



EAST AFR. PROT
3948

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Office 20
1-13

1914

MR. G. BARCLAY'S CLAIM
FOR COMPENSATION FOR LOSS OF LAND

Summary

States after careful consideration is unable to find grounds that would warrant special treatment.

Previous Paper

22643
13

See 9 notes.

Since Mr Barclay the substance of the claim is that in the event should he have not received in the form of that there are no grounds for special treatment, (in view of the fact that the claim is not a claim for compensation for loss of land.)

and send copy of our letter to you for info.

W. H. C. 3/1/14
P. 3 2 14

W. H. C.
3 2 14

Mr. M - copy to Mr. G. H. C. 1/14
See to Mr. C. H. C. 1/14

Subsequent Paper

22643

P. 10

~~Sept~~

Mr. Harcourt would be glad to have your
 observations on the annexed statement by
 Mr. Barclay, which has been given to him
 and Kimberley particularly on the report

A. Please send on through Sir C. Fiddes and
 Anderson

Hub

23.2

~~Prof. Anderson~~

~~Mr. G. Fiddes~~
~~Mr. Kimberley~~

Simply this is exactly what Sir C. Fiddes says -
 i.e. that Mr. Barclay thought that he was
 best consulting his own interests in
 what he did - + in what his repre-
 sentative did for his cause, ignorance
 of what his representative did does not
 in any way absolve him from
 responsibility for the refusal -

Mr. Barclay seems to have no real
 claim to a pardon: he may have been unduly,
 but there is really nothing more than that
 in it. I wd. do nothing except on the
 Gov's recommendation -

I send to you for counsel copy of these
 notes to enquire whether he is prepared to let Mr. B.
 discuss the "refusal" of land in the High Court -

whether this is any more
likely to be on the whole generally
& L. Kimberly might be asked
to tell W. Barclay that the
Council further with Gov. as
W. B.'s considering the refusal.

Acad

13/12/114

"These are knowledge that any expenditure required
in a case as the highlands" is not considered
in Barclay's recommendation ($\frac{18508}{10}$) as a new
by the Government is with reference to the
original ground land.

Unfortunately the conditions are now
altogether different in the highlands, owing
to the adoption of the auction system, and
it will not be very easy to secure the land
in W. Barclay's favour without letting a
third chance here offered through the
of titles in the least degree.

There is not much information in these
papers about dates, &c., and there is perhaps no
ground for supposing that but for the
the highlands (West India is a particularly
favourite district) the Barclay's wrong would
have remained dormant. Also we do not
know the nature of the title given to the
if we adopt a strict "canon" method
this is inevitable.

? Do you wish to propose to ask
for info on the history of the case
generally & make it clear that we
recognize the difficulty of giving 365
guarantee for auction & the possibility
of giving a handle to other people
who have suffered from the
uncertainty of court order.

and I think that and the delays
also can be shown to the
fact that while it would at the
time have been easy to give to
Barclay the land in the highlands
it is not so easy now that it
has been laid down that Crown
land were to be disposed of by
auction.

G.C.S.

As proposed by Mr. Proctor?

* J.R.

23/II/14

I sh^d make it clear that the Govt. is
not prepared to press the Govt. to recommend
his view. I explained the fact that he
Crawford, on Mr. Barclay's account, refused
the offer of an area in the highlands part of
and the matter. Oct. 24. 2. 14. Ch. 24. 2. 14.
to 24. 2. 14.

399

386

GOVERNMENT HOUSE,

NAIROBI

BRITISH EAST AFRICA

January 7th 1914.

~~EAST AFRICAN PROTECTORATE.~~



No. 26

Sir,

115
39508
B

In reply to your despatch No. 995 of the 19th of November on the subject of Mr. H. G. Barclay's claim for compensation for the loss of land at Kipingoni, I have the honour to inform you that, after very careful consideration of this case, I am unable to find grounds that would warrant me in according him special treatment.

2. The responsibility for the selection of Mr. Barclay's land, which appears for the most part to have proved unsuitable for his purpose, must rest with him alone, while there is nothing to indicate that any steps were taken by him towards verification of the title prior to the conclusion of the purchase.

3. He preferred to waive any legal claim which he may have had against the Government and it may reasonably be supposed that he considered that his own interests would thereby be best consulted. Apart from the fact that this point is not one which could be advanced in his favour the refusal by his representative of an area in the Highlands of the Protectorate and his own election to forego the

THE RIGHT HONOURABLE
LEWIS HARCOURT, P. C., M. P.,
SECRETARY OF STATE FOR THE COLONIES,
BONNING STREET, LONDON, S. W.

* No 39508
Africa No 745

accessions

(2)

the offer of an alternative area on the Coast are, together with the facts mentioned above, sufficient to preclude the justification of the grant of a special allotment in Mr. Barclay's favour.

4. I trust that you will concur in my opinion in this matter.

etc
I have the honour to be,

Sir,

Your humble, obedient servant,

Henry Barclay

GOVERNOR.

Gov. 3948/1914

395
363

~~East~~



~~1914~~
16 Feb 1914

DRAFT

~~Barclay Esq~~

15
3948/13

MINUTE

- Mr. ~~Stanger~~ 4/2/14
- Mr. ~~Barclay~~ 4/4/14
- Sir G. Biddle.
- Sir H. Just.
- Sir J. Anderson
- Lord Emmott.
- Mr. Harcourt.

No 39508
 African No 998
 No 3948

Col. J. G. ...

Copy to ...

casions

with reference to the letter
 of 3rd Oct. of the 19th
 of Gov * ...
 decided by Mr. ...
 you that a draft
 has been rec^d from the
 for of the East? stating
 that he has given careful
 consideration to your claim
 for compensation for the
 loss of land at Kipingoni,
 and is unable to find
 grounds which would
 warrant your being accorded
 special treatment
 2 - The Governor adds
 that the responsibility for
 the

The selection of your land
must rest with you, and
that there is nothing to
indicate that you took any
steps towards verifying the
title prior to the conclusion
of the purchase. He also
states that, ^{the foregoing facts, together with} the refusal by
your representative of an area
in the Highlands of the State
by your own election to
forego the offer of a site on
the coast are sufficient
to preclude the justification
of the grant of a special
allowment in your favor.

3. In the circumstances
stated Mr. Harwood concurs
in the for's view that there
are no grounds for special
treatment in your case.

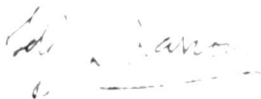
I have etc

Mar. 2nd 1914.

My dear Kimberley,

I am sending out to the Governor of East Africa Protectorate, for his observations, the short typewritten notes which you handed me by Mr. Barclay and I will let you know what is the reply when I receive it. I am not, of course, giving any directions to the Governor in the matter and I must say that, in view of Lord Cromworth's definite refusal of the area in the Highlands of the East African Protectorate and the fact that these areas are not only allotted by auction, makes it unlikely that the Governor will be able now to accede to Mr. Barclay's request. I am afraid that Lord Cromworth has acted precipitately and not very wisely on Mr. Barclay's behalf.

Yours very sincerely,



948

676
379

M 3408 East
EPR



INDIA 22 LUG

DRAFT

East ~~Ind~~ (Conf)

Rev. Sir ~~H. Balfour~~

5 June 1898

Sir,

- MINUTE
- Mr. ~~...~~
- Mr. ~~...~~
- Mr. ~~...~~
- Sir G. Fiddes
- Sir ~~...~~
- Sir J. Anderson
- Lord Bunsford
- Mr. Harcourt

with ref. to my Dis. N. 111
of the 9th of Feb. I have the
honour to transmit to
you for your review, a
copy of notes by Mr.
H. Barclay with regard
to his claim for com-
pensation for loss of
land at Kepingani,
to request that
you will be good enough
to

By Mr. Barclay

* LF transmitting
copy of No 3948.

accessions

furnished me with your
views on the matter generally,
& on particular ~~as to the~~^{on the}
applic: made by this gentleman
to be allowed to re-consider
the refusal of the land offered
to him in the Highlands.

~~At the~~ At the same time I should be
glad to receive further info:
as to the history of this case.

I may add that I
appreciate the fact that
if Mr Barclay is given exemption
from auction difficulty may
be caused, e.g. other persons
who have suffered or claim to
have suffered owing to the un-
certainty of Coast Land Titles
~~may~~ might demand similar
treatment. You will no doubt
bear this point in view in
considering Mr Barclay's
obj.

I have etc

LETTER by H. G. B...

I took no steps to verify my title as I did not think the Government of F.E.A. would sell property that did not belong to them. My representative, Lord Cranworth, writes, 26th July, 1913:-

"You have a legal claim in as much as the Government handed over to you land to which they had no right. This claim they admitted. As a matter of fact the Land Officer thanked me for not pressing my claim in the Courts at the time, the other land being granted to you in lieu of legal damages."

I have no knowledge that my representative, refused an area in the Highlands. I have refused the [redacted] when we seemed likely to lose the land in the proximity of my estate. This was natural as I did not want two pieces of land separated by hundreds of miles. It is true I declined the offer of some land on the coast, as it was unsuitable for the planting of rubber, it was of poor quality, & furthermore, was claimed by the natives - Indians and an Arab!! As no land is preferable to the coast I now ask to be allowed to reconsider the above mentioned refusal, which was made when the conditions were altogether different.

I ask for no special treatment but only for fair treatment of my case.