

LAST PAPER PROT.
 No.

42431

1905

(Subject.)

Compensation claims or losses caused by Nairdis.

Request telegraphic instructions as to whether they should be entertained.

(Minutes.)

Mr. Read

This despatch seems to come to contain two separate subjects.
 1. Whether claims like Mr.

Thompson (who has made Nairdis) should be compensated by Govt. for thefts by natives which cannot be brought home to any particular person or tribe such thefts being apparently the acts of all dispersed individuals, who are found in every community, and have not accompanying records of use.

To compensate for such losses was
I think, a reasonable one by any
means, & the necessity of
it, is felt by the settlers
in taking better care of their
property - & fencing, branding
or leading their cattle

2. In the case of the Herds, where
there has been a series of thefts
& murders by a tribe amounting
to acts of war & leading up
to a quarantine expedition on
which a large quantity of
stock has been captured,
a different policy ^{is}
possible and I should say
that compensation may be given,
in cases where appear deserving,
out of the expense of the
expedition. I have been deputed
but say this must be regarded
as an act of grace & not
right.

M. J. R.
1/12

60
but if we seem to have for an unreasonable
extent. Mr. Thompson is to have to fence
- to back any servant or herdman, I
should have thought that the Admin^r might
if they are here give him a couple of cows
as reward an act of grace, in accordance with
Mr. Ansell's suggestion. Some of the ^{smaller} settlers
must have a hard time of it, & until the
country generally is more under control, I think
that the Gov^t might occasionally assist
them for the loss of captured stock, provided
that the cases are deserving & that it is
clearly understood that the assistance is
given as an act of grace. In the general
interest of the Port^{ly}, we want to ^{help} encourage
the settlers as much as we properly can.

Telegraph briefly to the sense of Mr. Ansell's
minute - & follow up the tel. by a
reply - hitting the ^{above} point?

M. J. R.
1/12

Mr. Ansell's
Please see a report to FO on
23/10/99 This says down the principle
to be seen to me applicable.
I should decline any application
made as a matter of right and I
should be rather careful about
establishing anything like a precedent
by compensation as a matter of
grace.

The ... and ...
a reply is the question
which, that claims to
compensation should not be
interfered if made as
a matter of right and
that the Comm. should be
willing to award satisfaction
anything like a precedent
for compensation as a matter
of grace but that in
their own view as he is
said to be very badly
off, the Govt. should
have obligation of the Comm.
should think fit to give
him the same as an act
of grace as suggested by
the ...
... would ...
... the practice in the past
...
...
... after ...
... operations to

by the balance into the
local economy. If this is
true, it would tend to
increase the referring of
claims to compensation out
of the surplus. But I am
not sure that it is true,
and we should ask about
the practice is. The Govt.
should be very careful not
to deprive the natives
of their means of living
by taking too many of
their sheep and cattle. There
may be cases in which it
will not be right to take
even enough to cover the
actual cost of the punitive
operations.

Att. Secy

I quote spec.

IN 20 above
Do it

Commissioner's Office

C. O.
4234

Nombasa,

November 1st 1905.

AMERICAN PROTECTORATE

No. 528

Sir,

I have the honour to request your decision on the subject of compensation claimed by private persons for losses sustained during the recent troubles which led to the expedition that is now being undertaken against the Nandi.

Contrary to previous custom the late Commissioner at the termination of the Sotik expedition granted compensation to the Wasai as well as to certain settlers and Nandi whose stock had been raided. The result of this has been that various claims for compensation and also money have not been submitted to me for the recent thefts and murders.

Secretary of State

for the Colonies,

Downing Street,

LONDON.

I am personally averse to the payment by Government of compensation in any shape or form for thefts or acts of violence perpetrated by natives or others. If property which has been stolen is recovered, it is returned to the owner; but if not, I do not think it right that Government should be called upon to give compensation. That this is however the general policy is shown from the enclosed correspondence. A settler, named Thompson, who lived absolutely alone and was allowed his stock to graze without a herdsman expects to be compensated for the theft of his cows. Every endeavour has been made to trace the stolen property but without success. This case is only one of many which I could enumerate: I have selected it as the best case to represent the general case. Thompson has requested that the matter should be brought to your notice, and I have the honour to request that I may be informed by telegraph whether the claims for compensation should be entertained, as it is probable

that

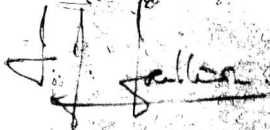
that the Nandi expedition will terminate shortly and the
looted cattle be sold.

I have the honour to be,

Sir,

Your most obedient,

humble servant,

A handwritten signature in dark ink, appearing to read "J. J. Gallen". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

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Commissioner's Office, G. O.
Mombasa.
42434
June 27th 1905

Sir,

I beg to inform you that in compliance with the request contained in your letter of 26rd ultimo, I have caused an enquiry to be held into your complaints. The following is the result:-

Every endeavour was made to trace the theft of Rs. 200 which you reported to the Police but without success. It appears that at the time of the alleged robbery you were absent from your place. It is surely unwise for any one living in a hut to leave a considerable amount of money there and depart. The police inform me that you have had considerable trouble with the natives by not paying them for labour etc. and they are under the impression that your losses there may have been acts of retaliation.

Mr. Ainsworth tells me that when you complained to him that natives were driving their herds over your land and injuring your crops he recommended you to fence. He also sent his interpreter to tell many natives living near you to keep their cattle and goats off the land, and one kraal which was quite close to you was moved towards the Mbagati. Of this Mr. Ainsworth informed you, but he also warned you that unless you enclosed your cultivation, he failed to see how trespass was to be prevented, as very often large numbers of sheep, goats and cattle were sent out to graze near your land.

With reference to your second complaint about cattle trespassing

Thompson, Esq.,
C/o P. Office,
Mombasa.

Mombasa
No. 508
Reference
Inclosures
Received
BY THE

Order for Compensation
Order for Service & Notice
Order for Rescission

trespassing on your land Mr. Ainsworth instructed tenants to warn his people, and I am assured that no Masai Stock has since then been near your place. I believe, however, you have not yet put up any fencing.

There is no record of the third complaint of trespass having been reported.

Your last complaint viz: the loss of two bulls and one donkey, is still under investigation.

I am &c., &c.,

Sd/- D. Stewart.

COPY

Nairobi,

19th October 1905.

F. I. Jackson, Esq., C.B., C.M.G.

Acting Commissioner,

M O M B A S A .

Sir,

I am instructed by Mr. F. Thompson whose farm is situated about four and half miles from Nairobi on the Dagoretti Road to write to you with reference to the loss which he has sustained through thefts of cattle etc. by natives, and his inability to obtain redress from the Sub-Commissioner of Ukamba Province. My instructions are to lay the matter before you and if no satisfaction can be obtained locally to respectfully request you to be so good as to forward the correspondence to the Secretary of State.

My client's complaint is that in November 1904 his house was robbed by Masai (whom he saw running away) of Rs. 203/- in cash, one blanket and six sheets. About the end of March two Masai were caught by Mr. Thompson's boy stealing four bullocks and a donkey his property. A few days after this two bullocks and a donkey grazing close to his house were stolen. Mr. Thompson made complaint of these losses and received from the Sub-Commissioner letter No. 1269/3 dated August 10th. To this I replied for Mr. Thompson on 21st August, but although two months have elapsed the Sub-Commissioner has not thought proper to reply to my letter. I have the honour to enclose the Sub-Commissioner's letter and my letter of 21st August. It will be seen from my letter that I pointed out the losses

losses Mr. Thompson had sustained were due solely to the Masai who lived in great numbers close round him. I therefore asked that a demand should be made on the Masai Chiefs for reparation, or in default of this that the Government should compensate Mr. Thompson.

Since writing to the Sub-Commissioner further depredations have been made by the natives on my client's stock. In September the Masai stole five sheep from him and a Kikuyu two. So recently as 18th October the Masai have stolen seven ewes and eight goats from him.

Mr. Thompson instructs me to say that if this goes on he will be ruined, and that the Government must either force the chiefs to make full reparation for his losses by the thefts of their people, or themselves compensate him. He therefore asks me most respectfully to request either that directions may be given for the chiefs to make reparation, or that this correspondence may be forwarded to the Secretary of State for the Colonies with a request that Mr. Thompson may receive compensation for his losses.

I have &c., &c.,

Sd/- W. A. Burn.

CONF.

Sub-Commissioner's Office,

Nairobi,

October 25th 1905.

MEMORANDUM.

Reference Mr. F. Thompson's complaint of loss of property and your minute dated 23rd October 1905 re same.

In obedience to your instructions I have the honour to report as follows regarding Mr. Thompson's reported losses:- I can only say that every effort has been made to trace the property but with no result. Lenana and the Masai Elders have been interviewed and instructed to do everything possible to recover the property or produce the thieves but so far without result. I have personally visited Mr. Thompson's place to see how things stood and to enable me to form some opinion on the subject. I found that Mr. Thompson lived absolutely alone and that he had no one to look after any of his property, added to which he admitted that he had been in the habit of allowing his live stock to graze without any care-taker. His land is not fenced; it is open to the whole of the surrounding country. On one side of Mr. Thompson his neighbours are the Wakikuyu, while near to him there used to be three Masai Manyattas (these were removed into the reserve in July last).

Some few months ago Mr. Thompson impounded some hundreds of Kikuyu sheep and goats for coming on to his unfenced land, the owners came in and complained. As the goats etc. had committed a small amount of damage Mr. Tate ordered the Wakikuyu to pay compensation which

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was done. Mr. Thompson was again told on this occasion to fence his cultivated land. Of course I quite understand that possibly Mr. Thompson is unable to afford the expense of fencing, he is also apparently unable to afford the expense of keeping any servant or herdsman.

Inquiries as to Mr. Thompson's losses made in Kikuyu by the Kikuyu police have had no satisfactory result. I notice in a letter dated June 28th 1905 that Mr. Thompson states that he was working close to his place when the robbery of the Rs. 203/- took place. He originally stated to the police here that he was absent in Nairobi when it happened. Mr. Thompson informed me when I visited his place after he complained of losing a bullock that he was working on his land some four hundred yards away and saw some natives, whom he took to be Masai, passing close to his hut at the time.

The following settlers, live not far from Mr. Thompson's land, their locations being however closer to the Masai:-

Mr. Oulton

" McQueen

" J. Paterson

" W. Paterson

" Grieve

" Machaughten

" Vincent.

and none of these people complain of losses by theft.

Mr. Thompson is very badly off, and I only wish I could help him, that he has lost property by theft and strays. I fully believe, but I further believe that his losses are exaggerated. I fail to see however how natives

General

generally are to be held responsible for his losses, failing, as we have failed, to prove anything against them, and further I hardly see how the Government can be held to be responsible. Possibly however, as an act of grace, you might see your way to giving him a couple of cows or some bullocks from any stock that may come into the hands of Government.

Sd/-John Ainsworth,
H. M. Sub-Commissioner.

Mr. J. Almsworth

Enclosure No. 2

In Reply, please refer to

Number of November 1st 1908

Comar
42996
E. C. P.

DRAFT

Tel. to
Jackson
Mombasa

MINUTE.

W. This 6/12
M. Read 7

M. Antrabus 7.5

Mr. C...

Mr. Lucas

Mr. Graham

Sir M. O'Malley

The Duke of Marlborough

Mr. Lyttelton

sent
12 30 pm
8/12
with

creditude
8 November

Dazzle
referring to exp. def. No. 1
598
careful
manufacture

Bilander

Ad. note

dogmatic
retained if
made as matter of
right and

Bigots

Barbarism

you'd be
dragging
establishing

Manuscript
 precedent for
 Cederholm
 as matter of grace
 but in Thompsons
 even Gorgonias
 is very poor
 Longevity
 then asphyxia to
 appeared two
 grant of
 cases Assignment
 as recommended
 Curran with
 Lossure
 of your course
 foregoing
 L. J. 1877

The thing is a trap
 I intended the matter one
 with the 3d Nov by way of
 to see the Capt's petition
 against the Nandi, & he
 thinks so that is was
 certain that Mr Jackson
 would give the Nandi
 his captured cattle
 3 I sayes better in going
 to present at the trap
 with the Nandi on the
 1st Dec. & I think
 that as Mr Jackson
 is so located & not
 generally in the matter
 N. J. R.

Geo Pat the
 suffering into a
 report
 H. J. 1877

Globular
 Law is
 Omsward
 proposed to
 departs captured
 depose of Cactus
 stock 'Indegrest' (unreadable)
 deprive Nandi
 of all Goat goat
 & means of
 living
 Lythellton

42994
t. a. p.

DRAFT.

t. a. p. No 24

O. 26

MINUTE.

11/12

Mr. Read 12 + 16

X Mr. Antrobus Jan. 6

Mr. Cox 6

Mr. Lucas

Mr. Graham.

X Sir M. Ommalley. 10

The Duke of Marlborough.

Churchill 12

Mr. Lytton.

for room

consider that such
claims shd not be
entertained if made
as a matter of right,
and that you should
be careful to avoid

Jan. 17 1906
Pier Ind

I have the honor
to acknowledge the receipt of your
despatch No 598 of the
1st ult. on the
subject of confes-
sion to a witness
perhaps ^{of the ability}
the Wardens and to
inform you, in con-
formance of my
instructions of
the 8th inst, that such
claims shd only be
admitted as a matter of
grace, and that
only if supported by
sufficient evidence.

seems to you to be
 3. I am not clear what
 has been the practice
 in the past with regard
 to the disposal of stock
 referred on ~~particular~~
~~particulars~~. It has
 been that the Govt. has
 been in the habit of
 selling it, & after
 deducting the cost of the
 speculation, paying
 the balance into the
 Colonial Treasury,
 it would be not unusual
 for supplies to have
 been ~~referred~~ out of
 such a surplus
 4. But the Govt. ought
 to give no doubt response
 to be very careful
 not to ~~depreciate~~ the

establishing a precedent
 for giving ~~commissions~~
~~commissions~~ as a matter
 of grace
 2. If this is understood
 I have no objection
 to Mr. Thompson's
 recommendation that
 two cases should be
 granted to Mr.
 Thompson, if it
 is understood as he
 has in actual
 of assistance.

actions of their means
 of subsistence - they
 of respect for
 many of their stock
 of cattle. There may
 will be cases in which
 it will not be right
 to take even enough
 to cover the actual
 cost of the ~~particular~~
 operations