

8

EAST LOT



45034

RE

For Cons
Belfield 102

1916
23 August

Last previous Paper.
1/29/64

TOWN PLOTS
CONDITIONS FOR LEASES

Submits observations. Regrets unable to concur in expediency of adopting a shorter term as an alternative to the periodical re-assessment of rent.

W. Butler

I do not think we can carry this further. I would not be difficult to pick holes in the Governor's despatch. E.g. (end of para. 3), the community we wished to protect is the community of 33 or 66 years hence, which cannot be consulted now; and (para. 5), the community to which the Gov's reference is not the future nor the present community but the intending speculator in town land.

I still cannot see that we should be committing a breach of faith towards people who are still free to act as they wish, but it is clear that there would

Must last to next

next subsequent Paper.

not desirable that we should give
a handle to the objection of the
population of the Port^o who oppose
the Govt on every occasion. Evidently
we cannot rely on the cordial
co-operation of the Govt. & his
advisers.

There is still the horrible
alternative of fixed increases
already adopted in the case of
go-down rates, where the rent
is doubled after 33 years &
trebled after 66 years, but this
I suppose would be contrary to existing
expectation as regards ordinary
town plots & therefore as inadvisable
in revision of rent.

I think we must tell the Govt
that in preference to his view the
proposals of revision of rent or,
alternatively of a reduced term,
will not be pursued, but that we
only on him not only to secure that
a substantial upward price is
fixed (see para: 4) but also to
see that the rent is put at a
figure which will bring in a
reasonable return having regard
to the probable future increase
of value of the land?

W.C.B.
21. 7. 16

am: 7 (c)
for
15/11/14

See the President's
Notice in Govt
- at bottom of

Just before the outbreak of war the
Govt submitted a scheme for a municipality
at Nairobi - see for /114.
3/1/54

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one of the "recommendations" was :-
"the transfer to the Municipal Council
of all Crown Land within the municipal
boundaries after reservation of an area
sufficient for future Government
requirements."

It is probable that at an distant date
a municipality will be established at
Nairobi - & that similar municipalities
will eventually be formed in Mombasa
& Nakuru & possibly other centres. The
question of establishing a Municipal
Council at Mombasa has already seen
some action (see for /113)
3/2/54

It may well happen that in these
municipalities effect may be given in con-
form to the recommendation quoted above,
with the result that it is not the
Port but the municipality (Community)
which will be materially affected by the
action which the Govt now proposes to
take.

In applying as proposed by Mr. Bottomley

I would add something in the sense
of the foregoing.

N. J. D.

22/9/16

Mr. Read's is merely a debating point & I would
add nothing on the practical side, & I would
omit it as it is by way of prejudging a question
which we have hung up during the war.

(Not course) comes in the answer
proposed by Mr. Bottomley.

Jan. 26/19

I do not think we can pass the proposal
for a shadow lease of 50-60 years.

But I would still be sorry to see the
proposal of a ~~single~~ rent ~~increased~~ until we
have either had the chance of conferring
with the Gov^t or some of the principal officials
or otherwise had a chance of corroborating
his statements as to local opinion being
so set that it would consider the establishment
of the system a breach of faith.

Partly the dislike of the system in the
Governor. In his dispatch he says this
action will be regarded as a breach of faith.
In the last section he says that they will
have just cause to complain; not that
they think they have.

Again if water is to be compensation
for buildings is a possible policy. The Governor
has never faced this or any modification so
I will see if there can be a method found

of carrying out the proposed policy without
 missing the trouble he apprehends

would tell him that it is not
 proposed to force the proposed policy on him
 in view of his further remonstrances. But that
 unless there is any urgent need for an early
 decision, the Secretary of S proposes to ~~propose~~
 that further action should be suspended until
 there is an opportunity of discussing the question
 with him or with some responsible official who
 in his opinion can adequately represent his
 views on the ~~the~~ subject.

As. 12. 28. 9

I do not think it worth while to
 press this further in to delay it -

as proposed by the Secretary
 AMJ 3.10

I failed to get back these papers in
 time to add a further note before action
 was taken, but for now it is well to note

(1) The system of issuing notes is not an
 innovation. It is the regular system in
 force in Northern Nigeria of the law
 No. 1. 19.6 36(c) "It shall be lawful for the
 Government... to issue the said notes in the

Case of leases ^{granted} specifically for building
purpose at intervals of not more than
20 years.

(2) The Governor's protest is based not
on knowledge but on a complete misunderstanding
of the principle of the whole proposal. Otherwise
he would never have written as at A on
page 2 of his dispatch.

A.S.M. 9. 10.

45032

487

~~AFRICA PROTECTORATE~~

GOVERNMENT HOUSE,
NAIROBI,
BRITISH EAST AFRICA.

No. 102

CONFIDENTIAL

45032



23rd August 1916.

REC'D
REV'D 20 SEP

0/12-20

Sir,

4/12
*TP 20443

I have the honour to acknowledge the receipt of your Confidential despatch of June 14th, 1916, on the subject of the revision of rent for town plots, and to state that, after most careful consultation with my advisors, I regret that I find myself unable to concur in the expediency of adopting a shorter term of lease as an alternative to the periodical re-assessment of rent.

2. On the question of periodical revision, I find some difficulty in adducing arguments additional to those which I have already presented for your consideration, but the following observations appear to be worthy of examination.

3. It should be remembered that the Government is in a different position to an ordinary landlord, and that the public in a new country - especially those members of the public out of whose pocket the benefit comes - do not always realise that benefits to the Government are benefits to the community. The person who rents a building plot on a lease for 99 years under the usual covenants knows exactly where he stands, his liabilities to his landlord are determined

at

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

2.

at the outset of the tenancy, and it is merely matter of computation whether it is worth while entering into such a contract or not. Under the scheme of revisable rent, the liabilities are unknown, all that the lessee is assured of is that his rent will be periodically increased to an unknown sum throughout the term, and that in spite of the fact that his improvements will accrue to the Government at the end of it, although the Government is getting the full rental on the landpart from the buildings. I am convinced that if the community were consulted it would emphatically forego the advantage to which you refer in order to ensure a fixed rent for the whole of the term.

4. I am inclined to think that you have over-estimated the danger of small prices being bid at auctions of the right to lease town plots owing to combinations of intending purchasers. In any event such a result can be frustrated by fixing for each lot a minimum or upset price having some relation to the market value.

5. The alternative proposal now made to reduce the length of the term of the lease of such plots will, I am satisfied, if adopted, expose the Government to accusations of breach of faith. There is nothing legally to prevent the suggestion being carried into effect, but the result will inevitably be an outcry for the restitution of the longer term.

6. The alteration proposed is not a question of hardship but a question of good faith. There is no doubt in my mind that the community, rightly or wrongly, is of opinion that the usual term and conditions of rent for town lots to be leased under the Crown Lands

3.

Ordinance, 1915, will not be varied from those formerly in force otherwise than as may be expressly provided by the Ordinance.

7. I am prepared to admit that your contention may be legally and theoretically correct, but as a question of practical politics I have no doubt that it will be most unwise to re-open the land question, which has been settled for the time being, by altering the conditions on which town lots will be let. Such conditions have unquestionably been assumed by the public to include fixed rent for a term of 99 years save in special cases.

8. If either course is now adopted, I still feel, after careful re-examination of the whole correspondence, that the public will have just cause to complain.

I have the honour to be,

Sir,

Your humble obedient servant,

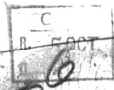
A. Lawry Beyle

GOVERNOR.

1013-20

You E.A.P.
45032

490



6 Oct. 1916



Sir, I have the hon. to ask

the rect. of your conf. desk. No. 102 of the 23rd of August

on the subject of the revision of your plots, and to

inf. you that, in deference to your views, I do not propose

to pass the proposed but the rest of your plots should

in future be subject to revision, or otherwise, that the term of the leases

should be less than 99 years. I should, however, rely on

you to take care not only that the value of the plots are offered bears

a proper relation to the market value of the land, as you

suggested in para. 4 of your despatch, but also that the

DRAFT

E.A.P. (Conf.)

For Believes

MINUTE.

Mr. ~~Rowland~~ 5/10/16

Mr.

Mr. Parker 5

Mr.

Mr. Read 5

Sir H. Jess.

Sir G. Fiddes.

Mr. Steel-Maitland.

Mr. Bonar Law.

minutely

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provisions

to each plot is determined by
according to similar
considerations. Under a system
of revision it would be proper
to fix the initial rent of a
figure based rather on the
desirability of developing the
town areas rapidly than on the future
value of the land, but a
rent so fixed would be
inappropriate in the case of
a 99 years lease. ^{without revision of rent.} The
~~fixed~~ ^{rent} should ^{therefore} be such
determined as to bring in
a reasonable
return throughout the currency
of the lease, regard being had
to the probable future increase in
the value of the land.

J. A. [unclear]

G. [unclear]