3) burning of his timber camp farm at Makindu

Two Rivers.

- (1) No doubt the new Survey Dept has affected the practice of licensed - or unlicensed - managers as Govt approval of a license is required for both unlicensed & licensed. It is not clear if the Survey Dept will be able to handle the work of the Survey Dept. It is not clear if the Survey Dept will be able to handle the work of the Survey Dept. It is not clear if the Survey Dept will be able to handle the work of the Survey Dept.

- (2) The forest matter is an old one - we seem to have no papers. The grievance is (1) that the East African Estates Commission deprives them of their part of their timber cutting area & (2) that the Commission gave the Govt free rights

Copy sent to D. J. 701 on 16 Oct 51

Next subsequent Paper.

for  
6784/16

he cuts. I don't think there would be (2),  
but (1) might have been avoided if it had been  
noticed in time.

- (3) The copy of about the location of natives  
from the upper coast estate and the bearing  
of water is sent for info only. The case  
seems to have been one of lack of zeal  
on the part of the J.C.

I copy of all to Gov. in a week for  
a report. Say that he should be  
inf. that his representatives should have  
been sent through the Gov. in accordance  
with the existing rule, which is based on the  
strongest grounds of public convenience in  
order that all communications may be  
fully verified as well as reported on before they  
reach the S. P.

CR 213

at  
8/10/15  
at once.

to J. R.

8/15/15

he cuts. I don't think there is much in (2),  
but (1) might have been avoided if it had been  
noticed in time.

- (3). The Comp<sup>ts</sup> about the eviction of natives  
from his wife's coast estate and the burning  
of huts is next for info. only. This case  
seems to have been one of letters of zeal  
on the part of the D.C.

? Copy of all to Gov. and ask for  
a report. Say that his Gov should be  
wifed that his representatives should have  
been sent through the Gov in accordance  
with the ordinary rule, which is based on the  
strongest grounds of public convenience in  
order that all communications may be  
fully verified as well as reported on before they  
reach the S. G.

R 213

8/10/5  
at once.  
J. R.  
8/27/5

C. O.  
45954

Limeru. British West Africa

18th, August, 1905

544

Sir,

I am submitting to you three different cases of contentions that I have had with the Government of British West Africa to show you how difficult it is for the ordinary individual in this country to obtain any consideration of fair dealing. In cases (1) & (3) I am asking you, Sir, if justice can be obtained, for redress.

I am a graduate of Cambridge, 46 years of age, a married man with 4 children & for over ten years have lived in this country without leaving.

In the case of the Limeru Steam Saw Mills I have endeavoured to show how utterly unfairly land has been given out. We who had sunk our capital in saw mills being forced to make way for people who came two years later; & they getting the land with free timbers on it, where we had been made to pay all forest dues.

Case 2, viz the burning of the lands of the natives here at Makindu, I am only sending the accompanying material to this to show how absolutely arbitrary the Government is.

The 3rd case I am submitting refers to the inconsiderate treatment of taking away a man's livelihood, without offering at the same time any compensation.

It is imagined I think, by the people at home (I am a few years) that the people of this country are considered grantees quite unreasonably. I think perhaps that I have had worse treatment than most at the hands of this Government & am quite content to leave the issue of the cases I have brought to your notice in your hands.

I am, Sir,

Your obedient servant

Wm A. Bena Law

J. M. M. Swell

To His Excellency the Governor of  
British East Africa.

N a i r o b i .

Your Excellency,

For the last five years I have been practising as a land surveyor in this country working on freehold property as I have held no license from the Government to divide leasehold. Till a week ago I have been working as an officer with Mr Gailley on the Voi-Taveta railway construction. While down there I received a letter from my solicitor asking me when I should be free to do a survey, as he had a lot of work in hand for me. On arriving in Nairobi he informed me that under the new ordinance, which came in on June 1st I shall be unable to continue my work because freehold & leasehold property are all put on the same basis with respect to survey. Only 15 months ago I got out a new theodolite at considerable expense & now unless I can obtain some relief, I shall find my livelihood taken away. As I am a married man with 4 small children this new bill will press very heavily upon me.

On the arrival of the present Director of Surveys, I saw him with respect to the proposed ordinance but he recommended me to wait until things were a little more definite as to the precise nature of the new bill which would be introduced. I now find that the bill has been passed during my absence. As before mentioned.

I should like to point out to your Excellency that there has been similar legislation in other jurisdictions where the individuals have not suffered. Two or three years ago legislation was introduced in which persons who do not hold the qualifications recognised by Government are prevented from practising as solicitors. Mr Ghandy however was not suffered. A similar case happened with a dentist here

who can not be restrained from practising.

Of the licensed surveyors there are two, who have been  
examined and do not hold the necessary qualifications.

It is my duty, Your Excellency that I may be put upon a  
trial with these two gentlemen, if necessary proving  
myself by the practical test of a survey.

I am Your Excellency,

Your obedient servant,

(sd) G. H. McDowell.

*Don't collect*

L i m e r a .

28th August 1915.

547

To His Excellency the Governor of  
Natal Africa,  
Durban.

Your Excellency,

I wrote on the 24th ult to the effect that the new ordinance that came into force on the 1st of June with respect to surveys on freehold land debarred me from further practice. Up to the present I have no knowledge as to whether my letter reached you or not.

As I have been working on the Vei-Maktam railway construction & have only left on account of the work there being for the time closed down, I am now waiting to find out if I can continue survey work.

As I am a married man with children I am naturally anxious to get to work as soon as possible.

Hoping for the favour of an early reply,

I have the honour to be,

Your Excellency,

Your obedient servant,

(sd) G. M. McDonnell.



THE SECRETARIAT,  
EAST AFRICA PROTECTORATE,  
NAIROBI.

M.  
In reply please quote  
M.P. No S.12.54/9  
and date

18th August, 1917. 548

Sir,

I am desired to acknowledge the receipt of your letter of the 24th ultimo addressed to the Governor and to inform you in reply that His Excellency regrets his inability to issue a surveyor's licence to you except on the usual conditions. It is always open to you to present yourself for the prescribed examination, if you are not otherwise qualified.

I have the honour to be,

Sir,

Your most obedient servant.

CHIEF SECRETARY TO THE GOVERNMENT.

R. W. McDonnell Esq.,

L I M O R U.



## The LIMORU STEAM SAW MILLS.

In 1905 I approached the Director of Agriculture, Mr A. Linton, to ask if he had any objection to an application for forest land. He refused to grant the land but offered the concession of the timber on the payment of forest dues. A square mile of land, which was taken as a minimum to start with, was roughly measured off under the superintendence of Mr Battiscombe then Assistant Conservator of Forests, and the boundary was cut through the forest. We put up temporary houses, sheds & a saw mill & got our timber, carts & carriages & for two years worked at our business under the style of the Limuru Steam Saw Mills, with a total outlay during that period of about £2000. During this time we had been paying the Forest Office the standard rate for every tree cut.

In 1907 a syndicate was formed at home for the purpose of curing bacon. The Government granted this Syndicate as a site for their factory 2000 acres of land with all the timber on it free, much of which formed part of our concession, & incidentally a lot of this timber has had to be bought back by the saw mills.

It was only after the land had been granted that I heard what had been done & I wrote a letter of protest (copy enclosed) & interviewed the then Commissioner of Lands, Col J. A. L. Montgomery. He quite saw my point of view & confessed that the treatment we had received seemed very hard, but he was afraid nothing could be done. I had an interview with the Governor, Sir James Hayes Sadler & laid my case before him, asking him to do the same for us as he had done for the bacon syndicate. I pointed out to him that a saw mill needed the timber more than a pig curing factory, but he said he was unable to do anything for me. I asked him to reconsider the case & wrote him to that effect receiving the enclosed answer. Since then owing to the timber having been cut out I have had to shift the saw mills to Kandiari (12 miles from the line) where I with the greatest difficulty extracted a license to cut timber from the Forest Officer Mr Battiscombe, who informed me that another concession was unobtainable.

I still fail to see why the Limuru Steam Saw Mills should not receive the same treatment as the Syndicate.

C. M. M. L. all

To the Hon. Commissioner of Lands.

Sir,

I am writing in the name of the Limeru Steam Saw Mills to protest in the strongest manner possible to the transfer of what we consider our rights, to the African Upland Syndicate. We have only today seen a plan of the area to be granted them, but if they obtain what is proposed, (200) will have the land & timber only a few hundred yards from the site of our machine & timber sheds.

Allow me to show a few reasons why such an area should not be granted.

(1) When we first came up here 3 years ago the Railway area was undefined & we did not know that the land we were on was half of it in the Railway Zone.

(2) That we were granted & rented a square mile (a very small quantity of poor bush for saw mills) & if the proposed line is taken we shall not have half one square mile.

(3) That we have sunk over £3000 relying on getting the timber near our mill as was promised when we started.

(4) That as far as we can see on present plans we shall be cut off from our best & nearest timber.

(5) That for the timber on the land that we have cut we must have paid an average Re 100/- per acre in royalties, while we presume the A.U. Syndicate is getting exactly the same thing for a long period at an 1/2 per cent.

(6) That if such an area is granted at all, merely we who have sunk so much capital should have a prior right to people who have not sunk a penny.

(7) That the bulk of the area granted to the A.U. Syndicate had been previously promised to us by Mr Hutchins & Mr Sandford on special conditions for the Railway and ourselves.

(8) That we do not understand by what right it is that a big Syndicate can obtain a forest concession at low rates & that others cannot obtain the same on the payment of considerable royalties.

If the African Upland Syndicate need the land we shall be perfectly ready to hand it over provided that we can have free all the timber on it fit for sawing.

If they are ready to give such an undertaking to the Government together with trespass rights, there will be no hindrance from us.

I am, Sir,

Yours truly,

(Sd) G. H. McDowell.

L i m e r u .

10th November 1908.

To His Excellency, the Governor of

British East Africa

N a i r o b i .

Your Excellency,

Reverting to the promise you gave me of going over to see the title deeds on Submission of Lands, I trust that by now you have been able to do so, thereby satisfying yourself that not only rights which were verbally given us in 1907, but also land which we have actually held since 1908 has been taken away and given to a new owner.

Awaiting the favour of an early reply,

I am, Your Excellency,

Your obedient servant,

(sd) G.M. McDowell.

When communicating on this  
subject please quote M.P. 41/1907.

Governor's Office,

Nairobi,

November 30th 1908.

553

Sir,

With reference to your letter of the 10th instant  
I am directed to inform you that after careful consideration  
of the matters referred to in your letter under reply, His  
Excellency sees no reason to interfere with the action  
taken by the Honourable the Commissioner of Lands.

I am,

Sir,

Your most obedient servant,

Henry R. Bell

Acting Secretary.

G. M. McDonnell, Esq.,

Limuru S.S. Mills,

L I M O R U .

The Office of  
The Commissioner of Lands  
Hailuosi,  
December 7th 1909.

In reply please quote  
No. L 730.

Sir,

Your letter of the 20th inst. was referred  
to the Chief Conservator of Forests, who says that  
no forest land in the direction you name is being  
thrown open for allotment.

He adds that no forest land will be granted to  
you, but you may rest assured that every facility  
will be given to you for the legitimate working of  
the timber in the forest, under such conditions as  
may be enforced at the time.

Yours faithfully,  
The Commissioner of Lands.

*[Handwritten signature]*  
The Commissioner of Lands.

Wm. Donald, Esq.  
Parklands.

M M A F I N D U

Wishes to certify

that the bearer., Hamisi bin Makarani, is now on the  
shamba here and that I have given him authority to obtain

555

certain people to clear land & plant shambas on the land

(sd) G.M. McDonell,

3 - 4 - 15.

*copy of authority given to headman,  
Hamisi bin Makarani.*

To McDonell, Bura.

Makindu

22  
556

15 - 4 - 15

D.C. orders only four men to live on shamba rest to move out  
advise early .

Hamisi,

*Copy of telegram received from Hamisi*



Mrs McDonnell's farm Makindu.

I found 16 natives living on this estate & have ordered them to leave off with the exception of the headman Hamisi bin Makarahi, & the three following who have permission to remain subject to the leasee's confirmation:-

- Pundi bin Juma, Swahili.
- Hamisi bin Hassan "
- Wledi bin Malla "

Edw L.J. Lightbody.

D.O.

Makindu,

14 - April - 1915

*Copy of order given by P. C. Macdonnell*

To the D.O.

Machakos.

Sir,

I have received a telegram from my headman Hamisi on my wife's shamba at Makindu, stating that according to your instructions all except 2 men were to move off the shamba. As I cannot but think the boy to be mistaken I am writing to ask you what was really meant. I was at the farm a fortnight ago & told the boys there that under certain conditions they could retain their shambas. The men at the time complained that one of their huts had been burned down by the police. That this of course was not by your order I feel convinced, but I should be glad of an explanation of the matter. For a long time past I have been trying to induce Wamamba to settle on the shamba, knowing how impossible it is to get labour there unless resident on the property.

I am Sir,

Yours truly,

(sd) G.M. McDonnell.

*Copy of letter from G. M. McDonnell to  
I. J. D. body & ...*

No, 3787/3

District Commissioner's Office,  
Machakos,

22nd April 1915

559

Sir,

With reference to your letter dated 16th instant I have to inform you that on a recent visit to Makindu, a considerable settlement of Swahilis was found North of the railway line there outside their own reserves and were ordered to move back.

I interviewed Swahili Headman Hamis bin Makarani who informed me that he was residing on the estate there and was in your employ. He and three other Swahilis who also stated that they were cultivating your land were permitted to remain subject to your sanction but the rest were sent away with their effects.

I have no knowledge of any huts having been burnt. These people for a long time past in the vicinity of Makindu have caused a lot of trouble and were found to have completely dammed up the river so that it was deemed advisable to order the Akamba away.

I have the honour to be,

Sir,

Your obedient servant,

(sd) L.J. Lightbody.

District Commissioner.

G. McDonnell Esq.

Sira.

File 104.

The D.O.

Machakos.

Sir,

I beg to acknowledge receipt of your letter of the 22nd inst. with respect to the Wakamba whom you moved off the stream. They had my permission to stay there, & it seems to me a decidedly high-handed action for you to enter private land & turn an innocent resident on private property.

If there were any charge against these people surely there should be some legal method of dealing with the situation.

The only specific charge made is that of damming the stream; but as these boys complained to me some time ago that the Indians & the township itself had left them no water in the stream even for drinking, I can hardly regard the charge of monopolizing the water of the river as proved.

My farm is also the lowest on the stream.

With regard to the hut-burning, I did not suppose you would have any knowledge of it, but as the police responsible for it came from Machakos, I thought that perhaps you would like to make some enquiries.

I am, Sir,

(ind) Yours truly,

(Sd) G. W. ~~W. W. W.~~

11/20/44  
15 - 7 - 5

561

O.C.

Mr. [unclear]

Sir,

Those just returned from my farm at Makindya have found that in driving the men away, during your operations of eviction, 8 more huts were burned down. The men also state that the officers who presumably were carrying out your orders, threatened to burn all crops on the land if they attempted to return.

As sure you will agree with me that any attempt at work on land is futile under such conditions, I will make no further attempt until I can get some amelioration of affairs.

Such crops as were doing well in April are now smothered

As I have not received  
letter to you met with no reply I must endeavour to  
action elsewhere.

I am, Sir,

Yours truly,  
(sd)  
G. McNamee

Maothakos

July 26th 1913 562

Sir,

With reference to your letter dated 24<sup>th</sup> inst, I have the honour to inform you that the natives in question are of various characters some of whom had been convicted to quit the neighbourhood of Makindu and to return to the Native Reserve. As they had failed to do so their huts at Makindu were destroyed and they were forcibly evicted. I gave no authority for the burning of the huts on Mr. McDonnell's land there, and as I have already informed him, I have no knowledge of this being done. As however the farm has now remained untenanted for except by natives for several years past I would suggest that a list of the names of the natives tenants be forwarded to this office when it will be possible to locate the people who have your client's permission to reside there.

Under present circumstances the land is the resort of a number of Akamba from Kibwezi & elsewhere who prefer to live outside this tribal jurisdiction.

I have the honour to be,

Sirs,

Your obedient servant,

(sd) Henry Read

District Commissioner

(Draft by D.S.)

Messrs Stevens &amp; Kendall

Solicitors,

Nairobi.

M. 45954/1915. E.A.P.

56

16 Oct 15

563

Sir,

I have the honor to transmit to you the acc. copy of a letter from Mr. G. M. McDonnell with its enclosures relating to the subject the refusal of the Act. Gov. to issue a surveyor's licence to him, the Larnoo Steam Saw Mills Licence and the burning of huts on his estate at Brakenda, and to request that you will furnish me with a report on the subjects referred to.

Answers 67884, 210940, 16

DRAFT.

E.A.P.

No. 761

Sr. Dir. H.C. Belfield.

MINUTE

- Mr. Harper, 12/10/15
- Mr. Bottomley, 12.10.15
- Mr.
- Mr.
- Sir G. Fiddes.
- Sir H. Just.
- Sir J. Anderson.
- Mr. Steel, Mauritius
- Mr. Honor Law

871 45954/1915. EAP

563

DRAFT

EAP

To Vol

to Mr. H. Belfield

MINUTE

Mr. Hester, 12/1/15-

Mr. Bottomley, 12.10.15 f

Mr

Mr

Mr

Mr

Mr

Mr

Mr

Mr

Dear Sir,

I have the honour to transmit to you the enc copy of a letter from Mr. J. McDonald with its enclosures ~~and~~ relating to the subject the refusal of the Port Auth to issue a surveyor's licence to him, its reasons therefor and a copy of a letter sent on an earlier occasion at Trinidad, and to request that you will forward me with a report on the subject referred to.

3

(1915)



2. I have also to  
 request that you will cause  
 Mr. Macdonell to be informed  
 that his representations shall  
 have been sent through you  
 in accordance with the  
 ordinary rule, which is  
 based on the strongest grounds  
 of public convenience in  
 order that communications  
 may be duly verified as  
 well as reported on before  
 they reach the S. G. S.

3. Certain of the replies to Mr. Macdonell's letter  
 are already on record in your Department and  
 are not to be taken into consideration.

Survey License

To Governor

24 July 1915

do

13(?) August 1915

From Chief Secretary

16 Oct 1915 (S. 13454/9)

License to Survey

To Governor

10 Nov 1908

Chief Secretary

30 Nov 1908 (M.P. 41/1707)

(Signed) A. BONAR LAW.