Fifth International Conference to promote
Land Value Taxation and Free Trade,
Caxton Hall, Westminster, London, S.W.1
1st to 5th September, 1936.

Colonial Systems of Land Tenure and Taxation

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Many are thinking of colonies to-day because the possession of or the recovery of colonies is one of the points in the game of international diplomacy. But if colonial possessions are regarded in that light there is no solution of the problem. The first and the cardinal principle is that the rights of the native inhabitants to the use and occupation of the land, and therefore to sustenance and freedom, should be safeguarded; and that not only present but future generations should be protected in this most basic of all rights against the greed and ambition both of foreigners and of each other. Once this principle, with its corollaries of a sufficient revenue for communal purposes of government and abolition of tariffs and monopolies, is generally accepted, the incentive to "capitalist" groups to press their governments to acquire colonies will disappear.

In reality it is of little use taking credit for the abolition of chattel slavery, if, with our eyes open, we allow economic slavery to take the place of the old outworn form of compulsory labour. There is a "slavery" which locks up men's bodies; and there is a "freedom" which indeed sets men's bodies free, but locks up all they need for subsistence. It is not to this sort of freedom that we ought to condemn those coloured races for whom we alone are responsible. Nor ought we to allow the native chiefs, under the cover of our laws, to do for us the dirty work of robbing the people and the people's children.

Yet this is what is happening all across Africa. The landless proletariat has arrived.

The process of alienation of natives' lands to white company promoters—and to educated civilized natives—which is making such strides in the Gold Coast Colony at the present time, is one that is going on, and has been going on for years, in nearly all our Crown Colonies, and, indeed, wherever white and black come in contact.

Umbandine sold his Swaziland to the whites, sold it indeed many times over. If we and Khama managed to preserve the Bechuanas, and if Moshesh and Sir Godfrey Lagden did the same for the Basutos, yet the Chartered Company now own the land of the Matabele, just as another Chartered Company holds the land of North Borneo, in trust for its shareholders. And in Nigeria, too, but for expensive wars and a wise chairman, another Chartered Company would now own all the land of Nigeria. The very vastness of these Chartered Companies causes their land-ownership to strike most the attention of the

public, but the acquisition of native lands by individuals or syndicates is every bit as fatal to the economic freedom of the native, and far more prevalent and uncontrolled. It is taking place now, with yearly accelerated speed in most of our Crown Colonies—in Uganda and East Africa, in Nyassaland and Lagos, on the Gold Coast and in Sierra Leone; you can see it all the way from the Federated Malay States to the wilds of British Guiana. "To whomsoever the soil at any time belongs, to him belongs the fruits thereof. White parasols and elephants mad with pride, these are the flowers of a grant of land." This is still as true a saying as when the old Indian Rajah embodied it in his land grant a thousand years ago.

There are two principal methods by which natives may be deprived of their free lands and forced to work for wages. The older method, and the one still employed so successfully on the Gold Coast and in Sierra Leone, is to assume that a native chief is already in the same economic position as a European landowner, possessing a right to charge rent and to lease or alienate land. This conception of a native chief is, of course, a European gloss, based on the civilization known to the European. "There is no individual in Northern Nigeria who can say, according to native law or custom, this piece of land belongs to me." So declared Mr Temple, Acting Governor of the country; and no one who has studied the question can doubt that what he said applies to by far the greater part of our Crown Colonies, particularly to those in Africa.

By far the most usual modern method of depriving natives of their lands and of solving the labour "difficulty" is the nationalization and sale method, which we owe to the more ordered and bureaucratic mind of the French, German and Belgian Colonial administrators. This method works as follows: The uncultivated, or at least the unoccupied lands, of all our new Crown Colonies are assumed to be Crown lands, or lands held for the benefit of the public—in some one of the public's many manifestations. Such is the assumption in varying degrees and forms in Malaya and the Seychelles, in Uganda and Nigeria, in Trinidad, British Guiana and Honduras, in Burma and Kenya, probably even in the Soudan. The land is held, as it were, in trust; but the object of the trust, and the manner in which that trust is exercised, differ by all the degrees that separate the two poles from the working hell of the Congo to the idle paradise of Northern Nigeria.

May one add, in parentheses, that far more wealth is produced in the Congo "Free" State than in Northern Nigeria. In the Congo the people work very hard indeed; and if you want people to work hard and to produce a great deal of wealth, the Congo system is the best yet invented.

The land, then, in most of the Crown Colonies is held in trust. Perhaps it is held in trust for the people of England, or perhaps for the shareholders; perhaps it is held in trust for the white settlers, present and future; perhaps possibly for the natives. But whatever the theory of the "trust" in practice it is usually held without any definite or settled policy at all. The policy changes with each Secretary of State, with each Under-Secretary; even at any time it varies from department to department, from room to room in the Colonial Office itself. Unfortunately there is just one all-pervading and accepted idea—that the "development" and "civilization" of the colony must be the first object of the Governor and is the measure of his success.

And there is the consciousness that such development requires cheap labour and British capital; and there is out there in each colony the sure and certain knowledge that the way to produce both the labour and the capital is to sell as quickly as possible to all comers "proprietary rights in land." The natives may have no land, but they will have trousers. Also there will arise a leisured class, who will settle in the colony and endow scientific and charitable institutions. Such a goal, attained in such a manner, or in any manner, has hitherto been held to constitute the whole duty and essence of "the white man's burden." To doubt has hitherto been blasphemy.

Strip off the hypocrisy, and we see being performed swiftly in Africa, just that exploitation of the helpless, which it has taken rather longer to do in Europe. The peasantry are ground down and out by the march of triumphant capital. Robbed of their land, the helpless become wage slaves. It is so that we perform our "trust."

Can we change this policy? Can we make the trust one of which Englishmen should be proud; make it a trust for the natives and their descendants, or rather a trust for present and future inhabitants of the colony?

There are indications which make it seem possible.

One of the earliest legislative attempts to evolve a sound policy is to be found in the Straits Settlements Ordinance (No. 34) of 1884 which provided for the leasing of Crown lands at rents to be revised in 1915 and thereafter every 30 years. In fixing the rent no improvements made by the landholder or his predecessors in title were to be taken into account. The period between revisions of rent is far too long—many changes may happen in 30 years, and it was hampered by the condition that the rent should not be raised more than 50 per cent.*

But by far the soundest and most comprehensive system was that evolved for Northern Nigeria after the establishment of the British Administration in 1900. The need for an early definition of the attitude of the Government was recognized by the High Commissioner, Sir Frederick Lugard, and the first step was a series of proclamations preventing the alienation of native lands and declaring all lands to be public lands. Thus any worsening of the position was prevented. The Charter of the Royal Niger Company was revoked and the Government acquired a title to some of its lands, for which a large sum was paid.

The steps next to be taken were remitted to the consideration of a committee, the Northern Nigeria Lands Committee, appointed by the Secretary of State for the Colonies (Lord Crewe). The members of the committee were Sir Kenelm E. Digby, J. Digges la Touche, H. Bertrem Cox, T. Morrison, Josiah C. Wedgwood, Charles Strachey, C. L. Temple, and C. W. J. Orr and the secretary, John Anderson.

The committee reported in 1908 (Cd. 5102). They recommended that the State should maintain its right to the land, that occupation should be on con-

* A summary of the present position of land tenure in the Federated Malay States is to be found in the official publication *Land Administration and Surveys* (Malayan Series, No. X) issued by the Malayan Governments in connection with the British Empire Exhibition, 1924.

dition of paying a rent equal to the value of the land apart from the improvements, that the rent should be revised at frequent intervals, and that the land revenue should be the basis of the budgetary system.

The recommendations of the committee were communicated by the Secretary of State to Sir Percy Girouard, who had succeeded Sir Frederick Lugard as Governor, for his observations. How completely the Governor was in agreement with the report is indicated by the correspondence which ensued.

The report had said: "We are united in thinking that a land revenue, which would in fact be economic rent and would increase with the development of the Protectorate, should eventually form an integral part of the revenues of Northern Nigeria."

Sir Percy writes, accepting the principles of the report, and says: "By securing for ever the rentals on land for the upkeep of central and native governments the principle, if applied, will prove to be the greatest developing factor in the future moral and material welfare and progress of the country and its inhabitants, whether native or immigrant."

Commenting on par. 69 of the report, which said: "Leases should include a rent revisable at fixed periods which should be prescribed in a law of general application and should be as short as may be found practicable. The principle on which the rent should be revised should be clearly stated in the leases and should be that the revised rent will be fixed independently of the capital invested and will be based on the value of the land irrespective of any improvements made by the lessee during the term."

Sir Percy writes to Lord Crewe: "If we are to enforce the cardinal principle that rent is to be fixed or revised upon the unimproved value of the land—which meets with my concurrence if this means, as I understand, the auction or market value of the land apart from individual improvements effected upon it during the term of the lease—the condition I consider essential in the granting of long leases is the power of frequent revision of the rent by the Government."

On 22nd March, 1910, the Secretary of State wrote to the Governor authorising him to draft a proclamation carrying into effect the recommendations of the Committee. The proclamation, the Land and Native Rights Proclamation, 1910, was duly enacted and came into force on the 1st of January, 1911.

The Proclamation is concisely and clearly phrased. After a preamble declaring that "it is expedient that the existing customary rights of the natives of Northern Nigeria to use and enjoy the land of the Protectorate and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected and preserved," that existing native customs should be preserved as far as possible, and that the rights and obligations of persons claiming an interest in lands should be defined by law, it declares the whole of the lands of the Protectorate, whether occupied or unoccupied, to be native lands (except certain lands comprised in an agreement with the Niger Company).

All native lands and all rights over them are declared to be under the control and subject to the disposition of the Governor to be held and administered for the use and common benefit of the natives of Northern Nigeria.

The only right to land which can be granted is a right of use and occupation. This the Governor is empowered to grant to natives or others, and to demand a rental for the use of any lands granted, such rent to be revised at intervals not exceeding seven years.

The right of occupancy may be for a definite or for an indefinite term. It may not be sold, mortgaged or transferred without the consent of the Governor. In fact, there can be little to alienate except the tenant's improvements, because the Governor is directed in determining the rent originally and at each subsequent revision to take into consideration the rent obtained or obtainable for neighbouring land and to fix the rent at the highest amount that can reasonably be obtained for the land, provided that in determining the rent the Governor shall not take into account any value due to capital expended on the land by the occupier or by a previous occupier.

If the occupier is dissatisfied with the rent fixed on a revision he may surrender his rights and claim from the Governor the value of his unexhausted improvements, which are defined as "any thing or quality permanently attached to the land directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility, or amenity thereof, but shall not include the results of ordinary cultivation other than growing produce."

If the right of occupancy is transferred, the new occupier is bound to pay the rent direct to the Governor, and also to pay to the Governor the value of any unexhausted improvements existing on the land when he enters.

I cannot better emphasize the importance of this measure than by quoting the comment of *The Times* (8th September, 1911):

"On 1st January of this year the most far-seeing measure of constructive statesmanship West Africa has ever known was put upon the Statute Book. 'The Land and Natives' Rights Proclamation' consecrates the three main principles of native law and custom, first, that the whole of the land, whether occupied or unoccupied, is 'native land'; secondly, that the land is under control and subject to the disposition of the Governor, to be 'held and administered by him for the use, need and common benefit of the natives of Northern Nigeria'; and thirdly, that the Governor's power shall be exercised in accordance with 'native laws and customs.' For the rest, and without going into detail, the measure can be described as expressing the native system, and the natural developments of the native system, in English. It is not, in Nigeria, an innovating measure, but a conservative measure; not an experiment, but a preservation of the *status quo*. It is not a measure of land nationalization, because nationalization means State control of the land and all that is done upon it. What this measure does is to provide for the communalizing of the communal value of the land, leaving the occupier full control over the use of the land and full benefit for his private enterprise upon it, with payment of rent to the community to which the land belongs, instead of to a landlord. The individual's right to all that is due to individual work and expenditure, but not to the communal value, is secured. No freehold can creep in and no monopoly profit can be made out of the land. The 'holding up' of land for speculative purposes is, in effect, penalized, while the man who is industrious is not made to pay more as the outcome of his enterprise. At

the same time the basis is laid for a land revenue which, with the years, will be the chief source of income of the Government—the healthiest form of income, perhaps, for any Government."

As to how the measure has worked in practice, I may quote the observations of Mr C. L. Temple, one of the committee who reported on the problem and afterwards Lieutenant-Governor of Northern Nigeria :

" The enactment which thus nationalized the land of Nigeria was regarded by many as being an innovation fraught with danger, and there were not wanting those who prophesied that no one would invest capital in a country thus administered, and that this law barred the way to or would certainly hinder all improvement and development on modern lines. The event, however, proved the contrary. As the law came to be understood it was realized that the interests of capital and of the industrious pioneer were amply protected, with the result that the demands for ' Rights of Occupancy,' as the leases are termed, has been so great as to hurry on the development of the country fully as rapidly as is expedient. So far from capital being frightened away it is flowing in as quickly as anybody could wish." (*Native Races and their Rulers*, Cape Town, 1918.)

The principles of the Northern Nigeria legislation have since been applied in Tanganyika by the Land Ordinance, 1923, issued during Sir H. A. Byatt's governorship. This statute is framed in almost the same terms. The most important difference is that the period between revisions of rent may be as much as 33 years. (It may be remarked that one of the amending statutes in Northern Nigeria also has extended the interval which may elapse between revisions of rent to 20 years, but only in the case of land let for building.) This departure from principle is most regrettable. If the value of the land increases, the tenant comes into enjoyment of a value which he has done nothing to create and becomes a partial landowner. If the value of the land falls the tenant is bound to pay a rent which is beyond his capacity and which is virtually a tax on his earnings.

Another interesting variation in the Tanganyika Ordinance is that the initial rent in the case of a right of occupancy granted to a non-native is to be determined by public auction, subject to the safeguard that no offer may be less than an upset rent fixed by the Governor.

In Northern Nigeria and Tanganyika the Government had almost a clean slate to write on. In other colonies property in land has generally been more largely recognized, and it does not follow that the principle can be applied in the same way. The same ultimate result can, of course, be attained in these by the application of land value taxation and its extension by such steps as may be expedient until it takes the whole economic rent.

For us the question is : Can we establish this new conscience, establish and extend it ? How can we emphasize that the land in all colonies should be held in trust for the people of those colonies for ever ? How can we block that civilization which is founded on private property in land ? First, we must say that no native chief has a proprietary right in land, but that the Crown holds all the land in trust for the people. Secondly we must say that, holding this land in trust, the Crown has no right to sell it, but may only lease it on such terms as shall secure to the tenant the full value of his improvements, and

give him security of tenure subject to the payment of a revisable rent determined by the general demand for land.

It should be our business to focus public attention on one point, and to convince our Governments on that one point ; namely, that those lands are held simply and solely in trust for the inhabitants, and must not be alienated from them to either blacks or whites.

This way alone lies real freedom for the native—freedom to work for himself freedom from wage slavery, freedom from the hopeless state of a landless exploited proletariat. Those who desire to help on these lines may sometime see that all that is written above applies also to the land of England, France, Germany, or anywhere.

(*Issued for the International Conference, London, 1st to 5th September*, 1936, *by the International Union for Land Value Taxation and Free Trade*, 34 *Knightrider Street, London, E.C.4.—Additional copies, price 3d. each.*)

Vacher—56873