



EAST AFR. PROT.

No. 43714

43714

Recd
Rtg 14 DEC 07

No.

(Subject)

No.

1907.

No.

last previous Paper.

No.
4387

Land Leases.

Memorandum copy denoted by Land Commissioner
 & Mr. Churchill as to future terms with
 other Asks. & Telegraphic Reply

PRINTED FOR PARLIAMENT

No. 417 JUNE 1908

Mr. Churchill's letter

See memo on 44998

There is one point however
 raised here which is not
 dealt with on that paper
 viz. Mr. Churchill's proposal
 to grant better lands before
 actual survey, & also to
 compare the value of the lands
 surveyed. This can be done
 I think before that with Mr.
 Churchill's survey staff has
 completed the survey of the
 lands & the value of the
 lands is ascertained. As the

No.

last previous Paper.

No.
300

is supported by the Lord
the Gen. Ch. Montgomery &
Major Smith (see their papers
in 44988) I suppose it did
be dopted tho' the double
merry in regard with certainly
result in greater expense. This
expense, it did be made clear
must be borne wholly by the
defence.

W. J. P.

4. 28.

43714



Governor's Office
43714
Re: 14 DEC 07
November 28th 1907

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THE COLONIAL PROSECUTOR GENERAL

No. 506

PRINTED FOR PARLIAMENT
EX. 417 JUNE 1908

Handwritten notes and stamps on the left margin, including "No. 506" and "K.M."

I have the honour to submit the enclosed letter from the Commissioner of Lands on the subject of the grant of the lease for which leases should in future be given for grazing and other classes of lands.

I have barely time to deal with the matter before the mail closes this morning, but it is important that it should reach Your Lordship as early as possible.

Enclosed are minutes by the Right Honourable the Under Secretary of State for the Colonies giving his views as to the lines on which Land Legislation should proceed.

When Mr. Winston Churchill noted his opinion that grazing leases should be given for 21 years with option to renew on new conditions, I was not aware whether the proposals made in the concluding part of paragraph 3 of Colonel Montgomery's letter of the 2nd instant which were then before him, had been fully considered. The feeling against renewal under new conditions is very strong in East Africa, and I would ask Your Lordship's favourable consideration to the proposal of Colonel Montgomery.

H.M. Principal Secretary of State

For the Colonies,
Downing Street,
London, W.

6340-2159-15

had put forward. The rates proposed for the rent of lands according to the various classifications will communicate by telegram, and these will reach Your Lordship before this despatch. Personally it appears to me that if we reduce the area given on long leases from 5000 to 3000 acres to 3000 acres, with a fair rent according to classification, and insist on beneficial occupation and beneficial leases for grazing areas over 3000 acres on their merits as exceptional cases according to the status of the applicant, and the amount of capital he is prepared to invest, a good deal of the present difficulty will be obviated.

5. As regards free transfer both Colonel Montagu and myself have for some time past been inclining to the view that some form of free transfer should be given, and Your Lordship will observe that Mr. Winston Churchill favours this view. The lines being that the right of free transfer should only be given after the beneficial occupation that will be required by the regulations has been complied with.

6. I shall be glad if Your Lordship is able to give me instructions by telegram as to how far I wish on the two points raised in this despatch to be enabled me to instruct the Crown Advocate on the preparation of the draft Ordinance which I am anxious to have ready for the Legislative Council by the first week in January.

I have the honour to be,
 With the highest respect,
 My Lord,
 Your Lordship's most obedient,
 humble servant,

W. H. Murray

Office of the Commissioner of Lands,
Nairobi.

22nd November, 1907.

Your Excellency,

I hoped to have had the draft Crown Lands Ordinance ready for first reading at the Sessions of the beginning of December, but fear this will not now be possible, for the following reasons.

2. At the discussion that we had with the Right Honourable Winston Churchill nothing was definitely settled about the length of leases. On the other hand Mr. Churchill had at the time a paper showing that the Land Board recommended the elimination of distinctions as to agricultural, grazing, cotton land, &c., and suggested that all land should be classified according to its real value and rated accordingly. Understanding that this was generally approved, I sent a note to the Crown Advocate, of which a copy is enclosed, indicating the general lines on which the conditions for holding land should be entered in the new law.

HIS EXCELLENCY,

THE GOVERNOR,

EAST AFRICA PROTECTORATE,

NAIROBI.

2.

I have since received Mr. Churchill's note of the 16th. inst., in which he gives his opinion that for the present grazing land should be offered on 21 years leases, with option to renew under new conditions.

Now although it is true that I myself suggested the 21 years lease, renewable at an enhanced rent to 99 years, I did this on the assumption that the leases would be given in the first instance at very low uniform rents without classification. It is now proposed to classify all land, and if this is done I am of opinion that the leases should be for at least 99 years. Indeed Mr. Churchill in his conversation led us to believe that he would be prepared to agree to a 99 years lease, provided the rent was sufficient.

That is the essence of the question.

What we now propose is:-

- (1) Classification of land according to actual value.
- (2) A rate rent charged according to such classification.
- (3) Strict compliance with conditions of occupation and development.

Given these factors, I consider that all land outside townships may be granted for 99 years.

3. Another reason for delay is that the President of the Land Board tells me he cannot call a meeting of the Board before the 28th. November.

A good deal more information is needed before

proceeding

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3.

proceeding with the Ordinance, and this could hardly be put into form and incorporated in the draft before the sessions of the 9th. December.

4. I ~~am sorry~~ ^{am sorry} ~~wish~~ that there must be this further delay; but it is not to be regretted if it results in a more carefully considered scheme, prepared after full discussion.

5. I also wish to know if we shall be justified in drafting the conditions on the lines proposed in my note to the Crown Advocate, and I have the honour to request that these papers may be sent immediately to the Secretary of State with a request that orders may be sent on the general question by telegraph. I believe that we have now reached a solution of the land question which, while guarding the interests of the State, will be acceptable to the settlers.

At the present time very few are applying for land, mainly on account of the 21 years' lease condition.

6. My note to the Crown Advocate also deals with land inside townships. On this head also I wish to have a further opinion from the Land Board. There is a feeling that we should not insist on buildings being put up on town lots within a fixed time. It is urged that it is better to impose a tax on vacant land, rather than to insist on some sort of house being erected. This question will be again carefully considered.

The point on which I wish for early orders

is that of the condition on which land may be given
outside townships.

I have, &c.

J. M. [unclear] RY.

Com[unclear] of Land.

Enclosure 2

INCLOSURE 2

In Despatch No. 1007 of 19th Dec 1907

43714

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REC'D
14 DEC 07

Mr. J. P. ...

... the ...

1. The Commission should not be ...
for the purpose of ... a precise and comprehensive
definition of the term "beneficial occupation". I am
of opinion that the Commission should have varied
... in order to cover the many different kinds
... development of holdings,
... therefore not shrink from
... of a statutory period
... foundation - but the
... in cases of exceptionally
beneficial occupation.

2. ... Beneficial occu-
under the definition of ... over a valid
... the ... of free
...

... list
... for five or six months
... conditions
... has been

... in question should
... under the law,
... seek their remedy in
the Courts. For the purpose of this measure, the word
... not been absent from British East
Africa

Africa, his absence from the regular household - the
and the... of... of course...
... if the other conditions are fulfilled.

4. ... the issue of title
... should await the progress
... and instructions should be given for
... of... in...
... may be occurred... by persons

5. ... in... of value
... as revenue. There should be
... should be open to the
... by a
... if... will
... conditional...
... the... in
... be...

By - W. MURPHY

1937

... will be...
... and the other.

Enclos 3 by no

ENCLOSURE
No. 22 1907

copy.

Port Ternan,
British East Africa

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November 16th 1907
No. 14 DEC 07

Your Excellency,

While I am of opinion that the white settlement of the selected portions of the Highlands should proceed steadily, I appreciate the taking of any steps likely to encourage a rush of persons unadvised to the country and unacquainted with the difficulties of East Africa. The best means of encouraging a healthy flow of new settlers is to secure the success of those who have already come. With this object in view, every effort should be made to settle up promptly the outstanding claims at the Land Office. It was agreed at our conference between the Land Board and the Land Office last week that there was no need for allotment and grant of title to await official survey, and that the process should be accelerated both by the employment of licensed surveyors and by a system of beacons.

But I think the time has not arrived when new settlements may fairly be asked to accept more general areas than those which have hitherto been offered to the immigrants. Farms allotted should in my opinion, even in very special cases, vary between not more than ten and thirty thousand acres. Persons should not be allowed to apply for land on behalf of others except in very special cases where there are good reasons to explain the absence of the principal applicant from the country. Where several members of the same family make joint or simultaneous applications for adjoining areas, the whole area applied for should be reconsidered and reduced

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reduced to reasonable dimensions as a whole; and a wife or a child cannot be accorded an equal holding with the husband or father unless it can clearly be shown that they are entirely independent parties. Applications for land constitute no claim whatever upon the Government, either for the benefit of the individuals applying or in bar of other persons who may afterwards be deemed more suitable; and this cannot be made known too publicly. When farms are allotted no effort should be made exactly to 'cut off' a given number of acres. A suitable farm should be marked out by a single process of beaconing, and the survey officer in delimiting should take into consideration the fair distribution of water rights, &c., and should follow convenient natural boundaries. When the farm has been delimited, it should then be measured, and the applicant should be invited to rent it upon the basis of the exact number of acres, varying between 1,000 and 5,000, which the ground demarcated may happen to contain. In order to keep abreast of reasonable demands, areas should be beaconed out in this fashion into suitable farms, numbered, appraised, and marked on a map kept for reference in the Land Office.

I am of opinion that leases of grazing land should at present not be offered for terms longer than 21 years, but option to renew under the same conditions should always be accorded to the lessee.

3. When the right of free transfer has been accorded to those settlers who have proved "Beneficial occupation", the question of graduated land tax, to prevent undue accumulation in the hands of individuals, will necessarily arise. I see no reason why such a tax should not now be considered. I would suggest that holdings under 2,000

acres be exempt; that holdings under 5,000 acres be charged at the lowest rate; that holdings between 5,000 and 20,000 acres be rated double; between 20,000 and 50,000 acres treble; between 50,000 and 100,000 acres quadruple; and over 100,000 acres five times the lowest rate. There is no reason why these figures which are only suggested to illustrate the process that should be employed should not be varied, and the existing method in England of graduating the Death Duties might be studied with advantage. It is, of course, assumed that in the present condition of the country such taxation would be imposed upon a very small scale, but as the wealth of the country develops, and holdings become more valuable, it could be properly increased until, taken in conjunction with the rent due to the State as ground landlord, it furnished a very substantial contribution to the Revenue.

90/ WINSTON S. CHURCHILL.

16:11:07.