



331 - DOMESTIC.



EAST AFR. PROT.
No. 46155

60155

Office or Individual.

(Subject.)

Grogan Capt. R.S.

Crown Lands Bill.

1908

Dec.

Submit ok'd.

Last previous Paper.

44368

(Minutes)

Mr. Reed
I believe we are going to
see another Committee on this
subject.
Subscript saying the letter
will receive care.

Mr. Reed

Now see on 44368.

Put copy before in left on
44368, and tell Capt. Grogan
that this has been done, and that
the Bill will be fully & freely
debated, with the understanding
and that the P.P. will consider

copy come from 7 Jan 09 44368

44374

any objection to the Bill then
urged before the committee be further
provided and it is brought into
order. ~~Mr~~ refer



The Principal Secretary of State,
The Colonial Office.

Crown Lands Bill 1906, E. A. P.

My Lord,

With reference to the Crown Lands Bill 1906 of the B.E.A. Protectorate I venture to submit the following points for your consideration.

Land in the Protectorate has to-day no financial value.

For instance a man taking up a 5000 acre farm requires under government Regulations £1000 capital. Before he can (financially speaking) pay rent he must make per annum over and above his outgoings for labour, seed, etc.

Own remuneration for work, profit and administration: (say)	£200
Interest on £1000 at current mortgage rate (10%)	100
Depreciation, insurance against fire, theft, disease etc.	150
	<hr/>
	£450
	<hr/>

If he clears £450 p.a. he is then in the same financial position as another man working for a salary and lending his £1000 on mortgage.

Any sum which he may make in excess of £450 may be reasonably considered as the annual rack-rental value of his land.

No man is as yet clearing £450 a year from a

5000 acre farm with a capital outlay of £1000. A few have made money by jobbing in stock or gambling in potatoes for the Johannesburg market, but these are merely 'dealing' operations and in no wise constitute land-value. A few have made more than a bare living by dairying or wood-cutting for Nairobi and in these cases some land-value may be reasonably conceded to their particular holdings by virtue of their suitability for these specific functions, but a very slight increase of effort would create a glut and the advantage might disappear. A reasonable number are making a bare living out of their land but no interest on the money they have invested.

In wider spheres The East African Syndicate has spent enormous sums and secured no return: Lord Delamere has spent more than £30,000 and drawn no interest: Lord Hindlip has spent £10,000 and drawn no interest: I have spent nearly £25,000 and have recurrent liabilities in excess of any returns to the extent of £600 p.a. apart from development obligations.

These facts are supported by H.E. The Governor's Generalization in his despatch of 27th March 1908 (Cd. 4122. p. 26): "Settlers are beginning to realise that farming in the Uplands is not the paying proposition they thought it would be, and I regret to say that after two bad seasons a number of the poorer settlers are nearing the end of their tether: there is, I fear, a good deal of distress....."

There are to-day a number of farms on offer

at figures considerably below the capital sums expended thereon.

Despite the absence of any 'financial' value men will always be found ready to pay some price for a particular area of land which appeals to them for residential or other reasons. This price, which may be termed 'selection' value, has no reference to intrinsic value and exists exclusively in relation to personal peculiarities.

It accounts for the majority of the land-sales effected in the Protectorate at a premium above the Government Terms.

All selectors necessarily count upon a prospective or future value for their holdings in excess of the price which they pay.

It is this prospective value alone which can reimburse them for their inevitable initial losses and provide the source of their ultimate profit on their venture.

Without this prospective value no incalculable venture will be undertaken; the selector will rather work for a certain wage and invest his capital in proved concerns or mortgages.

Government prices
and rentals the
result of monopoly.

Since, then, there is no ascertainable financial value in the Protectorate's land, and prices, so far effected, are in the main the measure of personal peculiarities, it follows that the prices and rentals imposed by the Government are the equivalents of personal idiosyncrasies or monopoly prices.

The Government holds or has held all the land and has therefore been in a position to enforce a monopoly price.

It cannot be doubted that if land had been freely offered in open market without reserve, the price obtained would have been much lower than the terms imposed.

Land within 10 miles of the Railway is leased at 1d. per acre which capitalizes (at 20 years purchase) at 1/8 per acre.

Within the last few years I have been offered any quantity of land in Rhodesia at from 3d. to 1/- per acre freehold, and quite recently I have been offered an enormous tract of freehold land on the foothills of the Argentine Andes at 6d per acre. The general economic conditions of the latter are much better than those as yet prevailing in East Africa.

Two years ago a Queensland property of 800 square miles changed hands as a 'going concern', and in respect of an argument as to the value of East African land I calculated this property into its East African equivalent. The calculation showed that a free gift of the land, fences and buildings and a bonus of £40,000 would be required to provide the same economic position in East Africa as that sold in Queensland. The difference arose from the respective cost-prices of cattle and sheep in the two countries.

In further proof of the monopoly element in prices imposed in East Africa, I would refer to the sharp fall in land prices which has generally accompanied any recent Government sales of land. It may be concluded, then, that land-values are generally non-existent, that rents exacted by

Government are monopoly rack-rents and excessive: that tenants' holdings therefore have no premium land-value and that the entire actual and some prospective annual value of the land is vested in the State. There is in fine nothing with the semblance of 'unearned increment'. Any tax, then, imposed in relation to land is a tax not on land but upon the person or the personal belongings of the individual who already pays the full annual value of the usufruct of such land.

1908 Bill.

The Crown Lands Bill of 1908 proposes to reduce the existing tenure, to raise rents and to impose a 'land-tax' ranging from .8% up to 1000% of the annual rack-rent value of land and payable by the tenant. It defines the per-acre rental of

Land as:	<u>1-33 years</u>	<u>33-66 years</u>	<u>66-99 years</u>	
1st class	3d.	} 5% of ^{impr.} improved value not to exceed	} not to exceed	
2nd class	2d.			
3rd class	1d.			2/3
4th class	1/2d			2/3

and the conditions as an expenditure of 40 times the rent within 5 years, which is equivalent (on 5% basis) to double the capital value of the land.

If we suppose that A acquires a lease of 10,000 acres of 1st class land and B acquires a lease of 60,000 acres of 4th class land and that the unimproved rental value for the second period is assessed at 9d. for 1st class and 1/2d for 4th class land and for the third period at 2/3 for 1st class and 1/2d for 4th class land, the following anomalies arise:

[N.B. A and B hold equal values of land and have

equal improvement conditions viz. expenditure of
 $(40 \times 10,000 \times 3) d = \text{£}5000$]

1st Period.	10,000 acres 1st class land.	60,000 acres 4th class land.
A pays rent (at 3d) £125		B pays rent (at 1d) £125
and tax (at 1/3) £156.5.0		and tax (at 5/-) £625
income tax equivalent on basis of 5% of £5000)	} - 12/6 in the £.	income tax - 50/- in the £.
2nd Period.		
A pays rent (at 9d) £375		B pays rent (at 1 1/2d) £375
and tax (at 2/6) £937.10.0		and tax (at 10/-) £3750
income tax - 75/- in the £.		income tax - 300/- in the £.
3rd Period.		
A pays rent (at 2/3) £1125		B pays rent (at 4 1/2) £1125
and tax (at 2/6) £2812.10.0		and tax (at 10/-) £11,250
income tax - 225/- in the £.		income tax 900/- in the £.

[In the foregoing table I am presuming that the words 'the land tax shall be four times the rent mentioned in the schedule' (Clause 137 (b)] are intended to mean 'four times the rate mentioned in the schedule', since no other interpretation is possible.]

It must be obvious that such a tax which has its incidence on tenant's improvements, actual or prospective, must mean the instant annihilation of the community.

It is in no sense a land-tax since the payer has no interest in land other than a usufruct under rack-rental; and a tax however small on tenant's improvements is difficult of justification in a new and undeveloped country.

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general conditions
of the Bill.

The whole spirit of the Bill, where through the Government as sole landlord exaggerates on its own behalf all the much desired evils of dual tenure, is provocative of mistrust and a sense of insecurity of tenure.

It must be remembered that, from the practical point of view, if the Government is sincere in its expressed desire for effective settlement, the competitive attractions of Canada, Argentina and the Australasian States must be faced.

These countries offer freehold tenure on extended payments and every form of constructive administration and State-subsidized financial assistance. Their economic conditions are a century in advance of those prevailing in East Africa and, where they offer a proved and calculated proposition, East Africa offers a long and terrific fight against unknown odds, the privilege of undertaking which is rack-rented from the start and the entire profits of which (if attained) are in advance earmarked for the State. There are only three classes of persons who can be expected to take up land under such onerous conditions.

(1) Those who come to the country without advance knowledge of the conditions and being committed must make the best of their mistake.

(2) Those who having a private income look upon the country as a pleasant residential sphere.

(3) Boers who by virtue of their mobility and method of living, will take any tenure which gives them a base for hunting. They will, in fine,

live on the game and exhaust the most fertile spots of their holding, and either sell out, if occasion offers, or move on.

Exclusion of Stock and implements from schedule of improvements.

In particular, a development condition of a capital outlay on permanent and fixed improvements equivalent to 40 times the rent is terribly severe, while the exclusion of stock and agricultural implements from the schedule of improvements would preclude the best class of settler from taking up land.

It must be remembered that permanent and fixed improvements such as houses, sheds, fencing, dips etc. give no monetary returns except by virtue of their indirect effect upon the returns of the dynamic elements in production,— stock and implements. They are refinements which the settler counts upon effecting from the profits of his stock and crops.

The enormous flocks and herds of Australia and Argentina were built up with but a negligible capital outlay in permanent improvements, which only became a conspicuous factor when general consolidation of the economic position forced a concentration of effort upon defined and relatively inelastic areas.

The whole of the great wheat industry of Argentina is to-day associated with no fixed capital outlay. The wheat farmers live in mud huts. The same applies to the new wheat zones of Canada.

The Bill bristles with the menace of eviction

and, throughout, the tenant is held as the potential enemy of the State whose economic success he is to effect.

The dominant objects ^{of the} Bill, as defined by Lord Elgin, are

- (1) The prevention of the undue accumulation of land in the hands of individuals.
- (2) The retention by the State of the 'un-earned increment'.

In the abstract the theory underlying these expressed objectives is accepted by the majority of modern thinkers but the application of the theory needs the greatest caution.

Lord Elgin in a despatch, published in 1907, adduces the Land History of Australasia in support of his arguments: but I venture to submit that Lord Elgin has misinterpreted the teaching of this phase of History.

He refers, if I remember rightly, to the sacrifices which the Australasian States have had to make to resume some of the great pastoral holdings for closer settlement, and to the enormous difference between the prices paid on resumption and the prices originally paid to the State.

The increase in land prices to which he refers is largely apparent in that it represents the difference between the price of money at the respective periods.

Land for instance which sells for 5/- when money is at 20% may obviously sell for 4/- when money has fallen to 15%, without the original buyer

for money having derived any very material advantage other than that of a fixed investment as the reward for his initial risk and enterprise.

The great bulk of the Australian land has been put to its maximum economic use and wherever, as the result of the successful consolidation of the pastoral industry with its accompanying integration of urban communities, an economic position has arisen where a would-be agriculturist could bid 6d. an acre more for land than its grazing-rental equivalent, such land has tended to disintegrate into small agricultural holdings.

Many estates have been thus spontaneously subdivided.

The crisis arose where in the process of urban integration a number of persons failed to find suitable employment and were therefore forced to look once more to the land.

Such persons were in the main without capital and morally incapable of 'going back' as the pioneers had done.

They could not afford to bid prices or rentals in excess of the land values derivable by grazing and the State was forced by political pressure to intervene on their behalf and find the difference by the close financing which Government alone can achieve.

The hiatus between the pastoral and the agricultural rental values of land had to be filled by the lower rate at which Government can obtain money.

An exact analogy appears in the British Government's interposition on behalf of Irish tenants.

The process is, in fine, a State-guaranteed transference of ownership from the pastoralist to the agriculturist -- the need or possibility of which could never have arisen unless the land had been brought into relation with the world's exchange system through the medium of the pastoral industry.

Now the pastoral industry is nothing in the world but the manufacture of grass into beef, mutton and wool through the machinery of stock; and an attempt to limit the scale of this operation is no more feasible than an attempt to limit by legislation the scale upon which a cotton factory is worked.

All such operations tend irresistibly towards the economic unit, that is to say towards the scale of operation under which the human unit may produce the maximum per capita effect. Any attempt to restrict this scale can only handicap the industry in its competition in the world's market or divert all effort towards a more propitious sphere.

All land holdings tend ultimately to consolidate into the economic unit in relation to the particular function to which they are allocated, but, as suggested above, under the momentum of development such function may at the auspicious moment be modified by State intervention. State definition of function *ab initio* is however impossible.

Could a manufacturer survive if the number of spindles which he may erect, or the number of bales of cotton which he may buy are defined by legislation or by State intervention by a progressive tax imposed directly upon such spindles or bales!

If a cotton manufacturer could not survive how shall the pastoralist when faced with a stupendous fine every time he absorbs into his operations a block of land which offers a change of pasture or a small corner which may enable him to construct a dam!

By far the greater portion of East Africa can never be other than a pastoralists' country and the pastoral industry, if it is to be established at all, must follow the normal lines of evolution, which are the integration and consolidation of holdings into self-sufficient and economic units and the subsequent partial disintegration and differentiation into specific pastoral functions.

That is to say the initial holdings granted by the State to individuals must tend to consolidate into large 'runs' whereon the standard of stock may be raised to a high pitch of perfection, and thereafter to again subdivide and pass finally into considerable 'store-raising' runs and minor 'fattening' and 'lamb finishing' holdings which is the stage reached by New Zealand to-day.

A high standard of stock can never be achieved by a heterogeneous mob of small holders.

A modern wool-shed alone costs £5000 and a first class ram may cost 1000 guineas.

Such expenditure as this can only be incurred when the scale of operations is enormous, and without such capital outlays a country stands nowhere in the fight for the world's markets.

To attract such energies as these figures represent some more attractive bait must be offered than a rack-rented patch of pest-ridden ~~un~~improved land.

So much for the pastoral industry which is sheer capitalistic exploitation of grass on the grand scale in and around which the small man may attach himself in subordinate relation and prosper.

Perhaps of all the great modern industries it is the most hazardous, and the sine qua non of its initiation is a clear view ahead and freedom from all harassing restraint.

Under African conditions the industry involves no menace to closer settlement since the strong lands suitable for agriculture almost invariably carry 'sour' grass and are fatal to stock, until broken by the plough or 'fed down' at the cost of a loss in stock which nobody is likely to incur.

Further, Africa is a spacious continent/~~Every~~
~~Some~~body will be in sympathy with Government insofar as its objective is to prevent the accumulation of land in the hands of persons who intend to hold land out of use for a prospective rise in price. Such persons, however are rare and in all my travels in New Zealand, Australia and Argentina I have but rarely seen land so held.

Land is so held on a large scale in South

Africa but solely on account of its supposed mineral possibilities. In East Africa mineral rights do not go with the land.

It is a common practice in business for persons to buy land with the deliberate object of seeking persons to whom it may be sold at a profit.

Such persons are of the nature of immigration agents; they merely perform the normal functions of middlemen. Their efforts are beneficial to the State in that they promote settlement and such persons must not be confounded with the aimless buyer and locker-up of land who exists almost exclusively in the imagination of the academics.

The actual person wants interest on his outlay and strives to obtain some return either by speedy sale or development.

East Africa's particular immunity from such imaginary persons is emphasised in Mr. MacDonnell's report in the White Paper of 1908.

earned incre-
t!

With reference to the 'unearned increment' theory the draughtsman of the Bill has fallen into the vulgar yet transparent fallacy of defining 'improvements' as the bare money cost of imitative reproduction of a long and arduously evolved effect.

All the losses and cost of the laboriously achieved stages which have led to the ultimate land-effect are bulked in the 'unimproved value' and torn from the man who built and who finds himself credited under the head of 'improvements' with the bare cost of ^{imitation} ~~imitation~~.

The stock which have died in the slow process of elimination of the unfit, or have been

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poisoned or stolen by natives or eaten by lions and leopards, the fences which were erected in the wrong places, the boreholes which never found water - all these are wiped off the sheet of visible and ascertainable outlay and reappearing in the so-called 'unearned increment', are ^{assessed} ~~assessed~~ by the State.

Recent history in the Australasian Colonies has shown that this individually induced effect, as distinct from the socially induced effect (or real unearned increment), may be successfully resumed under the guise of taxation on ^{the} 'improved values' by the State.

A necessary prelude to such predatory resumption however is the induction of the effect. In East Africa the effect has not yet been induced on any attractive scale, so that any attempt at resumption by the State can only attach a negligible prey and serve as a warning against the induction of effect.

With all deference I would submit that this can be the only result of the policy appearing in the proposed Bill.

freehold tenure.

In spite of the prevailing misconceptions as to the true bearings of the Georgian theory and the consequent elevation of 'The Freehold Tenure' to the dignity of 'The People's Nightmare' the irresistible trend of all land legislation in the most advanced democratic countries is back to the freehold.

I would instance New Zealand, which led the

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van in experimental land legislation, where the 99 years lease at short term periodical revaluations has already evolved into the 999 years lease at a fixed 4% rental. This tenure is legally more secure than, and becomes by the simple expedient of insuring the rent financially equivalent to a freehold.

The difference is in name only, and yet the local movement is very strong on behalf of a final reversion to the full freehold. The only political reason for resisting this movement is the emollient effect of this difference in name upon certain mentalities essential to the local Government's retention of office.

On highly developed land with calculable economic conditions (as in England) under the leasehold tenure it may be possible to ensure the conservation of the land's condition, but even then there is little incentive to further permanent improvement.

The main advantage of the leaseholder lies in drawing more from the land than he gives, while the main advantage of the freeholder lies in giving to the land more than he draws.

Freehold tenure means the cumulative enrichment of the land of a country, while leasehold tenure means the ultimate impoverishment of the land of a country.

I need not emphasise how enormous may be the final divergence in the two effects in the case of a new and undeveloped country.

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Under the East African system every landholder must necessarily in his own protection be concerned mainly with the elaboration of his system of development in such manner as to effect the maximum possible exhaustion of his areas within the period of his tenure.

The suggested system of taxation accentuates this necessity.

Another point of prime importance is the complexity of the East African system, whereby any possible monetary advantage accruing to the State is more than swallowed by the huge staff which will be the sine qua non of its enforcement.

It is only necessary to suggest the fruitful source of impropriety, discontent and suspicion which such a staff might represent.

The mass of real workers of land, both great and small, are to be preyed upon, irritated, thwarted and obstructed at every point in order to ensure the exclusion of a type, which if it can be shown to be more material than an academic imagining is easily amenable to subsequent legislation.

The first essential of land legislation in a new country is extreme simplicity.

All complications only serve to harass the simple man, while no method of state definition of areas or scale of working has ever yet been evolved which an ordinary Australian 'bush-lawyer' with the assistance of the Company laws could not render abortive. All the land legislation, aimed

at such definition, of which the last century has been so prolific has never effected more than the demoralization of a community or the complete stoppage of all progress.

Each man must be in a position to work out his own policy in his own way.

The fatuity of any attempt to arbitrarily define what a man shall do with new land, was never more effectually demonstrated than on a recent visit to the homestead farms on the Mbagathi near Nairobi.

Mr. J. P. has a homestead (640 acres) selection composed of heavy forest and clay flats. He is bound by his conditions to cultivate 140 acres within a short term of years. The farm would be a good dairy farm but stock are not admitted as fulfilment of conditions. I found him carrying out his conditions. He was planting sweet potatoes in a clearing which he had made at great cost of labour in the forest (the clay land being unploughable and useless for crops). On all sides was a mighty wreckage of charred trees and stumps. On every stump an enormous baboon was sitting waiting for Mr. P. to retire indoors.

There cannot have been less than a thousand and they could pull out in one minute more sweet potatoes than Mr. P. could plant in a morning. He plaintively explained with regretful reference to the havoc in his forest that he was carrying out Government ~~commitment~~ he must lose his land, because the enormous expense

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of felling forest without any possibility of crop-returns had nearly exhausted what for a small farmer had been quite substantial resources.

I merely mention this incident in the hope that it may convey some picture of the unexpected practice of inherently sound theory.

In considering a land system suited to the requirements of a new country the arguments on behalf of a freehold basis appear to be unanswerable. They are as follows:-

- (1) Extreme simplicity of administration.
- (2) Sense of security and immunity from irritating interference.
- (3) Provision of a solid base of finance with a resultant greater elasticity of finance.

This factor is most important.

The freeholder can obtain financial assistance from outside the country. The leaseholder must rely entirely upon his own financial resources or take in a partner. No one will lend him money without a control over his operations since there is no security for the money.

No sane institution will lend a man money on crops or stock in Africa since locusts, caterpillars, herds of game, drought, disease or lions may annihilate them in a night.

Land is the ultimate standard to which all finance is related and without individual interests in land all the modern high elaborations of finance are inaccessible to the occupier of land.

4) ... tends to secure ... of the individual holding since tendency of the method of freehold development is intensive where the method of leasehold development is necessarily extensive.

- (5) It promotes the cumulative enrichment of the country where leasehold invites the constant impoverishment of the one great immoveable asset of the country.
- (6) It provides a clear field for subsequent taxation where the economic consolidation of the country is sufficiently advanced to show a certain and measurable margin in actual land value over and above the real past cost of all development.

At that stage in economic crystalization every argument is in favour of a fractional tax based upon the difference between the conservatively estimated unimproved capital value of the land and any sum originally paid to the State for the land, corrected to the respective values of money at the different periods.

Within this zone the real unearned increment (if any) will reside, and where it exists there is a fit and proper source of taxation.

For the moment the very existence of the settlers who have taken up land on the invitation of H.M's Government, and the whole development of the country, whereby alone can the seven millions of British money sunk in the country be made fruitful, depend upon the facilitation of access to the land

for men and money.

I would not have ventured to address your Lordship in this connection had I not spent ten years of travel in study of the land problem; and I earnestly implore consideration of the points which I have raised before any attempt is made to force in irrevocable form upon the East African community a system which not only must spell ruin for all the existing small farmers but the final denial to East Africa of her potential destiny - that of a white stronghold of incalculable strategic value in the coming storm.

I have the honour to be,

~~Your Lordship's obedient servant,~~

T. A. S. Gray



D. 6

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Jan 09

7 Jan 09

December 08

DRAFT

Capt. P. Hogan

1891
Jan 2 1888

MINUTE.

- Mr. ~~Whe~~ 25/12
- Mr. ~~Head~~ 30
- Mr. ~~Jud.~~
- Mr. ~~Antrobus~~ 30
- Mr. ~~Coz.~~
- Mr. ~~C. Lucas~~
- Mr. ~~F. Hopwood~~ 30
- Col. ~~Sealy~~
- The ~~Earl of Crom.~~

for review

Copy for 16 7/10/08

See I am directed by the
 Secy of State to ask the
 receipt on the 17th inst.
 of your letter admit
 ting same on the
 above heads Bill
 of the 6.11.09 to wit
 you that copy of
 it will be sent to the
 Secy. of State
 I am directed that
 the Bill be printed
 and that the Bill be
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 in the Legislative Council
 and that the Bill be
 printed as amended and
 in the Legislative Council

and addressed the text of

be secured a share in
the unusual increment
of the value of the land
of that value accumulation
of land in the hands
of individuals shall be
checked, any ^{amendment}
~~proposed by the~~ ^{any} ~~law~~ ^{law}
in the Bill will be fully
considered before it comes
into operation.

Y^{rs} Sam, &c,
Francis J. Howard.

