

Will you please inform me over the telephone when payment has been authorised.

This payment completes the amounts due in respect of the various Islands which have been acquired in the B.I.O.T.

Will E and AD, when they have noted the payment authorised in this minute, please pass the file direct to DS 11 for action on minute 93.

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8 June 1967

M93 -

DS 11

TENURE OF BRITISH INDIAN OCEAN TERRITORY

The title to the various islands which form the above newly-created Territory is vested in the Commissioner, BIOT on behalf of the Crown, but since the cost of severance from Mauritius and Seychelles and of buying out private ownerships has been met from Defence Votes consideration must be given to whether it is desirable that title should be transferred to the Secretary of State for Defence.

2. As we see it the "pros and cons" are:-

Advantages in vesting in Secretary of State for Defence

a. If left as at present there might be a conflict on matters of administration, particularly with regard to islands not affected by defence installations or the presence of UK/US defence personnel. Defence views must be paramount.

b. As the purpose of buying out private interests was to ensure ready availability for defence requirements this may be considered not to be fully met unless title lies with MOD.

Disadvantages

a. It is preferable that the day to day dealing with leaseholders and other civilian parties in the surplus islands should be in the hands of a Colonial Administration directly responsible for the Territory in all aspects (subject to 2a. above).

b. The Attorney-General has expressed the opinion that, under the existing law, if the Territory were to be vested in other than the Crown such other party (even if he be the Secretary of State for Defence) would be liable to pay income tax eg, on rents receivable in respect of leases of islands. It must be emphasised that this opinion was given on the spur of the moment and is not necessarily a considered legal opinion given after full investigation into the law and precedents. However, it is felt that this point could possibly be overcome by the enactment of an Ordinance exempting UK Ministers of State from liability for Tax in respect of land held on behalf of their Departments.

c. In the event of transfer of title the possibility exists that the Commonwealth Office might seek to recover the full costs of administration from Defence Votes.

/General