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EAST PROT
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38641
REC'D
SERIAL 15

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for
Borrowing
1916
28 June
Last previous Paper.
Gov
23982

Order No. 1916.
Land Titles Amend.

Submit.

Spare copies to Secretary

Notes
Aug. 11 9.16.

Mr. ~~Fitzgibbon~~
Mr. Butler.

This disposes of the ^{more} important points
arising out of 44709/15.

The holder of a certificate of Coast
Title is safe as against the Crown; while
the man who has not yet got his
certificate knows that the Govt. have
disavowed any policy of "grab" (44709/15
- despatch, para: 18).

As regards overlapping of registration,
this Order removes registration to the
C. Lands Ord. 1915 where the
original grant is for the Crown. In
other cases it comes under the Coast
Ord.

Ans: 625 3
to Gov. Conf. cases } 2 Sept '16

Next subsequent Paper.

55037
62013

are all right?

? notify non. disallowance etc.

And write a conf. despatch to Govt. with ref. to 44709/15 asking that the rigour of the two petitions may be relaxed

(a) that these petitions have been removed

(b) that they are more that they Govt. have

given an assurance (as in para. 18 of 44709)

(c) that this Order entitles the holder of those who hold certificates for the Records of Titles

(d) that it clears up all doubts & is negotiable

(e) that the S. of A. would be prepared to

consider definite instances in which the

provisions of the Order cause hardship

in other respects but that he is not

able to deal with general statements

such as those in the last few paras of

the Ch. of Commerce petition

Govt
44709/15

- ask Govt. (as in Mr. Parley's minutes) as to fees on appeals from the Records Court.

28.8.16

not possible

28.8.16

29.8.16

29.8.16

29.8.16

above

(Ch. of Commerce only)

would not

28.8

2 A Det

are all right?

? notify hon. Mr. Lawrence etc.

And write a conf. despatch to Gov. with ref. to 24709/15 asking that the signatures of the two petitions may be enjoined

- (a) that these petitions have been removed
- (b) that they are aware that the Govt have given an assurance (as in para. 18 of 24709/15)
- (c) that this Order establishes the position of those who hold certificates from the Records of Titles

(d) that it clears up all doubts as to registration

- (e) that the S. of A. would be prepared to consider definite instances in which the provisions of the Order cause hardship in other respects but that he is not able to deal with general statements such as those in the last few paragraphs of the Ch. of Commerce petition

Ch. of Commerce only

would. and Ha.B

ask Gov (as in Mr. Parley's minutes) to see in officials from the Records Court
24.8.16

independable.

CB. 28/8/16

Ha.B
29.8.16

G.S. 29.8.16
above

SA Det

are all right?

? notify non-allowance etc.

Send write a conf. despatch to Govt. with ref. to 44709/15 asking that the rigours of the two petitions may be relaxed

- (a) that their petitions have been received
- (b) that they are aware that the Govt. have given an order (as in para 18 of 44709/15)
- (c) that the Order establishes the position of those who hold certificates for the Records & Titles

(d) that it clears up all doubts as regards

- 1. (e) that the S. of T. would be prepared to consider definite instances in which the provisions of the Order cause hardship in other respects but that he is not able to deal with general statements such as those in the last few paras of the Ch. of Government petition on 44709/15.

2 for (Ch. Govt only)

I would not 2/2/16

- ask for (in the Railway's minutes) as to fees on appeals from the Records Court.

21.8.16

not possible.

26. 28/8/16

29.8.16

29.8.16

above

2 A Det

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AFRICA PROTECTORATE
No. 391.

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.
38641
June 28th, 1916.

Sir,

I have the honour to transmit herewith two authenticated and ten printed copies of "The Land Titles Amendment Ordinance 1916" together with a memorandum by the Attorney General.

2. I have assented to the Ordinance in the name of His Majesty.

I have the honour to be,

Sir,

Your humble, obedient servant,

[Signature]
In the absence of
The GOVERNOR

THE RIGHT HONOURABLE
ANDREW BONAR LAW, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S. W.

38641

Rec^d
Rec^d 15 11/16

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THE LAND TITLES AMENDMENT ORDINANCE, 1916.

STATEMENT OF OBJECTS AND REASONS.

The chief object of the bill is to remove doubts which have arisen with regard to the effect of the Crown Lands Ordinance, 1915, Section 141, on certificates of title issued by the Recorder of Titles under the Land Titles Ordinance, 1908. Such doubt is removed by Clause 2 of the bill which specifically provides that nothing in the Crown Lands Ordinance, 1915, shall be deemed to effect the provisions of Section 21 of the Land Titles Ordinance, 1908. Such Section deals with the nature of the title given by the Recorder of Titles.

2. The Special Committee of the Legislative Council which was appointed to examine and report on the Bill as presented to Council was of the opinion that it was unnecessary for holders of titles from the Crown to be under the obligation of applying for a certificate in the Recorder of Titles' Court. Clause 3 of the Bill has been framed to obviate the necessity for application in such cases.

3. As in some cases applications have already been made by holders of Crown titles to the Recorder of Titles and adjudicated on it is necessary to make provision to ensure the continuity of the history of the title in the Register of Crown Lands. Clauses 4 and 5 of the Bill are designed to make compulsory the registration of the certificate of title and all further dealings with the land in the Register of Crown Lands

P.T.O.

THE LAND TITLES AMENDMENT ORDINANCE, 1916.

COMPARATIVE TABLE.

Section.	Remarks.
Section 1.	Short Title.
Section 2.	Having the provisions of Section 21 of the Land Titles Ordinance, 1908, from the effect of any provision of the Crown Lands Ordinance, 1915.
Section 3.	The Land Titles Ordinance, 1908, not to apply to land held from the Crown.
Section 4.	Certificates of title in respect of Crown Land and subsequent documents to be registered in the Crown Lands Register.
Section 5.	The provisions of the Land Titles Amendment Ordinance, 1910, regarding registration not to apply to Crown lands in respect of which certificates of ownership have been issued.
Section 6.	Provision for the issue of decrees and the recovery of costs and fees.

and to obviate the necessity for any further registration under the Land Titles Amendment Ordinance, 1910, part II. Subclause 2 of Clause 4 is intended to cover cases in which coconut trees or other property situated on Crown Land the subject of a grant, lease or licence are owned by some person other than the grantee, lessee or licensee. It is desirable that such rights, if any, should be registered in the Crown Lands register in order to make the record of the title complete.

4. Owing to the amendment of the Section 50 of the Land Titles Ordinance, 1908, by the Land Titles Amendment Ordinance (No.2) 1910, Section 2, there is no specific provision for the recovery of costs and fees under a judgment of the Land Registration Court. This result is apparently due to an oversight. Clause 6 is intended to give such necessary powers and to make them apply to judgments and orders given before the enactment of the Bill.

5. The Bill, in my opinion, may be assented to forthwith.

Harari,
The 15th day of June 1916.

Sd. J. W. BARTH
ATTORNEY GENERAL.
P.

Sd.
ATTORNEY GENERAL.
P.

Gov
38641/16

East

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[Handwritten signature]

Downing Street,
2 Sept.
August, 1916.

divsd 02013

DRAFT
EAST AFRICA PROTECTORATE

CONFIDENTIAL

Mr. H. Conway Belfield, K.C.M.G.,
&c., &c.

Sir,

In a separate despatch by this

mail I have informed you that His Majesty will not be advised to exercise his power of disallowance with respect to the Land Titles Amendment Ordinance 1916 (No. IV of 1916).

MINUTE.

- Mr. Butler 30.8.16. *f-3*
- Mr.
- Mr.
- Mr. Grindle
- Mr. Lambert
- Mr. Read
- Sir G. Fiddes
- Mr. Steel-Maitland
- Mr. Bonar Law

2. It thus becomes possible to make some reply to the petitions from the Mombasa Chamber of Commerce, and from land owners in the Mombasa district, enclosed in your Confidential despatch

(44709/16)

No. 65 of the 26th August 1915. I have to request that the signatories of those petitions may be informed that I have received their petitions; that, as they are aware, the Government of the East Africa Protectorate ^{has} given an assurance that

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it is not the intention to use the provisions of Section 14 of the Crown Lands Ordinance, 1915, for the purpose of seizing land; and that the Land Titles Amendment Ordinance 1916 establishes the position of those who hold certificates from the Recorder of Titles, and clears up all doubts as to registration.

3. In the petition from the land-holders of the Mombasa district, it is stated that the fees on appeal from the Recorder's Court to the High Court are preposterously high, and are without the maxim which is laid down in the case of other appeals to the High Court or appeals to the Court of Eastern Africa.

I cannot trace any information which would enable me to check this statement, and I should be glad if you would inform me as to its accuracy.

I have &c.,