

DOMESTIC

EAST AFR. PROT.
513

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of Individual.

Treasury

1909

Jan 3

Previous Paper.

44020

Shooting of two natives
by native police

States practice in such cases in this
country feel indisposed to award compensation for
what appears to have been not an unusual mistake

~~Mr. Read~~
Mr. Read

Then I suppose we must refuse
giving as reasons for not allowing
-pensation as a matter of policy the
negligence of Mr. Chittenden
in allowing his arm to
and the fact that in a country
abounding in wild beasts the
of the native police was not so
extraordinary as to amount to gross
negligence

4/11

~~Mr. Read~~

I draft with the conflict between the police negligence
the Chittenden's contribution negligence on 4/11/09
the balance on the facts so far as they are before us
being in my opinion against the Police - see
last 4 lines of my minute to which I adhere -
But I presume that in defer to Treasury, 2/11/09

Copy for memo 11:00 15 Jan
for reminded 181. 7apl. 9611

A. E. W. - 2000/17 -
2000 - 11-08

Subsequent Paper

3084

I am not a nice. There are just
things which make the post unpopular, especially
in a place like S. Africa where the settlers
find it difficult to make both ends meet.

It would only be a case of partial
compensation, I presume. say £20 or £30 -
& as to the danger of it forming a
precedent, there is almost the only case
of the kind which, so far as I remember,
has occurred during the 3 $\frac{3}{4}$ years we
have been administering the Port.

On the whole I should be inclined
to get further info from the fir.

H. J. R.
8/1

agree. Proposed
atome J. R.
8/1

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at once H. J. R.
8/1

In the reply to this letter the following
Number should be quoted.

515
Recd 5 JAN 09

TREASURY CHAMBERS,

2060

08

January 1909.

Sir,

I am directed by the Lords Commissioners of His Majesty's Treasury to reply to your letter (41733/1908) of the 3rd ult^{mo} in which the Earl of Crewe enquires, with reference to the shooting of two mares by the native police in the East Africa Protectorate, on what scale compensation would be allowed in a similar case in this country, and whether Their Lordships would approve the grant of compensation on this scale in the present instance.

The practice in this country is generally as follows:-

The Crown is in law not liable for the tortious acts of its servants, but when there is evidence of such negligence in the course of the execution of his duty on the part of the servant as would appear to render the Crown, setting aside its prerogative, liable as the master, the Crown does frequently, as a matter of grace, grant compensation, the amount thereof being fixed with reference to the circumstances of each individual case.

In the present instance Their Lordships do not find it possible on the information given and without fuller knowledge of the local circumstances to form any opinion on the two questions on which had the case occurred in this country the decision would largely turn as to the amount of compensation.

The Under Secretary of State,
Colonial Office.

compensation (if any) to be awarded, vizt.

- (1) whether there was or was not negligence on the part of the police.
- (2) whether there was contributory negligence on the part of the owners of the animals.

If then the matter is to be treated according to the principles obtaining in this country, it will be necessary to obtain a full report on these two points from the Governor, who should also report as to the value of the mare that was killed, and as to the actual depreciation of the other for breeding purposes.

I am, however, to add that in Their Lordships judgment home practice cannot be applied without considerable reservations to a Protectorate which is but partially civilised, and where owners of stock must necessarily be prepared to accept risks unknown on a settled land. The Secretary of State will doubtless agree that great caution must be exercised in admitting (even as an act of grace) any liability of the Protectorate administration for the acts of its servants, many of whom are natives. In the present case, regard being had to the distance which the horse strayed, to the allegation of previous strays, and to the prevalence of dangerous animals, My Lords feel very indisposed to concur in the award of compensation for the consequences of what appears to have been a not unnatural mistake.

I am,
Sir,
Your obedient Servant,




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14

In or ~~to~~

15 Jan '03

4733

Jan 12 3 50

DRAFT

E. A. P.
no. 30

Sir,
In reply to Mr Jackson's adv. no. 27 of the 1st Oct. last, I have the honor to transmit to you for your consideration or corresp. with the Treasury on the subject of Mr Sh. Langworth's request for compensation in respect of the shooting of two calves by the D.A.P. Police.

I shall be glad if you will furnish a full report on the points specified in the Treasury letter of the 5th Jan.

MINUTE.

- ~~Mr. Ellis~~
- ~~Mr. Just.~~
- ~~Mr. Astorbus.~~
- ~~Mr. Cox.~~
- ~~Mr. G. Lucas.~~
- ~~Mr. F. Hopwood.~~
- ~~Mr. Seely.~~
- ~~Mr. Earl of Crewe.~~

Treas. 3rd Dec.
 4733
 5th Jan
 513