

EAST AFR. PROT.
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running legislation

In some matters of importance
holding hands with... in U.S. ...
be sure - questions being carefully considered

(Minutes)

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WHITE PAPER.

WITH REFERENCE TO the "Mining Regulations Amendment Ordinance 1902".

Your Excellency,

The object of the above Ordinance was to remedy certain defects in the then existing Mining Regulations, and to make provision regarding certain matters on which those Regulations were silent.

At the date at which the Amending Ordinance was published considerable excitement prevailed in the Protectorate owing to the reported discovery of diamonds in the neighbourhood of Nairobi and of gold and copper in other parts of the Protectorate and a large number of persons were taking out prospecting licences.

For that reason and also because there was no person either official or non official in the Protectorate who had had practical experience of the administration of the Mining laws in other Colonies and places and who could assist as by his advice when drafting the Ordinance, I did not consider that it would be advisable at that moment to make a thorough revision of the Mining laws.

The statement that the form of the prospecting licence which had been approved by the Colonial Office for use when sole prospecting rights are granted over a large area of land had not come into force at the time when Mr. Woodhouse was in the Protectorate is incorrect.

It is true that Mr. Woodhouse applied on behalf of a

Syndicate which he represents to the Commissioner of Mines for the sole prospecting rights over a large area of land in the neighbourhood of Taavo and that this application was refused. The reason for this refusal was explained to Mr. Woodhouse and he was clearly made to understand that the Acting Commissioner had appeared to grant sole prospecting rights to his Syndicate on the terms set forth in the form of the agreement sent to him by the Colonial Office, provided that there existed no reason which in the opinion of the Commissioner made it undesirable to have the rights of prospecting granted over the particular area applied for. Mr. Woodhouse appeared to be under the impression that the Colonial Office had undertaken that sole prospecting rights should be granted to his Syndicate over any area which a Syndicate selected and went so far as to consult a Solicitor as to whether he could not compel the Administration to grant his Syndicate the prospecting rights for which he had made application.

The ground on which this particular application had been refused was that the granting of such rights would work an injustice to a large number of holders of prospecting licences who had expended large sums of money and had endured considerable hardships in prospecting in the immediate neighbourhood of the area over which Mr. Woodhouse applied for prospecting rights.

The facts relating to this application were as follows:

Some time early in this year it was rumoured that a discovery of copper had been made in the neighbourhood of Taavo and thereupon a number of persons took out prospecting licences and proceeded to Taavo. The country in the neighbourhood of Taavo is covered with a thick scrub, is waterless

and is in every way a difficult country to prospect and these prospectors undoubtedly incurred considerable hardships whilst working there.

At the beginning of April Mr. Woodhouse heard that certain discoveries had been made by these prospectors and thereupon visited the place. Having satisfied himself as to the country he forthwith proceeded to immediately apply for the sole right of prospecting over 50 acres of land in the immediate neighbourhood of the place which the persons above referred to were prospecting.

The result of granting the application would be to prevent those persons from following up and possibly reaping the benefits of the work in which they had been engaged for a considerable time. The latter consideration was therefore of course that Mr. Woodhouse's application should not be granted and that he should be referred back to prospecting elsewhere. It is to be noted that no prospecting rights would be given to him in the area with regard to any prospecting in that neighbourhood of land which would be obtained by prospecting out prospecting licences under the Regulations.

3. The right to grant sole prospecting rights over any area of Crown land is reserved to the Governor by Section 61 of the East Africa Mining Regulations 1902. The Amending Ordinance under consideration does not affect the provisions of that Section and it did not appear to me that it was necessary or even advisable to make a provision in that Ordinance prescribing that every agreement for sole prospecting rights

should be in a particular form and should contain certain conditions and no others. Under the law as it stands the Governor can in such an agreement enforce any condition he thinks fit and although the form of agreement which has been approved by the Colonial Office would ordinarily be suitable it is not difficult to imagine many cases in which either from the circumstances under which the concession is granted or from the situation of affairs which the rights are granted it may be desirable to insert special conditions which follow the approved form in principle.

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should be in a particular form and should contain certain conditions and no others. Under the law as it stands the Governor can in such an agreement enforce any condition he thinks fit and although the form of agreement which has been approved by the Colonial Office would ordinarily be suitable it is not sufficient in many cases in which it differs from the circumstances under which the concession is granted or from the situation of the land over which the rights are granted. It would be advisable to insert special conditions in the following approved form.

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