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Land

Two memoranda by Mr. Jannabill & views
of Co. Committee thereon.

See minutes on $\frac{B.}{27252}$

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Subsequent Paper

27232

Memorandum (No. 2.) in regard to the Alienship of Crown Lands in the East Africa Protectorate.

29. The Committee wished to consider how far these proposals in my Memorandum of June 2nd, 1912 which they were prepared to recommend for the consideration of the Secretary of State would militate against dunnying and an undue accumulation of land in the hands of one individual.

Before proceeding further, I wish to define as clearly as possible what I mean by "undue accumulation". "Undue accumulation" in my opinion exists where any person holds an area of land which he does not intend to develop. The measure of undue accumulation is neither area nor rent but the fact that the land is not being developed. In this Protectorate, where capital is so urgently required, I consider it a very doubtful wisdom to tax a man who genuinely develops 10,000 acres in any greater proportion than a man who genuinely develops only 1,000 acres.

The object, therefore, I am endeavouring to attain is, not to make it impossible for one person to develop a large area of land but to make it as difficult as possible for one person to hold a large area and not develop it.

30. The various methods of acquiring large tracts of land are as follows:-

- (a) By purchasing in the open market and transferring by deed of Assignment to the Purchaser with the consent of the Government.

Under the present rules, no transfer is allowed

unless

accumulation
Land.

of acquiring
Land.

unless sufficient Development has been completed. Further, no further Transfer is allowed to any person who at the time of the application holds 15,000 acres. It is when this limit is reached that "dummying" is resorted to.

(b) The real purchaser A after protecting himself as far as possible by some secret Agreement provides B with the necessary cash and the land is transferred into B's name and A the real purchaser never appears before the Government.

(c) A having reached the maximum grant writes to England for Powers of Attorney from his Father, his mother and his friends together with Proofs that they are possessed of sufficient means to carry out development and forwards an indemnity by which he clears them of all risk and payments and takes all profits.

(d) A having reached the maximum grant forms a Company of which he holds 94% of the shares.

(e) A takes in a partner B, which latter takes perhaps only $\frac{1}{4}$ share in the profits, but in the course of time 15,000 acres will be acquired by B, without A's name appearing although $\frac{3}{4}$ of the profit on these 15,000 acres belong to A.

to prohibit
dummying

51. Although perhaps there are other systems than those mentioned above they ultimately resolve themselves into two classes viz:- (a) the Land holder who hides his identity under a Power of Attorney and (b) the Landholder whose identity can be traced through various perfectly legal deeds of Partnership and lists of Shareholders.

The first step therefore is if possible to

do away with the (a) class.

It must be noted here that the Protectorate is labouring under a system of registration of documents that is obsolete, enormously expensive and absolutely ineffective.

Powers of Attorney, e.g. are not recorded and become legal instruments directly a Road stamp is affixed.

Even if they were recorded, there are so many registration stations scattered all over the Protectorate that it would involve an immense amount of labour to keep in touch with all such documents.

Sections 44, 52 (1) and Part VII secs. 90 to 94 deal to a certain extent with the making of returns by Land Holders and the revised Part IX also deals with this but I should like to see in the case of all applications for Transfer and also in all applications for "permits to bid at auction" that the transferee of the applicant to bid as the case may be shall be compelled to produce a sworn statement indicating exactly the amount of land he is interested in and further in the case of Powers of Attorney the Attorney to swear an affidavit that the person purporting to give the Power (a) is alive (b) will be the sole beneficiary of any grant obtained under the Power of Attorney and (c) has not entered and will not enter without due notice to Land Officers into any agreement to transfer his interest or any part thereof in the grant.

In the case of "Applicants to bid" recommendations (b) and (c) to apply.

The penalties in section 92 to apply.

I believe provisions to the above effect would effectively

effectively stop duessing except in those cases where a person deliberately makes a false affidavit.

In such cases the difficulty of proving the offense is very great and I would like legal opinion as to whether in the case of the Land Officer suspecting the bona fides of any Attorney or Applicant to bid, or Licensee he can summons the suspected person and subject and also cross-examine other witnesses under oath. him to cross examination under oath. We have many instances at the present moment where we suspect Licensees have transferred their interests but as we have been advised we cannot force the Licensee or the proposed transferee to give evidence against themselves, and we can get no documentary evidence, we have so far failed to obtain a conviction.

32. Under the recent recommendations of the Committee the Accumulator has to contend with the following conditions which were not in force at the time the revision of part IX was under consideration.

- (a) Land will be the subject of Auction
- (b) The Stand Premium fixed by Auction will have to be paid at once
- (c) For two years the land must be effectively wooded
- (d) Enhanced development is required
- (e) This development has to be maintained for all time
- (f) The average area of the grants has been reduced to one third of the existing average.

The following Comparative Table gives the approximate outlay to obtain 1,500 acres under the system in vogue and the proposed system respectively.

Present System.

	Present System		Proposed System
	£		£
(a) Stand Premium	0	say @ 2s.	100
(b) Cost of Deed	2		2
(c) Survey Fees	23		23
(d) Development	<u>125</u>		<u>250</u>
Total	<u>£ 150</u>		<u>£ 375</u>

An increase in expenditure of £225.

This difference becomes even more marked when the cost of obtaining 5,000 acres under the present and proposed systems is compared as follows :-

	Present System		Proposed System
	£		£
(a) Stand Premium	0	@ 2s. per acre	355
(b) Cost of Deed	2	cost of 3 deeds	6
(c) Survey Fees (one survey)	46	cost of 3 surveys	69
(d) Development	<u>400</u>	cost of 3 developments	<u>755</u>
Total	<u>£ 448</u>		<u>£ 1,185</u>

A difference of £737.

In addition under the proposed system the occupation clause is much more stringent and difficult of evasion and further after a lease has been obtained the lessee will be compelled to maintain development instead of leaving the farm unoccupied and allowing the development to disappear.

Under the above circumstances it is a matter for consideration whether there is any necessity to impose a further penalty in the shape of a graduated tax.

tax. It makes no difference if a man holds land in his own name, or farms himself into a Company, the land will still require to have its development maintained.

33. If it is ruled that the recommendations of the Committee have not imposed sufficient restrictions on undue accumulation then a graduated land tax as per the revised Part IX appears the only solution.

I would like however to point out that the provisions of part IX make no distinction between the Speculator and the honest developer and as a matter of practice the man who is honestly developing and wants all his available cash for development will be much harder hit than the speculator.

I venture to suggest that in fairness, rebates should be made where farms are being properly developed.

This would necessitate a graduated scale of Development.

The following table gives figures based on 50% and 100% respectively. The system in vogue in the Protectorate at present where 2 or more farms are worked together is 50% addition.

Rental per annum	Equivalent area at 10 shillings per acre	Development required in order to qualify for rebates	
		50%	100%
10	1500	250	500
20	3000	750	1000
30	4500	1125	1500
40	6000	1500	2000
50	7500	1875	2500

and so on.

34. The question has been raised as to whether at Auction a person may purchase more than one farm

and

and I see no reason against such a proceeding but if later such a person asks to be allowed to work several farms together as a single proposition it is a matter requiring careful consideration. 404

At the present moment permission is given to work two or more contiguous farms together with white occupation on one only provided 50% more development is effected. This permission allows the licensee of two farms to do the share of this development on one and leave the others idle, or use them only for grazing. Transfer of the undeveloped portion is however prohibited.

If provision is made for Grazing Leases I feel that such concessions should not apply to ordinary Agricultural Farms, I think the limit of Concession should be to allow two contiguous farms to be worked together, with white occupation on one to qualify for both but with enhanced development on the 100% scale.

In Canada this concession is allowed in regard to two farms within 9 miles of each other, but personal occupation on one or the other is insisted upon. In the Protectorate I would allow occupation by Agents to qualify but insist on contiguity of the two farms, with the proviso that two farms separated only by a road shall be considered contiguous.

This Concession in every case must be subject to the approval of the Land Officer and permission must first be obtained in writing.

(Sgd.) ARTHUR C. TANNHILL.

L.R. 25.11.12.

Views of the Committee on Mr. Tannahill's memorandum.

The Committee recommend that the period of 99 years should be adhered to. The principle of a 99 years' lease has been solemnly proclaimed for 3 or 4 years now, and has been more or less acquiesced in by the settlers. To change the principle now to a lease of 999 years or in perpetuity might lead to the revision of all land grants in the Protectorate, as it would be necessary to offer existing lessees the option of a larger lease.

The Committee agree to the formula. See also para. 9.

Though the rates of rental proposed by Mr. Tannahill appear at first sight less than the 5% of the unimproved value proposed in Lord Elgin's despatch, yet in practice owing to the abolition of the maxima, they would be considerably greater, and the Committee cannot take on themselves the responsibility of recommending rates in advance of those laid down in Lord Elgin's despatch.

For Mr. Tannahill's proposal it may be said that it would bring in larger receipts to the Government and avoid the difficulty of all classes of land paying the same rent at the end of the 30rd year which will probably be the result of the Lord Elgin despatch, all classes of land paying the maximum owing to the almost certain increase of value of land.

- Para. 7. The Committee is not convinced by Mr. Fannahill's argument in this section. If lessee takes the heart out of the land and leaves it a mass of roots and weeds, surely it will lessen the replacement value of the improvements for which he will get compensation at the end of the lease.
- Para. 8. The Committee agrees to (b) and (c).
- Para. 9. See para. 5.
- Para. 10. Objections to 5% need not be considered as in practice rentals will never reach that percentage owing to the operation of the maxima.
- Para. 11 and 12. Need not be considered if it is decided to adhere to Lord Elgin's system.
? adopt minimum rental.
- Para. 13. The Committee cannot recommend the free grant of 160 acres in East Africa. Sir P. Girouard himself was opposed to it.
- Para. 14. The Committee agree that the gift of grants should be reduced to 1500 acres for 2000 acres on the average, exact size in each particular instance to be left to the local authorities.
As to grazing leases Committee somewhat uncertain, but on the whole opposed to setting up an alternative system. See also paragraph 20.
- Para. 15. (A) (2) The privilege of freeholding 320 acres should be included in the lease, and should be made subject to Rules under section 69.

C & D.

The Committee are opposed to C and feel very doubtful about D.

Para. 17-19.

Committee prepared to admit that allotment by a Board would have certain advantages, but on the whole are clear that auction is better method as

(1) securing to the Government the best price for the land.

(2) preventing speculation by compelling lessee to pay substantial price for lease.

Each bidder to obtain from the Land Officer a certificate to bid before being allowed to bid.

To prevent blackmail the Committee suggest that the transfer of an occupation license should be made a criminal offence.

It is a matter for consideration whether monies obtained from auction should be placed to development fund.

Para. 20 A.

The Committee consider that auction should be the method of allotment in all cases. If we once allow exceptions we shall lay ourselves open to the charge of favouritism.

D.

See para. 14. Committee opposed in any case to inclusion in grazing lease of a right to declare an agricultural area. If grazing leases granted at all, they think that case would be met by the Government guaranteeing to the lessee, that, in the event of his being given notice to quit, it will obtain for him the best value it can for his permanent improvements.

para. 21

Para. 21. The Committee recommend that classification of land should be abolished and that it should be left to the Land premium to secure to the Government the proper value for various classes of land. 48

The Committee recommends 10 cents per acre as the standard rent as being (1) Half way between the highest and lowest rates at present (2) a very convenient figure for calculation.

Town Plots. The Committee recommend that the principle of revision of rent should be extended to leases of town plots but they consider that as the conditions vary so much in different localities it should be left to the local authorities to frame regulations to give effect to the principle.

Para. 22. The Committee agree to development being calculated according to acreage rather than according to rent, but consider that the rate should be fixed at R.2. per acre (to correspond to 10 cents per acre recommended for rent) with a minimum of £250.

The Committee agree to the proposed alteration of sections 49 and 50.

Para. 23. The Committee agree to the proposed maintenance clause.

Para. 24. The Committee agree to building conditions being insisted upon, but recommend that they should be modified and made the subject of rules under the Ordinance. They also agree to the infliction of progressive fine to enforce compliance with the building conditions.

Para. 25.

Para. 25.

The Committee concurs in the proposal that the payment of Stand Premium should be spread over a number of years, but recommends that the number of years should be limited to 7, and that, as a safeguard against speculation, the privilege should be limited to the licensee who can produce an affidavit to the effect that he has never at any time held any interest in any Crown grant, lease or licence.

Para. 26.

The Committee agrees that the onus of proving occupation should rest on the Grantee and not on the Crown.

H.F.B.

1.VII.