

EAST AFR. PROT

9073

9073

28 MAR 10

Mem 120

1910

8 Feb.

at previous Paper.

5/139

Registration of Titles

Submits desired explanation - encloses report on work done by Records and Land Titles Office. Cannot support suggestion to raise fees, or to introduce new system. Strongly urges release of funds that at any rate that portion of it dealing with increase in Survey Dept. may be involved.

Mr Ridley.

Mr Pease.

The Governor admits the rather serious miscalculations which have marked the history of this question. He urges that, in view of the very great importance of the project, both politically and ultimately financially, these miscalculations should be overlooked and the scheme should be proceeded with. I am inclined to agree with him. He is evidently very seriously impressed with the extreme urgency of getting the work carried out, and there must be very grave reasons for over-ruling him. It is quite clear that so far no serious harm has resulted from the calculations referred to. Mr Spearman-Thorne's appearance would have been very useful, occupied during his tenure of the appointment of Recorder of Titles, although he has not yet been able to record a single title. It would seem that there has been no specific addition to the Survey Department for the registration of

Coast

24/4/1910
Tel to you 7 May 1910

W. S. 11,000 - 11,000,000
1908 A.S.E.W.

at subsequent Paper.

11641

We might also remark, with reference to the 10th para. of this despatch, that we would propose to appoint ^{at once} the three Survey Officers contemplated, ~~at once~~ and to keep them ear-marked for the special purpose of the Registration of Titles; ^{and} that we would appoint only one of the Deputy Recorders in the first instance, selecting the other two later in the year at a time to be arranged with the Governor so as to fit in with the demands of the work and to make it easy to devise leave arrangements which would not involve too ^{many} ~~the number of~~ the Recorders being absent from the Protectorate together.

H.B.
April 2

I agree generally with the questions raised here appear to be in the main a demonstration rather than a real

H.B. 2/4

W. Fielder

I agree, & in writing to the Treasury I think that we should lay stress on the fact that the development of the Coast Strip is being seriously impeded by the delay in settling these matters - see extract from a letter from Dr. P. forwarded to me in relation to what he says there we have recently received a telegram from him saying that no land can be allotted to the first district (presumably the only district where land is available for the purpose) to the Hurch Squidito for rubber growing, because of the chaotic condition of the titles. H. J. R. 4/11



(2)

GOVERNMENT HOUSE,
BRITISH EAST AFRICA.

3.3.10.

73

about 30 miles to the Thika River. It is almost useless to speak of mules as they are so expensive that the settlers cannot afford them. The tram can I think be built without asking for any special grant from our road vote and from general savings. I am bringing the matter up before Council at its next meeting.

I am rather disappointed at the Treasury putting off this Coast Land settlement. I hope when my explanations go forward that it will be passed, otherwise we might as well abolish Sherman Turner and all his staff and frankly say that we are going to leave the titles in their present chaotic condition. The Coast strip as a whole has been greatly neglected, and in consequence many untoward incidents have arisen and even some scandals with the Arab officials. Reddie has done good work in trying to evolve order out of chaos at Lamu, but there are 101 questions pending down there which I will have very little opportunity of dealing with for many months to come. Overshadowing all however is this question of Coast Land settlement. Owen Thomas, Anderson, the British East Africa Corporation, and many other developing concerns are absolutely at a standstill in obtaining capital owing to the position of the land titles.

Mombasa, as you may know, was very jealous when the capital was removed, and Hay Sadler found it necessary to frequent the town & reside at Govt House. This I have found to be quite impossible up to date. Let us really have

GOVERNMENT HOUSE,
NAIROBI.

BRITISH EAST AFRICA.

March 5th 1910.

EAST AFRICA PROTECTORATE.

No. 120

(Incl. 1)



My Lord,

*Lucy
496*

I have the honour to acknowledge the receipt of Your Lordship's despatch No. 56 of the 3rd ultimo, respecting the proposed additions to the Staff required in connection with the registration of titles to land in the coast strip.

2. I regret that the information already furnished appears to Your Lordship and to the Lords of His Majesty's Treasury to be insufficient and I will now endeavour to supplement it as far as I can.

3. The delay in proceeding to the actual grant of titles, which might reasonably have been expected to follow closely on Mr. Shearman Turner's appointment, is admittedly unfortunate. Your Lordship has generously made allowances for the time taken in preparing the necessary legislation and in giving the notice, which was found to be desirable. These were undoubtedly the main reasons why rapid progress was not made and they should no doubt have been foreseen. The whole question was however of a very delicate and intricate nature and though a miscalculation may have been made in recommending so early a date for the creation of the Land Titles Department

THE RIGHT HONOURABLE

THE EARL OF CREWE, K.G.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET, LONDON, S.W.

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(2)

I do not think that any real damage has resulted. The only officer of the Department has been fully occupied since his appointment as I shall shortly explain.

4. Your Lordship expresses surprise that the Land Titles Ordinance should not have been applied to the Island of Mombasa. The reason was that in the Malindi District the Government had actually made grants to several concessionaires conditionally on the question of titles being satisfactorily settled and it was considered important to clear this matter up before proceeding to any other locality. As the Recorder was single-handed it would not have been possible for him to investigate claims in more than one district and it was therefore decided to postpone the application of the Ordinance to Mombasa, though it was clearly recognized that this would have to be remedied as soon as an increase of staff would permit. If Your Lordship accedes to my present proposals the requisite notice will be given at once.

5. In this connection I may mention that I am not fully persuaded as to the necessity of giving as much as 12 months notice in applying the Ordinance in future. Residents in Mombasa and elsewhere are now or should be fully aware of the procedure adopted in the Malindi District, and a much shorter period should suffice to enable them to file their claims in other parts of the Coast.

6. I do not think that any part of the Staff of the Survey Department has ever been specifically assigned

(3)

assigned to the work of Registration of Coast Titles, though it is now proposed to increase the Department for this purpose. The additional Staff appointed in 1907-08 was not actually intended for this work, though doubtless the possibility of surveyors being required to assist the Recorder was in Colonel Montgomery's mind when he made his recommendations. As Your Lordship observes, apart from any question of the Registration of Titles, there were many reasons why it was important that land on the Coast should be surveyed as soon as possible and the development of the Survey Department may be regarded as normal, though assistance would no doubt have been furnished to the Recorder had he been in a position to ask for it. In any case Your Lordship may rest assured that the Staff of the Department has always been fully occupied and that no member of it has remained idle because of the delay in commencing the Registration of Coast Titles.

7. As regards the work done by the Recorder himself I have the honour to transmit herewith a copy of a report which I instructed him to furnish before proceeding on leave. He has, as Your Lordship is aware, also been usefully employed as Acting Administrator General, an appointment which it has now been found necessary to fill permanently. I do not think therefore that Mr. Shearman Turner's engagement has occasioned any waste of funds, premature as it may appear to have been.

8. I am afraid that both the Principal Judge and the Commissioner of Lands took an over sanguine view

of

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20023

of the revenue which might be anticipated under the Land Titles Ordinance. The opinion expressed by the Crown Advocate that the fees would not pay the whole cost of working would appear to be nearer the mark. But, though the scheme may not for the moment be self-supporting I should strongly deprecate any postponement on that account. As was stated in Mr. Jackson's previous despatch No. 609 of October 25th last, the settlement of this question is of vital importance to the development of the coast strip, which can in fact make no really satisfactory progress until land ownership rests upon a solid basis. Unfortunately the Arabs and natives to whom the land belongs are very shy and suspicious: they do not as yet realise the value of what is being done and are inclined to believe that the Government contemplates some scheme of land confiscation or taxation; I am making every endeavour to re-assure them as to this and am confident of being able to do so with the assistance of the Administrative officers, the Liwalis and Mr. Macdougall, the Registrar of Slaves, who is well known to and trusted by the natives. I hope therefore that claims will shortly begin to come in more rapidly and that revenue from this source will increase, but I would again state most emphatically that the work must be carried on whether or no it is self-supporting, and I would earnestly request that in regard to this financial considerations may be waived and the paramount necessity of fulfilling our pledges to the public be recognized.

9. I do not consider that it would be either just
of

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or expedient to raise the fees to be paid on obtaining a certificate of title. As I have said, the owners are timorous and apprehensive and if anything is done to strengthen the impression that the Government is trying to make money out of them they will be completely alienated.

As it is they will probably lose considerable areas hitherto regarded by them as their own property their claims to which will be found on investigation to be based on an insufficient title. We need this land, we have in fact promised it to various applicants, and it is urgently necessary that we should have it. We can however hardly expect the Arab or Swahili to be ready to pay large sums for a certificate entitling him to the undisputed ownership of only a small proportion of the land which he has, no doubt wrongly, been accustomed to regard as his own. I would therefore deprecate any idea of obtaining revenue either by increasing fees or by the introduction of a Torrens System of Registration, as Your Lordship suggests. This could doubtless be done if it is thought desirable, but it would involve a certain amount of extra expense and I am not at present in a position to say how far it would be financially remunerative. I shall however carefully consider the possibility of enacting a law on the lines suggested.

10. As regards the penultimate paragraph of Your Lordship's despatch I would not press so much at the present moment for the appointment of the Deputy Recorders as for the provision of the necessary

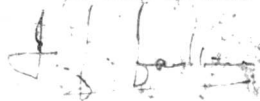
increase

(6)

increase in the Survey Department. This is urgently required and the money spent upon it cannot possibly be wasted, and I sincerely trust, therefore that at any rate this portion of the scheme may receive sanction.

11. I greatly appreciate the recognition on the part of Your Lordship and the Lords of His Majesty's Treasury of the intrinsic importance of this question to the Protectorate, but I would venture to ask that it may be looked upon as something apart from any financial considerations. It is as vital to the interests of the Coast, which we have been accused in some quarters of neglecting, as the enforcement of Quarantine is to the prosperity of the Highlands and I think that we should no more hesitate to incur the necessary expenditure in the one case than in the other.

I have the honour to be
Your Lordship's humble,
obedient servant,



(In the absence of the Governor)

INCLOSURE

In Despatch No. 20 of Z. 2. 1900

39

Report by the Recorder of Titles called for by
His Honour the Lieutenant Governor as under:

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3073
MAR 10

"Before proceeding on leave kindly furnish full
"report of action taken by you up to date, under
"Land Titles Ordinance steps taken to induce persons
"to send in claims specifying any difficulties
"encountered in this respect".

"Lieutenant Governor"

-----000-----

Immediately on my observing the publication of the Land Titles Ordinance in the Official Gazette of 1st December 1900 I proceeded to carefully study its provisions and to endeavour to form plans that might help towards the effective carrying out of its objects. This occupied some little time because I had been unable to form any definite ideas, prior to this, as to how I should proceed nor as to when I might be required to take action, in that I was unaware that the Bill had actually reached the final stage before the Legislature and I had no knowledge as to what provisions it was eventually to contain upon its final consideration and promulgation. On 15th October 1900 I received a letter from the Hon'ble Commissioner of Lands copy of which and of my reply thereto are appended and marked in red No. 1 & 2. But I did not receive a copy of the Ordinance as mentioned therein.

A few days after the publication referred to I

was

I was requested by the Hon'ble Commissioner of Lands to draft a Proclamation for the Governor to issue and a notice following thereon to be published thereafter. These I forwarded at once in blank and asked to be informed of their being approved. On 14th January 1909 I received from the Hon'ble Commissioner of Lands the letter which is appended and marked in red No. 31. I replied forwarding a copy of the notice, commenting only on the date contained in the Proclamation from which the application of the Ordinance was to run.

Prior to this, at the end of December, 1908, a meeting had taken place at which Judge Hamilton, Mr. Lowring and myself were present at the Treasury, Mombasa. At this various details were discussed as to the carrying out of the provisions of the Ordinance. I endeavoured to form some estimate as to what might be required, both financially and otherwise, and, upon receipt of a letter from the Hon'ble Treasurer which is appended and marked in red No. 1, I forwarded to the Governor my letter, which together with other minutes thereon, is incorporated in the Secretariat Minute Paper 435/09 No. ① therein.

Upon the 8th February 1909 having regard to Sections 15 & 16 of the Ordinance I wrote the circular letter to the Provincial Commissioners of Mombasa, Lamu, Kismayu, Nairobi, Fort Hall, Naivasha, Kisumu. A copy of this letter marked in red No. 5 and copies of these Gentlemen's replies are appended and marked in red Nos. 6, 7, 8, 9, 10, 11, 12 respectively.

The Notices were at this time being printed in the following languages English, Arabic, Kiswahili and

Gujerati and a copy was sent for publication to the Official Gazette on 22nd February 1909 and was published therein on 1st March 1909. Some delay was caused in the actual issuing of the Notices owing to the, to me, unexpected impossibility of getting the Kiswahili Notices printed in this Protectorate. I was obliged to send to Zanzibar and upon receipt of the Notices from Zanzibar found that no Kiswahili that I asked could read them. I returned them to Zanzibar and received them back with an indication that it was impossible for the necessary vowels and accents to be added there. Consequently I had to have these vowels and accents put in by hand in Mombasa and it was near the end of March by the time these particular notices could be sent out.

On February 24th 1909 I had written to the District Commissioner at Malindi, and received a reply from him on 5th March, copies of these letters are also appended and marked in red Nos. 13 & 14 respectively.

The first Application Forms (A I. Schedule 1 of the Ordinance) were received by me on 21st May and were 15 in number, the next on the 4th June making 33 in all.

I do not think however it would be useful for me to particularise further as to these now.

During the whole of this time and, prior thereto and for some months longer, I was acting as Administrator General (i.e, from 29th June 1908 until I saw in the Official Gazette that another officer had been appointed to that Office on 1st September 1909)

and as such was daily brought into contact with considerable numbers of natives - very many of whom were connected with estates situated in the Malindi District and I frequently took the opportunity of conversing with them on the subject of the Ordinance.

On very many occasions I discussed it, and the sending in of ~~the~~ claims, with the Assistant Liwali of Mombasa, Ali bin Salim, who, with his family, claims to hold much property in this District, and who as a Wakf Commissioner is largely interested therein. As Ali bin Salim knows the country and the people in this District well I was glad to receive his advice and assistance in the matter. On two or three occasions I also interviewed the District Commissioner of Malindi and some of his A.D.Cs.

I was impelled not to actually visit Malindi myself as under the Ordinance it is specifically laid down that the "Officer in charge of the Administration" should receive claims and that the "Officer in charge of the Administration or such Officer as he may appoint" should cause notice to be given concerning the requirements of the Ordinance, to put up notices and otherwise disseminate them, and, also to forward the claims when received to the Recorder of Titles. (Vide Sections 15 & 16) I have also felt some considerable diffidence and difficulties in the undefined nature of my "locus standi", in issuing direct instructions and orders to Officers of the Administration as to the fulfilment of their duties. Further than that (as Vide Section 3, Land

Registration Court" and Section 6) The Recorder of Titles is designated as a Judge of the Land Registration Court it appeared to me to be highly improper for that official to place himself in a position where he would inevitably hear accounts from interested persons of their claims - the very claims he would thereafter have to adjudicate upon. Unofficially I have, as stated, interviewed many persons interested, both native and European, but I have not listened to the merits of any alleged claims.

On July 22nd 1909 at an interview with the Acting Governor at which Judge Hamilton and myself were present - this taking place two days after an interview with the Hon'ble Treasurer in which Judge Hamilton and myself took part - in which the position of the Recorder of Titles, office accommodation, financial considerations &c. were discussed, we were requested to prepare a Memorandum thereon by the Acting Governor and accordingly Judge Hamilton and myself handed the Memo to His Excellency on 24th July 1909. This is incorporated in Secretariat Minute Paper 435/09 No. ⑦ therein.

On August 26th 1909 I proceeded to Nairobi to interview the Director of surveys in connection with the surveys required by and necessary under the Ordinance, and to further discuss the arrangements therefor which were of the greatest importance, I had hoped also to see the Acting Governor and others as to the - in my opinion - vital requirement for fresh Legislation to come into force immediately on the

date

date upon which a Certificate of Title was to be granted, in order to avoid in the future recurrence of the present state of affairs. This I have strongly advocated ever since the Land Titles Ordinance was published and I received a letter from the Crown Advocate dated 31st December 1908. - the only material paragraph, now being the extract following "With regard to future transactions it is proposed during the next twelve months to deal with the matter". So far as I am aware this has not been done but I do not propose to again repeat what I have already submitted to the Governor in the Memoranda above alluded to.

s. Percy Shearman-Turner.

Recorder of Titles
24-12-09.

I have omitted to mention above that in consequence of information received I communicated with Mr. Traill then proceeding as P.C. to Malindi in August last I think and asked him to make enquiries as to the non-recapit by the natives of the Notice under the Ordinance. Subsequently at my suggestion criers and others were sent out from Takaungu and Malindi.

P. S. T.

Nairobi,
October 13th 1906.

Dear Shearman Turner,

The Registration of Titles Ordinance has at last been finally passed and will appear in the next Gazette.

Will you very kindly make early arrangement for the issue of the notices, the question is where work should first begin, the demand for land has been greatest near Mombasa, and northwards in the Malindi District. On the whole I should prefer operations to be begun first in the Malindi District.

The reason that there we have made several promises of grants of land to settlers, which we are at present unable to fulfil; the result is that some of the promises are becoming restive and threatening legal actions. I should be glad to know what procedure you propose to follow to begin with, and if you can arrange for the notices to issue first in Malindi District. I will enclose with this a draft copy of the Ordinance.

Yours sincerely,

SA/- J. Montgomery.

14th. I am told the Ordinance as amended has not yet been signed by the Governor, who is at Naivasha. So it cannot be printed I fear in the Gazette of the 15th. I will send you a copy of it as amended by next post. I think you might begin at once to prepare the Notices, so that they may be sent out on the 1st instance.

570

No. 9

Mombasa,

15th October 1908.

C O
3073
REC'D
PRO 28 MAR 10

Dear Colonel Montgomery,

I have to thank you for your letter of 13th instant which I have just received. I am very glad to hear that the "Titles Ordinance" has at last been finally passed as you say. I shall be only too pleased to use every possible means to get to work at the very earliest date but there must still be a great deal of necessary detail to arrange. I note what you ^{say} about Malindi and Mombasa but as I am entirely and absolutely ignorant of the provisions of the Ordinance as amended, that is I have no idea of what clauses or sections of the originally read Ordinance remain nor of what has been substituted for those removed or altered, I am at present powerless to do anything. Originally I believe the Governor was to determine where any Court should sit upon my recommendation, now I know not, neither do I understand what notices you refer to. What has been done about the qualified Surveyors and Assistants &c. that were proposed to be attached to the Court?

Anyhow I can only assure you I shall be truly delighted to do all and anything I can to advance the work both now and always and subject to such assistance as I may obtain.

I observe you are good enough to be sending me a copy of the Ordinance as amended so I will promptly study that & attend to what is in my power.

Yours sincerely,

Sd/- Percy Shearman Turner,

No. 3

NAIVASHA,

January 10th 1907.

Dear Shearman, Turner,

It has been decided by His Excellency to apply the Registration of Titles Ordinance first to Malindi and a Proclamation will appear in the Gazette of the 15th making the law applicable from the first February.

I am sorry to say I have mislaid your draft of Notices which you will send out. But you are sure to have the original.

Bowring told me he had fixed up with you what extra establishment &c. you would require, and that you would arrange about the printing of the Notices.

I am inclined to think that you require the great majority of the Notices for the Coast districts only this I would have them affixed at each public office and Post Office and distributed to headmen.

For up country districts I should say one copy in English and in Swahili at each headquarter office would be enough.

The Gazette notification is of course the real publication.

Yours sincerely,

Sd/- J. MONTGOMERY

No. 4

The Treasury,
Mombasa,

February 6th 1909.

Sir,

With reference to the meeting between Judge Hamilton, yourself and myself which took place in my office at the end of December and when the arrangements for carrying out the duty of recording titles were discussed, I have the honour to request that you will be so good as to furnish me, at as early a date as possible, with a detailed revised estimate of the expenditure which you consider necessary for the year 1909-10.

As regards office and Court accommodation at Mombasa, I will endeavour to make proposals for allotting a portion of the Treasury building, which will become vacant about July next, for the use of your Department and that of the Registrar of Documents.

It will be necessary for any proposals involving expenditure to be submitted in detail to the Secretary of State with the least possible delay in order that any additional requirements may be added to the estimates which have already been transmitted to him.

I have, &c.

Sd/- C. C. BOWRING.
Treasurer.

THE RECORDER OF TITLES,

MOMBASA.

No. 5

No. B/4/10

Recorder of Titles Office,

Mombasa,

February 8th 1909.

Sir,

Re Land Titles Ordinance 1908.

Adverting to the provisions of the above Ordinance and in particular to Sections 15 and 16 and to His Excellency the Governor's Proclamation thereunder applying the Land Ordinance to the District of Malindi, I have the honour to enquire whether you would prefer my communicating through yourself with the District Commissioners in your Province and for them to transmit the forms, when filled in, and consequent correspondence through you or whether you would prefer communication between them and me to be direct.

I have Notices being printed in Arabic, Swahili, Gujarati and English. ^{you} Would be good enough to give me some idea approximately as to how many Notices may be required in your Province and in which of these languages.

I have &c. &c.

Sd/- Percy Shearman Turner.

Recorder of Titles.

TO THE PROV. COMMISSIONER,

Seyidie, Tanaland, Jubaland,

Ukamba, Kenya, Naivasha, Kisumu.

No. B/4/10

Recorder of Titles Office,

Mombasa,

February 9th 1909.

Sir,

Re Land Titles Ordinance 1909.

Adverting to the provisions of the above Ordinance and in particular to Sections 15 and 16 and to His Excellency the Governor's Proclamation thereunder applying the Land Ordinance to the District of Malindi, I have the honour to enquire whether you would prefer my communicating through yourself with the District Commissioners in your Province and for them to transmit the forms, when filled in, and consequent correspondence through you or whether you would prefer communication between them and me to be direct.

I have Notices being printed in Arabic, Swahili ^{you} Gujarati and English. Would be good enough to give me some idea approximately as to how many Notices may be required in your Province and in which of these languages.

I have &c. &c.

Sd/- Percy Shearman Turner.

Recorder of Titles.

TO THE PROV. COMMISSIONER,

Seyidie, Tanaland, Jubaland,

Ukamba, Kenya, Naivasha, Kisumu.

No. 6

No. 14

Prov. Commr's Office,

Mombasa.

February 15th 1900.

Sir,

With reference to your letter No.B/4 of the 8th instant, I have the honour to inform you that I have no objection to your communicating direct with my District Commissioners - I think it will be more convenient for you and them - On the question applying the Land Ordinance, I should be glad to know, as soon as you can give me, the rough estimate of the amount of work likely to be added to the District Commissioners' present duties by the application of this Ordinance.

No one can give you any idea of the number of "Notices" required. A very large majority should be in Arabic and Swahili on the same sheet. I should think 500 Notices in English would be sufficient for the whole of the Seyidie Province, i.e. presupposing that every European in the Seyidie Province be served with the Notice.

I have &c.

Sd/- S.L.HINDE.

Provincial Commissioner.

THE RECORDER OF TITLES,

MOMBASA.

No. 7 (1)

No. 69/09

Prov. Commr's Office,

Lamu,

16th February 1909.

Sir,

Re Land Titles Ordinance.

With reference to your No.B/5 I have the honour to state that I would much prefer that all correspondence emanating from you relating to Land Titles in this Province should be addressed direct to me.

With regard to the postscript to your letter under reply I am communicating with my District Commissioners and on hearing from them I shall inform you approximately of the number, &c. of "Notices" which are likely to be required.

I have &c. &c.

Sd/- T. GILKISON.

Provincial Commissioner.

THE RECORDER OF TITLES,

MOMBASA.

No. 7 (2)

No. 82/09

Prov. Commissioner's Office,

Lamu,

19th February 1909.

Sir,

With reference to your No. B/5 and to my No. 69/09 in reply thereto, I have the honour to inform you that I am informed by the District Commissioner, Lamu, that as regards his requirements in the matter of Land Titles Notices the following will suffice:-

English	50 forms
Arabic	50 forms
Swahili	300 forms
Gujerati	50 forms

I have not yet heard from the Acting District Commissioner, Tana River District, regarding his requirements; but on hearing from him shall at once apprise you of them.

I have &c. &c.

Sd/- T. GILKISON.

Provincial Commissioner.

THE RECORDER OF TITLES,

MOMBASA.

Provincial Commissioner's Office,

Nairobi,

March 13th 1909.

Sir:-

With reference to your letter of the 8th ultimo which I regret has remained unanswered owing to an oversight, I have the honour to state that I think it will facilitate matters if you communicate direct with the District Commissioners of the various districts in question that may arise out of the application of the Land Titles Ordinance to Malindi.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- C. W. Hobley,

Provincial Commissioner.

The Recorder of Titles,

Mombasa.

Provincial Commissioner's Office,
Fort Hall,
15th March 1909.

Sir,

With reference to your letter B/S of the 8th ultimo I have the honour to inform you that I prefer all communications being sent through me in order that I may be au fait with everything that is going on in the Province

The following notices will be required for this Province:-

20 in Arabic

20 in Kiswahili

10 in Gujerati

15 in English.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- Charles R.W. Lane.

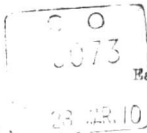
Provincial Commissioner.

The Recorder of Titles,

Mombasa.

No. 11

No. B/32



Recorder of Titles,
Mombasa,

East Africa Protectorate.

7th April 1909.

Undersigned has the honour to invite attention to this office letter No. B/9 of 8th February 1909, re: Notices under Land Titles Ordinance 1908, and to request an early compliance therewith. If reply has already been sent, please fill up form at the foot hereof.

Sd/- Percy Shearman Turner.

Recorder of Titles.

To

The Provincial Commissioner,
Naivasha.

No.

Dated.....190

Referring to his No. of 190 , re.....
..... Reply already sent, please see this office
No..... of..... 190 .

Signature.....

Recorder of Titles,

The above letter was sent here evidently in mistake for Mombasa. We sent it to the Provincial Commissioner, Mombasa, who stated he had already answered it.

Sd/- N.A. Kenyon Slaney.

for Provincial Commissioner.

10/4/1909.

Minute by Provincial Commissioner, Kisumu.

(Endorsed on my Circular letter No. 5 herein.)

To

The Recorder of Titles,
Mombasa.

I assume that this has been sent here in error.

Sd/- John Ainsworth.

19/2/09.

Provincial Commissioner,
Kisumu.

Not at all. Will you kindly read the Sections referred to in my letter? The Ordinance contemplates that there may possibly be owners of land and interests in land, residing in districts other than that to which the Ordinance is applied by His Excellency whose interests might be affected by such application to another district. I shall be very grateful for an early reply.

Sd/- Percy Shearman Turner.

Administrator General.

23/2/09.

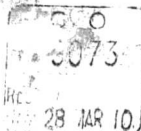
RECORDER OF TITLES,

Mombasa,

24th February 1909.

To

The District Commissioner,
Malindi..



Sir,

Re Land Titles Ordinance 1905.

I have the honour to enclose herewith for you to see a specimen in English of the Notice I hope to issue in the course of the next few days in English, Swahili Arabic and Gujerati.

These I expect from Zanzibar on about 28th instant.

Will you kindly let me know approximately how many of these in each language you will require for posting up and dissemination in accordance with Sections 15 & 16 of the above Ordinance and of the two forms alluded to therein.

I may add that the notices are indented more for the information of owners of, and owners of interests in, land and to call their attention to the provisions of the Ordinance than as the legal call for claims such being based on the Governor's Proclamation and application of the Ordinance.

I have the honour to be,

Sir,

Your obedient servant,

Sd/- Percy Shearman Turner.

Recorder of Titles.

No. 14

No. 175

Dist. Commr's Office,

Malindi,

March 1st 1908.

Re Land Titles Ordinance 1908.

Sir,

I have the honour to acknowledge the receipt of your No.B/14 of the 24th ultimo and to inform you that the following number of Notices should be sufficient to disseminate the terms of the Ordinance.

English	50
Gujerati	50
Swahili	200
Arabic	200

I trust that the forms A.I and A.II indented for by me will also be supplied in the above languages ⁱⁿ to enable the literate people to fill the forms themselves and thus save a great deal of clerical work in this Office.

I have &c. &c.

Sd/- A.J.Maclean.

District Commissioner.

THE RECORDER OF TITLES,

MOMBASA.

Recorder of Titles,

Mombasa,

9th February 1909.

His Excellency the Governor

Forwarded through the Honourable

the Treasurer.

Re Land Titles Ordinance 1908.Proposed estimate for Recorder of Titles Staff for 1909-10.

Your Excellency,

In view of the recent promulgation of the above Ordinance and your Excellency's proclamation thereunder I have the honour to submit for your consideration and sanction a proposed supplementary and, I venture to think, conservative estimate for a staff sufficient to deal during the forthcoming financial year with the work which will then ensue.

The estimate which I append was arrived at after a joint consultation between the Honourable the Treasurer, the Principal Judge and myself, with the exception of certain items which they did not consider essential and one which I have added on consideration since. Items numbers 1, 4, 5, 7, 14 and 16 are those which I advocate myself and number 17 the one added as stated, and I venture to detail my reasons for the submission thereof to Your Excellency.

In regard to item 1 "Indian Interpreter" I submit that this is a very essential appointment, as large ~~small~~ quantities of land, and interests in land, on the coast are held by Indians and an accurate interpretation of their evidence will, I think often be vital to the issues.

As to items 4 & 5 "Court Clerk" and "Clerk to keep records" I submit again these are very necessary as both court work and record keeping must be very heavy, particularly as, while I am at Malindi, much work must be done

done in Mombasa. Item 17 "Draughtsman" is added because of my experience gained whilst in charge of the Registration of Documents Department. Frequent requests for a copy of plans were made and there are no one in the office able to draught, or even copy, a plan and no means wherewith to obtain same.

As regards item 14 & 16 I venture to think that some provision should be made for "camp equipment etc." and for "contingencies" particularly as this is a new Department intended to carry out a new form of work necessitating probably much travelling along the coast. I would suggest therefore the sum of £100/- for item 14 & £50/- for item 16.

I understand that the cost of stationery including printing forms and books, and copying press and Court seals etc. will be met without of the general stationery vote.

The "qualified surveyors and assistants" provided for in the above Ordinance and to be attached to the Court are, I understand, to be financially provided for by the Survey Department. I have therefore not included them in the appended estimate.

My present staff, however, consists of:-

- 1 Swahili Interpreter
- 1 Junior Parsee Clerk
- 1 Office boy
- 2 Messengers.

and these I have included in the appended estimate.

As regards office and court accommodation at Mombasa I note from a letter which I have received from the Honourable the Treasurer today that he will endeavour to make proposals for allotting a portion of the Treasury building, which will become vacant about July next, for the use of my Department and that of the Registrar of Documents.

There

There is one more point only that I should like to allude to if I may be allowed, and that is the question of the appointment of a Deputy Recorder or Recorders. I consider, from what I have now learnt of the land question on the coast, that if it be desired to complete the work adequately with order ~~with~~ such appointments should be very seriously considered.

I have the honour to be,

Your Excellency's

most obedient

humble servant,

Sd/- Percy Shearman Turner.

Recorder of Titles.

Proposed Estimate.

	£	s	d.
1. One Indian Interpreter at Rs. 200/- per month	160	0	0
2. One Swahili Interpreter at Rs. 75/- " "	60	0	0
3. One Arabic Interpreter at Rs. 75/- " "	60	0	0
4. One court clerk " Rs. 200/- " "	160	0	0
5. One clerk to keep records at Rs. 150/- p.m.	120	0	0
6. One general clerk to attend correspondence issuing summons and other processes at Rs. 100/7 p.m.	80	0	0
7. Two Indian process-servers at Rs. 21/- p.m.	33	12	0
8. Three native " " at Rs. 15-13-12	32	0	0
9. Law Books	40	0	0
10. One large safe to keep instruments of Title now in existence	100	0	0
11. One large safe to keep Registers	100	0	0
12. One small safe for stamps and cash	10	0	0
13. One large tent to hold Court outside Mombasa	25	0	0
14. Camp equipment Deed boxes and other furniture	100	0	0
15. General travelling expenses of court & staff	300	0	0
16. Contingencies	50	0	0
17. One draughtsman	250	0	0
18. Three office boys and messengers at Rs. 12/- each per month	28	0	0
Total	1709	8	0
19. Stationery including printing forms and books copying press and court seals etc.	?		

Memorandum of main points for consideration in connection with the request for increased expenditure on the work of the office of Recorder of Titles.

- (1) It is now four years since the necessity of clearing up doubts as to title on the Coast was first urged by the Land Commission and three years since the Government began seriously to consider the necessity for action. A Recorder of Titles was appointed in 1907 and the Land Titles Ordinance passed in the following year. This Ordinance was applied first to Malindi in January 1909 and the 12 months notice in that district will expire in January 1910 when the first certificate of title under the Ordinance can be granted.
- (2) For the last three years dealing in land on the Coast and the investment of capital has been largely interfered with pending the Ordinance coming into working. No Government grants have been made, or if made have been made provisionally only, the result of which has been to delay the development of the coast lands with European capital, to hamper the individuals and companies which had started work in the hope of the title difficulties being soon removed from their path, and to cause great dissatisfaction.
- (3) With the existing staff and machinery for carrying out the provisions of the Ordinance it would probably take 7 to 10 years to adjudicate upon original titles alone.
- (4) It is essential that a Title by Registration Ordinance should be in force by January 1910.

to complete the system inaugurated by the Land Titles Ordinance.

This is a complicated money bill requiring to be referred home. The provisions of it will extend to the whole Protectorate and the question of the fees leviable on all transfers remains to be decided. It has been estimated that a fee of 2% should pay for the expense of working the system and leave a balance of revenue in favour of the Protectorate.

This Bill has not yet been drafted.

- (5) As already remarked the existing staff would require 7 to 10 years to adjudicate on titles alone and would be entirely inadequate to carry out the provisions of a Title by Registration Ordinance.
- (6) With the increase of staff asked for there should be sufficient machinery to complete the adjudication of titles in 3 years and at the same time carry on the system of title by registration which will commence with the issue of the first certificate and grow in volume as each succeeding title is settled.
- (7) The existing system of registration of documents will disappear and the staff of the Registration of Documents Department should be placed under the Recorder of Titles and absorbed in his office. This will give him a nucleus of staff trained to deal with Arabic documents.
- (8) There are two alternatives before the Government.
- (A) to attempt to carry out the enormous work proposed with the existing staff which will lead to delay, further dissatisfaction, and ultimate fiasco.

or (B) to be prepared to spend an estimated further sum of £10000 spread over 3 years in order in the first instance to settle title as soon as possible, and thereafter to carry on the system of title by registration with adequate machinery.

(9) The adoption of this latter course will, though requiring an immediate outlay, enormously enhance the value of land generally, permit the Government to deal with its own waste lands on the coast, which at present it is debarred from doing, bring in a certain and increasing direct revenue, allow of the development of the coast, remove dissatisfaction and indirectly be of incalculable benefit to the whole Protectorate.

(10) There is also one further point viz that some six months ago in response to an influentialy signed petition that the present Ordinance should be applied to Mombasa. The Government promised that this should be done at once. Under present circumstances it is impossible to do so.

Sd/-R.W. Hamifcon.

23.7.09.

Gov/9073/E.A.P.

Pressing

Downing Street,

8 April, 1910.

DRAFT.

THE SECRETARY

TO THE TREASURY.

MINUTE.

Sir,

Mr. Butler, April

Mr. Read. *87*

Mr. Fildes. *88*

Mr. Just. *89*

Mr. Cox. *90*

Sir C. Lucas. *91*

Sir F. Hopwood.

Col. Seely. *(A.M. 716)*

Lord Crewe.

I am directed by the Earl of Crewe to transmit to you, to be laid before the Lords Commissioners of the Treasury, from this Office with reference to the letter of the 4th February last, a copy of a despatch, with its enclosures, from the Governor of the East Africa Protectorate relating to the proposals for ~~proposed expenditure on the~~ registration of titles to land in the coast strip of the Protectorate.

2. It will be seen that the Governor admits ^{that} certain miscalculations were made in

initiating

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Sir P. Girouard, No. 120. *Mich 5.*

Land Titles Commission

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was not carried out in the Land Titles Ordinance 1908 (~~a copy of which is enclosed herewith~~) and that this omission was not brought to the notice of the Treasury when the ordinance was under consideration in this department. Nevertheless, Lord Crewe agrees with the Governor in thinking that it would not be either just or expedient now to raise the fees to be paid on obtaining a certificate of title and that insistence on such an alteration would probably have a very ~~damaging~~ ^{serious} effect on public opinion in the district concerned.

3. Lord Crewe considers, however, that it is essential to insist on the introduction, either simultaneously with the recording of titles or as soon afterwards as possible, of some system of title by registration. His Lordship considers that *conclusive* the reasons in favour of such a system are stated in paragraph 7 of the despatch

addressed

estimates for the current year, or the understanding that a system of title by registration is introduced with the least possible delay on a remunerative basis.

With reference to the tenth paragraph of the Governor's despatch, His Lordship would propose to appoint at once the ^{additional} survey staff contemplated, and to keep them separately and exclusively employed on work in connection with the registration of titles in the coast strip with a view to the actual cost of the scheme being readily ascertainable. He would further propose to appoint only one of the deputy recorders in the first instance, selecting the other two later in the year at a time to be arranged with the Governor so as to fit in with the demands of the work and to make it easy to devise leave arrangements hereafter which will not involve the absence of too many

DRAFT.

MINUTE.

Mr.

Mr.

Mr. Eddes.

Mr. Just.

Mr. Cox.

Sir C. Lucas.

Sir F. Hopwood.

Col. Seely.

Lord Crewe.