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Annual

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Hand-pans
Report of Committee

Typed report

Mr Butler

I enclose herewith the Committee
typed report and the letter which
I have drafted in accordance with
Mr. Hodge's instructions, regarding the
desirability of doing something to
improve communication with the Protectorate.

Yours
W. H. G.

15/10

See no. 80

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Downing Street,

July, 1910.

Dear Lord Curzon

I am sending you herewith the report of the sub-Committee of the Concessions Committee, which was appointed to consider the question of the East Africa Protectorate Crown Lands Ordinance. You will see that, after the most careful consideration, the Committee recommend that you should adhere to your previous decision with regard to the two main principles at issue, viz., a 99 years' lease with a revision of rent at the end of 33 and 56 years, and the imposition of a graduated land tax with a view to preventing excessive accumulations of land.

It is certain that a decision in this sense will cause a strong feeling of resentment among the white settlers in the Protectorate, and I should like

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to suggest, as a means of reconciling the colonists to our decision, that we might approach the Treasury with regard to the setting aside each year of a definite sum of money for the improvement of communications in the Protectorate. There can be no doubt that facility of communication is a very important factor in attracting settlers to a new country, and besides mitigating the resentment of the colonists at our decision in the matter of the Lands Ordinance, the suggestion which I have put forward would have the further advantage of adding considerably to the Government's justification in claiming for itself some share of the land's increased value, which it would have largely helped to create by its own action. If my suggestion is approved, and we can persuade the Treasury to allow us to earmark a certain paid sum each year for the purpose in question, I would propose that the money should be devoted to improvements which would be to the advantage of both white and native inhabitants of the Protectorate.

Yours very truly
J. Selby

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East Africa Land Law Committee

The East Africa Protectorate Lands Ordinance was last under the consideration of the Concessions Committee in 1908. In March of that year as the result of their deliberations, a despatch was addressed to the Governor of the Protectorate stating the conclusions to which the Secretary of State had come as to the tenure of land in the Protectorate and laying down the lines on which a Land Ordinance should be framed. This despatch (Lord Alington's despatch of the 12th of March 1908) forms the last paper in C.O. 4127.

The subsequent correspondence related mainly to the two chief principles laid down in that despatch, namely, the principle of a 99 years lease with revision of rents at the end of the 30rd and 60th years, and the imposition of a graduated land tax with a view to preventing excessive accumulations of land.

The Secretary of State's proposals on these points were criticised in the Governor's despatch of the 10th of November 1908. In reply to that despatch the British Government of the 7th of January 1909 laid it down that His Majesty's Government adhere to the opinion that rents must be found of securing to the Government, i.e., to the community, a share in the future increased value of the land and that this need is not met by the possibility of a land tax the incidence of which cannot be regulated. They also hold that excessive accumulations of land in

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the hands of individuals must be restrained by law as far as it is possible to do so.

"Subject to the maintenance of these two principles His Majesty's Government are prepared to consider amendments in the details of the measure, and they trust that the points will be argued out fully and freely in the Legislative Council, it being understood that the provisions of the Bill as founded on Lord Elgin's despatch stand until any particular provision is shown to need amendment."

The matter was then considered
(The Ordinance as passed) by the Legislative Council was sent home in April 1909. In accordance with the opinion of the local authorities the Ordinance made no provision for revision of rates but sought to take some reparation for this by increasing the initial rates of land proposed by the Secretary of State in connexion with such revision. The Ordinance also made no provision for the graduated land tax. This omission was defended by the ground that, although extensive accumulations of undeveloped land in the hands of individuals were admitted to be for the country, such accumulations would be sufficiently prevented, under the Ordinance as drafted, by the grant of moderate areas in the first instance and by the withholding of the right to transfer until sufficient development had taken place. See the enclosures in the despatch from the Officer Administering the Government of the 29th of April 1909.

Sir P. Girouard had at this time just been appointed Governor of the Protectorate. At his request consideration

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These it will be seen that, in order to meet local feeling, the...
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consideration of the Ordinance was postponed until he should have had an opportunity of considering the matter on the spot. He has now furnished us with his opinion in his despatch of the 17th of February 1910. His conclusion is that he most unhesitatingly recommends the approval and promulgation of the Ordinance as passed by the Legislative Council. He thinks that the Colonial is proceeding on false premises in regarding the proposed restriction of rents and that such proposal would undoubtedly bring a feeling of hostility to the Government. He is nevertheless prepared, in view of the strong feeling in the Colony, to sacrifice the Ordinance, but in the recommendation of the Government the cessation of the Ordinance would be a disadvantage and adds to the reasons for which he is inclined to favour the new one that, provided that development is undertaken, he has no very great objections to reasonable appropriations in the hands of speculative capitalists.

Next was the position of the question when it came before the consideration of the Honorable Committee. They have had the advantage of listening both to Mr. Chamberlaine, the well-known expert in all questions connected with land development, and Colonel Montgomery the late Commissioner for Lands in the Protectorate, who was able to put verbally before the Committee the settlers' point of view. After most carefully listening to both sides of the case as presented by these two gentlemen and discussing the matter between themselves, the Committee have come unanimously to the following conclusions:-

(a) The revision of rents.

The Committee have carefully considered the settlers' objections to the proposed revision and especially one objection, which they admit was a certain amount of weight that the uncertainty as to future rents may make it more difficult to borrow money on mortgage. But they have found in those objections nothing of sufficient importance to justify the abandonment of the principle which they are convinced is sound, namely, that the Government should preserve to itself the means of obtaining some share of any future increase in the value of the land. The Committee would point out that the soundness of that principle is admitted even by Sir H. Gironard and Mr. Montgomery and that they only abandoned their advocacy of it under the pressure of local opinion.

The proposal to increase the initial rates of rent which has been suggested by the Protectorate as an alternative does not appear to the Committee to meet the case at all. In their opinion the principle is the important thing not the amount of money which it may bring in, which, it is admitted, may at first at any rate be very small.

Nor can the Committee admit the argument that it does not much matter what is done, as it can be left to the good sense of future generations to protect the interests of the community by imposing a land tax or by other means.

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 to increase the rent
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 preserve to itself
 the means of obtaining
 some share of any
 future increase in
 the value of the land.

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 opinion.

They would point out that for many years to come the white population will consist almost entirely of the land-holding class and that the principle that such a community would be likely to do would be to impose a tax on land. If the principle of reserving to the State some share of the incremental value of land is to be adopted, the Committee are persuaded that that principle must be asserted now.

The Committee recognize that the adoption of the principle may mean that the taxation of land and the consequent development of the country may proceed more slowly at first, but they are not sure that this is altogether a disadvantage. ~~Even if the land has been acquired as to what steps the vital industries will succeed and with a greater risk has not remained over human and animal diseases, it would appear well enough for the country to go ahead, and in the end time for territories are of opinion that it is better for the country to proceed slowly on sound principles rather than more quickly on principles that are few sound.~~

It is recognized that a decision in this sense would probably provoke very strong feeling in the Protectorate, but it is felt that this is not a sufficient reason for sacrificing a principle which is ~~in the~~ in the best interests of the country.

C. ~~Unsettled Land~~

The Committee desire to point out that of the good land in the Protectorate fit for white settlement some four thousand square miles has already

course the Government has no hold whatever.

(d) Provision

The Committee advise that the Secretary of State should adhere to his decision as to the insertion in the Finance of a provision for enactment against multiple and plural applications. Though it may prove in some cases inefficient yet it will tend to act as a deterrent, and on the whole the influence will be a positive one rather than the reverse. The Committee accordingly recommend that it be retained.

If these recommendations are adopted, the Committee desire to recommend that, with a view to reconciling the matters to the Secretary of State's decision, the Treasury should be approached with regard to the setting aside each year of a definite sum of money for the improvement of conditions in the Protectorate. The evidence before the Committee went to show that facilities of communication is a very important factor in attracting settlers to some country, and they think that the proposal would be a very important one. It would undoubtedly result in the Protectorate if the Secretary of State adopted the recommendations of the Committee, while on the other hand it would add considerably to the Government's justification in claiming for itself some share of the land's increased value, which it would thus have largely helped to create by its own action. If the proposal is approved, the Committee think that the money should be

devoted

devoted to improvements which would be to the advantage alike of both white and native inhabitants of the Protectorate.

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The Committee's recommendations may be summarized as follows -

(a) That the land should be held in trust for the benefit of the community with regard to the two basic principles viz -

- (i) a 99 year lease with revision of rent at the end of the 33rd, 66th year, and
- (ii) the imposition of a graduated land tax with a view to preventing excessive accumulations of land.

(b) That free transfer, after due development, should be allowed for the future, but that adequate white occupation should be insisted upon as a condition of transfer in the case of agricultural estate.

(c) That all of them should adhere to the decision of the Commission on the Law of Eminent Domain and the use of the term "eminent domain".

The Committee would also like to see the liberalization of the laws regarding the use of agricultural land afforded to farmers.

liberalization of the laws regarding the use of agricultural land afforded to farmers.

John Bernard Laly
Chairman

19 Sept 1841

My dear friend

I have to beg pardon
 for not having had time
 to answer you before
 now. I am sorry to hear
 that you are not well
 and hope you will be
 able to get on your feet
 again soon. I am
 ever your affectionate
 friend

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Yours truly
Wm. G. B.