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Governor. No.

Mem 609

1909

25th Oct

Last Previous Paper.

4/27/35
18

REGISTRATION OF COAST TITLES

Reports that it has been found necessary to insert in the draft Estimates for 1910-11 the sum of £4,812 for this work and for the special surveys connected with it. States circumstances which are held to justify this large increase. States staff that will be required and conditions under which they should be engaged.

Mr. Read,

I quite expected something of this sort after my conversation with Mr. Hamilton and Colonel Montgomery, to which reference is made on Gov./47351/08.

The urgency of dealing with land titles in the coast strip was pressed upon the Secretary of State just three years ago in Gov./42072/06. Mr. Hamilton's memorandum ^{of the 23rd June 1906} which forms the second enclosure in that despatch, shews very clearly and forcibly what the urgency and importance of the question then was, and the urgency and importance can only have increased with the lapse of time. The registration of these titles is necessary to make it possible for Government land to be separated from land claimed by private owners, and for dealing with squatters who are at present, owing to inaction on the part of the Government, building up rights which it will be difficult to question hereafter. It is also very

desirable

To you 26.3 Feb 10. [unclear]
Tel you com 19 Aug 1906 [unclear]

desirable to give reliable titles which will form ^a satisfactory base for dealings in land. Such dealings are at present handicapped by the fact that those who wish to acquire land for building or plantation purposes are ~~entirely~~ uncertain as to the actual limits of the property which they wish to get. As Mr. Hamilton points out in his memorandum, it may be said generally that the insecurity of title to land on the coast ~~does~~ very materially retard the economic development of the country, and that if this difficulty were removed great attractions would be held out to the profitable and secure investment of European capital. The cost of the work of deciding on the various claims to land will eventually be recouped by percentages on the value of the land surveyed. It is apparently impossible at present to frame any reliable estimate of the returns, but they will certainly be large in the course of time, even though the initial expenditure may greatly exceed the fees at first received.

We ~~should~~ ^{shall} have to wait for the estimates to judge whether the considerable expenditure here proposed is important enough to rank prior to other services which may have been postponed in order to admit of it. In the meantime, by way of preparing the Treasury, we might send them a copy of this despatch and its enclosure, with a copy of the Land Titles Ordinance (No. 11 of 1906), and say that the question will be further considered in connexion with the estimates.

Feb 13

Nov 20

to Mr. Fisher

S. P. ...

H. S. ...

Japan

27/11

at ...
P. 21

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GOVERNMENT HOUSE,

Nairobi,

October 25th 1909

EAST AFRICA PROTECTORATE

No. 609

(Incl. 1)

38023
REC^d
REG^d 27 NOV 09

My Lord,

I have the honour to bring before Your Lordship the question of the Registration of Coast Titles as it has an important bearing on the Estimates for the year 1910-11 which have been carefully prepared on the "half and half" principle and will shortly be submitted.

2. I have found it necessary to insert a sum of £4,812 for this work and for the special surveys in connection with it, vide page 103 of draft Estimates attached. The expenditure in question being of a special nature it has been entered under a separate heading. Your Lordship will doubtless require an explanation of the circumstances which are held to justify this large increase and I will therefore recapitulate briefly the steps which have already been taken in order to show how the present situation has come about.

3. The desirability of determining the ownership of land on the coast was first explained to Your Lordship's predecessor in 1906, and as a result of the correspondence which passed sanction for the creation of

H. H. PRINCIPAL SECRETARY OF STATE
FOR THE COLONIES
DOWNING STREET,
LONDON, S. W.

of the post of Recorder of Titles was given and Mr. Shearman Turner was appointed on November 1st 1907. The introduction of the legislation involved and the interval which has necessarily to elapse between its application to any particular district and the inception of actual proceedings before the Recorder has delayed the commencement of registration, but a start can be made in the Malindi District in January next. Meanwhile Mr. Shearman Turner has been usefully employed in the Administrator General's Department in the preliminary investigations in connection with his work.

4. These investigations, while they establish beyond cavil the urgency and importance of an early settlement of the land questions existing on the coast, show clearly that the magnitude and difficulty of these questions have been greatly underestimated.

5. I regret that this has been the case, but it was perhaps inevitable, and it is in the light of our closer acquaintance with the circumstances and fuller knowledge of actual requirements that the estimate now submitted has been prepared.

6. The amount asked for is made up of £3,718 for the Recorder of Titles and his Staff, and £1,094 for additional expenditure in the Survey Department, Cadastral Branch, the work of which increases pari passu with the development of the former. The principal new appointments are those of the three Deputy Recorders of Titles, who should be qualified legal men of not less than five years standing. They should

(3)

should be engaged on agreement for three years at a salary of £500 with the privilege of free quarters or an allowance in lieu thereof. A fresh agreement should also be entered into with Mr. Shearman Turner whose present appointment terminates in November 1910.

7. In the Survey Department a Junior Staff Surveyor at £250 and two Assistants at £120 are required. The former should be a man of some experience but the latter might be either young men just leaving an Intermediate College, who would accept small pay on trial, in the prospect of obtaining a satisfactory certificate without serving an apprenticeship and paying a premium, or skilled Indians if such could be obtained.

8. The rest of the estimate calls for no special comment, consisting mainly of incidental expenses in the way of Transport, Salaries, Passages, Local Travelling and Medical Staff.

9. It is proposed that the European Survey Staff should not be appointed till five months of the financial year 1910-11 have elapsed, in order that their arrival may coincide with the demands made upon the Director of Surveys by the Recorder of Titles, it being estimated that there is sufficient land already surveyed or which can be surveyed by the ordinary Staff at the disposal of the Director of Surveys to keep pace with the Recorder's work till nearly one half of the financial year has elapsed. The comparatively small Survey Staff specially provided for the Recorder of Titles is due to the fact that

(4)

that a portion of the ordinary Survey Staff of the Protectorate will be detached from their duties in the Highlands - which will be entrusted to licensed surveyors - and employed on the coast belt in connection with the work of the Recorder's Department.

10. The amount involved is, I admit, considerable and I regret the necessity for spending it the more as it obliges me to postpone many important works which might be undertaken with advantage to the Protectorate. We are, however, under an obligation to the public in the matter and are bound to redeem our pledges and carry through the programme already foreshadowed by the Land Titles Ordinance.

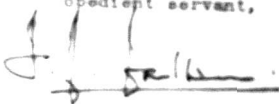
11. The provision for the Recorder of Titles Department for the current year is £1,000, shown under the Land Office, so that the increase proposed is £2,700. It is impossible, until the recording of titles has been actually proceeding for some little time, to estimate for how long it will be necessary to maintain a special staff for the purpose, but it seems most unlikely that the work will be completed within less than three years from 1st of April 1910, or that it can be carried out at a cost of less than about £12,000 in all. Neither is it possible for the present to state what the direct revenue earned by the Department will be as an estimate can only be based upon a certain percentage charged upon an indeterminate unknown land value of uncertain acreage.

12. The eventual settlement of the question of ownership will moreover be of lasting and permanent benefit.

(5)

benefit to the country and the Government will profit indirectly by the development of trade and commerce which will inevitably result. It would therefore be to our interest to deal with the matter as fully and expeditiously as possible apart from the fact that by so doing we shall go far to remove a very genuine and legitimate ground of complaint on the part of the coast population. It is estimated that there are over 10,000 claims on Mombasa Island alone, and we have as yet been unable through paucity of Staff to extend the application of the Ordinance to that district, though we have promised to do so at an early date.

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


ACTING GOVERNOR.

Gov. 38023 R.A.P.
1909

In on

DRAFT

Downing Street,

The Secretary
to the Treasury

4 Dec 1909.

Sir,

I am directed by the Earl of
Crewe to transmit to you, to be laid
before the Lords Commissioners of the
Treasury a copy of the despatch, with
its enclosure, from the Acting Governor
of the East Africa Protectorate relating
to the expenditure for which it is pro-
posed to provide in the Estimates for
the coming year in connection with the

MINUTE

- Mr. Butler *Nov.*
- Mr. *Nov.*
- Mr. Just.
- Mr. Antrobus.
- Mr. Cox.
- Sir G. Lucas.
- Sir F. Hopwood.
- Col. Seely.
- The Earl of Crewe.

done 790

Cpt. W. Aubrey Oct. 25 1909

(38023)

Hand Title Ord. 1908
(No. XI of 1908)

(on 11/16/10)

Copy for 56. 3 Feb 10. *Treas 790/10*

registration of *to be laid*
in the *in the*
2. The importance of dealing with
these titles was *in the*
Lordships in the letter from this Office
of the 12th of March 1907. A copy
of The Land Titles Ordinance 1908, which