

1935

1935

38019

38019

KENYA

CO 533/454

Native Lawlessness in the Nyankya Province.

Previous

23026/34

Subsequent

see 38381/38



K297	14/1
Room 309	/
297	26/6
Room 309	21/6
K297	1/8
K30	2/8
K248	2/8
297	

C.I.  
Native  
Native Landowners  
Landowners  
(later)

1. Governor Byrnes, Conf. (Am. Mail) \_\_\_\_\_ 2nd Jan 35

States that owing to the unavailability of the area selected it has been decided that 12 leading landowners should be removed to a reduced Settlement area in S. Kavironda or their release from prison, together with other influential landowners, & that the remaining landowners should be settled in the Gwasana tract.

Parliamentary Question by Lord Snow \_\_\_\_\_  
Nos on P.O. file

Extract from The Evening Standard 12 Jan 35

DESTROYED UNDER STATUTE ~~But~~ this in the hope of identifying the areas named on the map.

Partly  
AP  
12/6/35

SM

3. Proclamation No 16 of 1935.

DESTROYED UNDER STATUTE ~~re~~ makes Proclamation No 92 of 27/9/34 (No 37 on 23026/34)

& names the new Settlement Areas for the Landowners  
Partly  
C.H. Ross with  
store 28/6/35

8

Sir C. Bottomley

Mr. Freeston.

The Secretary of State has received the attached letter from Sir Gifford Fox and would be glad of the advice of the Department as to a reply.

11

Sir Luke  
8.7.85.

To Sir G. Fox  
Mr. Freeston.

(Mr. Sacke) 8/7/85

DESTROYED UNDER STATUTE

As in draft.

St. Johnston  
9/7.

Mr. Bushe.

It is, I believe, a principle of our law, or, at any rate, of our practice, that when anybody is murdered and the criminals have been arrested and dealt with, no compensation is payable to the relatives of the victim either by Government or by the local rate payers. In the case of malicious damage to property, which it is frequently held must be due to negligence on the part of the local police, compensation has been, and is frequently, levied on the <sup>rate payers</sup> community or other administrative area, but I have never heard of compensation being paid to the widow of a man murdered by patriots in Ireland. When a Government Official is murdered by the native population which he is trying to administer, compensation is frequently given to the widow in the form of additional pensions, and I can quote cases from West Africa.

(That is of course on a different footing. The man is killed doing a job for Govt.)

But I know of no case where a Colonial Government has been called upon to compensate the

relatives of people who go and settle down in semi-civilised districts, and to admit such a principle would be, I think, a most serious thing. It is quite impossible for the Government of an undeveloped territory to guarantee the life or property of anybody, and if people choose to settle in outlandish parts, they must be prepared to take the consequences.

The only way I can think of in which compensation can be made to Mrs. Semini would be if a collective fine were imposed on the tribe, the members of which murdered her husband. But that would hardly be fair, since it has not been alleged that the tribe, as a whole, have done anything, and the individuals who may be presumed to have committed the crime, have been thoroughly well punished. I do not see then, how any further punishment can be inflicted on the innocent members of the tribe.

If you agree with this, then I think that <sup>the</sup> reply to Gifford Fox might be <sup>difficultly put</sup> ~~directed out~~. It might be to the effect that compensation would not be payable to Mrs. Semini if her husband had been murdered and she had sustained her injuries in this country. That no Colonial Government can admit liability to pay compensation in such cases and that there are no funds available from <sup>which</sup> the S. of S. <sup>could</sup> to authorise payment, and that he is not prepared to approach Parliament for a special vote.

(The procedure adopted is typical

of Kenya, viz., stir up an M.P., in this country to write semi officially, instead of going about it in the open with an appeal to the Government.)

J.L.G. 7/35  
107

Lapwood 10/7

Mr. Gifford Fox.

I also agree.

As there seems to be no  
files of the case in the file,  
may I refer to the Secretary  
check for the prosecution -  
flagged in no: 40? That  
related to the murder - there  
was also the rape.

230 26/34

W.C.B. 12.7.35

Gifford

21/7/35

6 To Sir Gifford Fox (43 ans) - 22/7/35  
Sir C. Bottomley

? As in draft

W.C.B. 23/7

W.C.B. 23/7/35

8

Mr. Fox  
Mr. Fox

The Secretary of State has received the attached letter from Sir Gifford Fox. He is not sure whether any further reply is required.

for wa  
11/1

297  
M.P.M.  
L.A.  
27

Sir Gifford Fox  
Mr. Boyd.

Sir Gifford Fox's own informant (quoted in No 4) admits that it is not possible to say that Government was responsible" etc. etc.

No reply seems necessary.

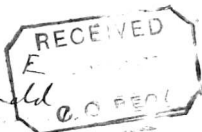
W.C.S.  
29  
30.7.35

for wa  
30/7

R80 center 448

R298 n.5647

M



24th July 1935

Dear Macdonald

Thank you for your letter with regard to the case of Mrs. Semini. I of course do not suggest that the taxpayers in the United Kingdom should compensate her, but I should have thought that some compensation would have been payable by the East African Authorities. Surely as they have the responsibility for the maintenance of public order, any infraction of this must be a matter which concerns them very closely.

I am by no means sure that if British subjects settle in a colony administered by this country on the understanding that public order is maintained, they are not within their rights in demanding compensation when, owing to the failure to maintain order, natives get out of hand and commit murder.

I have to accept, of course, what you say, but I cannot agree with you myself as to the applicability of the principle you mention. Great Britain is a civilized country and it is not fair to compare conditions here with those in Kenya.

In the circumstances, therefore, I think myself that the lady may not be content to allow the matter to rest where it is and I am not altogether sure that she can be blamed if she adopts this attitude.

Yours sincerely

The Rt. Hon. Malcolm MacDonald, M.P.,  
Colonial Office, S.W.1.

Sifford Fox

C. O.

Mr. Flood. 11-7

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

+ Sir C. Bottomley. 12-7

Sir J. Shackleton.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

*Mr. Flood 22/7/35*  
*f*

6

DOWNING STREET,

22<sup>nd</sup> July, 1935.

DRAFT.

SIR GIFFORD FOX, M.P.

Gk.

*Dear Sir,*

Thank you very much

for your full letter about the  
<sup>very sad</sup>  
~~unfortunate~~ case of Mrs. Samini.

I need hardly assure you that the

poor lady has the fullest

sympathy of myself and of the

Colonial  
local Government in Kenya.

Unfortunately, as regards any  
payment of compensation, there are

no funds from which I can direct

any payment to be made, and I

hardly think that it would be

proper for me to invite the

taxpayers in the United Kingdom

to compensate her, *and even if /*

*copy to A. de V. Woods*

FURTHER ACTION.

<sup>is</sup>  
(if she has been attacked and

Indeed, had her husband been

murdered in this country, I do not am advised

think that <sup>no</sup> any compensation would be

payable to her, especially having regard

to the fact that the criminals responsible

have been arrested and have suffered the

extreme penalty of the law. Similarly,

no Colonial Government can admit liability

to pay compensation in such cases and I

<sup>cannot</sup> <sup>Kings</sup> suggest that the Government should

<sup>do not</sup> do more than it has done. I ~~don't~~ think

that the question whether compensation

would have to be given to <sup>or natives</sup> Indians who

<sup>in the past</sup> have been killed or injured would be in

point. If the general principle of giving

compensation were sound, <sup>that</sup> ~~that~~ <sup>it</sup> would not  
then the fact that there might be many cases should not  
prevent its being considered, but I do

not think the principle is right or

<sup>can</sup> should be admitted, in any circumstances.

Yours sincerely

(Sgd.) MALCOLM MacDONALD

or would really  
weigh with the  
Colonial authorities



8  
4

RECEIVED  
2 - AUG 1935  
O. REGY

2nd July, 1935.

Dear Macdonald,

Some time ago I was approached by Mrs. Stella Semini, who has connections in my constituency, with regard to the grant of compensation to her for the unspeakable brutalities to which she was subjected some time ago by natives in East Africa.

May I, in the first place, state that by Air Mail I have been making enquiries in Kenya as to what is the most informed and most dispassionate European opinion as to the legitimate claims of this woman for compensation. I sum them up in the words of a leading settler as follows :-

"The position is that a private subscription was raised by the E.A. Women's League on her behalf and amounted to about £900. This sum is being paid out to her in monthly instalments and should be of some assistance for a few years."

"In regard to the compensation by Government - the position is really very simple. She was certainly the victim of one of the most dreadful crimes in the annals of the country and her husband died from his injuries. She herself has suffered mentally and physically through no fault of her own. There was nothing in the case to suggest that either she or her husband were in any way responsible for the attack made by Lumbwa natives on their farm. It is not possible to say, however, that Government was responsible either. There was no indication of an unusual lawlessness although the Lumbwa have always been difficult and,

Amos  
copy to A. de V. Trade

so far as I know, Government did not neglect to take any action prior to the murder which would have prevented what was an unexpected surprise attempt at burglary ending in murder."

"Government's real difficulty, however - for it is not unsympathetic - is that the principle of compensation cannot be admitted for the reason that we have had several cases in which Indians have died, or have been seriously injured by natives who raided their isolated shops and if compensation were given to Mrs. Semini then the Government feels that the State would be liable to meet or at least consider similar claims at any time by members of all communities."

"The Government has, however, done something for her, including the relief of her responsibility for paying stand premium on her farm for three years from January 1st 1935. This amounts to £37 per annum. They also agreed not to press her for the rent of her farm, which is approximately £15 a year. They have also paid her fare back to England. Both these measures the Government have given to all other distressed European settlers."

"You will see by this that the Government has really not given her any cash compensation. The stand premium is not being waived - its collection is merely being postponed for three years, and, so far as the rent is concerned, Government does not seem to be clear whether this charge is to be cancelled or merely allowed to accumulate."

"There was a great deal of feeling over this case in the country and a strong opinion among the European community that Government ought to grant some compensation. I certainly think that, without admitting any principle, they could quietly have waived any claim to rent or stand premium as long as she remained the owner of the farm, or some gesture of that sort which would have meant very little in cash and could have been done quietly without raising any racial principle. But for the generosity of the women of the country she would undoubtedly have been in a bad way."

Under these circumstances, I would like to ask whether the Colonial Office will now consider making some actual payment in compensation to this unfortunate woman. I really think that she deserves it.

Yours Sincerely  
Lifford Fox

The Rt. Hon. Malcolm MacDonald, M.P.,  
The Colonial Office,  
S.W.1.

AIR MAIL

KENYA

No. 7

CONFIDENTIAL.



11  
21  
GOVERNMENT HOUSE  
NAIROBI  
KENYA

RECEIVED

11 JAN 1935

C. O. REGY

2nd  
January 1935.

Sir,

Nb 25.  
23026/34  
I have the honour to refer to my Confidential despatch No. 135 of 13th September 1934, on the subject of the Laibons Removal Ordinance, in paragraph 2 of which I informed you that doubts had been cast on the suitability of the settlement area as defined in the Schedules to the Ordinance, and in which I undertook to inform you as to the area finally decided upon for the removal of the Talai clan of Laibons.

In order to decide beyond all doubt the suitability of the area a further detailed investigation was undertaken by an Administrative Officer, a Medical Officer, an Agricultural Officer, a Veterinary Officer and the Senior Bacteriologist. These officers, in order to prevent infection from sleeping sickness amongst the Laibons themselves, and bovine trypanosomiasis amongst their cattle, recommended the reduction of the area to one of approximately 28,000 acres, and were of the opinion that while this area was in other respects suitable, the water supply was insufficient for all the Laibons, their families and stock.

An investigation was therefore undertaken by the Hydrographic Surveyor, who estimated that the capital cost of finding sufficient water for all the Laibons

would ...

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C. G.B.E. M.C. M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S. W. 1.

would amount to £3,800, with an annual charge for maintenance and running costs of £300. As the provision of such a sum was clearly impossible in the present state of the Colony's finances, an attempt was made to find another suitable area outside the South Lumbwa Reserve for the settlement of the Laibons. This attempt proved unsuccessful.

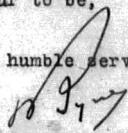
2. The position was therefore that while the reduced settlement area was suitable for a certain number of the Laibons and their stock, the whole clan could not be moved there owing to the inadequacy of the water supply and there was great urgency for action to be taken.

I have therefore ordered that twelve of the leading Laibons, together with their families and stock, should be moved to the reduced Settlement area in South Kavirondo, that, on their release from prison, other influential Laibons should be sent to that area, and that the remaining Laibons should be settled in an area, known as the musaria koret, in the Lumbwa Reserve, where they will be carefully watched and controlled. This latter area, except for the fact that it is in their own Reserve, is entirely suitable for their settlement. Both these areas will be proclaimed as Settlement Areas under section 3 of the Ordinance.

3. I have every hope that these orders will have the effect of keeping in check the malignant influence which the Laibons have exercised over the Lumbwa tribe.

I have the honour to be,  
Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.

G O V E R N O R .