

EAST AFR. PROT.  
No. 5768

5768  
Recd  
Regd 17 FEB 08

Governor. No.  
Date 2  
1908  
Jan 14  
Last previous Paper.  
Vol

(Subject.)

Survey Fees

This copy comes in minute by Mr. Churchill as to treatment as Revenue concerns in Mr. Churchill's views and recommends that it be asked to sanction fees being placed on the map or deposit

(Message)

Mr. Read  
Copy to Treas<sup>r</sup> was  
to their letter of 16 Feb. 05 (in  
estimates volume) I say  
Lord Elgin wd. be glad if  
the proposal was sanctioned

19/2

W. Cantabrig.

So, need?  
H. 2. R.

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19 Feb. 19

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282

Next subsequent Paper.

Treas  
9252

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Governor's Office,

Nairobi,

January 3rd 1908.

EAST AFRICA PROTECTORATE.

No. 2

(Incl. 3)

C. O.
5768
Recd
Jan 17 1908

My Lord,

I have the honour to transmit herewith copies of correspondence which I have recently received on the question of Survey Fees being treated as Revenue, and a copy of a Minute by Mr. Winston Churchill which bears on the same subject.

2. Your Lordship will see from this correspondence that originally Survey Fees were placed on deposit, but that under instructions from His Majesty's Treasury in a Minute dated the 16th of February 1905 to the Foreign Office, this system was discontinued and from the 1st of April 1905 all Survey Fees received were ordered to be treated as revenue.

3. The objections to this course are most clearly stated in the Director of Surveys' Minute; the method is involved and misleading, for, as frequently occurs, fees which have been shown as Revenue are returned when an application for land is cancelled.

4. Mr. Churchill's views on this system are expressed in paragraph 5 of his Minute to which I would invite Your Lordship's attention and in which I myself

most

H.M. PRINCIPAL SECRETARY OF STATE

FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W.

Min. of Lands  
Dec. 24.07

Min. of Surveys  
Dec. 23.07

Mr. Churchill  
Nov. 19.07

most thoroughly concur.

5. I would recommend, therefore, for Your Lordship's most favourable consideration that His Majesty's Treasury should be approached with a view to Survey Fees being once more placed on deposit and dealt with as outlined in the penultimate paragraph of the Director of Surveys' Minute of the 23rd of December last.

I have the honour to be,

With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

*A. H. ...*

Jan. 3 8

5788  
REC-  
Rm 17 Dec 08

The Hon. the Minister of Lands,  
Nairobi,  
4th December, 07.

Dear Sir,  
The right honourable the Under Secretary of State for the Colonies said in para. 5 of his note of the 13th. November that the survey was said to the Government in consideration of value promised should not be treated as revenue.

I was glad to hear this opinion, for I have long thought that it would very greatly simplify our procedure if the proposed could be carried out. The existing procedure is in accordance with the orders of His Majesty's Treasury.

I have verified and accepted the procedure and am glad that each item will eventually be paid to the Government as a result of the survey.

I am glad to hear that the survey is being carried out since the increase of the Government survey is a desirable thing and if the work has been done by the staff of the State.

(For the Minister of Lands.)

HIS EXCELLENCY THE GOVERNOR. 2.

If we were allowed to pay all Survey fees into a deposit account and to draw them out item by item as each block was surveyed, it would be easy to credit to revenue for work done by a Government Surveyor, and to pay to a licensed surveyor for that done by him. The probable sum likely to accrue to Government under this mode could always be entered in the estimates.

I beg to commend a minute by the Director of Surveys on the subject, and to request that the question be referred home.

I have the honour to be,

Your Excellency's  
most obedient servant,



Commissioner of Lands.

MINUTE.

With reference to paragraph 5 of Mr. Churchill's Minute I have collected a set of papers dealing with the subject in the past. From these it appears that Survey Fees were originally treated as a deposit. Treasury Minute of 16th February 1905 from Treasury to the Foreign Office laid down that the deposit system should be ended.

The chief objection to crediting survey fees to Revenue is that money is credited to Revenue which has not really been earned until survey is completed, and which may and often is refunded if an application is cancelled. Also if survey fees are held as deposit funds are available for payment of licensed surveyors and would always suffice to pay them up to the amount of arrears of survey ready to be undertaken.

I think that authority should be asked to hold survey fees as a deposit and that Mr. Churchill's minute is a suitable opportunity to re-open the question.

I recommend that survey fees when paid in should be passed to the Treasury as deposit. As soon as plans by Licensed Surveyors are passed payment would be made for them out of the deposited funds. As soon as surveys are completed by the department corresponding sums would be transferred to Revenue. And such Revenue would have a real meaning it having been really earned. It would be advisable, however, to postpone such transfers to revenue until sufficient time has elapsed to allow the deposit held to become equal to

the

the value of arrears of applications not dealt with.

I remind you that the Land Board takes the above views. You will also see that the Treasurer in his Minute of the 19th December 1907 takes the same view.

Sd/- G.S.SMITH, Major, R.E.  
Director of Surveys.

Nairobi,

December 23rd 1907.

COPY.

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REC-17 FEB 08

Sir J. Hayes Sadler,

I think that the following Minute

represents the results reached by the Conference yesterday.

1. The Land Board should meet as soon as possible for the purpose of drafting a precise and comprehensive definition of the term "beneficial occupation". I am of opinion that the conditions should be made varied and elastic, in order to meet the many different kinds of honest effort applied to the development of holdings, and the Land Board should, therefore, not shrink from framing an elaborate schedule. A probationary period of 5 years should however form the foundation, but the time might be shortened in cases of exceptionally beneficial occupation.

2. All persons who can prove "beneficial occupation" under the definition aforesaid should be given a valid title of their leaseholds, including the right of free transfer.

3. Colonel Montgomery should forthwith prepare a list of absentees, and the Government should then give 6 months' notice to these persons of their intention to resume possession of their lands under the original conditions of the grant. Unless within that time cause has been shown for special treatment, the lands in question should be taken possession of by the Government under the law, and their former lessees left to seek their remedy in the Courts. For the purpose of this measure, the word "absentee" does not mean absentee from British East Africa, but absent from any particular leasehold\* - the employment

of

\* When a lessee of more than one holding is paying proper attention to one of them, he should be exempted with regard to the other.



5768

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Jan

**DRAFT.**

and of

26 Feb '08.

Secy

Treasury

Sir,

MINUTE. 24/2

Mr. Noall 24/2

Mr. Read

Mr. Just

Mr. Astrobua.

Mr. Cox.

Mr. Lucas.

Sir F. Hopwood.

Mr. Churchill.

The Earl of Elgin.

24/2

I am directed by the E of Elgin to transmit to you to be laid before the Lords Commrs of the Treasury, with reference to their letter <sup>to the FC</sup> of the 16<sup>th</sup> of Feb 1908, a copy of a despatch from the Gov of the E. A. P., in which it is suggested that Survey Fees may once more be placed on deficit instead of being treated as Revenue.

I am to state that Lord Elgin would be glad if this

Jan 22