

EAST AFRICA

No. 3016

(Subject.)

Land Laws

1907

25 Nov

Last previous Paper

Finds letter of Dir. of Agric. & Quarantine
 refers on question of land laws & proposed sale
 of land of 200000 acres is a minute by Council
 of Land & Survey

PRINTED FOR PARLIAMENT

(Minutes)

Cd. 4117 JUNE 1908

Mr. [unclear]

This is dealt with in
 my memo. attached to

44998

M/3/1

A. J. R.

H.

URGENT

AGRICULTURE

167

Governor's Office 90

RECEIVED DEC 07

November 25th 1907.

WEST AFRICA PROVINCE

No. 508

(Incl. 2)

PRINTED FOR PARLIAMENT
JUNE 1908

My Lord,

In continuation of my despatch No. 505 of the 23rd instant on the subject of the period of leases to be granted in future, I have the honour to submit copies of a letter from the Director of Agriculture giving his views on the question of pastoral leases and the proposed reduction of the term of leases from 99 to 21 years, as called for in Your Lordship's despatch No. 451 of the 20th August last.

Attached is a minute thereon by the Commissioner of Lands. As Colonel Montgomery observes Mr. Macdonald would go much further than we are prepared to in the matter of perpetual quit rent and power to purchase as freehold.

I shall say more with Mr. Macdonald's views that every

SECRETARY OF STATE
FOR THE COLONIES
DOWNING STREET,
LONDON, E.C.

Mr. Macdonald
21.11.07
Colonel Montgomery
20.11.07

160-15

every assistance should be given to the pioneers in a new country. I presume Your Lordship would not advocate so complete a change in our land laws as would be involved in such a measure as a perpetual quit rent, which neither the Commissioner of Lands nor myself are at present prepared to recommend.

4. Nor do we consider that any alteration is at present called for in the existing law as to freehold, the acquisition of which is limited to 1,000 acres.

5. I consider, though, that Mr. Macdonald's views support the opinions I have expressed in my despatch above referred to for a re-consideration of the question of the 21 years lease, and for free transfer being granted when development has taken place on the conditions noted.

I have the honour to be,
With the highest respect,
My Lord,

Your Lordship's most obedient,
humble servant,

George Sutherland

43890
RECEIVED
OFFICE OF THE SECRETARY OF AGRICULTURE
SEP 17 1907

DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

September 1907

With reference to the Secretary of State's
despatch dated 30th August 1907 in which he asks for
an expression of opinion on the question of pasture
leases generally and the reduction of the term of
30 years to 25 years lease system especially, I have
the honour to submit the following.

The history of a large number shows that
in the first period of settlement and while the
wants of the Government were not foreseen the practice
was to grant land on leases ranging usually from 50
to 100 years but as such leases became more or less
populated, changes from time to time were made in the
direction of perpetual leasehold in the direction
of perpetual leasehold. These changes were brought about for reasons
of the fact that to secure profitable farming, besides
intelligence, industry, and thrift, adequate capital
was a sine qua non, and while some better security
of tenure than a leasehold title could be offered,
a want of confidence existed and money was difficult
to obtain for development.

Among the settlers of British East Africa
the want of money is sadly evident. Though it is a fact
that loans have been made to settlers on leasehold

lease old land with loans have only been granted where satisfaction has been given as to the reliability of the borrower and on his personal security. It is true that title is in a few cases as cover but these are practical means security because it appears that at present it is impossible to effect a transfer of land without the production of the deeds.

going to the prevalence of disease among stock; to the number of wild animals preying on herds and flocks; to the difficulty of obtaining stock at fair and reasonable prices; to the indifferent quality of native labour; and to the want of data for guidance as to the particular lines of farming to pursue with a fair prospect of success, the life of a settler at present is not a too enviable one.

While it was exceedingly difficult under the 40 years leasehold system to raise money to supplement the capital which the settler started with, under the new order where the period of leasehold has been reduced it will be practically impossible for him to obtain advances.

Further, and as stated by Messrs. Newland, and Mr. ... in their letter of 20th June to His Excellency the Governor, the courage and enterprise of the pioneer is in the hope of acquiring land which will be profitable and can have valuable reserves a severe test of the sportsman's length of tenure. In the case of a settler who desired to leave his land to his heirs for, the measure particularly

particularly severe; by the time his now infant children come of age the land which their father has striven to make available reverts to the Crown.

Capitalists are the only person who would be in a position to develop the land under the new regime but even they view with alarm the new order of things and are shying at the Protectorate.

A revision of the existing laws is pressing but certainly not in the lines of a reduction of the terms of tenure or even on the lines of an extended term of 99 years leasehold tenure. Leasehold tenure in any form is injurious to the interests of an agricultural community in a young and developing country.

I have visited many of our Colonies and have gone carefully into the systems upon which crown land has been and is being granted. I have compared the merits of each and taken very fully into consideration the conditions which exist in the Protectorate. I have no hesitation in stating that an adoption of the system of leasehold tenure proposed and brought into force by Sir John Lubbock in the Cape Colony under proclamation No. 1 of 1894 is what is wanted in this Protectorate to place property on a sound and solid foundation and to allow of a free flow of capital into the country and which is so desirable and necessary for the development of its resources and the contentment of its people.

The system based on the lines of the above proclamation which I suggest should be adopted is as follows.

Government may be pleased to direct, that the rent shall be apportioned and registered at the time of transfer.

To insure the necessary observance of the interests of the state, no alienation of any part of the land shall be considered valid before the State and the Revenue Department and thereon be likewise registered in the local and land revenue offices.

f. This perpetual quit-rent shall, further, not be liable to any other burdens but those to which all freehold lands are largely subject, or which may hereafter be further prescribed.

g. The holder of any land on perpetual quit-rent title to have the power to alienate such land at any time on payment of twenty times the quit-rent.

It may be argued that the adoption of such a system of settlement as above indicated will lead to capitalists acquiring large tracts of land after a few years and locking same up. Against this it should be borne in mind the fact that not only is the area which is available for settlement restricted, but that such land will have become enhanced in value after three years personal occupation and the substantial expenditure of capital on improvements has been incurred to say nothing of any additional sums which may and are most likely to be spent and the settler is not likely to part with his farm at a figure which will justify the capitalist in purchasing

...to be looked up. Assuming however that
be so, as the Government has always the power if it is
considered advisable to levy a tax on undeveloped
property, but to not anticipate large tracts of country
will in the future be acquired by individuals or
syndicates.

To return to the proposed system recommended
of granting land I need only refer to the facilities
which are offered in Canada and Australia for taking
up farms to emphasize the necessity of granting more
liberal terms of land tenure in the Protectorate in
order to attract a good class of settlers as the
costs which can be advanced for development on
easy conditions of repayment.

With respect to the settler who has already
taken up land I consider he should, except where
special agreements have been entered into, be allowed
to participate if more favorable terms are given in
the revised land laws for future acquisition. It has
been the practice to set up a special commission
and to be separately considered.

I have the honor to be,

Sir,

Your most obedient servant,

H. Macdonald

DIRECTOR OF AGRICULTURE

The Hon'ble,

The COMMISSIONER OF LANDS,

8

Encls 2 to 4

43390

No. 303/127.

RECEIVED

Office of the Commissioner of Lands,
Honolulu,
Nov. 7, 1907.

Your Excellency,

I have the honor to acknowledge the receipt of the Secretary of State's letter of the 27th inst. in relation to the proposal of the Hon. Mr. [Name] dated 20th August, 1907, relative to the questions raised in my note of the 2nd November.

I had intended sending it with a more detailed report dealing with the same, but it will be better to defer it at once, that it may seem that the Director's recommendation is rather than to do. He recommends, (and the recommendation is supported by the Land Board), the granting of a perpetual lease to every person with the right to acquire the whole land as provided.

The Director's recommendation is based upon a number of reasons, that is to say, that the present law is not in accordance with the existing laws.

The Director's recommendation is also based upon the fact that the present law is not in accordance with the existing laws.

I have the honor to be,
Your Excellency's,
most obedient servant,

[Signature]
Commissioner of Lands.

EXCELLENCY

THE GOVERNOR.

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Encls 2 in 1

12.303/127.

43990

REG 17 JUN 07

Office of the Commissioner of Lands,

Nairobi,

Kenya.

Your Excellency,

I have pleasure to inform you that the Secretary of State will probably have seen Mr. ...'s proposals ... No. 51 dated 20th August, 07. before dealing with the questions raised in my note of the 2nd November.

I had upon me ... it with a more detailed report ... but it will be better to ... that it may seem that the Director of ... recommends, (and the recommendation is supported by the Land Board), the granting of a perpetual lease rent ... to every ... with the view to securing a ...

... 25 years ... that is a ...

The ... is strong ... long a lease ... 25 years ...

I have the honour to be,

Your Excellency's most obedient servant,

J. H. ...

Commissioner of Lands.

EXCELLENCY

THE GOVERNOR.