

NORTHERN NIGERIA.

NORTHERN NIGERIA LANDS COMMITTEE.

MINUTES OF EVIDENCE AND
APPENDICES.

(The Report and Despatches relating thereto are printed separately as [Cd. 5102] .)

**Presented to both Houses of Parliament by Command of His Majesty,
April, 1910.**



LONDON:
PRINTED FOR HIS MAJESTY'S STATIONERY OFFICE,
By JAS. TRUSCOTT & SON, LTD.

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1910.

[Cd. 5103.] Price 1s. 2d.

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APPENDIX I.

MEMORANDA

ON

LAND TENURE AND LAND REVENUE ASSESSMENT
IN NORTHERN NIGERIA;

BY

SIR PERCY GIROUARD.

CIRCULAR TO RESIDENTS.

In a previous Memorandum on Land Revenue Assessment and Land Tenure issued for Residents' comments and consideration the two questions were considered together. In consequence of replies received I have thought it desirable to re-draft the Memorandum in question, and to separate it under the two heads of Land Tenure and Land Assessment. The former is a debateable subject, the latter one of fact.

In the Memorandum on Land Assessment I have attempted to direct the attention of Residents to the existing condition of land revenue assessment and collection in Northern Nigeria, by contrasting it with the scientific system developed in British Burmah. I have not attempted to urge the immediate introduction of the Indian system (our financial position will not allow of it), but wish to emphasise that a land revenue policy once adopted will force its authors into the more accurate systems of interpretation found essential elsewhere.

In the Land Tenure Memorandum has been outlined what I conceive to be the situation in Northern Nigeria, a situation apparently allowing of a policy which would promise lasting benefits to the native population.

On both subjects I fear few of us can claim much practical knowledge, and I have therefore laid before you the views of two great Indian authorities. With your assistance it may now be possible to disclose the situation to the Home authorities, and impress the necessity of independent and expert advice upon a subject of such vital importance to the present and future welfare of the inhabitants of this country, and, in view of the early development of the country, calling for immediate solution.

E. P. C. GIROUARD.

Zungeru,
2nd November, 1907.

(1.)

LAND TENURE IN NORTHERN NIGERIA.

1. It is essential, before working out the eventual system upon which land revenue should be assessed and collected, to determine the policy of the Government with regard to land tenure in Northern Nigeria, more particularly native tenure. It would, moreover, appear indispensable to resolve the matter prior to the advent of Europeans in any considerable numbers. The construction of railways will very probably result in a large access to the white population, and a probable demand for land for plantation purposes. Should such a demand arise before the determination of native tenure, injustice to the present holders of the land might ensue, tending to unsettle the country and shake the faith in our rule now becoming firmly established. Regrettable results from failure or delay in the settlement of native tenures can be instanced in other parts of Africa where the customary right of the native inhabitants was by no means so firmly established as is the case in this Protectorate.

2. Northern Nigerian native rights in land must, in so far as the past is concerned, be generally considered under two heads, those obtaining in (1) Mohammedan or Fulani-ruled States, (2) Pagan States.

In the Fulani-ruled States the land was apparently by custom vested in the rulers who had conquered them. By custom and tradition, however, lands cultivated by their subjects, not being slaves, were usually left in the holders' undisturbed possession, subject (except in Sokoto) to the payment of tithes or tribute. The conditions prevailing in these States, more particularly in late years, undoubtedly led to arbitrary treatment of landholders, gross extortion of tribute, and the farming of taxes. The frequent change of rulers and more constant changes in court satellites to whom the taxes were farmed, gave no security of life or favour, and, consequently no practical continuity of tenure in the lands nor fixity in the rents imposed upon them.

In the Pagan States the lands were in a sense common, though each man usually received the products of his labour; custom and tradition apparently precluded the alienation of the lands by the chiefs to other natives or non-natives. So long as the tribal or clan feeling remained entire, tenure remained fixed. Conquest and re-conquest and internecine strife were, however, of common occurrence, the conqueror holding the lands for his people until in turn dispossessed.

Since the British occupation the principle of the right of the natives to their landholdings has never been questioned, Residents of Provinces usually maintaining individual right of possession, provided the rents or cesses upon it were forthcoming—thus securing to the landholder of cultivated ground continuous occupation of the land. In addition to the cultivated lands, which are in Northern Nigeria of vast extent, owing to the smallness of the population there is in places a greater extent of unoccupied or waste land, much of which has a high agricultural value. No serious investigation has been made as to the claims or rights in this unoccupied land.

The farmers, in so far as habitation is concerned, are usually found, as in India, collected in villages, frequently walled and defended. Adjacent to the villages are the lands they cultivate, but village claim is laid to far greater areas than the actually cultivated or fallow land, and the supposed boundaries of such claims can usually be pointed out by the villagers or their headmen. In most of the provinces there would appear to be practically no land which was not subject to such a claim.

Apparently, though there is no proof as yet available, certain areas of cultivated land are held by Emirs or their courts. These in the past have been worked by slaves. Some are probably attached to the office held, though it would appear that private and individual rights are asserted in others.

3. My predecessor in his Memorandum No. 16, "Titles to Land," defined the tenure in which the lands were held under the following heads:—

- (a) Crown Lands.
- (b) Public Lands.
- (c) Difference between Crown and Public Lands.
- (d) Rights of Government in Public Lands.
- (e) Communal Lands.
- (f) Government rights in lands of conquered Pagans.

(a) "The Government of Northern Nigeria acquired the sole and absolute title to certain lands, on the transfer from the late Chartered Company. They are set out in the Schedule to Proclamation 16 of 1902. These lands were stated by the Royal Niger Company to have been privately acquired, and held by them in their private right as a Commercial Company outside their functions of administration as a Chartered Company. They were very extensive, including, amongst others, a mile inland from either bank of the Niger from the Southern Nigeria frontier to Lokoja. The justification of the large sum paid by the Imperial Government to the Company at the time of their surrender of their Charter was probably considered by His Majesty's Government to consist largely in the acquisition of these extensive land rights.

"These lands are, by presumption, the absolute property of the Government, though, as a matter of fact, native towns are situated upon them, the inhabitants of which, so far as I am aware, have no knowledge that their rights in the land they occupy have ever been alienated. Since, moreover, the greater part are situated in Pagan districts, where the rights in the land are communal, it is doubtful whether it was in point of fact alienation by any chief under treaty. It must, however, in fairness to the Company, be borne in mind that the treaties under which they claimed to have acquired these lands, and also mineral rights, were often (probably almost always) the same by which they had acquired such political control as formed the basis of our claim to what is now Northern Nigeria as opposed to the claims of Foreign Powers.

"In addition to the lands thus theoretically acquired, certain other lands have been taken up for public purposes by the Government, and have become Crown Lands, such as the site of the Cantonment at Zungeru, and such part of Lokoja as was not already Crown Land, and the sites of the various Provincial Headquarters, &c. With the question of the formalities of titles to such lands and the delineation of their superficial areas, I will deal presently.

(b) "Apart from Crown Lands, which may be described as the private property of the Government, there are certain lands, the ultimate title to which is vested in Government by right of conquest, a right to which legal sanction was given by Proclamation 13 of 1902 (now incorporated with No. 8 of 1900). These lands are called 'Public Lands.' They became such owing to the fact that the Fulani, when they conquered the country, assumed the ultimate title to all land, and when, therefore, a Fulani Chief was conquered or deposed by Government the title vested in him lapsed to Government. The procedure laid down in the Proclamation has been given due effect to by means of Letters of Appointment to each Emir installed by Government, in which this ultimate title to the land was expressly reserved.

(c) "In my view, the difference between Crown Lands and Public Lands may be described thus. Crown Lands are the private property of Government, and any person entering or building upon them commits a trespass. Public Lands are held administratively by the Government, which in no way interferes with private titles or transfers and sales between individuals, but Government has the right at any time to take up any public land for public purposes, and Government can alone grant a title to a non-native for any public land. Money accruing from rentals and sales to persons other than natives of the Protectorate forms part of the revenue of the Protectorate.

"The Government has, in my opinion, the right to go still further, and to claim the right of disposal of all such land as is included in a district declared to be Public Lands, provided that it is not in actual occupation, and cannot be proved to be the private property of an individual. Conquest by a civilized government does not confer the right to confiscate private property. This right of disposing of waste lands is one which, in practice, the Government only rarely exercises, as in the case of denying permission to settle to freed slaves (Memorandum 6, paragraph 5). As a rule, the disposal of waste lands is delegated by the Government to the emir or chief who has been nominated to succeed the deposed ruler.

(d) "Thus, in practice, Government assumes the right in the case of Public Lands. (a) To take up any land required for public purposes without purchase, though, if private and individual rights were invaded, compensation would be awarded. (b) To be the landlord in respect of all non-natives who may desire to acquire title in a district declared to be Public Lands. When, therefore, the Government assumed the onerous and costly task of administering this Protectorate, it secured as a source of revenue these two assets—the right of granting licences to

exploit minerals, and the right of selling or leasing land to non-natives. The day will, no doubt, come when the value of this provision will be fully appreciated.

(e) "Practically all the territory under the Fulani rule is now Public Lands. There remains the enormous area which is occupied by Pagans. I have provided no legal instrument by which to formally legitimize to a hyper-critical legal mind the *de facto* consequences of conquest in this case. In the case of the Fulani we were dealing with acute intellects, and it was the straightforward and honourable course to declare to them publicly and frankly the consequences which resulted from conquest. But I have a strong dislike to going through formulæ—be they treaties or public proclamations—which are not understood by the parties concerned, are inapplicable to their conditions, and cannot be promulgated through any central authority or channel of general information. Thus, if a Pagan tribe, consisting of a congeries of little hamlets, each under a wholly independent chief, is conquered, it is of no use declaring that Government, in future, claims an ultimate right in the land. The phrases would convey no meaning to them, the land is, presumably, held in communal tenure, and the owners (so far as they can be called owners, who acquire to-day and are ousted to-morrow by a stronger tribe, and have no clear idea of ownership, whether individual or communal), are only partly present and are unconcerned. The rights given by conquest are well understood by primitive folk, and, since the Government does not desire to expropriate the owner of a single field unless it be for some public need such a road, railway or station, and there are limitless areas around equally good for cultivation, the necessity of any legal formality or public declaration does not appear to me to exist. The more advanced Pagan communities referred to in Memorandum 5, paragraphs 51 and 52, such as Boussa and Kiama in Borgu, Argungu and Jega in Sokoto, &c., form exceptions, and can be dealt with—having a paramount chief—under the terms of the Proclamation.

(f) "It follows that in Pagan tribes which have submitted in the face of superior force, or have been conquered in warfare, the Government assumes the same rights as regards lands which it does in a Fulani emirate, that is to say, it reserves to itself the right to grant titles to land to non-natives, and to take up land for public purposes, but does not otherwise interfere with the ownership or transfer of lands between natives, and money paid for sales or rentals by non-natives accrues to the public revenue—but in this case, for the reasons I have given, no public announcement based on a legal statute is made."

4. Both in definition as to class and in definition of rights, the foregoing would appear to me to be, from a legal point of view, cumbersome, and, in practice, indefinite.

The right of private or freehold ownership is apparently contemplated, private titles, transfers, or sales being described. No account is taken of village claims as to boundaries, and waste lands are held to be in the gift nominally of the Government, practically of the Emir. Government alone, however, can grant a title to a non-native or a native who is not a native of this Protectorate to any public land.

Up to the date of our occupation, there had been little or no question of titles to land. Land more than ample, in fact far in excess of the requirements of the population, was probably available. The population cleared and cultivated what they required, and so long as they did not personally offend their rulers or were unconquered by neighbouring States, they remained by custom in possession. What was of far more consequence to the free tiller of the soil or landholder was his property in man with which to work it.

My predecessor denies the right to Government of seizing cultivated lands or house property, or of interfering with private titles, transfers or sales between individuals.

In another Memorandum, in referring to the difficulty of the free labour problem, mention is made of the necessity of "the creation of a labouring class to till the lands of the ruling classes" and "the enforcement of proprietary rights in land." I can only presume that this meant the creation of a landlord class. Though I am altogether in favour of the definition and recognition of the native rights in land, I am not at all certain that it would be in their interest to create a landlord class where apparently they have been non-existent.

II. PUBLIC AND PRIVATE OWNERSHIP OF LAND.

5. "To the economist the ultimate justification of private property rests upon the conviction that the surest way to bring about the abundant production of wealth

is to secure to the producer the free disposal of what his exertions have produced. This general agreement in favour of private property does not, however, afford any vindication of private property in land. Land is the free gift of nature, and its extent and productive capacities are not (except in rare cases) due to the exertions of the landlord, and therefore no privileges or disabilities imposed upon the landlord could affect the productiveness of the land. Indeed, there is no reason to suppose that the production of wealth would be impeded in a society which did not recognise private property in land at all, as long as the use of the land was guaranteed to the cultivator for a season.

6. But though the landlord cannot nowadays rest his claims to the exclusive ownership of land upon the same fundamental principle which justifies other forms of private property, it is probable that in earlier ages he rendered services to industry which fairly entitled him to a share of the product. Those services consisted in the protection of industry. In the lawless condition of early society, the chief who could assure the agriculturist security, and enable him to reap the crop which he had sown, performed a most valuable service to industry, for which, according to the strictest economic reasoning, he was justified in claiming a share of the profit. But with the growth of settled government, the necessity for the services of the local landlord has declined, his primitive functions are now discharged by the State, and therefore his claim to the exclusive ownership of a certain portion of the earth surface has not the economic justification which attaches to other forms of private property.*

7. Mr. Morison describes the above as the "Economic Doctrine of Land Tenure." In its use the State becomes the landlord, and any land tax becomes a "rent." The agriculturist would secure the right of *user* over a greater or less period. No middleman or landlord would absorb any such "rent," all of which would accrue to the Government of the country for the benefit of the people.

8. With this theory may be contrasted the English and the Indian systems of land tenure.

Many people assume that the English system is based upon absolute ownership of land—in point of fact such a position is unknown in English law, by which no man can be absolute owner, though he may hold an "*estate*" in lands. By Roman law absolute ownership was recognised, and before the Norman conquest this probably existed in England. William the Conqueror assumed absolute property of all the lands in England, except Church lands, and the county of Kent, for the Crown. The Conqueror as sole proprietor granted to his followers certain rights of use in certain lands, and these "Rights" were termed "Estates." These persons had to render certain services in return, and were never called owners, but merely Tenants at will (Holders). If they failed in their services to the Crown, the "Rights" might be forfeited. The "Estates" were neither alienable, nor transmissible by will, but life tenancies reverting to the Crown on death. With time the estates (which can only be termed "leases") from being granted to tenants at will, tenants for a term of years, tenants for life, tenants by copy, were eventually "alienated" from the people, if not the Crown, when estate in fee simple was reached, which denoted a perpetual lease of land.

With estate in fee simple came into being the landlords: taking the place of the Crown they in turn granted estate rights at will or for a term of years, from which arose the tenant-farmer class, and the "Farm," which is merely the name for a form of lease. It was when towns sprang up that the value of the landlord's rights vastly increased. For many centuries now the land has been thus held, the fee simple or freehold landlord for all practical purposes having become absolute owner of the land as private property, to be treated like any other property. The "*Jus utendi*" or right of user having become the "*Jus possidendi*" or right of possession, and the right of securing the best bargain in its sale on short lease or fee simple is just as natural a feature of English dealings in land as the right to drive the best bargain in the sale of a horse.

9. "The Indian conception of landed property may be regarded as a compromise between these two extreme views. In India the landlord's title to the land is acknowledged, but it is a title subject to very considerable limitations. On the one hand, his ownership is limited by the claim of the State to a joint interest in the land, and, on the other, by the claims of the tenant to a semi-proprietary right (to fixity of tenure) in his holding. Theories of land tenure have always been to the

* Mr. T. Morison, late Principal of Aligarh College: "The Industrial Organization of an Indian Province."

Indian Government questions of great practical importance because *from time immemorial the revenue derived from the land has been the mainstay of State finance*. The land revenue is that proportion of the private landlord's income which is claimed by the State, and in determining the principles upon which this land revenue should be assessed the Government has been compelled to consider the theories governing the ownership of land. For convenience of reference, the three opinions which have principally influenced the discussion upon the ownership of Indian land will be referred to as (1) The Economic doctrine, (2) The English doctrine, and (3) The Indian doctrine. These names have not much claim to accuracy, but they are distinctive and convenient.

10. "The rigid application of the economic doctrine would seem to require that private property in land should be abolished, and that all land should become the property of the State; in other words, that the land should be nationalized. In old countries, however, this is hardly even a practical policy, because the State has usually recognised the rights of certain persons to a beneficial interest in the land, and these rights cannot be withdrawn without injustice. But although the State is pledged to maintain the existing privileges of the landlord, it might legitimately appropriate to itself all future increments in the value of land, and thus place existing landlords in the position of annuitants drawing a fixed income from the land, but having no power to control the use of it.

11. "This was the view taken of land in India by those who maintained that the land revenue was not a tax, but was rent. It was asserted that the State in India had never divested itself of its supreme proprietary right in the land; the most that could be asserted was that Indian rulers in the past had recognised the tenant's claim to fixity of tenure; but while recognising his right not to be dispossessed from his holding as long as he paid his rent to the paramount landlord, they had actually exercised their privilege of appropriating to the State the whole of the increased value of land. This view was fortified by the reflection that it is the State which now renders to agriculture, and to all industry, the services which the zamindar used in lawless days to perform; it is the State which now confers upon the agriculturist security in which to pursue his industry, and it is the State which executes most of the permanent improvements upon the land—such as irrigation canals, drainage-cuts, roads, and railways. According to this view of the relation of the State to land, the Indian zamindar was but an agent for the collection of the State revenue, and he was entitled to nothing more than a percentage of his collections as a recompense for his trouble. This view gained support from the fact that a considerable number of persons who are now recognised by the British Government as the owners of estates, were originally nothing more than farmers of the revenue, *i.e.*, persons who accepted the contract of collecting the Government revenue on condition of keeping to themselves a certain percentage of their collections. The practical application of this view would, of course, have been to raise the land-tax so as to take from the zamindar all profits in excess of those surrendered to him at the last settlement. The theory of State landlordism was opposed by all who wished to see a limit placed upon future assessments, and who looked upon the land revenue simply as a tax upon agriculture, to be kept within the same limits as taxes upon other industries.

12. "Interesting as is the question of the nationalization of the land, it is useless to discuss it any further here, because the Government of India has definitely repudiated such a conception of its rights in the land. The British Government has everywhere conferred or recognised a private right in land, and, in large areas of country—Bengal, Oudh, and the whole of Northern India, for example—it has expressly declared the rights of the landlord and the village owners. It is, then, impossible any longer to say broadly that the State takes a rent from the landholders regarded as tenants. There are no doubt cases where Government is the immediate owner of particular lands, as it is of all waste and unoccupied land in general; but we are speaking of cultivated lands in villages and estates. The Government is certainly not owner of this; the utmost it does is to regard the land as hypothecated to itself as security (in the last resort) for the land revenue assessed upon it.

13. "The economic doctrine has, therefore, never been applied to the ownership of land in India; and since the State has formally recognised private property in land, the landlords have as good a title to their estates as any owners of property. I hold most strongly that when once the State has recognised the legality of private property in any commodity, be it in land or slaves, or any other form of wealth,

the owner cannot be dispossessed of it without fair compensation. Whatever arguments may be found in abstract reason against private property in land, they do not release the State from the pledge which it has given by recognising the legality of this form of property.

14. "But if the economic doctrine may be considered to have now only an academic interest the same cannot be said of the English doctrine. . . . The English officials who took over this province at the beginning of the nineteenth century were anxious to create in India a body analogous to the landlord class in England. . . . Soon after the acquisition of this province at the beginning of the nineteenth century, the Government therefore formally declared its intention of making a permanent settlement with the landholders—that is to say, of fixing in perpetuity the tax upon rent.

15. "For the Indian tenants it was a fortunate accident that the local officers, to whom the Commissioners addressed themselves in 1807, did not believe that the time had then come for making the settlement permanent.

"The local officers, in reply to the Commissioners, deprecated a permanent settlement as long as the country was so thinly populated. They foresaw that under a settled Government large tracts of land, then waste, would be brought under the plough, and that by a settlement made before this land was brought under cultivation, the Government would be debarred from all share in the profits of agriculture in these tracts. The Commissioners themselves, after an extensive tour, decided that a permanent settlement would be unwise 'while the population was so limited compared to the extent of its area.'

"The permanent settlement was, therefore, not rejected, but merely postponed. It is interesting to note that those who deprecated the immediate introduction of a permanent settlement did not foresee what was to Mill the greatest objection to fixing an immutable tax upon rentals—namely, that in a progressive society the value of land is always rising without any effort on the part of the landowners.

16. "But these arguments against a permanent settlement were not present to the minds of the English officers of the first quarter of the nineteenth century. They were in sympathy with the proposal to fix the land revenue in perpetuity, but they advised that the decisive step should be postponed until the country was more fully populated. The result of this postponement was that they became better acquainted with the Indian conception of land tenure, and as this acquaintance deepened they modified their preconceived notions of the absolute proprietary rights of the landlord. . . . They were conscious of their ignorance of essential facts; they did not know who the actual landholders were, and they directed their officers to make inquiries upon this point. . . . In reply to the Board's circular regarding tenures (1808) Mr. T. Balfour wrote from Gorakhpur: 'The ancient landlords, whether under the denomination zemindar, talookdar, rajah, or baboo, are admitted to have a proprietary right.' His neighbour, Mr. W. J. Sands, the collector of Bareilly, on the other hand, describes the 'talookdar' as a person who held estates in farm from the Government, and declares that the 'talookdar' usually asserted no claim to proprietary rights. 'There are, however, some,' he says, 'who from long possession assert a right, and deny the proprietary right of the village zemindars, who, on the other hand, assert claims on written documents, and as the acknowledged heirs of reputed proprietors of the soil.' Mr. Sands, however, fails to arrive at any very definite conclusions. 'The proprietary right in the soil of the acknowledged proprietors is extremely doubtful. From the great facility with which in this part of the country deeds are produced, it is difficult to decide the right, if any should really exist.'

17. "The result of their study of land tenures was to convince the English officers that there were in India sub-proprietors who had undeniable rights, and that these rights had been overlooked in the permanent settlement which was made with the landholders in Bengal.

"With the realization of the tenants' rights, it became clear that no settlement could be made in perpetuity which did not give legal recognition to these sub-proprietary rights. As it was impossible to attempt legislation until the Government was in possession of detailed information respecting the various forms of tenure actually recognised in the country, it was decided to prepare 'a record of rights' in every village or estate before settling the land revenue which it was to pay.

18. "Under Regulation IX. of 1833, settlements were made for a period of thirty years. The principle of permanent settlement was not officially discarded, but with the modification of the English doctrine of landownership the desire to

see it introduced declined, and the decision upon this point was therefore postponed. In the course of the ensuing thirty or forty years the rise in the value of agricultural produce, followed by a rise in rents, brought home to the officers of the Government the fact that there might be a rise in the value of land due to the progress of society to which the owner of the land had not contributed; it is probable, also, that they were influenced by the growth of economic opinion in England, and the writings of J. S. Mill, which predisposed them to sympathize with proposals for keeping all increase in the value of land in the hands of the State. . . . Opinion eventually came to rest on a compromise between the two extreme views, and the theory now generally held is that to which I have given the name of the Indian doctrine of landownership. The right to private property in land is recognised, but it is subject to two limitations, the first of which consists in sharing with the Government all increments in the income derived from land, and the second consists in the recognition of the semi-proprietary right of the tenant to fixity of tenure.

19. "The Indian landlord may well have thought that the distinction between rent and tax was a mere matter of words. What was of practical importance was the amount which the State collected from him in the shape of land revenue. The two questions of importance to him were (1) What was the proportion of his gross income from the land which he would have to surrender to the State, and (2) upon what principle the officers of Government would estimate his income. The last is of as much practical consequence as the first, for if his income is moderately estimated, the landlord can afford to pay a large proportion of it; whereas an assessment which professes to be only a small proportion of his income may be very burdensome in fact if that income has been over-estimated.

20. "The general conclusion to be drawn from the facts set forth in this chapter is that the Indian system of land tenure is something intermediate between complete nationalization of land and absolute private property in land. To the extent of one-half, the State is able to appropriate that unearned increment in rental incomes which is due to the development of the country, and to this extent to lighten the burden of the taxpayer. But except for this contribution to the public exchequer, the economic position of the landlord is not affected by the land revenue laws. He receives rent for the use of the natural and indestructible properties of the soil, and he raises that rent when the growth of population and the development of the country makes it profitable to bring poorer lands under cultivation. The object of the following chapter is to show how the growth of population has placed the landlord in a position of economic advantage when making a bargain with his tenants, and how the landlord has in the main followed his own interest with results not very dissimilar to those prevailing in Ireland. It will afterwards be shown what restraints have been placed upon him in dealing with his tenants, so as to give legal effect to the second limitation upon the power of the landlord, which I described as characteristic of the Indian conception of landed property."*

21. In India, to be brief, the original British officials, imbued with the sense that powerful landlords bound to the State constituted our safest policy, fostered the idea of proprietary rights in land. There is little doubt that in India these rights were not, as in England, acquired by any grant of leases in perpetuity, but by the gradual abuse of their positions by rent collectors, more than probably supported by supine and extortionate rulers. We mistook them for landlords, and at the outset gladly accepted them, having in view, it is to be feared, the safety of our own position and policy rather than the benefit of the people. Time has altered this, and later administrators have done all in their power to limit the practically unearned increment placed upon the land by the creation of the landlord classes.

III. RIGHTS IN LAND.

The rights in land in Northern Nigeria are described as follows by Residents:—

(a) MOHAMMEDAN PROVINCES.

Sokoto Province.—(Mr. Temple).

22. "With regard to land tenure. Unless I am greatly mistaken the one cardinal feature of native custom with regard to the tenure of land is that *under*

* Morison : "The Industrial Organization of an Indian Province."

no possible conditions can a private estate exist. The essential basis of native custom is that the freehold of land belongs to the section of the population that has conquered and is in possession of that land. In nearly every case such sections had a recognised paramount chief, such as the Shehu of Bornu, Sarkin Musulmi, Sarkin Kebbi, of Argungu, &c., and in such cases the freehold of land was, in theory, vested in the person who filled the office of chief, although by no means could an individual who occupied the office alienate this right from the office or from his successors in the office.

"In cases where no such paramount chief exists, this power will invariably be found, I think, to have been vested in some kind of council, and as far as the native rights in land are concerned I cannot find that any radical difference exists between the customs obtaining in the pagan and in the Mohammedan States (I speak, of course, under correction).

"The chief had the power to grant the *use* of lands to private individuals, and he was competent to transfer this power to subordinate chiefs who in their turn could transfer this power to minor chiefs and so on. But these transfers did not prejudice the original power of the paramount chief.

"For instance, the Sarkin Musulmi transferred his power of granting the use to private individuals of lands conquered by the Filane in the Bauchi District to Yakubu. But, nevertheless, when any succeeding Sarkin Musulmi sent a letter to any succeeding Sarkin Bauchi to the effect that a certain individual should be granted a farm (or even given a horse, for the principle applied to personal chattels) the order was invariably obeyed.

"I take this as an instance, but, speaking under correction, I believe this procedure to have been the invariable rule, both before the Filane conquest and amongst tribes never conquered by the Filane at all.

"To return. Although the Paramount Chief had this power to grant the *use* of lands, neither he nor his assigns had the power to grant the freehold of an acre to any person whatever; he and his successors, or his assigns and their successors, had always the power to revoke any grant made. They were not expected to do so, however, unless there was some good reason.

"There is no individual in Northern Nigeria who can, I believe, say, 'According to native law and custom this piece of land belongs to me.' He can, if he is Paramount Chief, say, 'The power to grant the use of this land to whom I please is by native law and custom vested in me as chief of this tribe,' or a tribe, if they have no chief, can say 'This land by native law and custom belongs to us.'

"Although I cannot allow that any 'individual right of *possession*' existed, yet there is no doubt 'that an individual right of occupation' did exist up to a certain point, and eviction of a man from his farm or a population from their village for no good reason was considered by the community as an act of tyranny (on purely sentimental grounds, however). The privilege of individuals to transfer this right of occupation to other individuals *with the consent of the chief* was also recognized.

"The freehold of the land is vested in the British nation according to native law and custom, and the Government has absolute power to grant the use of land to any person it chooses, as it occupies the position of the Paramount Chief.

"With regard to the suggestion that waste lands, &c., should be declared Crown Lands, Your Excellency's arguments against this are, I think, very strong and conclusive. I would especially emphasise the fact that there is not an inch of land which is not claimed by one tribe or another. To draw any distinction between waste and cultivated land, as regards proprietorship, would be going against native law and custom, and in practice very difficult.

"With regard to the suggestion that all lands should be declared native lands in fee simple, I cannot say that this appears to me a possible course: it appears that it would place the Government in an anomalous position. There never has been individual ownership of land; to create this now would cause great confusion; in fact, it would render the Administration of the Emirates, or Bornu, on the lines on which they are now being administered almost impossible. It would render the Native Administration quite inoperative, and the lower classes quite irresponsible to the Native Administration. It would necessitate a direct European Administration at once.

"If the freehold should be returned to the various *tribes*, it appears to me that the Government might at some future date encounter legal difficulties, as some emir would turn round and say that he alone could enter into negotiations with a private individual *re* leases, &c., as his tribe was the freeholder, and his contention would be very logically sound, as far as I can see. Further, I do not think that the native rulers would understand the position of the Government if they were informed that the land had been restored to them.

"If I may suggest, I cannot think of more suitable terms than 'Crown Lands' and 'Public Lands.'

"*Crown Lands* are those of which the Government is the freeholder by right of conquest which it undertakes to administer directly, and in which it does not pledge itself to abide by native law and custom at all.

"*Public Lands* are those of which the Government is freeholder by right of conquest, according to native law and custom, and in the administration of which it pledges itself to abide (as far as is possible in accordance with justice and humanity) by native law and custom, retaining to itself and to its transferee all those powers which by native law and custom are vested in the Filane Emirs, in the Shehu of Bornu, in the chiefs of Argungu, Borgu, and other similar tribal chiefs, and in any native administrative assemblies or councils which may exist, and also in the native judiciary. The Government will not transfer its power to negotiate, as freeholder, with regard to the occupation or use of Public Lands to any native chief when a non-native is a party or interested in any such transaction. The term Public Lands seems to me to exactly fit the conditions existing when the country was conquered by the British.

"Under this or some similar definition, it appears to me that the Government would enter in a natural and logical manner into the native system of administration as the Paramount Chief.

"(There can, I think, be no doubt that the whole country was as a matter of fact occupied *manu forte*, and it would be hypercritical to say that the Government is not in possession of the whole by 'right of conquest.')

"By native law and custom the right of occupation granted to individuals is respected. It was only when these laws and customs were ignored that hardship occurred. The Government would see that native law was enforced, and might modify it slightly in favour of the land *occupier*.

"By holding the freehold, the Government has ample powers to take over any land it may require for public purposes, and the compensation to be paid is not a subject which can be made the basis of an action at law in a British Court (an important point, it appears to me). It can hardly be considered unreasonable that the Government should claim to be above all suspicion of wishing to invade the rights of individual natives by whose prosperity the Government itself will be judged.

"By occupying this position of Paramount Chief, the Government can logically, according to native law and custom, demand rent from any person using Public Lands, native or non-native. In fact, the whole of the Kurdin Kassa and Jangali, and all existing taxes, except those on trade and industry, could be logically grouped under the designation of 'rent.'

"Although there was no question of private titles to land, the ownership by tribe, chief, or fief-holder, was *the* important question in former times. Chiefs of every kind were most jealous of settlements being made on waste land which they considered theirs, unless very distinct permission had been granted. I may add that it is the *one* important consideration with them to-day.

"I am fairly certain that the rule that a farm is attached to every office is practically universal. It is that to the native mind the idea of holding an office is connected with the idea of having the right to a 'gandu,' or official farm attached to that office. Certainly every emirship, and headship of a district or village (even the smallest) has a 'gandu' attached. To every important court official's office a farm is attached, and very often even the galadimas or village sarkis will be found to have an official farm. This is the reason why people are so anxious to be made sarki this, or galadima that.

"(Unless I am quite mistaken there is one near Zungeru. Did not the present Sarkin Pawa Muhoma, when Ajuji Sarkin Pawa, of Ungwon Jebba, died, take over the 'gandu' from him, although Muhoma was not in any way related to Ajuji?)

"With the possession of such official farms generally goes the right to demand labour, free, from certain villagers (freemen). The right is not always exercised.

"The gandu or state farm goes with the office. The possession passes, when the holder of the office is deposed, to his successor. If he dies, to his official successor, not to his legal heirs. The official may have other farms of which he is the legal occupant by permission of a chief; these he retains when deposed; if he dies they pass to his legal heirs.

"(There is generally, in the case of important chiefs, a good deal of chattel personal which is attached to their offices (Kayan sarota). This passes to successive holders, just as the 'gandu' passes).

"This system, if cleared of abuses which have sprung up round it, appears to me a thoroughly sound one, and one to be supported. There must be native officials; the best possible way to remunerate them is to ensure them the opportunity of obtaining a living by either working a farm themselves (as is the case with some) or by overlooking the working of a farm by certain villagers (as is the case with others). The officials are remunerated at no actual cost, except labour, and agriculture is stimulated.

"The existence of these official farms will be an important factor when the payment of salaries to the native officials by Government comes to be considered.

"As a mere suggestion, I would say, therefore, let a suitable official farm be attached to every office, so that the office-holder has always sufficient food, at all events; and let a fixed, graded gratuity be paid to each district and village head per annum, the right of sale of privilege to occupy land to be maintained. All other sources of income cut off."

Kano Province (Mr. Palmer).

23. "For practical purposes the whole of Kano Province has settled village boundaries, which are well known and in many cases have been in existence for hundreds of years.

"Within the boundaries of the village land, cultivation rotates; manure is little used, and farms are resuscitated by letting them lie fallow, and cattle grazing on them. It is probably inaccurate to suppose, as some have, that the population has decreased, the explanation is simply that a farm if cultivated more than two or three years in succession grows barren.

"One great difficulty in making a permanent assessment will be to overcome this constant movement, which not only takes place within the unit itself but between different units. At present, of course, the individual caprice and character of different serikis cause much migration in addition to the above; but in the nature of things this will tend to decrease as our rule gets more effective.

"The theory of land tenure at present *in being* is this—as an intelligent native would expound it:—

1. "The Governor owns all the land. (Or, in other words, the Crown.)
2. "He gives it to serikin Kano on payment of a certain amount of tribute.
3. "The serikin Kano gives the village or unit to a seriki on payment of tribute.

"So far this is pure farming of taxes; but when we come to the individual proprietor of land, or farmer, the case is different.

- (1.) "A farm is sold for 'user' by the seriki of a town or unit, with the implied condition that the occupier will pay to that seriki the customary taxes. If he does not do so, he is liable to eviction. The price paid is from 10,000 cowries to 20,000 cowries, according to the farm, but sometimes more.
- (2.) "The farmer or proprietor may not alienate his farm to anyone else without the consent of the seriki (and cannot mortgage it because no mortgagees would be willing to lend on such a tenure).

- (3.) "Strictly speaking, by native custom, a seriki and even the emir is bound to respect these rules. A farm once sold may not be sold again without default.

"Thus it is seen that though the peasant has not a 'fee simple' in his land, he has, in *theory*, even now a right of possession subject to the payment of taxes of a farm he has 'bought.'

"In practice, much arbitrary dispossession takes place, but one is perhaps more apt to note the hundreds of cases where it does occur than the thousands where it does not.

"In order, however, to see that the theory was adhered to in practice with exactitude, it would be necessary—

- (1.) "To make it compulsory on the farmer to permanently mark out the boundaries of his land in some way.
- (2.) "To have an accurate survey.
- (3.) "To determine by whom and within what area farms could, if unoccupied, be sold.
- (4.) "To fix the price at which a farm can be bought.
- (5.) "To regulate what was to be done with the purchase money of farms. (It would be a pity to abolish the *purchase* system, as to the mind of the native it *gives him a title*.)

"As appears above, the 'peasant' has not a 'fee simple,' but right of 'user,' subject to the payment of dues. I submit that to give the native a 'fee simple' in right of free alienation would be most undesirable; *they would all have mortgaged their farms inside a year*.

"For purposes of discussion, the whole of Kano Province cannot be regarded otherwise than as land 'permanently occupied by natives.'

"In the Hausa States there never were any regal lands till two years ago, except the emir's farm (say, 20 acres).

"To His Excellency's question, 'Is a *via media* possible,' &c., I would submit with respect, that neither—

- (1) "Declaring waste lands, &c., to be Crown Land,
- (2) "Declaring the lands to be the property of the natives,

would completely cover the case of Kano Province. It seems essential (as shown above) that whatever the system of tenure is, it should be of one kind in this Province.

"This being so, the land would either belong naturally (*a*) to the natives, or (*b*) to the Government or Crown.

- (*a*.) "Now if the land is to belong to the natives, the question is—What natives? To the minority of Fulani rulers, or to the individual proprietor or peasant?

"The word 'belong,' I take it, means 'belong' in the sense of conveying the right to 'sell,' or, in other words, 'fee simple.' I think that most people would agree that to work out a practicable scheme on the basis of native 'ownership' would be very difficult in the Kano Province, and without a *very* large staff and a survey, quite impracticable.

"Still, there is no doubt that the native not only has a 'moral' but also an actual title *to the use* of his farm (by native custom) on certain conditions.

"There is also the fact that the natives look upon the Government as the owner of the land.

"With this is the question how Europeans shall (when they come) be able to acquire land?

- (*b*.) "In England, at the present day, the King in theory *owns* all the land, and the 'fee simple,' which is usually called 'ownership,' is in origin a mere form of 'tenure.'

"In Northern Nigeria the Crown is, in fact, owner of all the land by occupation or conquest.

"It would then seem logical and in consonance with the theory of English

law that the Crown should become in theory also owner of all the land here, and from that could be developed whatever tenures were best suited to the country.

"In dealing with Kano Province the King (through the High Commissioner) would grant the right of 'user' or 'a lease' or a 'fee simple' if desired to any person whom he wished and subject to any limitations desired.

"In the initial stage of development it would seem desirable not to employ any tenure of the nature of fee simple, but to confine tenures to rights of 'user' (subject to payment of assessed taxes).

"This right of 'user' would cover the present peasant proprietor; he would hold his land subject to well known conditions; and he might be allowed to alienate it with the consent of the Crown, which would naturally be expressed or withheld by its deputies on the spot. This would effectually protect the natives against Europeans coming into the country, while at the same time native custom would not be interfered with, but rather strengthened, and no disturbing proclamations would have to be made, or a *fait accompli* disturbed.

"In practical detail such a scheme would not be difficult to work out on the same lines as in Lower Burmah.

"The 'sale' of farms would be a good feature to preserve, the price being handed to Government, *not* going to the serikis of the towns as now. Practically, the 'sale' would mean *taking out a licence to cultivate a particular farm*, in return for which a 'title deed' would be given, transferable with the consent of the Crown.

"There remains the question of land which the Government wants, in roads, railways, telegraphs, &c. The Government would naturally have a right of pre-emption by some statutory power made for the purpose, and could compensate the persons deprived of 'user.'

"I cannot personally see any moral obligation to compensate the chiefs concerned.

"If it is necessary to preserve a certain area of land on each side of the railway, the Government would pre-empt the strip, merely paying compensation to those who were deprived of the 'user' of land; the same way in regard to roads, &c., &c.

"These lands would then be vested in the Crown simply.

"If afterwards Europeans wanted sites for trading, they would buy a 'user' either (1) from the Government, if the land was pre-empted; or (2) from the natives subject to Government *veto* if the land was still in the 'user' of the native.

"Two things strike me especially,—

- (1.) "In this province one could not differentiate between occupied and waste land.
- (2.) "To give the native, either chief or talaka, power to 'sell' his land, would produce absolute chaos."

Kano Province (Dr. Cargill).*

24. "*Land Tenure.*—(a.) Starting upon the assumption that English law would be likely to be based upon existing native customary rights prior to our occupation, I would suggest that the lands in the Mohammedan emirates and those in the pagan areas come under different categories. First, as regards the Mohammedan emirates, land tenure there is subject to Mohammedan law and custom, which is that the land is the absolute property of the conqueror. The 'raj' has passed to us by conquest, and with it the vested ownership of the land. The Emir of Kano has repeatedly expressed this view to me. Owing to the transfer of suzerainty he refused to continue his tribute to Sokoto. He argued, 'Sokoto did not install me in my present position and he has nothing to give me. He, like myself, accepted his appointment from the British.' It would seem, therefore, that we are assuming the logical consequences of our conquests in declaring the Mohammedan Emirates to be 'Crown' or 'State Lands.' This was, I believe, the view taken by the Indian Government, who found themselves in a precisely similar position. The alternative would be to recognise the Emirates as 'Native States' controlling their own administration, including taxation, and paying, say, a fixed annual tribute to Government in return for 'protection.' In the case of the

* Dr. Cargill was not actually administering the Province when these notes were rendered.

Emirates, therefore, the system adopted in Burmah would seem to apply admirably, *i.e.*, declaring the whole country 'Crown Lands' and granting the natives 'landholders' rights.

(b.) "Secondly, as regards the pagan areas, it would hardly seem that we have any *de facto* rights as conquerors, as Mohammedan law does not apply here. I think that the lands should be regarded as 'tribal,' belonging to the different tribes by right of occupancy. I would suggest that in those areas the land should be proclaimed as 'native lands.' Further, it would hardly seem feasible to make a distinction between occupied and waste lands, as natives are constantly breaking fresh ground and forming new villages. I suggest therefore (1) proclaiming the Mohammedan Emirates to be Crown Lands and recognising landholders' rights; (2) proclaiming the pagan areas 'Native Lands,' and making special laws, based on purchase from tribal chiefs, for their acquisition as 'Crown Lands,' whether for Government purposes or for leasing to non-natives.

"Mr. Covey's notes on the custom having reference to land tenure in the Division of Argungu to the best of my belief apply throughout the Hausa States. It is *the* system of land tenure and would appear to point to a communal origin. With reference to *price* in Kano in the event of a man applying for a *vacant* plot he does pay a purchase amount to the local headman and the plot then remains his and is heritable so long as he or his heirs pay the land and produce taxes, or their land is not confiscated on account of crime. He may, however, be dispossessed by the Emir without compensation. Telekawa are not admitted to have proprietary rights outside the will of the Emir or suzerain. The fact that, contrary to the practice elsewhere, the Argungu chiefs do not touch the tithe, but leave it to the Mallams, shows, of course, that they adhere more strictly to Koranic law.

"I would like to bring out a point which I think has not previously been clearly brought out. The Kurdin Kasa, at Kano, is referred to by educated natives as 'Kharaji,' and is presumably, therefore, the 'Kharaji' of the Koran, and not the 'ghyzieh,' as stated by Major Burdon. 'Ghyzieh' is also known. It is called 'Kurdin ghyzieh,' and is levied from the pagan habes (known as 'maguzawa') instead of Zakka. To make it more clear—

- (a.) Mohammedan Habes pay Kurdin Kasa ('Kharaji') plus zakka.
- (b.) Pagan Habes pay Kurdin Kasa ('Kharaji') plus ghyzieh."

Muri Province (Mr. Ruxton).

25. "In the abstract I thoroughly agree with Dr. Cargill, but differ from him in considering it necessary to legislate for two different systems, one for Mohammedan states and one for pagan areas. All, I think, might be proclaimed Crown Lands. In the former case, such a right is conceded by the people themselves; in the latter it is not so conceded merely because the pagan has not the requisite reasoning power. If Government has a moral right over Mohammedan lands, it has an equal one over pagan areas.

"In the case of the pagans the unit would at first be the tribe or clan, and large provision would have to be made for expansion over the waste lands."

Yola Province (Mr. Barclay).

26. "All uncultivated land is vested in the emir or fief-holder, who alone can dispose of it.

"The emir has no control over land under the jurisdiction of a fief-holder.* Any one to whom land has been given becomes absolute possessor† of same, and cannot be dispossessed except through the alkali's court. If a man is convicted of serious crime his land may be taken from him.

"No rents are charged for land, but farmers must give a tithe of their produce annually, half of which is retained by the village chief, and half sent to the Emir or fief-holder, as the case may be.

"This tithe, called 'zakka,' must be devoted exclusively to charitable purposes, upkeep of the mosque and entertaining strangers. Surplus 'zakka' is used to clear poor people from debt, and sometimes to assist deserving slaves in purchasing their freedom.

* This view does not accord with that of other residents.

† By possessor I think occupier is meant, is it not?—E. P. G.

"As a recognition of the suzerainty of the emir, a fief-holder must send the Emir half the 'zakka' of the town in which he, the fief-holder, lives. Fief-holders had also to supply soldiers and horses for war when called upon to do so.

"The limits of a village are fixed by the Emir or fief-holder, and the inhabitants only of such villages can farm within those limits.

"A man may not sell his land, but may give it away.

"A woman cannot inherit land, but her husband or father can give her land during his lifetime provided she has servants to work it. A death-bed gift of land to a woman is not recognised. In the case of a man dying without male issue a wife or daughter may apply to the chief of the village to be allowed to take over his land, and, if she can show she is in a position to cultivate it, the land is given to her.

The sons of a dead man divide his land equally between them. If one, or more, of such sons is a minor, the eldest son acts as trustee for him until he is of an age to be able to take over the land himself. In the case of all the sons being minors an uncle or other relative acts as a trustee until they are of age. In the event of a minor having no relatives the court appoints a trustee for him. A minor, however, can take possession of land if he has sufficient servants to work it for him.

"No man may occupy more land than he can cultivate.

"*Grazing rights* are communal, and flocks and herds are at liberty to graze freely over all uncultivated land. 'Zakka' is collected on cattle as under:—

On 30 head,	one	three-year-old	bull.
" 40 "	"	"	cow.
" 50 "	"	"	"
" 60 "	two	"	bulls.
" 70 "	one	"	bull and one three-year-old cow.
" 80 "	two	"	cows.
" 90 "	three	"	bulls.
" 100 "	two	"	bulls and one three-year-old cow.

'Zakka' is paid by individual owners only, and not on the total number of cattle in a village. For instance, a village might contain 100 head of cattle belonging to different owners, but no 'zakka' would be paid if no individual owner possessed 30 head. If among above owners an individual possessed 30 head, 'zakka' would be paid by him on his cattle alone, the remainder being free from taxation.

"Should, however, two or more owners elect to herd their cattle together in one pen and the collective number reaches 30, 'zakka' must be taken from them.

"Cattle 'zakka' is divided and dealt with precisely in the same way as corn 'zakka.'

"An annual tax called 'jangali' was, until recently, levied on the herds of nomad Fulanis, the incidence being 10 per cent. of the total number of cattle in each herd. Unlike 'zakka' this was not a religious contribution, but a tribute tax, the proceeds being paid over to the Emir.

"There was no fixed rule as to the age and sex of the animal to be taken in every 10. This depended on the composition of the herd, and was assessed according to the proportion of bulls, cows and calves in the herd.

"*Pagan Tribes.*—As far as I have been able to ascertain, land tenure among the pagans is exactly the same as among the Fulanis, all land being vested in the paramount chief. Grazing rights are also communal."

(b) PAGAN TRIBES.

The Coast Colonies.

27. The question of the rights in land of the natives of the West African British Colonies along the coast has been the subject of much heated and bitter controversy. In the early days where the only requirements of individuals were for the establishment of coast factories or trading stations, land was obtained by treaty with the various chiefs, who, presumably, gave such rights as their tribal customs and laws—unwritten codes in all cases—could grant. After occupation by

conquest, cession or treaty, demands for land by Europeans were of a more varied character, and with the discovery of gold and the extension of agriculture, much confusion arose as to the rights in land and the validity of titles.

28. Broadly speaking, the endeavour of Government should be, and has been, to protect the native rights in land, but it was often thwarted or confused by an imperfect knowledge of these rights and native customs, and by the importation into the discussion by interested parties of the whole of the land laws of Great Britain, whether applicable or inapplicable.

29. There can be no hesitation in saying that the right of individual freehold tenure of land did not exist in West Africa. The lands were common, and the trustees for the people were ordinarily the chiefs, who usually *received a tithe of the product* or work on chiefs' farms in payment for their services as administrators and more particularly as organisers to prevent their being conquered by their neighbours. When such subjugation approaching to annihilation occurred, the victors assumed the same rights in land. In the history of West Africa there is not probably one inch of land which has not thus been conquered and over-conquered for centuries. I think it is perfectly safe to say that the chiefs rarely, if ever, alienated their lands to neighbouring tribes, and with Europeans they had no dealings. On the advent of the latter by conquest, cession or occupation, they became gradually the agency whereby inter-tribal strife was made impossible and the peoples secured in their landholdings which now, for the first time, came to have any real value. Heretofore, all external trade had been in ivory, rubber, palm oil, or slaves, and land had no value, being absolutely in excess of requirements. To retain the trusteeship in the hands of the native chiefs was not only illogical but unjust to the people themselves. The lands acquiring values for the first time, the chiefs, (too often, it is to be feared, influenced by aliens or partly educated people of their own race having nothing to do with the tribe) parted with the lands on long leases, the proceeds, it is to be feared, going too often largely to the interested intermediaries and the chiefs themselves. This would appear in native law and custom to have been illegal, but now the English common law was brought in to support the idea. It is not to be supposed that the chiefs knew anything of its workings when they were induced to quote its provisions in the spoliation of their peoples. It would appear to me that after occupation by cession or conquest the Government became the natural trustees for the people, more particularly as they gave them security as users of the common property of West Africans,—the land of West Africa. If this intermediary had been chosen and rightly chosen, their full interests would have been secured, and accruing values would have flowed into the Treasury for years to come. By asserting that the lands were freeholds the opportunity for securing all the benefits of its own labours to the peoples of British West Africa was lost. Nor was there any necessity to impede progress by such action. Instead of granting any rights in land through the chiefs, leaseholds could have been granted through the Government,—the natives receive compensation, and accruing values remain with the Government to be applied for the good of the peoples. Users' rights in land only would have been given.

From the outset this principle would not seem to have been applied. On April 7th, 1891, Chief Justice Hutchinson, of the Gold Coast, in reply to a suggestion of Lord Knutsford's that the whole colony should be converted into Crown Land, replied as follows:—

The Chief Justice to the Governor.

30. "Your Excellency has asked me to state my opinion as to whether it is desirable to legislate with the object of making all the land in the Colony and the Protectorate Crown Land.

2. Mr. Meade, in his letter of the 4th of December, 1889, enclosed in confidential despatch of the 6th February, 1890, states that the Secretary of State acknowledges that there are 'many reasons in favour of making the whole of the Colony and Protectorate British territory, and therefore Crown Land.' I do not see how the making of the country British territory involves the making of the land Crown Land. Perhaps all that the Secretary of State means to suggest is that one result of making the country British territory would be to make the Sovereign the ultimate lord of all the land, all private rights being left untouched. If that

is the proposal, I see no objection to it. But if the Secretary of State means, as I think Your Excellency understands him to mean, that all the land should be appropriated by the Crown, with or without compensation, the Crown becoming the immediate, and not merely the ultimate, landlord, the case is very different. I will confine myself to this latter question, which I believe is the one your Excellency wished me to consider.

3. "Whatever shape the proposed legislation took, it would, I presume, not interfere with existing rights in land now actually occupied and not permanently abandoned (lying fallow, in short, according to the native practice of letting land lie fallow for several years); so that the Crown would only actually appropriate and take immediate possession of the unoccupied, or, as I will call them, 'waste' lands; but at the same time the Crown would assume the ultimate lordship of all the land in the Colony and Protectorate.

4. "The question is a very large one, and I feel that I am not yet fully master of it, and that I do not yet see all the good and evil that might result from legislation such as is suggested.

5. "I believe that all the land in the Colony and the Protectorate, whether occupied or not, has, according to native law, an owner. Some of it is stool land, some family land, and a very small part is private property. It can be alienated. The alienation may be absolute; but an absolute alienation of stool or family land can only be made under special circumstances, and for a particular object, as, for instance, to raise money for payment of a stool or family debt. Most commonly the alienation only gives a limited right: the right, namely, for the grantee and his family to occupy and live on or cultivate the land, upon the condition (often, but not always) of rendering or paying to the grantor and his representatives, as tribute, either part of the crops or an annual sum of money, and when the land ceases to be occupied it reverts to the grantor or his representatives. A money payment is sometimes made to the grantor before the grant is made, but in the case of limited grants such as I have described of stool or family land to natives, there is usually no money payment down, but only a gift of rum, and, perhaps, a sheep, or some cloth.

6. "Native rules and practice as to right and mode of alienation of land, and as to the rights of a squatter on it, vary in different districts; but I believe that what I have stated is generally true.

7. "A chief, therefore, has a substantial interest in the lands attached to the stool; for on each fresh grant he receives some small gift; and the money, rent, or produce annually received in respect of the grants made by him, and of former grants, serves for the support of himself and his officers. So with respect to family lands, the head of the family receives all tribute and payments from occupiers of the family land for the benefit of himself and the family. I use the word 'family' in the native sense, which includes in the term all persons related by blood, however remotely, through females, and also all 'domestics,' that is, persons who were formerly house slaves, and still remain attached to the house.

8. "Every member of the family has a right to live on the family land, and to have a portion of it assigned to him for habitation or cultivation. Similarly, every subject of a chief is recognised as having a right to have a portion of the unoccupied stool land allotted to him if he needs it. The chief can grant the stool land to one who is not subject to his stool, but only with the concurrence of his council; and the head of a family can grant the family land to one who is not a member of the family, but only with the concurrence of the family council.

9. "Natives appear to have a strong feeling of attachment for their stool or family lands. A large part of the litigation in the courts is about land; and I have often been surprised at the pertinacity with which they fight about the right to possession of small pieces of land, sometimes land which has hardly any value except the sentimental value arising from connection with the stool or the family, and perhaps from the fact of some chiefs or members of the family having been buried in it, or from its association with some tribal or family fetish.

10. "The above remarks apply to all the land in the country. The great tracts of unoccupied forest land, however, are probably a source of very little (if any) profit to their owners, and probably have less sentimental value also than the open lands.

11. "Stool and family lands are thus a source of income and of dignity

and power to the chief or the head of the family, and they have also the further sentimental value which I have indicated.

12. "The advantage to be gained from the expropriation of the present owners by the Crown would be: (1) a possible increase of revenue from sales and leases of the land; and (2) a possible benefit to the community from the creation of indisputable titles derived from the Crown.

13. "I presume that the Crown would pay compensation to the present owners of the land, although it is at present lying waste. And in the case of family or stool land, it would not be fair merely to compensate the present life owner, that is, the chief or the head of the family. I doubt whether the people as a rule would, except on compulsion, part with the whole of their stool or family land to the Crown for any price; still, if a generous price were paid, they might reconcile themselves to the loss. When the amount paid for compensation is set off against the profit to be made from sales and leases, it is not unlikely that the Crown might be the loser. For this is not a country into which immigrants are likely to pour and take up the waste lands at good prices, and the amount of unoccupied land is everywhere so large that, except in the neighbourhood of the towns, it is not likely to advance quickly in value. The expenses of surveys and plans which would be necessary when Crown grants were made must also be taken into consideration.

14. "It would certainly be a great benefit to the community if indefeasible titles were created. At present an intending purchaser of land, or a merchant wishing to lend money on mortgage, has great difficulty in finding out who is the owner or person entitled to sell or mortgage; the greater part of the land in the country is stool or family land, to which a perfectly good title *can seldom be made to a purchaser or mortgagee*; and outside the towns there is the further difficulty of identification, owing to the absence of fences and boundary marks. The first step towards remedying this would be a survey of the whole country. But that is probably too large and costly an undertaking to be entered upon at present.

15. "Perhaps the most important effect of expropriation by the Crown of the present owners of the waste lands would be that it would permanently lower the dignity and importance, and, therefore, the power, of the chiefs and heads of families. At present the chief or head is the life-owner of all the land, unoccupied or waste, belonging to his stool or family; it is he who has power to make grants of it upon the customary native terms and tenure; and he receives the customary presents and tributes due from the grantees. If this power and these emoluments were taken from future chiefs and heads of families, it is impossible that their estimation in the eyes of their people should not be lowered. This consideration alone would, in my opinion, be enough to make us reject the proposed legislation, unless the reasons in favour of it are overwhelmingly strong.

16. "I conclude that the gain to the Government from appropriation of the waste land would be doubtful, and that the injurious effects of it in lowering the importance and influence of the chiefs and heads of families, and in raising a sense of injustice and consequent hostility to the Government in the minds of the people, outweigh any probable gain that could accrue to the Government from it.

17. "But I think there are good reasons why the Crown should take possession of the minerals and of the unused and unoccupied forest lands. Minerals in this country have not been a source of revenue except to a very few owners; and I cannot imagine that any sentimental value can attach to their possession. There can, therefore, be no hardship, and no likelihood of rousing the hostility of the people in an appropriation of them by the Crown for the public benefit, provided that mines now worked and concessions already made are not interfered with. The forest lands also have not been a source of profit to any one; and, although they may belong to a stool or family, I doubt whether they have the same value in the eyes of the owners as the open lands have."

31. It would appear to me that the learned judge laboured under a misapprehension of ideas. The lands of the Gold Coast were apparently by native law and customs chiefs' or "stool" lands, not personal, but held by chiefs acting as trustees, and to all intents and purposes Crown Lands if individual freehold tenure was not to be introduced. The Chief Justice, though disapproving of the Crown Lands theory, saw many reasons to support the conversion of the waste or forest lands into Crown Lands, and a bill was drafted by him in 1894 vesting all waste and uncultivated lands and minerals in the Government. Strong opposition followed,

and the chiefs pointed out that it was quite impossible for them or their people to register their lands, and disputed the right of the Crown to take over the lands. In 1896, Mr. Chamberlain, in consequence, instructed Governor Maxwell that the Bill should not be proceeded with. Sir William Maxwell, in 1896, thus describes the position on the Gold Coast:—

MESSAGE from HIS EXCELLENCY the GOVERNOR to the LEGISLATIVE COUNCIL, to be brought up and read by the Colonial Secretary at a Meeting of the Council to be held on Wednesday, the 10th March, 1897.

32. "The Governor has the honour of commending to the most careful consideration of the Legislative Council a Bill which has been prepared to regulate the administration of public land, to define certain interests therein and to constitute a Concession Court.

"At various times during the last 20 years grants and concessions have been made by persons claiming to be chiefs or headmen, and to be entitled under native law or custom to grant or lease tracts of land for various purposes, chief among which are gold-mining and the felling of mahogany timber.

"The Government has not admitted or recognised these grants or the power of native chiefs to make them, but has not declared their invalidity further than appears by a notification issued on the 10th of October, 1895, which is as follows:—

"Whereas grants and concessions have been made by chiefs within the Protectorate without the consent of the Governor of the Colony;

"Notice is hereby given that no document hereafter made purporting to grant or convey any right over or interest in land save and except the right to occupy agricultural land for the purposes of native husbandry or the right to occupy building land for the erection of a native house, will be recognised in any way by the Government unless it shall bear the signature of the Governor, or of such officer as he shall appoint for the purpose, in token of Her Majesty's approval.

"Grants and concessions already made without such consent will be recognised only to such extent and on such conditions as may hereafter be determined, but the grantees of rights in respect of which there is a reasonable prospect of efficient and continuous work being done within a reasonable time will receive all due consideration."

"There is good ground for believing that the practice adopted by native headmen of making grants to strangers, particularly to Europeans, of waste land and of minerals, and of concessions of forest land (which is quite modern) is illegal according to native law and custom.

"The Government, which has undertaken the protection of the tribes within the area included in the Gold Coast Colony, has not, up to the present time, exerted, except in one particular, the right of regulating the disposal of public land which may be properly claimed as one of the attributes of the paramount authority. The exception referred to is that contained in Section 7 (Sub-section 6) of Ordinance 8 of 1876, where it is laid down that where land is taken for a public purpose compensation shall not be awarded to any party in respect of unoccupied land.

"For some years past, however, it has been made increasingly clear that native chiefs cannot be permitted to deal uncontrolled with public rights, and that the transactions by which it is alleged that private rights have been created over public land, in a manner wholly unknown to the native tenure of West African tribes, require examination and possibly extensive modification.

"A Bill, entitled 'An Ordinance to vest waste lands, forest lands, and minerals in the Queen,' was read a first time in the Legislative Council on the 14th November, 1894. Section 3 of this Bill provided that 'all waste land and all forest land in the Colony are hereby vested in the Queen for the use of the Government of the Colony.' The principle which it was thereby sought to lay down has been the subject of criticism, and under the direction of the Secretary of State it has been abandoned. The Bill of 1894 has, therefore, not been proceeded with.

"It will be remembered that soon after the first reading of the Crown Lands Bill of 1894, various petitions against it were addressed to the Secretary of State, and that the Governor (Sir W. Brandford Griffith) in person received a deputation of the chiefs and headmen of Accra and Christiansborg, and was made fully aware of the representations which they desired to make upon the subject of the measure.

"The objections raised received the attention and careful consideration of the

Secretary of State, and the petitioners were in due course informed that, in the opinion of the Secretary of State, the provisions of the intended law did not bear the construction which, possibly owing to defective translation, the petitioners had placed upon them. Whilst fully respecting the objections put forward by the native authorities, the Secretary of State expressed, nevertheless, his unaltered opinion that, in order to protect the forests from injury by the reckless felling of timber, and in order to preserve waste and forest land and minerals from being improvidently dealt with, it is necessary that some law on the subject should be passed; it was stated, however, that no interference with native rights of property was contemplated, or will be made, wherever such rights can be shown to exist. An assurance was further conveyed that, in the administration of the law, the Colonial Government would deal with care and prudence and with a conciliatory disposition, and remedially where necessary, and on their merits, with any cases of hardship submitted to it.

"The occupation of Kumasi and the conclusion of treaties of protection with all the Ashanti States has enlarged the field within which traders and miners may safely and profitably carry on commerce and industry. These events have also contributed to the urgency which now exists for some settled understanding in regard to rights arising out of land, the manner in which rights of various kinds may be created, the authority which is necessary, and the terms and conditions upon which such rights may be enjoyed.

"In the House of Commons in July, 1896, the Secretary of State for the Colonies stated that he had sanctioned the policy under which it would be made impossible for native chiefs to make any concession of land without the sanction of the Governor. Mr. Chamberlain said: 'The land laws and land customs of West Africa are different from the law of land tenure in England, while the concessions are framed in the language of English conveyancing, and purport to convey the fee simple, or to grant a lease with the conditions which are incident to such transactions here, but are probably unintelligible to the native signing the instruments. It is uncertain how far native chiefs possess the right of making alienations of this character for their own benefit, and in some instances concessions have been brought to the local Government for approval which have proved to be signed by men who had no title in the land. In the interest of all the native tribes and chiefs, as well as of British investors, it is essential that the local Government should be able to see that such transactions are made in good faith and on reasonable terms, and that the conditions are thoroughly understood by the natives.'

"It was in anticipation of the introduction of a new Lands Bill in the present year that the Governor, in his address to this Council, in November, 1896, said:—

"'The Land question still remains to be dealt with, and it becomes more and more evident that it will be necessary to render impossible concessions of mining and timber rights except upon conditions which will ensure the payment of a substantial contribution to the revenue of the Colony, the native chiefs entitled to it receiving a proper share. It will probably become necessary to examine such concessions as may be claimed under documents already executed without the approval of the Government in order that *bonâ fide* enterprises may be distinguished from merely speculative concessions, in respect of which no real work is being done or improvement effected.'

"The Governor desires to state to the Legislative Council the main principles of the Lands Bill, 1897.

"As already stated, the intention of vesting waste and forest lands in the Crown has been abandoned, but the Government of the Colony must hold that what may properly be called 'public land' must be administered for the general advantage, and, while allowing local chiefs all reasonable authority within the limits of their jurisdiction, the paramount protecting power must still remain the guardian of public rights and may fairly claim to exercise everywhere, on behalf of the chiefs and people, all such authority as may be necessary to secure that private rights are not improvidently created over 'public land.'

"It is believed that the rights of the natives, to which constant reference was made in the discussion which followed the introduction of the Crown Lands Bill, 1894, have been fully preserved. One of the speakers who addressed the Governor (Sir W. B. Griffith) at the interview already referred to described the native system of tenure as follows: 'The custom of the country is that the farmers . . . have the consent . . . of the chiefs . . . to cultivate lands indiscriminately; when he cultivates a plot of land and that plot becomes barren he removes to another

plot, without the consent or permission of the chief, still it is an understood thing that he holds his rights from the head chief' 'Then, so far as forest lands or timber-growing lands are concerned, they form a source of revenue to the chiefs themselves. The chiefs do not, excepting in cases where European companies have come to the country, lease minerals, but they give the people certain rights to cut down timber. If the land becomes Crown Land, the chiefs will be deprived of their revenue.'

"It will be convenient now to sketch the rights which are recognised by the Lands Bill, 1897, to exist in the people, the chiefs, and the Governor respectively, in order that it may be made clear that all existing native rights are preserved, so far as it is possible to ascertain what they are, and so far as the recognition of what may be claimed is consistent with due respect for good administration.

Rights of the people.

"The system of cultivation which is generally followed in the Gold Coast Colony is that which is known as 'shifting cultivation' in India, where it is only practised by the most backward tribes.

"Civilised communities in Asia are accustomed to the continuous occupation and cultivation of their lands and to the practice of good husbandry. The Bill about to be introduced, while preserving to the natives of the Colony their right to use public land for shifting cultivation in the manner to which they are accustomed, encourages them to settle permanently on cultivated land by assuring to them the right of proprietorship therein (a 'settler's right') if occupation is continuous.

"The mere fact of periodically resorting to the same land for 'shifting cultivation' does not give to a native any right to the land itself. His right is to the crop alone, and it is in respect of the crop only that he will be compensated if the land happens to be dealt with at any time as public land.

"But land is occupied by the people of the country for other purposes than 'shifting cultivation,' and among these may be named building purposes, permanent cultivation (such as palm trees and coffee), mining, quarrying, &c. For all such purposes the native will continue to have the right, at his will, to occupy public land, and, what is more, he may by occupation acquire a good title, as against any chief or anyone else, of any land which he develops in this manner by his own industry, though forfeiture results upon abandonment. 'Squatting' is not, of course, permitted in respect of town land or reserved land.

"Further, a native may, without asking the permission of anyone, collect rubber, palm-kernels, kola-nuts, and other natural produce on public land. He may also take what timber he requires, and may dig for minerals in the native manner.

"It is believed that these sections amply secure to the people of the country all the rights in land which they now possess, and that their position is in fact improved, for industry and continuous occupation will enable them to acquire a permanent, heritable, and transferable right of proprietorship which the Supreme Court of the Colony will enforce.

"It is to be understood, however, that a settler's right can only be vested in a native, and no one who is not a native can acquire, without the approval of the Governor, improved land which is the subject of a settler's right.

Rights of Chiefs.

"The rights of the people to help themselves to such public land as they require for their actual use are only exerciseable where native custom permits this to be done without the express authority of a chief. Custom probably varies according to locality, and there are perhaps parts of the Colony where the permission of a head-man is a necessary preliminary to the occupation of land by a native in his district.

"Recognised chiefs will continue to have this power of giving out to their people, for occupation, cultivation, and improvement, allotments of public land not being town land. They may also allot land for shifting cultivation.

"But if they have, by native custom, any power to deal with public land otherwise than in the manner provided for in the two sections last quoted, such power will only be exerciseable in future with the written consent of the Governor thereto first obtained.

"Legal effect is given in this way to the declaration announced in the notification of the 10th October, 1895, which has already been quoted in full.

Powers of the Governor in respect of Public Land.

"In the interests of good government and for the greater security of persons (especially those who are not natives) who may desire to acquire rights over public land, it is necessary that the paramount power should exercise, concurrently with local chiefs where necessary, the power of allotting land and interests in land to applicants. Power is therefore given to the Governor to authorise (by a document called a Land Certificate) the occupation of public land for any purpose by any person or persons, and on such terms and conditions and for such consideration and either in perpetuity or for a term of years, absolute, conditional, or defeasible, as he shall think fit. The bed of a river or lagoon is declared to be 'public land,' so the right of dredging for gold may be the subject of a land certificate or a licence.

"It must not be supposed that the enforcement in future by the Governor of powers which have sometimes been exercised by persons claiming to be chiefs or native authorities will be injurious to the latter. The Governor will, where necessary, consult with recognised native chiefs before creating private rights over public land in the districts of the latter, respectively, and it may be accepted as quite certain that the Governor will ordinarily secure for the Colony at the hands of investors better terms and more appropriate conditions than natives would get for themselves. Allusion has already been made to the intention of the Governor to secure for native chiefs a 'proper share' of the revenue arising from land disposed of in their districts. Payments to chiefs, which will take the shape of a moderate rent or annuity, will be paid to them by the Government, and direct dealings between them and the holders of concessions will not be permitted.

"All necessary rules for giving effect to this policy will be made hereafter and power to make rules for various purposes is given to the Governor in Council.

"Land in respect of which a Land Certificate is issued will be subject to English law exclusively, and as this tenure will probably become popular, because land so held will be more readily marketable than land under the native tenure, it is provided that a recognised proprietor may exchange his native title, whatever it is, for a Land Certificate. But this can only be done where there has been preliminary survey and on proper conditions (which may include a small quit-rent).

"Allusion must also be made to the powers given to the Governor to set apart portions of public land for public purposes merely by a Proclamation in the 'Government Gazette' containing the necessary description."

33. The views of Sir William Maxwell as to the rights in land upon the Gold Coast are confirmed in so far as the Colony of Lagos is concerned by Sir Henry McCallum in the following despatch addressed to the Secretary of State in June, 1897.

"I have the honour to forward, for your information, six copies of a notification which I have published in the 'Government Gazette,' relative to the consideration which will weigh with me in submitting to you for approval applications for any concession in the countries within our sphere of influence. This notification has been based mainly upon instructions given by you to Sir William Maxwell in your despatch, No. 61, dated March 13th, 1896."

"Gazette" Notification No. 242, 1897—(Lagos).

"'Gazette' Notification, No. 396, of 13th June, 1896, is hereby re-published for general information.

"Whereas grants and concessions have been made by chiefs within the sphere of influence of the Government of Lagos, without the consent of the Governor of the Colony;

"Notice is hereby given that no document hereafter made purporting to grant or convey any right over or interest in land save and except the right to occupy agricultural land for the purpose of native husbandry or the right to occupy building land for the erection of a native house, will be recognised in any way by the Government, unless it shall bear the signature of the Governor, or of such officer as he shall appoint for the purpose, in token of Her Majesty's approval.

"Grants and concessions already made without such consent will be recognised only to such extent and on such conditions as may hereafter be determined, but the grantees of rights in respect of which there is a reasonable prospect of efficient and continuous work being done within a reasonable time will receive all due consideration."

"Gazette" Notification No. 243, 1897—(Lagos).

In reference to "Gazette" Notification, No. 242, of this date the attention of investors, merchants, engineers, pioneers, and others is directed to the following considerations which will guide the Governor in dealing with any proposed concession or monopoly in countries and districts within the Lagos Protectorate or sphere of influence:—

(a) "In July, 1896, Mr. Chamberlain speaking in the House of Commons of the policy which he had sanctioned, under which it would be impossible for native chiefs to make any concession of land without the sanction of the Governor of the Colony, said, 'The land laws and land customs of West Africa are different from the law of land tenure in England while the concessions are framed in the language of English conveyancing and purport to convey the fee simple or to grant a lease with the conditions which are incident to such transactions here but are probably unintelligible to the native signing the instrument. It is uncertain how far native chiefs possess the right of making alienations of this character for their own benefit, and, in some instances, concessions have been brought to the local Government for approval which have proved to be signed by men who had no title in the land. In the interest of all the native tribes and chiefs, as well as of British investors, it is essential that the local Government should be able to see that such transactions are made in good faith and on reasonable terms, and the conditions are thoroughly understood by the natives.'

(b) "In a message from Governor Sir William Maxwell to the Legislative Council of the Gold Coast Colony, dated 10th March, 1897, the relative rights of the people, the chiefs, and the Governor are expressed in a clear and masterly manner and its perusal is recommended to any one interested in the conditions of West African land tenure as they apply equally to the countries within the Lagos Protectorate and sphere of influence.

(c) "Sir William Maxwell very properly criticises certain transactions on the Gold Coast by which it is alleged that private rights have been created over public land in a manner wholly unknown to the native tenure of West African tribes and he proposes certain remedial measures. He goes on to say that the 'Government of the Colony must hold that what may properly be called "Public Lands" must be administered for the general advantage and, while allowing local chiefs all reasonable authority within the limits of their jurisdiction, the paramount protecting power must still remain the guardian of public rights and may fairly claim to exercise everywhere, on behalf of the chiefs and people, all such authority as may be necessary to secure that private rights are not improvidently created over public land.'"

34. Nothing has since been done to alter the position as to the tenure of lands both in the Gold Coast and in Lagos. In the former Colony the Ordinances of 1876, 1878, 1883, 1884, 1892, 1894, and 1898 hold good; in Lagos those of 1878 and 1883 whereby, subject only to the Government Notices previously detailed, the land rights are held to be those in the hands of native chiefs or councils. In old Southern Nigeria the law is much the same, though grants by natives to non-natives may be declared void if not registered within six months.

35. In Northern Nigeria the law is somewhat different; here, by Proclamation No. 8 of 1900, Section 5, the High Commissioner may, by writing under his hand and the seal of the Protectorate, declare to be public lands:—

- (1) all lands not in actual occupation of persons or of the tenant's agents or servants having an original or derivable title to such lands under any Proclamation enacted for the Protectorate or under any law or custom prevailing in that part of the Protectorate where such lands are situated;
- (2) lands being the property of any conquered or deposed ruler.

Under Section 7 all public lands and all rents issued and profits thereof shall be under the management, control, and direction of the High Commissioner who may sell, lease, or otherwise deal with such public lands in the same way as if they were Crown lands.

36. Under Class (1) would undoubtedly come the cultivated and waste lands of nearly all the pagan or negro tribes; under (2) those of the conquered or deposed Mohammedan Emirs.

As to Class (1) there would appear to be very little doubt indeed that though there is no individual claim to lands there is a tribal one, and that this claim extends not only to cultivated lands, but, in most cases, to village or tribal areas, embracing cultivated or fallow lands (the latter often reverting to bush for years) to sylvan produce, hunting, and fishing rights, pasturage, &c. Paragraph (1) would seem to denote a claim on the part of Government to so-called "Waste Lands," a term absolutely impossible of definition, and one which caused all original troubles on the Gold Coast. What does certainly appear to be the case is that the lands are truly national, and that the chiefs act as trustees for the people, and though no rent was paid, as was the case in the Mohammedan States, the chiefs received other incomes in presents, labour, and, in a few cases, tithes for their services as administrators and protectors. Paragraph (2) would appear to all intents and purposes to have nationalised the lands of all the Mohammedan Emirates.

IV.—CONCLUSIONS.

1. From the reports which have been rendered as to the conditions of land tenure both in the Pagan and Mohammedan States, there would appear to be little doubt on one most important point, and that is the non-existence in Northern Nigeria of any system approaching the English position as to land tenure, viz., the proprietary rights of individuals.

2. Moreover, it would appear that in the Mohammedan States a system of nationalisation does exist. Here, unlike India, there were no Zemindars, Taluqdars, or Rajahs claiming private or landlord's rights, but a species of fief holder resembling in position the original grantees of William the Conqueror, holders of estates by pleasure and at will, for which in the past they had to render certain services to the Crown, and notably to collect, on a percentage basis, the Crown Rents from the agricultural population. To-day the fief holders, not necessarily the persons who formerly occupied the positions, have become District Heads appointed by the State, frequently, but not necessarily, on the advice of the Emirs, and carrying on purely administrative functions as native administrators, amongst others the collection for Government of the rentals fixed on the farms held by the agriculturists. Nor is it to be assumed that the fief holders in former times occupied any different position with regard to the people. They certainly at times exercised arbitrary powers both as to confiscation and alienation of land, but such action was entirely subject to the approval of the reigning Emir, and indicated in no way a proprietary right in land on the part of the fiefholder.

The agriculturists apparently held their lands at pleasure, but were ordinarily granted continuous occupation and the right of user unless they seriously misbehaved, or fell under the great displeasure of their ruler. In the taking up of new land, the custom obtained of what is called the "buying" of a farm, amounting in reality to the grant of a licence to farm.

If the above general description of the condition of land tenure in the Mohammedan Provinces is accurate, there would appear to be no difficulty, and without change of legislation, in establishing the "Economic" theory of land tenure. On one point I would desire as much further information as possible, and that is the law or custom of inheritance in land, which would appear to have a considerable bearing on the subject of the rights in land.

3. In the Pagan states the question of land tenure would not appear to be any less clearly defined. Leaving aside all idea of right by conquest, and dealing with it simply on the basis of the good of the peoples, it would appear to me, more particularly after consideration of the results which have accrued on the coast, that the legitimate and best trustee for the people in their dealings with aliens is the Governor of the Protectorate, acting for the King. There would, therefore, seem to be no reason why these lands, apparently held in patriarchal tenure, should be treated in a different manner to the lands held under the more progressive Mohammedan tenures.

4. Now, though there is no individual right in land, there is undoubtedly in existence a common claim as to village boundaries, embracing not only the agricultural lands in the occupation of individuals, but considerable areas outside the cultivated ground, these areas being utilised either for a change of soil after a farm has been tilled for some years, for pasturage, for the collection of sylvan produce, where it exists, and for the provision of construction materials or firewood. So long

as the country does not witness European immigration, there will be no impediment to the maintenance of existing rights over these areas of so-called waste or forest land. With the advent of Europeans, and probably demands for the use of agricultural lands, the position will be otherwise. There would, however, appear to be no difficulty in dealing with the newcomers without any loss to the native population if the lands are to be considered as national. Should land be required for agricultural purposes, which was standing as waste or forest land, not bearing sylvan produce, a licence to farm might be granted to an applicant on a lease for a term of years subject to (1) the payment of Crown Rents after the lapse of three years, on a settlement extending over a period of years; (2) the right of Government in all minerals; (3) a reversionary right to Government of the land should it remain in an uncultivated condition on the expiry of the three years, or for a settled period in the duration of the lease. Should the land so acquired by a newcomer contain sylvan produce, the licence to farm the land or exploit the natural products should be of higher value, and cover compensation to the village community for any mutually agreed deprivation of the present value of such sylvan produce, pasturage rights, &c.

5. If leases in perpetuity are unknown, and a landlord class does not exist, which certainly appears to be the case in the Mohammedan States of Northern Nigeria—if, in dealing with Pagan tribes, the issue is not confused by the importation of British law, tending to upset an appreciation of patriarchal systems which can even more readily assimilate an economic or people's system of tenure, and from which British Land Law is divorced by a thousand years of private rights, laws, and litigation—why introduce a system of tenure which modern nations are spending untold millions to bring more into accord with an economic system, securing to the nation for all time the full rental values of the land?

6. If lands were nationalised, and alienation in fee simple made impossible, they would, for the time being, be best described, in my opinion, as "Native Lands," the description "National Lands," which might suggest itself, being, to-day, for obvious reasons, a misnomer. As the native or national lands would include the requirements of their government, there would appear to be no necessity for the term "Crown Lands."

7. By a method such as the one outlined, or one analogous to it, the people could apparently secure (1) recognition and registration by the State of their rights of occupation; (2) through Government expenditure the full benefits of any rentals in land and rentals of any subsequent newcomers; (3) compensation for disturbance in any rights, and immunity from disturbance except by mutual agreement; (4) that as the leases fell in, succeeding generations would benefit by any rise in the value of land due to the progress of society, all increases being retained in the hands of the State; (5) the exclusion of the land speculator and the usurer.

E. P. C. G.

Government House,
Zungeru.
2nd November, 1907.

APPENDIX I.

YOUR EXCELLENCY,

I CONSIDER Mr. Temple absolutely correct in stating that a private estate cannot exist in the Sokoto Province. The right to dispose of, give, take away, or transfer, land is vested in the rulers—in former days the emirs, now by native custom the British Administration. The native rulers had the right to deprive an occupier of his "property," whether farm land or dwelling site, for non-payment of dues, for crime, for failure to render service required, or for reasons of State. The fact that this right was frequently exercised oppressively and without justification does not disprove the fact that the right itself existed. Other Residents have spoken of eviction for non-payment or for crime, but I do not see the other two grounds mentioned. I will, therefore, go in to them in some detail.

2. If an occupier refuses to perform the services which his ruler has the (native) right to demand of him, he can be ejected without legal process, whether from farm land or house. Prior to our advent, the commonest form of service demanded would be military service, and failure in that respect would be punished by eviction. I have known such eviction ordered and recognised as just and customary by both ruler and subject for such acts as failure or refusal to perform the allotted share of work in road cleaning and wall building. In such cases the holding, whether house or farm, falls in to the ruler for disposal. Apart from the value of this custom as showing the absence of legal property in land, this knowledge teaches us how the authority of native rulers was maintained of old, and how it could, subject to modifications, be upheld in future.

3. A ruler has the right, by native custom, to demand a man's house for the accommodation of anyone for whom the state requires it, *e.g.*, the headman of a subordinate town is deposed and brought in to the capital. The emir calls on one of his subjects to surrender his house or part of it for this political exile's use. The subject concerned could not refuse, and, though he might grumble or try to evade the order, would not feel that he had a legitimate or legal cause of complaint. Again, in taking up land for the Government stations at Sokoto and Bida, the respective emirs told me that it was theirs to dispose of and that the farmers concerned had no right to it and no ground for grievance over their eviction. In the case of Bida this was confirmed by the Alkali and by the farmer himself. The latter was most surprised at being compensated for his loss and most grateful to me for having exerted myself to get him given a good farm elsewhere. At Sokoto, the emir's representative, in whom the land was vested, the Marafa, considered compensation entirely unnecessary. He said in effect: "I 'owned' the land and could give it as I liked—now, you 'own' it and have the right to take what you like." The moral of this appears to be that though compensation is necessary, from our point of view and as a matter of conscience, it is not demanded by native custom, and its non-payment would not be regarded as a breach of faith by the native until the latter knew enough of English character, law, and custom to look at rights of property from the English standpoint.

4. I would suggest a slight modification of Your Excellency's statement that tithes and tributes were not paid in Sokoto. Zakka, which is nominally a tithe on certain crops, 10 per cent. of the harvest, was universally paid in Sokoto.

5. Mr. Palmer says: "I cannot personally see any moral obligation to compensate the chiefs concerned." In this I do not agree with him. Land taken up by Government, whether for Government stations or alongside roads or railways, would be of value owing to its position, and if not occupied by Government would be occupied by rent-paying natives. A share of this rent would go to the native Administration, and I think there is a moral obligation to compensate the native Administration (as well as the individual holder ejected) for this loss. In order that Government may be acquitted of the charge of buying or seizing native property and afterwards making a pecuniary profit on it, this compensation, in the case of lands leased to non-natives, should take the form of payment of a portion of the rent derived from the lease. In the case of land taken for Government stations, railways, or other public works, from which Government receives no rent or direct pecuniary gain, the compensation should be a lump sum down, and not a yearly charge. But where Government takes a rent, a share of it should go to the native ruler, just as a share of native rents goes to him; for the non-native who pays the rent increases the duties and responsibilities for which the share of rents is the native ruler's salary. To my mind there is no difference in principle between the rent paid by the native and that paid by the non-native. The variation in the method of payment seems due to the fact that payment by the non-native to the native ruler would undoubtedly be resented by the former, would be difficult to enforce by Government, and would lend itself to exploitation of the native by the stranger.

6. I agree with Captain Ruxton that no difference in principle should be made between Mohammedan States and pagan areas. The Government should hold all land in trust for the native in *both* cases.

7. I entirely concur with Your Excellency's conclusions. The present nationalised land system of Northern Nigeria should be upheld. The Administration should hold the land in trust for the natives, upholding (where necessary, appointing) native rulers to act as its agents towards the native population, but dealing through its European officers with non-natives; and the cost of administering the country should be principally met by payment for the use of the lands, *i.e.*, rent.

Natives should be granted continuous occupation subject to the customary native provisions as to cultivation—payment of rent and performance of service. For non-natives, lease and licence to farm should be for a term of years. Alienation and sale (except in the nature of transfer of "user") should be prohibited.

8. And I agree that the term "native lands" conveys the best description of the land of Northern Nigeria and of the system under which it is held and administered. But I would suggest the retention of the terms "Crown Lands" for lands in actual occupation or use by the European Administration, *i.e.*, Government station sites, railway stations and tracks, &c.

ALDER BURDON,
Acting Secretary.

January 2, 1908.

APPENDIX II.

From the ACTING RESIDENT, Niger Province, to the SECRETARY, Zungeru.

I have the honour to submit my notes on Land Tenure obtaining in the Nupe Province.

HERBERT S. GOLDSMITH,
Acting Resident, Niger.

Resident's Office, Choiwa Angulu,

January 2, 1908.

With reference to land tenure obtaining in the Nupe Province, I am, generally speaking, in accord with what Mr. Temple (Sokoto) has written on the subject, and I only propose to give a brief *résumé*, dating it from the advent of the Fulani into Nupe territory.

2. After the conquest of Nupe by Malam Dendo, he interfered as little as possible with the existing system of pagan tenure, which was more or less communal. The land belonging to the different tribes was distributed amongst various fief-holders appointed by the emir, who was the paramount chief of the conquered provinces.

3. The fief-holders, in return, were bound to perform all duties of a vassal to the emir, and more especially to furnish a contingent of armed men to support him in time of war. Default in these duties involved forfeiture, but if these duties and other arbitrary exactions were performed with anything like punctuality, the fief-holder was supreme in the district granted to him.

4. Neither the fief-holders nor the councils representing the different communities had any power, as far as I can gather, to sell land. The emir often transferred the power to his fief-holders to grant the use of lands to private individuals, and in like manner the fief-holders transferred, generally on payment, this power to the council acting for the community. The right to occupy land existed only as long as certain taxes were paid and the occupier of such land remained loyal to his chief.

The fief-holder, or headman of a town, could not take away the land of an occupier and give it to another, nor would the emir ever do so except in the case of crime committed. Therefore, I would suggest, since the advent of the Fulani, the tendency every year has grown towards individual tenure or right to occupy and farm certain lands; and the occupier has generally been allowed to profit by his industry, except in the case of his farm being overlooked by a vexatious and extortionate fief-holder.

5. For land farmed by an office-holder or followers of the ruling dynasty, only the tithe, *viz.*, 10 per cent. of the crop, was given to the emir. For land in possession of a pagan community, in addition to the tithe on all crops, a tribute of so many bags of cowries was also levied and paid through the fief-holder to the ruling emir. A percentage of the tribute and zakka was allocated by the emir to the fief-holder for his immediate requirements.

6. I have always maintained that the tithe or zakka in Nupe was nothing less than rent, or its equivalent. It may also be described, as elsewhere, as a licence to farm certain lands. A portion of the tithe was sometimes set aside for the maintenance of paupers in large Mohammedan towns, but the amount of charity dispensed was purely optional and depended in a great measure upon the generosity of the ruling emir.

7. The right to sell the use of a farm apparently never existed in Nupe, I presume, owing to unoccupied lands, suitable for farming, being abundant and more than sufficient to meet the necessities of the existing population. The right to sell the use of sylvan produce existed, but only at the pleasure of the ruling emir.

8. The emirs of Bida and Agaie both positively state that the land is the property of the conqueror, that the title to all land is vested in the ruling emir as paramount chief (and now, owing to the transfer of suzerainty, vested in the British Government).

9. They state that: A ruling emir could only grant the right to occupy and use certain lands; he could not sell an acre of land, nor was he in a position to grant a lease of land in perpetuity. He had the power to revoke any grant made by his predecessor in office. Again, he could only grant land for a specified purpose, and if the lessee put the land to some other use than what it was granted for, the licence to use the land could be withheld.

10. A case illustrating this point occurred in 1892, in the reign of Etsu Maliki of Bida, when the District Agent for the Niger Company at Egga ignored "this specified purpose clause." Etsu Maliki attempted to enforce this part of the contract, and only desisted when a satisfactory settlement appeared imminent.

11. With regard to the inheritance in land, I submit a few questions put to the emirs and alkalis of the province, and their replies to same.

Q. When the occupier of a farm dies, who succeeds?—A. His son or heirs.

Q. If the land or sylvan produce is very limited, is it always divided?—A. Yes, however small it is.

Q. Can any of the heirs sell their share?—A. Only to one of the other heirs. Not to any one outside the family.

Q. If one heir refuses to take up his share, who takes it?—A. The remaining heirs would divide it?

Q. If none of them wished to take it up?—A. It reverts to the donor, *i.e.*, the chief to whom the emir had transferred his right to use such land.

12. Q. If the heirs return and find a new occupier holding the farm or laying claim to valuable sylvan produce?—A. The case would be settled by the Native Court. If the former occupier had held the land for any length of time, and had been away, say, 13 or 14 years, it would be given back to him on his return, generally on the basis of compensation being paid for growing crops, or a percentage value of one year's collection of sylvan produce; or again, the former owner might be ordered to wait entering his farm until the occupier had harvested his crops. Generally speaking, the right to re-occupy would always be allowed.

Q. Suppose the new and the old occupier agreed to divide it?—A. Unless the arrangement was made in Court it would not as a rule be upheld.

Q. If they did divide it, and the old and new occupier died, could the son of the old occupier come to Court and, saying he did not agree to the division, claim the whole?—A. The Court would not upset his father's arrangements, even though his father had no right to make it.

13. Q. A has an extensive strip of palm bush, more than he can use, and B wants to rent a portion. A refuses. Can anyone compel A to let it?—A. The emir would call them and arrange it between them.

J. If A still held out, could the emir compel him?—A. Yes.

14. Q. Two villages are 20 miles apart; whom does the intervening land belong to?—A. The two villages know their boundaries; there is no waste land, *i.e.*, implying lands absolutely unclaimed.

Q. The boundaries are only marked on the road, not in the bush. If anyone settled in this presumably waste land could they say whose land it was?—A. Probably not; but nobody would settle without asking the local chief or the emir.

Q. Who fixes the boundaries?—A. The chiefs of villages with the consent and sanction of the emir of the province.

15. The preceding notes cover most of the questions raised in His Excellency's memorandum. I do not consider that the nationalisation of lands in Nupe presents any difficulties, nor will it dislocate the present organisation. The description "Native Lands" appears to me to be exceptionally suitable.

16. Under such a scheme as presented by His Excellency prosperity should be assured to all occupiers of land. And when the "Native Lands Proclamation" becomes more generally known, the native chiefs themselves will recognise the benefit and protection afforded them by the British Administration. The mere fact of the right to occupy the land being recognised by the State, and the permanency of such right guaranteed will, in my opinion, induce the occupier to improve his land and profit by his industry and also act as an incentive to further effort.

HERBERT S. GOLDSMITH,
Acting Resident, Niger.

Resident's Office, Chowiwa Angulu,
31st December, 1907.

APPENDIX III.

YOUR EXCELLENCY, The Residency, Birnin Kebbi, 20th December, 1907.
I HAVE the honour to transmit herewith notes on Your Excellency's memorandum on Land Tenure, as ordered.

I have, &c.,
C. L. TEMPLE,
Resident, Sokoto.

His Excellency
The High Commissioner,
Zungeru.

MEMORANDUM "LAND TENURE" (MINUTES ON).

End of para. 2.—There is no doubt at all about the existence of these state farms attached to practically every office in every province. They are known as "gando."

Mr. Palmer is quite wrong (if he means by "royal lands" these gando) in supposing that they are a new institution; they have existed from time immemorial. The fact can be easily verified, but I can hardly suppose that it is disputed.

End of para. 4.—I entirely agree with Your Excellency. If the ruling classes were made landlords the rights of the private individuals would be infringed. If private individuals were made landlords, or were given title to their holdings, the influence of the rulers (on the maintenance of which the Government to a great extent depends) would disappear.

Para. 23.—I entirely agree with Mr. Palmer *re* the population.

Re difficulty, permanent settlements, I quite agree. I think a system of fluctuating assessments to be revised each year (*vide* Hewby's and Temple's comments "Land Revenue" Memorandum) similar to those of the Punjab and Burma (*vide* Baden Powell, page 192) will be necessary.

The statement of facts as to existing land tenure appears to me very correct, and I quite agree with Mr. Palmer's conclusion.

Paying a small price gives the native a certain claim to fair treatment by the ruler. I do not think, however, that it would be practicable or advisable that the price should be paid to the Government. It is not *advisable*, because the European Administration is likely to depend for many years to come on the assistance of the native administration. To give this assistance the native administration must not become a cypher. Mr. Palmer's suggestion, if followed, would greatly weaken the moral hold of the native administration. I think that as the native administrations improve, under the guidance of the British Administration, the rights of individuals will be amply protected. In point of fact, I do not think that gross abuses occur even now, as the evicted individual has the right, which he uses, to take his case to native and British courts. It is not *practicable* because we have not the staff to cope with the registration. Has Mr. Palmer thought of what this registration would mean?

I entirely agree with the statement that the peasant has only a right of user and also as to probability of natives mortgaging their land if given the freehold of their farms.

The Government would, I think, weaken its case by special legislation to enable it to exercise a right of pre-emption. By native law and custom it *has* the power.

I quite agree in thinking that the native ruler could not claim compensation by native law and custom. The "usur" could, as Mr. Palmer states.

It would be impossible to differentiate in any province between occupied and waste land, I think.

Para. 24 (a).—I do not agree with Dr. Cargill. My experience in Bauchi was that the traditions of the conquering pagan gave him the same right as that claimed by the conquering Mahomedan. As there comes to be more intercourse between pagans and Mahomedans, any difference in the treatment of the pagan and Mahomedan will be noticed by the natives, and possibly (or even probably) resented.

I have not seen Mr. Covey's notes. Generally speaking, this officer's notes on native customs are not reliable, due no doubt to the fact that he is obliged to employ an interpreter.

Para. 25.—Muri Province. I certainly agree with Captain Ruxton.

Para. 26, second sentence.—Mr. Barclay is quite mistaken. Why, even the Sarikin Musulmin has a control over all lands conquered by the Adamawa Filane in former days.

It is impossible that Mr. Barclay's account of the law of inheritance should apply in the Emirate of Yola. Koranic law, as regards inheritance, is invariably in force in the Mahomedan states. It may be a pagan custom.

Final paragraphs.—I think Your Excellency's description is most accurate, and I entirely agree with Your Excellency's deduction. Throughout the Mahomedan states the Koranic law of inheritance is strictly in force as regards private individuals.

I entirely agree with Your Excellency's conclusions.

C. L. TEMPLE,
Resident, Sokoto.

Birnin Kebi,
December 20, 1907.

APPENDIX IV.

YOUR EXCELLENCY,

IN reply to Your Excellency's request I forward the following notes on land tenure in the Central and Eastern Provinces of Southern Nigeria.

According to native law and custom lands are vested in the chiefs as trustees for the communities under them.

Under no circumstances may a trustee part with the fee-simple. This can only be done with the consent of the community. However, the idea of disposing absolutely of their lands has always been most repugnant to the pagan communities, and I am confident that on investigation it will be found that the grants have been in the nature of a licence to occupy, the duration of which would depend on the observance of the invariable conditions that the land—

- (a) Must be utilised immediately or within a reasonable period;
- (b) Must be utilised only for the purpose for which it was granted;
- (c) Must not be alienated by the grantee;
- (d) Must not be abandoned.

The breach of any of these conditions entails a reversion to the grantors, *i.e.*, the chiefs.

There is a further condition (confined to native grantees) that the commission of any serious offence (according to native ideas) determines the grantee's interest.

If and as long as the above conditions are fulfilled, the grantee will have the beneficial use and may remain in undisturbed possession of his farm, &c.

The grantee has always recognised an obligation to make an annual return to his landlord (the chief), but in some, at least, of the pagan communities (*e.g.*, the Sobos), there is a disinclination to ask or accept a fixed rent lest it should be mistaken for an indirect admission of private ownership.

The return is annual, it is (in some instances) in the nature of a rent, but usually it is regulated as to amount by the needs of the moment, and the general conception as to what is fair and reasonable, and in the case of a native grantee is regarded more as a present than a rent.

When the grantee has been a non-native (*e.g.*, a trading company) rent has generally been fixed, but this and some other variations of native tenure must certainly be attributed to the introduction of English ideas of tenure by merchants and natives who have been called to the English bar. I may add here that contact with non-natives and with the principles of English law (in relation to land tenure) is also largely responsible, in my opinion, for the growing sense of individual legal right on the part of the local chiefs.

In the larger communities the chief, in return for protection afforded to industries (mainly agricultural) and for other duties performed by him as head of the community, takes annually a definite proportion of the yield or estimated yield of each farm.

In Southern Nigeria, as far as I am aware, there has never been any serious attempt to deal with the subject of land tenure; but efforts have been made from time to time to exercise some control and supervision over agreements affecting the acquisition by non-natives of the interests of natives in land.

Under Proclamations No. 1 of 1900 and No. 1 of 1903, the control of the Government over land agreements between natives and non-natives was asserted.

What must be regarded as a declaration in the nature of claim by Government to unoccupied lands is found in section 14 of the Public Lands Acquisition Proclamation, 1903, where it is laid down that "no compensation shall be awarded in respect to . . . land, the beneficial use of which has not been had for a continuous period of at least six months during the 10 years preceding" the acquisition of the land.

Under Proclamation No. 5 of 1903, native law and custom has been expressly modified in the case of lands required for public or Government use. The High Commissioner is authorised to take and acquire (on payment of compensation), and a native chief is compelled to convey, if required, the fee-simple in communal lands.

One may reasonably infer from the attached copies of judgments that the conditions affecting the native ownership and tenure of lands in the Lagos or Western Province are practically, if not identically, the same as those obtaining in the Central and Eastern Provinces of Southern Nigeria. Whether one point of difference (which occurs to me at the moment of writing) is of native origin is open to doubt, but at the present time a native occupier in Lagos may mortgage his interests in land with a right of redemption unlimited in point of time.

In the other Provinces of Southern Nigeria, so far as I know, this power does not exist. Every member of a community appears to be entitled to an allotment of as much land (within reason) as he requires, and the conditions attaching to his tenure suggest that he is entitled to hold, use and enjoy his allotment as a licence in perpetuity—subject only to the rever- sionary conditions above-mentioned under which (*inter alia*) there is denied to him the power of alienation, the exercise of which would indicate individual ownership.

M. R. MENENDEZ,
Chief Justice.

9th January, 1908.

IN THE SUPREME COURT OF THE COLONY OF LAGOS.

Before His Honour Smalman Smith, Chief Justice.

AJOSE, heir-at-law of Iudega Ashogbon, Plaintiff, *v.* The QUEEN'S ADVOCATE, EFUNDE, and others, Defendants.

JUDGMENT delivered July 14th, 1892.

* * * * *

It therefore becomes important to ascertain (1) what were the extent and nature of his rights of property in this land under the native law previous to 1861, the date of the cession of Lagos to the British Government, and (2) what change, if any, was brought about by the cession, and to what extent those rights were affected thereby.

The absolute ownership of territory has never, so far as my experience teaches me, been acknowledged in this Yoruba land as inherent in the sovereignty of the kings of the country, but there is undoubtedly a national proprietary right which is vested in the king and his chiefs or council, as representing the community who elect and appoint them originally, and who conjointly may exercise the right of alienation. The titles of king and chief descend generally according to the native law of inheritance, but not necessarily. The chiefs as a body with their king can depose a chief, as the chiefs may depose a king. It is unnecessary to enquire closely into the methods adopted, suffice that they are generally summary and effective. The white-capped chiefs who are charged by the king and the community with the disposal of land have each allotted to them a portion of territory within which they might exercise their powers. These powers are described by the white-capped chief, Faro, in his evidence. Faro was made a white-capped chief in the time of King Adele of Lagos (1832-34); he was chief of Ojora, and was deposed by Governor Glover in 1864 for attempting to enforce his control over land contrary to the established law. He states that he is now a white-capped chief of Lagos. He says: "The white-capped chiefs have the power to dispose of land. They cannot sell land; no chief can sell land. If land is given to a man and he builds on it a house, he could not be turned out if he did not do anything wrong (that is to say, for example, if he took the wife of a chief or tried to poison the chief who gave him the land); if he died and left no heir, but had slaves living on the land, the slaves could not have the authority over the land, The chiefs would give someone else authority over

the land and the slaves, and the land would descend in the same way as before, subject only to good conduct. The slaves who live on the land, as long as they live in the house, may live there, but they have no rights as against their master or his family, and might be turned out if they misbehaved."

The foregoing is a crude but tolerably accurate statement of the native law. As a rule the tenure of land among this people represented merely the right to the beneficial use of the land, subject to the obligation of service to the chief who granted it, or the payment of tribute, as the case may be. The chief can neither alienate the land nor dispossess the grantee so long as these obligations are fulfilled. Should the grantee cease to cultivate the land or abandon it, all his rights therein were determined, and the chief could re-grant the land. (Woodcock, A.P.J., judgment in *Callamand v. Vaughan*, June 20, 1878.)

There are usages and customs relating to the conditions under which land may be used or occupied peculiar to certain localities to which I need only refer in passing. (See judgment of Marshall, J., in *Idewu v. Ogubiyi*, May 9, 1878.)

IN THE SUPREME COURT OF THE COLONY OF LAGOS.

Wednesday, the 29th of July, 1903.

Before His Honour Edwin Arney Speed, Acting Chief Justice.

SHANGOTOLA v. IDOWU and YARO.

(5.) All (*i.e.*, assessors) agree that the head of the family holds all the property as trustee for the family. He has his rights also as a member of the family and relative of the deceased.

(6.) All (*i.e.*, assessors) agree that the head of the family has no right to sell except with consent of the whole family.

A brother by the same mother succeeding as head of the family has no more right than any other head.

(Intd.) E. A. S.

APPENDIX V.

YOUR EXCELLENCY,

Katagum, December 8th, 1907.

In returning the new Confidential Memoranda on land tenure and land assessment, I have the honour to append hereby an expression of opinion, as requested.

2. The conclusions arrived at in my humble opinion, disclose very clearly the existing situation with reference to the system of land tenure in Northern Nigeria; and I feel sure that the policy outlined therein is admirably adapted to meet the needs of this Protectorate.

3. In illustration of my particular view of the matter, I would quote para. 11.: "It was asserted that the State in India has never divested itself of its supreme proprietary right in the land, the most that could be asserted was that Indian rulers in the past had recognised the tenant's claim to fixity of tenure." This doctrine might, I think, be truthfully asserted of Northern Nigeria. The distinction between the land system in this country and in India would lie in the absence of a landlord class in Northern Nigeria and the recognition of the State as the supreme owner of the land; the analogy would lie in the recognition of the tenant's sub-proprietary right to fixity of tenure.

4. Your Excellency, in my opinion, correctly defines the true *status* of the fief-holders on p. 26.* The Kano term "Hakimi" (Arab Al Hakim) correctly expresses their present functions. If I might be allowed to develop my own theory of the present position of the emirs, I would say that they were native rulers with limited jurisdiction; and that the Hakimai are their district representatives.

5. With regard to the sub-proprietary rights of the natives to their ancestral "holdings" in land, as Your Excellency observes, the native laws of inheritance have a most important bearing. I can testify to the fact that the deprivation of a legal heir of the right of pre-emption of a farm, creates a very strong sense of grievance, and is usually the subject of complaint or litigation.

6. Your Excellency states (final para.) that under the policy outlined, natives would secure recognition and registration by the state of their rights of occupation. This raises the question, which authority is to sell the right of "user" to natives, the emir or the Government. I would note, in this connection (a) Your Excellency wishes to retain the

* *Supra*.

emirs *qua* rulers; (b) to deprive them of the right of sale of "user" would be to diminish their importance and have a tendency to convert them into mere "salaried officials."

7. I would suggest that the Hakimai should keep district registers of native land-holders, that the right of disposal of "user" should be vested in them, and that the proceeds of sale should accrue to district revenue. This would not, I submit, create any monopoly over land; the Hakimai are not empowered to pilfer public revenue, and themselves only occupy the position of salaried governors of districts.

8. In order to guard against the subtleties of coast lawyers, I would make the sale of "user" to exogenous natives subject to the veto of the Resident. For instance, a Kano Hakimi would be unable to allot a farm to a Katsina native without reference to the Resident of the province.

9. In order to guard the native land-holder against possible injustice at the hands of his Hakimi, I would make it illegal to evict a tenant from his farm, except in accordance with native customary law, and upon an order by an authorised alkali. I would further enforce the native laws of inheritance with reference to land.

10. I would say that it is immaterial whether the official farms (*gandus*) are taxed or untaxed; I would regard them as mere perquisites of office. The farms are public property; and, if the State allows the use of them rent-free to the headmen of villages, this fact would probably be taken cognizance of in settling their fixed gratuities or stipends.

11. I have the honour to attach some further "Notes" by Mr. H. R. Palmer.

I have, &c.,

FEATHERSTON CARGILL,
Resident, Kano Province.

His Excellency
The High Commissioner.

LAND TENURE.

To RESIDENT, Kano, from ASSISTANT, Katsina.

His Excellency condenses the main outlines of the present system of land tenure in the Hausa countries on p. 26.

On p. 13, Mr. Temple advocates the retention of the right of sale or privilege to occupy land in the hands of the governing classes.

Now the *unfettered* right of sale of "user" would, when land became valuable, be just as profitable to an owner of the right as a fee-simple. If the country developed, coast lawyers would soon find a way of getting round legal difficulties, and *nomine mutato*, the same result would ensue as if a fee-simple were given them. A landlord class would, *in fact* if not *in theory*, be created, owning all that is valuable about land, viz., the margin of profit on increased values.

If this is not what Mr. Temple proposes, then it would appear he advocates a compromise such as was made in India, and division of profits between Government and the ruling classes.

Regarding this for a moment as desirable, there appears one great practical difficulty, viz., how is a distribution to be made for this purpose.

At present land is divided into large fiefs. It is comparatively of little value, and unless a chief sell *user* of land wantonly and contrary to custom, the income derived from sales is not large, but (since their incomes are curtailed owing to Government share of revenue) even now the practice of selling farms is on the increase. When land becomes more valuable the right to sell will be a subject of fierce dispute among native officials.

Putting on one side the questions which would be raised by frequent changes in the *personal* of office-holders in the case of any given village, who would have the right to sell?

- (1) The head of the village, or
- (2) The Seriki of the town it was under, or
- (3) The Hakimi or District Headman in whose district it was, or
- (4) The Emir.

In practice, I believe, we could only do one thing,—give the proceeds of sale to the Emir.

But if valuable monopolies such as these are to be created, there should be some good reason either moral, or of expediency, or of economy. That in a European country such monopolies would be uneconomical is evident. It might be urged that owing to the character of the people great territorial magnates are necessary to stimulate industry. But in reply one would suggest that such a rule is quite foreign to the Fulani character, and that such a class created out of the present ruling caste would not help but rather retard industrial development.

On moral grounds there does not seem any reason. Our right to the land is on an equality with that of the Fulani—*vis major*.

There remains the question of expediency, or, in other words, is it necessary to preserve a caste of "rulers" whose power was already waning when we came into the country, and who view the productive classes of the country as only existing to supply them with what they want?

At present no doubt we cannot do without them, and they will always have a certain value as "officials," which it would be a pity to lose.

But in order to retain their services as "officials," is it necessary to retain them as "land-owners" and princes?

I venture to think that it is *not*, and that we shall get better results by gradually abolishing privilege, than by maintaining the governing class *as a class*.

The arguments for maintaining the "kingship" in pagan and other communities hardly apply to a country like the Hausa, which has been conquered and reconquered for centuries, and where the present ruling class are but one "phase."

I believe in the value of the Fulani to us—but *not* as princes—and, I believe, the more we put a stop to "regal pomp" and turn them into Government officials pure and simple, the better results we shall get.

It would seem that the passage in paragraph 21, beginning, "We mistook them for landlords," is very much to the point.

LAND ASSESSMENT.

In making any suggestion under this head, one must take one of the theories of land tenure as a basis.

Assuming that the economic theory is the ultimate goal, I would suggest the following practical steps:—

- (1.) Make all farms, including the "gandu" of Serikis, pay *rent* (kurdin kassa) to Government. The "gandu" might be put on a nominal rent of 1s. a year.
This is already the case in most districts in this division, *i.e.*, at Ingawa; the District Headman, Dambo, paid in 4,000 cowries, and then told all his heads of towns to do likewise for their "gandus."
- (2.) Insist on all money accruing from the sale of farms being brought in to the Emir *as the receiver for Government*.
- (3.) Pay every recognised official a fixed salary according to his position, and repress all the others.

Naturally, with the present staff, evasion would occur, but the principle would be established, and future developments would follow naturally.

It seems to me that to allow these "gandu" to be land pertaining to offices but not subject to the form of tenure common to the rest of the land, would create a kind of "mortmain" estate, with all the disadvantages of such a form of holding, which once established would be a thorn in the side of Government as it was with the Plantagenets.

It would seem preferable to grant liberal terms to Serikis as regards the *user* of "gandus," but to retain the right to dispose of them *unfettered* to Government.

INHERITANCE.

Hausa Custom.

1. It is generally admitted that the kin of a deceased occupier of a farm have a prior claim to the *user* of that farm as against a stranger.

It is usual when a farm passes on death to make a present to the chief of the community. He presumably has the *right* to give the farm to whom he wishes, but is bound by custom to admit the prior claims of kindred.

2. If the farm is *indivisible*.

(a.) If deceased is a *male*—

(i.) If he has a child of mature age, that child, or, if he has several children, the eldest (all males coming before any females) would inherit.

(ii.) If he has no children, his next brother would have a prior claim (or sister).

(iii.) The remaining degrees are indeterminate, but probably his *father* would be the next in line of succession.

(b.) Where deceased is a female, her kin (brother or father) would inherit. Her husband or his kin have no claim. In all these cases it is assumed that deceased died *intestate*.

3. It is *customary*, however, to make a nuncupative will before members of the family, which, if duly made, is observed, whether the testator be male or female.

4. Where the farm is *divisible*, all the sons, or even sons and daughters, and other relations, divide it up, and each cultivates a portion. Thus, one person often has a portion of five or six different farms.

5. For purposes of relationship and inheritance, the full brother or sister and half-brother or sister are on an equality.

6. Married women.—No native woman is by custom *in manu* of her husband. She inherits, acquires and disposes of property as a *femme sole*.

7. A *special property* in certain crops (*e.g.*, lelle, henna) is recognised. These crops are productive for many years. In native view a chief of a community would be acting more contrary to custom in depriving a beneficiary of a field of lelle than of an ordinary farm.

8. The house built by or inhabited by an occupier of land is his *property*, which he can remove if he wishes, and may be disposed of by will.

II.—Effect of Moslem Law.

The native courts observe the *customary law* with regard to land as far as it is a *subject* of inheritance, that is to say, as far as the prior right to user *can* be inherited.

In theory, as regards the order of succession and questions between the would-be inheritors *inter se*, the Moslem law is administered if the parties are Moslems; "native customary" rules of succession, if they are not.

In practice, however, great diversity prevails between different courts, and courts at different times give conflicting decisions.

The subject is one of a good deal of importance it seems to me. The fact that frequently on a change of Alkali or Seriki large migrations occur is often due to his being known as enforcing Moslem law without regarding the customs of Maguzawa (pagan Hausas) or Kitiju (pagan Fulani).

The best native authorities supported, I believe, by considerable authority in Moslem legal text books, hold that "custom" in matters of inheritance, marriage, &c., should be regarded.

But at present the whole subject is ruled by individual caprice.

H. R. PALMER,

Assistant Resident, Katsena.

24th November, 1907.

APPENDIX VI.

The RESIDENT, Zaria, Northern Nigeria, to the SECRETARY TO THE ADMINISTRATION, Zungeru.

LAND TENURE.

The questions at issue are, I take it, (*a*) whether a system of State ownership of land as against individual ownership, is in accordance with, and suited to, the ideas and customs of the inhabitants of this Protectorate; and, (*b*) if so, whether it is in itself desirable.

2. So far as pagan communities are concerned, I think it may be taken for granted that the State may at once assume the right of ownership of the land. As Sir Frederick Lugard says: "The rights given by conquest are well understood by primitive folk," and I do not think that any pagan community which has accepted British control would for a moment dispute the right of the Administration to the ultimate ownership of all the land.

3. With the more advanced Mohammedan communities which inhabit the Hausa and Northern States however, it is necessary to weigh very carefully the question of land tenure. I find myself in the main in accordance with Mr. Temple in thinking that it is a "cardinal feature of native custom" that private property in land does not exist; and that "the freehold of the land belongs to the section of the population that has conquered and is in possession of that land." Mr. Temple appears to me to give a most clear exposition of the root principles underlying the custom of land tenure, and points out that the recognised ruler "had the power to grant the use of land to private individuals, but had always the power to revoke any grant made. He was not expected to do so, however, unless there was some good reason."

4. It is evident that there is a very narrow dividing line between a recognised right to use a certain plot of land, and the actual ownership of that land, provided the right of use can be transferred, sold, or inherited. The actual difference appears to me to consist in the power to revoke the original grant. So long as this right exists, the land cannot be said to be the property of the user.

5. The right of transfer, sale, and inheritance undoubtedly exists in the Mohammedan portion of this Province. The use of land descends from father to son, and may even be disposed of to a stranger in return for a sum of money paid down, or an annual payment, usually in the form of a portion of the produce. Such transactions may be entered into without the knowledge or previous consent of the chief, though it is usual to report them, in order to provide a kind of verbal registration of the fact, to avoid future disputes. But one very curious fact emerges. If a native wishes to sell his right in a plot of land which he may have inherited from his ancestors or acquired in some other way, in order that he may go and settle elsewhere, he is at liberty to do so, provided he settles in a place within the territory of the paramount chief. If he wishes to settle outside such a territory he cannot sell his land: it must revert to the paramount chief in the same way as it would do if the user died without leaving any heirs to inherit his property.

6. This appears to me conclusive proof that no such thing as individual right in land exists, and that State ownership of land is the very root of native ideas and customs regarding land tenure. But it is equally evident that a custom has grown up of considering the grant of a "right of use" as a saleable or transferable asset, and that this constitutes in a sense an individual proprietary interest. But it is a curious fact that throughout nearly five years of experience in the Hausa States I have never known a single case of dispute in the matter of individual claims to land, whether in the Native Courts, or in appeals to executive or administrative powers, European or native. Furthermore, it has been admitted to me by natives that a man who sold his land right and then migrated to another country could not be punished: he would be execrated and possibly refused permission to return, but would not be arrested or tried and punished, either judicially or executively. Thus it is evident, I think, that the right

of transfer is merely a custom which has grown up, and partakes of the nature of a private contract between individuals for mutual convenience and in no way over-rides the principle that all land belongs to the State, which can alone grant rights of use, and can at any time withdraw or revoke such grant.

7. Whether or no State ownership of land to the total exclusion of any individual right in land is economically advisable is a question which belongs to political economy, and I fear my opinion in the matter is of no great value. I believe, however, that it is the principle of land tenure in this country and is acceptable to the native mind, and on these grounds I urge it most strongly. If found unworkable it can be cancelled by a stroke of the pen, but I submit that it should be maintained until it be found impracticable.

8. As regards the detail of nomenclature, I confess I am unable to follow the suggestions made in His Excellency's memorandum. Mr. Temple would call certain lands "Crown Lands" and all the rest "Public Lands." Dr. Cargill apparently agrees. His Excellency appears to favour all lands being declared "Native Lands." But surely if the principle is once admitted that all land belongs to the State—that none can be sold but only leased from Government—there is no necessity for introducing any nomenclature at all? In such countries as Canada I presume all waste unclaimed land is held to belong to the State, which gives or sells it to individuals, companies, or corporations. It appears to me that in Northern Nigeria the State would be the permanent landlord of all land. Cultivated lands would be leased to farmers and individuals, who would be given certain rights as to transferring the lease to heirs or others: land required by the State for purposes of public utility would in reality be leased by the State to itself, rent free.

9. One point remains to be discussed. Mr. Temple states that "every Emirship, and headship of a district or village has a 'gandu' attached. To every important official's office a farm is attached. . . . The gandu or State farm goes with the office." This has up to now been my impression, but I can find no evidence of its existence in this Emirate except in cases of village headmen. I am assured that there are no official farms attached to the office of Emir or any other office of State, but that every family has its land, which descends in the family from father to son. Thus the family of the late Emir retains its farms, which are situated in a different part of the Province to those belonging to the present Emir. What was attached to the various offices of State was not property in land but property in men to work them, *i.e.*, slaves. These passed with the office.

10. This, of course, is in accordance with the principles of the patriarchal system. The Hausa States appear to me to be at this moment passing from a purely patriarchal system direct to a system of individual proprietorship in land by a natural evolution. The natives do not yet see that the idea which has been growing up, unobserved, of individual right in land, is directly antagonistic to their root principle of State ownership. The difference between "jus utendi" and "jus possidendi" must therefore be defined and explained.

11. The conclusions I would draw after most careful consideration of the whole problem are, briefly, that the Administration should assume the entire right in all the lands of the Protectorate, maintaining the present rights of use enjoyed by the inhabitants, but conserving the right to revoke such a grant: where non-natives desire to take up land the Government should lease, not sell it, after making full enquiries into the native rights in the land and compensating any individuals or communities whose claims may be considered deserving of compensation: and that a similar procedure should be followed where the State desires to take up land for public purposes. Such a policy would, I believe, be in accordance with native ideas and customs, and would afford the best means for developing the country in the interests of its inhabitants, whilst securing for Government the maximum return for the energy and capital expended on it.

C. W. ORR,
Resident, Zaria Province.

Zaria, 14th November, 1907.

APPENDIX VII.

LAND TENURE.

With reference to His Excellency's minutes upon this question, I have the honour to make the following remarks:—

I regret that I had not received the land tenure papers a month or two before I left Bornu, in order that I might have better studied the usages of native tenure of land in the Province, a subject which has not been of pressing importance, and in the details of which I am not well posted: and for this reason I would like the completed memorandum to be sent to Major McClintock.

To begin with, I may say that the Province of Bornu probably stands alone in the Protectorate, in being taken over by us in 1902 as a ruined country—a great contrast to Kano and Sokoto, taken over as "going concerns." Probably half the population had been killed or sold by Rabeh between 1898 and 1900; ancient records had been destroyed, and systems largely abandoned; and finally the destitute country was ransacked to raise an indemnity for the French.

I have had the privilege of seeing the Memoranda of Mr. Temple, Dr. Cargill, Mr. Palmer, and others, and I do not see that the principles of native tenure in Bornu differs from that in other provinces mostly Mohammedan, substituting "Billama" for "Seriki."

In a large proportion of Eastern and Central Bornu, a "village" consists of a *group* of hamlets, frequently scattered over miles of country, under "Mbarmas," who are under the

village "Billama" (defined by Barth as a "Mayor"), who may be under a "Lowan" of a larger group (common in some districts), or directly under the District Head ("Ajia"), a title and office chiefly created by Government on its insisting three years ago upon resident district heads. Probably every village can show its agricultural boundaries, and every farmer can show the limits of his fields, clearly marked by ridges of uncut grass tufts, unchanged for generations. There is, however, plenty of waste land which could not, I believe, be claimed fairly by any people or villages of the present day.

With regard to waste lands: Probably almost the whole of Bornu Proper has at some time been under cultivation, and the extensive waste lands therein (which contain next to no "forest" or virgin bush), are largely the result of the wars of centuries, with consequent depopulation: and, with the exception of (neglected) gum in some districts, there is little in the bush products of value to the native, other than the food obtained in parts from baobab and locust trees.

"Royal" or personal lands belonging to the rulers or members of their courts, apart from the huge estates held under the quite impossible and now extinct fief-system, were insignificant; but farms were attached to most appointments, and are to-day to many district offices and practically all village appointments. In many parts of Bornu, the head of a hamlet has the right of farming the deserted site of a hamlet migrated; and consequently he takes care to keep the hamlet moving a mile or two every two or three years, in order to gain the manured land: this is one of the reasons for unnecessary migration that, while unchecked, is so pernicious to so-called taxation, which His Excellency describes as Government Rents.

Farms are acquired on application and payment to a Billama, or Ajia; but I do not know of a case of a man owning a private farm or estate, except by the right of occupation and not of possession, carefully defined by Mr. Temple, obtained theoretically from the Shehu generally in the person of the village or district head.

The question has never definitely cropped up, but I feel quite sure that the Shehu and all his subjects thoroughly understand the position of Government as lord of the soil, and that there would be no feeling in his mind such as Major Festing attributes to the Emir of Kano.

Native rights in land in Bornu would come into two classes: the districts of Bornu Proper, inhabited by Kanuri and other Mohammedans directly under the Shehu (the greater part of the province); and the pagans on the southern and western borders, whom we have maintained independent: though I really do not see that they need require different treatment from Government: it might perhaps be better so for the Protectorate, but in Bornu I would prefer one scheme. I note that the Kano view seems to be in favour of all land being declared Crown property and present native occupiers being given licences. I should not have thought this necessary outside of the Kano Province; and Mr. Temple seems to favour the maintenance of the existing conditions, though I do not follow his method of legitimising them, except as adapted "Native Law and Custom." A difference to be noted is that in Bornu the ruling caste is practically of the country and not alien invaders.

If the "Economic Theory" or adapted "Native Law and Custom" can be legitimised into a working system, as I gather from His Excellency's last minutes, may be possible, I should prefer that. If this were not possible, I would take the line of declaring all unoccupied and waste land to be "Crown Land," with the most liberal treatment of natives in the matter of alternative farming land; and the remainder to be "Native Lands," Government to retain the freehold of both, with all necessary powers for dealing with non-native transactions in land, while interfering as little as possible in purely native matters.

W. P. HEWBY,
Resident, Bornu.

Zungeru,
26th October, 1907.

APPENDIX VIII.

From the RESIDENT, Bauchi Province, to the SECRETARY TO THE ADMINISTRATION, Zungeru.

With reference to your memorandum, No. 4205/07, of 5th November, forwarding memoranda on land revenue, land tenure, and incomes of chiefs.

I have duly received the above, and herewith my replies, tenure only.

W. F. GOWERS,
Acting Resident, Bauchi.

Akwiam, 24th November 1907.

SIR,
I HAVE carefully read Your Excellency's latest memorandum on land tenure, and also Baden Powell's "Land Systems of British India."

2. There is not, I think, any real divergence between the views which I put forward as to the conditions of tenure in this country and those of the Residents quoted (with the exception of Mr. Barclay). I confined myself to the *theory* of tenure according to the Mohammedan law recognised in the country, whereas other Residents have dwelt at more length on the customs by which this has been in practice modified.

3. I was not, of course, quite correct in saying that the *Emir* held the lands in trust for the Moslem community. I should have said that the Serikin Musulmi did so, delegating his powers in this respect to the Emirs, as pointed out by Mr. Temple.

4. Any further differences are due chiefly to the variety of senses in which the words "freehold," "estate," "proprietor," "possessor," &c., appear to be used.

5. I am still unable to regard the "fief-holders" of this country as having estates in the lands ruled administratively by them, and I gather that Your Excellency concurs, from the statement that their former actions "indicated in no way a proprietary right in land on the part of the fief-holder."

6. I think the right of the free agriculturist was better than a tenure at pleasure in the eyes of the law. I think a native court that was not corrupt would have upheld the right of a land-holder who duly paid his rent to the State (kurdin kassa).

7. Therefore I quite concur that the "economic theory" should be aimed at. I take it this will mean that practically the whole country would be treated on a "Rayatwari" basis, to borrow the Indian parallel term.

8. It would appear that a landlord class must, to some extent, be maintained in the persons of those who own serfs attached to the land. These would naturally become free tenants of their master in course of time (cf. the development of copyhold from villein tenure). I think it would be only fair to recognise the rights of the master in the land as compensation for the loss of his rights in the men.

9. From paragraph 6 I gather that the suggestions set forth in paragraph 33 to 50 of my previous memorandum on the subject are not very far divergent from those of Your Excellency. All natives, I hold, should be confirmed in their present holdings, not as owners of the fee-simple, but as "land-holders" or "occupants," as in the tenure described in "Land Systems of British India," p. 126, &c.

10. Non-natives should, as at present, only acquire rights from the Government as trustee for the people of the country.

11. Natives should be allowed to acquire fresh holdings without restriction, subject to payment of the land revenue or rent to the State at which they might be assessed.

12. A native might, I suggest, be allowed to alienate his "land-holders'" right to another native, though not to a non-native.

I have, &c.,
W. F. GOWERS,
Acting Resident, Bauchi.

Dugu Sabongari, 22nd November, 1907.

(2)

LAND REVENUE ASSESSMENT IN NORTHERN NIGERIA.

The inception of the Northern Nigeria Land Revenue eventually merged into a so-called "land revenue" or "general tax," is described by Sir F. D. Lugard in his "Memorandum on the Taxation of Natives in Northern Nigeria."*

The following extracts from this Memorandum and the Proclamation on which it is based, clearly show how land revenue and land revenue settlement stands at the present moment in the Protectorate.

HISTORY.

1. "The Mohammedan population of Northern Nigeria had from time immemorial been accustomed to pay certain tithes in accordance with Koranic Law, and had imposed taxation upon their Pagan vassals. Residents of provinces were directed to enquire into the methods of taxation in vogue in their provinces, and to submit reports. These were necessarily very imperfect, but they revealed the fact that the original system had been extraordinarily complete and well organised, and that it had attained a high development, embracing death duties, complicated taxes on traders, class taxation on special industries and crafts, special taxes upon lucrative crops, market dues, and an almost endless variety of other imposts in addition to the tithe on the staple crop paid by Mohammedans, and the tribute claimed from Pagans. They revealed further that the original system, which appeared to have been singularly fair and well apportioned, had, to an extent which varied in each province, become debased by oppressive additions, by the system of collection, which consisted either of 'farming out' taxes to individuals who paid a certain sum for the privilege, and made all they could by extortionate demands from the taxpayers, or by the appointment of tax-gatherers (named jakadas or ajele), who, in many provinces, lived on the people, and exercised a very oppressive tyranny."

LAND REVENUE PROCLAMATION, 1904.

Land
Revenue
Proclama-
tion, 1904.

2. In June, 1904, the first Land Revenue Proclamation was issued, giving legal effect to a system under which the Government would share in the taxes. This Proclamation, which is very short, covers taxation and assessment, under the following heads:—

2. *Interpretation.*

"In this Proclamation, if not inconsistent with its context,

"'Chief' means any person who is in receipt of the profits, or any part of the profits, arising out of any land whether as tribute, taxes or rent.

"'Community' means any town, village, or body of individuals forming a community which does not, or has ceased to, pay any tribute, tax or rent for the use, occupation or enjoyment of any land occupied by such community to any chief.

"'Resident' means the Resident or Assistant Resident in charge of any particular province in question, and shall include any other Resident, Assistant Resident or Revenue Officer authorised by the Resident or Assistant Resident in charge as aforesaid to perform any of the duties imposed upon any such Resident or Assistant Resident in charge by this Proclamation.

Assignment and Collection.

Chiefs to
pay pro-
portion
of their
tribute.

"Every chief in the Protectorate shall, on or before the 31st day of March in each year, pay one-quarter of the amount received by him during the last preceding twelve months in respect of any tribute, tax, or rent arising out of any land to the Resident of the Province in which such land is situated or such other proportion as shall be fixed by the High Commissioner in accordance with Section 5 hereafter, and all such payments when and as made shall form part of the general revenue of the Protectorate.

Payment
by com-
munities.

"Every community in the Protectorate shall, on or before the 31st day of March in each year, pay to the Resident of the province in which the lands used, occupied or enjoyed by such community are situated, a sum equal to one-tenth of the annual value of such lands, or such other proportion as shall be fixed by the High Commissioner in accordance with Section 5 hereafter, and all such payments shall when and as made form part of the general revenue of the Protectorate.

* Colonial Report [Miscellaneous], No. 40

5. *Settlement.*

"It shall be lawful for the High Commissioner to partially or wholly exempt any chief or any community from the provisions of the Proclamation, and subject to the approval of the Secretary of State to increase the proportion payable from time to time, and to alter, amend, or revoke any such total or partial increase or exemption.

6. *Assessment.*

"It shall be the duty of the Resident or the person deputed to act on his behalf from time to time to assess the amount of the annual value of lands from which tributes and rents are paid to any chief, and used, occupied, or enjoyed by communities situated within his province.

"The principle on which the amount of such assessment shall be fixed shall be the amount of *produce or profit* which can be annually obtained from, and the live stock that can be annually raised and supported on, such land by a person cultivating and using the same in the manner and up to the average standard of cultivation and use prevailing in the neighbourhood."

High Commissioner may exempt portions of the Protectorate from the operations of this Proclamation.
Periodical assessment by Residents.

NATIVE REVENUE PROCLAMATION, 1906.

3. The Land Revenue Proclamation, No. 4, of 1904, was superseded early in 1906 by a more elaborate proclamation, under the title of the "Native Revenue Proclamation." In his covering despatch to the Secretary of State my predecessor described the object of the new Ordinance as follows:—"The essential difference between this Proclamation and the one it supersedes is that the former Proclamation was limited to land and produce, whereas this includes all forms of taxation known to the country, and makes any taxation not authorised by it illegal and punishable. While the former Proclamation was only a tentative one, with the object of securing to the revenue a certain proportion of the taxes on land and produce levied by the native chiefs, and did not in any way touch the nature of those taxes or restrict the power of chiefs as to the extent to which they might tyrannise over, or extort from, the peasantry, the object of the present Proclamation is to lay down limits to taxation by native chiefs, to define and legalise the various taxes, and to place them under the supervision of the Administration, and at the same time to assign an adequate portion of the revenue so collected to Government."

Supersession of Land Revenue Proclamation, 1904, by Native Revenue Proclamation of 1906.

4. In his "Memorandum on the Taxation of Natives in Northern Nigeria," mentioned before, Sir Frederick Lugard describes the provisions of the new Act:—

"The system thus introduced may be briefly summarised. In the first place it has been my desire, while promoting a general uniformity in matters in which it is essential that a common policy should prevail throughout the Protectorate, to give as large a latitude as possible to the varying conditions of each Emirate. As years go by these divergencies will tend to disappear, and a single uniform system will be developed, but too drastic a change is, above all things, injudicious in Africa, and amongst a people so conservative of tradition as the population (and especially the Fulani rulers) of Nigeria. The inauguration of British rule is beyond doubt the right moment to introduce important changes which are essential, for at no later time would it be so easy to introduce them, but all that is non-essential can best be introduced gradually.

"The first essential was that so far as Government is concerned, the innumerable petty taxes should be amalgamated in one or more single taxes to which legal sanction should be given by an Ordinance of the Government. This involved a truly colossal task, for it meant that each Resident should visit every town and village in his Province, and by the help of the native authorities should assess its tax-paying capacity. This has been the task of the past year, and . . . very great progress has been made. The basis upon which this assessment has been carried out varies very greatly in different provinces, but generally speaking, it is framed upon the former scale of taxation shorn of its later extortions and unauthorised additions. The rulers (who share in the tax), are naturally ready to give all information, and this can be checked by the information derived from the former collectors, from the former fief-holder, and from the village itself. Finally, since the village may have increased or decreased in wealth and importance, the Resident

himself exercises an original discretion, . . . subject to confirmation by the High Commissioner.

Administrative Organisation.

"To give effect to the scheme of reform alike in matters of taxation and in general administration of a province some administrative changes were necessary, more especially in order to decentralise executive authority, which had hitherto been concentrated in the hands of the Emir and his head slaves on the one hand, and in the Resident on the other. Each province was now divided into three or four 'administrative divisions,' according to its size and the staff available, and each of these divisions became the immediate sphere of an Assistant Resident under the general control and supervision of the Resident-in-Chief. The whole province was also to be divided into a number of 'districts,' each under a 'district headman,' who was responsible for collecting the tax from the village headmen (who, in turn, were charged with the duty of distributing the tax imposed upon the village among the individuals in proportion to their wealth and ability to pay). . . . In order to check any extortion or abuses every village headman is to be provided with a statement in Hausa and Arabic of the amount at which his village is assessed. The villagers, on the one hand, could demand to see this list if their headman collected more than the authorised tax, and on the other hand, the district headman could not claim from the village more than this sum. In the event of any excess demand, village headman and peasantry alike had a right to appeal to the Assistant Resident of the division. These safeguards have been welcomed by the people, and it is reported that little or no extortion now exists. . . .

The "Land Revenue" or "General Tax."

"Turning to the actual taxation. The main taxes of the country were those recognised by the Koran, viz., a tithe of the produce of the land, and of cattle and flocks, and an impost upon the Pagan vassals, which varied in severity chiefly in proportion to the ability of the suzerain to collect. But these taxes had become modified In addition to these regular taxes innumerable other imposts were levied—taxes on each dye pit, on artisans (cloth weavers, blacksmiths, &c.), market dues, taxes on butchers, grain sellers, &c., &c., &c. The new system aimed at consolidating all these taxes into a single "land revenue" or general tax. The former name is not strictly correct, since it would be paid in proportion to wealth by artisans as well as by agriculturists and nomad pastorals. In principle it is, in fact, an income tax.

* * * * *

"The assessment of the new general tax was based upon the sum of the existing taxation (where that taxation existed) modified by the Resident after careful personal enquiry, and in accordance with the actual present wealth and ability of the village to pay. It was thus neither a mere consolidation of existing taxes—increased or decreased as the case might require—nor was it (except in hitherto untaxed districts) an arbitrary assessment, *de novo*, by the Resident. Its merit, in my view, was that it partook of both characters. So far as it was based on tradition and custom, it ensured ready acceptance among a conservative people, and its collection presented no novel difficulties, while so far as it was modified by the Resident, and consolidated and fixed alternatively at a money value, payable only once in the year, it inaugurated the beginnings of principles recognised in more advanced communities, and enabled the collection to be made in a manner in which the proceeds could best be utilised by the Administration, and accounted for in accordance with financial instructions, while it ensured a more just incidence and greater uniformity.

"The general tax thus embraced all taxes upon the village community. If the village was rich in herds and flocks, it paid proportionately to its wealth. If it was an industrial community, which gained its livelihood by smelting and working iron, or by dyeing cloth, it similarly paid in proportion to its tax-paying capacity. The unit, so far as Government is concerned, is the village, and the proportion to be paid by the individual is left to the village headman, as in India.

"I believe that under the Act of 1856 the Magistrate in India appoints a 'panchayet' (native council of five) to apportion the tax imposed upon a village to the individuals. This is done (*a*) by actual valuation of property, which is rare,

or (b) by their general knowledge of the circumstances of each individual, a system which works much better. The latter is the system of Northern Nigeria.

Jangali (Tax).

"The taxation of nomad herdsmen, who have no settled village, had, however, to be undertaken separately, and for this reason a second tax, applicable only to them, viz., the Jangali or cattle tax, was recognised. It was fixed at 5 per cent. instead of the former 10 per cent., and for the sake of facility in assessment, large herds, though not strictly nomad, were included in this category. The taxation imposed under the 'Native Revenue' Proclamation, No. 2, of 1906, is, therefore, shown under two heads, viz., the 'general tax' and the 'Jangali,' though they are identical in principle, and in the course of time will probably be merged into one.

Assignment of Tax.

"The proceeds of the general and the jangali taxes are divided between the British and the Native Administration. In 'settled' areas, under 'Principal Chiefs,' or minor Emirs, Government takes half, and half is assigned to the Native Administration, except in the Emirate of Sokoto, where, in consideration of the position held by the Emir as 'Serikin Muslimin' (Head of the Mohammedans) Government takes only 33½ per cent. of the general tax, and leaves 66½ per cent. to the Native Administration. 'Unsettled districts,' viz., Pagan tribes which are not under any principal chief, pay a larger proportion to Government."

PROVISIONS OF THE NATIVE REVENUE PROCLAMATION, 1906.

5. The extracts from this Proclamation which deal with the taxes which may be levied, and the method of their assessment, settlement, and collection are as follows:—

Native Revenue Proclamation of 1906.

Interpretation.

Interpretation of terms.

"In this Proclamation, if not inconsistent with its context—

"'Chief' shall mean any native ruler acknowledged as such by a community.

"'Recognised Chief' shall mean any chief whose position as a native ruler has been recognised and approved by the High Commissioner, whether by the bestowal of a symbol of office or otherwise.

"'Community' shall mean any town, village, settlement, or body of individuals other than an unsettled district.

"'Unsettled District' shall mean any district which has not heretofore paid or has ceased to pay tribute to any chief.

"'Resident' shall mean the Resident or Assistant Resident in charge of the particular province in question and shall include any other district officer authorised by the Resident or Assistant Resident in charge as aforesaid to perform any duties imposed upon any such Resident by this Proclamation.

3. *Levying of Taxes.*

"From and after the date of this Proclamation there shall be levied and collected, in manner hereinafter mentioned, such sum or sums as, in accordance with the provisions of this Proclamation, the Resident of each province, with the approval of the High Commissioner shall fix and assess—

Tribute and taxes may be levied.

"(a) As tribute payable by any community or unsettled district within the province; and

"(b) As taxes payable by any native or natives residing or being within the province and known as Kurdin Sarauta, Gaisua, and Jangali.

Assessment and Settlement.

"In making an assessment, the Resident, acting in co-operation with the chiefs of each district or, in the case of an unsettled district, with the elders or other persons of influence in such district, shall first estimate or compute—

Valuation of lands, &c., to be made by Resident.

"(a) The annual value of the lands and produce in each community from which tribute and taxes have been paid under native custom to any

- chief, or which are used, occupied, or enjoyed by an unsettled district; and
- “(b) The annual value of the profits or gains from any trade, manufacture, office, or employment in which the members of a community or of an unsettled district may be engaged; and
- “(c) The value of the flocks and herds of nomad shepherds or herdsmen; and
- “(d) The value of such sources of income as, under native custom, is liable to the tax known as Gaisua.
- Valuation of lands, &c. “The principle on which the estimate or valuation of lands shall be made shall be the amount of produce or profit which can be annually obtained from, and the number of livestock that can be annually raised and supported on, such land by a person cultivating and using the same in the manner and up to the average standard of cultivation and use prevailing in the neighbourhood.
- Assessments. “The assessment of tribute and taxes shall be based upon the estimate in the fourth section of this Proclamation mentioned, and, as to amount, shall, as far as circumstances will permit, be in accordance with native custom and tradition, and shall be subject to the approval of the High Commissioner, who may from time to time alter or amend such assessment as may appear just or expedient.
- Assessment to be notified. “When such assessment shall have been approved by the High Commissioner, the Resident (in such manner as the High Commissioner may direct) shall publicly make known to each community and unsettled district and other persons concerned the amount at which such community, unsettled districts, or persons have been assessed for tribute or taxes, and the time or times at which such tribute or taxes shall be collected.
- 9, 10, 11. *Collection.*
- Appointment of district headman and village headman. “A Resident may from time to time appoint chiefs or other suitable persons to be district headmen and village headmen for the purpose of supervising and of assisting in the collection of tribute and taxes under this Proclamation.
- Duties of district headman. “It shall be the duty of a district headman—
- “(a) To supervise the collection of tribute in his district;
- “(b) To receive from the village headmen in his district all sums collected by them, and to pay and deliver the same to such recognised chief as the Resident may direct;
- “(c) If so directed by the Resident to supervise, collect, or receive any Gaisua, Jangali, or Kurdin Sarauta in respect of which any person or persons in his district may have been assessed, and to pay and deliver the same to the Resident, or to such recognised chief as the Resident may direct;
- “(d) To render to the Resident returns of tribute and taxes received by him at such times and in such form as the Resident may direct.
- Remuneration of district headman. “Every district headman shall be entitled to receive as remuneration for services rendered, such proportion (not exceeding one-fourth part) of the tribute or taxes received by him, as a Resident of the province, with the approval of the High Commissioner, may direct.
- Duties of village headman. “It shall be the duty of a village headman—
- “(a) To collect and receive from each member of the community to which he has been appointed, such proportion of the amount at which the community has been assessed for tribute and taxes, as may be right and proper according to native custom;
- “(b) To pay and deliver to the district headman of the district in which the community may be situated, or to such other person as the Resident may appoint, all tribute and taxes collected by him;
- “(c) To communicate to such district headman the name or names of any person or persons who may have refused or persistently neglected to pay his or their proportion of the tribute or taxes.
- Remuneration of village headman. “Every village headman shall be entitled to receive as remuneration for services rendered such proportion (not exceeding one-fifth part) of the tribute collected by him as the Resident may direct.

Assignment.

“Every recognised chief in the receipt of tribute or taxes under this Proclamation shall, at such time or times in each year as he may be required by a Resident so to do, pay and deliver to such Resident one moiety or such other proportion as the High Commissioner may from time to time determine of the amount received by him as tribute.”

Recognised chief to pay moiety of tribute to Resident.

RECORDS.

6. There are no village records. A statement in English and Arabic of the total tax to be levied is furnished by the Assessing Officer to the village headman or elder. The provincial records consist of sheets denoting the total assessment of villages, the list of the officials, and the assignment of the tax. These are forwarded for the High Commissioner's approval and central record.

THE LAND REVENUE SETTLEMENT IN LOWER BURMA.*

7. The revenue history of Lower Burma is brief and simple. Under the native rule, as under ours, there were three kinds of cultivation:—

- 1st. Permanent cultivation.
- 2nd. Palm groves and gardens.
- 3rd. Shifting cultivation, mainly in forest country.

The latter was, necessarily, excluded from anything like a settlement. The area, always altering, could not be subject to any field survey, or record. To meet this latter class a tax was usually imposed on the number of knives used in clearing. At the present day it is similarly dealt with. Every male person of 18 years practising this cultivation has to pay an annual tax.

Permanent cultivation in the plains need alone engage our attention. The old Burma Government levied a rice land tax, not assessed on the land, but, generally, upon the number of cattle employed in working it; or, in some districts, a rough calculation was made every season of the gross product of a district, and the cultivators were required to convey a proportion, generally 10 per cent., to the Government granaries.

There was a further tax on families, assessed according to their reputed wealth. It was seldom, however, that any record existed to show the method of assessing the family tax, or the amount collected under the item, or of the amount of the tax.

The English officers began, as usual, by following, for a time, the native method, but, after a few years, a measurement of the land was found necessary.

A native standard of measurement existed. The headmen of village tracts were called on to state what rates per doom (the native land measure) the village lands could bear, and the result was that large tracts of country had a certain rate per doom imposed upon them as the rate for all cultivation.

On this primitive principle, rights were obtained for large areas of country. If the rate was low, the inequalities that resulted from such wide generalisation were not of any consequence, but when the rates were high, and the soil valuable, great inconvenience resulted. It was then proposed that there should be a survey, and that the village should be adopted as the unit of assessment, after a proper classification of soils.

Under the early system, for every village a uniform rate per British acre, which was adopted as the standard, was fixed on all cultivated land, no regard being paid to internal differences of fertility. Gardens and palm groves were dealt with somewhat differently. The right of the State was from then fixed at one-fifth of the gross produce, valued in money.

The Act gives persons in possession of culturable land the right of settlement of the land tax for a period of years, usually not more than 15.

* Baden-Powell: "Land Systems of British India."

Assessment and Settlement.

The modern practice of settlement is now very clearly defined. The objects of such settlement are declared in the directions to be:—

- (1) The complete survey of all lands.
- (2) Registration of all cultivators of land with specification of their various interests under the law.
- (3) The equitable assessment of the land revenue on sound principles and on a uniform system.
- (4) Punctual registration of all transfers and of all changes in the occupation and use of land.

The Burman system corresponds very closely to that adopted in Indian villages where individual land-holdings are recognised.

The first step in settlement is demarcation of the village, which includes all its cultivated lands or other lands which it can fairly lay claim to.

After demarcation a survey is made which details every individual holding.

The whole tract which the village comprises is then classified, care being taken to include its position with regard to facilities for transport, its convenience with regard to markets, and other matters.

This is followed by a classification of soils, which goes into great detail. The assessment is proceeded with on the basis of an annual money rate per acre, and to continue unchanged for a stated period.

The older theory was that the State is entitled to one-fifth of the gross produce of land. The modern rule is that one-half of the net produce may be taken. The net produce is held to be the balance of the gross produce, after deducting the cost of cultivation, and also the cost of living.

Records and Collection of Revenue.

There are executive headmen of villages, but they have no revenue functions. The records of the village settlement are entered in a settlement register. It forms a complete Domesday Book, recording accurate information regarding every separate holding, whether large or small. The area is given in acres, and hundredths of an acre, and the assessment thereon stands in parallel columns.

A single field on the Survey Map may be actually divided amongst twenty persons. From the register is prepared a ledger, which gives each man's personal account with the Government, the total area of his holdings in the village, and the total assessment due thereon by him to Government.

A copy of this, his personal account, is given to each person, with a note as to the date on which each instalment falls due.

The revenue is collected by means of tax tickets prepared and served on the persons liable, with the sanction of a British officer. No revenue can be demanded except after the issue of a tax ticket. For all revenue paid a receipt is given.

LAND TENURE AND LAND REVENUE IN UPPER BURMA.

8. Upper Burma was added to Her Majesty's dominions by annexation in 1886.

In taking it over, it was clearly intended to ultimately assimilate its law and government system with that of Lower Burma; but, under existing circumstances, a simpler form of administration was indispensable.

As regards land revenue administration, the local or native administration of revenue collection and assessment, and the local administrative divisions, were directed to be maintained in the first instance, and the native to be employed where possible.

The old native revenue was derived from (1) capitation tax—a tithe levied on households—(2) a land tax on royal lands, amounting to 25 per cent. of the gross produce.

The capitation tax, or "tithe," was continued under the British Administration, but has, I believe, been abolished, and a regular land revenue substituted. Its levy, according to the old native custom, was carried out as follows:—

Its assessment was effected by a district headman, who submitted a census, or roll, showing all persons, or households liable to pay. The roll was subject to being tested by the Assistant Collector. The Government fixed the rate by notices from

time to time; these rates, multiplied by the number of tithe-paying households, gave the total assessment of the village, or other local area.

Another official called "Thamadi," or assessors, "appointed according to custom," distributed the total over the families or households, according to their circumstances, or ability to pay, and lists of the payments were afterwards published. Objections to this list had to be made within ten days of its publication.

State or Crown Lands.

All the royal lands are State property, as are also lands held on condition of rendering public services, or as an appanage to some public office. Custom has added a right of the State to certain other lands, which is a right universally found in India—unconnected with any other custom of "royal farms." Thus, the State is entitled (as royal lands) to islands and alluvial formations in rivers, to all forest and waste land, and land which has been abandoned and to which no claim has been made or is preferred within two years.

Rules are provided to be made for the disposal of waste State lands, for regulating the temporary occupation of such land, and for the treatment of it where needed as grazing ground to villages. Land required for public services, or likely to be required, is not to be leased, except from year to year. Other waste land is leased for not exceeding 30 years, and with reservation to Government of mineral rights and tea trees. It is subject to paying revenue, taxes, or rates; but, to enable the lessee to establish first cultivation, there are rules allowing exemption from the revenue for a term of years, as well as conditions as to bringing a certain proportion under cultivation in a certain time. The consequences of failure to act up to the lease are provided. State land, being the property of the Government, pays rent to the Government as its landlord or owner. All other land which is private property (in some sense) pays land revenue; but where the landholder already pays capitation or "tithe" this latter is either forgiven, or "adjusted," so that a double burden is not imposed.

Assessment.—The land revenue is to be assessed on considering such sources of income, with effect from such date and for such period, as the revenue officer may propose subject to the approval of the Local Government.

This provision allows latitude for a skilful officer to devise the best form of assessment, instead of being tied down by theoretical rules (of which no experience can have been had). In this way a workable theory and practice of assessment will gradually develop itself in a natural manner.

The regulation provides for the exemption of monasteries, schools, and pagodas, and land in towns, &c., from land revenue assessment.

Land Records and Rights in Land.

With the assessment of land revenue, records of rights are to be prepared, and, when prepared, are to be maintained correct by the Collector. With this object, a simple "Register of Mutations," that is, a list of all changes by succession, agreement, &c., has to be kept up as the main instrument.

It will be observed that this regulation says nothing about defining the nature and extent of the right in land, as the Lower Burma Act does.

The record of rights will simply set out the facts; and it is provided that every person whose rights or liabilities are required to be recorded is bound to furnish all information necessary for the correct compilation of the record.

Provision is made for the settlement of disputes as to right, adopting the usual plan of regarding the person in *bona fide* possession as entitled to be entered in the records, subject to any decision as to its right, by a competent court or authority.

Practically, therefore, everyone, though not legally defined as "occupant," or "owner," has the enjoyment of his land, according to the principles of liability, on showing his possession and his right thereto, and on it appearing that the land is not State or royal land.

REVENUE ASSESSMENT AND SETTLEMENT IN NORTHERN NIGERIA.

9. In Lower Burma, on the inception of British Administration, it was found necessary to amalgamate a variety of taxes. In so far as the land was concerned these were merged into a land revenue of one-half of the net produce. To ascertain

this net produce, the village was taken as the unit; individual land tenure was granted; the village boundaries demarcated; the British standard of land measurement adopted; an accurate survey prepared showing every land-holding; the village's general value for taxation as compared with other villages noted; a close examination of soils made and fields graded accordingly; the value of crops over a period of years ascertained; and finally, after deducting cost of cultivation and living, *the net produce of each holding* determined, and a rent equal to the half, imposed upon it over a fixed number of years, the capabilities of the villages as a whole as compared with other villages determining the general incidence for revenue. The system is elaborate and costly, but affords the only method of scientific and equitable land revenue.

10. In Northern Nigeria the position was a more difficult one. Unlike Burma, where a great river had already permitted of the development of a large export trade, the provinces accustomed to taxation were, and are, cut off from development, and largely relied for labour upon the institution of slavery, and their rulers, for their incomes, upon extortionate taxation or slave raiding. The abolition of slave-raiding and the manumission of the slaves placed the ruling class in a very difficult position, and threatened their incomes.

The first necessity was to place the existing taxes on a better footing, and to share them with the Native Administration. Land tenure was not a matter of pressing consequence, and was, therefore, neglected for the moment.

The principles adopted for the purpose of assessing land revenue in Northern Nigeria have been as follows:—

Where it existed, the native assessment was taken as the basis for the valuation of the land revenue. A native system was found to be in operation in all Mohammedan Emirates except Sokoto, which had no land revenue system. It existed in none of the pagan provinces. As time permitted, Residents were enjoined to visit every village, amalgamate them into districts, and fix the land revenue. The procedure for Residents is laid down in paragraphs 4, 5, 6, and 7 of the "Native Revenue Proclamation," and more particularly in the words: "The principle on which the estimate or valuation of land shall be made shall be the amount of produce or profit which can be annually obtained from, and the number of livestock that can be annually raised and supported on such land, by a person cultivating and using the same in the manner and up to the average standard of cultivation and use prevailing in the neighbourhood."

Owing to the limited staff available in the provinces, their want of knowledge in agricultural matters, the lack of previous records, or of a land measure of any kind, the assessment provisions of the Proclamation have not, so far, been applied in their entirety. In those provinces which have a native assessment, and more particularly Kano and Zaria, Residents have rightly made no move towards a revision of the native system until they ascertained what the system in vogue was. In so far as I can gather, it has been found that in both these provinces the native system is based upon the profits made out of the land. Possibly, it may be advisable to continue on the existing system, under the careful revision of the Residents, and this is what I intend to convey when I use the word "Resident's Assessment." At the same time, delay in the revision of such assessments, though unavoidable, should be remedied at the earliest possible moment. In Kano, for instance, a district which was returning only a few hundred pounds in revenue, has been valued for land revenue purposes at many thousands, the latter sum having, undoubtedly, been collected by the native authorities.

In Mohammedan provinces or Emirates, which have no real system of native assessment, and in pagan States, I fear that, with the existing staff, it will be quite impossible to carry out the provisions in paragraphs 4, 5, 6, and 7 of the "Native Revenue Proclamation." Here a "Resident's Assessment" is being carried on which has practically resulted in the imposition of a poll tax. The Residents, as they find time from their many other duties, visit each village and proceed to assess them. They can, however, only obey the Proclamation in the widest sense.

11. Instructed to assess the lands on the basis of the three old taxes, the tithe on guinea corn and millet, the land tax, and the tax on other crops outside guinea corn and millet, the usual procedure is to take the "Native Assessment," add to it certain direct taxes on trades, and divide the total by the number of adult inhabitants. As the number of inhabitants is not accurately known, it is usually estimated by counting the number of compounds or householders. If the figure

of taxation thus obtained does not exceed what is considered to be reasonable incidence per head it may be adopted or the old "native assessment" increased to produce a fair figure. Such a proceeding appears to me in effect to produce a hut or poll tax. Without accurate surveys and statistics and the expenditure of much money there would appear to be no other solution for the moment, though doubtless experience will give each assessor a more accurate general knowledge of what burdens can be safely and fairly imposed. "Native Assessment" still obtains largely in the Protectorate, notably in the richest and most populous province of all, Kano. "Resident's Assessments" have, however, been carried out more or less completely in various provinces, particularly Zaria, Nupe, Illorin, Sokoto, and, I believe, in Bornu. There are as yet no statistics available for me to determine how far this first crude improvement has been instituted. Lack of staff is alone responsible for delay in improvement on native conditions.

12. In Sokoto, for example, very considerable progress has been made. The following assessment instructions issued in the province, go far, however, to prove that the tax imposed is not an income tax on landholders or rent, but a form of hut or poll tax combined with a trade and cattle tax:—

"The population and resources of a town having been approximately arrived at, the difficult question of the assessment of the tribute to be paid has to be decided. In doing this please follow as carefully as possible the directions given in the memorandum, bearing in mind the following points:—

"If you have a difficulty in arriving at the amount that 10 per cent. of the total crops would represent (*vide* paragraph 47) by turning to paragraph 50 of the memorandum you will see that for pagan communities (*i.e.*, the least wealthy) a poll tax of 3s. per adult male and 2s. per adult female is considered to be a very reasonable tribute.

"Now in each compound you have counted there must be a *minimum* of one adult male and one adult female. The total tribute therefore (irrespective of Jangali), *i.e.*, Kurdin Kasa, Zakka, Kurdin Korofi, and any other items (except cattle) that may be entered in the "How arrived at" columns in E/21, should not total to less than 5s. for each compound in the town. I am aware that this will cause a very considerable increase in the assessment in this province, so I am prepared to allow of a *minimum* of 4s. per compound.

"I wish to impress on you that this is not to be interpreted as a fixed 'Compound Tax.' It is only a basis for the calculation of the *minimum* amount to be paid.

"To take a concrete example, say, an average village with 100 compounds without any unusual wealth. The minimum (not including Jangali or tax on cattle) it should pay is £20. You inform the headman of this at the same time you impress upon him that the larger compounds should pay more than the smaller ones. He will collect, say, 10s. a head from 20 of the wealthier compounds, leaving £10 only to be collected from the remaining 80 poorer compounds. So that the average small compound holders will only be called upon for 1s. 3d. a head. This will be paid by a minimum of two adult persons. In practice the actual rate would work out at much less than the 1s. 3d. per couple, as of course very few compounds contain only two adults in this province. I should say six to eight was a fair average per compound, including children."*

The assessment being completed on the above system, it is subject to the approval of the High Commissioner, who may alter it from time to time—thus no settlement over a period of years is made.

Apportionment and Collection.

13. It is, however, in the apportionment to individuals that the objections to, and defects of, the personal system become most apparent. In the memorandum of Sir F. Lugard, which I have quoted previously, he says:—"The unit, so far as Government is concerned, is the village, and the proportion to be paid by the individual is left to the village headman as in India. I believe that under the Act

* Memorandum on assessment—issued to Political Staff by Resident, Sokoto, 20th May, 1907.

of 1856 the Magistrate in India appoints a 'panchayet' (native council of five) to apportion the tax imposed upon a village to the individuals. This is done (a) by actual valuation of property, which is rare, or (b) by their general knowledge of the circumstances of each individual, a system which works much better. The latter is the system of Northern Nigeria." This description would appear to be a strange interpretation of the elaborate Indian systems which are invariably based upon an accurate knowledge of the net produce of the lands held either by individuals as in Bombay, Madras, Assam, and Lower Burma, or by villages working more or less on a communal system, which obtains in many parts of India. To compare the absolutely crude system necessarily adopted in Northern Nigeria, and which cannot be said to give much protection against extortion, with the highly developed system of British India, which gives every protection to the individual tenant, is not in any way possible and somewhat misleading. The panchayet described have apparently disappeared from the Indian land system,* nor would they ever appear to have had the functions ascribed to them.

The village headman in India has practically no revenue functions and he most certainly has not the duty of apportioning the tax by his general knowledge of the circumstances of each individual.

The method was adopted as a necessity in Northern Nigeria, but by no stretch of imagination can it be termed a system. It bears, however, a close resemblance to the native method continued in Upper Burma when annexed in 1886, but subsequently amended on a "Resident Assessment" system in 1899, and I understand now superseded by an approximation to the system of Lower Burma. Its practical working is only too clearly exemplified by the following extract from an assessment report from the Sokoto Province:—

"There is one point in connection with the assessment which, I would submit, needs special consideration. A village is assessed and the amount to be paid fixed, the village headman is told the amount in the presence of his 'Sarakuna,'† if they exist, or the village elders; he is told that a fixed amount per head must not be levied, but that a graduated scale must be adopted, *i.e.*, that everyone must pay according to his means; the amount written in Arabic is given to the headman and that portion of the work is finished.

"What happens afterwards is usually as follows:—Assuming the assessment was 20,000 cowries and there were 25 'Maigiddas'‡ in the village, 2,000 cowries per head are levied on every 'Maigidda,' resulting in the collection of 50,000 cowries. The 20,000 are taken to the district headman, who, having received the right amount, is too lazy and indifferent to make enquiries as to how it has been collected and thus fails to discover the extortion, and the balance of 30,000 is divided among the 'Sarakuna.'§

FUTURE DEVELOPMENT OF LAND IN NORTHERN NIGERIA.

14. The comparisons which have been entered into in this memorandum are not intended in any way to convey disapproval of the manner in which the land revenue system was instituted or is being developed in Northern Nigeria. After examination of the history of the country, and of the particular problem, I am firmly convinced that the taxation is suited to the inhabitants, has the traditional approval of the majority, and is being applied on a method vastly superior to that which obtained when the country was taken over. The wisdom of its re-introduction is undoubted, and had it been allowed to lapse or continue in its native condition grave results might have ensued. The method adopted has permitted all Residents not only to become closely acquainted with the inhabitants and their wants, but to secure a hold on them through a sense of our undoubted justice if not as yet through their affection for us. I can conceive no measure which could have achieved such important political, administrative, and financial results in such a short lapse of time. The unceasing labour and vigilance which has produced them can only command the highest admiration.

* "Land Revenue in British India."—Baden Powell. † Officials. ‡ Householders.
§ Extract from Report on Assessment of Fokka District, Sokoto Province, 1907.

"The general effect of taxation has been to stimulate industry, to increase the circulation of currency, and to decrease the difficulty due to the variation in the rate of exchange of cowries. It depends for its success on the close and tactful supervision of the district headmen by the British staff.

"The benefit to the peasantry of this reform is reported as immense, and it has almost equally benefited the upper classes and the traders. In no case does it weigh heavily upon the tax-paying communities. The classes which do not benefit are the former tax collectors and the head slaves and satellites of the Emir's Court."*

15. As in Burma so in Northern Nigeria it has been found essential at the outset to adopt the native system, and it is not improbable that the exactions of the last native ruler of Upper Burma were even more intolerable than those which had grown up in Northern Nigeria in the later stages of Fulani rule.

The wonder is that any such advanced system of land revenue, quite unknown in the Coast Colonies, was to be found in a country which has been in all time out of touch with anything but the crudest civilisations. Its presence and acceptance grant every opportunity for successful administration.

As in Burma, however, the native system must gradually give way to something more in accord with British ideals of justice to individuals. A first modification has been introduced by what I have termed "Residents Assessment"; here, again, the conditions exposed and comparisons instituted in these papers were made with the intention of denoting how far the method in vogue is divorced from accurate systems, such as those of British India.

16. The provinces of Lower Burma have been in our hands since 1824, and were united in 1862 under one administration. The Land Law or Land Revenue Act, which I have described, was not enacted until 1876, fifty years after our occupation.

Upper Burma, when conquered and united in 1886, had a developed native system of land revenue, which we carried on until 1889, when it was superseded by the Land and Revenue Regulations previously described, subsequently, I believe, amended to closely resemble the Lower Burma Land Act.

Though fifty years elapsed before the establishment of a precise system in Lower Burma, Upper Burma had abandoned the primitive native methods within three years of its annexation. It is to the history of its Land Revenue Laws that we ought to look for immediate guidance, just as the laws of Lower Burma would seem to afford an example of what might obtain in process of time. In both these countries the British Government did not hesitate to continue the native methods of assessment and collection until they could be gradually superseded by systems more in accordance with the British-Indian ideal.

17. The essential assessment difference between the two countries would appear to be the fact that whereas in Burma the entire proceeds of land revenue accrues to the British Administration, in Northern Nigeria a varying proportion is allotted to the Native Administration. This would appear to be one of the first points to demand attention. The original Land Revenue Proclamation of 1904 had a very marked effect upon revenue. The Government's proportion, which, in 1903-04, was £8,000, increased to £21,000 for 1904-05, and to £34,000 for 1905-06. In 1906 the Native Revenue Proclamation was enacted, and every effort made to secure more equitable assessment. The result has been remarkable, for in 1906-07 the Government share rose to £62,000. Further progress will undoubtedly lead to a considerable annual increase.

Under the circumstances there would appear to be every necessity to carry out Sir F. Lugard's proposal, to determine salaries for the native administrators. The balance of the revenue to accrue to Government or provincial revenues, and be devoted to general objects of expenditure.

18. Under existing conditions, by which Residents are carrying out a personal assessment, or a revision of native assessment, the results of such assessments are sent to the High Commissioner for his approval and settlement. The practice is for the latter to approve or amend them with no settled period, *i.e.*, no "Settlement" is made. The High Commissioner is at present personally responsible for correlating the efforts of Residents, and producing similarity of method, in so far as is compatible with varying conditions of the provinces. This is a task I find myself

* Sir F. Lugard's Memorandum on Taxation in 1906.

incapable of carrying out, both from want of knowledge of the country and lack of technical training in land or land revenue methods. A central co-ordinating authority is, therefore, an absolute necessity. He would advise the High Commissioner, visit, and advise the Residents, and review all assessments. For these purposes he should be a fully competent land and revenue official, more especially as on him would devolve the task of gradually guiding the land revenue and land questions into more accurately defined systems. A land revenue system dealing with a rapidly increasing sum, now amounting to £135,000, will have to be extricated from very difficult situations unless taken in hand at once by a competent central authority controlling and co-ordinating its efforts. At present the instructions of audit and Treasury cannot be fully applied, owing to the methods of collection adopted. These Departments should be able to look to a competent central authority for explanations of general discrepancies, and the procedure necessary for gradual improvement.

19. Though a co-ordinating central authority is an essential, it is no less important to improve assessment in the provinces. Kano, the greatest and richest province of the Protectorate, is still assessed by the native administration under native conditions. I have not been as yet enabled to ascertain what proportion of the various provinces are to-day (1) unassessed; (2) native assessed; or (3) Resident assessed. This is not a matter of surprise when the staff available in the province is considered. In the Kano Province of 30,500 square miles, with a population of 2,700,000, there are to-day six Residents available for the entire review of its administrative and judicial working. They constitute, moreover, the Provincial Judiciary apart from the Native Judiciary. With a vast mass of administrative details for review is it to be wondered that little time can be spared for land revenue? Where healthy seasons have, by reason of non-invaliding, permitted of continuous assessment or the formation of assessment parties much good work has resulted. The Sokoto Province, for instance, assessed in 1905-06 at a total of £7,135 (Government share, £2,457) has, as a result of one season's working of an assessment staff, produced for Government share in 1906-07 about £7,500 and a probable total of £15,000, the Resident reporting the incidence as being still very low in this province.

20. To improve matters in the provinces, a small assessment staff should be added to the central authority. They would devote themselves to all the various objects I have outlined previously, and more particularly for a portion of each tour of service, to assisting in the assessment of backward provinces. I have no doubt whatever of the financial results. Such a staff would cost nothing whatever if the increased revenue which will undoubtedly result from their labours be considered. They will achieve at an earlier date, moreover, the consummation of our earliest improvement, the "Resident's Assessment," and guided by an authority in land assessment, will doubtless suggest many sound improvements on any existing methods.

21. If this staff is necessary under present conditions, how much more necessary will it be in those initial steps which will gradually lead up to a more clearly defined and accurate survey and system. I have outlined the Indian system, not because I should recommend its immediate adoption, the financial position of the Colony could not permit it, but as an indication of the eventual lines along which we will be forced more or less quickly. If communications are improved, my conviction is that its inception will be necessary at a comparatively early date. What I would therefore urge is that a definite proportion of the land revenue should be set aside for the purposes of a land department.

There would thus be provided a continuously improving sum for land revenue and land survey, and I have no doubt whatever that the result of its working would furnish a very large and legitimate increase in the revenue, whereby eventually, with the growing prosperity of the country, the land revenue or rents could be collected in the manner adopted in India. Such a revenue, based on national land tenure, to my mind appears the most equitable yet devised in the history of our dependencies.

22. Summarising the position and proposals for the Protectorate—

- (1) The existing method of land revenue is based on long-established methods of taxation having the traditional acceptance of the bulk of the population.
- (2) In its present form of "Resident Assessment" it is a great improvement on the superseded or corrected native method.

- (3) There is, however, every reason for the early replacement by fixed emoluments of the proportion of native revenues told off to the payment of salaries to native administrators.
- (4) A competent central co-ordinating authority is urgently required.
- (5) A fixed proportion of the land revenue should be devoted to the purposes of land administration and revenue, whereby the "Resident's Assessment" could be quickly completed, and with improvement in revenue, gradually ameliorated.
- (6) The land revenue should be considered as a "rental" for national lands and be kept distinct from all other forms of taxation.

E. P. C. GIROUARD,
High Commissioner.

2nd November, 1907.

APPENDIX I.

EXTRACT from Mr. Temple's Confidential letter, No. 703/07, to High Commissioner, dated 12th August, 1907.

ASSESSMENTS: "NATIVE" AND "RESIDENTS."

37. There is one point to which I would draw Your Excellency's attention. It is that although the assessment officers are able up to a certain point to work independently of the Native Administration, it is to a very limited extent. That it is not even more limited than it is, is due to the amazing confidence which exists in the mind of the average native as to the incapacity of the "Whiteman" to fathom his secrets.

38. For instance, a herdsman will not hesitate to declare 50 cattle when he has a thousand. The assessment officer can in many cases (but not in all) detect the existence of such a margin as this. At the same time, when it comes to the question as to whether the man has 800 or 1,000, the officer has to depend on the evidence of natives and not of his own eyes. To take another case: when a village head declares 60 compounds, 7 goats and 5 sheep (as he is often not ashamed to do), the officer can directly contradict this. But when it comes to knowing whether there are 50 goats or 30 he has again, as a rule, to depend on native evidence.

39. The point which I wish to make is that the difference between the "Native Assessment" and "Residents' Assessments" is a difference in degree and not in kind. It always must be so, I think, until there is a staff (and it would have to be a very large one) competent to actually count cattle, &c., measure farms, &c., without calling in the assistance of the natives at all.

40. There is a point which I think should be remembered when any sort of "central authority" (short of a complete Land Revenue Assessment Department able to cope with the whole Protectorate, or at all events sections of it) should be established, composed of a limited number of expert land revenue officials. The fact being that, under present conditions, the important qualification for an assessment officer is the capacity of sifting and turning to account native evidence and of insisting on the production of true evidence by natives—in fact, it is the qualification developed by political work. A capable political officer, who is not an expert land revenue official, will probably under present conditions, assess a *province* more justly than an expert land revenue official who had no experience of political work; though he would have no chance against the latter in the assessment of a *farm*.

41. I do not wish to imply that expert land valuers would not be useful, I think they would be useful, but within limits. For instance, the yield per acre of land sown with various crops and on various soils in the Protectorate has not, I believe, been scientifically investigated as yet. Many other technical points would be most helpful to assessment officers. At the same time I feel bound to say that I think the general assessment will have to be left, for some time to come, to the political staff, for the reason that we shall be for many years dependent chiefly on the information supplied by natives.

Fixed Emoluments to the Native Administration.

42. This is an immensely complicated subject on which I do not feel that I have sufficient knowledge to enable me to write with any certainty.

43. It seems to me that a complete "Residents' Assessment" of a province or division at all events is a primary necessity, before any steps could be undertaken; as a complete roll of village heads would be the first thing required. There will be thousands of names on the roll.

44. At present the incomes of native officials are more or less in proportion to the importance of their offices, to the size of the territory which they control, or the number of people who follow them.

45. These proportions would have, I take it, to be maintained were any new arrangements made.

46. The incomes of native officials are made up from the following sources:—

- (a) The Gandu, or official farm.
- (b) "Sale" of farms (*i.e.*, of the privilege to occupy farms).
- (c) "Fines" which headmen impose and which are often paid: in some case illegal, but not always.
- (d) Gaisua, or presents (more or less voluntary).
- (e) Portion of taxes (now granted, formerly merely retained).
- (f) Seizure of property *ultra vires* (illegal and now comparatively rare).

47. (a) This, I think, is a thoroughly satisfactory source of income and ought to be made the basis of any new scheme introduced, in the cases of all village heads and district heads, the headman being paid out of the produce of the land and the labour of the people. There is land to spare and the labour to spare in the Protectorate. It is a distinct incentive to labour and production.

APPENDIX II.

YOUR EXCELLENCY,

THE present method of assessing taxation cannot be called a scheme of land revenue. It is either an amalgamation of many pre-existing taxes or a capitation or hut-tax. In either case wealth gained by agriculture plays the principal part in both assessment and payment. But the scientific measurement and valuation on which a land revenue must be based have been

impossible so far, and therefore present taxation can only be called taxation of land in that it aims at deserving its name in the future. That it should do so as soon as possible is urgently necessary. But to effect this a special staff is essential, and the heads of this staff should be experts, for the purposes of advising Your Excellency and of instructing the Political Staff.

2. I would suggest the engagement of three land revenue experts (two to be present in the country at a time), who, to commence with, would form a third branch of the Secretariat. One of the two would tour the provinces, learn from the Residents and from the natives the actual conditions, while the other would do the office work at headquarters, and the compilation of the mass of information scattered through Residents' reports. The necessity for a spare expert in the country arises from the unhealthiness of the Protectorate and the resulting uncertainty of life. After a year or two of this experimental work, Your Excellency would obtain advice, based on both scientific training and knowledge of actual conditions as to the form which a possible Revenue Department should take, and the way in which it should work in with the Political Department.

3. The revenue to be derived from land will undoubtedly be the most important source of revenue, at any rate politically. It will not be the only tax derived from the natives—but its establishment on a scientific basis will greatly lighten the difficulties connected with other taxes. I am most strongly of opinion that steps to this end should be undertaken at once; and I entirely agree with Your Excellency that the cost of the necessary Department or staff will be far more than counterbalanced, and that immediately, by the equitable increase of taxation that will ensue.

ALDER BURDON,
Acting Secretary.

17th December, 1907.

APPENDIX III.

LAND REVENUE.

The instructions relating to the method of assessment to be adopted by Residents have hitherto been, I believe, purposely vague, and are contained in the Land Revenue Proclamation, 1906, and in Political Memoranda, Nos. 5 and 21, where they are further elaborated. Roughly, these instructions are that Residents, in collaboration with native assistants, should estimate the taxable value of every town and village, fix the sum thus arrived at as the tax on the village as a whole, and order the village headman to collect it from the inhabitants in proportion to their wealth and ability to pay. Not only should the wealth derived from agriculture and livestock be taken into account, but that derived from other sources, such as arts and crafts. "The assessment once arrived at would be recorded as a single tax levied on the village as a whole, and it would, as already explained, be left to the village headman to collect it from the individual *pro rata*. . . . The sum will be a fixed one, amended and brought up to date from time to time (but not too frequently), as the Resident has opportunity to visit the town, according to the increase or decrease of wealth, due very often to inter-village migration." (Memorandum 5, paragraph 26.)

2. The disadvantage of this system is obvious, and its working in practice is admirably exemplified in the extract from the report on assessment of Fokka District, Sokoto Province. It differs in fact little, if at all, from the farming of the tax by the village headman, and opens an avenue for endless extortion and injustice towards the individual.

3. The Habe system, which is at present in vogue in the Hausa States, protects the individual from such extortion. It consists in this province in a tax levied annually on each "hoe," *i.e.*, each adult agricultural labourer, besides certain annual licence fees levied on each individual engaged in certain trades, such as blacksmiths, butchers, dyers, &c. Such extortion or injustice as existed consisted in the method of collection, and did not inhere in the system itself. My object, therefore, has been to maintain the system, and to purge it of the irregularities in its application.

4. The system cannot be retained if a fixed sum is levied on a village. The population must obviously vary each year, and, since each individual pays a specific tax, the sum total of the tax of the village must vary likewise. The village headman must therefore be made responsible that a correct list of all individuals liable to taxes is compiled annually, and the correct tax or licence fee recovered from each individual. The Resident's duty would be to check these lists and see that each individual knows and pays the tax or licence due from him. The assessment of a village will thus vary each year, but the individual tax or licence fee is for the time being a fixed sum, known to everyone, and approved by the High Commissioner.

5. The rate per hoe may be different in different villages, according to the fertility of the soil, proximity to markets, &c. In course of time it may be possible to vary the rate according to the soil farmed by each individual, but for the present it may be assumed that in any one village every farm is equally profitable. There are already certain rates for special crops which can only be grown on special soils, such as onions, rogo, sugarcane, tobacco, &c., but for the staple crops of guinea-corn and millet every farm in a village is supposed to be of equal fertility.

6. So far I have only dealt with the system of taxation prevailing in Hausa districts. It did not exist in pagan communities, which, if they paid any tax, usually paid in slaves, and whose inhabitants were for the most part entirely agriculturists. Here, I think, there is at present no alternative but to levy a tax per hoe, or in other words a poll tax. Crude as the method may be it possesses the great advantage of ensuring that every individual knows precisely the amount which he will be called upon to pay every year, and thus protects him from extortion by his superiors. The rate per hoe may again be varied for different villages, or

possibly communities or tribes, but for the present it must be the same in any one village. It is this system which I am introducing into the Gwari districts of this Province, and the Political officers report that it is favourably received by the people, who recognise the protection it affords from extortion by village and district headmen.

7. There remains the question of very backward pagan communities which up to recently have been "tawai" or lawless, and have only just been brought under control, mainly by force of arms. In my opinion it is most important that such tribes should pay a small annual tribute, partly as an acknowledgment of their acceptance of British control, and partly as an inducement to exchange their produce for the wherewithal to pay their tax. As a rule, however, these communities do not use money or cowries, and I consider that the tax should be fixed for the present at a very low figure, so that they will have no difficulty in collecting it each year. In these cases, therefore, I have fixed a small annual sum to be paid, in some cases, by the tribe as a whole, and this sum is calculated more on their ability to collect such a sum than on a careful estimate of their population.

8. I would point out that a tax "per hoe" entails a direct incentive to industry: for the man who farms a large plot of ground, or by abnormal industry reaps an abundant harvest pays no greater tax than his slothful neighbour who grows only sufficient for his own needs. It is true that the Mahomedan Fulanis have placed a further burden on the farmer by mulcting him of a tithe of his produce in the form of "zakka," but this is nominally a gift for charitable purposes, enjoined by the Koran, and formed no part of the original Habe system.

9. I would submit that the schemes which I have outlined and which I have introduced throughout this province, though perhaps differing somewhat from the system prescribed by Sir Frederick Lugard, form the best method at present possible of protecting the individual from extortion and injustice, and present no obstacle to the gradual evolution of a more precise and scientific system of taxation, or of land revenue as at present existing in India and Burma. The work of re-adjustment of assessment each year devolves on the native administration, subject to check by Political officers as they tour their districts. The system is understood by the people, and is no innovation, and therefore demands no assimilation of fresh or strange ideas by the natives, whether of the ruling or the subject classes. It is therefore in entire accordance with the policy of administering the country through the natives themselves in conformity with native ideas.

C. W. ORR,
Resident, Zaria Province.

APPENDIX IV.

SIR,

The Residency, Sokoto, 9th December, 1907.

I HAVE the honour to transmit, as requested, the following remarks on His Excellency's memorandum on land revenue, enclosed in your Confidential letter of 18th November, 1907.

2. Page 49, paragraph 12.—If I may be allowed to say so, I think the following out of the instructions contained does result in a kind of *graduated* compound tax, which is in fact an income tax. The cattle tax is kept quite separate.

3. Page 49, paragraph 13.—There is no doubt that the *individual* is not protected from extortion by the village head or from extortion by the head of his household, except inasmuch as that he can appeal individually or collectively to the Resident. I may add that this is done fairly often. I have had many cases during the past two months. In no case have I found, however, that the individual had any real cause for complaint.

4. The only way that I can suggest to protect the individual, after giving the matter the most careful thought, is the imposition of a poll tax pure and simple. The amount payable by each individual would be published far and wide, and although the headmen, might, by concealing the existence of a certain number of individuals, secure illegal gains, the loser would be to the Government and not the villager. Many arguments could be brought forward in support of such a poll tax; and I am not sure that it would not be welcomed by the population generally, though not by the ruling classes.

5. The educational value of the present system for the Native Administration would, however, be lost, as well as the undoubtedly valuable results secured in bringing the Political staff into close touch with the natives, as stated in para. 14 of the memorandum.

6. *Central Co-ordinating Authority*, para. 18.—I would ask to be allowed to amplify the remarks in my letter, 703/07, on this subject.

To be brief, I regard the establishment of yet another Civil Department with great apprehension. Even as it is, what with the Transport Department, the Constabulary Department, Intelligence, &c., inter-departmental correspondence interferes to an appreciable extent with the work of the Political Department.

The government of the country is, when all is said and done, in the hands of the Political Department; and progress in civilisation, the increase of revenue, the establishment of satisfactory relations between the natives and the Government, depend principally, if not entirely, on the manner in which this Department carries out its duties. I think that the control of the Department requires consolidating, whereas (and I think that most Residents will agree with me) the creation of each fresh civil department tends to weaken it.

7. I would venture to emphasize the point that until a detailed survey, detailed to the extent of demarcating the area of each farm, shall be carried out, *assessment work* is essentially *political work*. Here I entirely agree with Mr. Hewby's remarks,* "Under existing conditions,

* Page 60 *post*.

a juster assessment is generally arrived at by the village and district heads coming in together for discussion and settlement of the rents immediately payable in the coming year, than by an officer attempting to visit every hamlet at some time during the year."

7a. I would further add, in this connexion, that as almost the only form of accumulated wealth in this country is cattle (which are taxed separately), the amount of the General Tax which can be paid by the people depends very much on the annual crop. Hence I think that an annual meeting of the district heads and the Residents in order to adjust the annual tax is most necessary.

8. I do not say that a very senior and experienced Resident travelling from province to province would not greatly assist in co-ordinating the assessments of various provinces. His work would, however, be essentially *political*. Although the Residents may not have a great knowledge of agricultural matters, the Native Administrations have. To get this information from them is the secret of assessment, I think—until, that is to say, a survey can be made.

9. Should a Revenue Department, with a head at Zungeru (and presumably a staff, European and native) and a representative in each province (who would be under the general orders, but not directly responsible to, the Resident, and would therefore consider himself as Head of a "Department," just as each District Superintendent of Constabulary now considers himself Head of his "Department") be started, I venture to think that an unnecessary and unproductive expense will be incurred.

10. *Para. 21.*—Most of the increase in revenue in Sokoto during 1906/07 is due to the fact that practically the whole of the 1905/06 revenue was collected during that year. The assessment (including Jangali) of the Sokoto division (which supplies three-quarters of the total) stood at £14,149 on March 31, 1906. I make special note of this point, as, without taking into consideration the fact that the province is paying a tribute in 1907/08 more than double to that paid 1906/07 would be lost sight of. The assessment for 1907/08 as revised stands (for Sokoto division) at £29,000, including Jangali.

11. *Para. 21.*—Might I suggest an increase in Political Department?

12. *Resident Temple's letter, No. 703/07. Page 54, para. 46.*—I should like to add another source of revenue (*G*) Death Duties.

Mr. Vertue has drawn my attention to the omission of the Death Duties, *i.e.*, 10 per cent. on chattels—personal, collected sometimes by Native Courts, sometimes by District Heads, sometimes by Sarikin Muslimin.

This certainly comes to an appreciable yearly sum for the whole province. I am most anxious to obtain reliable data in order to estimate the amount, as possibly a stricter supervision than has hitherto been exercised should be exercised over this. I am ordering each District Headman to report to the Sarikin Muslimin the property of deceased persons in his district. At present we are quite in the dark as regards the matter. Possibly the matter has received special attention elsewhere.

13. *Mr. Hewby's letter, 28.10.07.* I say in paragraph 7 I entirely agree with Mr. Hewby, but I cannot reconcile this with his paragraph 13. With all due deference to Mr. Hewby's greater experience it appears to me important that each Assistant Resident should obtain a *general* experience of political work; for this reason it appears to me unadvisable to detail any particular officer to a particular branch for more than a limited space of time.

14. *Mr. Hewby's paragraph 11.* It is not so much the District Heads as the *Village Heads* and *heads of households* who are liable to err in this respect. The amount on each is probably small, but in the aggregate would probably be considerable.

I have, &c.,
C. N. TEMPLE,
Resident, Sokoto.

The Secretary to the Administration,
Zungeru.

APPENDIX V.

From the ACTING RESIDENT, Niger, to the SECRETARY TO THE ADMINISTRATION.

I have the honour to submit my notes on land revenue and assessment as obtaining in the Nupe Province.

Resident Bowen's notes also enclosed.

HERBERT S. GOLDSMITH,
Acting Resident, Niger.

Resident's Office,
Choiwa Angulu,
3rd January, 1908.

LAND REVENUE AND ASSESSMENT IN THE NUPE PROVINCE.

To arrive at a fair estimate of the progress that has been made in assessment and the system of land revenue in the Nupe Province, it is necessary to go back to the year 1901, when the Nupe Province was for the first time effectively occupied.

2. After the Niger Company's campaign in 1897, the province rapidly deteriorated into a state of chaos owing to the existing form of rule being upset and nothing in its place substituted. The Niger Company deposed the ruling Emir (Abubekri) and installed the

present Emir (who was then Makum). After the Niger Company's forces had left the province, Abubekri returned to Bida at the head of a large following and reinstated himself once more as Emir.

3. During the hiatus, between 1897 and January, 1901, a general state of unrest prevailed. The native rulers were aware of the fact that their time was short, and that if they wished to increase their wealth in slaves and property they had little time to lose before British occupation would become permanent, and put an end once and for all time to their raiding and extortionate practices.

4. The result was that, on our advent, we found the province in an absolute state of chaos. There was no recognised authority, and the country districts had become "tawaic" (rebellious). No tribute or taxes had been paid for the previous 7 years.

5. In 1902 we began the task of investigating the system of taxation in existence prior to 1897. We found the system of Fulani rule was more or less a feudal one, the right to all land was vested in the Emir of the province, and fief-holders paid rent or tribute to him as overlord. As far as the Fulani holders and court followers were concerned, the tax or rent consisted of a tithe of the produce on all crops. The pagan communities were arbitrarily assessed; the amount of their tribute depended in a great measure on the influence, for good or bad, of the fief-holder in charge at the court of the Emir of Bida.

6. During the year under review we did what was possible in procuring for the native administration payment of its taxes, shorn of irregular exactions by the subordinate divisions and districts constituting the province. The local district headman was substituted for the ajele and messenger system pertaining to the absentee fief-holder, which was a great improvement, as it tended to create confidence in our desire to establish a pure administration in the semi-pagan districts.

7. In 1903 we started what is now known as a "Native Assessment." Information was collected from the fief-holders and checked again by the district and village headmen. The tribute formerly paid by the three Emirates, Bida, Agaie and Lapai, to Gando (as their suzerain) was transferred to Government.

8. The tribute or taxes consisted of a tithe of produce on all crops and was paid in bundles of corn, measures of rice, palm oil, shea nuts, kolas, &c., &c. Presents, voluntary and otherwise, in cowries and live-stock were made. There was also the jangali, or tax on cattle. In addition to the above, the pagan communities paid a further tribute in cowries.

9. Difficulties in collecting these taxes in kind were at once apparent. It was therefore, necessary, if the limited staff in the province was to cope with this gigantic task, to prepare for a cash settlement at once. To do this, it was evident that a process of merging taxes would have to be brought about.

10. The method of our "Native Assessment" (based on native information) on a town, village or farm, was (a) to make a record of the various taxes paid, (b) to arrive at a fairly accurate estimate of the population of the unit, and (c) to determine the ability of the particular unit to pay.

11. After this information had been obtained, a cash settlement was made to cover all the old taxes. The reason, in the first place, for adopting the cash settlement basis, was in order to provide a system of revenue accounting that could be checked and audited.

12. In 1904 the task of supervising the collection of the tribute in cash was all important. Towns and villages belonging to pagan and semi-pagan districts had been so harried in the past by the Bida ajeles and even by their own headmen (when acting under direct orders from Bida) that it was considered essential to guarantee them the fullest possible security against any exaction by dealing with them individually.

13. To effect this, villages and farms were registered, and numbered discs (corresponding to a survey number in Bombay) issued to them. Villages and farms were often found with three or four different names attached to them, and until an assessment staff was organised and maps prepared of the various districts, it was a hopeless task trying to find out whether certain villages owing to several names had paid or not. This simple check proved efficacious from our point of view, and it also afforded the occupiers of the unit some protection.

14. The detail necessary in collecting this tax from the individual village was enormous, but *absolutely necessary*. There was no adequate native machinery existent. Such as there was, was unwieldy, insufficient and hopelessly corrupt.

15. The fief-holders, who would not leave the town of Bida and go out and reside on their fiefs and so become useful district headmen, were now abolished. If proprietary rights in land had existed they might have been described as absentee landlords, with their inevitable train, in a primitive country, of unpaid agents. The fiefs had to support their masters in the big towns as well as a host of messengers. Demands for supplies of every description were continuous. There was no opportunity, even if inducement offered, for natives belonging to the fief to become prosperous, knowing that as soon as they did so messengers would arrive with fresh demands from their masters.

16. There was thus no alternative, as a beginning, but to get the individual headmen of each unit to bring his own tax into Bida and there pay it to the central authority. Had the taxes been paid into the Emir's hands altogether - at the end of each day paying Government his half share—hopeless confusion would have resulted. The Emir had no staff of Arabic writers capable of keeping intelligible accounts.

17. In dealing with the unit at that time, disputes as to payment were easily settled by a reference to the books and to the individual's receipt and number. The idea was to temporarily organise the work until time was available to personally visit each village and farm.

The system paved the way afterwards for a territorial organisation, and, as is rapidly obtaining to-day, with its complement of district headmen (chiefly chosen from the Sarakuna of Bida, as being more intelligent and better qualified to perform the duties of such) in a

position to materially help with this important work of assessment under a British administration.

18. In 1905, owing to the increase of the political staff, a preliminary assessment staff was formed, whose duties were to visit every village and farm, district by district and in geographical order, and to check former statistics which were based on native information. This information was proved on personal hamlet to hamlet visits to be erroneous, a great number of villages and farms had not been reported, and the population and taxes had been considerably under-estimated.

19. The basis of the preliminary assessment is that laid down in Memorandum 5; all native taxes (except jangali) being merged into one general tax paid once a year, and equally divided between the Emir and the native administration and Government.

20. As soon as personal knowledge of a district was obtained, the plan has been to appoint a district headman (as mentioned in paragraph 17) in charge of a well-defined area. Many of the districts are of great size and densely populated; they have again been sub-divided in order to allow the district chiefs with their subordinate staff to efficiently supervise the administration of their various charges.

21. Although the average political staff in 1905 was only 2.18, and in 1906, 3.15, considerable progress has been made with the Resident assessment, *vide* map attached,* which includes assessment work for 1907.

22. The preceding notes cover an up-to-date history of assessment work in the Nupe Province. As to future progress with this most important work, I maintain, it is first of all necessary to *complete* the Resident assessment of the province. When this is accomplished it will then have to be decided what financial assistance is necessary and forthcoming to provide for a Land Revenue Assessment Department.

23. I entirely agree with what Mr. Temple says when he writes: "Under present conditions the important qualification for an assessment officer is the capacity of sifting and turning to account native evidence, and of insisting on the production of true evidence by natives—in fact, it is the qualification developed by political work. A capable political officer, who is not an expert land revenue officer, will probably, under present conditions, assess a province more justly than an expert land revenue official who had no experience of political work." The process of determining the assessment is, in fact, not one of arithmetical calculation, but of judgment and sound discretion.

24. I quite realise the fact that a central co-ordinating authority is a necessity whose chief duty would be to advise Residents as to the best methods to be adopted in the re-assessment of provinces, although a system of assessment and land valuation suitable to one province or district could seldom be accepted without modification for other parts of the country.

25. By drawing our attention to land revenue in Lower Burmah, its system of making records, its particular methods of assessment and collection of revenue, and also by issuing such books to provinces as "Land Revenue in British India," and "Indian Industrial Organisation," His Excellency has rendered us very material assistance and has provided matter for serious reflection.

26. Before we can make very much further progress on Indian lines, the present political staff will have to be considerably augmented; and, until this increase in staff is sanctioned, I maintain we should continue our present methods of assessment and collection, endeavouring each year to arrive at greater accuracy in registering village records.

27. I should personally like to see fixed settlements for at least two or three years. During this period the assessment staff of a province would have time to carefully revise the previous assessment. The native would be more contented and would not be tempted to abandon cultivation on the approach of a revision of settlement in order to reduce ostensible "assets."

28. The "Imperial Gazetteer of India," Vol. IV., p. 214, states: "The solid advantages connected with fixity of the demand, the opportunities it afforded for the extension and improvement of agriculture, and the immense relief which it usually provided after the harassing variations of pre-annexation days, have made the Indian Government somewhat chary of allowing departures from the principle of a fixed revenue."

29. It has always been recognised that a fixed demand, however light in itself, is apt to press hard on small holders in bad years in areas where the produce varies considerably from harvest to harvest. But I maintain it is quite easy for a Resident (with His Excellency's sanction) to postpone or remit in bad seasons a portion of the whole of the fixed revenue in tracts affected by agricultural distress.

30. I am of an opinion that with an assessment subjected to yearly revision it will, to a certain extent, stifle individual industry. An occupier of land would say to himself, Why should I work hard and improve my land if I am to be made pay according to the results of my industry?

31. I am well aware of the loss of revenue that the Government would suffer with a permanent settlement over a number of years, as at present sufficient information is not available for a long term settlement. I am in no way advocating such a step, but I strongly maintain that experimental settlements for short periods, once a province is Resident assessed, would be highly beneficial.

32. In conclusion and with regard to determining the salaries for the native Administrators I am not yet in a position to say what should be considered an adequate salary for the Emirs of Bida, Agaie and Lapai, or other native Administrators. I am of opinion that their share from the land revenue tax at present is quite inadequate to keep up their positions as Emirs. For 1906/1907 the Emir of Bida received £657, Emir of Agaie, £147, Emir of

* Not reproduced.

Lapai, £122, and the Kuta of Mureji, £108. With the exception of the Kuta of Mureji, the amount received from other sources by the Emirs is very limited now-a-days.

HERBERT S. GOLDSMITH,
Acting Resident, Niger.

Resident's Office,
Choiwa Angulu,
2nd January, 1908.

APPENDIX VI.

LAND REVENUE AND ASSESSMENT.

I beg to submit the following remarks upon His Excellency's memorandum on this subject.

The following is briefly the *history* of the assessment and taxation of Bornu from our arrival there in 1902 up to now:—

1. The Shehu was called in from Dikoa in April, 1902, and appointed by Colonel Morland. The impoverished country had just been bled of 80,000 dollars levied by the French as their expenses in destroying Rabeh and his son; and the Acting Resident had declined to allow any tax collection before I arrived in October of that year. There was no groundwork to go upon, and as a mild way of giving the Shehu some revenue to live upon, I allowed him to collect tribute at the rate of \$1 per compound, which was mostly completed by his fief-holder collectors by the following spring; of this, Government took one-eighth.

2. In 1904, things were beginning to settle down, and the Shehu had furnished a rough list both of his fief-holders or district heads, and of the tax-paying groups. I limited the "Binirum" to a total for a village based upon a rate of \$2 per compound; and Government took a quarter of this. Lists were furnished by the collectors of the taxed village groups, and the amount paid by each, representing the only tax in the country (except the "Sadaka" grain tithes and the cattle tax), known as "Binirum," or a tax levied in the cold weather upon every householder, the incidence being determined by the Billama, or village head. Where to be found, the original native assessments of villages or groups were generally either unreliable arbitrary levies, or else had become of no value through the altered circumstances of the country and its depleted population.

3. In the spring of 1905, every one of the district heads, mostly newly appointed, came into headquarters with all the village heads of his district, and the Resident, together with the Shehu, arranged with these native officials, working from the lists furnished the previous year, and hearing all that each had to say for an increased or decreased amount, what was considered a fair assessment of the tribute payable by each village; each village getting a slip bearing its assessment. This was the first comprehensive assessment of the proper districts of Bornu; the collection was made by the village and the *resident* district heads; and Government took a quarter again.

4. In 1906 the last year's assessments were continued subject to certain increases and modifications found necessary by officers on tour during the year, and Government messengers were sent to every village to announce publicly its payable tax; but this year Government took half of the whole amount.

During these years the "Sadaka" was collected separately, and apportioned like the "Binirum."

5. In February and March, 1907, every district and village head again came into headquarters, and the Resident and the Shehu again went into the assessment payable by every village in Bornu proper. The result of this was a thorough revision of the assessments, which were now amalgamated with the tithes (estimated at an average harvest's value); and though considerable reductions and increases both were found necessary, the assessment of Bornu proper remains about the same, viz., about £13,500. The chief progress shown during the year is an increase in pagan districts of £1,500, and in "Jangali" (stock tax on nomads) of £1,000, due chiefly to the increased political staff. The assessment of Bornu should not exceed its present figure of about £20,000 for a few years to come; but it should be annually examined at the end of the financial year.

6. The foregoing describes the manner in which the whole of Bornu proper has been assessed, and the assessments are considered satisfactory, being checked and revised personally in the more important cases on the spot by a Resident when on tour; in which case much the same procedure is adopted as is described in Mr. Temple's instructions of 20th May, 1907, to the Sokoto officers, taking \$2, or 6s. per compound as the basis in average cases, and making allowances for obvious wealth in stock, &c.

7. In the pagan areas, where possible, the same method has been adopted, but from lack of cohesion and district authority, it has been necessary for the assessing officer to personally inspect the villages in nearly every case.

8. I submit that to have endeavoured to literally carry out instructions and the law would have meant mostly waste of time, and the province not yet half assessed; in many of the agricultural districts of Central and Eastern Bornu, dotted with thousands of hamlets, only a trained assessor could deal with the matter; and when he had done so, his work would be valueless in one or two years. Under existing conditions a juster assessment is generally arrived at by the village and district heads coming in together for discussion and settlement of the rents immediately payable in the coming year, than by an officer attempting to visit every hamlet at some time during the year. These remarks, of course, refer less to the compact or walled villages met on the western frontier than to the far larger proportion

of the province. I trust His Excellency will agree that the best line practicable in the circumstances has been followed; no place in Bornu now pays land rents upon an unrevised arbitrary native assessment; and I hope the foregoing remarks, together with the map submitted with my August Report, will afford the necessary information asked for.

9. I have the honour to thoroughly agree with Mr. Temple's remarks upon "Assessments: Native and Resident's."

10. By far the wealthiest community in Bornu are the semi-nomad cattle-owners, the Abore Felata ("Bororo Fulani") and the Shuwa Arabs, who are at present the most difficult to deal with.

11. While admitting that the extortion in the Fokku District described by Mr. Vertue is common in some districts of Bornu, and is most difficult to check, I deliberately state that there are now no large sums privately levied and pocketed by district heads.

12. The "Capitation Tax" of Upper Burma was superior to the method in use in Bornu to-day, and is much what the latter, if continued, would arrive at in a few years' time. I must say that if the present method of taxation generally in vogue in the Northern Provinces is to be called a poll-tax, I cannot agree with Major Festing and Mr. Palmer that it will never be accepted; the natives object to it no more than to taxation of any kind. The term "Capitation" should be dropped, and be covered by the "latitude allowed to the skilful officer." The land revenue assessment seems very elastic by law, and the system seems to be a natural development of the methods at present in vogue in Northern Nigeria.

13. I thoroughly see the necessity for a central land revenue authority, who I would hope would have an assistant in each province, until when perhaps the most suitable officer in each might be detached as provincial assessor; in which case, of the present Bornu staff, I would name Assistant Resident Thomson as the most fitted for the work.

W. P. HEWBY.

Resident, Bornu Province.

Zungeru, 28th October, 1907.

MINUTES OF EVIDENCE

TAKEN BEFORE THE

NORTHERN NIGERIA LANDS COMMITTEE.
FIRST DAY,**Monday, 1st June, 1908.***Colonial Office, Downing Street.*

PRESENT:

SIR KENELM E. DIGBY, G.C.B. (*Chairman*).SIR J. DIGGES LA TOUCHE, K.C.S.I.
MR. THEODORE MORISON.
MR. C. L. TEMPLE.MR. H. BERTRAM COX, C.B.
MR. CHARLES STRACHEY.
CAPTAIN C. W. ORR.
MR. JOHN ANDERSON (*Secretary*).

SIR RAYMOND MENENDEZ, called in and examined.

1. (*Chairman*.) You are Chief Justice, are you not, of Northern Nigeria?—Yes.

2. For how long have you been Chief Justice?—Since January, 1905.

3. For three years and a half?—Yes.

4. Would you kindly give us an account of what your judicial system is? What court do you preside over?—The Supreme Court.

5. What is the Supreme Court composed of?—At present there is only one Judge there, the Chief Justice. The jurisdiction of the Supreme Court is limited geographically, and with reference to the causes that may be submitted.

6. It is limited both geographically and as to subject matter?—Yes.

7. What would be the geographical limitation. Will you show us on the map?—I could only tell you by referring to the Orders. It is limited according to the discretion of the Governor expressed by means of an Order. I do not know what Orders have been made recently.

8. But practically what is it?—Practically the home provinces—the two cantonments, Lokoja, and Zungeru.

9. You reside at Zungeru?—I reside at Zungeru.

10. And your principal Court is at Zungeru?—Yes.

11. Do you entertain appeals in any form from the courts of the other provinces?—Generally speaking, no. The provincial courts are quite distinct. Latterly their cause lists have been submitted to the Chief Justice, who only acts in that instance on behalf of the Governor, who is practically the Court of Appeal.

12. The Governor is technically the Court of Appeal, and I suppose he refers appeals to you?—Yes.

13. It is very much like the Judicial Committee of the Privy Council here?—He does not actually refer the appeals. The appeal from the provincial courts arises on the Cause Lists being forwarded to him. They are forwarded periodically with the minutes, and he reviews the cases. Whenever he has been particularly busy he has simply transferred them to me and asked me to exercise his powers under special proclamation.

14. May I take it that the Appellate Jurisdiction is primarily vested in the Governor?—It is primarily vested in the Governor. In civil matters there is appeal to the Supreme Court.

15. Appeals go to him, and he either entertains them himself or refers them to you?—Yes, in which case I simply act for him and not as Chief Justice.

16. Have you no statutory Appellate Jurisdiction except under proclamation?—In a few civil cases.

17. They will mostly concern us, will they not?—Yes. As a matter of fact there have been no appeals in the past.

18. Is it open to the litigant to appeal from the provincial Court directly to you?—It is in civil matters.

19. But you say that it has not been the practice to appeal hitherto?—I cannot remember any appeal. There has been none in my time, I think.

20. Have you jurisdiction in the first instance?—Yes, to a limited extent. I have limited jurisdiction in criminal matters only, the limit of punishment being six months.

21. I think that we may leave criminal matters altogether. I do not see that they come within our inquiry. What we are really driving at and concerned with is what the land law is and what the nature of the administration is?—Exactly.

22. In civil matters you have original jurisdiction?—Yes.

23. That is to say, if anyone claimed that he had been wrongfully turned out of his land or anything of that sort, it would come before you?—Yes, provided that one of the parties was a non-native.

24. Supposing that both parties were natives, what would happen?—Within the limited jurisdiction they can come into the Supreme Court. The jurisdiction is geographically limited.

25. The jurisdiction of the cantonments?—Yes.

26. (*Mr. Strachey*.) There are only two cantonments?—Yes.

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Sir R. MENENDEZ.

27. (*Chairman.*) In the case of those cantonments you have original jurisdiction in the first instance?—Yes.
28. But not elsewhere?—Not elsewhere, except in cases in which a non-native is concerned. The limitations in Northern Nigeria are very unusual. There is limitation as to the class of person who is the plaintiff, and there is limitation as to the causes, and there is geographical limitation, the idea being, I believe, that the Supreme Court really should remain in the background, to be referred to by the Governor whenever he deems a case sufficiently important to go up. Generally speaking, the provincial courts deal with nine-tenths or ninety-nine-hundredths of the litigation.
29. When you speak of the provincial courts, do you mean the native courts?—No, courts presided over by residents. You see they have a very large jurisdiction.
30. Supposing that a case arose elsewhere than in the cantonments, that would in the ordinary course of things first of all come before the resident?—Yes.
31. There is no direct appeal from the resident to you, is there?—Only in civil matters.
32. In civil matters there is?—Yes. There is a small limitation there. I forget the amount.
33. (*Mr. Temple.*) £50?—Yes. The limitation as to causes the value of which exceeds £50.
34. (*Chairman.*) When the amount is over £50 there is a right of appeal from the resident to you?—Yes, from the resident to the Supreme Court.
35. An appeal as of right?—Yes.
36. You have told us about the relation between the Supreme Court and the Court of Residents. Now as to the native courts?—I have nothing to do with them.
37. Nothing comes to you from the native courts?—No.
38. Can you tell us something about the native courts or shall we get that from another witness?—I think one of the residents could give you far more accurate information than I could upon that subject.
39. You would rather not speak about the native courts?—I would rather not, because I have had nothing to do with them really.
40. Is the larger part of your work criminal or civil?—It has been criminal hitherto.
41. What sort of cases relating to land have come before you? Have you had any question as to the tenure of land?—I do not think any case at all affecting the tenure of land has ever come before me in Northern Nigeria. In Southern Nigeria it has.
42. You cannot remember any case affecting tenure coming before you?—No, I cannot remember any.
43. No case with regard to testamentary disposition, or anything of that sort?—No.
44. Or inheritance?—No.
45. Or mortgage of land?—No, none.
46. May I take it generally that no case affecting land has in any way come before you?—I cannot recall a single instance. I am speaking now, of course, with reference to Northern Nigeria only.
47. Certainly. We are only concerned with Northern Nigeria. Although you say that no case has come before you, I suppose that if any case had come before you it would have been under the fundamental law relating to land. No. 8 of 1900, as far as I can see, is the proclamation. It may be cited as the Lands Proclamation, 1900. Section 2: "From and after the passing of this proclamation no person other than a native"—and a subsequent proclamation inserts "native of the Protectorate"—"shall either, directly or indirectly, acquire any interest in or right over land within Northern Nigeria from a native without the consent in writing of the High Commissioner first had and obtained." Section 3: "Such consent shall state the nature of the interest or right acquired and such other particulars relating thereto as the High Commissioner may from time to time deem necessary." Section 4: "Any such interest in or right over land acquired without such consent as aforesaid shall be void." I suppose that I may call that the fundamental law relating to land?—Yes, it is really. There has been very little legislation. The only three are, that proclamation, the proclamation relating to Crown lands, and the proclamation relating to public lands. This is a sort of protective legislation copied from Southern Nigeria with a view to keeping speculators out and protecting native interests generally.
48. That, as I understand it, as the law now stands prevents any person who is not a native of the Protectorate from acquiring any interest or right over land in Northern Nigeria without the consent in writing of the Governor?—Yes.
49. Is it a general principle of the law of Northern Nigeria that, except so far as it has been modified by proclamation the Court would act upon English law?—Yes.
50. That is so?—Yes.
51. Therefore with regard to any peculiarities of the law of Northern Nigeria we must look to the proclamations?—Yes.
52. If you regard the customs of the natives as forming part of the law of the land, that principle also can be found in the proclamations?—Yes. That is expressed in two of the proclamations—the Supreme Court and the Provincial Courts Proclamations.
53. Let us get on the notes what those are, because this is very important. I do not want to go into detail, but merely to get the facts. It will be convenient to get them through you, if you do not mind. Section 10 of the Native Courts Proclamation, 1906, is this: "Subject to the provisions of this proclamation, or any proclamation in amendment thereof, the native law and custom prevailing in the territory over which a native court has jurisdiction, and any amendment of or addition thereto made under Section 21 of this Proclamation, shall be administered by such court." That is native law and custom?—Yes, native law and custom solely.
54. "Provided that no punishment involving mutilation or torture, or which is repugnant to natural justice and humanity, may be inflicted. Subject to such rules as may be made under Section 22, Sub-section (3) of this Proclamation, the jurisdiction conferred on native courts shall (as regards practice and procedure) be exercised in accordance with native law and custom." That is what binds the native court?—The idea, I think, is that native law and custom shall be solely administered, but that the judges of the native courts shall have power, and they are given power under one of the later sections or sub-sections, to adopt any of our proclamations or any part, and enforce them as though they were native law.
55. The 13th Section is this: "A resident shall at all times have access to the native courts, and, on application from either a plaintiff or defendant, or from any person or persons convicted by any of such courts, or of his own motion, may:—(a) Suspend, reduce, or otherwise modify any sentence or decision of a native court; or (b) order a re-hearing before any native court in his province; or (c) transfer any cause or matter, either before trial or at any stage of the proceedings, to the provincial court." That gives a tolerably complete right of appeal?—It is a very large and thorough supervision.
56. It enables them to alter, or modify, or suspend any sentence, or to transfer a cause?—Yes.
57. The provincial court is the court of the resident?—Yes.
58. He could only entertain suits between natives under this power, I suppose, under the Provincial Courts Proclamation?—There is a proclamation dealing with that. There is a possibility of a cause originating in a native court coming to the Supreme Court in a very indirect way by means of a re-transfer. It can be transferred by the resident to his own court if he thinks it desirable, and then the chief justice himself can, or the Governor can, or the resident himself can, transfer that to the Supreme Court.
59. Has the chief justice the power of transferring a cause before one of the residents to the Supreme Court?—Yes, he has.

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60. Have you jurisdiction, quite independent of the Governor, to do that?—Yes. There is one section under which the chief justice can transfer causes from the provincial court to the Supreme Court. That is under the Supreme Proclamation.

61. I refer now to the Supreme Court Proclamation No. 6 of 1902, Section 25: "Any cause or matter arising within the jurisdiction of the Supreme Court, or belonging to any class or classes of causes or matters over which the Supreme Court has been declared to have jurisdiction in the manner hereinbefore provided may, at any time and at any stage thereof, and either with or without application from any of the parties thereto, be transferred by the chief justice from any court to the Supreme Court, and such cause may be transferred, either entirely, or in respect of any part thereof or procedure required to be taken therein." That certainly does give the chief justice independent power of transferring?—Yes.

62. Have you had applications of that kind?—I do not think I have exercised the power at all since I have been out there. I do not know whether it had been exercised previously.

63. Now supposing that a cause was transferred to you (you not having actually exercised the power, I am putting to you rather an abstract question), and supposing that the native custom was the one way and the English law was another, what would be your notion of your duty in such a case? I do not want an answer that will bind you in any particular case, but I want to know whether you would deal with it according to English law or according to native custom?—We always respect native custom as far as we can. Section 18 of the Supreme Court Proclamation, I think, makes special provision for that.

64. That is the same proclamation?—Yes.

65. That is the section with regard to the application of native law and custom:—"Nothing in this proclamation shall deprive the Supreme Court of the right to observe and enforce the observance, or shall deprive any person of the benefit of any law or custom existing in the Protectorate, such law or custom not being repugnant to natural justice, equity and good conscience." You have had no experience, I suppose, of the actual method of proving these customs? It has not come before you?—None in Northern Nigeria. It has in Southern Nigeria.

66. The analogy is sufficient, I think?—We were always allowed to call the chiefs of the districts affected and take their statements under oath as to the details of the native custom affecting any question. It is a pagan country, and there are no documents down there. In the North we are allowed to accept any manuscript of apparent authenticity, and chiefs of standing are also allowed to be called, I think, to prove any particular native custom.

67. That is the kind of evidence which would be admissible to prove native custom?—Yes.

68. Have you had considerable experience of Southern Nigeria?—Yes.

69. Is there much difficulty attaching to it? Is it very difficult to get at native custom, or is it generally pretty well recognised and admitted?—It is very well recognised. It is perfectly well known to all the chiefs.

70. Have you ever known of a dispute as to what the custom was with regard to inheritance or anything else?—No, I cannot recall any instance in which there was any dispute on any special point. There was, as a rule, perfect agreement between the chiefs. Where natives are concerned, chiefs might be called on one side or the other to contest the statements of the first chiefs.

71. Would you say that your experience in that part of the country would be more or less applicable to the parts that we are considering?—I think that it would with regard to the pagan portions.

72. You say that the custom is pretty well known and recognised?—Yes.

73. And apparently easily proved?—Yes. I have never had any difficulty really.

74. Do the customs vary much in different parts?—Customs among the natives, do you mean?

75. Yes?—No. My impression is that customs prevailing amongst the pagan communities in Southern Nigeria are practically, if not altogether, the same as those in the pagan communities of Northern Nigeria.

76. As far as you know, there is not much difference between the customs of one province and another?—So far as I know there is not.

77. I suppose that there would be certain general differences between Mohammedan provinces and pagan provinces?—Yes. I have had very little experience of Mohammedan provinces. Southern Nigeria is all pagan.

78. Has the Resident's Court, like the Supreme Court, the power to recognise native custom?—Yes. There is a corresponding section in the Provincial Courts Proclamation No. 9 of 1902.

79. As far as I can see, No. 9 (1) is in the same terms?—I think it is in exactly the same terms.

80. I think that it is substantially the same as what we have already read. What you were saying just now comes in in the second sub-section of Section 9:—"In deciding questions of native law and custom, the Court may give effect to any book or manuscript recognised by natives as a legal authority, and may call to its assistance native chiefs or other persons whom the Court considers to have special knowledge of native law and custom"?—Yes.

81. That is in the provincial courts, or in other words, the courts of the residents?—Yes.

82. I do not know whether you have anything special to say about the proclamation as to registration. There is a system of registration of land?—Yes. There is provision made for the registration of instruments affecting land.

83. I do not think we need trouble to go into detail. I have marked as possibly important, two sections of proclamation No. 10 of 1901: "(6) Any instrument affecting land in the Protectorate may be registered under this proclamation subject to the conditions hereinafter mentioned." Then there is a provision that no instrument except a will or probate shall be registered unless it contains a description which shall include a statement of the boundaries, etc. "(8) No instrument affecting land granted by a native to any person other than a native shall be registered unless the registrar is satisfied that the conditions of the 'Lands Proclamation, 1900,' have been duly complied with and unless there is produced for the inspection of the registrar the consent in writing of the High Commissioner to the granting of such instrument." "(21) Registration shall not cure any defect in any instrument registered or confer upon it any effect or validity other than that provided in the two preceding sections." It does not affect the title?—No, it does not affect the title at all.

84. (*Mr. Cox.*) 19, 20, and 21 are common forms, are they not, and are to be found in other West African possessions, notably the Gold Coast?—Yes, and in some of the West Indian colonies.

85. (*Chairman.*) The proclamation as to Crown lands is No. 16 of 1902?—Yes.

86. I do not know whether you are familiar with the Crown Lands Proclamation of 1902. That purported apparently to vest in the Governor certain lands which are set out in the schedule and which had been acquired by the Royal Niger Company?—Yes. It does not set out the interests that had been acquired by the Royal Niger Company.

87. No, it does not. It merely sets out the fact that the Royal Niger Company had certain lands granted to them, and they are described as the grantees of 35 different blocks of land?—Yes.

88. And then this proclamation sets out the agreement between the Governor and the Royal Niger Company by which these lands are declared to be hereby vested in the High Commissioner for the time being in trust for His Majesty, his heirs, and successors, and upon the death, resignation, or removal of any High Commissioner, all such lands, rights and easements as aforesaid shall become vested in and held by the succeeding High Commissioner in trust as aforesaid. Then there are other provisions as to the powers of the High Commissioner with regard to lands and

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so forth. The 7th Section is this "The provisions of this proclamation shall apply in every respect to all other lands, and to all rights or easements over lands situated in Northern Nigeria which are or shall after the commencement of this proclamation become the property of His Majesty, his heirs, and successors, in the same manner as if they formed a portion of the lands mentioned or referred to in the Agreements and Instruments set out in the Schedule." Has any practical question arisen out of that proclamation in any way?—No; there is nobody to ask any question. The natives would never come forward against the Government to say anything. No question has actually arisen in the courts, at any rate.

89. Those lands have been regarded as Crown lands?—Yes, as Crown lands.

90. (Mr. Cox.) Do you mean that the native naturally regards these lands as having been sold to the Royal Niger Company?—There always has been some little dispute as to whether the Niger Company acquired all their lands from the proper authority. The Atah of Iddah claims jurisdiction over Lokoja.

91. (Chairman.) Does anything turn on the Minerals Proclamation, which is No. 5 of 1902. It seems to have been amended in 1904. I have marked three sections in that as possibly being of importance. That proclamation provides for the prospecting for minerals. I think that the third section is of importance as showing the sort of control exercised by the Government: "It shall not be lawful for any person after the commencement of this proclamation to prospect for minerals, mineral oils or precious stones without having first applied for and obtained either a general or an exclusive licence to prospect in the prescribed form. It shall be in the discretion of the High Commissioner whether to grant or to refuse an application for a licence to prospect." Then as to the rights which are to be conferred by an exclusive licence, Section 4 says: "An exclusive licence shall entitle the holder thereof and his duly authorised agents if and when approved by the High Commissioner to the sole right of prospecting for minerals, mineral oils and precious stones, or some one or more of them as stated in the said licence, within the area named therein not exceeding 3,000 square miles, for the period mentioned in the said licence; provided always that the grant of an exclusive licence to prospect for particular minerals, mineral oils or precious stones shall not prevent the High Commissioner from granting other exclusive licences in respect of the land or any portion thereof affected by such first named licence to prospect for minerals, mineral oils or precious stones not included in the said licence." I think that by a subsequent proclamation that is rather enlarged. 8 is this: "A licence to prospect shall, subject to rules and regulations to be made as hereinafter provided and to the provisions of Section 52 hereof, entitle the person holding the same to enter upon any land, whether the property of Government or any other person, and prospect for minerals, mineral oils and precious stones, or some one or more of them as in the said licence is mentioned, and any person interfering with or obstructing the holder of a licence to prospect in the exercise of any rights given to such holder under the provisions of this proclamation shall be guilty of an offence and shall be liable to a penalty not exceeding twenty-five pounds or to imprisonment not exceeding three months." That is protecting the right of prospecting. 10 is: "No such application shall be granted which shall be for a greater area than five square miles." Then come regulations which deal with the application for a licence to mine, the form of the licence and the rights of the holder of the licence. A general power is given to enter upon the land and dig for, mine and work minerals, mineral oils or precious stones not mentioned in the first named licence, and so on. Then 15 is a limitation of those rights. 9 is: "Any person desiring to acquire the right to dig for, mine and work minerals, mineral oils and precious stones, or some one or other of them, upon or under any land, other than the land mentioned in Section 52 hereof, shall make to the High Commissioner an application in writing which shall be in the prescribed form." Section 17 is this: "Any person digging for, mining or working any minerals, mineral oils or precious stones

without such licence as aforesaid shall be guilty of an offence, and shall be liable to a penalty not exceeding five hundred pounds or to imprisonment not exceeding twelve months." Section 19 says: "Subject to the provisions of Section 52, every holder of a licence to mine shall from the commencement of this proclamation be charged with the payment to His Majesty of a percentage on the annual amount of all profits made on the capital employed in or about the exercise of the rights conferred by such licence and of a royalty or percentage on the gross value of all minerals, mineral oils, and precious stones gotten in the exercise of the said rights, and provisionally and until such percentages or royalties shall be fixed and determined by any proclamation hereafter to be enacted it shall be lawful for the High Commissioner, subject to the approval of the Secretary of State, to fix and determine the same." The law seems very clear that no person can mine without first getting a licence to prospect; and, secondly, a licence to actually mine?—That is so. That is very definite.

92. I think that is all that concerns us in that. I do not know whether there is anything else that you think you ought to put before us?—No. You have already referred to Section 8 of the Minerals Proclamation, in which the question of property is raised. The Government admits, through the proclamation, that there may be property in somebody else. It is only with a view to amendment. It says: "whether the property of the Government or any other person."

93. It is a statutory admission that the lands may possibly belong to somebody else than the Government?—Yes, that is all. I only mention it with a view to possible amendment. I might add, with reference to tenure generally, that I should not be at all surprised to find—in fact, I believe it to be so—that the conditions of tenure prevailing among the pagans in Southern Nigeria are the same as those in Northern Nigeria and *vice versa*, because the people who would be affected by the influence of the Atah of Iddah would include the Nupes as far as Bida in the old days, and the primitive tenure, I am quite certain, is always the same.

94. Would you follow that up at all by bringing in your experience of Southern Nigeria on that?—I am absolutely convinced of one thing; the idea underlying tenure in the native community is that land is the property of the people, and that their chief is a trustee for the people, and that every head of a family, every freeman in the community, is entitled to as much land as he can reasonably require to support himself and his family, and is entitled to keep that land as long as he cultivates it, as long as he uses it for the purpose for which it was granted, and as long as he behaves himself. It is liable to reversion if he misbehaves, if he is guilty of any criminal offence in the eyes of the community, but as long as he behaves himself in a decent way he really is a licensee in perpetuity.

95. But still there is no idea that the land is his in any other sense than that he has the use of it under these conditions?—No—simply as a member of the community.

96. Supposing that by force or by fraud he was deprived of that land, would he have a right of recovery?—Strictly speaking, he would, only it might be very difficult to enforce it.

97. Let us take it in two ways. Would he have a right of recovery against a wrongdoer who did not represent the tribe or the chief of the tribe?—Yes, he has the right of possession and user of the land.

98. Do you often have suits of that kind?—We have had some, but usually they are settled out of Court. The Resident or District Commissioner would visit the spot, call the parties together, hear the evidence, and decide: "The land belongs to 'so and so.' You are a trespasser." They are perfectly content with that.

99. Do you think that the customs with regard to inheritance, possession and so on, are the same?—They are subject to a little variation in detail, but generally they are the same, I think. There is never any written will amongst them, but the possessor or the licensee has the right to dispose of his property to any member of the family whom he constitutes the head of the family when he is passing on. Otherwise it generally goes to the eldest son.

100. Is there anything in the nature of a testamentary disposition recognised?—Not among the pagans. Nothing is recorded in the way of a written testament.

101. (*Sir J. Digges la Touche.*) The younger sons would have a right to the land too, would they not?—Yes. There is the house system, and a very good system it is too, by which the man who is the head of the house has to provide for everybody in it. He would be given enough land to provide for the support of the entire house, including the family, and those who have been brought up in the house as domestic servants.

102. (*Chairman.*) How does it work? Does it result in a great deal of sub-division of land?—Yes. A man will take enough land to supply himself and all his sons, and divide it up. In that way you gradually get the smaller village formed, and that would account, I think, for the village boundaries. They gradually extend in that direction.

103. When you say that it belongs to the chief as trustee, you mean for the community?—I am speaking of the primitive native tenure. Take a community where we have not penetrated, for instance. The head chief holds all land in trust for the people themselves. He cannot dispose of it.

104. By "the people" do you mean the village community?—Yes.

105. (*Captain Orr.*) Or several village communities where you have a federation?—Yes, where you have a federation. There you have the senior chief, who is in the position of king—the Emir.

106. (*Chairman.*) You say that it is split up into villages, and that the boundaries are known?—Yes, they are known.

107. Would this right belong to the village community, or to the general tribe? Each village has a chief?—Each village has a chief, and the chief would exercise rights over that tract. Each member of the community would in turn have his right to a proportion of the village land.

108. (*Mr. Cox.*) To a defined proportion?—To whatever he requires. It is defined temporarily, but he has a right to ask for more if he needs it, and if it is reasonable it will be given to him.

109. (*Mr. Morison.*) You said that he had a right to the continued possession of a certain amount of land. Is that subject to any payment for the benefit of the tribe?—Yes. They have a very hazy conception as to rents and taxes. They always regard the payment as more in the nature of a present or contribution to the head of the tribe for expenses of government and upkeep and looking after them generally. It is usually assessed at the end of the year when the crops are taken in.

110. Something is always taken?—Yes.

111. Does it vary?—Yes, it varies according to whether it is a good year or a bad year.

112. If a man refused to pay the contribution, the sense of the tribe would convict him?—Yes. He has his rights as a member of the community, and he also has his duty, which is to assist in paying the expense of government.

113. You are speaking of the tribes in Southern Nigeria?—Yes.

114. (*Mr. Temple.*) Can a chief not allow a member of another neighbouring tribe to settle on the land of his own tribe?—Only with the consent of all the chiefs. In the event of a stranger coming in a council of the community has to settle that question.

115. You mean in the event of a grant by the chief to a stranger of another tribe?—Yes.

116. (*Chairman.*) Would it occur to any native not in the position of a chief to convey in any sense either the use of or the property in his land to a stranger, a non-native?—No, he has no right.

117. It would not occur to him as a possibility?—Only if he came into contact with the native-barrister.

118. (*Sir J. Digges la Touche.*) He might transfer it to a man of his own tribe?—In theory it would revert to

the chief, who would regrant it. It is probably done in a very simple way by consent.

119. He could not sell his rights. He could not take a present to give possession?—No. The land is given to him for the support of his family. As long as he uses it for that purpose he can keep it, but as soon as he discontinues that it reverts.

120. He has no transferable right?—No, no right of alienation. There is no right of mortgage, except at Lagos.

121. (*Mr. Strachey.*) Supposing that a desirable stranger came along who, it was thought, would add to the wealth or strength of the tribe, could the chief provide a place for that stranger on the tribal lands?—Not on his own initiative. It would have to be referred to the Council.

122. I meant that. I meant, could the village community do it?—Yes.

123. Always?—Yes. It is not easy to gain admission as a stranger in that way, but there are exceptions, as you suggest.

124. (*Sir J. Digges la Touche.*) There is an amplitude of waste land, is there not?—Yes. But they always like a lot of land reserved because they have shifting cultivation.

125. Strangers may come in and make presents and tempt them?—Variations of tenure are always possible under those circumstances. The tenure that you find on the coast is not the real primitive tenure, because contact with English notions of land tenure, especially when there has been the assistance of a native barrister, has its effect.

126. (*Chairman.*) What is the unit. Is it the village?—There is a village unit. You find a large federation of villages, but you often in pagan countries, more often than not, find comparatively isolated villages, and then the head of the house, as he is called, the head of the family, is the unit.

127. Does that depend upon long established custom, or upon what does it depend?—It depends on custom.

128. The area or composition of the community will depend on custom?—Yes. The question is inevitably mixed up in pagan countries with slavery. A slave will have land, but he has not the rights of an ordinary licensee. Down in the south the head of the house includes in his house not only blood relations and the men who have properly married into the family, but also those persons who are called slaves, but who are really domestic servants. They are given portions of land to cultivate. He (the Head) always represents the family in any question affecting that land.

129. With regard to a whole village community, does the idea of kinship come in at all?—Yes, very largely. You can trace common descent.

130. Does any question ever arise about the limits and extent of a village community. Does the question arise as to who belongs to a village and who does not?—Yes, there are frequently questions of that sort, because they have no definite demarcation. The older people always know where the confines are, but gradually the trees are felled and disappear, and it is very difficult to find out the limits. They are apt to overlap.

131. Suppose that a man's family increases so much that his holding is insufficient for him?—He simply goes to the chief and tells him that he needs more land and he gets it. He is entitled to what he can reasonably require.

132. Would he have to pay anything for that?—Strictly speaking, no; but there is always the open hand.

133. Practically he would have to do something for the chief?—It depends on the circumstances of the moment. Bribery is very very common there, but the payment has nothing to do with the law of the country. The theory of the law is that the man is entitled to the land for no payment whatever except the payment at the end of the year, which is regarded as a present to the chief.

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134. The man asks for more land as one of the community, and the chief is regarded as the trustee of the community?—Yes. The man is entitled to what he requires.

135. Would that be the view taken by the native court if a dispute arose?—Yes. The lands are all national.

The witness withdrew.

Mr. H. R. PALMER, called in and examined.

138. (*Chairman.*) You are a resident in Kano Province?—Yes.

139. For how long have you been there?—Since October, 1904.

140. What is the character of that province?—It is agricultural.

141. But I mean with regard to whether it is pagan or Mohammedan?—Mohammedan mainly.

142. Kano is the northernmost province?—Yes, on the French border.

143. Can you give us approximately the area and the population?—The population is between two and a half millions to three millions, roughly.

144. (*Mr. Temple.*) The area is about 35,000 square miles?—I have not the figure. Kano is a big town of 50,000 inhabitants.

145. (*Chairman.*) Are there any other big towns?—Katsena, about 15,000, and Katagum, about 10,000.

146. What do you think caused them to grow up?—I suppose the desert trade from Tripoli focused there, and Mohammedan influence began to penetrate about the fifteenth century. Industries began to grow up there. It acted, I suppose, as a sort of outpost to Mohammedan civilisation among the pagan tribes which surrounded it.

147. How far does the description which the Chief Justice has been giving of the customs and practices in Southern Nigeria and the pagan portions of Northern Nigeria apply. I suppose that it will require considerable modification?—To a certain extent, but I think that the basis of everything really is the village community.

148. Whether it is a Mohammedan province or a pagan province?—Yes, I think so. They prefer to be taxed by the community, and not by the individual, but Mohammedanism has modified it a good deal.

149. Did the Mohammedans come in a rush or gradually?—Gradually—I think about the fifteenth century Islam was introduced. Then about 1800 the Fulani conquered the country. They revived the Mohammedan religion—at least, so it is said.

150. Did that much affect the law of the country. We have heard about the customary laws prevailing so largely. Did the Mohammedans introduce another system of law at all?—No, I do not think so. I should say that the native system of tenure as it is to-day in Kano has been the same for the last 400 years.

151. (*Mr. Morison.*) What do you say to the law with regard to inheritance?—There is a considerable conflict between Moslem law and native custom now in almost every case before the native courts. There is a question whether the Mohammedan law should be applied or whether it shall go by native custom.

152. Will a Cadi administer native customs or Mohammedan law?—There is a tendency to administer Mohammedan law. At the same time they in principle hold that in matters of succession the customs of the people should be regarded. It is so laid down in their text books. Moslem law prevails where parties are Moslems.

153. With regard to their daughters, do they adopt the Koranic law or not?—As far as I have seen, it mainly depends on who bribes the judge most. It is about half and half. The judge can hold either way, and sometimes they hold one way and sometimes the other. You cannot lay down a definite rule as to what happens in practice. In theory Moslem law (Malekite rite) is applied by the Cadi to all Moslems, social custom to non-Moslems.

136. What you have been saying applies, I suppose, to a pagan community?—Yes. I have had very little experience of Mohammedan communities.

137. (*Chairman.*) I do not know that there is anything else to ask you. We are much obliged to you, particularly for the last part of your evidence, which is very useful.

154. (*Sir. J. Digges-la Touche.*) You would say that Mohammedan law has not affected land tenure?—No, practically not.

155. It is just the same as it was before?—Yes.

156. Whatever other law has grown up with regard to personal rights?—Yes, I should say so.

157. Land is still looked upon as belonging to the community?—Yes, that is how they regard it.

158. Have they chiefs and an Emir?—Yes.

159. Would they look upon him as a trustee?—Yes. What Sir Raymond said about that view is certainly the same everywhere, I think—that the chief is the trustee for the community.

160. Both with regard to Mohammedans and pagans?—Yes.

161. (*Chairman.*) The chief in the Mohammedan country would correspond in position and power and so forth with the chief of the community in the pagan country?—Yes, practically so, but as regards individual tenure there is a good deal of difference in Kano. There is a certain right of buying the user of a farm which is undoubted, which confers a certain right of occupation or possession. It is considered as contrary to the sense of the community for a chief to take away a farm from a person who has held it or his descendants, but he often does it in practice.

162. Supposing that an arbitrary action of the chief came before the Court of a Resident, what would the Resident consider himself bound to do? Would he recognise it as legal?—He would endeavour to influence the chief not to do it.

163. But suppose that he had to decide it as a matter of law with the Court of Appeal hanging over him. I take it that practically he avoids doing that as much as possible?—Practically one avoids doing it. The chief will sell a farm to half-a-dozen different people.

164. Do individuals do it?—No, the chief does it sometimes, and he leaves them to fight it out, but in theory that is wrong.

165. (*Mr. Morison.*) Does it actually happen that holders or users of farms transfer them from one to the other?—Not without the consent of the chief. No man has a right to transfer the limited right of occupation that he has to another man without the consent of the chief.

166. If he gets the consent of the chief does he then exact a price for it?—Yes, he does.

167. There is a qualified right of transfer?—Yes, in practice they do transfer. I have known cases where a chief has said that he objected to a certain transfer because he had not been consulted.

168. (*Mr. Strachey.*) Does what you are saying apply to the pagan or the Mussulman when you say "Chief"?—What I really meant was a local chief.

169. (*Mr. Morison.*) The village headman?—Yes, the village headman. You have the Emir, and then under him large landowners, much as in primitive England, and under them you have the head of each town. Nominally the Emir has the right of veto on any exchange or transfer of land, but in practice he delegates that to a large extent to the subordinate local chiefs, and it is from them generally that the people purchase this right to use farms.

170. What exactly do you mean by the subordinate local-chief? I do not quite grasp. Is he the head of a

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village or has he jurisdiction or power over a larger area?—Practically the Emir in theory would own all the land, and he gives to his Grand Chamberlain, as it were, a certain district, who again gives land to village headmen.

171. Does he give him only one village?—No. He may give him perhaps 20 towns—a large area. This district chief very often lives in the large town, Kano, for instance, or Katsena.

172. He is an absentee landlord?—He is an absentee landlord, or he was. We have been trying to get him into residence, but it was so formerly. This man has perhaps 20 towns under him. Each has a head of its own. With regard to the peasant, he in practice acquires his rights from the head of the town.

173. Not from the absentee?—Not as a rule. No doubt he has the right to sell a farm if he wishes to, but in actual practice that is all left to the local chief, as a rule.

174. (Chairman.) Suppose that a tenant wanted to transfer his land to somebody else?—In practice he would be doing all that was necessary if he got the consent of the district headman.

175. Then so far as it could be done he could give a good title?—Yes.

176. (Sir J. Digges la Touche.) Can he apart from the value of the actual land make improvements on it by digging wells and so on and add to the value?—Do you mean with regard to houses built on the land?

177. I am not thinking so much of houses as of digging wells and of the irrigation of the land?—I think that there would be no objection to wells being made, and they are made, but I do not think there is any special property in them.

178. A man who has made a well for irrigating his land will not be supposed to have a greater right of transfer than a man who has only run a plough over the land?—No, I think not. These wells have a certain sacredness as a rule, and they are only made by big people. You never hear of a small man making a well. It requires a pretty big chief with a good many people.

179. When it is only for drinking purposes?—Yes.

180. (Mr. Temple.) Have you not found wells with private owners?—In towns, yes. In big towns like Katsena there are wells built between two houses, the occupants of each of which have an easement, so to speak. They are built in the middle of the party walls; but that is only in Katsena and large towns like that.

181. (Mr. Cox.) Supposing that in a large town like Kano a person wants to transfer his land, does he have to go to a chief, and if so, to what chief?—In Kano itself?

182. In Kano itself?—To the Emir of Kano, I should say.

183. Does the custom with regard to having sufficient land to use for the family apply in the town as in the country?—No, I do not think so. It is very difficult to lay down any very definite rules. One sees, of course, in all the arrangements, the influence of the primitive community, but they have been a good deal modified by the growth of towns like Kano. I believe that in Kano there is individual property in houses and ownership in the English sense, but only of houses, not land.

184. That is what I wanted to get at. The fact that people have been forced into closer communion in towns has got rid of the idea of tribal ownership to a greater extent than it has in the country?—To a certain extent. I would say so with regard to Kano, because I know it is so, and it is so in Katsena, but it is not so in other places, I believe.

185. Does a man who has a house in Kano have land outside attached to it, appurtenant to it, to cultivate?—No, he would have land outside the town under the ordinary farm tenure from the district or village headman. Round Kano there are district headmen right up to the walls. His house would be in the town. His garden outside, where he would grow onions and so on, would be in the district of a district headman.

186. He would hold it from the headman rather than from the Emir of Kano?—Yes.

187. (Mr. Morison.) With regard to his house in the town, has he a right of sale?—Yes, he has undoubtedly. Whatever it was originally it is so now.

188. Houses are bought and sold in Kano?—Yes.

189. (Chairman.) Without reference to the Emir?—Yes.

190. (Mr. Temple.) Kano is very exceptional?—Yes, it is. There has been a large Arab community there for many years, and they have modified it.

191. (Mr. Cox.) Do they regard their taxes in Kano as a present to the chief in the same way as they do elsewhere?—No.

192. How are the taxes exacted?—Originally each town paid taxes, and these taxes were divided into three before the British occupation. The Emir took a third, the district headman of the town took a third, and some people called Jakadas—that is tax gatherers—took the other third.

193. The taxes were farmed out?—Yes, practically speaking.

194. The persons who collected the taxes were persons who had for consideration acquired the right from the Emir?—Yes. It was purely and simply farming out. An "office" was bought, the right to collect going with it.

195. They collected the taxes and they reserved a third to themselves, a third went to the intermediate chief, and a third to the paramount chief?—Yes, there are many minor variations.

196. (Mr. Morison.) Did it vary in fixed proportions according to the produce of the land?—Yes.

197. In practice it did?—Yes, it varied very much with the season. Crops formed the main basis.

198. It was a fixed proportion of what the crops amounted to?—Yes. I should say that there were really three bases of taxation—first of all the ordinary contribution, which Sir Raymond mentioned, of the individual to the head of the community; then when the Mohammedans came there was what they call the Jizia—the land tax—from what were called non-Mussulmans—whether they were or not—from the agricultural people to the ruling caste; then finally there was what they call the Zakka, which was in theory a Mohammedan tax. All those three mingled together.

199. They are not collected separately?—The jangali is a cattle tax.

200. (Mr. Temple.) It is really the Zakka?—Yes, it is a sort of jumble.

201. (Mr. Morison.) Preserving the Mohammedan names?—Yes, that is exactly it. They called it Zakka and Jizia, but they did not take much notice in the case of Jizia whether a man was a heathen or whether he was a Mohammedan.

202. Was the Jizia taken from the Mohammedan?—Yes.

203. You think that these taxes would be varied and that in times of greater or less prosperity the chief would take a greater or lesser proportion?—Yes. Each village was assessed. The Jakadas had wonderfully good memories, and when you went to them they would tell you the taxes of many hundred towns down to the smallest details. They carried all these in their heads. They would tell you in a wonderful way what each village produced. When it came to the actual collection, if there was a short harvest or anything special they would strike off a certain amount of taxes. The Emirs did not mind very much, because they got quite as much as they wanted. In fact, it was a system of big fleas and little fleas, and it went right up to the Emir. The amount that got to him depended on the rapacity of his subordinates.

204. (Sir J. Digges la Touche.) You have made an amalgamation of all the small taxes in the Resident's assessment, have you not—I mean the small taxes that have come down from old custom?—In Kano province we have in one sense; from the point of view of the Government, but practically the incidence of the taxes is just the same. The taxes are collected on the old principle.

205. (Mr. Temple.) Is the jangali kept separate?—That is a separate tax.

206. Entirely separate?—Yes. We have maintained all the old taxes—the tax, for instance, on barbers and

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the tax on sellers of honey and everything. They are all collected in the same way as they were formerly collected.

207. Have you separate registers for those in the office?—Yes.

208. For each one of these taxes?—Yes, pretty nearly. I cannot be sure with regard to the exact state of affairs in the Kano office, but as regards my own office I think that at the present moment the tax is collected just the same as it ever was. I cannot speak absolutely definitely with regard to how the books are kept.

209. (Chairman.) The village headman, whoever he is, collects all these different taxes?—Yes. Formerly a different tax collector collected every different tax, and there were about 25 or 30 different taxes, but now there is this difference—that the whole thing has been put on a territorial basis. Each community has one man.

210. Is that by proclamation?—Yes. That is recently—within the last four years.

211. (Mr. Morison.) Do you ever make a Resident's assessment yourself?—I have settled the taxes for the time being. Personally I sent these district headmen out and asked them to make me an assessment, and then I went through their assessment with the Emir, and we settled what we considered was a fair amount for the towns to pay, but I have never tried to assess any village myself. I have never counted the fields or anything of that kind.

212. (Chairman.) There are all sorts of taxes—not merely on land, but on bees and everything?—Yes, but the main tax is the land tax per farm. It is about 4s. a farm.

213. Is the question raised at all of discontinuing the taxes?—I think that the idea is to gradually simplify the matter, but it is very difficult at the present moment. You have more check under the present system of collection on extortion than you would have if you simply made a lump sum for a village and said to the chief of the village, "You must produce so much." Then you would not know how the incidence of the tax would be arranged. These old taxes are understood by the people, and you have a very fair check on what is happening.

214. Are accounts kept by the chief?—Yes, more or less. They keep accounts in Arabic, but they are not very accurate, as a rule.

215. (Mr. Morison.) Where is the record of the different taxes and of the amount collected kept? Is it kept by the headman or in the Resident's office or by the Emir?—All three. In my case each headman has a list for his own district, and the Emir has a copy of all the lists, and I have a duplicate.

215a. A duplicate of the Emir's list?—Yes. I have had a new list every year for the last three years. I have found it impossible to put down a definite amount.

216. (Chairman.) The principal tax is the direct tax on the land?—Yes.

217. (Mr. Morison.) Why do you vary it every year? Is it according to the produce of the harvest?—Yes, and the extent of the land. There are no definite boundaries of fields as a rule.

218. You are not aware of what changes have taken place in the cultivation if you do not go round the district?—Not in exact detail, but, roughly speaking, we have a very fair check on it by ascertaining whether people are leaving a district or coming into it, and by consultation with the headmen and the Emir we can form a fairly accurate idea, but not an absolutely accurate one.

219. (Chairman.) With regard to dealing with land, I understand that there can be no dealing with land without the consent of either the Emir or some person who represents him?—Yes.

220. I refer to agricultural land. That is a most important thing. I would like to go back to your evidence where you said that sometimes Mohammedan law would prevail, and sometimes customary law. I can quite understand that simply looking at it as an administrator you would try to settle any dispute, not by any legal method, but by trying to get people to

agree to some arrangement themselves. But supposing that you had to decide such a question as a judge sitting in Court, have you any test by which you would decide whether in the particular case the decision should be according to Mohammedan law or according to customary law. I do not know whether it ever comes to that?—Where the two are different it would depend upon whether the parties were Mohammedan or not.

221. If the parties were Mohammedan, would you apply Mohammedan law?—Yes, the "personal" law.

222. If they were Mohammedan and non-Mohammedan, what would you do?—I do not know. It would depend very much on circumstances. One of the most frequent cases is the question of wives. As a rule the non-Mohammedans do not allow anything to their wives on death as of right, and the Mohammedan wife or wives would get one-eighth of the property. That is how the question frequently comes up, but the whole thing is very nebulous, and it depends very much on the individual choice of the native judge. It depends on whichever side he happens to wish to favour.

223. You have no general rule where the parties are Mohammedan and non-Mohammedan?—No. Nominally our Emirs are Mohammedans. I have generally gone and asked them themselves what they say is their law, and they generally say that their law is that in cases of inheritance and matters of that kind where the parties are non-Mussulmans, you shall administer their native custom if you can find out what it is.

224. That is what the Mohammedans themselves say?—Yes. That is in text books of quite considerable authority.

225. Then really it depends on the parties. Difficult questions may arise where parties are neither both Mohammedans or both non-Mohammedans?—Yes. Very few of the native judges at present have what you may call a really sound grasp of legal principles.

226. Have you much difficulty of the sort of which we have been speaking?—I think there is not very much difficulty. There are a great many questions of that kind, but, practically speaking, if they are treated in a common-sense way, they do not lead to much difficulty.

227. They are generally arranged in some way?—Yes.

228. No strict rule being laid down?—No.

229. That is the general principle?—Yes, that is the general principle.

230. Are there many cases of complaints of unjust and illegal evictions? Do people complain of being turned out arbitrarily?—There are a certain number, but if one considers the total number of farms, the number of cases of complaint is small. One has a certain amount.

231. This is what you say: "In practice much arbitrary dispossession does take place, but one is perhaps more apt to notice the hundreds of cases where it does occur than the thousands where it does not"?—Yes.

232. Is there any notion at all of compensation, supposing that a man has property taken away from him. Has he any claim to compensation, or is there any practice of giving compensation?—From the Emir?

233. Yes. Supposing that the Emir more or less arbitrarily takes his land away?—I should not think there is.

234. A man would think it hard lines, but he would not have a claim to compensation?—He certainly would not have any right that he could enforce.

235. (Mr. Morison.) A good Emir would not confiscate, and a bad Emir would not compensate?—That is what it comes to, yes.

236. (Chairman.) In your memorandum you say: "Thus it is seen that though the peasant has not a fee-simple in his land"—that is to say, not the absolute property in his land—"he has in theory, even now, a right of possession subject to the payment of taxes of a farm that he has bought." Then you say just below: "In order, however, to see that the theory

was adhered to in practice with exactitude, it would be necessary (1) To make it compulsory on the farmer to permanently mark out the boundaries of his land in some way. (2) To have an accurate survey. (3) To determine by whom and within what area farms could, if unoccupied, be sold. (4) To fix the price at which a farm can be bought. (5) To regulate what was to be done with the purchase money of farms. (It would be a pity to abolish the purchase system, as to the mind of the native it gives him a title)?"—Yes.

237. Are those changes which you recommend?—It depends very much on how big the staff is to do it. With our present staff it would be absolutely impossible.

238. You think that it would be?—Yes, absolutely.

239. Do you think that it is desirable to go on as you are doing now—that is to say, with a very scanty staff, doing the best you can to settle these disputes either judicially or administratively, or do you think that you want a more regular system of law. I mean, has the country advanced sufficiently for distinct rules to be laid down?—I doubt it. I think that enough material has not been collected yet to satisfactorily lay down any definite rules with regard to native custom.

240. As far as I can see from the proclamations, whenever a rule is laid down, you have a saving clause which says: "This rule is not to be observed except in so far as it is in accordance with native law and equity"?"—Yes.

241. That gives very wide power?—Yes. With regard to Mohammedan law, it is the same. After all, there is no authoritative body in the country which can say that such and such a thing is lawful, and such and such a thing is not.

242. You may have too much law?—Yes. At present, in practice, things work pretty well.

243. It might be difficult to apply it?—I think that it would be very difficult to codify native custom or the rules of Mohammedan law which are in force.

244. (Mr. Morison.) You say, I see, that if the people were given a free right of alienation they would mortgage all their farms inside a year?—I am sure they would.

245. They at the present moment borrow money?—Yes. They are all in debt.

246. Are there usurers or money-lenders?—No, but every native is in debt to another. I have never come across one who was not. They are all in debt.

247. Mohammedans and pagans alike?—Yes. They are all of them always in debt.

248. Do Mohammedans lend money at interest?—No, but it is their way of living. They are, as a rule, quite improvident. You come across A who is in debt to B, and B is in debt to C, and so on.

249. They do not lend money at interest?—Not as a rule. Those that have been in contact with Europeans sometimes charge interest.

250. Generally the Mohammedan law is in force in the matter, and they do not take interest?—I could not say very definitely, but as a rule, not. They are always borrowing.

251. There is no moneylending business?—No, no regular moneylending business, as a rule.

252. There are no professional moneylenders?—No.

253. A man does not ask what security he is to get for the loan?—No.

254. It is more friendly lending?—Yes. It is their character. I am quite sure that if they had farms which they could mortgage they all would do so at once.

255. (Chairman.) Do you advocate that unoccupied land should be separated from occupied land and declared to be the property of the Crown?—No. I think that whatever the tenure is, it ought to be all of one kind.

256. And should apply to every piece of land?—Yes.

257. Would you draw any distinction between waste land and occupied land?—No. I do not see how you possibly can do that.

258. It is an important point. Would you give your reasons?—Taking Kano province, which is where I have been, there are village boundaries throughout the whole province. A piece of land goes in and out of cultivation simply by rotation of crops.

259. You mean to say that if you looked into it minutely enough you would find that the whole of the province was divided up amongst different villages?—Yes, every inch of it.

260. Therefore in your view to appropriate a portion of the waste lands would be just as objectionable from a native point of view as to appropriate occupied lands?—Yes. They usually manure very little. They cultivate a field for perhaps three or four years—it depends on the nature of the soil—and then they move to another piece of ground. Sometimes a whole village moves to another piece of ground.

261. (Mr. Strachey.) How often would they do that?—It depends very much on the nature of the soil. Land which is in a valley will produce good crops for say seven or eight years, and on the other hand, if it is a stony soil it will not do so after three years.

262. (Chairman.) Would the idea of a whole province being divided amongst certain village communities afford at all a practical difficulty in the way of extensive immigration and people coming in in large numbers and taking up large tracts of land?—You mean from other provinces outside?

263. Yes, from outside?—It does to a certain extent, but there is still a fair amount of room, except very near Kano. There is enough room for large increase in population without any great overcrowding, I think.

264. Is the land there suitable for cotton?—Yes, I believe so.

265. In regard to crops and minerals, in which direction are the natural resources of the country most likely to be developed?—Kano province would be mainly cotton-producing and corn-growing. The northern parts are the best corn-growing land in the country.

266. (Mr. Strachey.) Is not it the case that for a very long distance round Kano every bit of land is under cultivation?—Yes, it is very closely cultivated. It is very difficult to be definite on the question of the tenure of the farms. Owing to the influence of Arabs and so on, near Kano the tenures have a tendency to become far more definite than they do in the country districts. I should not say that there is such a thing as ownership of the fee simple in the English sense, but there is, no doubt, a tendency that way which is more marked near Kano than it is further away.

267. (Mr. Morison.) Is that due to crowding? Many of these questions do not arise when you have an abundance of land. There is no difficulty in giving a man security of tenure and depriving him of the right of sale, if there is an abundance of land of the same quality to be had in the neighbourhood?—Most of the farms near Kano would belong to big men in Kano, who would naturally wish to keep them.

268. (Chairman.) At the end of your memorandum you rather advocate the adoption of a more regular method of sale or parting with the use of lands by the Government to persons for the purposes of cultivation and so on. You say: "The sale of farms would be a good feature to preserve, the price being handed to Government, not going to the serikis of the towns as now. Practically the sale would mean taking out a licence to cultivate a particular farm, in return for which a title deed would be given, transferable with the consent of the Crown." That is practically the sale of the use of the land?—I should say that all of this was written without very much reference to what staff there would be available, and what money there would be available. These are ideals perhaps, but how far one would go depends very much on how big the staff is, and how much money there is.

269. (Sir J. Digges la Touche.) You do not advocate the transfer of the right of user with the consent of the Crown, do you?—Yes.

270. But you said that if once they had the right of transfer they would get into debt?—I meant trans-

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fer in the sense of parting with the fee simple or the ownership.

271. That does not matter. Do you suggest that a man shall be able to transfer his right and put another man into possession?—When I say “transferable with the consent of the Crown” I simply want to guarantee to the tenant that his user shall not be interfered with as long as he behaves properly and pays his taxes. He would have a title deed to show that he had the right, and if the chief wished to dispossess him he would have to have some valid reason.

272. But that is not the question. The question is the question of his being able to transfer to another person the right which he gets by the title deed?—I simply meant transferable in the sense that another person could acquire it—that is all. I do not mean necessarily that he should be able to sell it for valuable consideration to a second person.

273. (*Mr. Morison.*) If you gave him a right which he could part with to somebody else, do you not think that the result would be that he would raise money on it, or sell it, and that you would have conditions very much like the conditions with regard to private property in land?—That would depend on how far it could be safeguarded.

274. (*Chairman.*) When you say “with the consent of the Crown,” you take it that the Crown would not allow it to be so transferred?—I take it that it would rest with the Resident. I do not contemplate the idea of a man transferring at all for valuable consideration. I simply meant, one man having a farm, if a second wished for it, they could both go, as it were, to the chief, and the property could be transferred into the name of the second. If the person having “user” is, so to speak, a “tenant-at-will” of the State, I do not see that the first man has anything to sell to the second man.

275. The man might pay him for transferring the right of user or whatever right he had?—When I wrote that I was not thinking of that.

276. Would you prefer that the tenant should go to the chief and say, “Here is another man to whom I am willing to give up this land.” Then there would be no sale or transfer. He would give up the land to the chief, and the chief would re-grant it to the other man?—It is done now, or it may be done. A man may receive valid consideration from another, and leave his farm and give it up to him. I have known cases of its being done.

277. You would not recognise that. You propose that he should give it up to the chief, and that the chief should re-grant it?—Yes, that is what I propose. I have mis-used the word “transferable,” or I have not made it clear.

278. (*Chairman.*) At the end of your memorandum you speak of land being acquired for certain public purposes or trading purposes. Have you anything particular to say about that? As I understand you, you regard it as important that the Government should be looked upon, whether you talk of them as owners of the land or not, as having the power of making it legal to dispose of land. If the Government wants land for roads or telegraphs, do you think that the right course is for the Government to acquire land by the exercise of the power of supreme control which they have over the land?—Yes.

279. And compensate the owner?—There arises the question of who should be compensated. The native chief, no doubt, takes property or anything that he wants, and I do not think that he pays compensation as a rule.

280. Is it your view that the Government has stepped entirely into the position of the Emir?—Yes.

281. And that the Emir is out of it altogether?—Yes. I do not see any valid reason for compensating the Emir.

282. He has nothing to be compensated for, you think?—It does not seem to me that he has anything.

283. The Government, by its acquisition of the land, has stepped into the shoes of the Emir?—Yes, and would have the unearned increment.

284. What is the position of the Emir now in your view? Is it that he has no interest in the land what-

ever—that whatever interest he had has passed to the Government?—It is very difficult to say what position he is in at present. The theory with regard to the Fulani Serikin Muslimi would be that the land belonged to the Mohammedan community. That was their theory, and no doubt it would be so when we abolished the suzerainty of Sokoto, and it is a question to whom the land belongs, unless it reverts to the people of the different states.

285. Could you support the theory that the Emir has ceased to have any interest in the land other than such as the Government may allow him to have as an administrator under the Government, who has payment for his services to the Government, and retains a portion of the produce of the land?—I should say that the land reverted to the peoples of the different political units as soon as we stepped in and abolished the suzerainty of the Emir of Sokoto, and that each Emir is simply the trustee of the political units, of which he is Emir.

286. (*Mr. Strachey.*) I think it was held that when we stepped in behind the Emir of Sokoto we got his privileges with regard to the land?—My point is rather that he himself did not own the land, but that the whole Mohammedan community owned the land. I think that is the Mohammedan theory.

287. (*Mr. Cox.*) You think when the British Crown stepped in it succeeded to whatever rights the Emir had?—Yes.

288. They were not in absolute possession of the land, but in trusteeship?—Yes.

289. All that they got was the right to be in the Emir's shoes, so to speak, and to become trustees in lieu of the Emir?—Yes, exactly.

290. (*Chairman.*) From your reasoning, you think that he is not entitled to any compensation?—I do not think so.

291. And never was?—No.

292. But the tenant of the land, the actual user, would be entitled?—Yes, that rather seems to be dictated by humanitarian considerations. These people are poor people.

293. There is no right to it under native law?—No, but I think most Emirs would give poor people lands somewhere else if they required those people's lands for certain purposes. I do not think that there would be a specific right.

294. (*Mr. Cox.*) There was no code of laws reduced to writing?—No; it was the custom of the country.

295. Yes. All that could be said would be that under certain circumstances the Emir would act in such and such a way?—Yes.

296. And from the fact of his generally or very frequently acting in such a way, you say he practically came to be in the position of a trustee for his people?—Yes.

297. But there was nothing in the actual custom of the country or the law, written or unwritten, which would have prevented the Emir from acting precisely as he pleased if he was strong enough to do so?—Subject to revolution.

298. That is common to all states, civilised and uncivilised?—Yes.

299. There was no written or unwritten law which compelled the Emir to act as trustee, but it was the custom of the Emir to act in certain conditions in a certain way?—Yes.

300. As long as he did not violate the natural feeling of the community no objection was taken?—No.

301. (*Mr. Temple.*) The Emir was selected in the first instance by the people?—Yes.

302. (*Chairman.*) Have these Emirs large territories of land which they use themselves and cultivate by slaves?—I should not say large. Every responsible chief has a farm of his own. They vary in size. I know that in Kazauri, for instance, one of the chiefs had a very big farm, and formerly in Maradi, which is now French territory, the chief had very large estates.

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303. His revenue would depend more on what he collected from cultivators of the soil than upon any property of his own?—Yes. Practically speaking, he had nothing in the way of private estates. His farm was a mere toy. He might grow less or more corn on it. His income was derived from taxes.

304. Would that income be more properly represented by what we call rent or tribute or tax or something of that kind. You understand the idea attaching to rent?—Yes.

305. Ownership of the land—payment by the tenant of a fixed sum as tenant of the land, and not as subordinate of the Emir?—Tribute rather expresses it.

306. (Mr. Morison.) What in practice is the proportion of the taxes which the Emir now keeps to himself?—He at present has a half.

307. (Mr. Strachey.) It varies?—Yes.

308. (Mr. Temple.) Do you mean the Emir himself or the native administration?—The native administration?

309. (Mr. Morison.) I meant the native administration.—One distributes in consultation with him. Half goes to the Government.

310. (Mr. Temple.) Do you think that the Protectorate is wealthy enough or is likely to be wealthy enough during the next fifty years or even more to bear the weight of a staff that would be sufficient to carry out a survey on an accurate method?—No, certainly not. I would like to say with regard to what I have written here, that it was not written with any particular plan in view. It was simply written generally with regard to what I thought were ideals to be aimed at rather than what could practically be done in the near future.

311. (Chairman.) We should like to have your experience a little with regard to native courts. Could you tell us what the character of the proceedings in the native court is? Who constitute the judges, so to speak, of a native court?—In the big Mohammedan cities like Kano and Katsena there is an alkali, a Mohammedan judge, and he, as a rule, has with him two or more muftis, as they are generally called. They formerly were under the control of the Emir, that is to say, the alkali was the Emir's alkali. There is a certain tendency now for the alkali to become independent of the Emir and to rely rather on the British resident for support in cases where the alkali is at variance with the Emir. There is a tendency for the judiciary to become independent of the executive. Nominally, I suppose, there is no appeal from native courts to the resident, but one could always, as the proclamation says, transfer a case, and in practice one makes a point of knowing what is going on, and if one hears that a serious miscarriage of justice is taking place, transferring the case.

312. Do you often exercise that power? Do you often interfere with the native court?—No, not now.

It depends very much on the Emir. In the time of the ex-Emir of Katsena I had very frequently to do it. He endeavoured to influence cases for his own purposes. Each of these places like Katsena and Kano has in the district round a certain number of native courts—about twelve—which are nominally speaking under the chief alkali of the head town. Round Katsena there are twelve country alkali's courts. The natives are supposed to go to the country courts first, and if they do not obtain redress they go to the chief town.

313. Do they resort much to the native courts or do they come to you. If a native suffers what he thinks is an injustice, does he come to you?—As a rule they find it cheaper to come straight to headquarters.

314. And more effective?—Yes, but one tries to encourage the country courts.

315. Is there much vitality in those courts, do you think? Would they survive the inroad of British civilisation?—I doubt it. There are unfortunately very few people in the country who are really sound lawyers. The majority sit with a large pile of books in front of them, more for the sake of appearance than anything else. I think that they really go more by custom than by the principles of Mohammedan law.

316. Have you experienced much difficulty in proving native custom or ascertaining what it is?—Yes. One has to be very careful not to jump to conclusions.

317. What sort of evidence do you get?—I find that if one asks a leading question, or at least if one asks a question at all, one very seldom gets a reliable answer. I find that the only reliable information is, as a rule, information which is volunteered, or which slips out, as it were.

318. What do you say with regard to customs of inheritance, for instance?—What I say on page 35 I think is fairly reliable. There is a distinct difference between Fulanis and Hausas, but the tendency of all the native rules and customs seems to be to keep the property one and indivisible. That is the tendency I think.

319. (Mr. Morison.) Is that the tendency of the Mohammedan law?—Yes.

320. The Mohammedan law of inheritance, for instance, seems to me to divide property?—I meant the Hausa custom. I did not quite follow.

321. I thought that you meant both the Hausa and the Mohammedan?—No, they have opposite tendencies.

322. I beg your pardon; you say that it is true of the Hausa?—Yes.

323. But not of the Mohammedan?—No. Mohammedan law gives a share to the wives, and a share to all sorts of people.

(Chairman.) Thank you.

The witness withdrew.

(Adjourned to Thursday, 11th June, at 11.30.)

SECOND DAY,

Tuesday, 16th June, 1908.

At the Colonial Office, Downing Street.

PRESENT:

SIR KENELM E. DIGBY, G.C.B. (*Chairman*).

Sir J. DIGGES LA TOUCHE, K.C.S.I.
 Mr. J. C. WEDGWOOD, M.P.
 Mr. C. L. TEMPLE.

Mr. H. BERTRAM COX, C.B.
 Mr. CHARLES STRACHEY.
 Captain C. W. ORR.
 Mr. JOHN ANDERSON (*Secretary*).

Mr. H. R. PALMER, recalled.

324. (*Chairman*.) I understand that you wish to add some observations with regard to what you said in your evidence about inheritance at page 151?—Yes. It is with regard to what was printed in the memoranda at page 35, about Hausa custom. There is apparently a distinction between the devolution of the right to control the property, the family land, and the devolution of the beneficial interest in the land. For reasons of policy there is a desire very often given effect to by a nuncupative will that the most capable member of the family should, as it were, manage the family estate, and so he steps into the shoes of his father or other relation as regards managing the estate, the family land, much as the heir did in Roman law. But he cannot deprive his brothers or sisters of beneficial interest in the estate. In one sense they are all co-parceners or joint tenants, but in another sense he has the management of it, and within certain limits can do what he likes.

325. Do you mean that that form of primogeniture is confined to the management of the estate?—There is no primogeniture as regards the beneficial interest in the land.

326. Not as regards the beneficial interest in the land, but as regards the management?—As regards the management, the idea is that they prefer to have the most competent member of the family. If the children are very young, undoubtedly the brother becomes the manager.

327. As to the beneficial interest that would go to them all?—That is divided between the children. In the case of Mohammedans the males get more than the females; that is all.

328. Is there anything else you wish to add?—I have used the word "divisible." As a rule there is no division made of the farms. They simply continue to hold much as co-parceners in England, or joint tenants.

329. They do not have separate portions of the land, but it is distributed amongst them?—If there is a lot of farms each takes a joint interest, and in the next generation it is again divided up, I think; but they do not actually divide the farms.

330. (*Sir J. Digges la Touche*.) It is not customary for them to divide?—I do not think so as a rule. There is no separate mark made or anything of the kind.

331. (*Chairman*.) At the close of your evidence the other day it was suggested that we should deal somewhat more fully with the question of assessment?—Yes.

332. I suppose we may take it that the law relating to assessment is to be found in the 1906 Proclamation?—Yes.

333. That now comprises the law applicable in Northern Nigeria?—Yes.

334. That, I understand, repealed altogether the previous law No. 4 of 1904?—Yes.

335. I see that on page 41 of Sir Percy Girouard's Memoranda* there is a quotation from Sir Frederick

Lugard's covering despatch to the Secretary of State. It states the point very clearly, so I will read it:—

"The essential difference between this Proclamation" (that is the Proclamation of 1906) "and the one it supersedes is that the former Proclamation was limited to land and produce, whereas this includes all forms of taxation known to the country, and makes any taxation not authorised by it illegal and punishable. While the former Proclamation was only a tentative one, with the object of securing to the revenue a certain proportion of the taxes on land and produce levied by the native chiefs, and did not in any way touch the nature of those taxes or restrict the power of chiefs as to the extent to which they might tyrannise over, or extort from, the peasantry, the object of the present Proclamation is to lay down limits to taxation by native chiefs, to define and legalise the various taxes, and to place them under the supervision of the administration, and at the same time to assign an adequate portion of the revenue so collected to Government. In his 'Memorandum on the Taxation of Natives in Northern Nigeria' mentioned before, Sir Frederick Lugard describes the provisions of the new Act: 'The system thus introduced may be briefly summarised. In the first place it has been my desire, while promoting a general uniformity in matters in which it is essential, that a common policy should prevail throughout the Protectorate, to give as large a latitude as possible to the varying conditions of each Emirate.'"

Do you substantially agree with that statement?—Yes.

336. Now to take the language of the Act itself, it begins by reciting:—"Whereas heretofore in the Protectorate tributes, rents, taxes, and other dues have been levied and collected according to native custom by certain chiefs." Am I right in supposing that that preamble rather points to this: that what is to be aimed at is the ascertaining of what rents, taxes, and other dues have been levied and collected according to native custom by certain chiefs. In the next paragraph it goes on: "Whereas it is considered advisable to legalise and regulate the levying and collection of such taxes and dues aforesaid, and to promote such uniformity of taxation as may be possible in the Protectorate." Is the first object of the proclamation to ascertain what taxes and other dues have as a matter of fact been collected, to regulate their collection, and as far as possible to produce uniformity of taxation?—Yes.

337. Those two things are rather different. You have a great variety of taxes?—Yes, we have.

338. As a resident, is your first object to ascertain what, according to native custom, the taxes are?—Yes.

339. What native customs there are, what the amount of the tax is, and on what principle they are levied?—Yes. It has taken us all our time hitherto to find out that.

340. You have not got to the stage of promoting uniformity?—No, not in Kano.

* Appendix I. *supra*.

341. I am speaking of the province of Kano—your own province?—They deliberately endeavour to disguise and conceal the taxes as much as possible, and it has taken us four years to really get a very fairly accurate idea of how much the taxation is.

342. (*Sir J. Digges la Touche.*) With regard to previous taxes there is a section here, 23, that prohibits the collecting of any tax except in accordance with this proclamation, and section 4 of the proclamation seems to lay down only one tax; that is on the annual value of the lands and produce, or on the annual value of profits or gains from trade, manufacture, and so on. The assessment of the tax is made in that way, and the amount of the tax is fixed by the High Commissioner, say 10 per cent., or whatever it may be. But as far as I understand you are not obliged, under this proclamation, to inquire what were the previous taxes at all?—No, we are not in theory, but in practice we are. Hitherto, in Kano province, our whole taxation has been simply what we considered had been collected by the native rulers. We have made no attempt hitherto to introduce any fresh system of collection.

343. Have you established that as a valuation? Do you try to work it under this proclamation, or do you perpetuate the old taxes? Do you consolidate the taxes?—Up to the time I left we had not interfered with the old method of collection of the taxes at all, except in this way: Formerly they were all collected by tax gatherers, who went out from the chief town and collected from every village, and then came back to the chief town. Now we have made every chief of a unit, that is, of a town, territorially responsible for all the collection of all the previous taxes in the unit. That is the only difference that there is actually in practice.

344. (*Sir J. Digges la Touche.*) It seems to me to be quite contrary to the provision.

345. (*Chairman.*) That is rather the point that I wanted to get to. Let me see if I have drawn the right inference and come to a right conclusion with regard to what I have read. If I understand Sir Percy Girouard rightly he would quite agree with Sir James la Touche that you have not yet got to the stage of carrying out, according to their terms, provisions 4, 5, 6, and 7, that is to say, of altering and simplifying the mode of assessment, but that you have only got as far as ascertaining what the taxes are to which the people are accustomed, and on what principle they are regulated. You are devoting your attention mainly to collecting those taxes in a just and proper manner, preventing extortion, and so on, not yet having got to the stage which has been reached in Burma, India, and elsewhere, of consolidating the taxes or of simplifying them, substituting a single tax or a simple mode of taxation for these miscellaneous taxes. Is that right?—That is so. We are not told definitely in this proclamation what we are to collect.

346. (*Captain Orr.*) Paragraph 6 of the proclamation says most distinctly that the assessment of tribute and taxes, so far as circumstances will permit, shall be in accordance with native custom and tradition?—Yes.

347. That gives latitude?—Yes.

348. (*Chairman.*) At this point I would rather like to refer to what Sir Percy Girouard says in his memorandum. Will you turn to page 48. I think that he answers the question which has been raised: "The principles adopted for the purpose of assessing land revenue in Northern Nigeria have been as follows: Where it existed the native assessment was taken as the basis of the valuation of the land revenue. A native system was found to be in operation in all Mohammedan Emirates except Sokoto, which had no land revenue system. It existed in none of the Pagan provinces. As time permitted, residents were enjoined to visit every village, amalgamate them into districts and fix the land revenue. The procedure for residents is laid down in paragraphs 4, 5, 6, and 7 of the 'Native Revenue Proclamation,' and more particularly in the words 'The principle on which the estimate or valuation of land shall be made shall be the amount of produce or profit which can be annually obtained from; and the number of live stock that can be annually raised and supported on such land, by a

person cultivating and using the same in the manner and up to the average standard of cultivation and use prevailing in the neighbourhood.' Owing to the limited staff available in the provinces, their want of knowledge in agricultural matters, the lack of previous records, or of a land measure of any kind, the assessment provisions of the proclamation have not, so far, been applied in their entirety. In those provinces which have a native assessment, and more particularly Kano and Zaria, residents have rightly made no move towards a revision of the native system until they ascertained what the system in vogue was." That seems to me to be a very important statement. "In so far as I can gather, it has been found that in both these provinces the native system is based upon the profits made out of the land. Possibly it may be advisable to continue on the existing system, under the careful revision of the residents, and this is what I intend to convey when I used the word 'resident's assessment.' At the same time delay in the revision of such assessments, though unavoidable, should be remedied at the earliest possible moment. In Kano, for instance, a district which was returning only a few hundred pounds in revenue, has been valued for land revenue purposes at many thousands, the latter sum having undoubtedly been collected by the native authorities." The province of Kano is, I suppose, one of the most advanced?—Yes, from the point of view of native taxation.

349. You have there the elements of a fairly complete assessment?—Yes.

350. You know what taxes the native ought to be expected to pay if he is not subject to extortion?—Yes, we do now, fairly well.

351. Up to the present time you have left that system in existence, and you have done your best to collect the taxes according to that principle?—Yes—to see that they are fairly collected without extortion.

352. You have not advanced towards simplifying the system of taxation or substituting one or more general taxes for all these various taxes?—Our view has rather been with regard to taking the native figure that it is much more liable to be a just and right amount of taxation than if we ourselves tried to assess. We rather doubted whether we were competent to do it.

353. In other words, if that was to be done by you it would require a very much larger staff?—It would require a very much larger staff, and it would have to be done scientifically. For instance, if you go out to assess a town, you see a vast amount of cornfield, but you have no clue as to where the boundary of one farm ends and another begins, and the land is unsurveyed. We consider that we are more likely to be right by taking the figures given by natives and checking them with other natives—with the Emir in particular. We think that we are more likely in that way to arrive at a just assessment than by taking an arbitrary standard of our own with defective information of the conditions and value of the land. It has remained in that way to the present time.

354. You have not got beyond that stage?—No.

355. (*Mr. Wedgwood.*) Is there any clear idea in your minds when you make these assessments that the amount of tax collected annually from any particular unit should be the annual land value? Is that what you are working on when you talk about land taxation?—Roughly speaking, from the native point of view as regards the land there are two taxes—the land tax per farm, which I suppose was originally a contribution from the various members of the family to the head of the family and also a tax which they call zakka, modelled on the Mohammedan tax, but which is not now in practice, one-tenth of anything. It is an arbitrary amount of corn from each field paid in addition to the land tax.

356. But I take it from the Proclamation of 1906 that you are trying to get back towards the definite basing of your taxation on the annual value of the profits or gains from any trade, manufacture, office, or employment in which the members of a community or of an unsettled district may be engaged, "(a) The annual value of the lands and produce in each community from which tribute and taxes have been paid under native custom to any chief, or which are used,

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occupied, or enjoyed by an unsettled district." That amalgamates the zakka and the land tax, does it not?—It does, and we have done that. We have in certain districts abolished the zakka altogether and made a compound between the zakka and the land tax. But then there are many other taxes which have nothing to do with the land. There is a tax, for instance, on dye pits and many other things. In Katsina there are 26 different taxes I think.

357. When you are assessing a unit do you find out what the total of the zakka and the land tax and all these other taxes is for that particular unit, and compare it with the combined result from other units? Do you raise one or reduce the other?—Yes. Hitherto what we have done is: first of all we would ask the district headman to make an assessment of all his towns—so many farms, so much money. Then we would take that to the Emir and ask his opinion on that, and whether he considered, from his knowledge of the people and of the country, and the richness of the farms, and so on, that it was a fair amount to be paid. If he said that it was, we accepted that as being a just figure, and that is what is called here a "Resident's assessment" with regard to Kano province.

358. That is a lumping together of all the taxation?—Yes, but preserving the incidence as it was.

359. Do you mean the incidence between town and town?—No—between every farm.

360. Between individual and individual?—In each of these Mohammedan provinces there is so much tax per farm. A farm is rather a vague thing. It practically means so much per household—that is what it comes to. It may be 4s. or 5s. That is what is called the Kurdin Kassa or land tax. I think in Zaria it was on the "hoe," so much per "hoe."

361. According to the value of the land?—No, so much per worker, or as in England, so much on the man employing the plough.

362. Would that mean that good land paid more than bad land?—No, so much per farm. It is very vague altogether. The zakka on good land would be more.

363. (Chairman.) Would you take Section 3 and explain it to us, because we are not all familiar with the phraseology. "(a) As tribute payable by any community or unsettled district within the province." What would be the tribute payable by any community? Community is defined just above?—By "tribute" I should say is primarily meant the taxes from Pagans.

364. It would not apply to Mohammedans?—It is very difficult, I think, to define terms. I should understand by "tribute" the contributions of feudal inferiors, as it were, to superiors.

365. Would that be distinct from the taxes specially mentioned just below?—No distinction would be drawn between them in the Mohammedan provinces.

366. Would "tribute" include the tax known as zakka?—They would call all by the same native name.

367. I only want to know whether there is any specific meaning to be attached to the word "tribute" which is used in the proclamation?—I think so.

368. (Captain Orr.) I think that Sir Frederick meant tribute from pagans. He says particularly, "Community or unsettled district"?—Yes, I think that he would mean that.

369. (b) is "As taxes payable by any native or natives residing or being within the province, and known as Kurdin Saraut, Gaisua and Jangali"?—Yes.

370. (Mr. Wedgwood.) Is the tribute what you would call taxation only levied on the native community? Is it the same as taxation or rent?—Yes. I should draw no distinction between the three as used in the proclamations and as used by us. One cannot insist on the English definitions. They are used almost indiscriminately.

371. (Chairman.) I think that Captain Orr's explanation of it is probably correct?—Yes.

372. It is a tribute, as I understand, or a payment by a Pagan community to a Mohammedan?—The term would apply more appropriately to Pagan areas.

373. (Mr. Wedgwood.) Is the tribute not paid to the resident in any case?—Yes, ultimately.

374. (Mr. Temple.) We include all these under the term "tribute." They are differentiated in the proclamation, but we should term them "tribute"?—Yes.

375. (Sir J. Digges la Touche.) Where a resident's assessment has been made all the other taxes cease to have validity, do they not? They are included in the resident's assessment?—Yes, that is so, where it has been done.

376. (Chairman.) How far has it been done?—Nothing has been done in Kano except that the zakka and the land tax, or Kurdin Kassa, have been merged, and there is one single tax on each farm instead of two.

377. Has less been done in Kano in the way of simplifying taxation than in other provinces?—I am afraid that I do not know.

378. If less has been done in Kano than in other provinces in that respect, the reason is because you have a more complete and more highly developed system of taxation in Kano, is it not?—Yes.

379. A system, therefore, more workable and more ready to the hand?—Yes. It presents a good many differences in detail in different parts of Kano. There are considerable differences in different districts.

380. To sum this up, because it is a very important question, may we take it that in Kano little or nothing has been done towards what I may call the unification of taxation—towards getting rid of a number of separate taxes of varying character, and so on, and unifying them or simplifying them into one or more general tax or taxes?—Practically nothing. Very little has been done.

381. (Mr. Wedgwood.) But is it your aim to reduce them to the single tax?—Ultimately, but at the present we cannot proceed very rapidly.

382. You are not trying to stick to the present system?—No. We cannot help ourselves at present. One thing which I would like to say about all these taxes is that the idea of taxation to the native is more of a tax on the family than a tax on the individual. He is concerned with the family, and he rather resents taxes on the individual.

383. He does not like an inquiry into the number of his wives?—No. He does not like that.

384. (Chairman.) Perhaps the better way of putting it is this: you, for your purposes, when you are dealing with the Emir or the chief, whoever he may be, treat all these various taxes more or less as amounting to a single fund to be dealt with, if I may say so—that is to say, as if they were a single tax, but when it comes to the actual collection of them by the district headman or by the village headman, he still collects them in the form which the natives have always been accustomed to?—Yes, that is just it. The Emir comes to me, for instance, and says: "So-and-so, the head of a town, has not paid his taxes."

385. Let us take a fixed sum. Supposing that it was a pound, the Emir would say, "He has not paid his taxes, amounting to one pound"?—Yes. Then I deal with the village headman. If a villager comes to me and says: "I have had two sheep" or "three goats taken from me, which is in excess of the right amount," then I look into the native assessment, and see whether under the native assessment the village headman has collected too much or too little.

386. Under what head would he collect the two sheep or the three goats?—It might be almost anything. It could be in shillings—I mean for any tax.

387. When you went to the village headman he would say: "I took it for one of the special taxes"?—Yes. The tax is a definite amount, so that you have a check on the village headman, whereas if you have a lump sum for the whole village you leave the incidence of the tax in the hands of the headman entirely.

388. The important point with regard to these taxes, from the point of view of good government, humanity, and so on, is that you may have a check upon the headman of the village. When you bring him to book he may say, "I took this as such and such a tax, because he owed so much under that tax." Then you

refer to your records, if you have any, or your traditions, if you have not, and you see whether the two sheep or three goats were too much in that particular case?—Yes. I think that there is a good deal to be said for it, on the ground that one has some check.

389. (*Mr. Temple.*) In your native records is there a statement as to the amount to be paid by each family?—No, but they have a statement as to the amount due per farm, dye-pit, trade, etc.

390. For each person?—Yes.

391. With regard to the case of the sheep and goats, could you trace an individual's indebtedness in your native records?—Not the total amount that he is liable to pay every year—but the "rate" is constant.

392. What is the unit in the native record?—A tax per head or per dye-pit, or whatever it is. "So many people pay," is entered in the native record.

393. My point is that it is very hard to protect the individual. Can you protect the individual by your native records?—I think so, fairly well, under this system. If a man owns 20 dye-pits, and his village headman collects for 50, if the man comes to the resident to complain, it only means going and counting the dye-pits. It is a very ready method of arriving at what is proper. The same applies to plantations, etc.

394. (*Mr. Cox.*) May I take you back for a minute or two to this proclamation? Section 3, Sub-section B, says: "As taxes payable by any native or natives residing or being within the province and known as Kurdin Sarauta, Gaisua, and Jangali." What is "Kurdin Sarauta"?—It is really a fee paid on a man's succeeding to office, much the same as the fee payable on a patent of nobility. It is the same sort of thing.

395. What is "Gaisua"?—That is nominally and in theory a present made from an inferior to his superior; that is to say, from a feudal inferior to a feudal superior.

396. For services rendered?—In theory it is a voluntary gift.

397. (*Chairman.*) Benevolence?—Yes.

398. (*Mr. Wedgwood.*) Does it partake of the nature of a heriot or rent in any shape or form?—No, I do not think it means anything but that you salute the recipient. You do not come empty-handed—that is 't.

399. (*Mr. Cox.*) Under what circumstances is Gaisua given, and to whom?—It is simply a present.

400. A present from an inferior to a superior?—Yes, and on no special occasion. For instance, any ordinary man may come—

401. When a European comes to a village and the chief presents him with a goat, that is Gaisua?—Yes.

402. What is Jangali?—That is a tax which is paid on cattle. It varied a good deal in amount in different parts of the country.

403. Under what circumstances is it paid in respect of the cattle?—It was a tax paid in former times by the owner of a herd in the native sense. For instance, the Emir of Kano would have under him a certain number of Fulani chiefs. Each of these men would have a great many herds under him. Jangali is a tax paid per head of the cattle to the chief of the herd.

404. To the chief?—To the chief, and then from the chief to the Emir.

405. Does the chief take any of it himself, or does it all go to the Emir?—In practice, I should say he does almost invariably.

406. As payment of the cost of collection?—On the general principle there with regard to everything.

407. I thought that it might be like poundage on income tax, or something of that kind?—No, I do not think that it is that.

408. (*Mr. Temple.*) He is entitled to a certain amount?—Yes, under the proclamation now, but I thought you meant under the old system.

409. (*Mr. Cox.*) I am speaking of the old system. I want to get, if I can, first of all, at what prevailed before this proclamation, and secondly, at what prevailed after?—I do not know that formerly he had any right to any special amount, but now he has under the proclamation.

410. Is there a recognised right in the case of Jangali, which is a tax paid on cattle, for the collector to take some portion of the tax for himself; that is to say, certain cattle for himself?—That is a rather difficult question to answer. I suppose that it is so in other provinces. In the particular province where I am, the district headmen are the collectors of Jangali as well as the collectors of all other taxes—that is to say, we have made each district a complete unit in itself for Jangali and every other purpose, but it is not so in other provinces, I understand.

411. Let us keep it to your province, where you have most experience. Jangali, you said just now, was a tax paid on cattle?—Yes.

412. And paid in kind?—Generally paid in kind.

413. That is to say, certain cattle were handed over by way of taxation to the Emir?—Yes.

414. They were collected by the sub-chief?—Yes, the sub-chief.

415. And he had under the custom or law of the province—whatever you may call it—the right to take certain of those cattle which he collected for his own use?—I should not say he had the right.

416. He did in fact take them?—Yes.

417. I used the word "right" because you said just now, I think, that it is recognised?—Everybody would know that it went on, but I do not suppose the Emir would admit it.

418. It is done by tacit consent of the Emir and the people?—Yes. In my particular province it so happens that nearly all the district headmen were, before we introduced this change, also big Fulani chiefs, so that no injustice had to be done. In other districts it might not be so.

419. I am not suggesting that injustice is done to anybody, but I want to know the nature of the payment, taking it generally?—But that point is rather important with regard to putting Jangali on the same footing as the other taxes.

420. Section 15 was a consolidation of these various dues, as I understand?—Yes.

421. (*Chairman.*) As I gather, neither Section 15, nor a great many of the other provisions, has in fact come into operation?—Not in Kano.

422. (*Mr. Wedgwood.*) Has not Section 15?—Yes.

423. (*Chairman.*) Section 15 is: "Every recognised chief in the receipt of tribute or taxes under this proclamation shall at such time or times in each year, as he may be required by a resident so to do, pay and deliver to such resident one moiety or such other proportion as the High Commissioner may from time to time determine of the amount received by him as tribute, one moiety of the amount received by such chief as Kurdin Sarauta and Jangali taxes, and the total amount received by him as Gaisua or suzerainty tax"—A half share of what is collected is paid to the Government.

424. (*Sir J. Digges La Touche.*) He has to give up the whole of Gaisua?—In Kano we do not acknowledge Gaisua at all. Officially we do not regard it.

425. (*Mr. Cox.*) Does it not exist in Kano?—To a very small extent.

426. Is the quantity of Gaisua collected in Kano so insignificant that it is practically negligible?—Yes.

427. (*Chairman.*) You cannot speak for other districts?—No, I cannot.

428. (*Mr. Strachey.*) Section 15 is perhaps the most important thing in the whole proclamation from the point of view of revenue. That is the section under which we really get the money. It is in force everywhere?—Yes.

429. (*Mr. Temple.*) Do you think that the present system, as carried out by the proclamation, tends to the establishment of a graduated income tax? When that is carried out, will it tend to the establishment of a graduated income tax more or less?—You mean if ideally carried out?

430. Yes, if ideally carried out on those lines?—Yes, if it was ideally carried out, but I do not see how with the present staff it could be.

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431. But do you think it would have that tendency?—Yes, if it was ideally carried out, but I do not think it could be ideally carried out.

432. (*Mr. Wedgwood.*) On that point, would it not rather tend to be the collection of rent under the name of a tax, and be simply no income tax whatever, but solely the collection of rent by the State and the devotion of the money so collected to national purposes?—Yes.

433. It is not so much in the nature of the rich man paying more, as of the man who has the more valuable land paying more?—Yes.

434. The rich man would pay more if it was graduated income tax?—Yes.

435. (*Sir J. Digges la Touche.*) Jangali is 4 (c) of the proclamation?—Yes.

436. (*Chairman.*) It is not confined to flocks and herds in modern times?—Not now to nomad flocks.

437. (*Mr. Wedgwood.*) The point that I want to get at is that you do not agree to the idea of the graduated income tax?—My point is this, if I may explain: I do not think that any, or I will not say any, but I do not think that the average person is capable of going to a large native village and assessing a graduated income tax. If I myself was told to do it, I should be in despair. I do not think I could do it, and I think that very few people could do it: in fact, I do not see how it could be done with the present staff. We have had two political officers in Kano Emirate during the last few years to look after two millions of people. Under the circumstances it is quite impossible.

438. (*Chairman.*) Under the circumstances you say that you can only accept the native assessment?—Yes, accept the native assessment, and check it wherever we can.

439. Now we come to a rather different group of sections, 8, 9 and 10, which deal with the organisation of districts, and so on, and the process of collection. How far has a new state of things been introduced by those sections? Section 8 is the formation of districts, 9 is the appointing of a district headman and village headman, and 10 is the duties of the district headman?—In the Kano Emirate it has been done in the letter, in Katsena Emirate it has been done in the letter and in the spirit more or less, and in Katagum it always was done.

440. Does this operate by way of recognising something already existing? Were these district headmen already chiefs of the particular districts, and do you recognise them as satisfying the requirements of the section, or are the appointments new appointments?—The state of things which it was designed to remedy was this: formerly the big chiefs lived in the big towns like Kano, and they were absentee landlords. They owned towns which were scattered about. One town would be east, one town would be west, another would be north, and another south. Sir Frederick Lugard's plan was to form districts with towns belonging to one chief, all grouped together, and that the chief should reside on his estate for half the year, and in the chief town, like Kano, for the other half of the year. The actual division—the actual change from the old system to the new—has been completed throughout the whole province with varying degrees of success. In Katagum they had never ceased to reside at their towns. In Katsena it has been carried out in the spirit and letter. In Kano it has been carried out in theory, but the place is so big that it has not been really successful yet. The headmen had not actually gone out and resided, when I left.

441. Were these headmen in the position of chiefs and subordinate chiefs before. Have you recognised persons who were in that sort of position before the proclamation came into force, or have you appointed new people?—For the most part the same class of people are still in office. They have been, more or less, weeded out. Some of the titles have been abolished or have been allowed to lapse. Most were really simply Court officials, *e.g.*, the Wazir. There were a number of titles. In Katsena there were 73 different titles, and each man holding a title had certain towns and certain land. Some of these titles have been retained, and some of the titles have been simply done

away with. So that the theory is that you have the Emir in Kano with his various councillors, his chief men who have each a district in different parts of the Emirate, and they go out to reside and come in. That has been done, or is in process of being done.

442. How does it work?—Very well, I think—at least it promises to work very well, if the staff is large enough to keep these chiefs in check. There is rather a tendency for them to be inclined to become independent.

443. Section 9 says "a Resident may from time to time appoint chiefs or other suitable persons to be district headmen and village headmen." Is it the practice to select persons for that purpose who were not in a position of authority to begin with?—No.

444. Would you prefer a person who was in a position of authority?—We should prefer a person of some standing.

445. What would be the relation of these people? Next to the Emir comes the district headman, I suppose?—Yes.

446. And the district headman hands to the Emir the produce of his district?—Yes, or he ought to have done so. One of our difficulties was this: In process of time the head slaves of these Emirs had got into a position where they interposed between the free district headman who was a man of birth, and the Emir. Affairs in Kano had got to such a point that the head slaves were all-powerful and the district headman a mere cipher. We are trying to fight against that now and to counteract it.

447. What is the position now. Is there any person in a position corresponding to that of the head slave?—Yes. The Emir's household officials. I am afraid that in Kano up to the time I left the position had not been very much improved. It is very difficult.

448. (*Mr. Cox.*) The legal status of slavery has been abolished in Nigeria?—Yes. The "Head Slaves" never were slaves in any real sense. They were very powerful.

449. Technically free?—In the native sense, I mean, they were slaves.

450. The native does not see very much difference between the man now that he is free and the man when he was a slave?—No. It was regarded as a great honour to be a Head Slave.

451. But as a matter of fact the man is a free man?—Yes.

452. (*Chairman.*) Legally free?—Yes, since the British occupation is free in every particular—and even before was practically so.

453. There is no such thing as slavery?—No. I simply used the word "slave" in the native sense, it means high official of the Emir's Household.

454. Now with regard to the village headman, I suppose that he is the man who actually has to get the money from the taxpayer?—Yes.

455. Is one of your principal difficulties met with in dealing with the village headman?—The difficulty is to get him to stand up against the old Jakadas or tax gatherers. Formerly the Jakada or tax gatherer belonged to the Emir, but since that has been done away with in that capacity, he, as a class, has attached himself to the district headman, the territorial magnate that we have created, who prefers to have the taxes collected by the Jakadas. The difficulty is to get the village headman to be sufficiently strong to collect his own taxes, and not to allow these men, who are the servants of the district headman, to come in and collect his taxes for him and put him on one side.

456. (*Mr. Wedgwood.*) Have you any record in your books of what the village headman ought to pay?—Yes. We have a list for each village.

457. You know what each ought to pay?—Yes.

458. Is the trouble that if he does not collect the tax the Jakada does it instead?—That is the form which the trouble generally takes. The village headman comes to us and says, "I am willing to collect the taxes, but they will not pay the taxes to me. They will only pay them to the Jakada." The natural remedy is to say: "We will make the Jakada the village headman"; but the Jakada himself does not

like that. He will not agree to that. The point is that you have a clique, viz., the governing class. In Kano it is specially large. There are thousands of men who formerly were the myrmidons of the Emir, and who collected the taxes. Under the new system you displace them all. They have nothing to do, and they roam about the country, or they are inclined to do so, and they are very much in the way. That is the great difficulty in Kano with regard to changing the system of taxation and introducing this new system. A very large proportion of the population of Kano are of this tax-gatherer class—the upper classes. In fact, I know one little town which has a hundred tax-gatherers—Dan Zabua.

458a. (*Mr. Temple.*) Do you think that the present system that we are introducing will correct these abuses?—Yes, if it can be carried out I think it will, but a great point is what is going to become of the Jakada, because he seems as if he will not settle down.

459. (*Chairman.*) I think that you have covered the ground now very thoroughly. Have you any definite views of your own which you wish to put before us? Have you any definite suggestions to make as to assessment or otherwise?—I believe in the retention of the native system for the present, as has been done in Kano, unless there is to be a very very large increase in the staff. I think that on the whole it will work much better, and will provide much less opportunities of extortion than if a new system is started.

460. (*Mr. Cox.*) Stating it in as brief terms as possible, what would you recommend that system to be? Who would collect the taxes?—The native Government as before—the district headman for his district and the head of the town under him. He is responsible for the unit. I would work the whole thing on a territorial basis, the local headman paying to the district headman, and the district headman paying to the Emir. The Emir would collect and pay to the Government, receiving a fixed salary for himself and his officials.

461. (*Mr. Wedgwood.*) Each of these people would retain a certain portion for their own local government, so to speak?—I would not put it in that way. I would say that the Emir should pay them a certain sum for their services. There is a distinction between their retaining it and the Emir getting all the money and then paying them a salary.

462. (*Sir J. Digges La Touche.*) Possibly the Government would not get much of the tax?—Exactly.

463. (*Mr. Wedgwood.*) Is it not understood that Sir Percy Girouard's object is to find out what the revenue will amount to definitely over a few years, and then to allow these headmen and Emirs, not a percentage of what they collect, but a fixed amount under a definite Civil List based on the average for a certain number of years?—Yes. That is my point with regard to your last question.

464. Gradually the percentage system will go to the wall, and the Civil List with definite proportions will take its place?—The Emir of Katsena suggested that himself before I came away. He said that it would be better to pay a fixed salary.

465. (*Chairman.*) Do you think that that will be accepted?—Yes, I think so.

466. You do not see any danger of the Emirs and district headmen and so on becoming intermediate landowners?—Not unless they acquire some power of dealing with the property as owners, which at present they have not got.

467. That resolves itself into a question of tenure?—Yes.

468. (*Mr. Wedgwood.*) It would also be obviated, would it not, by giving them a fixed salary instead of a percentage?—Yes. I think that it would be very difficult for some years to absolutely fix the taxes. There is so much migration that the tax varies from year to year, and as regards auditing the taxes or anything of that kind it is very difficult to draw up a revenue book and say, "These are the taxes."

469. (*Chairman.*) "These are the taxes, and they shall be the taxes in three or five years' time"?—Yes.

470. You think that you could not have a periodical settlement?—I think that for a year or two yet it is advisable not to commit oneself, because we are really only beginning to know the truth. The Emir of Kano

deliberately disguised the taxation for the first year or two—in fact, the Emirs all over the country did.

471. Do you think that you have now a good deal ascertained the facts?—I think so. I think that, roughly speaking, we have now arrived at about the truth.

472. You feel pretty confident that you know what taxation the people can properly bear?—Yes, I think so, roughly speaking. There is a point with regard to the taxation formerly paid, which is rather misleading. They do not always pay in cash. A village may be said to pay so much, but a large proportion of that is paid in kind, in entertaining the tax gatherers and in entertainment of chiefs, and so on; and I think with regard to Kano it will be found that it will not be possible to realise in cash as much revenue as it is rightly assessed at under the old native assessment.

473. Do I understand that you do not contemplate anything in the near future beyond ascertaining what are the existing taxes which people should properly pay, and taking care that those taxes are collected as far as possible in a proper manner?—Yes. It seems to me that with the present staff we cannot go very much farther than that.

474. That you cannot take any further steps in your view towards simplification of taxation?—Except minor steps. I suggest for instance the merger of the Zakka and the land tax. Then I think that we might merge some of the other taxes gradually, but I think it would be a mistake in Kano to say that we assess the village at so much, according to wealth, leaving the headman to settle the incidence of the tax. That is really the point. I am sure if that was done we should have no check on what was going on. They would simply tax people they did not like, and the people they liked would pay nothing. In other words their own families would pay nothing.

475. Supposing that there was a case of a village headman who exacted too much and a great deal more than he paid over to the Government, taking far beyond his proper share. What chance would there be of finding that out and of being able to prevent it or remedy it?—At present they know exactly what they ought to pay. It is so much per farm. It may be 4s. in the district or 3s. They know the rate at which each farm is taxed, and if the local chief or village headman wants to make a man pay 6s., that man comes to the resident or the Emir and complains.

476. He does at the present time?—Yes, he does, because he knows what he ought to pay. Again, under a system of lumping the taxes, unless every individual was told what he had to pay there would be no check of that kind.

477. (*Mr. Wedgwood.*) I want to know about the selling of houses in Kano with regard to which you gave some evidence last time. Do you know whether houses have actually been sold, and if so, how do the sales come before your notice?—I cannot say that a case has ever come into court, but I do know that houses are sold and I do know that they are the private property of individuals.

478. I suppose that there is a certain amount of vacant land in Kano, that is to say, land not built upon?—Yes.

479. Is that land transferred from owner to owner?—No, I do not think the land is the subject of ownership, but the house is.

480. Merely the house?—Merely the house.

481. And the wells?—I should say the wells, but I am not sure about that point.

482. If you wanted to put up a new house in Kano, would you purchase the land in any way?—No, you would ask the Emir. He would have the disposal of any land not built on. You would ask him if he had any objection to your building a house. If he said no and you built the house, the house would belong to you.

483. And the land?—I do not suppose that point of view has ever occurred to the native.

484. Has the case ever occurred where the Emir has said "You must pay me a quit rent of so much a year for the right to put the house there"?—I think not. I have never heard of a case. I should

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say in general that every native's house belongs to him. On each farm they build houses. The distinction between land and houses is drawn much in the same way as, in Sir Kenelm Digby's book on the history of real property, he mentions to have been the case among early Teutonic communities.

485. The Emir's permission is required for the building of a house?—Yes, the Emir's permission is required.

486. Once you have that permission you have a permanent right to sell the house or to bequeath it?—Yes, I should say so—to do what you like with it.

487. That does not extend to any land not actually built on?—No.

488. It would not cover land used for garden purposes or agriculture?—I should not say so, but it is approximating to that. As Captain Orr says in one passage, "A change from family rights to individual tenure is in process." On page 37 you will see "The Hausa States appear to me to be at this moment passing from a purely patriarchal system direct to a system of individual proprietorship in land by a natural evolution." I think that is very true.

489. You regard it as advantageous to keep to the patriarchal system or the collective system of ownership in the land in the country?—Yes, as regards the land.

490. Do you think that it is advisable in the town, or do you think that individual ownership is necessary?—I think that before long there will not be any towns. The tendency is now for the towns to become deserted and for all the people to go to live on their farms. As regards the ownership of a house, I think it is just the same in the country as in the towns. Every native, I think, owns his house. In early days a house was only built of straw, and would be a moveable thing, and in many cases it is now.

491. (*Mr. Cox.*) The natives are going back to the land?—Yes, decidedly.

492. (*Mr. Wedgwood.*) There is another point that I want to get at. No land has ever been sold round Kano, I suppose, so that you do not know the price of land round there?—No, I have never heard of land being sold.

493. Can you form any estimate as to the value of land per acre within, say, half a mile of the walls of Kano?—I do not know about the value near the walls of Kano.

494. I want to know whether anybody knows the value of the land?—The annual value of a farm in a good position some distance north of Kano I calculate at about £4 per acre.

495. That is the capital value, not the annual value?—The annual value of the crop.

496. What proportion of the annual value of the crop is taken in taxation?—About 5s. for Zakka would be taken and another 4s.—about 10s.

497. (*Sir J. Digges La Touche.*) 10s. an acre?—About. Perhaps 8s. would be better.

498. (*Mr. Wedgwood.*) That is one-tenth of the value is taken in taxation with regard to the particular farm?—Yes.

499. Do you think that that proportion is maintained for other less valuable farms?—I should say so. I should say that the proportion is about the same.

500. Do you aim at keeping the proportion about the same?—I think that one-tenth is about their figure. It has the influence of the Moslem taxes.

501. Ten per cent.?—About that.

502. (*Mr. Strachey.*) We must remember that that includes rent, when we say that that is taken in taxation?—Yes.

503. It might be misleading to call it taxation merely?—Yes.

504. (*Mr. Wedgwood.*) Yes. You say that the value of the crop is £4 a year?—That is the estimate of the value of the bundles of grain produced.

505. Supposing that the land was let for agricultural purposes you would not get a rent for that of £4 per acre. You would probably only get 10s. as rent, and the rest would have to go in labour and seed?—Yes, exactly.

506. £4 is the value of the produce. The amount of the rent would probably be about the same amount as you take in taxation?—Yes.

507. So that practically, with regard to agricultural land, you take the rent as taxation?—Yes.

508. In the towns you do not do that?—No, unless land in a town amounted to a "farm."

509. Then is it not unfair between the country and the towns. You take the whole land value in the country, but in the towns such as Kano the Emir does not charge anything. He gives permission to a man to build a house or to put up a shop without charging any rent or without taking any tax from him?—Yes.

510. If a man lives in a house he pays nothing at all—no land tax, no Zakka, no Jangali—none of these taxes?—But then he is sure to have a farm outside. It is merely the house in the town. The town wall is simply built to prevent the inroad of other people. A large wall is built. It is probably built before the houses inside are built.

511. Do you not think that it would be advisable to charge the tax in the towns as well as in the country?—I think that we shall be forced to guarantee to people, in some way, their houses and the land they are on, but no distinction ought to be made between "town" and "country."

512. The only way in which to guarantee is to charge rent for the use of the land?—Yes.

513. It would give a man a guarantee with regard to his house if a ground rent was charged?—Yes.

514. (*Sir J. Digges la Touche.*) The man must have some occupation?—I think that practically every class of the community is got at by the native taxation.

515. (*Mr. Wedgwood.*) Is there any reason why land in the towns should not be tackled in the same way as you are tackling the land in the country?—No. I think that it all ought to be on one footing.

516. (*Chairman.*) A man builds a house in the town, but he does not pay more?—He would go and ask the Emir, and he would very likely give the Emir a present. All the vacant land in the town is farmed just as the land is outside, and in between the houses the land is all farmed. It is recognised that if a man wants to build a house inside the town, that overrides the right of a man who is merely farming land inside the town. He builds his house and owns the house. The town was a refuge from enemies.

517. He simply builds his house and perhaps gives the Emir a present for not interfering with him?—Yes.

518. He does not get a lease?—No, but he is looked upon as the owner of the house.

519. He does not pay the Emir anything because he is taking a bit of the Emir's land, or land which the Emir has the exclusive right over. He simply builds the house because he is a native who wishes to live there?—Yes—a member of the community.

520. Yes?—I think so. The Emir, as trustee, has a certain veto on it. I take it that he could forbid a man to build a house in the town if he wished to forbid it.

(*Sir J. Digges la Touche.*) That quite corresponds with the custom in India. No villager pays rent.

521. (*Mr. Cox.*) Are not all the people who live inside Kano possessors of land outside, as a matter of fact?—The bulk are—yes. Kano is a rather exceptional town, however, with a large floating population.

522. What class of people are there living in the town who do not hold land outside which they farm?—Very few of any respectability if permanent residents.

523. Therefore the people who live in the town, in most cases pay taxes of some kind, but not in respect of the house in the town, but in respect of their farms outside?—Yes. Nearly every man has a farm of some kind. They may also be dyers, or weavers, or blacksmiths, or butchers. In every case they would pay the special tax for their trade.

524. (*Mr. Wedgwood.*) In the sample farm which you gave you said, "We take in taxation about 8s. per acre." The rent would be about 8s. per acre?—Yes.

525. In that case has a man anything to sell if he wants to transfer his farm to another person? In your previous evidence there is a good deal of questioning as to whether a man has anything to transfer. If the whole of the rent is taken in taxation he has no tenant right, if I may say so?—No.

526. He is not in the position of a landlord at all. Has he anything which he could transfer if he had a title? Has he anything that he could mortgage?—No, I think not. In practice they never charge anything. A man can lend his farm to somebody else with the consent of the local chief, and it is done very commonly.

527. The very fact that it is liable to this tax makes it valueless for transfer or for bequest, and it enables a chief to give a farm to anybody he likes and to withdraw it without injustice to anybody. There is no tenant right in the tiller of the soil at all?—No tenant right. There is simply a right of user which ought not to be interrupted except for some good reason.

528. A right to the crops?—Yes. He is entitled to continue in occupation of the land unless there is good reason to the contrary.

529. The fact that the land has no definite value makes the question of the selling of the land by natives much simpler. It is subject to the tax, and has no value to the occupier of it except with regard to the crops, and it has no value to a white man or to a black man coming in to purchase it?—These taxes have a tendency to become permanent settlements, and constant revision is necessary if the proportional tax is to be maintained.

530. You want to prevent their becoming permanent and to prevent their becoming a quit rent?—Yes.

531. (Chairman.) Take the case of £4 annual value and the taxes amounting to 10s. which was mentioned just now. The use of the land is a valuable thing?—It depends upon how a man farms it. He may farm it badly or he may farm it well.

532. (Mr. Wedgwood.) You said that the rent was 10s. and the produce £4. The difference would be the reward of the man's labour and the interest on his capital?—Yes. I think that for practical purposes under present conditions what you put to me is so, but one point which is raised by Sir Percy Girouard is what would happen, for instance, near the Kano railway station or near the Zaria railway station.

533. That is a question of town land again?—Yes.

534. Do you think it would be advisable that near the Kano railway station and in Kano the Emir should charge a ground rent for the house and land for building?—I doubt it. I would not say that.

535. (Chairman.) The question really comes to this I think: ought there to be any difference in point of law between property in land in a town and property in land in the country?—I should say there should be rather undefined. I suppose that the origin of it is ought to be the same in the country, because the walls are falling down and there will soon be no difference. The purchasing of a farm does, from the native point of view, convey a certain right to stay there. It is rather underlined. I suppose that the origin of it is a man going to the chief of a community and asking for a farm and giving the chief a present.

536. (Mr. Wedgwood.) It is rather like copyhold tenure in England?—Yes.

537. In the interest of the community one wants to avoid the copyhold tenure becoming a fixed rent with heriots instead of Gaisua, and to make the rent approximate to the actual rent of the land?—Yes. My idea is that there should simply be a registration fee.

538. (Chairman.) As a matter of fact you have not in your province had any land taken up by any non-natives have you?—No. We have only one firm of non-natives, and in order to obviate any difficulty they hire a house from the Emir. That is the London and Kano Trading Company.

539. They are in Kano?—They are in Kano.

540. You have no cotton growing or anything of that sort by outsiders?—No, not so far.

541. (Mr. Wedgwood.) Have whites applied to purchase land and been refused?—I am afraid that I do not know.

542. (Chairman.) Is the land suited for cotton-growing?—Yes, I believe so.

543. Have you valuable minerals?—Not very much, I think. A good deal of cotton is grown, but that is all consumed by the natives. They dye it themselves and use it themselves.

544. So far as the development of the country is concerned it will more probably take the form of cotton-growing than any other form?—Yes, corn and cotton.

545. Is there anything that you wish to add?—I cannot think of anything.

546. You will let the secretary know, perhaps, if anything occurs to you?—Yes.

The witness withdrew.

Mr. C. L. TEMPLE (a member of the Committee), examined.

547. (Chairman.) You are resident at Sokoto, are you not?—Yes.

548. Will you kindly state the points which you wish to bring before us?—May I just state a few leading facts with regard to native law and custom?

549. If you please?—The land of Northern Nigeria is national to or the property of the conquering or occupying tribe. The whole of Northern Nigeria was claimed for some tribe or another before the occupation by the British. Each individual belonging to the conquering, conquered, or occupying tribe has the right to occupy, in so far as this is possible, such land belonging to his tribe as is sufficient for his support on the conditions that he observes native law and custom.

550. You say that he has the right to occupy. Do you mean that he had before the British occupation, or is it recognised under the British occupation?—Before. This all relates to before the occupation. The power of deciding the locality and extent of each holding is vested by the individuals of the tribe conquering or occupying in the office of their representative or representatives, that is the Emir, chief, or council. The Emir, chief, or council is therefore trustee to the individual members of the tribe, whether the tribe is conquering, conquered, or occupying. The

Emir, chief, or council has power to appoint nominees who are vested with certain powers, and possibly equal powers. The Emir, chief, or council, or their nominees, are in almost all cases empowered to grant occupancy rights to strangers. The chief of a conquering tribe could not grant even to members of his own tribe land belonging to a tribe which he had conquered to the exclusion of the members of the latter. The members of his tribe would be strangers. He could grant away waste land claimed by the conquered tribe.

551. (Mr. Wedgwood.) Subject to payment?—I will come to that.

552. (Chairman.) With regard to what you say about Emir, chief, or council, you intend that to embrace all descriptions, whether Mohammedan or Pagan?—It is applicable to the whole protectorate.

553. (Sir J. Digges la Touche.) Would it include strangers or people not of the same tribe?—Yes—of a different tribe. It comes in later. We come in as strangers.

554. (Mr. Cox.) Strangers to the district, you mean?—Yes, strangers to the particular Emir or the particular chief.

555. (Chairman.) Not belonging to the particular tribe?—Not belonging to the particular tribe.

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556. The theory is that a certain area of land belongs to the tribe, and anyone who does not belong to the tribe is qua that piece of land a stranger?—Yes.

557. (*Sir J. Digges la Touche*.) The stranger can only occupy it subject to the right of each member of the tribe to get enough land to live on?—Yes.

558. (*Chairman*.) I believe you have experience over the whole Protectorate. You have travelled about it a great deal?—I was for five years in Bauchi, and I had a year and a half in Sokoto, and some time in Bornu. I have been to Kano too.

559. You have been to different portions?—Yes, I have travelled a good deal. The Emir, chief or council, or their nominees, are entitled to demand from the tribe individually or collectively, certain dues in the form of rents, taxes, payment for the right of occupancy or labour in lieu thereof, or any service necessary to the well-being, organisation and protection of the tribes whose representatives they are. The Emir, chief, or council has the power to expropriate an individual for failure to satisfy these conditions without compensation. Even should these conditions be fulfilled they have the right to expropriate the individual for any good reason whatever, but not without compensation. Subject to the above exceptions, the right of occupant passes from father to son. As regards inheritance, right of occupant, subject again to the above conditions, is treated as if it were a freehold. Occupancy rights once granted are transferable for valuable consideration or without by the individual with the consent of the tribal representative. Those appear to me to be the leading points with regard to native tenure, and I have a certain number of points to submit.

560. When you say that a person has the right or power to transmit, and so on, do you mean it according to the native ideas and native custom that would be generally recognised as a proper step to take, and that the transferee or heir, or whoever he is, would, under the ordinary state of things, come in without disturbance?—Yes.

561. Supposing it was disputed or supposing any injustice was done, what would be the remedy under native customs. Is there any court which would practically enforce a right of that sort?—Practically every Emir, chief, or council has a court of a sort attached even in the most primitive tribes. For instance the Kibyen and the Sura. The cannibals have a certain jurisdiction of their own.

562. And would have actual power to enforce the customary rights?—Quite so—very much power.

563. Will you kindly go on, please?—I would submit that the native laws and customs be recognised by His Majesty's Government. The land then becomes national to, or property of, the British, being the conquering tribe. The power of granting rights of occupancy is vested in His Majesty's Government as representative of the tribe.

564. (*Mr. Strachey*.) When you say "is" you mean would be?—Yes—would be. The power to grant rights as occupant and the responsibility of safeguarding the individual's right of occupancy would lie with the Government. The Government would have the power to appoint nominees with powers and responsibilities equal to or less than its own. The Government or its nominees would be entitled to demand in return for occupancy rights, rents, taxes, etc., necessary for the wellbeing and organisation of the country.

564a. (*Chairman*.) When you say "native law and custom is to be recognised," are there any native laws or customs which a civilised community like ours could not recognise—which are so immoral or bad in other ways that we could not recognise them?—Yes. I only mean that they should recognise these particular points.

565. No difficulty of that sort arises in respect of these particular points?—No.

566. Not in reference to the tenure of land?—No. The native arrangements are most equitable, I think, if they are carried out.

567. You have no fault to find with them from the point of view of equity or morality or civilisation?—No. If I may I will give you a few reasons to support

what I have proposed. Northern Nigeria is not, and probably never will be, wealthy enough to bear the weight of direct European administrations. It is, therefore, necessary that the Government rule the individual through native administration. For the efficient working of such administrations in these circumstances two conditions are necessary: (1) that they be effective, that is; that their authority be recognised by the individual; (2) that their acts should be readily controlled by the Government and not regarded as irreversible by the individual. It is sufficiently hard to fulfil these two conditions. The granting of the freehold of land to individuals would render both impossible of fulfilment. The authority of the native administrations rests chiefly on their power to grant or deprive right of occupancy. Should the native administration be empowered to grant freehold in land their acts would be insufficiently controlled by the Government. A natural sequence of the establishment of freehold in land or of the guaranteeing of occupancy rights for any fixed term would be the mortgaging of land and the advent of the professional moneylender. The latter cannot exist under the conditions created by native law and custom. It is extremely hard to value land at present. It is practically impossible to foresee what value land may acquire in the near future. By recognising native law and custom the Government is placed in the strongest possible position to enable it to protect itself and all classes of the community. The individual is protected by the right to acquire occupant rights when possible under certain conditions. As he can be punished by losing these rights if he fail to fulfil them the authority of the Government is secure. The Government has the right of expropriation when land is required for public purposes. With regard to the native administration responsible to the Government for the welfare of the individual they are both supported and controlled. The least possible alteration in the best traditional customs of the natives would be caused by the adoption of the native customs. There are special considerations necessary with respect to tenure by non-natives. There is no reason why, generally speaking, native law and custom should be departed from in the case of non-natives. By native law and custom the Government has in almost every case the right to grant occupancy rights to strangers, and all my point is that the Government, having constituted itself trustee for the individual members of every tribe, the responsibility of reserving sufficient land for these natives lies with the Government. The importance of not alienating the freehold is thereby enhanced. For various reasons it is necessary that the occupant rights should be granted by the Government itself—that is to say, to non-natives, and not through a native nominee. That is simply a matter of expediency. With regard to whether any dues paid for such occupant rights should be shared by the native administrations, that is a matter of detail. The Government is responsible for the proper maintenance of the native administration in any case. There is one factor which native law and custom does not, however, take into consideration, and that is improvements on land. This factor will render it necessary in the case of non-natives that the occupant rights should be granted for a certain number of years on condition that improvements are effected. In view of the responsibility on the part of the Government to reserve sufficient land for the use of the natives of Northern Nigeria, and the likelihood that the population will increase rapidly, it is all important that the term of the lease should not be a long one.

568. (*Mr. Wedgwood*.) Could you not provide in your lease for the exemption of the improvements from any increase in rent—provide for renewable leases so as to give people indefinite tenure, and exempt from any increase of rent the value of the improvements effected? Otherwise you would never get people to invest their money for 33 years even?—I am looking at the responsibility of the Government to reserve sufficient land in any case. In that case they might have to evict.

569. I do not think that the difficulty in regard to improvements is so great as you make out. I think that you might have a short period and renewable leases?—Yes. That is rather a matter of detail.

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569a. (Chairman.) If I gather rightly, what you have prominently in your mind is the interest of the native and reserving sufficient land for the increase of native population?—Yes.

570. You put that as the first responsibility of the Government?—Yes, I put that as the first responsibility of the Government.

571. In fact, you put that before, if I gather rightly, the development of the country by grants of leases or whatever it may be to companies of white men or to associations of white men for cotton growing or anything else?—Yes, I put that first.

572. You put the reservation of land for natives first? Yes.

573. (Mr. Strachey.) You regard it as following naturally from the assumption by the Government of

the position of paramount chief, one of whose duties is to see that every person has sufficient land to support himself?—Yes, I do.

574. (Captain Orr.) And those who are living in the country now should have a prior right to that of a stranger entering the country. That is what it comes to?—Yes.

575. A prior right to the Concessionnaire?—Yes, I say this—the right of pre-emption at the end of the term might be granted to the original occupier non-native as opposed to any other non-native; not, however, as against the Government should the land be required for natives of Northern Nigeria.

576. (Chairman.) We shall be greatly assisted if you will kindly treat the question of assessment as you have treated the question of tenure, so that we may see how far the two are bound together?—Very well.

The witness withdrew.

Adjourned to Tuesday next at 2.30 p.m.

THIRD DAY,

Tuesday, 23rd June, 1908.

At the Colonial Office, Downing Street.

PRESENT:

SIR KENNELM E. DIGBY, G.C.B. (Chairman).

Sir J. DIGGES LA TOUCHE, K.C.S.I.
Mr. THEODORE MORISON.
Mr. J. C. WEDGWOOD, M.P.
Mr. C. L. TEMPLE.

Mr. H. BERTRAM COX, C.B.
Mr. CHARLES STRACHEY.
Captain C. W. ORR.
Mr. JOHN ANDERSON (Secretary).

Mr. C. L. TEMPLE, recalled.

577. (Chairman.) I think that the better plan will be to ask you to go on with your evidence, please. Will you follow your own line?—With regard to Questions 570, 571, and 572, I answered those rather briefly at the moment. I should like just to say that I am firmly convinced that mutual benefit will result from the occupation, to the natives themselves and to the British. I think that in time there will be good opportunities for planters and traders—European. I am also convinced that the interest of both will be best protected by the Government if native law and custom be followed as far as possible with regard to land tenure. It is only by so doing, I think, that the prosperity of the natives, on which the prosperity of the non-native settler depends (without which, indeed, the latter cannot exist), can be secured. The native system of land tenure places the Government in the strongest position possible to forward the interests of both, and to prevent undue advantages being taken by either.

578-582. That is an explanation of your previous answers?—Yes, it is an explanation, because I wanted to make it clear that I think there is an opening for settlers, or will be an opening for settlers. May I comment on Mr. Palmer's evidence on one point?

583. Yes, certainly?—In reply to Mr. Wedgwood's Questions 431, 432, and 434, Mr. Palmer states that the tendency of the instructions in the Memorandum on Taxation* by Sir Frederick Lugard is to establish a system of taxation based on land values and not on income. The instructions are summarised as follows in the Memorandum on page 110, paragraph 37†: "In assessing any town a resident will have to take into consideration the taxable capacity of (a) the agricultural population based on the three old taxes and depending on the extent and value of the land under cultivation." I wish to lay emphasis

on the word "cultivation" there. "(b) The industrial population (including collectors of sylvan produce) based on the old taxes on the various crafts and depending on the profits made with due regard to the remission of old taxes and the imposition of any special licences." I wish to emphasise the word "profits." "(c) The cattle flocks and other wealth." I wish to emphasise the word "wealth," which formerly paid Jangali or arbitrary levies."

584. Let us clearly understand. This is the Memorandum of Sir Frederick Lugard that you refer to?—Yes, on which the present assessment is based. It is carried out according to these instructions. Of the three old taxes two are Zakka and plantation taxes, both of which are proportional to the annual crop, that is, income taxes. Kurdin Kassa was an indefinite or rather arbitrary amount paid by the village. It is the only one of those formerly levied which is not definitely dependent on income.

585. (Mr. Morison.) On the whole village and not per head?—No; paid per head individually on the village but paid by individuals.

586. You mean that?—Yes, I mean that. These taxes are all paid by head, generally speaking. The remainder, including Jangali, are obviously income taxes. In paragraph 459, Mr. Palmer says: "I believe in the retention of the native system for the present." From the general tenure of his evidence it is evident that the native system is being retained in Katsena and Kano, and he is therefore, in spite of what he says in 437 to the effect that he could not assess people on the system of an income tax, actually both assessing and collecting tax on this basis. I lay particular stress on this point, as it is a matter of historical accuracy. The native did not evolve a system of taxation based on land values. No such system has been, up to the present, established in Northern Nigeria. Whether such a system can

* Appendix III. *infra*.

† Page 131.

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be established in the future is a question as yet undecided. I am going into this question in my evidence on land revenue.

587. (*Chairman.*) Will you go on now with your evidence with regard to assessment?—Yes. With regard to assessment, collection, and record of land revenue, the Emir, chief, or council, and their nominees had by native law and custom the right to demand certain dues from the persons to whom occupant rights have been granted. In all probability these dues were originally (they still are in the case of pagans not yet thoroughly controlled) very light. They were not proportioned to the land occupied or the crops or property of individuals. In fact they were paid rather as an acknowledgment of authority than as contributions towards what might be called administrative expenses. Gradually, however, a more elaborate system came into being, and these contributions became proportionate to the property and income of the individual. Even at an early date, before the advent of Mohammedan missionaries, a number of distinct taxes are said to have been collected by the Chiefs of Kano (*vide* History of Kano, translated by Mr. Palmer). With the spread of the Mohammedan religion and the conquests by Mohammedan tribes these dues and taxes took more or less the forms prescribed by Mohammedan law. At the time the country was occupied by the British, in many of the Emirates a complicated system of taxation was found to exist. In Kano the system was remarkably complete. It is not possible to detail these taxes here, but they fall under eight distinct heads:—(1) *Zakka*: Payment of one-tenth of the crop in the case of cereals. (2) *Kurdin Rafi* or *Plantation Taxes*. Payment of a proportion of special crops planted on the banks of the Rafi (that is, brooks), such as sugar canes, manioc, onions, etc. Cotton was included, I think, in this class. Perhaps Captain Orr will know that better than I do.

588. (*Captain Orr.*) Cotton was never taxed?—Cotton was taxed with us.

589. Anyhow, these were not the staple food crops?—They might be, such as yams in places. Generally speaking, it is not the staple, I should say.

590. The distinction between these two is between a particularly valuable crop and the common ordinary crop which is the food of the people?—Quite so; that is the distinction.

591. That is about the distinction?—Yes, that is about it. (3) *Jangali*: Contribution of a proportion of their cattle by owners; in some cases of flocks also. (4) *Kurdin Kassa* or *haraji*: Payment of a sum for the right to occupy, not proportionate to the size of the holding, the *jizia* of the Koran, but levied in many cases on Mohammedans as well as pagans. (5) *Taxes on trades and industries*: In addition to these four main taxes there were levied a host of minor contributions known by various names, from artizans and traders, such as dyers and dyo-pits, smiths, weavers, caravans, etc. (6) *Kurdin Sarauta*: Contributions from persons who were appointed to official posts on appointment. (7) *Gaisua*: Presents expected from practically every person by his superior as a token of the recognition of his authority. (8) *Ushera*: In theory 10 per cent. death duties shared by the chiefs and judges, not shared at all by the Government at present.

592. What is the distinction between Ushera and Zakka? I understood that Zakka was a kind of death duty?—Ushera is a 10 per cent. death duty. It is for the administration of the estate. It is taken by the chiefs.

593. (*Sir J. Digges La Touche.*) It properly means "alms"?—Ushera is one-tenth part.

594. Yes, one-tenth part. But take Zakka?—Zakka must have a meaning, but I do not know what the Arabic meaning is.

595. It is an Arab word. It is the same word as *Zakat* in India, that is "charity" with us?—It is a religious tax enjoined by the Koran.

596. (*Chairman.*) It is mentioned in one of the memoranda that it is for the purpose of alms.

597. (*Captain Orr.*) I thought there was a confusion between Ushera and Zakka. I thought that Ushera

was a tithe levied in Bagdad say (that is my recollection—I may be wrong) and went into what was originally intended to be a charitable fund?—Ushera in Northern Nigeria may be termed death duties collected by the Judge for the administration of the estate of deceased persons.

598. It is not levied annually?—No.

599. It is not a tithe of annual profits?—No. It is a death duty.

600. (*Chairman.*) How is it assessed—in what sort of proportion?—Ten per cent.

601. Have you finished the enumeration of the taxes, because a question occurs to me to ask upon it. I will put it later?—There is, I think, a great deal to be said in favour of levying all these contributions with the exception of the *Gaisua* and *Kurdin Sarauta*. For the collection of these taxes a complicated system was created which need not be detailed here. Logical enough in theory, it lent itself to great abuse. At the time of the occupation, although the actual contributions levied probably did not weigh heavily on the people, yet the manner of their collection and the extortions of the collectors, that is *Jakadas*, called for reform. In a memorandum the political department was directed to effect the following reforms. Each administrative unit, that is each Emirate, or section which possessed a separate native administration to be divided into districts of convenient size. In each district a resident district headman to be appointed responsible to the head of the native administration for the collection of the taxes from the village headmen. The collection from the individual to be in the hands of the village headmen. The sending of collectors, or *Jakadas*, by the head of the native administration or the district headman to individuals to be prohibited. These reforms have been to a great extent effected. They have to a considerable extent reduced extortion. Each village head knows how much he is to hand to the district head. I think it most unlikely that he will pay more. Each district head knows the amount to be paid by each village, and the total amount which he is to hand to the Emir. Again, I think it most unlikely that he will pay more. The two principals who were formerly in a position to extort are therefore prevented from doing so. The village headman is, however, as yet under no effective check. This is one point on which we look for advice and assistance from the Indian and Burmese experience.

602. (*Captain Orr.*) Do you mean by the two principals—the Emir and the district headman?—Yes.

603. (*Chairman.*) Then you have also a third source of extortion, that is to say, the messengers whom the Emir or the district headman sends to the villages to collect?—Yes, quite so.

604. There are other sources, as I understand, of extortion besides the village headman?—Yes, quite so—the *Jakadas*. I might have put that in. The *Jakada* also is abolished, and that reduces extortion.

605. I gather from some of the memoranda that that is about the most fertile source of extortion?—Yes, I think so.

606. (*Mr. Strachey.*) Mr. Palmer told us that there was a large class of *Jakadas*?—Yes. That will not settle down.

607. A very large number of people?—No doubt there are a great number, but they are nothing as compared with the population, and they must be made to settle down.

608. You do not think that they present a real difficulty?—Only a purely local difficulty.

609-10. (*Chairman.*) These are the ex-slaves of the Emir, are they not?—They might be slaves or they might be poor freemen. Referring to the fact that the district headman is not checked. In order to make this clear I will briefly explain the system of assessment and record now employed. In the memorandum quoted above the political department is directed to make a "Resident's Assessment" of each province. A "Resident's Assessment" is made as follows. It is made by districts. Each village in a district is visited by a political officer (that is to say, a resident or assistant resident), who furnishes the

following returns for the district: (1) A map, or rather prismatic compass survey showing as much detail as possible. Up to the present, generally speaking, it has not been found possible to show more than the boundaries of each district, the locality of each village, the roads, streams and rivers, and the general topographical aspect of the districts. It is not possible with the present staff, or, indeed, without a large expert survey department to ascertain the boundaries of the land attached to each village or the extent of individual farms, or the extent of cultivated or uncultivated land with any accuracy. (2) *Provincial Record*: A return giving a list of towns and villages and all details ascertainable about each village. (3) *Tribute Register*, $\frac{N}{T}$: A return, giving a list of towns and villages. The gross amount assessed payable by each village as "general tax," that is, all taxes except Jangali, Ushera, Kurdin Sarauta and Gaisua. The shares due to Government and to the native Administration. Also an explanation as to how the gross amount is arrived at, that is, how much as Zakka, Kurdin Kassa, tax on dye pits, etc. The amount payable as Jangali is not included. (4) *Return of Jangali*, $\frac{N}{T}$: A return similar to the tribute register, but relating only to cattle. (5) $\frac{N}{T}$: A *resumé* in brief of the tribute register and Jangali return showing the gross amount due from the district as general tax and Jangali (which together are called tribute) and the apportionment between Government and the Administration. (6) A general report on the district, $\frac{N}{T}$, the *resumé*, is sent to the Governor, who legalises the taxation by attaching his signature. It is then returned to the resident and kept in the "Guard book" in his office, where it is liable to inspection and comparison with the cash book by the auditor. The main difficulty lies in the assessment of the gross amount of general tax payable. The directions given in Sir F. Lugard's memorandum are summarised as follows. I repeat what I said just now. "A resident will have to take into consideration the taxable capacity of (a) the agricultural population based on the three old taxes, and depending on the extent and value of the land under cultivation. (b) The industrial population . . . based on old taxes . . . and depending on profits made . . . (c) The cattle, flocks, and other wealth . . . (Page 110.) In carrying out the instructions contained in the memorandum a considerable divergence has, I think, occurred in the practice followed in each province.

611. (*Chairman*.) You are referring to Sir Frederick Lugard's Memorandum?—Yes.

612. Perhaps you will identify it by its date, or it may lead to confusion when we come to deal with it?—Very well.

613. (*Captain Orr*.) These memoranda were revised in September, 1906, by Sir Frederick Lugard?—Yes, and this is Memorandum No. 5.

614. You are still dealing with $\frac{N}{T}$?—Yes. To return. This divergence is due partly to different conditions, and is accepted and allowed for in the Memorandum itself, *vide* page 124, paragraph 63. I would here briefly note a few facts with regard to assessment, collection, and record of taxes which have come to my notice, and the conclusions which I have drawn from them. The following opinions are personal, and I am quite prepared to allow that they may be wrong. Although the right to demand contributions from the individual is based on the "occupant rights" granted to him, I do not see any means of at present basing a practical system of taxation on the value of the land actually granted, the reasons being (1) that the extent of unoccupied land is so great that it has to all intents and purposes no monetary value as compared to the crops raised on it, or the cattle and flocks raised upon it. (2) Cattle, which constitute the only accumulated wealth of the people, are continually changing their pastures. They are frequently grazed hundreds of miles away from the farms or habitations of their owners, on land which does not belong to the latter. (3) The farmer himself is continually moving if not the locality of his house the locality of his farm. These conditions will probably alter. In the neighbourhood of Kano I believe they have altered to a certain extent. As

this takes place and fixity of tenure increases and land acquires a value proportionate to the use it can be put to, this value should, I think, be taken as a basis for all taxation. In the present circumstances there exists a most important feature with regard to the value of direct taxation. It is that not only is the necessary revenue raised but its payment has an educational and disciplinary effect on the population. The immense vitality of the African races renders them prone to despise authority. They have not the natural respect of authority characteristic of Asiatic races. The individual negro does not consider himself responsible to an authority unless that authority is strong enough to demand something from him. This fact is well known to the native rulers. I am strongly of the opinion, therefore, that, to secure this educational effect, it is most important that every single individual—agriculturalist, breeder, artisan, and trader—should be called upon for a contribution to the revenue, more or less proportionate to his property or income. With regard to the machinery required for the assessment, collection, and record of these contributions, I think it most important that the limitations of the British staff should be realised. I may add that the same limitations would exist were the present staff doubled. For instance, take the case of the assessment and collection of Jangali in Sokoto Province. There are now registered about 240,000 head of cattle scattered over an area of 35,000 square miles. It is obvious that six political officers—the present staff—cannot deal with this number in detail. Twelve could not do so. They can exert a general supervision only, and depend to a very great extent on the native administrations. To turn to the other contributions, which combined are called the General Tax, there are, in any of the three northern provinces, from 3,000 to 5,000 villages and towns scattered over 30,000 square miles. The present staff can locate these and obtain a general knowledge concerning them. It can even obtain a detailed knowledge of a certain number, and by this means check gross misrepresentation by the natives. Generally speaking, however, for the data on which to base the assessment it must depend on the native administration. When it comes to the actual collection the British staff depends to an even greater extent on the native administration. The Emirs, chiefs, district heads, and village heads have between them all the detailed local knowledge necessary for a just assessment. It is only necessary to insist on their supplying this information to arrive at a just assessment. To obtain this information from the native administration it is necessary that the British staff have a personal knowledge of and influence over each individual native official. In other words, assessment, or collectors' work, is political work. To enable the present small British staff to do this work efficiently it is important that the clerical work expended on the records should be reduced to the absolute minimum actually required. In my opinion it is impossible to register separately the assessment, and record the payment of even half the former contributions each under a separate head, without impairing the efficiency of the political work. Jangali (from which nearly half the amount collected as tribute is obtained) must be kept separate for assessment, collection, and record. I am strongly of the opinion that all other contributions (with the exception of death duties, of which we have not as yet detailed knowledge, and Gaisua, which we do not recognise) should be lumped under the general term "General Tax" or some similar designation for purposes of record of payment, at all events. Personally I strongly advocate that they should be lumped for purposes of assessment and collection also, as far as possible. Other political officers of experience do not, I believe, hold with this, and I am quite prepared to allow that, under certain conditions, it may be impossible to do so. I advocate this for the following reasons: For the data on which the assessment is based the British staff depends chiefly on the information supplied by the village heads, supplemented by that of the district head, and possibly the Emir or Chief. For the collection he depends almost entirely on the village head. I maintain that even should the village head be directed to collect all the former contributions and bring them in separately (and this would entail an impossible

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amount of clerical work), he could still conceal a part of what he had actually collected; should he be told to collect separately and bring in the total there is still no guarantee that the amount which he says he has collected, say on dye pits, has not been collected from smiths. In brief, as the village headman has to be trusted in any case, I think it most important to make the collection as simple as possible for the headman, and the assessment and record as simple as possible for the British staff. I recommend, therefore, that as far as it is possible without going contrary to native sentiment, the total sum assessed for a village based on former taxes and modified to suit actual conditions, should be told to the headman with the directions that he is to distribute the payment among individual members of the village, each paying an amount proportionate to his property, crops, or income. If an individual considers himself over-assessed he can appeal to the district head, the Emir or chief, and the resident. The revenue of Sokoto Province was collected under this system in 1907-8.

615. (*Chairman.*) Do you think that you can rely on the right of appeal? Has the village headman any power, or any means of making it so disagreeable for the appellant as to deter him from exercising the right of appeal? You see what I mean?—Yes.

616. Would the people as a matter of fact freely exercise the right of appeal?—Yes. They do appeal very readily against the village headman, but not so willingly against the Emir, or district headman. My point is that we have to trust to the village headman in any case.

617. You have to trust the village headman, but your real check on the village headman, as I understand, is the accessibility of a Court of Appeal?—Yes.

618. And the power of the people to avail themselves of that Court of Appeal?—Yes—and I would add, the jealousy of the district headman and the Emir, who are overlooking him.

619. (*Mr. Wedgwood.*) These village headmen at present are new to their job, and have not got quite the power they will have in a few years' time. They are not like the Emir and district headmen, who have been of old their chiefs. The village headmen are taking the place of the Jakadns, and therefore have not yet quite the position or the power they will subsequently hold?—The Jakada formerly depended a great deal on the village headman.

620. But you see my point?—I see your point. I do not say that he may not get more important. He may get more important as time goes on, and if it is found impossible some other scheme will have to be adopted, but it is very hard to know how. At present we still hope to educate the headmen in their duties.

621. (*Mr. Morison.*) Will the principle upon which he settles the incidence of taxation be known, because if not there will be no appeals. Is it made known to the whole village?—It is made known to the whole village that any man who thinks he has good reason to complain is at liberty to do so.

622. But he will not know that he has reason to complain unless he knows the principle on which the taxation is assessed?—He is very ready with his complaints.

623. I believe that, but if he is over-assessed 10 per cent., that will seem fairly right, and unless he knows exactly the principle upon which the taxes are imposed he will not appeal?—I think it will be very hard to educate the natives up to understanding the principle on which they pay any taxes. They would understand a Poll Tax.

624. (*Sir J. Digges La Touche.*) It is rule of thumb. There is no principle at all laid down by the headman. There is no actual principle laid down even in this memorandum of Sir Frederick Lugard, except that the taxes have to be based on former payments, as far as I can make out.

625. (*Chairman.*) Supposing he was exercising any particular trade, butcher, dyer, or so on, he would be taxed on the sort of amount that he must pay in respect of that particular trade?—That would be a licence. I have collected six different licences in

Bauchi Province. The amount of clerical work entailed in recording these was so enormous that it had to be dropped, and it is of no value unless they are recorded separately.

626. Supposing a man says to the assessor: "I am charged too much." He knows enough to know he is over-charged, and supposing he says: "I have so many cattle," or "I am carrying on such and such a trade," or "I have so much land." He will compare himself with his neighbours. Is not that the sort of case he would bring to the resident?—He does bring that sort of case to the resident, and the resident goes into the detail of his property and decides more or less by rule of thumb whether the assessment is too high.

627. If it was too high the village headman would have to explain?—The village headman would have to explain.

628. He would be called upon for an explanation of his principle?—Yes.

629. (*Mr. H. B. Cox.*) You would have as far as the Government itself is concerned one single tax, so to speak one lump sum coming into the European Government, which would be based on certain dues levied by the village head man?—Yes.

630. Would it be for the village headman in each case to say what form of tax the individual was to pay?—I am against it personally.

631. (*Mr. Morison.*) Is it to be lumped together?—Yes.

632. Right down to the end?—Right down to the end (except Jangali) and an income tax levied.

633. (*Mr. H. B. Cox.*) The Government would say to the village headman, "You are to levy Zakka on a certain village." The village headman would then decide on his responsibility in respect of what property the individual in the village was to be taxed?—He is to be taxed on every kind of property.

(*Mr. H. B. Cox.*) No matter what he has?

(*Mr. Wedgwood.*) One headman might differ from another as to the subject of tax.

634. (*Mr. H. B. Cox.*) Do you propose to do away with the old form of native taxes?—I do. Where it can be done without violating native sentiment. Zakka, for instance, presents a difficulty.

635. The tax paid by dyers, the tax paid on cattle, and so on?—Jangali must be separated. I would put all the other taxes into one.

636. The village headman would go to the individual, and say, "You must pay so much"?—The village headman, as a matter of fact, calls together the village elders, and he divides the lump sum assessed amongst them again, and they really collect it from their relations.

637. (*Chairman.*) All that the Government is concerned with is the total sum that is lovable from a particular village or district?—Yes.

638. As far as contribution is concerned that is all that the Government cares about?—Yes.

639. Then comes the question which comes before the resident, or whatever other authority may be exercising judicial functions there, whether this tax is fairly apportioned amongst individuals?—Yes.

640. And there, I understand, you trust to the individual who may have been unduly charged by the headman coming forward to raise the question and appealing to the proper authority?—Yes.

641. On that appeal the questions would arise, first of all, was it an excessive amount, and, secondly, why was he charged that amount?—Yes.

642. There you would to some extent come back to the old native customs of taxation. The question would be whether or not this man was carrying on business in some way or other which made it fair and just that he should be taxed the amount which he was charged. In those sorts of instances the old native customs might come in as elements on the appeal which the resident would have to decide as between the village headman and the taxpayer?—Yes, the question of native customs might come in, but the present conditions would probably modify them.

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643. (*Sir J. Digges la Touche.*) If the village elders collected the tax from the village headman there probably would be very rare cases in which an individual would appeal?—The village elder would appeal because he had to collect. If he thought that it was more than he could collect from his particular entourage he would appeal.

(*Sir J. Digges la Touche.*) It is not a case of the individual appealing.

644-5. (*Mr. H. B. Cox.*) He would say, "I dare not collect such and such an amount"?—Or he would come and say, "My group will not pay this."

646. (*Mr. Morison.*) Does the elder represent a craft or a family? Would one elder represent people owning dye-pits, for instance?—There is certainly a tendency for a particular individual to represent a craft. Then, again, each elder has a certain family of relations whom he represents.

647. Who are not always in the same business?—Agriculturists.

648. (*Mr. Wedgwood.*) Your view is that this is the most economical way of raising the tax?—Yes, it is the most economical way of raising the tax, and the only one that will work properly in practice.

649. (*Captain Orr.*) Do you consider that it protects the individual from extortion?—Better than any other system, because it is simple and gives the Political Officers time to inquire as to what is actually being done by the native administrations instead of sitting all the time at their desks.

650. (*Mr. H. B. Cox.*) Would not they tax the people they did not like?—I do not claim perfection for the system for a moment. Of course they would, but they would do that in any case.

651. (*Chairman.*) Would you look at answer to question 384. I rather gather that you do not altogether agree with that?—I disagree with it, because I do not think that it is scientific, to say the least of it, that we should have a set of records in our office which do not represent what is actually being put into practice.

652. Would you just expand that a little further. To what particular part of the answer do you refer?—It says that they are for Government purposes regarded as a single tax, but when it comes to the actual collection of them by the district headman, or by the village headman, he still collects them in the form which the natives have always been accustomed to. I do not think that we should have one system recorded by us, and another system carried out in practice.

653. All the record you would have would be the total amount due?—Yes.

654. And distributed amongst these various sources?—Yes. We could not possibly keep a detailed record. (*Chairman.*) It is too complicated. I can see that.

655. (*Mr. Wedgwood.*) Is it not rather this: If once you let the individual know what he ought to pay, then any variation in the number of individuals paying from year to year ought to mean a variation in the lump sum tax?—Yes, it ought.

656. Are you anxious to keep the lump sum tax constant from year to year?—No, certainly not.

657. You collect a definite sum from the village headman, and that is all you know about it?—I will come to that presently. I think that the taxes should be re-assessed annually, as they are in the Punjab and in Burmah, fluctuating assessments.

658. In the annual re-assessment would you go down to the natives and see whether there were more dye-pits, or more blacksmiths, or more agricultural labourers?—As far as possible we should, or we should obtain the information as best we could.

659. But in any case if the native headman is to collect 2s. 6d. from every home in the village, he may raise, perhaps, £30 in that way from his village, and you may only be asking him for £25, in which case he would pocket the difference, and nobody would have a right to appeal against his tax. That is what you want to avoid, is it not?—Yes, that is

what I want to avoid. I cannot keep a register of the whole in my office. I want my officers to have time to go to the villages and find out what is being done.

660. Therefore the individual must know what he is legally entitled to pay, because as you have got no record of the number paying, there would be an illicit profit to the village headman under that system?—Yes. You will get this illicit profit under any system I suggest.

661. (*Mr. Morison.*) You contemplate that there will be some principle under which it is divided amongst the different classes of the community. You call it all one tax, but you contemplate a principle of assessment with regard to the weaver, the blacksmith, and the agriculturist?—I think it ought to be assessed by the village headman according to the property and income of each individual.

662. A sort of income-tax?—Yes, an income-tax, I think.

663. (*Chairman.*) Just look at the answer to the next question 385, and see how Mr. Palmer says he himself would act where an excessive amount was levied and collected. Do you think that would be practicable?—That implies that there is a native assessment and a record to which you would be able to refer to see whether a special exaction had been excessive or not?—This implies, I think, a native assessment and a record of that assessment.

664. Yes, it does?—Of a very perfect kind—more perfect than exists.

665. There are more perfect records of native assessments in the province of Kano than in other provinces, I suppose?—Yes, but that means a very unusually perfect record—quite up to any records kept in England.

666. (*Mr. Strachey.*) Do you consider that it would be an improvement to separate the revenue derived from land entirely from these various sources of revenue raised under the present proclamation and derived from dye-pits and other things. Would it not be better to keep the revenue from land completely separate under a separate law of its own?—I think it would be better, were it possible, but I do not think it will be possible until a cadastral survey has been made. We have very little knowledge really at present as to the quality of the soil—what it produces—or the extent of the cultivated land.

667. It would simplify things very much to have the land revenue or rent separated from the taxes proper. Do not you think so? I mean that if we are going to regard the revenue derived from land as a kind of rent, surely it would be an improvement to have that collected under a different law from a thing which is practically a licence, for instance, a dye-pit. Do not you think that it would be advisable as soon as possible to put the land revenue into a separate category from these sources of taxation, some of which may perhaps vanish altogether?—I think it would be advisable as soon as possible to attach the revenue to the soil, but it cannot be done until the land has a marketable value proportionate to the use it can be put to.

668. (*Sir J. Digges la Touche.*) You have been speaking a good deal of the value of land and the marketable value of land. You do not mean that people should have the right of property in land which they can transfer and sell. You agree in your former statement that you do not want them to have that. Then the assessment would not be on the value of land, but on the actual profits of the produce of cultivation?—Once the occupant rights are granted and when there is fixity of tenure of any kind there will be a certain struggle to obtain land. Therefore it will acquire a value of a sort without the necessity of a freehold being granted.

669. (*Mr. H. B. Cox.*) But if the occupant has no power to transfer, does it not make a difference?—He has power to transfer.

670. (*Mr. Morison.*) But it makes no difference, does it? You can impose the tax on the profit of cultivation whether he has permanence of tenure or not. It may be very uncertain, as Irish rents are?—Yes.

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671. (*Sir J. Digges la Touche.*) My point is that you speak throughout of the value of land, and it has no value?—Not at present, but it will acquire it.

672. Under the system that you advocate I do not see that it could acquire any?—I think it would, because there would be competition for the right of occupancy.

673. (*Mr. Wedgwood.*) At present when the village headman gives a native the right to occupy a piece of land in his village he exacts from him a certain payment?—An arbitrary payment.

674. Which the village chief judges absolutely arbitrarily also. Is not that in effect a payment for the right to use land?—Yes, but not proportionate to any value of the land or the crops.

675. Is it not roughly proportionate to what the chief thinks is the value of what he is giving the other man a right to?—I cannot say that it is. It is very arbitrary, and in the vast majority of cases practically nothing is paid.

676. Is not the annual tax that the chief extracts from the inhabitants in the village that you have mentioned to all intents and purposes the annual value of the land which the chief gives to his followers to cultivate?—I did not quite catch that.

677. What I mean is this. Is it not a fact that land has a certain value, which value is paid by the native to his headman every year in the form of taxes?—I cannot answer that straight off.

678. Although you say that the land has no value it has a value which is represented by what the native is prepared to pay every year in taxation rather than go elsewhere outside the village?—I do not feel that I can answer that straight off. I am very sorry. It is deep water rather.

679. (*Chairman.*) Directly you begin to talk about rent of land, survey of land, and so on, and at the same time say that your leading principle is that there is no such thing as private property at all, and that the State is to have the control, you must beware that you do not get into inconsistencies?—Yes. To return, I am aware that the village head has a certain latitude and can favour his friends under this system. He has, I maintain, equal, if not greater, opportunities under the other more complicated system. The village heads are not regarded with great fear by the population, and complaints against them are readily brought forward. They are watched by a jealous district head and a jealous Emir. These checks (such as they are) are more effective if the system of taxation is a simple one than if it is complicated. I believe that a simplification similar to that which I have outlined above was found necessary in some cases in India, when the Government started to collect revenue. (I speak subject to correction.) *Assessment of holdings granted to non-natives:* When speaking of land tenure I said that for various reasons the Government could not leave the granting of occupant rights to non-natives in the hands of native administrations, its nominees. Also that improvements not coming within the scope of native law and custom the Government would be compelled to guarantee their rights for a certain period. I have stated that I think that as fixity of tenure increases and the land acquires a value, this value should be taken as the basis of all taxation. In the case of non-native holdings the fixity of tenure may be assumed. It will probably be many years, however, before the land (setting aside exceptional instances, in the present cantonments or the town of Lokoja, for instance) acquires a market value. I think that these holdings should be taxed on the basis of land values irrespective of crops or improvements, where the land has a value. Where it has none, that empirical rates should be imposed for the time being, calculated approximately on a basis of

10 per cent. of the crop which such land would produce were it put under the staple cereals of the neighbourhood, or in the districts where cereals are not cultivated on 10 per cent. of the staple crops of the neighbourhood. Whether any share of these rates shall be given to the native administrations is, I think, a matter of detail to be decided locally. The native administrations are merely the nominees of the Government. The members have no claim on the Government, strictly speaking, other than those rights of claiming "occupants' rights" (shared by all members of the conquering and conquered tribes), and of payment for services rendered. It is probable that in a short time they will all become salaried Government officials.

680. (*Mr. Morison.*) Do you include the Emir amongst them?—Yes, the Emir and the whole of the native administration.

681. The Emir and all his subordinates?—Yes, right down to the village headman.

682. But you specially mean that the Emir may become a salaried official?—Yes.

683. (*Mr. Wedgwood.*) That agrees with Mr. Palmer's evidence?—Yes; we are all agreed on that point.

684. (*Chairman.*) That has, to some extent, taken place. The matter has, at all events, been discussed with the Emirs?—I believe it has.

685. Mr. Palmer said with regard to Katsena that the Emir had agreed already to accept a salary?—Yes, he did say that.

686. (*Mr. Morison.*) You contemplate, then, that the Emir will fall into the position of an official of the Government?—Yes. With regard to taxation Settlement, the political staff is enjoined in the memorandum on taxation to avoid giving the natives to understand that any settlement has been made. It is out of the question, I think, at present, to make any settlement without incurring the risk of doing great injustice either to the Government or the native. It is stated on page 148 of Baden-Powell's "Land Revenue in British India" that the general requirements for a settlement are a survey, a detailed valuation of land, a record of rights, statistical information. We have none of these at present. The amount that can be paid as "general tax" depends entirely on the crops. There is little accumulated wealth in the country. A yearly revision by the political staff, with the assistance of the native administration, based on the "Resident's assessment," but modified to suit the amount of the harvest is, I think, absolutely necessary. There is one precedent in the Punjab and Burmah (*vide* Baden-Powell, page 192) (*vide* also Hewby's letter-page).

687. (*Mr. Wedgwood.*) You say nothing about the crops round there. Some of the crops are more valuable than others—sugar cane, and so on?—Very much more valuable.

688. Do you put an extra tax on them?—The man who owns the sugar field should pay more than the man who owns the cornfield. It is for the village headman to decide.

689. Why does not everybody grow sugar cane if it is more valuable?—Sugar cane requires special land. But this is not the only reason, for there is plenty of suitable land lying fallow or unused. Native practice is rarely logical.

690. And therefore that man pays a special tax?—It would work out that he paid a special tax.

691. Based on the value of the land?—It tends to create a value.

692. (*Chairman.*) Does that end what you have written?—Yes. That ends what I have written.

The witness withdrew.

Adjourned to Friday next, 2.30 o'clock.

FOURTH DAY,

Friday, 26th June, 1908.

At the Colonial Office, Downing Street.

PRESENT:

SIR KENELM F. DIGBY, G.C.B. (*Chairman*).

Sir J. DIGGES LA TOUCHE, K.C.S.I.
 Mr. THEODORE MORISON.
 Mr. J. C. WEDGWOOD, M.P.
 Mr. C. L. TEMPLE.

Mr. H. BERTRAM COX, C.B.
 Mr. CHARLES STRACHEY.
 Captain C. W. ORR.
 Mr. JOHN ANDERSON, *Secretary*.

Mr. C. L. TEMPLE (a member of the Committee), further examined.

693. (*Chairman*.) You desire to make some additional observations?—Yes. With regard to the payment of fixed salaries to the members of the native administrations, I perhaps used an unfortunate comparison when saying that they will become Government officials. I do not mean to convey that the present relations between the British and native administrations would be altered or even modified. In the letters of appointment handed to the Emirs, and in the explanation of the conditions on which they are appointed given verbally to chiefs and headmen of less importance, it is clearly laid down that they are liable to be removed from office should they fail to carry out the orders conveyed to them by the Government through the political department. As a matter of fact, many have been removed for obstruction or inefficiency. For instance, recently an Emir (Katsena) was not only removed, but the succession was broken, the whole family having proved itself unsatisfactory. These conditions would probably not be modified in any way. The idea of giving each a fixed salary is to promote efficiency and provide an extra guarantee for the purity of the administration, more especially of the judiciary. That native judges should be subsisted by fines and fees only, and that native officials entrusted with the collection of taxes should be paid in proportion to the taxes they collect is not an ideal arrangement. Further, as the revenue is increasing, it is found that the more important chiefs are receiving excessively large remuneration. I understand that it is desired as soon as possible to make the Emirs accept a civil list, to apportion a fixed amount of the revenue to be paid out by the Emirs to the officials of the native administration, and to devote the remainder of the tribute other than the Government share and the amount required for the upkeep of the native administration to carrying out public works, such as roads, sanitation, etc. The sums required under these heads of expenditure would be actually paid out by the Emirs, but under the general directions of the residents who would admit them. The question of seniority as between the heads of the native administrations and British officials would not be raised under this arrangement any more than it exists under the present conditions. I understand that Captain Orr concurs.

694. Is there anything else you wish to add?—Yes. In reply to Mr. Wedgwood's question: "Has not land everywhere a value to be judged by the tax the tenant is willing to pay rather than leave the land on which that tax is imposed?"

695. What is your answer to that question?—I agree that, generally speaking, it has, and that the

value of land may be calculated on that basis for theoretical purposes. This cannot be taken as a basis in practice, however; in order to arrive at the absolute value of the land, before any result could be arrived at, it would be necessary to increase the tax experimentally until the utmost that the individual would pay before relinquishing his holding were reached. This is not possible under existing conditions. Even were this possible, it would probably be found that sentimental reasons would influence tenants differently, and so upset the accuracy of the calculations that the calculations would be erroneous. In a country advanced in civilization, land can be sold in the open market for a value proportionate to the use it can be put to. In Northern Nigeria, generally speaking, it commands no such value in the open market. A native may be prepared to pay a considerable tax rather than relinquish his holding, especially if he has reason to fear that he will be equally taxed wherever he may go. If, however, he decides to go elsewhere, he cannot sell his occupant rights for anything like the value of even one year's crops. Nobody will buy when there is plenty of land available for practically no cost. The land is to the cultivator what his tools and iron are to the blacksmith. For assessment purposes the value of the crops and stock and fruits of industry are, therefore, the only basis on which taxation can be calculated, because it is only they that have a market value. In computing the tribute as a whole, I hold that if the Government reserves to itself the right of granting rights of occupancy for valuable consideration, the whole amount paid may be regarded as rent for the land; that is to say, if the Government holds the right of granting rights of occupancy. Have I made that clear?

696. Yes.—For instance, the owner of a herd of 100 cattle is assessed at £7 10s. per annum, because it is impossible to locate or value the pastures which he is using in any other manner than by verifying the existence of the cattle and their market value. He is apparently paying income-tax, but he may be said to be paying the Crown for occupant rights proportionate to the land which he is as a matter of fact occupying, as is proved by the fact that he has cattle.

697. Is that all that you wish to say?—Yes.

698. (*Mr. Wedgwood*.) There are some questions which I want to put to you (I do not quite know whether they would be in order) on the white settlers in Kano. No whites have had leases of land in Northern Nigeria up to the present time for trading houses?—I could not answer that. I am afraid I am very ignorant about those points.

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699. In your own province there have been no leases granted to whites for trading purposes?—No, not in Sokoto.

700. Do you think it would be possible to distinguish between leases to whites who are traders and leases to whites who are planters?—As regards what rent they pay?

701. No. As regards the terms of the lease?—Well, it would be possible, but I think that there would be a good deal of grumbling if that were done.

(Mr. Wedgwood.) If you have not come across any cases never mind.

702. (Chairman.) Nothing has been done as far as you know?—Nothing has been done as far as I know.

703. Up to the present, as far as you know, there has been no distinction made at all between town property and agricultural land?—No.

704. There has been no more right of property recognised in one than in the other?—No.

Mr. W. F. GOWERS, examined.

705. (Chairman.) What is your position?—I am a Second Class Resident.

706. In what Province?—I was in Bauchi during my last tour. I have been in Yola and in Muri.

707. For how long?—It is five and a-half years since I first went to Northern Nigeria. I spent nearly two years in Yola Province, and about six months in Muri, and nearly a year in Bauchi.

708. What is the character of those Provinces; are they Mohammedan, or pagan, or what?—They are very diverse.

709. Would you give us an idea?—Bauchi is ruled by a Mohammedan Emir. The majority of Bauchi Province is under the rule of a Mohammedan, but most of Yola Province is not. The head-quarters of Yola is a Mohammedan town. Most of Yola Province is not under control, or was not when I left.

710. What do you mean when you say "not under control"?—It was impossible to collect any taxes and almost impossible to visit many parts of it without a considerable escort.

711. Has that province ever been conquered by Mohammedans?—No, the pagan parts of it, the more hilly parts, never have been, I believe.

712. In those provinces a portion may be said to be Mohammedan and a portion pagan?—Yes, in all three provinces.

713. (Mr. Strachey.) Is it the case that in all three provinces, although Yola and Bauchi are under Mohammedans the vast majority of the population are pagans?—About half in Bauchi, considerably more in Yola and Muri. Do you mean independent pagans?

714. No, pagans by religion. The population is not Mohammedan although they are under Mohammedan rule?—No.

715. Muri is almost entirely pagan?—Yes. It is very difficult to say what is pagan and what is not at the present time. It is very difficult to say of any given town that the majority of its inhabitants are Mohammedan.

716. (Chairman.) Does that mean that there is very little difference in the customs and ideas and practices of the people whether they are under Mohammedan rule or not?—There is so much mixture of professed Mohammedan belief with pagan customs that is very difficult to say of any one person that he is either Mohammedan or pagan. He is sometimes one and sometimes the other.

717. (Mr. Morison.) When you ask him, does he profess one or the other. Would he say that he was a Mussulman?—Many of those who would tell you that they were Mohammedans should hardly be classed as Mohammedans.

718. But a considerable proportion would call themselves Mohammedans?—Yes.

719. (Chairman.) As regards their ideas about tenure of land, and so on, would there be a difference in the Mohammedan portions and in the pagan portions of these provinces, or are the customs and practices which are followed uniform?—I should say that the imposition of Mohammedan ideas and the Mohammedan religion must have considerably modified the

original ideas about land tenure. Yola was originally the head-quarters of a very large Mohammedan district, and on the delimitation of the boundaries of Northern Nigeria the head-quarter district round Yola was cut off from the Mohammedan subjects of the Emir of Yola, who were given to Germany, and it happens that the country to the west and north-west and south-west of Yola is inhabited by pagans whom the Emir of Yola never conquered.

720. Taking a portion of the province that is partly Mohammedan and partly Pagan, is there any great difference in the position and authority of the Emir and the powers of the Emir, between the Mohammedan portion and the pagan portion. Does he collect taxes, and so on, in the pagan portion?—Yes, he did from all the pagan portion whom he could control.

721. It is a question of power and authority?—Yes. He would have done it if he could with regard to others.

722. (Mr. Morison.) May I ask what taxes the Mohammedan Emir collected from the pagans when he could in Yola. Could you specify at all how much he took and why he took it?—He took it as tribute from pagans conquered by Mohammedans.

723. But I want to know whether he took a land tax or was it tribute from a conquered people?—It was tribute from conquered people. You may call it a land-tax, in that presumably it was a payment for the right to live at peace on the land.

724. Blackmail?—Blackmail.

725. But then it was not collected on any principle. He took what tribute he could get?—I think so. I do not know that there was any definite scale of assessing it. He took as many slaves as he could get probably, before the British occupation. He took as many as he thought the people would stand giving, I think.

726. (Captain Orr.) The tribute would be naturally in slaves, not in money?—Not in money. If a tribe happened to have iron ore in its hills and worked iron, they might supply him with arrow heads or spear heads, or hoes.

727. (Mr. H. B. Cox.) I take it that what you state is this—that the Emir levied certain dues upon the people?—Upon the pagans.

728. Taking the pagans first, he levied certain dues, that is to say, certain things were paid to the Emir in virtue of his authority and power to exact them such as slaves, iron, and so on?—Yes.

729. Were these goods or these slaves paid or given to the Emir at any stated times of the year?—I cannot say. Presumably it was when the collection was easiest, after the rains were over, when he could enforce payment more easily if it became necessary.

730. Were there any particular occasions on which it was regarded as the duty of the people of the province to make presents or payments to the Emir?—If they came to see him on the occasion of one of the feasts they would bring a present with them.

731. If they came to visit the Emir at a general feast or on other, so to speak, State occasions, they brought dues with them?—They would bring a present with them.

732. Were those presents known by any particular name?—In Hausa they would be called Gaisua.

733. Were there any other presents or payments made to the Emir by any other names than Gaisua?—By the pagans?

734. Yes, by the pagans?—Yes. His tribute would not be called Gaisua.

735. What would that be called?—Well, it would represent, I presume, the Arabic Jizia. It might be called Kurdin Kassa, or it might be called Gandu. The ruling class are all Fulanis, and they use the Hausa equivalents for the various forms of taxes very loosely. You cannot infer anything from the use of a particular word as to the true nature of the payment.

736. Was there nothing regularly paid which you might call a tax?—The Mohammedan portion of the population paid the Zakka.

737. (Mr. Morison.) Was there any voluntary payment?—There was a theoretically voluntary payment by the Mohammedan portion of the population.

738. (Mr. H. B. Cox.) Were there recognised payments of any kind made to the Emir by Mohammedans as distinguished from pagans?—There was the Zakka.

739. What was the nature of that?—In theory it was a tithe of all produce and a tax on stock.

740. Was the tax on stock known as Zakka?—Yes, if paid by a Mohammedan.

741. In other words, Zakka was a tithe on the goods or produce of the payer?—Yes. It is not exactly a tithe on the stock; it was approximately a tithe on the annual produce of the stock. It was about three per cent.

742. Was any other payment made by the Mohammedans to the Emir except Zakka?—Irrigation taxes and certain taxes on fishing-canoes and ferries.

743. What was the nature of the tax on irrigation?—Irrigated gardens were taxed somewhat as they are said to be in Kano.

744. If a man took water from a stream to irrigate his garden he paid something for the privilege of doing so?—I do not think that it applied to all streams, but it applied to certain specified ones, and if he grew a crop on the banks of the river from which the water had receded he would pay an additional tax.

745. Was the amount of the tax based on any fixed calculation, or was it merely what the Emir thought was proper under the circumstances?—There was a fixed rate.

746. Of what nature?—I am afraid I cannot tell you. It is a long time since I left Yola Province, and I have not looked up my information on that point.

747. At all events, there was a fixed rate of payment you say made for irrigation of lands or cultivation of lands on the banks of a stream from which the water had recently receded?—Yes, in the case of the Binuc and certain other rivers.

748. Was the fishing tax confined to particular rivers?—It was chiefly paid by the pagans, who lived on the banks of the Binuc, not independent pagans, but those who had become quite tame, if I may say so.

749. Was that tax based on any fixed rule or regulation?—I could not say.

750. Was it a large tax?—No, it was not an oppressive tax.

751. Was it paid by the individual or by the village?—It was paid, I think, by each individual who was engaged in fishing.

752. Whose duty was it in the village to ascertain what individual was fishing, and whether he had paid his due. Was that the duty of the village headman or of someone else?—The village headman would be held responsible, but the Emir's agent would keep his eye on the whole village. A particular official of the Emir was responsible.

753. Did the Emir then always have some person representing his interest in each village?—If the representative did not live in the village he visited it frequently.

754. That is to say an officer of the Emir visited the village if he did not himself reside there?—Yes.

755. Was there any specific name by which that officer was called?—It corresponds to the Jakada in other provinces. The word was not used.

756. Did he supervise other payments beside fishing?—There was one official for each of the separate taxes.

757. One official for irrigation, one for fishing, one for ferries, and one for canoes?—Yes.

758. Now under what circumstances would a tax for ferries be paid. Would it be paid by a village or would it be paid by an individual?—I am not certain.

759. Take the case of a ferry connecting two sides of a stream, on each side of which was a road which could be travelled. What was the nature of the ferry; was there a boat kept there with a man which could be used by passers by?—If there was a village near, several canoes would probably be available.

760. Canoes belonging to the same man or to different men?—To different men.

761. And would each of those men pay something to the Emir for the right to keep the canoe for that purpose?—I think it probable that the village would have to pay.

762. And presumably the Emir's officer in the village, the Jakada, would see that that due was paid to the Emir when the time came round?—Yes.

763. Would that be an annual due?—Yes.

764. In what month would it be paid?—I do not know. I should like to say that it is about three years since I left the province, and these details are very vague in my mind.

764a. (Mr. H. B. Cox.) I quite understand that.

765. (Mr. Strachey.) Is it not the case that all these things have been abolished now?—They have.

765a. (Mr. H. B. Cox.) But I am trying to get at the previous history.

766. (Mr. Morison.) Are there any other crafts or trades besides fishing among the tame pagans which were taxed?—Iron working, for instance.

767. Did the people who were engaged in working iron pay any tax to the Emir?—Do you mean the blacksmiths in the villages?

768. Yes?—They paid the tax, I think, as they did in the other Emirates, and the weavers and the dyers also paid.

769. I am talking about pagans. You said that these people engaged in fishing were the tame pagans?—Yes.

770. Were the people engaged in iron work and dyeing and tanning pagans?—They might be or they might not. Their religion would not make any difference as to the tax they paid.

771. They would pay a tax for plying their craft?—Yes, if they were in the settled part of the Emir's district.

772. In other words if he could get it?—Yes.

773. (Mr. H. B. Cox.) You mentioned a tax just now on canoes?—Canoes which were used in fishing or ferrying I meant.

774. There was no general tax on canoes apart from their use for the purpose of fishing or for the purpose of a ferry?—Except that the Emir levied a toll on canoes bringing trade, goods, or produce up the river.

775. If a trader came up the river in a canoe bringing produce, was a tax levied on the canoe or on the produce?—On the produce or the trader. It is the same as a caravan tax in other provinces.

776. You mean that there was a tax really paid for the privilege of trading?—Yes.

777. Whether the goods were carried in a canoe or in a caravan?—Yes.

778. There was no canoe tax then, but there was a trading tax?—Yes.

779. A kind of toll?—Yes.

780. Was that levied at any particular places? Were there any recognised portages or landing places

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on the river where the toll would be exacted?—It was collected at the landing-place at Yola.

781. (*Chairman.*) Are there any records at all of these taxes?—No written records that I know of.

782. (*Mr. H. B. Cox.*) To go to another point, you said just now that dues were levied on iron workers, that is to say, on blacksmiths, and weavers, and dyers, and other persons exercising particular trades?—Yes.

783. Were they supervised also by the village Jakada?—Each trade would have an official supervisor.

784. Not each village, but each trade in each village?—Each trade of the special trades, and each village occupation would have a special supervisor.

785. That is to say that one blacksmith in a village would be supposed to look after the dues of the blacksmiths in that village?—No. I mean that the officials at headquarters would look after all the blacksmiths or one of them would.

786. (*Mr. Morison.*) In many villages?—Yes.

787. (*Mr. H. B. Cox.*) I quite understand that, but in the village itself, the general supervisor of the Emir, who looked after fishing canoes, ferries, and so on, would look after the traders?—The Emir would not bother about the trader in a small village. He only took the trade in bulk as it came up the river or in large caravans.

788. Take a blacksmith in a village. Who would see that he paid his due?—The Emir's officer, whose duty it was to look after all blacksmiths.

789. But who in the village?—The village headman would probably get into trouble if there were unlicensed blacksmiths about.

790. It would be the duty of the village headman to see that the dues on trades exercised in the village were properly collected and paid?—Yes.

791. (*Mr. Morison.*) Who collected these?—The collection would be made by the Emir's official.

792. When he came round?—When he came round.

793. If he did not come round no collection was made?—No.

794. Do you mean that?—I do.

795. If he did not come round for a couple of years the village head blacksmith would not get into trouble because he had not levied and remitted?—I do not think he would.

796. (*Mr. Temple.*) The blacksmiths would have one village elder whom they look to, would they not, and the butchers would have one whom they look to?—Yes.

797. The village headman would look to these elders for the collection from the individual blacksmiths and butchers?—Yes, there would be a senior blacksmith in the village. That is simply a matter of convenience among themselves rather than anything else.

798. (*Mr. H. B. Cox.*) It was the province of Yola you were speaking of?—Yes.

799. In the other provinces that you have worked in does the same system prevail?—Yes.

800. Practically what is true of Yola is true of the other provinces?—Yes. Taxation is rather more developed in Bauchi.

801. What do you mean by that; do you mean more easy to collect and more definite in character?—A land-tax had to be paid in Bauchi which does not seem to have been paid in Yola.

802. That is to say that in Bauchi a land-tax was levied as well as these other taxes?—Yes.

803. Levied on whom—on pagans and Mohammedans alike?—Yes.

804. On what basis was the land-tax levied?—In theory, I think on the fertility of the man's holding or on the value of his holding.

805. (*Mr. Wedgwood.*) It was not raised on the hoe?—I am not prepared to say that it was not, in some cases.

806. (*Mr. Morison.*) Can you tell us whether there were variations between the amounts paid by different men, and if so, why? Did everybody pay the same or were there variations?—There were variations.

807. Could you make a sort of guess why one man paid more than another?—I should say because he was considered by the authorities to be better off. He had a larger holding or a more fertile holding or more slaves to work it for him.

808. (*Mr. Temple.*) You came to Bauchi some years after the occupation, did you not?—Yes.

809. (*Mr. H. B. Cox.*) With regard to the land tax which is payable in Bauchi, was that paid at any definite times of the year?—It was paid on two occasions in the year.

810. Approximately on what dates?—Really my information with regard to that is largely derived from Mr. Temple's early reports.

811. We have no reason to doubt their accuracy?—Mr. Temple could answer from his own knowledge of what he has written much better than I could from my recollection of what he wrote.

812. We shall have his reports. I only want to get it approximately from you. Was it in the spring and autumn or summer and winter?—It varied every year. It was not always collected at the same period of the year.

813. (*Mr. Morison.*) Irrespective of the harvest?—Yes. They were paid on the dates of the two principal Mohammedan festivals, the Baban Salla and the Karamin Salla.

814. (*Mr. H. B. Cox.*) Was that land tax paid by Mohammedans and pagans alike?—I believe so.

815. In Bauchi?—Yes, but it was not paid by all pagans.

816. Was it paid by all pagans that the Emir could get it from?—Not exactly. It was really rent paid for the privilege of occupying land which had been conquered by the Mohammedan community. There were tribes on the border whose land had not been effectively occupied who would pay a tribute, but it would not be what they call Kurdin Kassa—money for the land.

817. That is to say there were certain tribes who had been brought into subjection and on them a levy was made in virtue of the land. There were other tribes who were more or less brought into subjection on whom the assessment was not made on the land but whose payment was rather made as a present?—Yes—an entirely arbitrary blackmail, as it was called.

818. (*Mr. Strachey.*) There were other pagans who paid nothing at all?—There were other pagans who paid nothing at all—outside the limits.

819. (*Chairman.*) They were not under control at all?—They were not under control at all.

820. Are they under control now?—Practically the whole of the Bauchi Province is now under control.

821. (*Mr. Morison.*) Have you been among the hitherto untamed pagans?—I have been among some of those who were not under the Emir's control.

822. Are any taxes collected from them now?—They are being taxed by us now.

823. (*Chairman.*) On the principle of making them pay their old taxes?—No; we do not know that they paid any.

824. Then how do you assess the amount that they have to pay. What do you base it on?—It is not supposed to be assessed up to their ability to pay. It is a very low rate, such as 3d. a man a year, so as to accustom them to the idea of paying taxes for one thing, and also to get a small contribution towards the revenue.

825. Did you make any difference in respect of the inability to pay?—No. The staff is not sufficient to go into the details. It is assessed on an average.

826. You know how many people there are?—We know approximately how many males there are.

827. And you assess them at so much a male?—At so much a male.

828. (*Mr. Strachey.*) Is that fixed per man or is it a lump sum paid by the village?—It is practically a poll tax.

829. (*Chairman.*) You must trust to the headman of the village to give the numbers of the contributors correctly?—You can count the huts.

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830. (*Mr. Wedgwood.*) Do the individual natives themselves know how much they ought to pay?—They would always be told by the district officer going round that the tax on the village was so much, and that it amounted to so much per head. They would be told what it was equivalent to per man.

831. (*Mr. Morison.*) Pressing that a little more, there would be a lump sum on the whole village, and you arrive at that by a rough guess at the number of adult males, counting the houses, or whatever the method may be. Or is it really a poll tax of so much per head. For convenience do you or do you not say: "This village can probably pay £25," and do you check that by the number that you estimate. Do you say to the village: "You have got to send up this definite amount." If you found there were 30 or 40 males, more or less, would you charge it or not?—Next year they would have to pay a different tax.

832. If you found that the £20 that you had assessed was being paid with ease you would not necessarily increase it, but if you found a great deal more than could pay it with ease you would increase it?—It is not intended to be a poll tax. The headman in theory collects it from each man according to his ability to pay, or what he thinks is his ability to pay.

833. (*Mr. Wedgwood.*) The native himself cannot check the amount extorted from him. He does not know whether the village headman is putting the right tax on him or twice as much as he ought to bear?—No, he cannot tell.

834. (*Chairman.*) Supposing the village headman makes one man pay more than he ought and spares his neighbour, having some reason for that, would you hear of that. Would people make complaints freely if they were taxed unduly, or if their neighbours were not taxed as they should be?—I do not think they would make complaints freely, because for one thing the authorised tax is a good deal less than they really could pay if they were pressed, so that they would not think they were being unjustly treated.

835. Have you any reason to suppose that there is such unfairness?—No, I have no reason to suppose there is such unfairness; I have no evidence that it exists. One would consider it probable.

836. (*Mr. Morison.*) Is our knowledge of the untamed pagan sufficient to enable us to judge?—No, it is not. I was thinking more of the question of the system as applied throughout the province.

837. I am dealing particularly now with the recently tamed pagans on whom you say the tax is very light, and over whom I suppose control is very slight?—Yes.

838. (*Mr. Wedgwood.*) There are no means of checking the village headman, I suppose. He can collect if he likes twice as much as he has to pay over to you. In farming the taxes, he can collect more than he passes on, and so makes a big profit?—You can always inquire in the village how much various people have paid. Are you speaking of pagans now?

839. Yes?—If the people are told what the assessment of the village is and how much it works out at per man, I should have thought that was sufficient protection against the exactions by the village headman?—The assessment among the hitherto untaxed pagans in Bauchi is so ridiculously small that there is no chance of anyone being unduly taxed, and the question of individual payments is not one that matters much now. Amongst one large tribe the incidence is about three halfpence a year per adult male.

840. (*Mr. Morison.*) Are the pagans able to make any mathematical calculation at all—otherwise these checks are not of much value?—I do not suppose they have much knowledge of division.

841. (*Chairman.*) These people have only recently been brought under control?—Yes.

842. So they are paying taxes probably for the first time?—Yes.

843. Do they object to paying any taxes at all?—No. They recognise that it is the due of the people, who are stronger than they are, to receive a tax of some sort from them.

844. As far as these people are concerned, then, there is practically no difficulty in collecting the tax?

—There might be a little difficulty, but it certainly is not due to any unfairness in the incidence of the tax or the heaviness of it.

845. There is no objection to the introduction of the principle of taxation at all?—No, when they have once recognised our authority.

846. (*Mr. Temple.*) Do you not think that the imposition of a tax is actually stimulating industry amongst them? That is, to say, they do more work in order to pay the tax?—I think it is stimulating industry and trade, because they travel further in order to sell their produce; further, they are learning to work for wages.

847. In order to pay the tax?—Yes.

848. So that the tax is not penalising industry in any way?—No.

849. On the contrary, it is rather encouraging it?—I think so, certainly.

850. (*Mr. Morison.*) You have seen the untamed pagans in their homes? Could you tell us anything at all about the system of land tenure under them?—No, I am afraid I could not give you any facts.

851. Is there an abundance of untilled land round the villages?—Around the untamed pagan villages there usually is, because they were always at war with the Mohammedans, or with their neighbours, till we came, and they never dared go down into the valleys to till them, so that the land which they could safely till was very restricted.

852. That land in the valleys is not claimed by anybody, or at least there is no effective ownership of it?—No, there was not. Take the case of a valley, a stretch of low-lying land between two hills occupied by different tribes. There would be no effective ownership of it, although each tribe would probably claim half of the valley, or both might claim the whole valley.

853. On the border land?—Yes.

854. (*Mr. Temple.*) It is all claimed by somebody?—Yes, it is all claimed.

855. (*Mr. Morison.*) Is there a chief in every village—a headman?—In every pagan village, do you mean?

856. Yes, in every pagan village. How do they collect for war, and decide any question of peace?—There is a leader in every village. The villages are sometimes extremely small.

857. Is there a separate leader to each village, or is there one headman to a district occupied by pagans?—There would probably be one leader recognised in war by a group of villages. He would hardly be recognised in times of peace. The bond between them is very slight.

858. Does the headman receive, in times of peace, any form of payment from the rest of the pagans?—I think not.

859. (*Mr. Temple.*) Are you quite sure?—No. He would receive presents.

860. (*Mr. Morison.*) For instance, suppose that within their restricted area there was a dispute as to who should have possession of a particular piece of land to cultivate it, would the chief decide it, or how is it decided? Is it decided by the strong hand?—It would be decided by the chief, I presume, with or without his council, the elder men of the village.

861. (*Chairman.*) There is a council?—He would call in advisers, I think, or he might do so. The question might be settled by ordeal.

862. (*Sir J. Digges La Touche.*) There would be a free fight first?—I think that is more than probable. It very often happens, at any rate.

863. (*Mr. Morison.*) There is no payment by anybody for the lands which they occupy?—I have never heard of it.

864. (*Chairman.*) If a man wants to get fresh lands does he have to get the consent of the chief, or does he simply go and take it? I mean, is there any sort of practice as to regularising the acquisition of land?—I should think he would have to get the consent of the chief, but I know very little about it.

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865. (*Mr. H. B. Cox.*) Does that apply to all the provinces that you have served in?—Yes, among the pagans.

866. (*Mr. Morison.*) I see that in the memorandum there is a good deal of reference to tenure in common among the pagans. Is that how you would describe the tenure which you have just been speaking of?—No.

867. You mean something different. Do you ever come across tenure in common?—No, I never have.

868. (*Chairman.*) Do you say that even in the case of these untamed pagan communities the village boundaries are pretty well ascertained, or are they restricted by fear of their neighbours to comparatively small parts which can be protected from their neighbours, and otherwise?—Yes, they have been hitherto, but they would claim the land up to a half-way line in the unoccupied country between them and their next-door neighbours, and they would, perhaps, hunt over it.

869. But they could not occupy it because of the state of war which perpetually existed?—Exactly.

870. So far as you can use the term "theory" at all, is there much difference between the theory of the tenure of land in a pagan community, and lands such as you have been describing and the theory in more civilised, more ordinary, communities? Is there the same sort of idea that land can only be occupied by consent of the chief, or the council, or whoever it may be, and that all that a man has is the use of the land, and no property or ownership in the land?—Yes, I think so.

871. You think that that idea is common to the whole country?—Yes, I think it is.

872. Whether Mohammedan or pagan?—Yes, I think so.

873. Have you come across any special customs with regard to inheritance or anything of the kind?—No.

874. What is your experience of local courts, village courts, and so on? Have they much power or influence in settling disputes, and things of that kind? They seem to settle disputes over land?—I do not remember a single case where a dispute over land has come before me.

875. (*Mr. Morison.*) What sort of questions are involved in these disputes over land which are settled by them?—One that I recollect was a question where a man had gone on a pilgrimage to Mecca and left his farm. The question was whether he had definitely abandoned it or whether anyone else could be allowed to occupy it.

876. When he came back can you remember whether he claimed a right in his farm?—Yes. He claimed the right to leave it for a certain time, at any rate.

877. Yes, but he claimed also when he came back the right of recovery?—Yes.

878. (*Chairman.*) The question would be whether, when he left, he intended to abandon it?—Yes; I think that would be the question.

879. That is a very good instance?—It would be presumed that he had intended to abandon it if he had been absent for more than the prescribed time, whatever it is.

880. It looks as if the native courts did apply something in the nature of a principle?—Yes.

881. It is exactly the same legal principle as has to be decided in a civilised country. I do not know whether you have looked at the shorthand notes of what the various witnesses have said here?—I have.

882. Does anything occur to you that you can usefully tell us?—No. It only occurs to me that I am in agreement with the views expressed by Mr. Temple and Mr. Palmer on the general question of the native ideas of tenure.

883. I rather gather that from your letter here of the 22nd November, 1907*—Comments on Sir Percy Girouard's Memorandum?—Yes.

884. That expresses your views on tenure?—Yes.

885. We know that slavery has been abolished. Has that produced a very great change in the position of

the Emir—that he can no longer own slaves or exact tribute in slaves. I suppose we are gradually substituting a system of taxation in money for taxation of that kind?—Yes.

886. Is there much unrest or trouble in the countries that you have had to do with arising from the abolition of slavery?—No, not in the parts that I have been in.*

887. I mean, there has not been much difficulty in substituting money payments for contributions of that kind?—With regard to the relations of master and servant the slave is quite content to receive his payment in kind in the form of board and lodging and clothes, instead of in money, and in the right to cultivate a portion of the farm and work for himself on certain days. In a very great many cases he has no desire to run away. He does not in the least mind whether you call him free or whether you call him a slave. It makes no difference to him. He knows that in the ordinary course of events he will not be sold or transferred.

888. (*Mr. Morison.*) It has not made very much practical difference then to the slave?—To the slave who was well treated it would make very little difference. Some slaves who had been badly treated have run away.

889. Slaves were used to a large extent for cultivation. You had not only domestic slavery but slaves in the fields?—Yes.

890. What in India we used to call agrestial slaves were fairly well treated?—Yes, I think very well treated.

891. Did you ever make a "resident's assessment" ?—I never tried to measure the acres under cultivation.

892. But you have settled the amount of taxes which were to be paid in your province?—Yes.

893. Could you tell us how you did it?—I did it in consultation with the Emir and his headmen and the chiefs, and the people in the villages concerned on a capitation basis.

894. Would you mind telling us a little more in detail exactly how you set about it? First of all, what facts did you find in the Emir's office—if I may put it in that way?—I did not initiate the tax in any one province. I only modified what my predecessors had done. I made very slight changes. I found that a certain village was bound to pay a certain sum. With the view of seeing whether it could be modified at all I went to the census of the village and found out how many men, women and children there were, and what the incidence of that tax would be. If it was below the general average of the taxation of the province I would ask the people concerned why it was so. If they had any valid reason why that village should pay less than others the tax would remain as it was, but if they had not it would be raised to the average of the province.

895. Did you find there was a good reason why one village should pay much more than the other? Is there a considerable difference which you recognised in villages?—I think that the chief difference is in the ownership of stock, and that pays separately in Bauchi.

896. (*Mr. Temple.*) The villages vary in size very much?—Yes, of course they do.

897. (*Mr. Morison.*) Yes, but I mean in the capitation rate?—I think that the rate does not vary very much, and I do not think it is necessary that it should at present, as long as it is as low as it is at any rate.

898. (*Sir J. Digges La Touche.*) It is between 2s. and 3s. ?—Yes.

899. You expect to get that, and you do get it?—Yes. It is considerably less than that per head of the population in Bauchi Province, I think.

900. (*Captain Orr.*) Do you mean per adult male it is two or three shillings?—Yes, I mean per adult male it is two or three shillings.

901. (*Mr. Temple.*) While we are on practical details will you take assessment? Do you remember the town of Badiko, for instance? I want to collect 5s., say, from a butcher there; Serikin Fawa has returned to me ten butchers, and I think he is not telling the

* Page 38; *supra*.

truth, but that there are really 20. If you were sent from Bauchi to Badiko, could you verify whether there were ten or 20 without the help of the native administration?—Certainly not; it is impossible.

902. Could you verify the number of dye pits at Katagum yourself?—I might do that.

903. And the number of compounds in Katagum?—You could count those which were inside the walls, but you would not arrive at any valuable result by doing it.

904. You could arrive at some idea of the number of compounds without the help of the native administration, could you not?—Yes—of the number of compounds.

905. With regard to manioc farms, say, that you doubted whether the village headman was telling you the truth at Bula. Take the town of Bunumu, do you remember how their farms are all interlaced?—Yes.

906. I want to collect 3s. from every cassava farm in Bula. Could you possibly, without the assistance of the native administration, arrive at the number of cassava farms?—Not in any time that you might happen to give me.

907. But could you ever do so; I mean to say, are one man's farms distinguishable from others, or are they all together, without boundary marks?—I think there are generally some boundary marks distinguishable by the natives.

908. But distinguishable to you?—No; without somebody who knew the place I could not find them.

909. (Mr. Morison.) But if you had a man who knew the place, could you check whether the native was telling you the truth or not?—It would be an enormous labour. If I lived at a place for a month I might manage to measure the farms and check the acreage.

910. But short of checking them absolutely by yourself, could you, by a few test questions, find out whether a man was lying altogether or whether he was near the truth?—I think by a few test questions you could.

911. (Mr. Temple.) Could you, with your native staff, without the assistance of the native administration, given that you were free to call in any man of the village, really verify the number of manioc farms and trace each cassava to its owner?—With the assistance of the village headman?

912. No, not with the assistance of the village headman?—Of the owners of the farms?

913. Yes—given the assistance of the owners of the farms, if you can get it?—And the villagers?

914. If you can get it?—It would be a very lengthy process, but I think it is possible.

915. Supposing the village headman were lying to you as to the number of cassava farms, do you think you could get the assistance of the owners in counting them? You have your political agents and your couriers?—It would be a very lengthy process, as I say, but it would be possible. I should not expect to be refused all assistance.

916. Have the farms boundaries?—I believe they have.

917. Visible to you or to your native agents?—Yes.

918. Visible to yourself?—Yes, some farms. I do not say all farms have boundaries visible to me at sight, but they are visible to me if they are pointed out to me; it is often a little scratch for the boundary.

919. But they are very hard to notice?—Very hard indeed.

920. (Chairman.) Are there any workable minerals in any of the provinces you have had anything to do with, as far as you know?—There are minerals in Bauchi Province.

921. What minerals?—Tin.

922. Is there an extensive tin field?—Yes.

923. In what portion of the province?—In the south-west portion. Naraguta is the mining centre.

924. What is the extent of the known tin field there; is it large? Can you give us any idea?—Tin

is found in the beds of most of the streams within the field, but I cannot say from memory what its area is.

925. Is it worked by the natives at all?—It was. It is not worked now, because various companies have mining rights over most of it, or they have prospecting rights.

926. From whom have they got those?—From the Government.

926a. (Mr. Wedgwood.) Do they stop the natives working?—Yes. They have an exclusive prospecting licence that prevents anyone else from prospecting or working the minerals.

927. Have they stopped the natives working where they were already working?—I think they have stopped them working in a certain portion.

928. (Mr. Temple.) Are you sure?—They have not stopped them working altogether.

929. (Mr. Wedgwood.) The whites are not working them themselves?—Yes, they are. The Niger Company are working.

930. (Mr. Temple.) Where the natives were working they are still working?—They work a great deal less than they used to at any rate. There is not nearly so much produced by natives as there used to be. They used to work the tin a great deal lower down than the Niger Company work.

931. (Chairman.) Is there iron in the Bauchi Province?—Yes.

932. Whereabouts is it?—Chiefly to the south.

933. Is it worked at all?—Yes, it is worked by natives.

934. (Mr. Wedgwood.) Has the Niger Company got the sole right of prospecting for minerals in Northern Nigeria?—No; it is open to anybody to apply for an exclusive licence to prospect over any given area. He can get a general licence to prospect over any country not covered by an exclusive licence, and he can get an exclusive licence for a number of years which will prevent any one else from prospecting.

935. Does he make any annual payment for that?—He pays £1 an acre or £1 a square mile. I am not sure what the Proclamation says.

936. (Chairman.) Are the natives working tin or other minerals without a licence now?—They are working tin without a licence, but in a very small quantity, and no licence is needed to work iron.

937. (Mr. Temple.) Is that so?—I think that is so.

938. (Mr. Morison.) Does that apply to whites?—No. I think there is an exception made in favour of natives working salt and iron in the Minerals Proclamation, or in an Amending Proclamation, speaking from memory. No one has ever tried to restrict the working of salt or iron.

(Mr. Strachey.) Yes, that is so.

939. (Chairman.) It appears from Section 3 of the Minerals Proclamation, 1902, that natives may mine for iron without a licence?—Yes.

940. I do not know whether that has been modified since?—I think not.

941. (Captain Orr.) With regard to assessment, do you consider that a system of taxation which fixes a lump sum on a village and leaves it to the headman to divide it as he thinks best amongst the villagers can afford any protection to the individual against unfair division of that tax?—No. The system affords no protection, but protection may be afforded by the action of a resident. None is afforded by the system itself.

942. (Mr. Wedgwood.) But in what sense other than by the system may protection be afforded?—By continual test questions and inquiries in certain villages there is a certain amount of protection afforded; but as a whole the answer is—No.

943. (Mr. Strachey.) If a man finds that he is taxed one year more than the last year he can go and ask why it is?—Yes.

944. (Chairman.) As a matter of practice do the natives complain when they think that the village headman has charged them too much, or do they submit to it?—Unless they were very heavily taxed they would probably submit. My own experience, such as

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it is, does not lead me to believe that the village headman has been very unfair in the villages I have made inquiries in. As to the amount each individual paid, I have gone through some villages and taken the name of each occupant and asked him how much he paid. I have done that in public, and I have found out that many compounds were exempt because they were inhabited by blind men, or old men or women. On the whole it is fairly done, I think, but there are cases where the people will be taken advantage of.

945. (*Mr. Strachey.*) There is great scope for that?—Yes, there is great scope for that. I am not trying to say that it is an ideal system.

946. (*Captain Orr.*) Have you come across any system which does afford protection to each individual by laying down the scale on which each is taxed?—A hut tax or a poll tax would afford protection. I was concerned in the collection of a hut tax in Rhodesia, and that certainly protected the individual.

947. I meant in Northern Nigeria have you come across any system, worked by the natives before we arrived there, which does afford protection by laying down a scale?—Taxation by the hoe would afford protection, certainly.

948. (*Chairman.*) Have you had experience of such a tax?—The land tax in Bauchi was in some cases assessed by the hoe, I think, and very often probably on the number of hands available for cultivating the farm.

949. (*Mr. Strachey.*) The hoe practically means one agricultural labourer?—Yes.

950. (*Chairman.*) It affords an indication of the value of the land?—I have heard of a tax reckoned by the bow; that means by the able-bodied youth who is fit to carry a bow.

951. (*Mr. Wedgwood.*) That would mean that every individual engaged in agricultural labour in a certain town paid at the same rate?—The individual who used the hoe did not necessarily pay at all. He was usually a slave. The landowner's wealth was measured by the number of hoes used in cultivating his land.

952. But one town might pay at a different rate per hoe from another town?—Yes.

953. Was that variation accidental, or did it depend on the nearness to a market or to the river?—As the

taxes were usually paid in kind, nearness to a market would not very much affect them. The distance it had to be brought to headquarters might affect it.

954. (*Captain Orr.*) Then how do you account for the variation?—By the poverty or otherwise of the land and the difficulty in cultivating it.

955. (*Mr. Wedgwood.*) Did it depend at all upon whether you could grow manioc, tobacco or sugar cane?—Those crops would largely be taxed separately, independently of the general incidence per hoe. I am talking of the time before we came.

956. Yes. I am talking of the original taxes before the British occupation?—Just so. I was told that the land tax was in some cases assessed by the hoe. I could only go on native information.

957. (*Mr. Morison.*) The native information was that the land tax was assessed by the hoe? In some cases, not always.

958. Sometimes by the hoe and sometimes by the bow?—Yes. That would hardly be in the nature of a land tax. It would be more in the nature of a poll tax.

959. (*Mr. Temple.*) You might almost say it was a tax per adult cultivator, or adult male, as the case might be?—Yes.

960. (*Sir J. Digges In Touché.*) What is the difference between the incidence of the poll tax and that of the hoe tax?—There are no records available to show.

961. But would they both be on the number of adult males and females, or on adult males? Apparently the poll tax was supposed to be on adult females as well?—I do not think it was levied on females. It would always be on the males.

962. In an agricultural community would the poll tax and the hoe tax be identical?—Yes, practically.

963. (*Mr. Morison.*) In the countries that you have had to deal with if each individual user of the hoe paid, people who did not make their living by agriculture, or did not employ agricultural labourers, would not pay anything. So there is a difference?—Yes; large numbers of well-to-do traders or artificers would pay nothing.

964. (*Chairman.*) Is there anything else you wish to say?—I think not.

The witness withdrew.

Mr. J. M. FLEMING, examined.

965. (*Chairman.*) Will you give us your experience in Northern Nigeria?—I have been in the country for some time, during which time I have served at Kano, Zaria, Kabba, Borgu, and Yola.

966. You have had experience both of Mohammedan and pagan provinces?—Yes, a slight experience of both.

967. You have, I think, seen the notes of evidence?—I have not had time to take them in properly, but I have just read them.

968. Are there any particular points you wish to call to our attention?—I feel diffident in putting them forward, because my acquaintance with each province came to an end just as I was beginning to see my way to knowing anything about them.

969. Do you find great differences between those various provinces, or do the same customs prevail generally throughout the country with which you have been acquainted?—They are all very much alike, in that they recognise authority and channels of responsibility and the authority is vested, I should say, more in communities in pagan districts, whereas in more civilised districts the ruler has more individual power, and is looked up to.

970. By more civilised districts you mean Mohammedan districts?—Yes.

971. (*Mr. Morison.*) What does "vested in the community" mean? Does the community express a definite will by means of a council that regulates affairs?—Yes. The chief himself has much less individual power, I should say, in a savage community. He cannot go against the will of the people so much.

972. But the amount of authority is not less; it is only exercised by a different body. Would you say that the amount of authority was more or less in a Mohammedan than in a pagan district, or about the same?—I think the same—autocratic in one case, democratic in the other.

973. (*Mr. Strachey.*) Any pagan authority exercised by a community would only extend over perhaps a village or two, or a group of villages, whereas Mussulman authority might extend over a province?—Quite so. It is a matter of degree.

974. (*Mr. Morison.*) If a Mussulman might take away land from an individual would you say that the village community might do the same thing?—If a stranger wanted land he would have to apply to the community in a pagan district, I should say; whereas, with Mohammedans the individual chiefs would have more say in the matter, but it comes to the same thing with regard to rights.

975. There is power either to give or to take away land?—Yes. I am talking of strangers. They are

very tenacious of their rights as regards strangers, I think.

976. Can you conceive of a village community taking away land from one of the people in the village—not a stranger?—Yes—for misbehaviour.

977. I mean for misbehaviour. You can?—Yes.

978. (*Chairman.*) Do you know an instance of that?—I can think of several. I should say that in Mohammedan communities a man who misbehaved would very likely first be tried by the native judge, and he would be expelled from the country with the consent of the Emir. It would be referred to the Emir first.

979. (*Mr. Morison.*) What would be the procedure, if I might call it so, in a pagan community?—Mere force.

980. Would the village elders sit and consider the question, or would the mob turn him out?—Yes, I should say that the elders decidedly would.

981. And then he would be kicked out?—Yes. In former days he would very likely be handed over in payment of "slave-tribute."

982. Now, what would be likely to happen to the land that he possessed. He has been *ex hypothesi* deprived of his farm. Suppose that somebody else applied for it?—He would take it up with the consent of the community.

983. Would he pay anything?—Yes, he would pay a due.

984. To whom would he pay it?—He would pay it to the chief who would represent the community and be responsible to the community for the way in which he had disposed of the dues.

985. What would he actually give; a couple of hens?—Something very small.

986. What does it mean—a dozen eggs, or what?—Yes, or corn or chickens or goats. It depends on how close they are to civilisation or trade settlements. The chief would be recognised as having a claim upon those dues for his personal use, because that is his position as being *primus inter pares*.

987. (*Chairman.*) The land would not belong to the chief or to the Emir in that case?—No, I do not think so.

988. It would not be a transfer of ownership?—No, but it would be settled more by an individual like an Emir than by a headman of a pagan community.

989. Rather as an act of administration than as a transfer of ownership?—Yes.

990. (*Sir J. Digges La Touche.*) The so-called due would be in the nature of a present, would it not?—There is not much distinction, I think.

991. (*Mr. Morison.*) In a pagan country, after he has once been admitted on payment of two hens or a goat, does he make any other payment in future for his land? I am thinking of a man not subject to a Mohammedan Emir?—The village would pay slight dues every year to a bigger chief, if there was one, and each individual would no doubt contribute something.

992. Make it up?—Yes.

993. If the village did not have to pay tribute he would pay nothing?—Nothing.

994. He would pay nothing except his share of the village tribute if there is any?—Nothing at all, unless they were being raided in the old days, but that is another question.

995. (*Chairman.*) During the time that you have been in the country have you seen any change in the conception of land? You spoke of being in the Kano Province. Has the idea of property in land been developed at all in towns?—With regard to their conception, certainly it is becoming more individual when it is near a town. But may I say that their sense of our right to the land is being shown more and more. They feel that the land belongs to us in spite of their former rights.

996. (*Mr. Wedgwood.*) Is it shown by the willingness with which they pay taxes? Do they pay their taxes more willingly now?—I was thinking more of cases where we have allowed other communities to spread themselves from their districts into other dis-

tricts not so thickly populated, but which belonged to another tribe. This would have ended in tribal fights a few years ago, whereas now they just do not like it at first, but they understand.

997. In Katsena have you known of a house changing hands for a money payment?—I believe it has been done, but I hesitate to answer definitely, because I was only there a month. You have Mr. Palmer's evidence, I believe.

998. Have you been in any town for any period? Have you lived in Yola?—Yes, I have lived in Yola a short time.

999. Have you known of a house changing hands in Yola?—No. When a house is left by its owner it is generally because he wants to go into the country. He has the right to go back there, but in the meantime it stands empty.

1000. Supposing that you yourself wanted to put up a house in Yola, would you have to ask anybody's permission to build that house?—The Emir's permission.

1001. And if you wanted a big garden, or a larger garden, attached to it whose permission would you ask?—The Emir's.

1002. If you were a black man would you pay the Emir anything?—Yes.

1003. Every year, or only once?—Once—that is a definite claim on the Emir's part.

1004. Would it outrage the native sense of justice if the Emir proceeded to demand an annual payment for the right to have land inside Yola, whether with or without a house upon it?—No, if it was a small one I think the principle would be accepted without demur.

1005. Does a person who lives in Yola, that is to say, a shopkeeper, pay any tax at present?—Yes.

1006. A licence?—No, not as such. He pays a tax which we have instituted.

1007. Assessed on what? Suppose he is a witch doctor?—In Yola?

1008. Yes?—He would pay simply on his compound, but not *qua* witch doctor.

1009. No, not *qua* witch doctor, but *qua* occupying the hut.

1010. (*Mr. Temple.*) Have you a poll tax on doctors, because that is what you said?—No.

1011. (*Mr. Wedgwood.*) The doctor pays according to the hut tax, I understand?—Yes, simply as a member of the community having a compound of his own.

1012. (*Mr. Temple.*) Is it a graduated compound tax or a fixed amount for each compound?—There is a fixed amount as a basis. If he was a doctor and was making money as such, we would expect the head of the ward of the town in which he lived to take that into consideration.

1013. (*Mr. Wedgwood.*) My point is would every person who had a compound in Yola pay the same amount whether he was a witch doctor or whether he was a baker or whatever he was?—I think I have answered that. Five shillings a compound is a kind of basis, but the total assessment might be higher than that, taking into consideration the incomes derived by different people from their various callings.

1014. That is to say, if a man had a compound on the main square in the centre of Yola, he would pay more than the man who had a brand new compound in the outskirts?—You mean because of the position of the compound?

1015. Yes. Would the position of the compound affect the tax?—We have never put it to the Emir in that way, I think, but it might unconsciously work out in that way.

1016. It might, you say?—It might, because he would be a bigger man for one thing, if he had his house close to the mosque, for instance.

1017. (*Mr. Morison.*) Are there good and bad sites in Yola?—No, not in themselves.

1018. But are there some sites of more value than others in Yola?—Incidentally, yes.

1019. (*Sir J. Digges La Touche.*) Giving greater opportunity for making profit?

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1020. (*Mr. Morison.*) Nearer the bazaar?—You would certainly find that the people who were nearer the centre of things would be paying, if our system is carried out rightly, on a rather larger scale than people further out, because they would be the principal people in the town.

1021. (*Captain Orr.*) You speak of our system. Then what you are telling us is what we are introducing, and not what you found when the British occupation first began?—Exactly.

1022. (*Mr. Temple.*) Is not this what we have been ordered to introduce?—It is what we have introduced.

1023. It is in the Memorandum?—Yes; but we leave a great deal of latitude to the chiefs as regards the incidence on the individual.

1024. (*Chairman.*) Do you know any case in which an increased value has been in any way attached to the value of the site of the house or land, or is it a value which merely depends on the position of the taxpayer and the amount of income that he makes and so on, and what he is able to pay. I know it is rather difficult to answer these questions unless you have some concrete instance in your mind. Do you know any cases?—Certainly. If you have a man occupying a big house in Yola and he is expelled from any reason, that house as such would give a claim to the Emir to demand a present from the man who occupied it.

1025. Whatever his profession might be or whatever his trade?—Certainly; it would be a well-known house.

1026. (*Mr. Morison.*) Did you ever know anybody paying anything except to the Emir for being introduced to a house or holding? One man goes out and another man is brought in. In that case have you ever known any payment made to the outgoing holder or tenant?—Not if he has got land from the Emir in some other place. The Emir would grant him, or the chief of the village would grant him land elsewhere.

1027. But between the two parties is what I mean?—Independently of what happens with regard to the Emir?

1028. Yes. A man goes out from his good house in Yola and surrenders it or goes out anyhow, and another man comes in. Would the man going out exact anything, or would he be able to get anything from the incoming tenant?—It would be like surrendering his licence?

1029. Yes?—I do not think so. I have never met with it.

1030. You do not in your own experience know of any such case?—No, but that does not in the least mean that it is not so.

1031. You have never come across any such payment?—No, I have not.

1032. As you say, it may have occurred?—Yes. I qualify it in that way.

1033. You have never met with it?—No. In Yola they never had any land tax before our advent—paying on ground.

1034. No, but if a man had a good house, and perchance wanted to leave it, he presumably would realise that he was giving up some value, and he might want to get it back again?—I do not know of any case of a man leaving a house like that.

1035. (*Mr. Wedgwood.*) Do they ever dispose of their goods by will in Yola?—Not often by recorded testament, I fancy.

1036. But by unrecorded testament—do they dispose of their slaves for instance and cattle?—Yes, the Mohammedans do.

1037. Have you ever had any cases dealing with testamentary dispositions?—Yes. The old Alkali of Yola died just before I came away the other day, and we were looking into his testamentary disposition. He had only told two people to whom he was leaving the third of his property that he had a right to

distribute. This was not published until some time after his death.

1038. Do you know what he bequeathed under that third?—Yes. The stock on his private lands was divided between his wives who had been to Mecca with him.

1039. (*Chairman.*) Was that acted on?—It would be.

1040. (*Mr. Wedgwood.*) There was first of all no question of slaves?—I do not think so.

1041. I did not know whether slaves might still survive in these testamentary dispositions. There was no mention of houses that you heard of?—His private farms went to his family. His official house went to his son, because his son succeeded him.

1042. And his other houses are now occupied by his wives?—And his other sons.

1043. (*Chairman.*) What is your experience with regard to the relations between the residents and the Emir—do they work harmoniously together, or is there much bickering?—They recognise our power, and they know on which side their bread is buttered.

1044. Are they willing to take their butter in the form of an annual payment—a proportion of the tax, or something of the sort? Are they willing to accept a fixed annual income?—They would be willing to accept it in some cases, but in others I should hesitate to say.

1045. (*Mr. Morison.*) Are they looking to the rising values of their estates?—No. I should say that in places where they have not had any regular system of taxation until it has been introduced by us it would be a matter of very little difficulty to give them fixed incomes at once.

1046. (*Chairman.*) Would you apply that to the subordinate officials, the district headmen and so on?—Yes.

1047. Could they be turned more or less into assistant administrators or something of the kind?—Yes, I think it would be fairer to them, and they would feel it to be so.

1048. Do you believe that any change of that sort would be consistent with the proper administration of the country?—Already they consider that their share of the taxation, as it is called, is a reward. They call it "lada."

1049. (*Mr. Strachey.*) Is that confined to Yola?—I should say that it was true of any places that I have had experience of where we have instituted taxation ourselves, because there they look upon it as receiving income or money from us, whereas in the other Emirates, where they have had an established system, it is rather considered that we are taking a share from them.

1050. (*Captain Orr.*) We divide the spoils—is that what you mean to convey?—Yes, but they collect the spoils first.

1051. (*Mr. Morison.*) And they resent the division?—They may or may not; but in the other places that I am speaking of, where they have not had a system before, they look upon it as mere wages given to them, and that is why I feel that a definite income would be more satisfactory to them.

1052. More satisfactory to them, but do you think it would be more satisfactory to the people who had hitherto had the spoils?—No. I am speaking of places where they have not had any.

1053. (*Mr. Morison.*) Do you think that the people who have hitherto had the spoils would think that transition to fixed wages would be satisfactory. I think that that was the question.

1054. (*Chairman.*) I suppose that that might depend upon a variety of considerations. It might depend on the degree to which the district headman or the village headman, or the messenger of the Emir was brought under control and unable to carry on in the same way as before. He might be willing to compromise and to take a fixed salary in lieu of a more or less precarious position of possible extortion. Putting it generally, do you think that the arrangement of

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turning these persons in the position of Emir, district headman and village headman into assistants of the British Government for the collection of taxes is likely to work well?—I would not destroy their authority for anything, but consistent with that, I do not see why a system of salaries would not be possible. A good deal depends on what opportunities they have now for extortion which we do not know of.

1055. (*Mr. Morison.*) Do you think it would be possible to maintain their position on a salary?—Yes, I think so, certainly.

1056. Does the prestige depend partly upon the power to extort?—It depends on your power, which you may abuse or not abuse.

1057. (*Mr. Temple.*) Has the Emir of Yola any power to deal with the individuals at all?—Yes; through his minions.

1058. Through the district headman and the village headman, and through other channels?—Yes, his minions—his favourites.

1059. That still exists in the Yola Emirate?—There are no Jakadas, but his own favourites are sent out into the country if we are not very careful to stop it.

1060. But on the whole you do stop it?—Yes.

1061. (*Chairman.*) That may probably make the Emir more willing to take a fixed payment?—I think so. At present the Emir does not know on what principle he receives his own personal share. What I mean is this: at present the Emir will accept anything that we give him as his share, and it is difficult for him to check it, and he feels that we may very often not give him the whole amount. Under a system of proportionate shares when assessments are being continually revised or by short collection are not fully realised, with liability to forfeit under certain conditions, it is too vague for him to follow, and from that point of view I am sure that he would prefer to know where he is.

1062. (*Mr. Strachey.*) It is the case, is it not, that the Emir of Yola is in rather a curious position. Yola is a rather exceptional place, and the Emir is rather unlike other Emirs with regard to his powers, and so on?—The chief difference can be explained by the fact that he is the son of the original founder of Adamawa, who was a contemporary of Othman Dan Fodio, the conqueror of Sokoto, and his connection with the past is so close that we must not expect too much of him.

1063. Yes, but what I meant was that it would not be right to argue from what the Emir of Yola was pre-

pared to do or to agree to, and to assume that other Emirs of provinces would be likely to agree to the same thing simply because of his exceptional position?—Certainly not. It is an Emirate where we have instituted taxation ourselves.

1064. Unlike the other Emirates they had not got this rather elaborate system of Mussulman taxation?—No, they had not got it.

1065. (*Captain Orr.*) I do not understand your saying that the native chief has no idea on what principle the taxes are divided. He gets half, does he not? He collects the taxes himself; he knows exactly how much the taxes are, and he receives half?—I am afraid I have worded it badly. He knows that the Native Administration gets half, but he knows that other chiefs—smaller chiefs—gets certain shares, and they cannot work it out. The details are complicated; they simply wait and see how much each one is paid. Therefore, as an individual, he would be much more sure of his ground if he knew the exact money that was going to be due to him. I should like to see fixed salaries allotted to all, but subject to revision according to their efficiency.

1066. (*Mr. Morison.*) The taxes, I understand, go first to him?—They are collected by us. They are brought to us in Yola.

1067. (*Mr. Strachey.*) Yola is exceptional?—Yes. We aim eventually at having them entirely collected by the native administration.

1068. (*Chairman.*) You do aim at that?—Yes.

1069. (*Mr. Morison.*) And deposited first in his treasury?—In the initial stages it has been considered unwise to leave it in his hands, because he being a tremendous slave raider (a way in which they used to get their wealth before we came), if we put it into his hands a new system which he could run by his own authority, it would be almost impossible to expect him not to abuse that power.

1070. (*Chairman.*) It is an exceptional case because of the condition the country was in when we took it over?—Yes. Yola is a colony of Sokoto; it is considered as such.

1071. Therefore you had not in Yola the same organisation, if we may call it so, as exists in other provinces?—No. They were allowed to get their wealth from extending the empire of Sokoto, if I may put it in that way.

1072. (*Chairman.*) Is there anything else you wish to say?—No, I think not.

1073. (*Chairman.*) Thank you.

The witness withdrew.

Adjourned to Tuesday next at 2.30 o'clock.

FIFTH DAY,

Tuesday, 30th June, 1908.

At the Colonial Office, Downing Street.

PRESENT:

SIR KENELM E. DIGBY, G.C.B. (*Chairman*).

Sir J. DIGGES LA TOUCHE, K.C.S.I.
 Mr. THEODORE MORISON.
 Mr. J. C. WEDGWOOD, M.P.
 Mr. C. L. TEMPLE.

Mr. H. BERTRAM COX, C.B.
 Mr. CHARLES STRACHEY.
 Captain C. W. ORR.

Mr. JOHN ANDERSON (*Secretary*).

Captain C. W. ORR (a member of the Committee), examined.

1074. (*Chairman*.) Where are you resident?—At Zaria.

1075. In these memoranda appended to Sir Percy Girouard's Memoranda, you have one on Land Tenure on page 36 of the document before us, and another on Land Revenue on page 55?—Yes

1076. Those, I understand, contain your views on those two subjects?—Yes.

1077. I think that you have a statement?—Yes.

1078. Will you read it, please?—"There is little to add to what I have written in my two memoranda to the High Commissioner, one on Land Tenure, the other on Assessment. I do not see that any amplification is needed of what I have said about Land Tenure. Exhaustive inquiries amongst natives of all classes have led me to believe that what may be described roughly as State ownership of land is at the root of all native ideas in Northern Nigeria, whether the natives be primitive pagans or enlightened Mohammedans. But I believe that wherever land, owing to pressure of population, has acquired or is acquiring a value, the practice of freehold is beginning automatically to creep in. As to whether or no any country can be developed without granting to individuals a freehold in land I cannot express an opinion; but I hold strongly that the experiment should be made, or rather continued in the case of Northern Nigeria. If the system fails in practice, a stroke of the pen will suffice to alter it. But the converse obviously does not hold good, that is to say, if freehold is granted in the first instance, the reversion to State ownership is practically impossible." That is all I have to say about Land Tenure. As regards assessment, my idea is that for practical purposes the population of Northern Nigeria may be divided into three classes—(1) Mohammedan States where a regular system of taxation has existed for many years; (2) communities of pagans, which have reached a certain standard of civilisation, where markets have been established and where a system of tribute to some conquering tribe has been usually paid; (3) unsettled pagan communities which have up to now been in a more or less constant state of warfare and where civilisation, as we know it, is practically non-existent. In every case I strongly advocate as little interference with the customs of the people as is possible. In other words I would aim not at inaugurating some possibly admirable system which is the outcome of our European experience, but at conserving the systems we find, and devoting our energies to purging these systems of any injustice and oppressions we may discover in them and safeguarding the individual from extortion by his social superior. In my province I have examples of all three classes I have described. I will deal with them separately." That is to say I have the example of the Mohammedan communities and the pagan communities settled and unsettled—" (1) In the Mohammedan Emirate the Hausa communities have long been taxed on a basis of the hoe by which, I mean, every individual agriculturist capable of using a hoe has paid a fixed sum annually, or the head of a household has paid the sum on each individual—whether free or slave—using a hoe. Each 'hoe' has been granted the use of as much land as he can and will cultivate. The result is that a direct incentive

is given to industry—for a man who, by working all day long, cultivates a large area and grows and sells a large surplus of corn, pays no higher tax than his indolent neighbour who cultivates just sufficient to keep himself and his family from starvation and has no surplus to sell. Besides this tax, there is an additional tax payable by those who grow certain crops for which a special soil is required and which are specially valuable, e.g., sugar cane, tobacco, cassava, and onions. This amount, again, is so much per 'farm,' irrespective of the amount of soil used. Furthermore, every industry or craft paid an annual licence, for example, blacksmiths, dyers, hawkers, etc. I would for the present conserve all these taxes, making the district headman responsible that each year a list is made out in Arabic for each village showing the number of hoes, the number of farms of special crops, the number of craftsmen, etc. The village headman would be responsible for giving the correct facts to the district headman and for collecting the tax. The resident need, I think, keep no list of details in his office, but only the gross amount of the total tax on each village." That, of course, is by way of preventing an overplus of clerical labour. "This is the system which, at the moment, is being carried out in the Emirate of Zaria, and I think the Emirate of Katsena, and it is extraordinary how keen an interest the district and village headmen take in their work, whilst the peasant is thoroughly satisfied, feeling as he does that no violent alteration in his old customs has taken place under British rule, but that he has been quietly safeguarded from the former extortion from which he used to suffer. As regards advanced pagan communities I advocate the substitution of a tax per hoe for the old system by which a village or tribe paid a lump sum of tribute annually collected by means of a general subscription whereby the village headman and elders probably profited when they were strong and unscrupulous, though the reverse happened where they were weak and lacking in authority. The tax per hoe should, I consider, be varied when local conditions vary. In my province the tax is as high as 5s. per hoe in a district close to the headquarters station where corn and produce is in immense demand and prices are very high, while it is as low as 1s. 6d. in a more remote district away from markets or trade routes."

1079. That is per annum?—Yes, that is per annum. "The peasants have welcomed this system and method of collecting their tax, since each knows precisely what he has to pay each year, and is not subject to constant calls for unknown sums. Finally, in the case of wild pagan tribes only just brought under control, I would for the present do no more than levy a very small annual sum, payable through the recognised head, and would leave the collection to the community. These pagans are the most democratic people I have ever met in any part of the world, and I have no fear at present of any extortion by their own headman. In assessing such tribes it has been my constant endeavour to fix a sum which I feel certain can still be so easily collected that there will be no necessity of bringing physical force to bear to ensure payment. In some cases the sum fixed works out at less than a halfpenny per head, and I have

known cases where one householder has paid the annual tax for his entire village without question. As this was a community which formerly paid an annual tribute of a slave, I have no doubt that this householder was the man whose turn it would have been to provide the slave." In that way you see the tax passing from the slave to currency. "In parenthesis I should like to note a curious fact, namely, the dislike of many pagan tribes to our innovations regarding slavery. When this first came to my notice I found it impossible to believe that a pagan tribe which had never owned slaves and only suffered from having its members enslaved, could do otherwise than rejoice in laws which put a complete stop to any future enslavement. I then discovered that they had for centuries been in the habit of getting rid of their bad characters, and, above all, their suspected witches and sorcerers, by selling them into slavery, and resented fiercely a new system by which this practice was made illegal. I mention this because it seems to me an excellent example of the danger of jumping to conclusions with our scanty knowledge of native methods of thought, and our invariable habit of applying our logic to tropical conditions. The two important points which it seems to me necessary to bring before the committee are, firstly: That I do not believe in a system except in the case of very backward pagan communities which levies a lump sum as a tax on a village or community, and leaves it to the village headman or council to distribute as he thinks fit. Secondly: That the basis of taxation, so far as my experience goes, is the hoe, *i.e.*, it is a tax levied for the use of the amount of land which one man can cultivate. This is, of course, at present, very vague, simply because land being so plentiful and population so scanty land has practically no particular value. Perhaps, later on, the hoe could be defined as a plot of land of a fixed area, the area being the amount which one man working a reasonable number of hours per diem could cultivate. When the time came for an cadastral survey all land would then be leased to cultivators in plots of this size. I do not put this forward as a carefully-considered proposal, but as a somewhat vague suggestion of the method by which it appears to me the present vague native methods of assessment may develop into a highly-organised system which may accord with the most modern ideas of trained economists."

(Captain Orr handed in the following Table):—

VILLAGE OF N.		Rate per hoe, 2s. 6d.	
Invariable rate throughout the Empire.	Blacksmith's licence	-	5/- p.a.
	Dye pits	-	1/6 per pit p.a.
	Butchers	-	10/- p.a.
	Tobacco crop	-	2/- "
	Cassava	-	3/- "
	Onions	-	3/- "
	Sugar cane	-	5/- "
Broker's licence	-	2/- "	
	&c., &c.		
256 hoes at 2/6	-	-	£32 0 0
10 blacksmiths at 5/-	-	-	2 10 0
2 butchers at 10/-	-	-	1 0 0
5 tobacco at 2/-	-	-	0 10 0
6 sugar cane at 5/-	-	-	1 10 0
			<u>£37 10 0</u>

N.B.—These are rates taken at random, and do not pretend to any accuracy.

1080. (Mr. Strachey.) In your land tenure memorandum on page 36 and in what you have just read to us, when you say "State ownership of lands," and when you say "The State may at once assume right of ownership of land," you mean the Government of Northern Nigeria by "the State," do you not?—Yes. When I say that the State may at once assume the right I mean the Government of Northern Nigeria..

1081. But you also mean that the Government of Northern Nigeria should assume, as it were, the position of trustee for the entire native community?—Yes, that is what I mean.

1082. In paragraph 5 you say: "The right of transfer, sale, and inheritance undoubtedly exists in the

Mohammedan portion of the province." That does not mean the right of transfer, sale, and inheritance of land. It means of user?—Yes, of user.

1083. (Sir J. Digges La Touche.) Is that subject to sanction by the chief?—I am not clear on that point. The evidence is conflicting. Personally, I should have said that it was, but they assured me that in some cases there was no necessity to refer to the chief at all.

1084. (Mr. Strachey.) I am not quite sure about the tax per hoe. Does that refer to the women as well?—In some cases it does and in some cases it does not. I cannot be clear on that point either.

1085. Women do hoe in the field, do they not?—Yes.

1086. (Sir J. Digges La Touche.) Do you apply the same principle to people who are non-agriculturists? Is that tax distributed by a village council under the village headman?—I am proposing only the one tax on agriculturists, because nearly all pagan are either agriculturists or hunters.

1087. What would you do for the Mohammedan community?—I would keep the craft taxes.

1088. Would you distribute that by assessors?—No; that is all laid down already. Each craft pays so much, and it is the duty of the village headman to see how many craftsmen there are and collect the tax.

1089. I thought that they paid varying rates according to their craft and according to their ability to pay? No.

1090. (Mr. Temple.) That is so in Sokoto, but not in Zaria?—Yes.

1091. (Sir J. Digges La Touche.) As I understand your great object is to get a fixed hoe rate. All individuals of the village ought to pay one rate?—All agricultural villagers.

1092. Yes, the whole is entirely agricultural. I understand that. Then, for the craftsmen and other people, would you let the village headman aided by his council distribute the total over different crafts, or was it the custom to have a separate rate for each craft?—The custom was to have a separate rate for each craft. A blacksmith would pay so much. If he had an assistant he would pay double; if he had two assistants he would pay treble, and so on, and in the same way a man with dye pits would pay so much and the hawk would pay so much. It is a licence, not a tax at all.

1093. It varies with different trades, and, as I understand, different villages, too?—I think that the rate is constant throughout, but I will not say for certain.

1094. (Chairman.) If I understand you rightly, it not only varies from village to village, but it might vary with regard to individuals, because a man who employs more labour would pay more?—No, I do not mean that for a moment. I mean this: Supposing I am an individual in a village, and I have no sons or slaves or servants but only myself, I pay half-a-crown as hoe rate. If I have two sons working with me, that is three hoes, I pay 7s. 6d. It is simply per hoe.

1095. (Mr. Morison.) How does that apply with regard to dye pits?—As regards dye pits it is so much per pit.

1096. If the craftsman employs several men or works alone, the tax is the same?—I believe so.

1097. (Chairman.) It depends on the number of pits that are used?—Yes, it is on the pit.

1098. (Mr. Wedgwood.) I understand that the distinction between the tax on the hoe and the licence on the trade is that the tax on the hoe varies from place to place and from time to time, and that the licence is constant from year to year?—Yes, that is my idea.

1099. Could you tell me what the variation in the tax per hoe was approximately?—I should say that it varied from 1s. 3d. to 6s.

1100. Would it be possible for the residents to notice when land acquired any value in exchange in the village?—Yes, I should say so.

1101. And would it be possible to increase your tax per hoe in villages where that took place?—Certainly.

1102. Do you see any substantial difference between a tax based on the hoe and a tax based on the

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agrestial compound—the compound in a village which is occupied by agricultural labourers?—No.

1103. They would be the same in principle, would they not. If you took the village compound, you would get approximately the same results?—Yes, you would certainly.

1104. With the advantage that you could check the number of compounds more easily than you could check the number of hoes?—You mean that ten people might be living in one compound and five in the next. In the compound where ten people are living the tax will be ten hoes. In the next compound, where five people are living, the tax will be five hoes. You do not propose to tax both the same?

1105. I was asking whether, if you taxed them both the same, it would have the same result; you say it would not?—No, because the compounds would vary.

1106. You could not put on a village compound a tax and allow the village headman to distribute it according to the actual size of the compound?—No.

1107. (Mr. Temple.) You could not trust the village headman?—No.

1108. With regard to Jangali, would you allow it to be collected?—Yes, I should continue to collect the cattle tax as before.

1109. It is Income Tax, is it not?—I do not know.

1110. It is 1s. 6d. per beast say. Has Zakka been collected in Zaria?—Yes; I mention that.

1111. You would allow Zakka to be collected as Jangali is collected. You would allow it to continue to be collected?—I do not like the tax, but I should continue it because the people have always paid it.

1112. Yes, quite so?—Zakka is one-tenth part of the corn crop.

1113. (Sir J. Digges La Touche.) Would you combine it with the whole tax on the agriculturist?—I do not want to at present.

1114. Is not the great object to simplify taxation and get rid of a lot of these taxes?—Yes, it is; but the people are accustomed to paying one-tenth of their produce in kind, and I think it is a mistake to do away with the tax.

1115. (Mr. H. B. Cox.) You said just now that in the pagan villages all the people were either agriculturists or hunters?—Yes.

1116. I do not think we have heard of the hunters before. Do they form a large class of the population?—I think that nearly all pagans are hunters, but they are probably agriculturists as well.

1117. Is there any class of hunters who do not cultivate the soil at all?—I could not say. I fancy myself that all hunters have a farm as well.

1118. If that were not the case, any portion of the population that were not agriculturists would escape taxation?—Amongst the pagans—yes.

1119. (Mr. Wedgwood.) Would it not be just to say that they escape paying rent.

1120. (Mr. H. B. Cox.) They would escape paying a hoe tax if they did not use the hoe?—But then they have got to buy their food from their fellow-agriculturists who have to pay the tax, and therefore they would pay indirectly.

1121. Do you think that the agriculturist would raise the price of his food to the hunter? Certainly, he has to raise the price of the food if he has to pay the tax.

1122. You do not quite follow my point. He has to do that, but would he not raise the price of food indiscriminately?—Certainly, not to the hunter alone.

1123. That is what I meant. Therefore the effect would be to raise the price of food all round?—Yes.

1124. To the agriculturist, the tanner, the man with the dye pit, and to all?—Yes.

1125. Therefore, while the hunter would have to pay more for his food, he would not be paying more for his food than anybody else?—No.

1126. Therefore, the hunter, so to speak, would escape a form of taxation which other people were subject to because, while his food price was raised, so

would the price of food be raised to everybody else, and he would not pay a special tax?—Except the agriculturists who grow their own food.

1127. You say, as a matter of fact, there are practically no hunters who are not agriculturists?—As far as I know. I do not like to dogmatise, because I do not know.

1128. There is no hunter who has not a farm?—I should not say so. Every young pagan hunter probably has his farm. Until they begin to come into line with us and begin to see the benefits of British rule, I would put them on the same basis as the more advanced pagans.

1129. (Chairman.) You say there is a difference with regard to the Province of Zaria between what you call the official farm and what exists in other places?—Yes. I am surprised to find it, but it seems clear from the evidence that I have seen that it is so.

1130. (Mr. Wedgwood.) Is the village headman elected or is he hereditary?—He is elected. He is appointed by the Emir.

1131. For life or during his pleasure?—During his pleasure.

1132. (Chairman.) Is that the case in pagan communities also?—I believe so.

1133. Is he appointed by the chief?—Yes, I believe so.

1134. Therefore the practice of appointing him by the Government does not strike the natives as a novelty?—No.

1135. (Sir J. Digges La Touche.) Is the Council under the village headman recognised at all in Zaria?—I do not think so.

1136. We have heard a good deal about the council?—Unquestionably the senior men of the village meet and discuss these things, and no doubt the elders limit the authority of the Chief to a great extent, but as to whether there is any actual council I do not think there is.

1137. I meant the elders under the village headman. I did not mean any council?—The council is not actually a fixed thing, I think. There may be five men one day or ten the next. They are very democratic, as I have said.

1138. (Mr. Morison.) With regard to the tax per hoe and the craft tax, do you recognise these things as distinct?—Yes.

1139. Do you think that at the present moment the incomes of the people following these different professions minus the tax are about the same? I mean to say, having taxed them, do you leave them in about the same relative positions to one another. Do you make a heavier tax on an agriculturist than on a craftsman? Do you annex the same percentage of the profits?—I could not say whether the idea is to leave them in the same relative position. They have probably worked it out during preceding centuries, and what we find there is the suitable thing. You follow what I mean?

1140. Yes, but my point is this: supposing there was a very great rise in the price of agricultural produce, the present condition might not continue. The man paying the tax per hoe might be let off very much more lightly than a man paying a tax on dye pits?—Yes, certainly, that is so.

1141. Do you propose that the tax per hoe shall be varied quite independently of the craft tax?—Yes.

1142. I only want to know what you contemplate in the future. Do you contemplate an alteration in the hoe tax, quite independently of the tax on the dye pit?—Certainly, I do contemplate that.

1143. So that the two must be kept very distinct?—Yes.

1144. You are against lumping?—Yes, I am against lumping.

1145. (Mr. Temple.) Why should they vary? Ought not the blacksmith to pay as much as the agriculturist, or vice versa?—It is a question of expediency. For instance, if I wanted to encourage blacksmiths, I should lower their tax. Why not? If I want to encourage agriculturists, I can lower their tax. That is the whole point of it.

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1146. (*Chairman.*) With regard to this system of taxation by hoe, do you know whether it prevails in other parts of the country as well as in Zaria?—No, I do not.

1147. Therefore, you would introduce it as a new thing if it was not in existence already?—I would not introduce it as a new thing where a system of taxation on a different basis had been in existence before; but I would introduce it amongst pagan people who have never been taxed before, because I think it is a sound one. I believe that the system is almost exactly the same as the Kano Katsena system, but they call it a tax per farm, and I call it a tax per hoe.

1148. (*Mr. Wedgwood.*) Is it not essential whether it is by compound or by farm, the tax varying from year to year, that the same principle should be followed?—Yes.

1149. (*Chairman.*) In practice, must not a good deal be left to the Government?—Yes.

1150. It must be regulated on the spot?—Yes.

1151. (*Mr. Wedgwood.*) But you would have some general principle laid down?—Yes.

1152. (*Mr. Morison.*) You would keep the taxes separate?—Yes.

1153. You desire to keep up, under some name or other, these two taxes?—Yes. I merely desire that because I found it, and I am anxious to do away with nothing that I found until I see it is really bad.

1154. (*Chairman.*) You would have two sets of books, one for taxes, which may be lumped together under the name of taxes on agriculture or produce of land, or what not, and the other for taxes on industry—dyeing, weaving, and so on?—I should not necessarily have two sets of books. I think I could do it with one set of books, but I would keep them apart.

1155. You would keep separate accounts in the books?—Yes; for simplification of my own accounts. I suggested that the tax should be as far as the resident is concerned, a lump tax on the village.

1156. That would embrace both?—That would embrace everything. Under the circumstances my books

would only show a lump tax on the village. For instance, £37 10s. is the tax on the village, including the hoe tax, the special tax, and the craft tax, licensing and everything. The total comes to £37 10s. for this particular year. I should put that in my books as the tax on village, X., in order to simplify my books.

1157. Suppose that a question arose with regard to any particular village or individual taxpayer in the village as to whether an excessive amount had been levied, or anything of the sort? It would be useful, would it not, to be able to refer to details of that kind to test whether it was excessive?—It would be useful to have these full details, but it entails so much clerical labour to keep them in my office.

1158. (*Mr. Morison.*) Do you think they should be kept in Arabic, but not in your office?—Yes.

1159. Is the Arabic record not kept in your office?—No; the village headman has it.

1160. (*Mr. Wedgwood.*) I think it is rather important to keep the tax on land in town and country, and not only in the agricultural districts separate from the other taxes. You understand that this tax should be increased as the land becomes more valuable, but would your successors understand it?

1161. Might it not tend to become a fixed tax?—Yes, but then I should have the rate per hoe—which is really what we are dealing with—recorded.

1162. Your successor might say, "This village has always paid so much." As the land filled up, and there was no vacant land round, and land became valuable to the occupier, the rent would tend to become stereotyped, and you would have in this country all the evils of private ownership again?—No. We lay it down that the tax must be varied as the land becomes valuable.

1163. That is what you lay down in Zaria, but if you lump all your taxes together you get away from the whole thing?—I see your point. I had not thought of it. It will be necessary to add that the rate per hoe in that village will be so much this year.

(Adjourned.)

SIXTH DAY,

Friday, 17th July, 1908.

At the Colonial Office, Downing Street, S.W.

PRESENT:

SIR KENELM E. DIGBY, G.C.B. (*Chairman*).

MR. THEODORE MORISON.
MR. J. C. WEDGWOOD, M.P.
MR. C. L. TEMPLE.

MR. CHARLES STRACHIN.
CAPTAIN C. W. ORR.
MR. JOHN ANDERSON (*Secretary*).

SIR RALPH MOOR, K.C.M.G., called and examined.

1164. (*Chairman.*) I do not quite know what position you hold with regard to the British Cotton Growing Association?—I am named their official adviser. I attend to any business which they may have with the Government Offices in London, either the Colonial Office, or the India Office, or the Foreign Office.

1165. Do you take an active part in the management of the Association itself?—Not beyond that. All the meetings and all the business which require attention in London they forward to me, and all correspondence with the offices in London passes through my hands.

1166. Have the British Cotton Growing Association any *locus standi* in Northern Nigeria, or are they merely contemplating operations?—They already are

established in Northern Nigeria, at Lokoja and Shonga.

1167. What is the nature of their operations? Are they concerned in the growing of cotton at all, or merely as dealers in it?—They are not actual growers of cotton, and they do not wish to be growers of cotton, because their view is that cotton growing, to be successful, must be established as a native industry. Their line has been the pioneer work of teaching the natives, or assisting them in growing it, establishing gineries, and creating market centres so as to make the cotton crop a staple export crop.

1168. What would be their requirements with regard to the acquisition of land. Would they merely

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want land for their ginneries and their other establishments, or would they want land for the purpose of cultivation?—Their requirements would be very limited. They would merely want small suitable sites for ginneries, and for buying centres. In no case would they require an area of beyond five or six acres at the most.

1169. Would those be scattered over the country or would they be concentrated in towns?—They would be mostly centres where there was the possibility of creating a cotton market.

1170. It is not necessary to have them at the same place where the cotton is grown?—No, but they try to establish them in a centre around which the cotton industry is already established as a native industry, in order to extend it as a staple export industry.

1171. I rather gathered from the answer which you gave just now that the first requisite for them would be to have their ginneries or factories, or whatever it may be, established at a place near where the market would be, at which to dispose of the cotton?—No—where they can purchase the raw cotton. Their business is not that of selling manufactured cotton goods at all. They do not take any hand at all in that competition. They are merely there to purchase the raw cotton and to gin it and to forward it to this country.

1172. That is after the ginning process?—Yes; in the state of lint—and the seed they also export for crushing.

1173. (*Captain Orr.*) The Association has an experimental plantation near Lokoja of 500 acres, has it not?—Nothing like the extent of 500 acres, I think. They have a small experimental plantation for hybridising and trying to produce a class of cotton suitable to the territories.

1174. But they might wish to take up land at various points for growing cotton experimentally. That is my point—rather than having merely a buying station?—I think I may say emphatically, no. They did originally, in Southern Nigeria, take up land with the view of establishing a European cotton plantation such as you suggest. The experiment was not successful, and they did not carry it any further. They restricted their efforts to a small area sufficient for carrying out experimental work in hybridising, and so forth, and testing the various classes of seed, and trying to arrive at a suitable class of cotton for growing there.

1175. (*Chairman.*) That was merely for experimental purposes?—Purely.

1176. You have had a long experience of Southern Nigeria, have you not?—Yes.

1177. As High Commissioner?—Yes.

1178. But not of Northern Nigeria?—No. I know a good deal of Northern Nigeria from report, and so on, and knowing many of the officers there. Several officers who served with me are serving in Northern Nigeria, and I hear a good deal of it, so that I am not entirely a novice in the matter.

1179. If I understand you rightly, what the evidence which we have before us deals with mainly is this—sites for these ginning establishments, and not areas of land for cotton-growing purposes?—Not at all for cotton growing, but purely for the ginneries and buying centres.

1180. (*Mr. Strachey.*) You would make the exception, perhaps, of a few acres for hybridising and experiments?—Yes, a few acres for hybridising—a small area. That class of work is carried out more or less in consultation with officials of the Agricultural Department of the Government, and probably if an area was required for that purpose it would be more or less on the suggestion of the Agricultural Department of the Government. The Cotton-Growing Association certainly would not embark on cotton plantations on their own accord. It is not their policy, at all events at present, and I do not think it is ever likely to become their policy.

1181. (*Mr. Morison.*) If you wanted to introduce the growing of cotton in any part of Northern Nigeria, where it has not hitherto been the habit, would you set about it by establishing experimental farms?

Supposing you thought that a particular area where cotton had not been introduced was very suitable for the kind of cotton which you wanted to develop, how would you show the benefits of it to the natives except by running a farm of your own?—In that case the course pursued would probably be an experimental plantation. It might, perhaps, extend to 50 acres, more or less, as an object lesson, but immediately the industry was established as a native industry, the Cotton-Growing Association would not extend its own operations. It would be rather inclined to restrict them to purely experimental work.

1182. You did something of the kind, did you not, in India? Did not you actually plant a small area in India?—No. The Cotton-growing Association contributed to the Indian Government £10,000, only about £3,000 of which was drawn. That was expended in experimental plantations.

1183-4. It was run by another company, not by the Government of India?—It was really a third party.

1185. (*Mr. Wedgwood.*) Is the Association a commercial undertaking, does it pay dividends, or is it intended to be a commercial success?—Under the Articles of Association they undertook not to pay any dividend for seven years? They were quite safe in doing so, because they certainly would have had no opportunity of paying them for seven years, but it is intended that eventually the Association shall pay a dividend on the funds subscribed, if possible.

1186. Who subscribed the funds?—They are mostly all obtained in Lancashire.

1187. You do not confine the selling of your cotton to any particular firms?—It is sold on the open market.

1188. (*Chairman.*) Then may we take it that your suggestion with regard to the terms which you say are necessary for the proper establishment of your business relates not to areas of land for cotton growing, but to places where the ginneries and factories can be established?—Yes, entirely.

1189. Now, first of all, about the nature of the tenure, what do you say?—The Cotton-Growing Association contend that they are in a different position from everybody else engaged in commercial undertakings in Northern Nigeria—that they are there to create an industry. They have not gone there to compete with other merchants in established industries dealing with staple export products. They have got to establish the growing of cotton which they wish to export, and for that purpose they have to take the risk of establishing centres which may turn out to be entirely wrong centres. They do it to the best of their ability and endeavour to select the right ones. Then they have to establish an industry all around that centre of growing cotton in which they are to deal. They have avoided going into any competition with the merchants, and they have gone even further than that; they have entered into a contract with the merchants to act as buyers for them, allowing the merchants a reasonable commission for doing so.

1190. How do you contemplate promoting the growth of cotton?—It will be grown by natives, you say?—Yes.

1191. You will encourage that?—Yes.

1192. And teach them how to do it?—They know how to do it more or less, because they have grown cotton there from time immemorial.

1193. Would you trust to what I may call the natural operation of the surrounding circumstances to promote the growth of cotton, or would it be necessary in any way to put the natives under any obligation to grow cotton. Do you think that there would be sufficient inducement for them to take it up?—We do not trust to local circumstances at all, otherwise it is not probable that the industry would extend, at all events, at the rate that Lancashire wishes it to. On the other hand, the Association employs a certain number of agriculturists who go round and call meetings with the consent, as a rule, of the Provincial Commissioners and district officers, and explain to the natives the value of growing cotton for export. It is grown for native manufacture now. The advantages

have to be explained to the natives. The Association beyond that undertakes the distribution of the best seed that it can procure for the natives. It does everything in that direction to induce them to grow a crop which will be a staple export product. The Association has been considering for a long time the establishment of some form of agricultural bank in Northern Nigeria, in which it would take a hand, for the purpose of making advances to the natives, to improve the class of agricultural instruments that the native uses, and to pay for labour so that he can get a larger area under cultivation.

1194. Have advances been made?—Advances have not been tried in Northern Nigeria yet.

1195. (Mr. Wedgwood.) Have you any ginneries in the Soudan at all?—No operations outside what is actually British territory.

1196. You do not get any cotton from the Soudan at all?—No, they do not deal beyond the territories where they are operating.

1197. (Mr. Morison.) One great inducement which you offer to them is a certain market for their cotton if they will grow the kind of cotton that you want?—Yes.

1198. That is the principal inducement. "If you will grow this kind of cotton that we want we will buy up all that you have"?—Yes, and not only that, but "We will buy it at a fixed price so that you can calculate whether it is profitable for you to grow it, or whether it is not."

1199. It is very much the same system as the Indian indigo planter adopted, only he bound them to him by making advances to grow indigo?—The native is not bound to the Association in any way, but under the agreement entered into with the merchants the Cotton-Growing Association only has the option of putting up ginneries, so that the cotton all has to come to them for ginning. By the arrangement with the merchants with regard to buying on commission, they obviated competition which might depress the price to such an extent as to render the growing of cotton an unremunerative one to the native. They have assured to him a price which will enable him to grow it.

1200. You get the advantage that there is no competition among buyers which will force up the price?—Of course, on the side of the Association there is that advantage, or they would not enter into the arrangement.

1201. (Mr. Wedgwood.) Do you think it possible that the Government of Northern Nigeria could do the work you propose to do?—Which part of the work?

1202. The establishment of ginneries and the encouragement of the growing of cotton?—It would be a purely commercial undertaking, which I do not suppose any Government or Administration would be likely to enter into.

1203. Your object in founding the Association is to increase the supply of cotton for Lancashire?—Yes.

1204. Not to make dividends?—Exactly, but in carrying on an operation of that kind, in order to ensure yourself against loss you must place yourself in the position of making a small profit; that is essential. And after the period of seven years those who subscribe to the funds of the Association would expect to get some return on their capital if the business showed any return.

1205. Do I understand that you advanced money to the Government of India to get the growing of cotton improved there?—Yes. The Association guaranteed a grant—not an advance—to the Government of India of £10,000, and the Government of India drew only up to £3,000.

1206. You intended, therefore, in that case, that the Government of India should do the work that you are proposing to do yourselves in Northern Nigeria?—It was the doing of experimental work and improving the class of cotton grown in India which at present is not suitable for the Lancashire mills. It is too short in the staple. The object was to induce the Government of India, through their Agricultural Department, to establish a better class of cotton of a longer staple, so that it might come to Lancashire.

1207. Provided that the Government of Northern Nigeria would undertake this pioneer work, would your Association be willing to assist them not with money but with advice?—Undoubtedly with advice.

1208. (Mr. Strachey.) The Cotton Growing Association received a grant from the Government?—Yes, both in Southern Nigeria and in Northern Nigeria, but one of the conditions of the grant is that the Cotton-Growing Association shall expend a sum of its own money equal to the amount of the grant annually in experimental work, and that money is actually sunk capital expended without any possibility of a return. I have here the figures of the whole of the operations since the beginning. With regard to Government grants, in Nigeria they amounted to £17,750, and the expenditure on the experimental and pioneer work of cotton growing, which is an entirely unremunerative expenditure—that is, directly—has amounted to £37,046 12s. 6d. So that the Association, although it gets £17,000, has spent £20,000 of its own money.

1209. (Chairman.) We are not concerned very much, I think, with the policy of grants one way or the other with regard to the Cotton-Growing Association. We are dealing with the tenure of land more especially, and we want to get your views upon the question of security of tenure and the terms which you think are essential if the country is to be developed in this direction?—The Cotton-Growing Association are very firm on that point. I submitted a *précis* to the Executive Committee, and I had this letter this morning from them: "With regard to paragraph 2 which deals with the tenure of land, you might intimate to the Committee that the Association has resolved not to enter into any further expenditure in the way of erecting ginneries unless they obtain the tenure indicated."

1210. That tenure indicated being what?—Either a free grant or a freehold obtainable at a nominal rate or leasehold property for 99 years at a nominal rental.

1211. That is practically the same thing?—Practically.

1212. (Mr. Wedgwood.) The Northern Nigerian Government pay you a grant at present. Would that grant cease if you invested no more capital in Northern Nigeria?—No, I think not. It is for a period of three years, and the Association has undertaken to go on carrying on this experimental work for the period, and would have to do so, I think.

1213. If the tenure of land was put upon all fours with the tenure granted to other white traders and planters, and you were at the same time guaranteed an extended grant in cash, would that meet the views of your Association. Supposing that instead of the peppercorn rent for 99 years you were put on ordinary terms, and against your pioneer work was set off an extended grant for the encouragement of cotton growing?—I do not think I could quite commit the Association in that direction, because you see an extension of the direct grant carries with it an extension of their expenditure. The condition is that for every pound of Government grant the Association expends a pound of its own money, and it is entirely a sinking of capital.

1214. Pioneer work can be rewarded in two ways, either by a land grant or by a cash bonus to start with. You recognise that?—Yes, but the Association rather contends that it is not on all fours with any other commercial undertaking in the country, as I have tried to explain in the latter part of paragraph 4 of my *précis* of evidence.

1215. (Chairman.) Perhaps you will just read that in order to get it on the notes?—Yes. "Its case is therefore quite different from that of a merchant opening at an established centre to compete in existing business, when it would be reasonable to charge a fair rental, or of a merchant creating a new centre for dealing in staple export products, when a smaller rental should be charged, for it has to undertake the risky enterprise of fixing on a centre suitable for an industry which it is going to create, and in this it has not up to the present been always successful."

1216. (Mr. Strachey.) When you say "which it is going to create," you mean export industry?—Yes, export industry.

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1217. Everybody agrees that there is cotton growing there?—Yes.

1218. (*Mr. Wedgwood.*) I wanted to know whether you could suggest any scheme which would be equally palatable to the Cotton Growing Association, and yet would not be an exception to the general tenure of land in the country. You see the difficulty with regard to the tenure of land?—But I would submit in that matter the point whether you would have a system of general tenure which would be applicable throughout the entire country.

1219. (*Chairman.*) That is one question we have to consider—I have tried to differentiate here. I had the same question to consider when I was administering Southern Nigeria, when we took over the Niger Company's territories. There were in those territories certain centres established where there was a trade and where there was a market, and all the risk which a man establishing took was the competition with his neighbours. He did not sink any capital which would be unremunerative. All his risk was a competitive risk. I charged a fair rent at such an established centre. In the next case I took the man who said, "I am not going to this established centre, but to a new place which I will pick out for myself, 50 miles from any established depot. I want land in order to establish a centre of trade." I said to that man, "I will let you have land at a much lower rental because you are going to create a new centre for trade." Whereas the man at the established centre probably paid £25 or £30 a year for the land, I let to the other man who was creating a new centre for himself, the land for a few pounds, as far as I remember, not exceeding £5. There are those two classes. Now there is the third class, which is the British Cotton-growing Association, which has to establish not only a centre, but to create the growth of cotton as a staple export product. The growth of cotton had not existed in Northern Nigeria as an export trade until the Cotton Growing Association operated. In settling the rentals in Northern Nigeria it would be fair and just, I submit, to contemplate these three classes.

1220. I feel the force of the argument as far as it goes, but does it really carry with it the necessity of a lease for 99 years at a practically nominal rental without any conditions as to revision during the term. 99 years is a very long time, and the trade, before a third or a fifth of 99 years have passed, may be in a very different condition. The thing may take root and flourish, and the Government would have parted with its control over the land for a very long time. Ought there not to be a shorter period, in other words.

1221. (*Mr. Strachey.*) If we are to look at anything like what the British Cotton-Growing Association have anticipated, that is the transformation of Northern Nigeria into a sort of Texas, it may become very profitable?—I think it is reasonable to ask in this case for that term, for this reason: they are doing pioneer work in a new land. The man who does that has probably to sink a very large amount of capital at the start which will give him a very poor return for some years. The man who simply competes in an existing trade takes a small risk only, but the pioneer sinks his capital, knowing very well that when he has created the centre, and sunk a lot of capital in so doing, others will come and establish alongside him and enter into competition. He faces not only the risks of the moment in sinking his capital, but he has to face the competition of others who will come there to compete with him directly he has established a centre and created a trade. So that I would contend on their behalf that they are entitled to special consideration as an entirely distinct class from practically any other in Northern Nigeria.

1222. (*Captain Orr.*) The Association is not going to create the cotton industry, so it is not quite fair to describe it in that way?—I have not said that they are going to create the cotton industry. They are going to create the export industry. There are enormous difficulties in doing that, not only in the growing of the cotton suitable for Lancashire, but you have to face the enormous difficulties of the transport to get your produce out at a rate that will admit of your buying and paying to the native a remunerative price. He will grow plenty of cotton to use for himself, but when you ask him to grow cotton you have to assure him a price

which will be remunerative, and you have to face the difficulties of getting it to market at a rate that will cover you. The difficulties are enormous in Northern Nigeria.

1223. (*Mr. Morison.*) Supposing that you offered an advance of 20 per cent. on the local rates, could not you get the cotton they actually grow at the moment? Is not that suitable to your requirements?—The great majority of it is eminently suitable to Lancashire requirements, but the native is growing that for his own consumption.

1224. But he would sell it to you if you offered him more than the ordinary price, would he not?—I do not know that one can afford to offer a very much enhanced price.

1225. Would it not be available to you if you offered an enhanced price?—If I can offer a price above the local price it is available to me, but I have to regard in offering such a price the price at which I could sell it in Lancashire, and I do not think it would be possible at all events to offer them such a price as would induce them to sell the crop grown for the home industry. Captain Orr can give evidence better on that than I can, because he knows the local prices and the particular circumstances as to the local industry of weaving.

1226. Unless you are offering particular advantages I do not see why they should extend their cultivation of cotton in the future?—Their present production meets local requirements.

1227. Except for an enhanced price they will not increase it?—They have never had an opportunity of export. There has been no one to buy it for export. We say: "We will give you the best price that we can, and a remunerative price, if possible, if you will put additional areas under cotton." So far they have been prepared to do it, and it is hoped that when the railway line is extended through Zaria to Kano they will get very large areas under cotton.

1227a. It is a question of transport to a great extent?—Yes.

1228. Which will be settled, I suppose, by the building of the railways rather than by the Cotton-Growing Association?—Yes.

1229. (*Mr. Wedgwood.*) What sort of title do you want with regard to land. Do you want a registered title. Do you want anything that you can transfer or sell or sublet?—No, I do not think so.

1230. It is a purely personal title?—I think that the Cotton-Growing Association would be perfectly content with a purely personal title without any right of transfer except to a ginning company that was connected with it.

1231. (*Chairman.*) Would the Association accept a lease containing a covenant not to assign without the consent of the Government?—I think I may say that they would. They are perfectly honest in their intention. They do not want to acquire a title which they can sell in the market.

1232. (*Mr. Wedgwood.*) Would you consent to the insertion in your lease of the condition that the land shall not be used for anything except a ginning establishment, so that it can not be sold off for buildings or stores?—That it was not to be used for any purpose except the specified purpose for which it was acquired? If that is what you mean, I think undoubtedly the Association would accept that with a proviso. You would not say that a buying centre, for instance, might not be turned into a ginning centre.

1233. But you would not turn it into a butcher's shop?—No; or you might dismantle your ginneries and leave the site merely as a buying centre.

1234. (*Chairman.*) Supposing that you have a lease for 99 years for practically a nominal rental, without revision during the term, you are getting that in consideration of your pioneer work, we may say?—Yes, practically.

1235. I suppose that the Cotton-Growing Association would not be aggrieved if the Government granted similar terms to any other commercial association?—I think not at all, provided that such commercial association was on all fours as regards its work with the Cotton-growing Association, that is to say, if it was creating a centre where no industry existed, and

creating the industry in which it was going to deal around that centre.

1236. Do you think that this is a typical kind of interest which the Government might properly create in favour of any association or body of persons who took the initiative in the development of a staple industry?—That is my contention, and I have tried to define the three classes which appear to me to require special consideration, the merchant who is going to a centre merely taking the risks of competition, and the merchant again who is going to a centre which he is creating himself to carry on a trade in the staple export of the country, and then the Cotton-Growing Association.

1237. Therefore if we recommended 99 years at a nominal rental, without any condition as to revision, those terms might be very largely accepted, and might become typical of a great number of similar grants?—I would rather doubt that. I do not think that you would find a large number of corporations with the capital, or who, if they had the capital would be prepared to go into Northern Nigeria to start new industries or to establish centres of this kind. Where the grants are made the Association is quite ready to spend any reasonable sum of money that the circumstances seem to justify, and to put up any class of buildings required by the Government. The kind of structure erected might be taken into consideration in settling the tenure. One man may say, "I will put up a brick and stone building with good piers or whatever may be required, and spend a large capital." The tenure might be greater to that man than to the man who would only put up wooden and iron structures. I would give him a longer term.

1238. (*Mr. Wedgwood.*) You argue throughout that the Cotton-Growing Association is an exception to the general rule, and that you want special terms because you are not on all fours with the ordinary competing commercial enterprise?—I make the three classes distinct, and I say that the Cotton-Growing Association at present is alone in its class.

1239. (*Mr. Strachey.*) Has not the Association accepted in Southern Nigeria across the border 99 years subject to revision at intervals?—Yes. They were the best terms they could get, and they did not contemplate spending any large sum. It is doubtful whether the cotton industry in Southern Nigeria proper is going to last. It is really still in the experimental stage. There is no question with regard to Northern Nigeria that it will go as long as Lancashire can afford to pay the price—there is no doubt about that.

1240. (*Mr. Morison.*) It seems to me that it follows from your principle that if you have somewhere succeeded in establishing this industry, any new comer who wants to take advantage of the industry which your pioneer work has created may fairly be charged a much higher rental than yourself?—So I contend, because he would not have to sink any of the capital that I have had to sink in the work of creation.

1241. The Chairman said that it might be a precedent for many other industries. As to this particular

industry which you have created, subsequent traders may come in who really do not need to do any pioneer work, because it has all been done by the Cotton-Growing Association. You say that they ought not to come in on the same favourable terms?—I contend that they might reasonably be charged a higher rental. It is purely a question of figures and the capital expenditure it takes to establish a business. If I have to spend £2,000 in creating an industry, at five per cent. I have sunk £100 a year there, which I have to cover. The next man who comes in when that is established does not have to cover that £100 a year. He does not have to sink the £2,000. Therefore he might pay a very reasonable value.

1242. (*Mr. Wedgwood.*) You have created a value in the land?—I have created a value in the centre.

1243. And in the land in that way?—It is a value which you transfer to the land.

1244. (*Chairman.*) Is there anything which you would like to add?—I would like to emphasise the view which I express in this minute with regard to revision in paragraph 5:—"On general grounds the Association is of opinion that to attract fresh capital to territories such as West Africa, the Government would be wise to be reasonably liberal in the matter of *and tenure* and to allow of freehold being acquired on leases of certainly not less than 99 years at low rates, without any question as to revision in cases of rental, which would seem to be the imposition of a tax on the individual or corporation, on effort expended on the development of the country from which development the Government have obtained ample additional revenue from the sources of general taxation." This revision of rental would appear to me to be really another form of tax on the man who has expended his energy in arriving at that development from which the Government has really benefited as much as he has.

1245. But is not that a question which might at reasonable intervals be considered on its merits. A man might be getting an undue return for the expenditure of his capital, and the Government might fairly claim that there should be revision. I do not see that it quite follows that you should have so long a period as 99 years.

1246. (*Mr. Morison.*) Once in a generation seems a fair time, but three generations seems to be rather long?—I am instructed that the feeling with regard to that is very strong in Lancashire. 99 years and 999 years are terms which we are familiar with. Leases largely run in nines, when you reverse it and make it 66, people begin to shy at it. Long tenure is certainly a great inducement to people to sink their capital. It gives them, at all events, 50 per cent. longer to recoup themselves for their capital outlay. That is really the point. You have not to charge yourself so much a year consequently.

1247. (*Chairman.*) Thank you. We are very much obliged to you for your evidence.

The witness withdrew.

Mr. JOHN HOLT, called and examined.

1248. (*Chairman.*) You have had a long experience, I believe, in trade in Northern Nigeria?—Yes.

1249. Correspondence has passed between the Colonial Office and Messrs. Holt and Company, I believe, on the question, amongst others, of whether it is desirable that the tenure of land in Northern Nigeria for commercial purposes should be of a leasehold or freehold character. We should be very glad to have your views on that question?—I take it that in Northern Nigeria it is possible to have freehold land. Does the native tenure allow of freehold being granted by the Government?

1250. At present we have a blank sheet of paper before us. We are asked what we think the tenure ought to be?—I have before me a map that has just been published by the Niger Company, in which they state that the areas marked green are their freehold,

whilst those that have been opened since 1900 (the date of the transfer of the Charter) are all leasehold. Therefore it would appear that up to the time of the transfer of the Charter there was such a thing as freehold in that country.

1251. It was so regarded and so treated, and certainly the language used in proclamations and otherwise would seem to assume that it is so, but it is an open question now?—The point I want to get at is whether the Government should recognise native land tenure; that is, the right of the community to the land.

1252. The evidence before us is that if you look only to native customs and do not import English law there is nothing in the nature of freehold at all?—If it is possible to have freehold land we as merchants would prefer to have freehold, that is the point.

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1253. Whether you call it freehold, or whether you call it leasehold, or whether you do not use either term, we want to know what is the extent and nature of the security for the occupier or person actually in use and enjoyment of the lands that you think necessary to encourage him to develop the country?—I have tried sometimes to regard myself as the owner of the country, and to ask myself, What would I do to develop the resources of the country if it belonged to me?

1254. That is exactly the point?—I certainly would not place before a man who is willing to put his energy and his brains and his capital into that country such a document as the Government has put before us in their leasehold propositions. On the contrary, if it were my country and I wished to attract people to develop the resources of the country, I should, as a Government, go out of my way to assist them by clearing land and placing land at their disposal.

1255. What document are you referring to, because I have not seen it. Is it a draft lease?—No, it is an actual lease signed by the Government of Northern Nigeria. I have several of them.

1256. Was that in Sir Frederick Lugard's time?—Yes, I think it would be. I have some signed in his time, and others in Sir Percy Girouard's time. Here is a recent one for Northern Nigeria (*handing the same to the Committee*).

1257. So far as I can see this is in the ordinary form of an English lease. The operative words are that "The Government doth hereby demise unto the lessee all that piece of land forming part of the public lands of the Protectorate situated at —, in the Province of —." And then there is a description of the area and of the term. It exactly follows the form of an ordinary English lease. And then there are covenants in exactly the ordinary common form, and there is the ordinary covenant to surrender at the end of the lease?—I have taken out an abstract from one lease. It includes licence to use the River Bank for loading and unloading, but not exclusive right, and it is subject to such rules and regulations as the High Commissioner may from time to time fix. In addition to rent, to pay all rates, taxes, etc., that may be imposed by the Government who are of course our landlords; "not to erect buildings without consent in writing or make any alteration in plan or elevation of any such building without consent; keep buildings in good repair, insure within two months of erection against fire in approved Office, and replace any building destroyed by fire; Director of Public Works or other authority has permission to visit, twice or more often in each year, the premises, to examine condition of same, and order any necessary repairs, which repairs must be effected in three months. Must obtain consent to assign or under-let; at the expiration of lease the buildings and fixtures must be handed over in good repair, reasonable wear and tear excepted." Then the next clause is: "May move buildings or erections, provided the lessees make good all damage to the premises caused by such removal, and shall give one month's notice to the Public Works Department before causing any such removals."

1258. What buildings does that refer to—buildings of a portable character?—It depends. In one clause it says that they shall be handed over. In another clause it says that they shall be removed, subject to the Government having the right to purchase. The Public Works Department is to have the option of buying any such buildings. A curious thing which struck me is that if a man becomes bankrupt the lease terminates, and the buildings and everything belong to the lessor.

1259. That is common form?—Is that common form here?

1260. Yes.—It does not seem quite fair.

1261. Those covenants follow almost word for word the form of an English lease?—Then there is great variety in the payments that we are compelled to make when we take the land. In some cases we pay £20, in others £60, and in others £5, and in others as low as 5s. Take Lokoja, the capital of Northern Nigeria. We have in a street some quarter of a mile away from the riverside a store recently taken, 22,500 square feet, 21 years' lease; annual rent, £20. In the same town we have land fronting the riverside con-

taining 54,450 square feet on a 21 years lease at an annual rent of £60. It is calculated at a pound per yard per annum, I understand, for the land facing the river. In Agreenya we only pay 10s. a year, and we have 15,000 feet.

1262. (*Mr. Wedgwood.*) Do you know whether other traders are charged approximately the same prices? I do not know for certain, but I believe that in Lokoja they have to pay the same.

1263. Do they have a certain scale of prices?—I have never seen it. It is not published. It would be better if they had a scale so that everybody knew, and would be put on a fair footing.

1264. You are anxious as a trader that everybody should be put on the same footing, so that competition should be fair and equal?—Quite so. I ask for nothing more than that.

1265. (*Chairman.*) What we are more concerned with is the nature of the tenure and not particular leases. All those documents, I suppose, are leases from the Government?—Yes. We have no leases from anybody else.

1266. As far as your experience goes, it is the Government which has always assumed the right to deal with the land?—Yes. If I had no Government in the way I could make much better terms with the people who own the land or who say the land belongs to them.

1267. But you have the Government in the way. You know the terms of the Proclamation with regard to dealings between natives and non-natives?—I am a foreigner in the country, and I cannot make a treaty with a native man to let me have the use of his house.

1268. That is thoroughly established and understood?—Yes. That applies to everybody.

1269. You do not ask us to report that that is wrong, do you? Would you rather have a system of dealing direct with the natives?—Why should not I deal with him direct in regard to land just as I deal with him direct in commerce?

1270. It depends on whether he has it to deal with?—If you do not admit the native right, very well; but he had the right to deal with it before the British Government came there. He has the right in every other part of West Africa except the Niger. He is treated there as if he had no brains.

1271. (*Mr. Wedgwood.*) What you want is lower rents and the permanent possession of the buildings in order to encourage trade?—I would not put it that I want it, but for the benefit of the country it would be better to put everybody on the same footing, and make the rent as low as possible to induce people to come in.

1272. And permanent possession of your improvements?—Yes.

1273. Do you think that the reversion at the end of 21 years to the Government discourages traders from going there?—Yes.

1274. And therefore prevents free competition amongst traders?—Certainly.

1275. (*Chairman.*) Supposing the Government should adhere to their policy of not granting freeholds, what tenure of land do you recommend? The last witness said 99 years?—The general feeling amongst commercial men is that 99 years is a reasonable lease if you are going on the leasehold principle.

1276. Would you have that without revision?—If it were recognised that the Government has a right to the unearned incremental value of land, it is only right that they should, after a number of years, re-value the land, but they must not take into that valuation the value of the improvements by the lessee.

1277. (*Mr. Wedgwood.*) You regard it as impossible that anybody would invest capital in the country without something in the nature of a lease. If freehold is out of the question, you must have some transferable title?—Certainly.

1278. It must be transferable—not personal? A licence personal to yourself would be of no use to traders?—I do not understand.

1279. Something that you cannot transfer or sell?—Why should I not? Why must not I transfer my land, or my right to the remainder of the lease?

1280. Without a lease which you can transfer you will not put a penny into the country?—Naturally I cannot.

1281. (Mr. Morison.) But that is not what I understood you to say just now. Supposing that you are given compensation for improvements that you put in, and you are granted a lease for a long term, a lease that is not to be devised, are you not satisfied with that even if the Government say "You may not surrender it to anybody else. If you want to give it up you must surrender it to the Government, and the Government will pay you compensation for improvements that you have put in"?—Anything that is fair I should not object to.

1282. Does that strike you as fair?—Yes, that strikes me as fair.

1283. Even on such terms you think it is possible that commercial men would invest money?—Yes, as long as they will repay me what I have put into it when they turn me out.

1284. Or when you surrender it?—Yes; quite right—or when I give it up.

1285. Suppose that they would not sanction your transferring it to a third party?—I think that would be right as long as they give me fair value for what I put on it. Then I think they should have a right to stop me from transferring to someone else.

1286. (Chairman.) You mean a right during the term?—Yes; during the term.

1287. At any time during the term?—Yes.

1288. (Mr. Wedgwood.) Do you think that commercial people would be satisfied with something which they could not mortgage?—Is that the proposition?

1289. There are two propositions, either that the land should be let on licence personal to the one who has the licence, like a public-house licence, or else that it should be on what we understand in England as an ordinary lease. Do you think that the commercial classes in England would invest their money in an ordinary personal title which they could not mortgage and which they could not transfer without the consent of the Government?—Is the case which you put before me, the case of a thing that they could not mortgage or could not get an advance upon?

1290. Yes?—In the proposition that was put, you have a value there which you could certainly mortgage, because, if the Government take it from you, they are going to pay you the value of that which you put on it.

1291. Yes; but not the value of the land?—No, not the value of the land, because that belongs to the Government. In any case, the increased value of the land belongs to the Government, does it not?

1292. I am only asking you which the commercial classes would prefer?—If it had the effect of preventing the commercial man from mortgaging, there would be a difficulty because the commercial man would prefer something which he could mortgage. At present the class of merchants in West Africa do not require to mortgage their property, and they are not mortgaging it or getting advances. They want simplification of title, something that they can make use of when they have got it, and they want to be sure of the tenure, and to be sure that when they leave the land, or it is taken from them, they do not lose anything by it. If you said, "What would you like?" I would sooner that the Government said: "We will let you have the use of the land for so many years on payment of so much money down." It is far better for me than to go on paying for years under lease for a place out of which I may have to go to-morrow to go somewhere else because of the exigencies of trade. The places change by the current of trade, and you may want to go somewhere else.

1293. (Mr. Morison.) That is an argument against freehold, is it not?—A man going in must take a certain risk, but he does not want over his head for

99 years, or whatever it may be, a payment which has to be made whether he is making use of it or not.

1294. (Mr. Wedgwood.) Would you accept a lease, the rent of which was reviseable from year to year, the lease going on for 99 years, the rent being reviseable according to the economic rent of land in the neighbourhood, but entirely independently of your own improvements on the land?—Yes; I should not object to that. That would be fair.

1295. So that if the town became very important your rent would rise?—Yes.

1296?—But if it was given up, the rent would cease?—Yes.

1297. The increase would be entirely independent of the buildings you put on the site?—Yes.

1298. (Mr. Morison.) According to what Mr. Wedgwood puts to you, you could surrender at any time? You would not have the danger that you suggest of having the payment extending over a number of years?—No. Would the other side have the power to turn me out any year.

1299. (Mr. Wedgwood.) No; you would have permanency of tenure provided that you paid the land value rent?—That would be fair, but the difficulty would be in fixing it yearly. That is a difficult problem, if that is the idea.

1300. It is not more difficult than to fix the rent they are asking you to pay at present?—It is purely arbitrary now.

1301. It probably means that you are being more heavily taxed?—Yes. I do not think it would be practicable to fix rent year by year. It would be much better to fix it after a certain number of years.

1302. Say seven years?—Yes, if you like. The German Government, in a similar case in the Cameroons, are proposing that every five years it should be revised.

1303. (Chairman.) I do not know that I quite follow your view. We are talking of leasehold tenure now?—Yes.

1304. You would have a lease for 30 years, say, at a rent reviseable at every five years. Do you say that you should have within that time the right of surrendering your land at any time?—Yes, I would like that because of the exigencies of my trade.

1305. And conversely you would give the Government the right of revoking the lease on payment to you of compensation for improvements. Did I understand that?—Yes, I think it would be fair.

1306. So that practically after notice on either side, the length of which could be agreed upon, the term might be put an end to?—Yes.

1307. And you would have periodical revisions every five years?—Yes.

1308. (Mr. Wedgwood.) Do you think that the Government should pay something extra if it disturbed a growing business?—That would be included in the compensation, would it not?

1309. You would not be content if they paid you merely the value of your buildings. You would want a little more than that. You would want compensation for disturbance?—Yes. I do not know that it would be calculated to induce people to come in if the Government exercised the right.

1310. (Chairman.) That is the difficulty?—It might deter people from bringing money into the country.

1311. (Mr. Morison.) You mean if the Government exercised their right to disturb them?—Yes.

1312. But supposing, for instance, the Government in ordinary circumstances let them alone and offered them this tenure which has been described, do you think that that would be fairly satisfactory to the ordinary commercial man? You have said that it would not be as satisfactory as freehold?—I do not know that I can speak for the ordinary commercial man. I think I take rather a liberal view as compared with that taken by him.

1313. That is what I wanted to get?—I like, as far as I can, to preserve natives' rights in their own country. I have had the views of ordinary commer-

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cial men put before me in a resolution that they are proposing to put before the Chamber of Commerce on this question. They would like a lease for 99 years, and in such a form that the land cannot be taken from them. But at the same time they recognise that if the Government has been spending money in making railways, and the land is alongside the railway, or something has been done which has created the value of the land, the Government has a claim on any increased value which has accrued to the land in consequence of the railway. They recognise that the Government has the right to increase the rent after so many years if land similarly situated has increased in value in the neighbourhood, and that increased value has not been due to anything done by the tenant.

1314. The revision of the rental therefore is recognised as fair?—Yes, that is recognised as fair.

1315. So long as it is not done arbitrarily?—Yes. We have felt that the Government officials there have acted as if they were afraid we were going to run away with the country. It is not so much in Northern Nigeria as in Southern Nigeria. For instance, in Southern Nigeria we ask for a grant of a piece of land and are shown a place where the land cannot be found. It is a swamp where you can make the land, and when you have done that you must allow 50 feet for public purposes in front of the dwellings that you are going to put on it. You have to create it first of all and then pay an annual tax. That seems extraordinary.

1316. (*Mr. Wedgwood.*) That is distinctly contrary to the scheme which I have put before you where merely the land value would be charged?—Yes. Another point is this: The Government want a frontage between the merchant's premises and the river. I do not know why they have that idea. Is it taken from some common law idea in this country? Is the right to a roadway in front of premises where there is a river, a recognised condition of land tenure in this country? A merchant wants sometimes to have his house alongside the lagoon or alongside the creek so as to get the stuff from his boats or put it into his boats, and a roadway intervening would interfere with the utility of the land.

1317. (*Mr. Strachey.*) We were told that, by native custom, there is a right of way along the bank of the river, and that we ought to preserve that?—I never heard of it, and there can be no possible road or path through a swamp.

1318. At any rate, along the Niger. I do not know that it would apply to the creeks. Therefore, provision is made to keep a free right along in front between the houses and the water, and not to cut off any of the bank?—But you will recognise that it takes away from the value of the land for trading purposes and seems quite unnecessary.

1319. (*Mr. Wedgwood.*) Because you cannot get anything out of the boat into the warehouse?—Yes.

1320. (*Mr. Strachey.*) As rivers rise and fall so much, you would be far away from the water?—In the upper river, not in the lower. In some cases, in addition to so much per annum, we have to pay so much entrance fee as a consideration or a fine for the grant to begin with, and so much a year afterwards. We have had to pay £15 for entering one place, and £5 a year. I do not know on what principle they go in exacting this.

1321. (*Captain Orr.*) As far as I can remember, that is because you have been squatting on the place for three years. You recognise that leases take rather a long time in getting through?—Yes. They have taken seven years to grant me a lease, but that fine I speak of has no connection with squatting.

1322. If you have been trading for three years at a station without taking out a lease, the Government gets that back out of you when you take out a lease?—You may have reason for saying that in one case perhaps, but I know of a case where I have had to pay £117 10s. to begin with before occupying the land.

1323. (*Mr. Morison.*) That was Southern Nigeria?—Yes, that was Southern Nigeria.

1324. (*Mr. Wedgwood.*) It is a way of raising revenue of course, instead of putting it to capital account?—Yes.

1325. (*Chairman.*) Is there anything else that you wish to call attention to?—No.

1326. What we are mainly concerned with is how we ought to advise the Colonial Office, how land that is required for the purposes of trade for the development of the country should be dealt with, what the tenure should be, and on what principle it should be granted?—It is difficult to decide whether you should grant leasehold or freehold.

1327. The main question is, whatever you call it, whether you call it leasehold or whether you call it freehold, whether the Government ought to have the power of regulating its grant and exercising its dominion over that land, and, if so, on what terms?—Without doing injustice to anyone?

1328. Yes; without doing injustice to anyone, and in the interests of the country?—I would suggest to the Committee that they put themselves in the position of men who have got money, and who are ready to go to Africa. On what conditions would the different members of the Committee be prepared to put money into it, because, what applies to them would apply to me?

1329. The attitude of the Government is that they do not intend to part with the land; in other words, they do not intend to grant freeholds; that is the tenour of the correspondence. If you grant freeholds, you have tied your hands. It would be different with a leasehold?—I like the idea of the Government having control of the land because I do not want to see a number of men getting into Nigeria for the purpose of holding land in order to speculate with it.

1330. You have had great experience, and I would like your opinion. Do you think that it would be possible for the Government to retain that control which you think desirable if they granted freeholds?—I would not sell or grant land in large quantities so that men could use it for merely company promoting purposes.

1331. Is not the result of that view that you must in some form or other retain in the hands of the Government the power of resuming its control over the land?—Yes; that is so. I would like to see the Government keep control, but give liberal terms to those who will actively make use of it.

1332. (*Mr. Wedgwood.*) Do you think that they would keep the control best by this power of revising the rent every five years say?—That seems a fair thing. They should give as long a lease as possible on low terms if you like. They should be fair terms to induce people to come in. Let the lease be of a simple nature, and let everybody be on the same footing. Let there be no partiality and no favouritism.

1333. (*Chairman.*) With regard to plantations, do you say that inducement should be offered to white settlers to develop those?—I do not altogether say that. I say that if the Government intend or wish to induce white people to come in there with capital to develop the country agriculturally, they will have to give them the land at a very low value to induce them to do it.

1334. And to give them security of tenure?—And to give them security of tenure.

1335. Would you look upon it as desirable that the white man should come in?—I am not altogether sure that I would. I rather favour the idea of the country being developed agriculturally by the native himself.

1336. That is what I was going to ask. Sir Ralph Moor rather seemed to think that as far as agricultural work was concerned, the growth of cotton, and so on, the right policy was to encourage the native?—I think we ought to encourage the native as far as we can to develop agriculturally his own country.

1337. Would you favour that which tends to encourage white men to come in, or would you make it more or less difficult for them to come in?—I do not think so. I would make it easy for anyone to come into the country and put his capital into it, because there is room. It is a big country with very few people in it.

1338. That would be met by saying that it shall not be done without the consent of the Government?—Yes.

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1339. (*Mr. Wedgwood.*) You would be quite satisfied if the conditions of the lease which you would accept as a merchant, were also applied to those who invested their capital in agricultural work, say, 99 years with annual revision of the rent based on the value of the land, apart from the value put on to the land?—With regard to agriculture you can get it in another way. You have the power to tax. Therefore they are not exactly on the same footing.

1340. The tax is the same as the rent charged to you?—It is quite competent to the Government to at any time tax cultivated land or its produce in such a way as to get all that they could get by such a system.

1341. The annual revision of tax, you mean to say, would be just the same as the annual revision of rent in your lease?—Yes. My company have plantations in other parts of Africa where we can get the freehold of the land without difficulty. There should be equal simplicity in Southern Nigeria or Northern Nigeria, or you will not attract European capital.

1342. (*Mr. Wedgwood.*) You said that the German Government revised the rent in the Cameroons every

five years?—I said that they are proposing to deal in that way now with a question that I have with them in regard to land used for commercial purposes in one place where they want to get control of the land for railway purposes.

1343. You do not know whether that applies to plantations as well as to trading stations?—I do not think it does. The position is this. They found us there with freehold land which we got from the natives. They are now proposing to build a line of railway from the sea coast to the interior. They want to control our land for the terminus. They said: "We are going to turn your freehold land into leasehold. We will pay you the assessed value of the freehold. We are going to charge you a rent leased on that value. We are going to revise the rent every few years." It is an extraordinary position.

1344. (*Mr. Strachey.*) Can you get freehold in the Cameroons?—I have had no difficulty in getting freehold land there when it was wanted. In Fernando Po, Spanish territory, I am getting freehold; and also in French and Portuguese territory.

The witness withdrew.

APPENDIX III.

MEMORANDA BY SIR F. D. LUGARD.

MEMO. No. 5.—TAXATION.

REASON AND SCOPE OF GOVERNMENT ACTION HITHERTO.

1. During the first three years of the British Administration of Northern Nigeria, it was the aim of the Government to acquire as much information as possible about the existing methods of taxation in this country, the nature of the land tenure, and the relations between the different classes (more especially between masters and slaves) and the rights which are attached to the position of Suzerain, so that a scheme of taxation, when formulated, might be based on knowledge of local customs and traditions, and organised under officers who had acquired some local knowledge and training. Some immediate effort to secure to those native chiefs with whom we were in contact the payment of their ancient dues was, however, imperative, since the revenues they formerly derived from slave raiding, from heavy taxes on traders, and from arbitrary and extortionate levies upon the people, had all been interfered with by Government to a constantly increasing extent. They were, moreover, unable any longer to enforce their demands upon their subjects, to some of whom in past times encouragement had been given by the former Administration to revolt and become "Tawai." The elucidation of these points has been the object of former memos. on this subject.

It would have been premature to draw up any scheme under which Government should participate, until the Northern Hausa States (Sokoto, Kano, &c.) had been included under Administrative control, but, when that event took place in the beginning of 1903, the Suzerainty of the British became unquestioned by its former rulers throughout the length and breadth of Northern Nigeria, and the time was ripe to collect precise data, and to consider the steps which should be taken. In pursuance of this policy, I obtained the sanction of the Secretary of State in 1903 to introduce some tentative and experimental measures, and, on my return to Northern Nigeria from leave in 1904, the Land Revenue Proclamation was enacted. This Proclamation made no pretence of dealing adequately with the subject, since Residents have not yet had sufficient experience in the new provinces or time to study the complicated systems in operation in the country, nor had I myself had time to digest such information as had come to hand. It appeared, however, imperative not to delay. The conquered Fulani Emirs held their positions on Letters of Appointment, the terms of which (fully explained to them) included the stipulation that the right of taxation henceforth appertained to Government, as well as the ultimate title to the land, which, in accordance with their own traditions, is vested in the Suzerain power. On the assumption therefore by Government of that Suzerainty, they expected a declaration of policy, especially in regard to taxation, and it was even reported that there was a wide-spread feeling of unrest pending its announcement. There was, moreover, an imperative necessity either to sanction, or to forbid, existing forms of taxation where they were being enforced, and to enforce those which were legitimate where the Emirs lacked the power to do so. This had been temporarily met by the Land Revenue Proclamation, and I am now about to draw up and submit to the Secretary of State a new Proclamation* based on the conclusions arrived at in this memo., which, however, cannot be considered as final, pending the receipt of this sanction, and the enactment of the Proclamation.

GENERAL PRINCIPLES OF TAXATION.

2. In a country where the manufactures are limited to the most primitive wants of every day life, and are not for export, and where, in consequence, the exports are limited to raw material in payment for the manufactured goods received, it is obvious that

indirect taxation in the form of Customs is the simplest and cheapest mode of taxation. The disadvantage of limiting taxation to this source lies in the fact that, when a further stage of progress has been reached, it becomes difficult to inaugurate those direct contributions towards the cost of the Administration which are recognised among all civilised nations as justly due from the individual, in proportion to his wealth, and the protection and benefits he receives from the State. This principle of direct taxation has been, I think, adopted by the French in all their African Colonies, and by the British in South and East Africa, but not, hitherto, in West Africa, except in Sierra Leone, where (probably because of its introduction at a late stage, instead of simultaneously with the assumption of rule) it produced trouble. If then it be assumed that direct taxation ought in some degree to be introduced at some not remote time, it appears to me to be the more far-seeing policy to introduce the principle simultaneously with the inclusion of the country under British control, when it is looked upon as a natural corollary to the assumption of rule.

On the other hand, direct taxation is unsuitable to a people who are held in a state of slavery or serfdom, for the responsibility of the individual is then assumed by the slave-owner. A serf or slave cannot be expected to recognise or understand his obligation to the Government when the results of his labours are not his own, and the produce of his fields belongs to his master. He ceases to have an individual responsibility to the State for his actions, or an obligation to maintain the efficiency of the State by his contributions, however small; these obligations pass to his over-lord.

APPLICATION TO NORTHERN NIGERIA.

3. In Northern Nigeria, it is, in my opinion, especially necessary for Government to recognise the principle of direct taxation without delay:—(a) Because we inherit here an ancient civilisation, derived from the North, in which this direct taxation is already an accomplished fact and well understood, being based chiefly on the Koranic model; (b) Because the system had fallen into gross abuse in the greater part of the country, and the Administration could not, on the one hand, tolerate the extortion and corruption which had become prevalent and had driven the people to repudiate their taxes, nor could it, on the other hand, allow the absolute impoverishment of the ruling classes, who were now without arms and without power to enforce their dues. The abolition of the slave trade had also decreased the wealth of all the Emirs, and altered the whole basis of taxation, while the abandonment of the "Sokoto Gaisua" (see § 10) had left the most important chief in the country without a revenue at all. Government, therefore, was compelled to take action of some kind, and this could mean nothing else in practice but a reorganisation of the system of taxation of the whole country; (c) Because Northern Nigeria is an interior country with no coast-board, and hence with no means of levying Customs duties at all commensurate with the great cost of maintaining the military force and Civil Administration needed in the country.

"Experience" (I wrote in a former memo.) "seems to point to the conclusion, that in a country so fertile as this, taxation is a moral benefit to the people, by stimulating industry and production. Hitherto, the male population has been largely engaged in tribal war, and the men have depended on the labour of their women and the great fertility of the soil to supply their needs in food. Where taxes were formerly paid (as in the Kabba Province) and have lapsed, I am informed that large areas have gone out of cultivation, and the male population, deprived of the necessity for producing a surplus to pay their taxes, and of the pastime of war, have become indolent and addicted to drinking and quarrelling. The pres-

* The Native Revenue Proclamation, drafted April 1905. Enacted April, 1906.

sure of population is the corrective in most countries, but in this country, devastated by years of war and slave raids, no such pressure at present exists."

That it was wise to introduce the scheme tentatively, as soon as possible after the conquest of Sokoto and Kano, has, I think, been proved by the reports I have received from all sides of its ready acceptance by the chiefs, and of the quieting effect that its inauguration has had upon the people. It has been welcomed by the former as moderate and just, and as evidence that the Government desires to support their position, to associate them with ourselves in the Government of the country, and to secure to them an adequate revenue which they recognise that they are no longer able to wring from the people, and it has already relieved the almost desperate straits in which the upper classes found themselves in almost every Mohammedan Emirate, by providing an income for those who *earn* it by taking a share in the administration of the country. The peasantry, on the other hand, are reported to be greatly pleased at the relief from the uncertain exactions of the past, and have benefited much. Both classes were expectant that the new rulers would impose taxation of some kind to pay for administration, and they have found the burden less heavy than they feared it might be. The returns of revenue have meanwhile increased rapidly.

SUMMARY OF REASONS AND OUTLINE OF SCHEME OF REFORM.

4. The general principles, then, which are dealt with in this memo. are as follows:—

(1.) The disarmament of the armies of the great chiefs, which has been necessary in order to stop slave raiding and internecine war and to enable us to hold the country with a comparatively small force, has, at the same time, imposed upon the Government the obligation of enforcing the taxes by which alone the native rulers are able to maintain their position and dignity.

(2.) Simultaneously, the Government declares its intention of sharing these taxes with the native chiefs; (a) because it is necessary to raise a revenue; (b) because this is the best and most politic time at which to announce and introduce this claim, which is admittedly just and in accordance with the usage of all nations; and (c) because by this means the British rule becomes closely associated with the native administration, which will now form an integral part of it. The interests of the native rulers are thus identified with those of the Government, and they will bear their share of the work of administration (upon which they are now dependent for their existence) with definite duties and responsibilities. It is a better system than a separate tax by Government, involving two separate collections from the people, and great expense to the administration. The Government's function (in the Mohammedan districts under a central chief) is thus to check and restrain malpractices, instead of collecting through its own agents, who would inevitably practice them.

(3.) The Government, therefore, is responsible that these taxes (in which it shares) are just and reasonable. It must also see that the modes of collection are such as a civilised Government can tolerate, and, by a re-organisation of them in detail, must satisfy itself that they are so, before it can lend the force of its arms and its police to enforce them upon any who may decline to obey their rulers.

(4.) The object in view is to retain, as far as possible, the ancient forms of taxation known to the people, and sanctioned by tradition; to utilise the existing machinery, while simplifying the mode of collection, which in the past lent itself to great abuses, and was extremely wasteful; to introduce, as far as possible, some uniformity and equality of taxation in the different provinces; and, finally, to preserve the old jurisdictions as far as possible, and to maintain the individuality of the institutions of the country.

(5.) To emancipate the people by promoting in a greater degree communal and individual responsibility, which, as a natural result of the gradual extinction of the institution of slavery, must be foreseen and provided for in good time. With this object, the peasantry of the Mohammedan States are still taxed through the Mohammedan

chiefs, while among independent pagan communities the tax is a communal one—not levied on a man's hut or cultivated land (to neither of which has the State any right, and any claim to which he will cordially resent), but on the general wealth of the community, to be paid by each individual at the behest of his own chief or village council, according to his degree.

(6.) This policy has been continuous, and involves no change of principles from those laid down in 1902—and this continuity of policy I regard as of vital importance in Africa—but is only an amplification based on fuller information.

EXISTING FORMS OF TAXATION.

(a) Mohammedan States.

5. The forms of taxation which were in operation formerly in the Fulani States were many of them based on the Koranic law, and they were probably inherited by the Fulani from their predecessors, the Habe (who had also largely accepted Islam). Bornu also had adopted the system of Islam as its basis. The well-known forms of taxation laid down in the Koran had, however, been largely added to by irregular imposts, and their character and mode of collection had become diversified in different provinces, until we find to-day such a bewildering number of differences as to make it an almost impossible task to summarise the subject in a memo. such as this. I propose, therefore, in the concluding paragraph to make a few separate notes regarding various provinces.

(b) Pagans.

In independent pagan areas there were no taxes. In those which had been conquered by the Fulani or the Bornu dynasty, taxes were imposed in varying degree according as the Moslem conquerors were able to exact payment. Generally speaking, it may be said that the areas untaxed were looked upon as slave preserves, and were annually raided for slaves, unless the tribe occupied inaccessible mountain fastnesses and were able to defy the raiders, in which case women and children, and occasionally men, were kidnapped whenever opportunity offered. The cessation of these raids under a stable Government gives that Government the right to impose a fair and just taxation on these tribes. Communities which were fully conquered and ruled were very heavily taxed, while others, which held an intermediate position, paid such taxes as they chose, or as the Moslems could enforce.

PRINCIPAL TAXES.

(a) The Zakka.

6. The principal taxes were as follows:—

Zakka takes its origin from the Koran, and was originally, no doubt, confined to Moslems, being one-tenth of their substance. It was imposed probably for religious and charitable purposes, and also (as I think) for purposes of administration.

The tax here has been limited to a tithe on two crops only, viz.:—*Dawa*, viz., guinea-corn or durra (sorghum) and *Gero*, viz., millet (pennisetum), the staple grain crops of the country, and to the herds of cattle (*vide* para. 9). All other crops and live stock and forms of wealth appear to have been exempt from *Zakka*, and it would also seem that this tithe has been levied upon the affiliated pagan tribes, in addition to their proper land tax, in most of the Emirates (*e.g.*, Bauchi, Kano, etc.), or that such people have been compelled to work farms gratuitously on which *Zakka* was levied. The *Zakka* was in no sense a *Rent*, nor was it a voluntary tax. Throughout almost the whole country it has lost any religious significance it may ever have had, and I understand that the substitution of a cash payment would be popular (as it has proved in Nupe, where it had already come to be paid in cowries or fowls or other produce, and not strictly in grain).* In recognition of the purpose to which, in part at least, it was intended by the Koran to be devoted—viz., charity, education, hospitality to travellers, and building of mosques—I propose that a certain percentage of the taxation should be set aside for these objects, if desired by an Emir. From statistics collected by Dr. Cargill and Mr. Goldsmith, the tithe is probably worth from 1d. to 2d. per acre, according to the value of the crop. Mr. Gowers

* The complete secularization of this tax is shown by the fact that, at Yola, slaves pay *Zakka* on their holdings to their master, of which he credits no part in his payment to the Emir.

estimates it, however, at 1s. 1d. The Zakka should properly depend on the value of each year's crop, and is so assessed in Kano, but in most places it has become a fixed amount per village.

(b) *Kurdir Kasa.*

7. The *Kurdir Kasa* or Land tax was originally the impost on conquered pagans who had not embraced Islam—perhaps the *Jizya* of the Koran. It was, in Kano, levied on the assessed value of arable land (even on land left fallow), and not on the produce, nor was it a householder's tax (though notices of the amount due were served on householders). In this province the rate did not vary, being fixed from time immemorial, and was from 6d. to 1s. per acre. In Zaria, the Resident (Capt. Orr) is unable to say whether it was assessed on the land, or as a capitation or an income tax. Elsewhere, it seems to have been rather a general tax on the agricultural classes. The amount paid by towns did not depend on their population alone, and varied from 10s. (for small villages) to £100 or more.

The inequality of the incidence may be due to the fact that the tax had been doubled for some revolt in the past, or that neighbouring small farm hamlets were included, or that part of the population of a village paid to some town from which they had migrated, or to a part being fixed in slaves, or to the increase or decrease in the size of the town owing to migration. In Ilorin, the Emir denies that it was levied as a poll-tax, stating that the amount varied according to the general wealth of the village, being increased if it was on an important road, and had a good market, etc. In some provinces it seems to have become a simple poll-tax, as throughout Bornu and Kabba, etc. It was, strictly speaking, a tax on the agricultural population, other industries being taxed separately. Like the Zakka, it was essentially a tax and not a rent, since the farms were acquired by purchase, and, in default of male heir, lapsed to the Chief. (Cargill.)

(c) *Plantation Tax.*

8. The *Plantation Tax* was an impost levied on all or most of the crops which did not pay Zakka (viz., other than Gero and Dawa), and more especially on irrigation crops. It was a very lucrative tax in the Provinces of Kano and Zaria, in the former of which it was called *Shukka-Shukka*. It does not seem to have been so prevalent a tax in most other provinces. The crops on which it was levied in Kano were rice, cassava, tobacco, wheat, indigo, onions, sugar-cane, lali, sweet potatoes, ground-nuts, and beans—most of these being planted in the dry season and irrigated. Dr. Cargill estimates the average tax on these plots as about 1s. per acre, and the tax appears to have been paid in lieu of *Kurdir Kasa* on those particular plots, the rate being a higher one. Each farmer in Kano, therefore, paid all these three taxes. In Zaria, Captain Orr states that the application of this tax is limited to sugar-cane, onions, cassava, and tobacco. The plots were taxed, irrespective of size, at 4s. for cane, 2s. 6d. for onions and cassava, and 1s. 6d. for tobacco.

(d) *Taxes on Stock.*

9. The *Jangali*, or Cattle Tax, was a tithe of the heads of cattle, and, curiously enough, it does not appear to have been levied on any other live stock. Though usually 10 per cent., it had, in some districts, been decreased to 3 per cent., and, in others, a fixed number of cattle was paid in lieu of a percentage, or a certain rate in cowries per ox (as in Kano). It was levied alike on the wandering herds of the *Bornoro* (nomad Fulani) and on stall-fed oxen and village herds. Moslems and pagans paid it alike. It was payable to the chief from whose stock the herd first emanated, irrespective of the ownership of the grazing lands which the herd frequented. But, if the herdsmen settled down and built a village, they would pay to the Emir in whose territory they had settled. The 10 per cent. taken as *Jangali* consisted of two- or three-year old animals, and 10 per cent. of these were to be cows. If the herd numbered less than ten, it was paid *pro rata*.

(e) *Sokoto Gaisua.*

10. The *Sokoto Gaisua* was also called the "Gandu" or "Tudu," and consisted of a yearly payment to Sokoto or Gando. Major Burdon suggests that the "Gandu" or "Tudu" was originally a payment of a half of all the slaves acquired in war, which later

became a fixed payment in slaves or money, and that in those Emirates where there were no slaves to raid, a portion of the *Kurdir Kasa* was substituted for it. He adds that the "Gandu" was a secular tax kept quite distinct at Sokoto from the religious "Gaisua." I am not quite clear why any "secular" payment should have been made from Moslems to Sokoto,* but however this may be, they had, elsewhere than at Sokoto, long become identical. It seems to me more probable that while the *Gaisua* was the contribution of the Moslems to the central state, *Gandu* or *Tudu* was the similar contribution of the subject races. In its origin, the *Gaisua* was a religious payment from all other Emirates to the Chiefs of the Faith from whom their ancestors obtained their "flags" of victory, when the Emirates were formed. It was a recognition of suzerainty, and non-payment meant an abandonment of allegiance—but, being from Moslems to Moslems, it was not, properly speaking, a tribute. In return, the prayers of the *Serikin Muslimin* were invoked on behalf of the donor. (Burdon.) That it has ceased to have any religious significance, however, was shown by the unanimous discontinuance of it by all the Emirs, though I left it wholly at their discretion, and, especially, by the action of the Emir of Kano, who entirely refused to pay it, saying he had not been installed by Sokoto but by myself, and he insisted on bringing it himself to me at Zungeru early in 1904. The Emir of Gando had certainly not received his from Ilorin and Nupe for many years, and is well satisfied with the fixed income which he is likely to receive in lieu of it, under the new scheme. The tax was levied in the following way:—After all the proceeds of the various taxes had been received, the Emir called in the principal men, and each (including the Emir himself) made a donation towards this *Gaisua*. It consisted largely of horses and slaves, and hence has given rise to the erroneous impression that a horse tax existed in Kano. The Emir retained a portion, and remitted the rest to Sokoto. Major Burdon, from documents found at Sokoto and from inquiry, estimates it at possibly £25,000 per annum, of which Kano's contribution was fully £4,000. These figures are, however, hypothetical. The Emirate of Sokoto was, in consequence, exempt from taxation, and depended on this annual subsidy (see para. 64). Its collection gave rise to much extortion, and was a great burden on the poorer classes.

(f) *Kurdir Sarauta.*

11. *Kurdir Sarauta* was an accession duty paid by the person selected to fill an office—which resulted in the frequent deposition of office holders, and the sale of offices to the highest bidder. This is not possible now, since appointments are subject to the approval of the Resident, and the most important require the concurrence of the High Commissioner. It is valuable as an acknowledgment of the supremacy of the Emir, and, if it were abolished, he would lose all influence over sub-chiefs, who would only acknowledge the Government official who had nominated them.

(g) *Taxes on Crafts and Kurdir Korofi.*

12. Every form of handicraft, I think without exception, had its special tax—smiths, weavers, leather-makers, saltmakers, canoe-men, ferry-men, dyers, hunters, etc. In Zaria, a native liquor tax was collected by the "Serikin Mai" on fourteen towns near Zaria, but not on pagans. The majority of these taxes were, I think, universally levied by the Fulani, though Katsena, Kano, and Zaria had many special ones. Of these taxes on industries, that on dyers (*Kurdir Korofi*—6d. to 1s. or more per dye-pit) was the most lucrative. In some places, the name *Kurdir Korofi* seems to have been used to include most of these taxes, and even extended to the tax on crops watered by irrigation (market gardeners). A tax was also levied on each date-palm in Kano, and especially in Katsena; and each bee-hive, as well as collectors of jungle-honey, paid a tax. In Zaria, and elsewhere, most of these taxes were "farmed out" to an official who paid a fixed sum and made what he could by extortion.

(h) *Market Dues.*

13. Corn sellers were very heavily taxed in Kano, and also vendors of food and natron. Brokers and stall-holders each paid from 4d. to 8d. per mensem. There were also royalties on various articles sold;

* See para. 32, where the payment is explained as a War Tax, with no religious significance.

butchers paid 9d. or more for each ox, and 3d. for each sheep or goat slaughtered, in addition to a fixed licence fee. Dr. Cargill states that in Kano these dues accrued entirely to the local chief, and were not shared by the Emir, who does not admit their validity under the Koran, but there is no doubt that the Emirs received considerable income from the market in their capital cities through the Serikin Kusua (chief of the market) and Serikin Dillali (chief of the brokers), as well as substantial presents from wealthy merchants. In Zaria, the Serikin Dillali collected a tax of about 1s. from every cloth, natron, and leather-seller, and paid the Emir £12 per annum; but Captain Orr writes that "there is no evidence that Dillalis in towns other than Zaria collect or pay any tax."

(i) *Caravan Tolls.*

14. These were exceedingly heavy, and were levied at every town through which a caravan passed. They have now been entirely superseded by the tolls levied by Government under the Caravan Proclamation.*

(j) *Death Duties (Gado).*

15. In addition to the fee for administration of estates claimed by the native judge, varying amounts were paid to the Emir. This tax has no sanction in the Koran so far as I am aware, and the Emir of Kano says it is illegal. It appears to have been levied on Moslems and pagans alike, and separate rates were, in some instances, taken on property accruing after appointment to office, and on private property. In Bornu, as every "Kachella" of a district was a slave of the Shehu, his whole estate (including the wealth he had amassed by extortion) fell in to the Emir. In some provinces, it would appear that this tax, by extortionate methods, had been made to yield a considerable revenue. It is a large subject in itself, with which I hope to deal separately. In certain Emirates, I think that, in default of heirs within specified degrees of relationship, the entire estate fell to the Emir if the deceased died intestate, and a large proportion if there was a will. I propose that at present, at any rate, this custom shall not be interfered with, but the Emir shall in all cases be compelled to inform the Resident of the total value of an estate, and the amount he proposes to take, and that this amount shall be subject to the approval of the Resident, who will see that it is not extortionate.

(k) *Arbitrary and Casual Taxes.*

16. In addition to these taxes, the chiefs, and also the principal office holders who owned estates (or fiefs), were in the habit of demanding forced levies to meet their needs, more especially from the subjugated pagans. Frequent and irregular fines were imposed outside the regular process of the native courts while much of the proceeds of these courts also appears to have accrued to the Emirs, as well as bribes to avoid conviction. Collections were made in the market for a chief or "big man" passing through a town, in addition to presents, and he paid nothing for supplies wherever he went. The villages were called upon annually to build or repair the houses of the Emir and chiefs, and the city walls, etc. Every man, great or small, had to bring a *gaisua* or present in his hand when he came to see his superior, and, more especially, at the periodical festivals. These latter tended to become a fixed sum for each town. Added to these exactions, and probably more onerous than all of them put together, were the extortions of the collector (*Jakada* or *Ajele*), who, with his staff of messengers, lived on the country without payment, and demanded what he pleased. (Para. 20).

(l) *Other Taxes.*

17. It would seem as if this bare enumeration would have exhausted the possibilities of taxation, but Residents are continually reporting some new and obscure tax in their provinces, which may, or may not, be common to others. In Sokoto, I learn that a prominent chief made a considerable revenue by keeping a large number of slave girls as public prostitutes, and this may be the origin of the "Bori tax" on dancing girls in Zaria. Dr. Cargill reports that a poll tax of 1s. to 4s. per head was levied by the local chiefs of towns as a "thanksgiving" at the end of the harvest, and shared between them and the *Jakada*.

* The Caravan Tolls have been abolished since this Memo. was written.

In one instance, that of the "Kurdin Gamu," Dr. Cargill reports a donation (dignified by the name of "tax"), which the chiefs imposed upon themselves as a salve to their consciences, for the support of the Mallams and holy men of the city. Others are the "chappa tax" on certain persons in the Zaria province, the *Garin Yaki*, or war tax, reported from Keffi (Webster), the gamblers tax (5 per cent. of winnings levied in two houses set apart for "chacha") which is reported from Ibi in Muri (Lobb), and the tax on sewers of cloth collected by the "Serikin Dunki" in Bauchi (Temple).

BASIS OF DEVELOPMENT OF THE SYSTEM

18. The fanatical Fulani herdsmen, who had spread the Faith throughout Nigeria, had professed to institute the strict Koranic system of taxation. By this they were bound to pay the annual tithe themselves, and to devote it wholly to religious purposes or to the maintenance of the State, and to contribute annually to the support of the centre of their organization at Sokoto and Gando, while they levied a fixed and proper tribute from the unconverted.

As the desire for wealth and power, however, gradually supplanted the early religious zeal, the efforts to convert the pagan races to the Faith, which are enjoined by the Koran, ceased, and the collection of Kurdin Kasa from all of them, irrespective of any nominal adhesion to Islam, became universal. The annual razzias were no longer wars waged for the extension of Islam, in which the vanquished are given the option of becoming one with the victors if they embrace Mohammedanism, but degenerated into mere raids for slaves. The rulers thus grew to look upon the peasantry merely as a means of acquiring wealth, and these, for the most part, remained pagans. Later, when the ability to raid distant districts for slaves was curtailed in the Southern Emirates by the advent of Europeans, they even took to selling their own peasantry, while the levies upon the pagans grew so heavy that they could only be met by payment in human-kind.

Irregular taxes were invented, or obsolete taxes of the Habe were revived, according to the need or the greed of each Emir, and these were imposed regardless of creed, while extortion and corruption increased in every grade. The Emirs came to regard themselves as rulers first, and only afterwards as Moslems. Many of them were of very mixed blood, and though they one and all professed themselves to be devout Mohammedans, the primary object of their rule was to aggrandise themselves, their personal entourage and satellites, and their clique of office-holders, dignified with high-sounding titles, at the expense of the people whom they misgoverned. The extent to which the misgovernment, and the perversion of the original conception of Koranic taxation, took place, varied, of course, in different Emirates.

SYSTEM OF RULE AND MODE OF COLLECTION OF TAXES.

19. In order to follow the method of collection, it is necessary to understand the outlines of the system of rule which grew up in the majority of the provinces, varying, of course, to some extent in each. It was, as I said in my annual report for 1902, practically a feudal system. The country was parcelled out into estates held by the principal chiefs as fiefs from the Emir, in whom was vested the ultimate title to the land. The fief-holder was called the "Hakimi" in Kano, the "Ubandaiki" in Zaria, and the "Kofa" (or "gate") at Sokoto—in so far as the system in the latter could be said to correspond with that which was universal in the minor Emirates (see para. 64). The fiefs belonging to one chief were often small, and scattered over the Emirate at great distances from each other. They usually pertained to the office, and not to the individual. The result was that the fief-holder (who might own a dozen or a score of such estates) could not, of course, reside on his estate and administer a self-contained district, but became an "absentee landlord," resident at the capital. He appointed as his representative an "Ajele" or "Jakada," who, however, in Nupe (being constantly in attendance on his chief) delegated his powers to a deputy. In some cases (such as Katsena) the estates seem to have been farmed to middlemen by the Emir or the Hakimi, and these middlemen took the place of the *Jakada*. The latter was supposed to be paid by the fief-holder, but he also lived on the people, and his extortions proved the ruin of the country. His power was unlimited,

for he alone had the ear of the chief, and all taxes passed through his hands. He assessed the taxes which were collected by the local headmen of the fiefs or the local "Seriki" of the town. The latter were the theoretical rules of the district, and apportioned the tribute among the different subordinate villages, and held judicial powers for the suppression of crime, but only a very small portion of the revenue was assigned to them, and the Emir and fief-holder divided the bulk of the tribute, while the Ajele or Jakada received a share, in addition to what he could make by extortion. The fief-holder was, however, supposed to collect the tax on behalf of the Emir, and had no actual claim to a share. In Zaria he was supposed to take 10 per cent., and the Jakada 10 per cent., the Emir taking the remainder. The fief-holders naturally had a tendency to multiply as the numbers of place-hunters, favourites (especially head slaves), and relatives increased, and as a natural consequence of diminished holdings, the exactions grew more heavy in order to support the rival establishments of the courtiers.

THE TAX-COLLECTOR.

20. The office of Jakada or Ajele comprised many other duties than that of tax-collector, and, in what I shall have to say regarding this office, it will be necessary to carefully distinguish between these functions. He acted as the agent and spy of the Emir and fief-holder (each of whom in some provinces had separate Jakadas), and reported to him the deaths of influential men with a view to assessment of Gado (death duties). He was the accredited messenger for all purposes, and in some pagan districts in the Zaria Province, he appears to have become a resident and recognised ruler. Except in this latter instance, the Jakada appears to have been resident at the capital, and was only sent out to the district at the time the tax was due, where he remained at free quarters till it was paid in full, whereas the deputy Ajele of Nupe had become resident in the district, where his power for evil had, in consequence, become enormously increased. Even at Kano, where the Jakada was probably at his best, Dr. Cargill states that he had great opportunities for extortion, and there was practically no check on him, if dishonest. So intolerable had the oppression of these men become, that already most of them had been expelled in Nupe, and a rising against them in Kano had to be suppressed by force by the administration. They were, moreover, a danger to the Government, for they had often formed part of the Emir's standing army, and it was to their interest to magnify the power of the Emir, and to decry the Government (Cargill). As the Emirs can no longer support the Ajele by force, the system naturally collapses.

THE NEW POSITION OF THE FIEF-HOLDER.

21. It is, in my view, necessary, in the first place, that the whole of the estates belonging to a Hakimi or Ubandaiki (or whatever the local designation of the fief-holder) should be grouped together in one self-contained district, of which he will when possible be appointed the "headman," and in which, as such, he should reside for the greater part of the year. He should, however, own a house at the capital, and should be equally compelled to reside there at intervals, in order that the Emir may retain his hold over him, and that these districts may not break off into separate commands, more or less independent of the Emir. The authority and power of the latter over these chiefs should be supported strongly by the Resident, and will be maintained by two powerful factors:—(a) The apportionment of the tribute is in the Resident's and Emir's hands, and any exactions whatsoever by the district head will be treated as a criminal offence. (b) The fief-holder (viz., district head) can be at any time deprived of office by the Resident, on the advice of the Emir, for good cause shown.

This grouping of estates already exists to a large extent in Sokoto, Katsena, Katagum, and some other Emirates, and I understand that a re-distribution with this object would present no insuperable difficulties in Kano, Zaria, Bauchi, and elsewhere (See § 24). In some provinces, however (as in Nupe), the fief-holders altogether refuse to leave the capital and to reside in the district. In that case, they must be replaced by district headmen, chosen from among the most influential of the local inhabitants of the district. They will then become attached to the Emir's entourage at the capital, or traders or farmers resident on their own estates, as many, I believe, have

already done in Nupe. This in itself will tend to check the multiplication of useless offices. Now that Emirs are relieved of the cost of their armies and of most of their former expenses, and their incomes are assured to them, the payment of the "unrecognised" office holders becomes the chief call upon the Emir's revenue, which, in many cases, is very considerable.* It will be noted that I have no desire to arbitrarily and summarily "abolish" this class, but they must take their choice, of remaining (under pain of deprivation) as substantive rulers in their districts for the greater part of the year, or of residing at the capital as part of the entourage of the Emir, unless "recognised" and paid by Government (See § 22, 39, and 40). Provided that a former fief-holder fully performs his duties as district headman, there is no reason why he should not hold one of the titular and honorary titles of rank, which are so prized by the Fulani. This is, in fact, I believe, to restore the Hakimi to his proper place and duties—a place he still retains in some Emirates—and from which in others (as in Kano) he has been ousted by the appointment of favourite head slaves to the position he ought to hold.

OFFICE-HOLDERS.

22. If, however, the office compels continuous residence at the capital, and renders the discharge of the duties of a district headman impossible, it cannot be held simultaneously with the latter appointment. There are, in each important Mohammedan Emirate, a certain number of officials at the capital who perform really useful duties, and whom it is as important to retain and utilise as it is to retain the principal chief himself. Such are the Alkali (judge of the native court), the Waziri, Galadima or Yerima (the chief native official next to the Emir), the Liman (the religious head), and some three or four others who should form the Emir's council. Of these, in some Emirates—but not in others, such as Kano, Sokoto, and Gando—the Alkali derives a certain income from fines and fees of court. It is reported that in most cases these officials derive an income from estates pertaining to their office, but, except at Kano and close to large cities, where the value of land renders it, perhaps, possible for a landlord to receive rent for his land, the term "estate" is somewhat of a misnomer in the present condition of the country. For, as I have pointed out elsewhere, the land itself has little or no value, and the value of an estate consists in the extent of the property in slaves to work it, and not in the land itself. Even the fact that an area has been "brought under cultivation" does not add to its value, but, on the contrary, impoverishes it. Since, therefore, property in slaves is constantly decreasing in value, and will, in the course of time, disappear, it is clear that the possession of "estates" is no adequate and reliable source of maintenance for a native chief, and that it is necessary for him to have some certain source of income, wherewith to maintain his estate and to hire free labour for its cultivation if need be. There has, I think, also been a loose idea that the owner of an estate would receive certain dues from the cultivators, even if they were not in the position of slaves or serfs working on the estate of a master. But it must be remembered that all such dues as are included in the list of taxes (Zakka, etc.) which I have enumerated, are now included in the Land or General Tax payable to the Emir and Government alone. They are apportioned to the native and British administration, and no estate owner as such may touch any portion of them, and is liable to be dealt with by the courts if he does (See para. 30). An exception to this condition of things no doubt exists, as I have said, around all the great cities, where land has acquired an intrinsic value, and could probably command a rent. This process of enhancement of land values will, no doubt, continue as population increases, and I therefore think that, in addition to the fixed salary given to the office-holders who are recognised by Government, it would be a good policy to assign estates near to capital cities to these officials, who are necessarily resident at the capital, and the rents derived from such estates would later, if not now, form a part of the emoluments of the office. In each Emirate, therefore, which is under a "principal chief," some half-dozen of the principal officers of State will, with the concurrence of the High

* The net income of the Emir of Kano, after the Government has taken its share of the revenue, and the district and village heads have been paid, is estimated at not less than £12,000 to £13,000 per annum.

Commissioner, be selected for recognition by Government, and a sum will be assigned for the salary of each out of the revenue apportioned to the native administration. All other office-holders will, like the entourage of the Emir, be paid at his discretion out of the sum assigned as his net income.

DISTRICT HEADMEN.

23. I will, throughout the rest of this memo., use the term district headman, and not that of fief-holder, premising that he may be either one of the old fief-holders, resident on his estate and responsible for the collection of the taxes, or a local chief selected to perform the same duties in a given district. He will be the executive head of the district, responsible to the Resident and Emir for its control and good order, and must always be a free-man. I hope that Residents will succeed in inducing many of the old fief-holders to take up the duties of district headmen, for they are an influential class, and, in some districts, the peasantry are very loyal to them. As district headmen, they will have real powers as subordinate rulers. With this object, I would concur in not pressing too severely at first the rule about residence—especially in the Northern Hausa States, which were well organised and had an effective system, provided they resided in their districts during the time of tax-collection. One of the first and most important tasks of a Resident will be to determine and mark on the map of his province these various districts in charge of headmen. This should be done in consultation with the Emir and local chiefs of towns. The district headman will be responsible for the collection of the revenue, and will personally bring it to the Emir or Resident at the administrative headquarters of the division* of the province (see para. 48). It will be his duty to make the reports of crimes and complaints, and of deaths (for collection of Gado) to the Emir or Resident, which were formerly made by the Jakada. The increased number and the recognised position of the native courts (Memo. 8) will relieve him of judicial work, unless as a member of the court. The assessment of the towns and villages in his district will be undertaken by the Resident with his assistance, and he should accompany the Resident on tour in his district. The Hausa term "Serikin Kwoge" perhaps best expresses his functions. In Bornu, I understand that the title of "Ajia" is exactly appropriate. District headmen may be of two classes—(1) those collecting on behalf of an Emir and obtaining their salary through him; and (2) those who are themselves independent Emirs, but not of sufficient importance to rank as "principal chiefs," and who, therefore, collect from an independent community on behalf of Government direct, and obtain their percentage from the Resident. In pagan districts, if there is no man of sufficient local influence, it may be advisable to introduce a district headman from outside, but he must be acceptable to the people, and not forced upon them. The district for which a "district headman" is responsible will not be confused with the administrative divisions into which the province is divided, each of which is under one of the European political staff, who will closely watch the actions of the various district headmen in his division. The different divisions and districts must be shown on the political map of the province, which should also show the areas over which independent chiefs have authority, and the tribal boundaries. (See Memo. 21, para. 2.)†

EXTRA TERRITORIAL JURISDICTION.

24. It may be inferred from what has been said in the preceding paragraph that a district headman is the sole executive chief of a self-contained district, and that all the villages in the area placed under him should recognise his authority and pay their taxes through him. This, indeed, is the ultimate end in view, but the existing conditions of the country do not admit of its immediate and complete realisation in some provinces. Even after the consolidation of the scattered fiefs into one self-contained district under a headman has been accomplished, it may be found that there are many communities included in this territorial area which refuse to recognise the authority of the district headman, and adhere to their allegiance to their own clan chief. In Sokoto and Bauchi, and throughout the greater part of the Hausa States,

* Even in Kano itself this system has successfully worked in at least one instance (Dan Tuba), and is, therefore, understood, and in accordance with native custom (Cargill.)

† Page 132.

the unit is, in fact, not a local settlement, but a clan or family with its own chief. The reason is that, since in the greater part of the Protectorate there are immense areas of land available for settlement, the right of occupation was little regarded, and a batch of immigrants obtained permission to settle and take up land wherever they wished, in return for a small present to the local fief-holder, who claimed no rights of taxation or jurisdiction over them, while the settlers considered that they owed their allegiance only to their former chief, however distant. In other words, territorial claims are practically inoperative, and the ties of the family or clan are the only recognised bond of cohesion. This factor renders the formation of self-contained districts, paying their dues through a district headman with a territorial jurisdiction, very difficult.

In districts where the pressure of population has rendered land valuable, territorial claims, as in other countries, begin to supersede the patriarchal or clan ties. Thus, in Kano, little difficulty has been found in re-grouping towns under the district headman. Clearly the clan system must, in the course of time, give way to territorial divisions of jurisdiction, but, like all other changes, it must be gradual, and must be evolved rather than imposed upon the people. Until these changes have been evolved, the application of British Crown Colony rules of accounting and audit to the native system will be difficult, but the whole object of this system of taxation in Northern Nigeria is that it should be based on native tradition and custom to an extent probably hitherto untried in any Colony or Protectorate.

The reasons which prompt a community to repudiate the authority of the district headman may, as I have described, be due to the fact that they are migrants from a distant clan, and recognise the authority of their clan chief only, or it may be that they are aliens of a different race from their neighbours, the remnant, perhaps, of a tribe ousted or annihilated in the wars of the past, who have been allowed to remain under their own chief, enjoying autonomy, provided that they paid their taxes. Only communities which have long exercised this privilege under such valid claims as these will be accorded exceptional treatment, and in no case may particular coteries in a city set up a chief of their own. The payment of the city tax through a Maiungwa (§ 52) is, of course, a wholly different question. Where the tradition of a separate allegiance, or of autonomy under their own chief, is very strongly felt, it will be necessary at first to defer to the prejudice and to allow such communities to pay direct to Government through their own chiefs; but the penalty incurred by a failure to pay promptly, or by an exhibition of lawlessness, should be their immediate inclusion under the local district headman. Wherever possible, however, without violating a very strong native sentiment, such communities should be required to pay their tribute through their own chief to the district headman, if they are aliens under a chief of their own, or through the district headman to their own chief if they are migrants, but in any case—pending default or misconduct—the right to pay through their own chief to Government direct should not be denied to them. Gradually, as they realise that no advantage whatever accrues from persisting in the old tradition, they will become merged in the territorial jurisdiction of the local headman. All future immigrants will, however, be required to settle on land within the "district" to which they belong, and they will be warned that they will not be allowed to take up land in another district unless they agree to pay their taxes to the head of that district.

THE JAKADA AND AJELE.

25. With the transfer to the district headman of the responsibility not only for the collection but also for the delivery of the tax to the Emir or Resident, the *raison d'être* of the Ajele or Jakada ceases. As a *tax-collector*, he will be abolished, and as the name is inevitably associated with this—his first and chief duty—it will be abolished too, for as long as the name remains, the villagers will submit to his exactions. He will be replaced by accredited messengers from the Emir, carrying a symbol or wearing a dress of office. These will be registered by the Resident, and no one except the Emir will be allowed to employ them. They will be paid a fixed salary out of the Emir's income, and they will not be allowed to make any demands whatever upon the peasantry.

It will be a primary duty of the Resident and his staff to make known to each town what amount it has to pay, and to inform the people that if the district headman, the Emir's messenger, or any other person, calls upon them for an amount in excess of this, they should report the matter to the Resident. By this means there will, I hope, be an effective check. It will be noted that the collection will thus be left in the hands of each village headman (Hausa, *Degitchi*, Bornu *Bulama*), the district headman, and the Emir (if any), and not in the hands of Government agents or aliens; but it will be well for the Resident to send also a Government courier or other native agent at the time of collection, to act as a check by reporting independently. He will not, however, take part either in the assessment or collection. In Bornu, now that all tax-collectors, other than the village and district headmen, have been abolished, the Shehu has appointed an agent to reside with the "Ajia" (district head), but he may exercise no executive power whatever. This appears to me a useful plan in enabling a head chief to keep in close touch with his district headmen. The agent, however, must not be allowed to interfere in any way with the headman, or to issue any orders whatever with respect to the taxes. His duties should be confined to reporting deaths for the collection of Gado, and generally keeping the chief informed of what goes on in the districts. He should be a man of no social importance, and the Resident would take special care that no accusation by him against the headman is listened to, unless the latter has a full opportunity of stating his case. Such agents, if appointed, should be frequently changed, and should acquire no status above that of a mere messenger or subordinate.

ASSESSMENT.

(a) *How arrived at.*

26. (a.) The amount which each village has to pay must be finally decided by the Resident and his European staff, and full details showing how it has been arrived at will be entered in the Tribute Register. The assessment should be in cash, but the equivalent kind (cowries, etc.) must also be entered, pending a more universal use of coin. This is a long and difficult task, in which, however, great progress has already been made in some provinces, especially Sokoto and Nupe. Pending its completion, a Resident will (in the case of all villages included in an Emirate, *i.e.*, "settled districts") have to accept the appraisal made by the Emir, but he will gradually verify and adjust each one. When fixing the new assessment he will first ascertain from the Emir, the fief-holder, and the old tax-collectors the amount which the town in question was supposed to pay under each form of tax (including non-agricultural taxes), noting at the same time the population of the town. It may sometimes perhaps be possible to secure the services of the former head of all the tax-collectors, where such existed (as in Bornu), whose knowledge of the country and the taxable capacity of each town would be invaluable as a guide. The amount stated by him can then be checked by reference to the village headmen.

In order to promote uniformity and equality in the assessment and for subsequent reference, a Resident may find it useful to provide himself with a number of printed forms (bound as a book if preferred), which might be in the following form, modified as he may find suitable to his province:—

Administrative Division. No..... District of..... Village.....

Class.	Approx. amount former Taxes.	Quantity.	Persons engaged or owning.	Rate.	Amount of Assessment.	Notes.
1. General crops -	—	—	200	—	—	Soil poor, market good.
2. Special crops -	—	—	20	—	—	Wobe River irrigation.
3. Sylvan produce -	—	—	—	—	—	No rubber. Some shea and gum.
4. Produce for Export-	—	—	—	—	—	Chillies.
5. Butchers -	—	—	—	—	—	Supplied from caravans.
6. Dyers -	—	—	—	—	—	20 dye pits.
7. Other crafts -	—	—	—	—	—	6 smiths; 5 weavers, &c.
8. Cattle -	—	—	—	—	—	Good grazing and market.
9. Sheep and Goats -	—	—	—	—	—	Ditto.
10. Horses -	—	—	—	—	—	A few bred here.
&c. -	—	—	—	—	—	
Total -	£63	—	500*	—	£50	*Adults.

1. Includes dawna, gero, yams, mazzarua, cotton (?), indigo (?), etc.
2. Includes onions, wheat, tobacco, sugar-cane, cassava (?).
3. Rubber, shea, gum, palm-nuts, beeswax (?).
4. Capsicums, beniseed, cotton (?).

The Resident will decide which crops he includes under 1, and which under 2. The tax on 3 and 4 should be light to encourage production. On the remaining heads practically the old scale; 8 and 9 are, of course, exclusive of those which pay Jangali. A summary of the information gained would be entered in the Provincial Tribute Register.

This form would, of course, only be used as a means of arriving at the taxable capacity or wealth of a village. The assessment, once arrived at, would be recorded as a single tax levied on the village as a whole, and it would, as already explained, be left to the village headman to collect it from the individual *pro rata*.

(b) *Adjustment of Inequalities.*

(b.) He may thus find that the old assessment should be increased or diminished, in consequence of the increase or decrease in wealth or population of the village, or because of a former unjust assessment. In consequence, moreover, of the abolition of the extortions of the tax-collector, and of arbitrary levies, and the other burdensome additions described in para. 18, it is possible that the amounts which nominally prevailed in former times can be somewhat increased and

yet afford great relief to the peasantry, especially where these burdens weighed with great severity upon the people. In some cases (*e.g.* Abuja), every village, whatever its size, was, I am told, assessed at a uniform rate; in others, the tax had been doubled or trebled for some ancient revolt. It will be the business of the Resident to adjust these inequalities, and to consolidate the whole of the taxes into an annual sum payable, when possible, in cash. The Resident, Nupe, has found it useful to issue a numbered disc to each farm hamlet for identification, since so many have the same name. Such matters are left to the discretion of each Resident.

(c) *Personal Assessment necessary.*

(c.) I lay great emphasis upon the personal assessment by the political staff, both because of the injustice and inequality of the former levies, and because of the difficulty of getting at the truth from the native chiefs. In one instance, it was reported that the Emir had ordered that the Resident should be told that the tax was only half what it really was, in order that he might secretly collect the rest himself. In another, a Resident found many villages of which the Emir knew nothing. Pending, however, a personal assessment by the British staff, there is no alternative but to accept the native assessment, checked as described above, as a temporary measure.

In some provinces the assessment was made annually, according to the value of the crops each year. Under the new system the sum will be a fixed one,

amended and brought up to date from time to time (but not too frequently), as the Resident has opportunity to visit the town, according to the increase or decrease of wealth, due very often (especially in Bornu) to inter-village migration. This fact should be carefully explained to the peasantry, who otherwise might fear that increased industry and production would involve them in higher taxation, as was, I understand, the case in Illorin. The Emir will keep his own register of assessment separately in Arabic, and the Resident will inform him of all corrections and alterations for entry in it.

(d) *Each member of Staff to undertake share.*

(d.) A Resident should take each one of his British staff with him in turn when engaged on this task, so that the latter, when he has thoroughly learned the method and the nature of the questions asked and private inquiries set on foot through the native political agent, would be competent to carry out the same system in his own division, and so expedite the assessment of the province. The preliminary list obtained from the Emir and the old collectors will be of value for comparison, both as giving the names of villages, and enabling the Resident to test the *bona fides* and loyalty of the Emir.

(e) *Assessment to be reviewed and explained.*

(e.) When the assessment has once been completed, each Assistant Resident should, as I have said, constantly check his own division, and bring any proposals for alterations to the notice of the Resident. No assessment will be final until approved by the Resident and by the High Commissioner. The announcement of the assessment should be made by the Emir's representative in the presence of the Resident. The assessment so made, and received with satisfaction by the village, may (as I have said) be modified by later experience and further knowledge, and by the causes I have already named. No pledges of immutability should, therefore, be given, either of the assessment or of the division between Government and the native administration. Though the *normal* assessment is fixed (subject to modification for these causes), it may, of course, in any particular year be suspended or decreased, with the sanction of the High Commissioner, on account of famine, or other special reason. It should be fixed rather too low than too high at first, and it should be fully explained to all, from the Emir to the peasantry, that the tax is to meet the expenses of administration, and is not a perquisite of the High Commissioner or Resident (as they are apt to imagine), and is paid in return for security to life and property, and the consequent increase of trade and wealth. It may be pointed out also to the chiefs that, as population and wealth increase, the share of the tribute assigned to the native administration will increase *pari passu*, while the leniency of the tax and the advantage to them of sharing with Government, instead of having a separate tax to collect for themselves, may also be noted. The object should be to convince their judgment of the superiority of the new methods to the old. The ability of a Resident and of his staff, and their influence with, and control over, the people of the Province will be largely indicated by the care which has been taken in the assessment, the contentment of the chiefs and peasantry, and the absence of friction in the collection of the revenue. These matters are of more importance than the actual amount collected.

SETTLEMENT OF DISPUTES.

27. In the prosecution of this task, a Resident will probably be besieged by appeals for restitution of ancient rights—in more than one instance the High Commissioner has received such appeals dating back to 100 years ago. The general principle should be that the jurisdictions, as they existed when the British administration was set up, should be upheld. Having, with the approval of the High Commissioner, come to a decision with regard to rival claims, a Resident will (if he anticipates any interference on the part of the losing claimant) issue a declaration that such and such a village with its fields, etc., belong to, or are within the jurisdiction of, the chief or district headman (as the case may be) who is adjudged to have the better title; at the same time, an order will be issued to the rival claimant to desist from interference with the ruling contained in the declaration. If the order is disregarded, the chief may be summoned for conduct likely to produce a breach

of the peace, and dealt with under Sec. 18 (13) of the Schedule to the Criminal Code Proclamation. If, however, the circumstances demand a more speedy method, he may, with the concurrence of the High Commissioner, be deprived of his position as an administrative act, the more so that in most cases the lands of the Emirate will have been declared to be public lands under the Lands Amendment Proclamation, 1902.

VILLAGE HEADS.

28. In a densely populated province like Kano, and in a less degree in the other Hausa States, where there are large walled towns in the rural districts, the sub-chiefs under a district headman must vary greatly in degree, from the powerful Seriki of a large town having many subordinate towns and villages under it, with perhaps "Mai-Ungwa" responsible to the Seriki for various areas,* down to the headman of the small farm-hamlet consisting only of half-a-dozen huts. There are also the representatives of independent communities, to whom I alluded in para. 24. The Native Revenue Proclamation, 1906, and the system to which it gives sanction, recognises, however, only three grades (exclusive of the office-holder) in the Native Executive, viz., the principal chief, the district headman, and the village headman. Every Seriki, and every chief of an independent community (unless he has been appointed a district headman), must therefore be graded as a "village headman" in all returns, but the percentage of the tax assigned to him will, of course, vary in proportion to his position and importance, and may be shared by him with his subordinate headmen. The term "minor district head" or similar ranks unprovided for in the proclamation and the forms, will never be used. It is for a Resident to decide whether any particular Seriki is important enough to be made a "district head," and if not, what proportion of the amount assigned to him as a "village head" he shall retain, and what proportion he shall give to village heads under him. Now that the tax no longer varies annually with the crop, the duties of the Mai-Ungwa and of the village heads are less onerous.

INCIDENCE UPON THE INDIVIDUAL.

29. The district headman, as I have said, calls on the village headman to collect the tax from the individual. It is extremely difficult to enforce absolute fairness in this matter by the village headman. Captain Larymore asserts that in the Kappa province each individual pays as he likes, and many escape payment by threatening to desert the village. He proposes, as a remedy, that the headman should issue red receipts from a counterfoil book to each person—these to be different for men and women, and changed each year—the Resident to check the counterfoils; and Mr. Lumley proposes a similar plan in Bassa. It does not seem to me that this would be possible, or, if possible, effective, among an illiterate population, while the amount of clerical work involved would be enormous. I am not, however, averse to the adoption by Residents of any plan which they may consider suitable to the circumstances of their Province, and of the success of which they feel confident. It is by such experiments that the best scheme will ultimately be evolved. The only remedy, however, it seems to me, is to encourage villagers to make reports of unfair exactions, and to equally encourage the headmen to report those who refuse to pay. By selecting good village headmen, and by letting it be known that the system is uniform everywhere, and cannot be evaded by deserting the village, time will, I hope, remedy this evil. Meantime, village headmen should be told approximately how much they are to collect from each class (agricultural and industrial); nor will this be so difficult as might be imagined, since the country has from time immemorial been accustomed to pay taxes, and the people have a very shrewd sense of equity. The head of each craft or industry may generally be held responsible for the taxes due from his particular industry. It will thus be seen that craftsmen (dyers, weavers, etc.) each individually pay as of old to the village headman, but for the purposes of official statistics, their contributions are merged in the general or "tribute" tax. The approved assessment of each village will always be written down in

* The Kano Maiungwa, in return for their work of a *De'fon*, paid no tax themselves, and, as there was one to every ten or twelve taxpayers, this was equivalent to giving them 9 per cent. of the tax (Cargill). This system should now cease.

Arabic and English, and given both to the district and village headmen, and the villagers will be told that they can demand to see it if they think that their headman is collecting tribute in excess of the authorised amount.*

FORMER TAXES: HOW DEALT WITH.

(a) Land and Produce.

30. The first three of the ancient taxes, which I enumerated in paras. 6 to 8, viz.:—the Zakka, the Kurin Kassa, and the Plantation Tax, were levied on the agricultural population. The Zakka having now almost universally lost any special significance it may ever have had (see para. 6), these three can be treated as one, and a cash equivalent for the total of the old taxes (according to the value of the land and produce) can be assessed on each village* (para. 48). The mortgager of a farm is responsible for its tribute. Chiefs and others who own estates (whether private or official) will, of course, pay their tribute tax to the State. The exemption of estates held in virtue of an office would, in point of fact, constitute these office-holders as independent tax-collectors, and would open the door for a revival of the old abuses. It would, moreover, be difficult to distinguish between such "estates" and the old fiefs, and would vitiate the statistics of the total amount of tax paid, and the incidence on the population. (See para. 22.) New settlements, if of natives from foreign territory, or established with the sanction of the Resident, will be exempt from taxation for the first year.

(b) Live Stock.

31. The tax on stock (cattle, sheep, and goats) will be added, except in the case of the nomad herds, when it will be levied as a separate tax. In the case of these latter, I propose that the rate should be uniformly 5 per cent., and entirely of 3-year-old bulls. That it shall, according to custom, be levied by the Province to which the herd belongs, irrespective of where it grazes. If the herd is in another Province when the time for collection comes, the Emir (or owner) will send a messenger to the Resident of that Province, who will send with him a representative of the Emir of the district where the herd is grazing, and a messenger of his own to assist him. The tax will belong to the Province of ownership, and will be divided equally between the native administration and Government. (See Memo. 21, paras. 4 and 11).† The tax will be levied only on recognised "Borroro" (Bornu "Abore") herds, each of which has its distinctive name, which should be registered and the ownership decided, together with the number of cattle it comprises. If the ownership is in dispute, the whole tax should be taken for Government by the Province in which the herd grazes, pending settlement of the question. Herdsmen, who have settled in one spot and acquired a town, should be assessed with that town (e.g., Zagga and Kaura Wanta in Sokoto), but, if they remain in the district only, and are of a different race (e.g., Giru), they will pay Jangali as nomads. If a herd has become domiciled in another Province, and does not merely graze there (returning periodically to the Province which claims its ownership), and if at the same time the Fulani who tend it repudiate their allegiance to the original clan from which they emanated, it appears to me that there is no alternative but to include them (and their taxes) in the Province in which they are domiciled. In that case they must be regarded as migrants who have thrown off their allegiance (See para. 24), and since the Government only recognises the clan allegiance as superseding territorial allegiance in deference to the strong feeling of such migrants (and not in deference to the claim of the clan chief to the tax), there appears to be no grounds for enforcing it when the migrants themselves repudiate it. If, however, the chief of the place from which the herd emanated claims a right of ownership in the cattle, and is in a position to prove that they are his personal property, and not the property of the persons who are tending them, he can, of course, bring an action against them for restitution of his property. As such a case would affect two Provinces, Residents should report the matter before granting the summons asked for, in order that the High Commissioner might, if he

thought fit, appoint a special tribunal (probably consisting of the Residents, of both the Provinces concerned) to investigate the matter. Kano herds graze in Sokoto, Hadeija, Katagum, Bauchi, Zaria, and even Keffi and Nasarawa, and since there is no grazing land in Kano, these herds must in many cases become domiciled beyond the Province. Their loss would be regarded as a great injustice by the Emir of Kano, and since they cannot graze there, restitution is impossible. The matter, therefore, is one which would require close investigation, with a view to arriving at some solution which would be acceptable to all parties. Since the various Emirates have thrown off their common allegiance to Sokoto, and preferred to become wholly autonomous, it is clear, as I said in para. 24, that the clan jurisdiction must rapidly give way to territorial jurisdiction, and with that change the right hitherto exercised of taxing herds permanently domiciled in another province must inevitably become obsolete. Where proprietary rights in the cattle can be proved by the Emir of the district from which they emanated, a solution could perhaps best be found by a valuation of those rights, and their purchase by the Emir of the district in which the herd is domiciled. This valuation would be assessed by the special tribunal of which I have spoken, and the debt on the part of the purchasing Emir would be registered by the court, and the Resident would see to its gradual payment, or the payment of interest upon it. This, in practice, might become the payment of all or a part of the tax derived from the herd, and the result would be to regularise the payment and solve the question of ownership, jurisdiction, and domicile. If the owner is not an Emir or chief, the better solution would be for him to transfer his domicile to that of his herd. Where large herds graze separately, though not strictly nomad (especially in unsettled districts), the Jangali may be levied upon them for convenience, in lieu of their inclusion in the Land Tax. Stall-fed and village cattle will, however, ordinarily be included in the general assessment of the town or village, as part of its wealth and taxable capacity. The tax will also include all similar flocks of sheep and goats (some of which I am informed go from Sokoto as far as Bauchi and Bornu to graze, and are absent a year), but not village flocks. The Emir of Sokoto fully concurs in this extension of the tax to all live stock, and it is in accordance with Mohammedan law. When the herds or flocks are, at the time of collection, in the province to which they belong, the native official usually employed for this purpose (in Zaria there are four such) will go out accompanied by a Government official, and assess the tax with the "Serikin Ruga," and bring in the cattle to the Emir, who will account for them, as for other tribute, in kind. There is no objection (other than diversity of system, where the object is to promote uniformity) in collecting this tax in the form of a payment per head of cattle, as has become the custom in Kano, Bauchi, and elsewhere. In that case, the amount per head should depend on the local value of stock; and should be regulated so as to produce the same amount as 5 per cent. of the herd.* The same principle could be applied to assessing nomad flocks; and the same basis adopted in calculating the tax on village live-stock.

(c) Sokoto Gaisua and Charity.

32. The annual payment to Sokoto—whether the "Gaisua" of the chiefs, or the "Gandu" or "Tudu" of the peasantry—has now altogether lapsed as a regular tax; and the Emir of Sokoto derives his income from his share of the new scheme of taxation. If any Emir desires to send a complimentary Gaisua to the head of the religion out of the income assigned to him, he should be encouraged to do so, but the tax as a separate impost should, I think, be allowed to fall entirely into abeyance, and its collection treated as illegal. It is, I think, important to encourage the Emirs to send a small and strictly religious offering to the "Serikin Muslimin," for the influence of Sokoto as the local religious head is valuable to Government as being opposed to Senussism, and to the ever-recurrent Mahdis. Captain Moll states that the influence of Sokoto, as the Chief of Islam in the Western Sudan, extended from Agades to Timbuktu. On the other hand, since it is denied by many that

* The proportion in one of the largest Kano towns (Gaiya) works out as follows:—Kurin taxes 73 per cent. of the whole, Zakka 13 per cent., Shukka 7 per cent. (Cargill.)

† Pages 133 and 135.

* Thus, if 3-year-old bulls were locally worth £1 10s. each the amount of the tax on a herd of 100 cattle would be £7 10s., which would be equivalent to 1s. 6d. per head.

this Gaisua had any religious significance whatever, even in its origin—the Kano and Katsena Mallams treat the theory with ridicule, and assert that it was originally a war fund, and was a great evil—any Emir who prefers to devote the money to local charity will, of course, be free to do so. All Emirs will be left free to arrange their own charity donations, and it is, I think, advisable that no assignment from the tax should be officially made for this purpose, and that Government should altogether refrain from interference or participation.

(d) *Kurdir Sarauta.*

33. The Kurdir Sarauta is not a tax, properly speaking, but rather a fee on appointment, and is, therefore, outside the purview of taxes included under the Native Revenue Proclamation. Opinion is much divided among Residents as to the advisability of this fee, concerning which I have myself always been doubtful. Residents may, for the present, do as they think best in the circumstances of their Provinces, either sharing the fees between Government and the Emir, abolishing them altogether, or allowing them to remain as of old, but claiming no share for Government.

(e) *Industrial Taxes.*

34. The profits made by crafts (including dyers) will be included in the taxable capacity of each town or village; regarding those in large cities, see para. 52. The proposal to license each separately would involve an impossible amount of work, and require too large a staff, but they can still be collected on the old basis by the village headman. In this country it is not uncommon to find villages almost entirely occupied with a special non-agricultural industry—such as blacksmithing, dyeing, smelting of iron, or weaving. The special taxes on these industries, including the large profits made by the owners of the principal ferries (pending any special legislation on this subject), and on the collectors of sylvan produce, will now be amalgamated with, and form part of, the general tax, since it is obviously just that they should contribute to the revenue according to their taxable capacity equally with agricultural communities, as they have always done in the past. Those industries which are now separately taxed by Government in the form of licences under special proclamations (canoe-men, hunters, etc.), probably already pay their full share to the revenue, and would not be taxed again. But it is probable that these specific licences will be abolished and merged in the general tax, so soon as it becomes fully effective.

(f) *Market Dues.*

35. *Market Dues.*—In so far as these refer to cities, they are separately dealt with (para. 52). In regard to rural markets and those in towns not classed as cities, I am inclined to abolish them altogether, except in so far as any licence imposed by proclamation may take their place. The dues collected would then be limited to what may be necessary for the control, sanitation, and repair of the market, and the payment of an official (not under Government)—the "Serikin Kasua," or head of the market, who would be held generally responsible for it, and would collect the authorised dues, from which, for the present and pending a better arrangement, his salary would be paid. In these rural districts the Serikin Kasua would be under the district headman, who would report any irregularities, exactions, or laxity on his part. No part of these dues would accrue either to Government, the Emir, or to any local chief. They would usually be fixed by the Resident.

(g) *Tolls, Gado, and other Taxes.*

36. Caravan tolls* have altogether ceased to be included in the revenues of the native chiefs. They are a monopoly of Government, and the Emir is precluded from demanding or accepting presents from traders. Death duties, as I have said, will not, at present, be interfered with. Arbitrary and casual levies, and all other unauthorised taxes, including those named in paras. 16 and 17, will entirely cease. For the present, however, the customary annual labour for building the Emir's houses will not be prohibited. With this exception, all forms of forced labour for public works will absolutely cease. The labour employed on repairing the town walls will not be so

* The Caravan Tolls and Canoe Tax have been abolished since this Memorandum was written.

employed, except in the case of capital cities, and, in its place, the repair of the roads will be substituted under the Roads Proclamation. The disposal of the fines and fees imposed by the native court is dealt with in Memo. 8, para. 27. Fines imposed by the Resident or provincial court are, of course, included in Government revenue. Of course all taxes which are superseded by Government licences (e.g., on canoes, native breweries near a Government station, etc.) will absolutely cease, and licences will only be issued by Government officials. Voluntary presents (if small and really voluntary), made at festivals and as salutation presents, need not be forbidden. Special traditional perquisites, such as the royalty on Labozi Kolas in Nupe, and the monopoly in turtles and manatae elsewhere, will not be interfered with, but will be reported for formal approval and record. No other tax may be levied by the Emir or by any chief, nor may they demand free services without payment.

SUMMARY OF ASSESSMENT.

37. Thus, in assessing any town, a Resident will have to take into consideration the taxable capacity of (a) the agricultural population, based on the three old taxes; and depending on the extent and value of the land under cultivation; (b) the industrial population (including collectors of sylvan produce), based on the old taxes on the various crafts, and depending on the profits made, with due regard to the remission of old taxes, and the imposition of any special licences; (c) the cattle, flocks, and other wealth which formerly paid "Jangali" or arbitrary levies. The only other authorised tax, of which Government receives a part, is the Jangali from nomad herdsmen. In calculating the amount of former taxes, those levied in slaves will, of course, be appraised at their equivalent value, but it is hardly necessary to add that the present value of slaves cannot be taken as a guide in arriving at the value they represented under the old system.

APPORTIONMENT BETWEEN GOVERNMENT AND THE NATIVE ADMINISTRATION.

38. As I have said in a previous paragraph, the abolition of the arbitrary impositions, together with the exactions of the collectors (which, in some cases, probably equalled the regular taxes in amount, and was incomparably more vexatious in its incidence), form together so great a relief to the peasantry, that they would welcome an increase of the nominal tribute, the extent of which they know, and which, when once paid, absolves them from all further dues. The object in view is not, however, to increase the incidence on the peasantry at present, but to render it less burdensome to the taxpayers and more remunerative to the administration by a better system of assessment and collection. On the other hand, the native rulers, from lack of organisation and owing to frequent revolts, were in many places unable to collect the full taxes, and even where they were fully collected received less than a half of the nominal amount. It appears, therefore, that even if the nominal tax is somewhat increased, and the native administration and Government take half each, the peasantry are well pleased, while the principal chief has practically as large a revenue as he ever had, and even, in some cases, as Emirs have frankly stated, much more. Out of the moiety assigned to the native administration, the principal chiefs will pay their allotted shares to the recognised office-holders and to the district and village headmen. The amount assigned to each native official is at present a definite percentage of the tax, but later on when, on the one hand, the system has become fully established and effective, and, on the other hand, it has become more clear what incomes are required by the various grades and individuals in order to maintain their position, these percentages will be converted into fixed salaries, and the native administration will then, as in India, become incorporated with the British. The total tax can then be shown on the estimates as revenue, and the salaries of the native officials will appear under the expenditure as personal emoluments of officials. Until the reform is more matured, however, this is not feasible.

(a) *Amount of Principal Chiefs.*

39. Only those native rulers will be recognised as principal (or "paramount") chiefs who have an important capital city, with office-holders (recognised by Government) exercising functions of state, and a Court *entourage*. Minor Emirs (as has been said in

para. 23), even though independent of any suzerain or Government, will rank only as district headmen. A principal chief receives the whole of the tax, and pays half of it into the revenue. Under the supervision of the Resident he pays their salaries to the subordinate native officials out of the other half, and retains the balance (usually nearly half the amount assigned to the native administration, viz., a quarter of the whole tax) as his net income. Since he has no longer to maintain a standing army, and the Government bears all cost of police, road construction, and other expenses of administration, he has now comparatively few calls on this income. From it he pays all unrecognised state officials, and his messengers, and Court expenses, and meets the expenses of entertaining strangers, of religious and charitable donations, and all other outlay incurred by his position. As these chiefs gradually recognise that the retention of a number of ornamental and useless officials (in addition to those recognised by Government and assigned salaries), together with a number of head slaves and Court satellites, forms a heavy drain on their incomes, they will doubtless be more disposed to reduce their number than they are at present. Apart from this recognised income assigned to a principal chief out of the proceeds of the taxes (which also include the fines and fees of the Native Court paid in to the revenue), he receives at present certain sums from Gado (death duties), from voluntary presents at festival times and from visitors, and in some provinces he also receives the special royalties, etc., referred to in para. 36, the fees paid as Kurdin Sarauta. In future years, as the sum obtained from the taxes increases, while the number of dispossessed fief-holders and superfluous office-holders, etc., who are at present private retainers of the Emir, decreases, it is probable that the income assigned to principal chiefs under this tentative method of a percentage of the tax will be larger than is necessary, and it will then, as I have said, probably be converted into a fixed salary sufficient to maintain his position without extravagance. The chiefs are well aware that without Government support they could no longer collect any revenue at all; moreover, the money spent in the country by Government, in payment for labour and supplies, &c., has greatly added to the wealth of the people. An exception to the rule that Government in all cases takes half the taxes paid to a principal chief is made in favour of the Emir of Sokoto, in recognition of his exceptional position as "Serikin Muslimin." In the actual Emirate of Sokoto (exclusive of other districts in that Province), Government only receives 25 per cent. of the general or land tax, but the Jangali is divided equally. Each Resident will submit to the High Commissioner the names of the Emirs whom he considers should rank as "principal chiefs" for approval.

(b) *Amount to Office-holders.*

40. A portion of the sum assigned to the native administration, usually perhaps about 12 per cent. (viz., 6 per cent. of the whole tax), will be assigned to those office-holders who, as I have described in para. 22, have been selected for recognition by Government as necessary officials of the native administration. Such state officials will not, of course, be allowed to hold districts as well—their whole time being devoted to the duties of their office. The amount paid to those who do not hold any recognised office will be at the discretion of the Emir, and will be paid out of his own income. Residents should endeavour to see that these men are fairly treated, and have a sufficient subsistence until they have found some new occupation. Those who have become district headmen will, of course, be paid as such.

(c) *Amount of District Headmen.*

41. The proportion of the tax which the Emir should pay to the district headman will be settled by him in each case in consultation with the Resident. It should vary from 10 per cent. up to 25 per cent. as a maximum of the amount collected by the headman (inclusive of the payment to the village heads), according to his standing and reliability.* As the assessment and the assignment of each district to a headman is com-

* It may not seldom happen that a village C pays to a small town B, and that B, in turn, pays to a large town A, and that A pays to the Emir. In such a case, the Seriki of A would probably be the district headman, and a man of importance who would, perhaps, have the full 25% of which he would keep say 15%, and give say 6% to the chief of B, and 4% to the chief of C, of whom each had collected. The chiefs of B and C would rank as village heads, see § 28.

pleted, the Resident should fix, and obtain sanction for, the amount which he proposes to assign to the headman. I propose this maximum of 25 per cent. because even an independent district headman has no expenses of state (such as the payment to ex-office holders) which absorb a considerable part of a "principal chief's" income. I think it very desirable that the district headman should have official estates in accordance with the old custom of assigning estates to various offices, the profits of which accrue to the holder of the office during his tenure of it. In cases in which he was the original fief-holder, he will already hold such estates in virtue of some office; in other cases he should, when possible, be assigned the official estate pertaining to some office which has become obsolete, or other means should be found of assigning lands to the office. This will render him, to some extent, independent of, and supplement the income derivable from, his share of the tribute, but in this connection see para. 22.

A principal chief only gets on an average about 22 per cent. of the whole tax as his net income, and out of this he has to meet many expenses. The maximum of 25 per cent. to the district and village headmen should, therefore, never be exceeded in the case of those who pay to an Emir. But in the case of those minor Emirs who, though independent and separate "units of taxation," do not rank as principal chiefs, but as district heads (see paras. 23 and 39), the proportion assigned may, if necessary, be somewhat increased, and the 75 per cent. share of government decreased, but such cases should be rare. The amount alluded to in this paragraph as assigned to the district headman includes in all cases the share which he pays to the village heads.

(d) *Amount of Village Headmen.*

42. The amount assigned to village headmen (including Serikis of towns who, though heads of groups of villages, do not rank as district heads, and including rural maingwas, etc., vide para. 28), will be fixed by the Resident, the Emir, and the district headman, and should usually vary from 3 per cent. to 6 per cent. of the amount he collects.

SUMMARY OF APPORTIONMENT.

43. The proceeds of the land tax is therefore apportioned as follows in settled districts: If there is a principal chief, Government receives 50 per cent., the principal chief about 22 per cent., the district headmen about 17 per cent., the recognised office-holders about 6 per cent., and the village headmen about 5 per cent. If there is no principal chief and the district headman pays direct to Government, the shares would probably be Government 70 per cent., district head 22 per cent., village heads 8 per cent. In unsettled districts which have not been placed under a district headman, Government would receive 90 per cent. or 95 per cent., and the village chiefs from 5 per cent. to 10 per cent., according as they represented individual or groups of villages.

DIVISION OF JANGALI.

44. The cattle tax is divided on the same principles, Government taking half, the principal chief about 35 per cent., the head of the Ruga about 10 per cent., and the collectors about 5 per cent. If the principal chief is the owner of the herd he pays the tax in the latter capacity, but receives back his percentage of it as part of the income assigned to him in payment for the duties he performs as head of the native administration. If the herd is not included in the jurisdiction of a principal chief, but in that of an independent district headman, the shares would probably be, Government 75 per cent., district head 20 per cent., collectors 5 per cent. Since the office-holders, district heads (unless independent), and village heads receive no part of the Jangali, it is clear that this tax should be confined to the nomads alone as far as possible, and that all other herds should be included in the land (or general) tax.

REFUSAL OR NEGLECT TO PAY.

45. Refusal or neglect to pay any authorised tax can be dealt with under the new proclamation. A Government messenger, accompanied by one from the Emir, should first be sent to any town which is in arrears to call upon both the district and village headmen to show reason. Neglect will make the town liable to a fine, or increase in the amount payable for that year. Any such fine (or increase) must be shown in the

revenue returns under the head of fines, and not included in the proceeds of the tax. In order to uphold the prestige and authority of the Emir the fine may be imposed in his name, and he should be consulted regarding it—but it will be credited to revenue.* The district headman—in the case of the communities discussed in paragraph 56 *et seq.*, the responsible chief—will be held primarily accountable for neglect or refusal to pay the assessed tribute, and, if enquiry should show that he is to blame, he can be fined under the proclamation, or, if necessary, deprived of office (Memo. 7). If, however, the community as a whole refuses to pay, and the village chief (or district headman) is *bona fide* unable to collect it, the probability is that one of the other is not fit for his place, being lacking in influence, but the community must be dealt with as a whole. An immediate report will be made to the High Commissioner, who, if the case appears to demand such action and to be beyond the reach of conciliatory measures, may impose a fine upon the community, to be enforced, if necessary, by police coercion and the arrest of the ringleaders. In such a case the Resident may see fit to recommend the transfer of the village to a group under a stronger authority, or, if independent under the conditions described in para. 24, its inclusion under the local district headman or, if an independent pagan community, its inclusion, with the High Commissioner's concurrence, under a neighbouring Emirate. A judicious Resident, however, should be able to prevent matters coming to this pass. If tact is exercised in the original assessment, and it is just and fair, and if taxation is not prematurely imposed upon tribes not properly under control, I think such cases will rarely occur. The conditions, however, of the innumerable communities and native jurisdictions in this Protectorate vary, both as regards their own system of land tenure, and in the circumstances under which their chiefs now hold their appointments from the Suzerain, and their relations to each other have also undergone modification. It will therefore be advisable for Residents to refer any difficult cases to the High Commissioner.

GENERAL RESULTS.

46. The general result of these reforms, as they gradually become fully operative, will, I trust, be as follows:—

(a) A substantial revenue will be secured to native chiefs to replace the loss by slave raiding and slave trading, and the levies on traders which crushed trade. This (taking into consideration the expenses they have no longer to bear) will leave them sufficiently well off, and in future they will earn their salaries by discharging responsible duties for the Administration.

(b) A considerable and increasing revenue will be secured to Government, partly due to better organisation and economy in collection, partly to the greater universality of the collection, and partly to increased taxes on certain wealthy classes. And coin currency, with its immense influence for progress and trade, will be greatly promoted.

(c) The peasantry will be emancipated to an even greater extent in the true sense of the word than by the abolition of serfdom or domestic slavery. They will not be more heavily taxed than formerly, looking to their immunity from arbitrary exactions. Industry and personal initiative and effort will be encouraged instead of being the mark for spoliation.

(d) The absentee landlord will be abolished, and, in his place, the district headman will gradually assume a position as executive head of a district (instead of being an idle place-holder), which will facilitate the devolution of powers by the Emir, a matter of the first importance, apart from the question of taxation. The concentration of power in the hands of the Emir over-weights him with work if he is a just ruler, and, if unjust, increases opportunities for evil and oppression, which the Resident cannot control. By decentralisation, the prestige of the Emir should even be increased, while the power of supervision of the Resident can be made fully

* The question of enquiry into causes of non-payment, and the forfeiture by the principal chief of his share, is dealt with in Memo. 21, para. 7 (b), page 134.

effective, since he can refer to the district headman (especially when on tour in the district) without having to take every single question to the Emir. It will thus become more feasible for Government to rule through the native chiefs themselves, to control them, and to delegate power to them, with confidence that it cannot easily be abused.

(e) The old fief-holders, who had in many cases become the blood-suckers of the country, and had in consequence themselves greatly deteriorated, will now be saddled with the responsibilities due to their position, either as district headmen or as holders of executive offices at the capital. Those few who obtain neither post will become farmers or traders, and lead a life dignified by personal exertion. They have also their private estates (of which they will not be deprived), worked by their own retainers.

(f) The old tax collectors will either become salaried officers of Government, or farmers, &c., on their own account.

The previous tendency was to multiply these feudal chiefs by assigning a fief to any relative or favourite (especially to favourite slaves), which he might squeeze dry by his exactions. The tendency in future will be to limit the number of State officials and to abolish all unnecessary ones, since their salaries are derived from the Emir's share of the revenue. Finally, a large economy of revenue will be effected by the abolition of the various superfluous middlemen, who formerly (as far as we have data to go on) appear to have absorbed over 50 per cent. of the revenue before it reached the Emir's hands.

TIME OF COLLECTION.

47. As regards the time at which the taxes should be paid, I gather that the consensus of opinion is that there should be only one collection of the tribute tax in the year, viz.: immediately after the harvest, from the end of October to January. I have, however, a misgiving that if the Emir and chiefs thus obtain the whole of their income at one time, they will probably run short before the year is out, and be driven to illegal methods of acquiring sufficient to carry on with, or to asking loans from Government. The collection, however, will be spread over some months, and there seems no other possible time to collect it. This difficulty is also met by the system described in Memo. 21, § 7 (b). The Emir's custom was generally to leave the Zakka (grain) in the villages, and call for it as they required it. They would not thus receive the whole year's income at one time, but if a cash payment is substituted for grain, it will be difficult to retain the custom. In some provinces the Jangali seems to be collected at the end of the dry season, which would thus be at the opposite time of year to the general tribute. It should be collected, according to custom, either after the harvest, when the herds return to graze on the stubble, or at the end of the dry season, when the herds are concentrated at some waterside grazing ground.

MODE OF PAYMENT.

48. The tribute tax will be collected in the name of the Emir by the village headmen, and paid by them to the district headman, who will bring it to the Emir, at the capital, accompanied when possible by a representative from each village. If, however, the Emir's capital is very distant, a political officer may accept the tax at his *divisional* headquarters, or when on tour (being accompanied by the Emir's messenger), but the latter course will rarely be necessary or advisable. He can, of course, always collect from the communities who do not pay to a district headman (viz.: unsettled districts), when he is in their vicinity. When the tax is brought in by the district headmen, if the Emir is capable of keeping accounts, he will proceed as laid down in Memo. 21 § 7 (b), and will send all those who have paid in full to the Resident, who will give them a receipt on scarlet paper in Arabic and English, and note the fact in his tribute register, while the Emir on his part enters it in his "account book." If they have only paid in part, the Emir will give them a temporary receipt for the amount paid, but they should be encouraged to pay in full at one time so as to obtain their scarlet receipt, and save clerical work. (G.S.O. 3, § 9). The Emir will at the same time pay their shares to the district and village headmen, and before issuing the receipt the resident should ques-

tion them to satisfy himself that they have received their proper amounts, and that no unauthorised exactions have been made in excess of the sanctioned assessment. If the Emir is not capable of carrying out the work described in Memo. 21 § 7 (b)*, and has no capable mallah, or if, on the other hand, the tax is received by an Assistant Resident at his divisional headquarters or in the district itself, the Emir's share will be credited to him, and the shares of the district and village headmen will be paid direct by the political officer. When district headmen can read and write, they should be directed to bring in a written account of the amounts paid by each village. The ability to write should, therefore, be taken into consideration in the appointment of district headmen. The tribute, whether for the native chiefs or for Government, is all one tax, and no chief will ever be called upon, or allowed, to collect his share separately from that of Government. Residents will be careful to place on record in writing all transactions regarding the assessment and payment of tribute, so that their successors may have full knowledge of all pledges made, and all action taken.

PRECAUTIONS TO BE TAKEN.

49. District and village headmen will be told that, if any attempt should be made to levy tribute in excess of the assessment, they must at once inform the Resident, and the persons will be arrested, whether they are *bona fide* emissaries from a chief, or merely criminals engaged in the prevalent crime of personating a Government official. In the former case, enquiry will be made as to the chief who issued the orders, and he will be dealt with as a principal in the illegal act. In the latter case, the culprits will be dealt with under the Criminal Code. The Resident, by frequent enquiries from the people themselves, and by such other sources of information as are at his disposal, will ascertain that the tribute is properly collected by the district headman from each town (including his own) according to the assessment laid down.

URBAN TAXES UNDER FULANI.

50. The various taxes I have enumerated were levied on rural towns and villages, but, in the great capitals where the Emirs resided, the amounts of those levied on crafts and trades were so large and so varied that, in most cases, special officials were appointed to collect them, and there were also certain taxes special to these large cities. The Sokoto Gaisua was also to some extent a tax on the higher classes in the city. In some few cities (Katsena, Derazo, &c.) there seems to have been a house tax. The information I have collected is, however, so exceedingly diverse, and the customs in different cities so apparently conflicting, that it is impossible to deal with it here in detail.

MODE OF ASSESSING URBAN TAXES.

51. Broadly speaking, the principle which has been put forward in this Memo. is that the great multiplicity of taxes shall be merged into (a) the tribute tax, and (b) the Jangali, together with (c) the licences (on canoes, caravans, &c.) imposed by Government Proclamation. Dyers, blacksmiths, and other craftsmen pay through the tribute tax assessed on their town or village. How then are these to be assessed in the future in a capital city, where there is no local seriki or village or district headman to collect? It would be obviously unjust to allow all to go untaxed, while those in a neighbouring town pay; and these ancient taxes would probably be collected secretly, in spite of prohibition, and not allowed to lapse. The only solution, at present, seems to me to divide the city into quarters or wards (*Ungwa*), to place each under its *Mai-ungwa*, and to allow the ancient taxes to be levied as of old (but under clear and definite regulations), pending a better system, which it is premature to introduce until the scheme of rural taxation is fully organised and completed. The Resident should ascertain from the Emir (and verify his statements from other sources) the amount leviable by each *maiungwa* according to the number of dye pits, and craftsmen, or the market sellers, &c., in each quarter. He should draw up, in consultation with the Emir, an authorised scale of fees or dues to be paid by each, according to old custom, and when these have been approved by the High Commissioner, the Emir will promulgate them throughout the city, and let it be

widely known that any person from whom any fee or due not included in this list, or a fee or due in excess of the amount so authorised, had been demanded; would, on lodging a complaint, be able to obtain redress in the courts. The *maiungwa* would be allowed to appoint certain persons to collect the different dues, but would have to notify the persons so appointed to the Emir and the Resident, and no others would be allowed to collect. These persons (viz., the serikin kasua and serikin dillali, &c.) thus become salaried officials, collecting on behalf of the *Maiungwa* and receiving a fixed percentage. The sum so levied should, I propose, be divided in a similar way to that followed in the case of the land or general tax in rural districts, and it will be included as a part of that tax. Government will take half and the Emir about 25 per cent., leaving 20 per cent. to the *maiungwas*, and about 5 per cent. to the actual collectors from each craft or trade, &c. From his share the Emir will be responsible for meeting the cost of ordinary sanitation and street improvements, &c.

LIST OF CITY TAXES.

52. The following, in accordance with custom, are the fees and dues which I propose the *maiungwas* should be authorised to collect:—

(1.) On corn, and any other crop grown within the city walls, or close to the city, by cultivators not assessed under any town and living in the city, about a tenth of the value of the crop, with an additional 6d. per acre land rent—to be paid as a single tax. This tax seems in some places to have been levied as a tithe, in others as a poll-tax (or tax "per hoe") on everyone resident in the city who was engaged in agricultural work (2s. each at Zaria). Sometimes, both taxes seem to have been levied.

(2.) On dye-pits, say 1s. 6d. per pit per annum. The tax formerly varied from 1s. to 2s. 6d.

(3.) On butchers, 6d. to 1s. per ox slaughtered; 2d. to 4d. per sheep or goat, in addition to stall fees.

(4.) Vendors of any other kind of food (corn-sellers, &c.) and of ordinary merchandise, would pay fees through the serikin kasua or serikin dillali in proportion to their sales,—or fees for market stalls only, in the case of very small retail traders. Sellers and brewers of native liquor would, of course, be included. Vendors of camels, horses, and all other live stock, would be subject to a brokerage fee, not exceeding a twentieth of the value of the animal.

(5.) Cattle and other live stock kept in the city, 5 per cent. of value.

(6.) The taxes on skilled crafts (weavers, blacksmiths, glass-makers, tanners, &c.) should be, in proportion to their profits, at the same rates as in rural towns (collection, of course, being made by the *maiungwa*). The enforced presents on public festivals from these classes are, of course, abolished.

(7.) All such fancy taxes as the "Bori" (dancing girls), and the garin-yaki, or tax to support those away on a raid (4d. per head at Nassarawa), will be abolished. Those who pay for licences from Government would, of course, be exempt. As practically all the inhabitants of a city are engaged in trade, and are, therefore, taxed under one or other of the foregoing heads, or else pay caravan tolls, or have estates in rural districts which pay the land tax, there would be little or no necessity for a householder's tax, but it could be levied on any persons who are properly taxable, and do not fall under any of these classes.

DEFINITION OF CAPITAL CITY, AND GENERAL POLICY.

53. The names of the capitals which each Resident proposes should be treated in this way as separate entities (to be taxed as distinct units, apart from the general assessment of the Province) will be submitted to the High Commissioner for approval. Not more than one or two would be so named in any province. The tax is only applicable to towns of such a size as to make it practically impossible to assess them by the methods already described for agricultural villages. The object the Resident should have in view in assessing the amount which a capital city should pay, is that the incidence upon its inhabitants, in proportion to their wealth and taxable capacity, should be the

same as that of the rural districts. As a rule the chief town of every "principal chief" should be treated as a "capital city," and *per contra*, no Emir should rank as a "principal chief" whose chief town is not of sufficient size to be thus treated. By-and-by, when this urban tax has been fully organised, it may be found possible to abolish the caravan tolls, and to tax the caravan owners in their city of domicile. The actual salaries assigned to the native administration are exempt from taxation. I propose that capital cities shall alone be allowed to maintain their walls and gates, which are of real use in collecting tolls and in preventing the ingress and egress of robbers. (*see memo.* 9, § 15).

TAXES IN CANTONMENTS.

54. The taxes leviable in a cantonment bazaar are appropriated to municipal purposes if levied under the Cantonments Proclamation, but are assignable to revenue if levied under other proclamations (e.g., "Traders' Licence," "Native Liquor," &c.).

CAPITATION TAXES.

55. A capitation or poll-tax (misnamed a "hut tax," since it is levied upon each adult, and not on his house) is a class of taxation applicable only to the lowest forms of human society; where every individual is practically on the same level, and such forms of wealth as exist are held in communal ownership. But as soon as a tribe emerges from this primitive stage, and individual ownership of property is recognised, a capitation tax should develop into an income-tax, so that each individual may be called upon to pay in proportion to his wealth and means, and, in consequence, in proportion to the benefit he derives from the security afforded by Government. I concur, therefore, in a poll-tax only among the more savage and uncivilised pagan tribes, where it takes the place of the tribute in slaves, or of annual raids. Where it is necessary to levy the tribute by such means, women, who are (at least equally with men) the manual labourers of Africa, should, I think, be assessed. The tax should, I propose, be calculated upon every male between 14 and 50 years of age, and on every female between 20 and 40 years. The rate should be low—say, a maximum of 3s. per annum for men and 2s. for women. But in many tribes recently brought under control it may not be feasible to fix a higher rate than 6d. per adult. The tax would be subject to slight increase or decrease according to the wealth of the community. The Germans in the Kameruns levy 3s. per man or woman, I think, but each married woman (except the first wife, who is untaxed) is charged 2s. only. I think this is a good plan. It is very low as compared to most African Colonies.

CLASSIFICATION OF NON-FULANI COMMUNITIES.

56. So far, I have dealt with the system in force under Fulani rule, where it was able to enforce its authority (or under similar rule in Bornu). But a large part of this Protectorate is occupied by peoples who are not under such rule. I will divide these into three classes.

(1) Independent States, chiefly pagan, ruled over by a responsible chief of the same race as the people, and, presumably, able to enforce his orders—such as Boussa and Kiama in Borgu, Argungu in Sokoto, Gorgoram in West Bornu, and, perhaps, some of the states in Southern Muri, &c.

(2) Independent pagan tribes, mostly in a low stage of development, and owing allegiance to no single authority—such as the tribes in the Bassa, Nassarawa, Muri, and Yola Provinces, &c.

(3) Pagan communities which were once under Fulani rule, but have thrown off the yoke and refused to pay tribute—known as "Tawai."

TAXATION OF THE FIRST GROUP.

57. The conditions of the various states which may be included in the first group vary so considerably that it is difficult to lay down anything precise as regards their assessment. In most cases, I think, it will be found that there was no form of taxation, and that the chief's income was made up of fines imposed on offenders, of casual presents and donations, of imposts on passing caravans, and of the spoil acquired by constant raids, especially on traders. The new assessment cannot, therefore, be based on any

former system, since none existed. It must be made, therefore, on a calculation of wealth and population, and so, to some extent, on an income or even on a capitation basis such as I have described in para. 56. It should at first be light, and such as the community will readily accept. The tax is hardly as yet an individual one, or on individual property—but a village tribute tax, laid upon the community in proportion to their wealth and ability to contribute towards the cost of the administration. In this class may perhaps be included many small states (such as Muri, &c.), ruled by a Fulani chief but in which the system of Fulani rule and taxation was never developed, and which partake much more of the character of pagan states of this group than of Fulani Emirates. The proportion of the tribute to be credited to revenue and assigned to the head chief, respectively, should, I think, vary with the extent to which Government is able to utilise the chief as a responsible ruler and agent with effective authority over his people. Such chiefs as are in fact, as well as in name, rulers of considerable communities, such as Argungu, can be treated in the same way as Fulani Emirs, and half the tribute may be assigned to the native administration. There will probably be but few in this category, for, as a rule, the chief of such a community would rank at most as an independent district headman paying direct to Government, and with no office-holders to support (*vide* para. 41). There may be cases in which a chief in this group pays a definite subsidy to some Emir, but is otherwise independent. He would continue to pay this out of his share. Instances of such cases are, perhaps, the Kuta of Maregi and the chiefs of Jega and Gorgoram. The general principle should be that the chief should receive sufficient to maintain his rank and dignity, and not appreciably less than he did before the institution of the new system.

TAXATION OF THE SECOND AND THIRD GROUPS.

58. The wholly uncivilised pagan communities who have come under the control of the administration have, as a rule, shown themselves quite ready to pay the tribute recognised as due to a Suzerain, provided only that they shall not be compelled to pay it through an intermediary, but direct to the Resident. The unanimity of this request is an indication, alike of their belief in the just dealing of Government, and their detestation of the abuses of the Fulani system. The third class—the Tawai—are naturally loudest of all in this entreaty; some have even declared their intention of fighting to the last man rather than be placed under the Fulani, though perfectly willing to pay tribute to Government. Many have probably thrown off the yoke of the Fulani in the belief that Government would not allow the latter to re-assert their authority by force. The more uncivilised of these communities own allegiance to no chief at all, and each village is represented by its own headman, while even to him little obedience is accorded by the individuals of the community. In many cases, they are not even grouped into villages, and their huts are scattered broadcast over the hill-sides. These pagan communities will, according to their wish, be allowed to pay direct to Government, and the whole of the tribute will be credited to revenue, except such small sums as may in some cases be assigned to village headmen for collection. It will be the task of Residents to gradually group together contiguous villages, and make them pay their tax through an appointed chief, who will eventually occupy the same position as the "district headman" in more civilised communities, and may be given a small percentage for his trouble. In the evolution of the future, it may be possible to group these again under central chiefs, so as to bring them into the first class.

BASIS OF ASSESSMENT OF UNSETTLED TRIBES.

59. The basis of assessment of these communities is a very difficult matter upon which to lay down any rules, and it must necessarily be largely at the discretion of the Resident. He would be guided (1) by the amount paid by neighbouring communities of the same class, who are under the rule of the Fulani or the Shehu of Bornu; (2) by their wealth and the degree of civilization they have attained. He should see that the assessment is low, and well within their ability to pay, and it should be settled, if possible, in consultation with the village elders, and their concurrence obtained. In so far as he has to calculate

on a capitation basis for purposes of arriving at some rough total, the amount per adult should not exceed 3s. per annum as a maximum; or the taxable capacity of the village can, as Mr. Temple points out, be gauged by counting the number of the corn bins in each village, and roughly calculating its live stock, of which the tax should be from one-twentieth to one-tenth. The principles laid down in para. 56 will be borne in mind, and the tax will be laid on the community as a whole, and not on the individual. The actual collection will be in the hands of the village chiefs and elders, and will not be undertaken by Government officials.

IMPORTANCE OF PAGAN TRIBUTE.

60. Even though the collection of tribute from these communities who lack cohesion may at first seem to be more trouble than it is worth, I set great importance upon it; first, because its payment is considered by them all as an acknowledgment of British Suzerainty, involving an abstention from murdering traders and from general lawlessness, which they recognise as prohibited by Government; and, secondly, as the nucleus of a future revenue, on a basis of population, to which they will thus, from their earliest contact with Government, have become accustomed; and, lastly, because neighbouring tribes who pay are quick to recognise the injustice if others are not equally called upon to contribute. As these pagan tribes without exception, so far as I am aware, are admirable agriculturists, growing great quantities of field produce, and generally rich in flocks, the actual incidence of the tribute is so light as not to be felt, and, to avoid the trouble of transporting produce in kind, they will, I hope, soon learn to adopt currency. These tribes add not a little to the work of the Government, and should rightly be made to pay their share towards the revenue by a Government which claims to rule with equal laws alike for the civilised and uncivilised. Finally, the contact with officials which the payments necessitate, and the fact that it might sometimes take the form of labour on works to open up their country to development, involves a gradual civilising and progressive influence, which is of more value than the mere pecuniary amount of their contribution. But the utmost care will be taken not to involve Government in coercive measures by precipitate action.

COMMUNITIES INTERMEDIATE BETWEEN GROUPS.

61. Obviously, there will exist many grades varying between the wholly uncivilised savage and those communities who belong to the first group with a recognised chief and some form of law. It will be for Residents to decide and report as to the status in the scale which each community should at first occupy, with a corresponding gradation of the percentage payable to the native head of the community, from the ruler-less pagan of the mountain or forest who pays the whole, village by village, direct to Government, at the one extreme, to the comparatively civilised district which recognises and obeys a central authority who will share the tribute with Government, at the other. In this way, I hope that the tribute will form a palpable indication of the main object and duty of the administration, which is by constant effort to group communities under responsible heads, through which the Government may rule, and decentralise its functions, always endeavouring to push each community a stage further up the ladder of progress and of individual and communal responsibility.

CONDITIONS PECULIAR TO DIFFERENT PROVINCES.

62. I am fully aware that the principles laid down in this Memo. will need modification in some details to adapt them to the conditions of each Province. I note here a few of the exceptional circumstances, as far as I am aware of them, of different Provinces. In order to maintain uniformity of policy and legality of action, no Resident will make any departure from the instructions laid down in the body of this Memo.—as modified by the notes in the paragraph regarding his special Province—except with the prior concurrence of the High Commissioner, to whom all questions and difficulties should be referred as they arise. Residents are, I think, well aware that I am only too anxious to hear such difficulties, which enables me to keep in touch with their work and the conditions of their Province, and they will not hesitate, therefore, to refer them.

KANO.

63. In Kano proper, and to a greater or less extent in the other independent Emirates in this province (Katsena, Kazouri, Doura, Hadeija, Gummel, and Katagum), there are large walled towns, each governed by a Seriki. These may have two or three villages under them, but more usually, I understand, are singular. When the districts are made self-contained, a large group of these towns would be under one Hakimi, who would, of course, be the natural "district headman." But these Hakimis are very averse to residence outside the capital, and would probably prefer to become mere place-men of the Emir at the capital, whose substantial income would enable him to support many. To create an outsider as district headman in a country like Kano, so dominated by traditional usage and custom, would probably be difficult. If each Seriki becomes a district headman for his own town, the system becomes a *façade*, and, in such a case (as the Emir pointed out emphatically), the abolition of the *Jakada* removes one of the few checks on his extortion and oppression of the peasantry. If, on the other hand, the Hakimi himself goes out at the time of collection of the taxes only, it would be a violation of the principle laid down that *fiel*-holders, if non-resident, are to lose all connection with their former *fiels*. Moreover, the Emir maintains that they would be still more likely to extort from the people if they resided wholly in their districts, since, in this particular province, extortion by local chiefs and embezzlement of tribute exacted seems to have been a more marked feature than extortion by the *Jakada*—as was to be expected where the local chiefs were so powerful. The position is full of difficulty, and can, I think, best be met by a modification of the general rules in the following particulars. Firstly, I concur in a relaxation for the present of the rule regarding residence. Provided that the Hakimi goes out to the district to collect the taxes and remains there for some time, he might still be allowed to be "district headman." When he goes out he will not be allowed to take any *Jakadas* with him, and will be warned that any illegalities may lose him his office; and the political officer of the division will closely watch his actions. I think that, when such a chief realises that he is the executive head of a self-contained district instead of the over-lord of various scattered villages, there will be a very much greater inducement to him to remain in residence, and this can gradually be brought about by pressure on the part of the Resident, and his signification of approval towards those who comply. Secondly, I concur that the abolition of the *Jakada* should be gradual, taking district by district. In this the Emir concurs, and his own son, the Waziri, will be the first Hakimi to make the experiment of collecting the taxes himself (through the Serikis under him), and checking the amounts payable, as used formerly to be done by the *Jakada*. The Resident believes that, when once the taxes are assessed, there will be no difficulty in abolishing the *Jakada*. Where a local Seriki (and not a Hakimi) becomes a district headman, it will be the endeavour of the Resident to group many towns under him, so that the number of district headmen may not become excessive. Kano, at the present time, is fortunate in having an Emir who is, I believe, an able and strong man, as well as a hard worker. He is, I thoroughly believe, very loyal, and I am, therefore, most glad to introduce these reforms gradually with his assistance, and not to go beyond what he considers feasible and approves of; provided that the Resident also concurs. In the other Emirates of this Province it may, in the interests of justice, be necessary to introduce them more quickly.

Under the old system in Kano, and more especially in Katsena, "every crop and every trade was separately taxed and had its separate collector," and the taxes were collected in rotation (varying according to the crop each year), so that the districts were never free from demands. In the Kano district itself, there were no pagan areas at all. The *Jangali* in this province can easily be collected in the rains, when the herds come back to the villages. The amount hitherto has been paid in money at about 2s. 6d. to 5s. per animal, viz.:—about 8 per cent. *ad valorem* (Cargill). In Katsena, Gummel, and Hadeija the system seems to be much the same as at Kano, while at Katagum the *fiel*-holders reside on their estates. In the latter case the *fiel*-holder appears to take a much larger share than the Emir gets. The Serikin Azeri, for instance, only pays the Emir £20 out of £80, viz.:—

25 per cent., keeping 42 per cent. himself (Phillips). Probably, however, the Emir's share was greatly increased by various Gaisua, &c., and the new scheme of 50 per cent. each of all taxes to Government and to the native administration will be found to be not unfair; while the former fief-holders will be relieved of great expense by the abolition of the re-duplication of all the city offices in each district chief town. If, however, there should seem to be any hardship involved, the Resident will make a full representation of the case with his recommendations. Captain Phillips states that all the towns in Katagum and Hadeija paid a poll-tax of 2s. per compound, in addition to Zakka, Kurofi and plantation tax.

In this province the Emirs of Kano, Katsena, Hadeija, and Katagum would probably rank as "principal chiefs"; while Daura, Kazauri, and Gummel would be independent district headmen. Bilhari would be under Hadeija (and also probably Zango). Messau, Dumbun, and Chira are under Katagum. Machena will be included in Bornu. There are six administrative divisions, and no difficulty has been found in creating self-contained districts under headmen who were formerly Hakimi. There are large Jangali herds, but none graze in the Province.

SOKOTO.

61. Under the old régime, the Sokoto district (viz., that part of the Province under the immediate rule of the Serikin Muslimin) paid no taxes except the Zakka, which was, I am told, largely devoted to religious purposes. This district, being peopled almost entirely by Moslems, lived on the proceeds of the annual Gaisua from the other Emirates, and since this consisted chiefly of slaves, there are an unusual number of this class in the Province for the cultivation of the land and all forms of labour. When the other Emirs declined to continue the Gaisua, the Resident (Major Burdon) discussed the situation with the Seriki, who saw that it would be necessary to institute a general tax, based on the wealth and taxable capacity of each community, to replace the Gaisua. Of this, Government will only take one-fourth (from Sokoto proper), in recognition of the Emir's position as Serikin Muslimin. The Zakka will be incorporated in the general tax, but levied separately in order to preserve its traditional identity. The origin of the tax, under Koranic sanction, would seem to authorise its application to State purposes, as well as to religion and charity. The Jangali will be levied as elsewhere, and half assigned to the Seriki and half to Government, and the Kurdin Sarauta will also be equally shared. Any Gaisua which may be voluntarily offered by other Emirs to their religious head will not, of course, be shared by Government. The result will, I hope, be that Sokoto will cease to be the chief slave state, and the native administration will become self-supporting by a reasonable taxation, being relieved of the expenses of police control, and the chronic strain of the war with Argungu, which had lasted for 100 years but ceased with the British occupation. Gando had received no Gaisua from its subordinate Emirates for many years. It has no claim to the great influence exercised by Sokoto as Head of the Faith, and will be treated like any other Emirate. It can well afford to pay half tribute to Government, since it includes several wealthy trading centres.

The Emirs ranking as "principal chiefs" are (1) Sokoto (2) Gando (including Kalgo, Raha, and Jega), and (3) Argungu (including Kebbi). Each of these territories, including Sokoto, is already divided into districts under the rule of the Seriki of its most important town, who will become district headman. There are no independent pagan areas paying direct to Government, since all pagan tribes are included in one or other of these groups. There are various towns which answered direct to the Emir, or through a "Kofa." The mode of dealing with such towns has been described in para. 24.

The salaried office-holders at Sokoto are the Council of Six, who are paid out of the Emir's income. These would be "recognised" and paid out of revenue, but the Emir prefers to pay himself, and can well afford to do so since he receives a larger proportion of the tribute than any other Emir. There are four administrative divisions.

NUPE.

65. The "principal chiefs" in the Nupe Province are Bida, Lapai, Argaie, and Kuta—who pays a

Gaisua to Bida. The three latter might perhaps more properly rank as independent district headmen. In addition to these, there are many independent pagan communities (including most of the district to the west of the Kaduna) which pay through independent district headmen. There are three administrative divisions, and seven authorised office-holders at Bida.

MURI.

66. The Resident of Muri (Mr. Lobb) enumerates 8 districts (and 4 separate towns) which paid the Zakka, and may, therefore, be classed as Mohammedan, though their population is very mixed, and largely pagan. These form the most important part of the population of the Province. Muri (with capital at Jalingu) is the most powerful of them, and its Emir would rank as a "principal chief." The others, Sendridi, Gassol, Wurrio, Bakundi, Wase, Bantaji, and Yelwa, would rank as independent district headmen, paying direct to Government. The Zakka, as elsewhere, has lost its original significance, and it was in many cases retained by the local chiefs—no part of it reaching the Emir. These quasi-Fulani towns pay a varying Gaisua to their own chiefs (which is called "Tamu," when in lieu of Zakka). The payment of Gaisua or Gandu to Sokoto has long lapsed—Muri's last payment being seven years ago. There was no religious significance attached to this Gaisua, which was not usually a fixed amount nor obligatory. The regular Fulani assessment on the land and produce obtains throughout all the Mohammedan districts, and Gado was a lucrative source of income—of which the pagan Jukons had their counterpart in gifts from the heir. The taxes on crafts and on canoe-men, brewers, ferrymen, &c., appear never to have been imposed, but the saltmakers paid a special weekly tax to the local chiefs. Nor was the plantation tax on special crops levied, while the walled towns paid no taxes, even the farmers in them being exempt. The Kurdin Sarauta was demanded in addition to unlimited bribes and presents from candidates for office.

Pagan communities were not in most cases assessed, but had to supply whatever was asked of them, whether labour or produce, such as honey, fish, horses, yams, iron bars, and corn. These calls were very oppressive, and exceeded the taxation of the Mohammedan communities. The fief-holders did not reside on their estates, but the collectors do not appear to have carried on the same exactions as in the older Emirates. The people of the ancient kingdom of Jukon, though now for the most part subservient to different Mohammedan rulers, still retain some cohesion by annual religious offerings to their chief at Wukari, apart from the taxation imposed upon them by their rulers. Those still under Jukon chiefs pay various traditional dues, including half the ivory or a portion of the meat acquired in hunting (the Fulani also exacted the former). Formerly much revenue was derived by these chiefs from the confiscation of the property of persons accused of witchcraft.

The six towns of the salt district will probably form a group under a district headman. There are three pagan communities under important chiefs: (1) the Jukons under Wukari, (2) the Tilker, Jemper, and Rukjes under Tarkum, and (3) the Ankwes under Tsendon. Each of these chiefs will rank as a district headman paying direct to Government, and retaining together with their village headman about 25 per cent. of the taxes. Finally, there are the wholly uncivilised tribes of (1) the Yergum under the Chief of Lantang, (2) the Montoils under Lakul of Luam, (3) the Gukawa, and (4) the Munchis (not yet under control). The three former have only lately come under administrative control to some extent. Their head chiefs would rank as district headmen, taking perhaps 10 per cent. and paying the clan chiefs 4 per cent.

The province contains from 20 to 30 distinct political divisions, which will entail much direct supervision by the Government staff. There are three administrative divisions, and only one "principal chief," viz., the Emir of Muri. The numerous pagan and semi-pagan tribes in this Province pay their taxes through headmen, with the exception of the three unsettled tribes named above. The Munchis, together with the pagans in the extreme south-west, who constitute fully half the population of this Province, have not yet been brought under control, and are untaxed. There were no fief-holders or office-holders in the Muri Province,

and the Emir of Muri might, therefore, more properly rank only as a district headman.

ZARIA.

67. The old system in Zaria appears to be nearly identical with that of Kano, being inherited from the Habe. My remarks under Kano, therefore, apply largely to this Province, in regard to the fief-holder (here called Ubandaiki), the Jakada, and the local chiefs of large towns. The Resident, Captain Orr, sees no difficulty in merging the various taxes into one, including the Zakka, which has no religious meaning. The native organisation, however, is not so complete as at Kano, and, unlike that province, there are a great many independent pagan communities, such as the Gwari, Keje, Kedara, Jaba, etc. These wish to pay direct to Government, and protest against paying anything whatever to the Emir. The Emir of Zaria is the only "principal chief." The remaining chiefs will become district headmen. The various taxes on special crops were collected by special officials, to whom, it would appear, they were often, if not generally, farmed in return for an annual payment.* This system, of course, lent itself specially to extortion. It will cease now that these taxes are merged in the general tribute tax, or otherwise treated as explained in para. 30 *et seq.* The mode of levying them seems to have been somewhat unfair, every plantation being equally taxed irrespective of area.

There are three administrative divisions, and it is anticipated that all districts will be practically self-contained under headmen who were formerly fief-holders.

NASSARAWA.

68. There are no chiefs who should rank as "principal chiefs," in the Nassarawa Province; the five most important, viz., Nassarawa, Keffi, Lafia, Abuja, and Jemaan Darroro, should become district headmen. The whole of the district which formerly belonged to Zaria, but which was detached from that Emirate at the time of Capt. Maloney's death, is now divided under four district headmen. There are many independent pagan communities, mostly in a savage state, some of which have not as yet come under the control of the administration. There are seven independent tribes (or unsettled districts) who pay direct to Government, while the Munchis and Madas are not yet under control. The Province is divided into four administrative divisions. There are no office-holders who need to be retained.

BAUCHI.

69. In the Bauchi Province the two Emirs of Bauchi and Gombe rank as "principal chiefs." There are also numerous "unsettled" communities, some of whom pay through a district headman, like Ningi and Kana; others with less cohesion pay direct to Government.

The Resident reports that as many as 64 different languages are spoken in the Province, which indicates the number of distinct units to be dealt with. There are four administrative divisions.

BASSA.

70. The Bassa Province is entirely occupied by pagans of the wholly uncivilised class. They had, however, been accustomed, I understand, to pay some form of tribute, in the south to the Atta, and in the north to Nassarawa. The Resident recommends a low poll-tax. The whole of this Province appears to come under the class dealt with in para. 58, except a few Hausa settlements, where there are dyers, etc. These would, of course, be assessed in the usual way.

There are no "principal chiefs." Of the estimated population (525,140) about three-fifths (321,640) are not under control, and are untaxed (chiefly Okpotos and Munchis). The portion of the Province under control is divided into two administrative divisions.

YOLA.

71. In the Yola Province, the Emir of Yola is the only "principal chief." The rest of the Province is occupied by pagans, mostly in a low state of civilisation. They have not hitherto been taxed, owing to the famine, and some are not under control. There are three administrative divisions.

* Seriki Rafi for taxes on Onions, Cassava, and Sugar-cane pa'd £100
 " Taba " " Tobacco, £12 10 0
 " Rimi " " Dye-pits, £75 0 0

ILLORIN.

72. In Illorin the Fulani system was grafted on the Yoruba stock, with four chief "Baloguns" at the capital, and "Bales" in every town. Some of the latter may make good district headmen, and since the number of the former is so limited, they may become very useful at the capital as "Maiungwa" in charge of the four wards (Ungwa) of the city. The only "principal chief" is the Emir of Illorin; Pateji, Lafagi, and Shonga would become independent district headmen. In addition to the Baloguns there are a number of office-holders at the capital, who apparently owned fiefs. They will, as described in previous paragraphs, either become district headmen, or (with the exception of the few who may be retained and salaried) cease to exercise any power or functions. The chiefs of this Province were the first to experience the loss of income due to the advent of Europeans and the revolt of the peasantry. It was, in consequence, absolutely necessary to take steps as early as 1902 to enforce the tribute, and Government at first took a quarter only of this. There are three administrative divisions.

KABBA.

73. The Kabba Province has the wealthy city of Lokoja, which occupies a unique position, owing its origin to the advent of Europeans, and being under no Emir, with no Fulani system of office-holders, &c. It cannot, therefore, be dealt with precisely as described in paras. 51 and 52. The wealth accumulated by the exorbitant prices charged to Europeans for supplies, and its position at the junction of the Niger and Benue as an emporium of trade, should enable it to make a considerable contribution to the revenue. It has lately been organised under six chiefs, who form a "town council." The Resident proposed a poll-tax of 6s. per annum, excluding any person holding a Government licence. This, he estimated, would produce £2,800 per annum. The tax has since been assessed at 9s. per compound, which (assuming three adults to the compound on an average), would be a tax of 3s. per adult. This might, perhaps, be increased in the exceptional circumstances of this town. Two-thirds might probably be assigned to revenue, and the remainder to the support of the head chief and the Maiungwa (who, with the Alkali, will form the Council), and to the collectors. There are ten unsettled tribes who pay direct to Government, and the province has been divided into four administrative divisions.

The Resident (Capt. Larymore) states that the former system of taxation throughout the Province was that of a poll-tax. He proposes a levy of 3s. to 5s. per compound, which, he states, was the former amount. This he considers to be very low, since he calculates the profit derivable from cultivation to be £3 6s. 0d. per acre for yams, and higher for corn.

BORGU.

74. Except in the extreme north (Kaoji, &c.), the Province of Borgu, like Bassa, never came under Fulani rule, and there was no regular system of taxation. The assessment should be carried out on the lines laid down in paras. 56-58.

There are several independent Fulani settlements in the North, who at present are treated "extra-territorially" (para. 24). They should, when feasible, be included in the districts under local headmen. There are no "principal chiefs," the two most important, Kaima and Boussa, rank as independent headmen of districts only, since they have no office-holders to support, and practically no expenses whatever. There are three administrative divisions. The country is a very poor one, and very sparsely populated.

KONTAGORA.

75. In the Kontagora Province there is one "principal chief," the Emir of Kontagora, and five independent districts, viz., Kotonkoro, Kwiamba, Zunguma, Sakaba, and Yelwa, under district headmen, who pay direct to Government. No Gaisa to Sokoto was ever paid by this province, and there was little or no organisation of taxes since Kontagora was a great war chief, who wrested lands from his brother Moslems, and took toll in slaves from the pagans. His province was never one of the recognised Fulani Emirates. As a result, the whole country is depopulated and very poor, and the tribute is small. There are no independent pagan communities.

BORNU.

76. Mr. Hewby states that the main taxes in Bornu proper, as distinguished from those of tributary pagans, are as follows:—

(1.) The *Haku Binirum*, a tax on every householder. This was formerly not payable by the "Kariari" (slave villages), but is now being generally enforced. The Shehu has instituted this householder's tax at Kuka, on the same basis as the Binirum in rural districts. It may, therefore, be feasible to include the capital (the only large city of Bornu) in the general assessment, making no distinction between urban and rural populations. This tax has been paid from very early times, and is a graduated income tax, ranging from half a dollar to ten dollars. The Shehu expressed to me personally his great anxiety that this ancient form of taxation should not be altered. It is, of course, precisely what I wish to institute elsewhere, and its prior existence in Bornu will be a corresponding gain. (2.) The *Haku Sadaka* or *Ushr*. A tithe of the grain corresponding to Zakka, which should, I think, be merged in the general tax, and treated as proposed in para. 30. (3.) The *Hadama* or *Jumurgal*. A tax, apparently of 3 per cent., on the "Abore" (Fulani *Bororo*), viz., the nomad Fulani or Shuwa (Arab) herdsmen. This corresponds to Jangali, and the percentage and apportionment should be the same as in the Fulani States. (4.) The *Waria* (Gado), viz., death duties, under which the Shehu appears to receive a tenth of the property of any deceased free man who left male heirs, and a large proportion—from a quarter to the whole—in other cases, under various and intricate conditions. The collection and payment of this appears at present to be very precarious. (See para. 36.) The innumerable other taxes, which I have described in dealing with the Fulani States, do not appear (according to Mr. Hewby) to have been levied in Bornu (as is natural, since the taxation was on a basis of income)—except as regards dyers, hawkers, and hunters (one tusk to the Shehu, and a proportion of all meat). The dyers would now be assessed in the general Binirum or Income tax; the hawkers are for the most part included in the urban tax, i.e., the General tax; and the hunters are specially licensed by Government Proclamation.

The chaos into which Bornu was thrown by Rabeh's conquest and seven years of his rule, followed by three years of anarchy and exactions by the French, has dislocated the original organisation; but Mr. Hewby reports that he cannot find that there was really any uniform system of collection or definite scale of apportionment. As a temporary measure, in order to provide the Shehu and chiefs with an income, a poll-tax of one dollar was authorised in 1903, which was increased to two dollars in 1904, but the tax collectors accepted varying sums down to a third of a dollar from the poorer people. In addition to this, each taxpayer paid a quarter of a dollar to the tax collector and his assistants. The Shehu was able to supply a list of all towns with their tribute for this preliminary assessment, and the tax has been duly collected, for the most part by resident district headmen, and brought to the political officers, with lists of villages and the number of compounds in each. Government retained a share, but at first sent the greater part to the Shehu. The apportionment is now as proposed in para. 38 *et seq.* Mr. Howby advocated the retention of an intermediary between the district headman (Ajia) and the village headman (Dulama), viz., the "Lowan" or sub-district headman. I am opposed in principle to this, but it may be necessary in districts which are very large. Lowans, for purposes of apportionment of the tax, would be included as village headmen. Mr. Howard reported that there were 66 fief-holders in Bornu, of whom only 13 were resident on their estates, and that the system under which a fief-holder had a number of estates scattered over the country, rendering residence impossible, was prevalent in Bornu as in the Fulani Emirates. There is, however, no special difficulty in abolishing these fiefs and consolidating districts under Ajias, and in abolishing tax collectors other than village heads. The assessment of the graduated Binirum will gradually be checked and verified by the British staff.

The Shehu of Bornu is the only ruler who should rank as a "principal chief." The Mai Sale of Gorgoram, head of the Bedde tribe, should be an independent district headman, and so should the Chief of Nguru, since they have no office-holders and Court

entourage to maintain. Both these have hitherto been ranked as "principal chiefs." In addition to these, there are seven unsettled districts, viz., East, West, and Central Marghi, Fika, Kerri-berri, Bio, and the Pagans in the South-West. There are four administrative divisions. The official "Mother" and "Sister" of the Shehu and his brother have been allowed temporarily to retain small fiefs, yielding a gross income of £27. There will be about six authorised office-holders, including the Alkali, the Liman, and the Shettima-Kanuri.

PRINCIPLES TO BE APPLIED WITH DISCRETION.

77. The widely differing systems which have obtained in different provinces, and my endeavour not only to discuss them as fully as possible and to show how they may be adapted to the new scheme, but also to set out the reasons of each proposal I have made, have unavoidably extended this memo. to a great length. The chief aim and object in view is to introduce some uniformity of system throughout the Protectorate, at the cost of as few changes as possible. I look, therefore, to Residents to do their utmost to give effect to the principles, while I trust them to do nothing they may consider injudicious and calculated to cause serious dissatisfaction among the chiefs and people. Should they anticipate such a result from any particular course of action, they will at once refer to me, and defer the action which they fear might produce it.

When the actual concrete results of the scheme are submitted for consideration in the forms laid down in memo. 21, it will be possible to make such adjustments and modifications as may be necessary to promote uniformity throughout the Protectorate, as regards incomes of Emurs, incidence on settled or unsettled districts, numbers of salaried officials allowed to each "principal chief" and their emoluments, etc., etc. It is probable that the canoe tax will shortly be included in the general tax, and since this is shared by the native administration, this step will considerably increase the incomes of native chiefs of riverain Provinces. I look forward, as I have said, to converting the percentages now given to the native administration into fixed salaries, when the scheme has become fully effective and organised, and difficulties of realisation have been reduced. Residents should therefore make no pledges of finality, though at the same time they should impress upon the chiefs the desire of Government to treat them fairly and to enable them to maintain their position, provided that they earn it by undertaking their share of the administration of the country and loyally assisting the Government.

Finally, I would impress upon all political officers that the introduction of these reforms and the assessment of villages effect very much more than the mere collection of revenue. It brings the political officer into touch with his people, and gives him a close and intimate knowledge of each town and village. It necessitates his being constantly on tour, and the visit to each village should simultaneously involve the settlement of ancient disputes, the administration of justice, the collection of valuable statistics as to population, agriculture, and industries, and, above all, should enable the Resident to explain to each petty chief the policy of Government, the obligation to cease from lawless acts, the allegiance owed to their native chiefs (and the mutual co-operation between the Government and those chiefs), and the appeal against persons practising extortion and personation, etc. I regard, therefore, an officer who has taken pains and achieved success in the assessment of his Province as a most valuable officer; but not primarily because he has secured a large revenue. The primary test of a Resident's value and fitness for promotion is the content and satisfaction prevailing in his Province, the absence of crimes of violence, and the efficiency of the chiefs and native courts. The due payment of the authorised tribute to their native chiefs (of which Government takes a share) is an essential part of the proper administration of the Province, involving the contentment of the chiefs on the one hand, and indicating the settlement of the population on the other hand.

F. D. LUGARD,
High Commissioner.

April, 1905.

Revised September, 1906.

MEMO. No. 16.—TITLES TO LAND.

CROWN LANDS.

1. The Government of Northern Nigeria acquired the sole and absolute title to certain lands, on the transfer from the late Chartered Company; they are set out in the schedule to Proclamation 16 of 1902. These lands were stated by the Royal Niger Company to have been privately acquired, and held by them in their private right as a commercial company outside their functions of administration as a chartered company. They are very extensive, including, amongst others, a mile inland from either bank of the Niger from the Southern Nigeria frontier to Lokoja. The justification of the large sum paid by the Imperial Government to the Company at the time of their surrender of their charter was probably considered by His Majesty's Government to consist largely in the acquisition of these extensive land rights.

These lands are, by presumption, the absolute property of the Government, though, as a matter of fact, native towns are situated upon them, the inhabitants of which, so far as I am aware, have no knowledge that their rights in the land they occupy have ever been alienated. Since, moreover, the greater part are situated in pagan districts, where rights in the land are communal, it is doubtful whether it was a point of fact alienable by any chief under treaty. It must, however, in fairness to the Company, be borne in mind that the treaties under which they claimed to have acquired these lands, and also mineral rights, were often (probably almost always) the same by which they had acquired such political control as formed the basis of our claim to what is now Northern Nigeria, as opposed to the claims of foreign Powers.

In addition to the lands thus theoretically acquired, certain other lands have been taken up for public purposes by the Government, and have become Crown Lands, such as the site of the cantonment at Zungeru, and such part of Lokoja as was not already Crown land, and the sites of the various provincial headquarters, &c. With the question of the formalities of titles to such lands, and the delineation of their superficial areas, I will deal presently.

PUBLIC LANDS.

2. Apart from Crown lands—which may be described as the private property of the Government—there are certain lands the ultimate title to which is vested in Government by right of conquest, a right to which legal sanction was given by Proclamation 13 of 1902 (now incorporated with No. 8 of 1900). These lands are called "public lands." They became such owing to the fact that the Fulani, when they conquered the country, assumed the ultimate title to all land, and when, therefore, a Fulani chief was conquered or deposed by Government, the title vested in him lapsed to Government. The procedure laid down in the proclamation has been given due effect to by means of Letters of Appointment to each Emir installed by the Government, in which this ultimate title to the land was expressly reserved.

DIFFERENCE BETWEEN CROWN AND PUBLIC LANDS.

3. In my view, the difference between Crown lands and public lands may be described thus. Crown lands are the private property of Government, and any person entering or building upon them commits a trespass. Public lands are held administratively by the Government, which in no way interferes with private titles, transfers, or sales between individuals, but Government has the right at any time to take up any public land for public purposes, and Government can alone grant a title to a non-native or a native who is not a native of the Protectorate, for any public land. Money accruing from rentals and sales to persons other than natives of the Protectorate forms part of the revenue of the Protectorate. For brevity's sake I will use the term "Alien" in this memo, to signify a native who is not a native of the Protectorate.

RIGHTS OF GOVERNMENT IN PUBLIC LANDS.

4. The Government has, in my opinion, the right to go still further, and to claim the right of disposal of all such land as is included in a district declared to be public lands, provided that it is not in actual occupation, and cannot be proved to be the private property of an individual. In this latter case Government could not alienate it, for conquest by a civilised Government does not confer the right to confiscate private property. This right of disposing of waste

lands is one which, in practice, the Government only rarely exercises, as in the case of denying permission to settle to freed slaves. As a rule, the disposal of waste lands is delegated by the Government to the Emir or chief who has been nominated to succeed the deposed ruler.

Thus, in practice, Government assumes the right in the case of public lands: (a) To take up any land required for public purposes without purchase, though, if private and individual rights were invaded, compensation would be awarded; (b) to assume the position of landlord in respect of all non-natives and aliens who may desire to acquire title in a district declared to be public lands. When, therefore, the Government assumed the onerous and costly task of administering this Protectorate, it secured as a source of revenue these two assets—the right of granting licences to exploit minerals, and the right of selling or leasing land to non-natives and aliens. The day will, no doubt, come when the value of this provision will be fully appreciated.

COMMUNAL LANDS.

5. Practically all the territory under the Fulani rule is now public lands. There remains the enormous area which is occupied by pagans. I have provided no legal instrument by which to formally legitimise to a hypercritical legal mind the *de facto* consequences of conquest in this case. In the case of the Fulani we were dealing with acute intellects, and it was the straightforward and honourable course to declare to them publicly and frankly the consequences which resulted from conquest. But I have a strong dislike to going through formulæ—be they treaties or public proclamations—which are not understood by the parties concerned, are inapplicable to their conditions, and cannot be promulgated through any central authority or channel of general information. Thus, if a pagan tribe, consisting of a congeries of little hamlets, each under a wholly independent chief, is conquered, it is of no use declaring that Government, in future, claims an ultimate right in the land. The phrases would convey no meaning to them, the land is, presumably, held in communal tenure, and the owners (so far as they can be called owners, who acquire to-day and are ousted to-morrow by a stronger tribe, and have no clear idea of ownership, whether individual or communal) are only partly present and are unconcerned. The rights given by conquest are well understood by primitive folk, and, since the Government does not desire to expropriate the owner of a single field unless it be for some public need such as a road, railway, or station, and there are limitless areas around equally good for cultivation, the necessity of any legal formality or public declaration does not appear to me to exist at present. The more advanced pagan communities, such as Boussa and Kama in Borgu, Argunga and Jega in Sokoto, etc., form exceptions, and, since they have a paramount chief, can be dealt with under the terms of the proclamation.

GOVERNMENT RIGHTS IN LANDS OF CONQUERED PAGANS.

6. It follows that in the case of pagan tribes which have submitted in the face of superior force, or have been conquered in warfare, the Government assumes the same rights as regards lands which it does in a Fulani Emirate, that is to say, it reserves to itself the right to grant titles to land to non-natives and aliens, and to take up land for public purposes, but does not otherwise interfere with the ownership or transfer of lands between natives of the Protectorate. Money paid for sales to, or rentals by, non-natives and aliens accrues to the public revenue—but in this case, for the reasons I have given, no public announcement based on a legal statute is made.

UNCONQUERED LANDS.

7. Finally, there are the lands of Emirs who have not been deposed or conquered, and of pagans who have welcomed the Government without hostility. In these cases the submission may be due to the fact that the chief or tribe did not consider themselves strong enough to oppose the advent of British rule and yielded to circumstances they could not control, or it may be that they welcomed the British friendship as a protection against aggressive neighbours. It seems clear that, in such cases, the Government would be justified in assuming the same rights as in the districts already discussed, since they are only such as may be rightly exercised by a Suzerain, and do not involve confiscation of private property; but some

difference in procedure would be necessary (*vide* para. 9), and the wishes of the chiefs and people would be consulted before any waste lands were sold or leased to non-natives or aliens.

SALE OR LEASE OF PRIVATE LANDS BY NATIVES.

8. The question arises whether a native may sell or lease private property to a person who is not a native of the Protectorate within an area declared to be public lands, as, for instance, houses and compounds in a native city, where individual titles are well established, and the vendor or lessor would, in all probability, need the sale or rental money to find himself another property.

The proclamation is clear and precise that all rentals, &c., of public lands shall form part of the public revenue (Sec. 8), and, moreover, I think it would be inadvisable to ignore the general principle that Government alone can be the landlord of a non-native or a native of another country. In order, however, to avoid the consequent confiscation of private property, the lease can be drawn so as to give compensation to the private owner, and this compensation would consist of the bulk of the rental paid by the lessee, Government only retaining such a nominal sum as may safeguard its theoretical title, and give effect to the principle I have explained.

PROCEDURE IN SALES AND LEASES.

(a) *Crown Lands.*

9. Crown lands can be sold or leased with the consent of the High Commissioner by means of the usual legal instrument (Lease Form 1); they require no special consideration.

(b) *Other Lands.*

When, however, a person who is not a native of the Protectorate desires to acquire a lease of any land which is not Crown land, he must, in accordance with Proclamation 8 of 1900, obtain the sanction of the High Commissioner, and, if he occupies the land without such sanction, he is liable to a fine of £100, and to a daily fine of £10 for every day he remains in occupation after fourteen days have elapsed from the time he has been notified to quit. The procedure in the case of application for a lease of land (other than Crown lands) by a non-native or alien, or, in the case of the appropriation of land for Government purposes, should be as follows:—The Resident having satisfied himself that no injury will be done to private interests, or, if there be any such injury, having assessed a reasonable compensation, will report the circumstances, and, at the same time, inform the High Commissioner whether, in his opinion, there is any political or other reason (especially in the case of missions) against the occupation of the site in question by the applicants, who will state the purpose for which they intend to use it. In the case of proposed mission stations, the Resident will report whether or not the chiefs and people of the locality have any objection to the establishment of a mission among them. If the High Commissioner's sanction is given, a notification in Arabic and English will be sent to the Emir or native chief, if he can read and write (if not, the notification will be made verbally), that Government intends taking up the area in question for Government purposes, or for lease to a non-native or alien, as the case may be. The Emir's acknowledgment of this notification (or certified record of the proceedings if verbal) should be filed with the papers. If the land has not been declared public land, his formal concurrence will be obtained. The Resident will, at the same time, inform the High Commissioner whether any compensation to cultivators or others appears necessary. A lease will then be drawn up (on Lease Form 2), and will be signed by the High Commissioner and the applicant. The grantor will, of course, be Government.

TERMS OF LONG LEASES.

10. The terms on which land is leased in the Protectorate depend, of course, entirely upon its situation. All land in cantonments is Crown land, and the most valuable sites at Lokoja are those which front the Niger where steamers can approach the bank. As these frontages are extremely limited owing to rocks, the rent charged for a long lease has been fixed at £1 per lineal yard of frontage with a depth of 100 yards. Eligible sites for shops, banks, &c., facing the main road, with a frontage of about 50 yards and a depth of 50 to 70 yards, have been leased for £20 or £25.

At Zungeru, the valuable sites are those fronting the railway, which have been leased at similar rates, as also lands at Barijuko, where the railway joins the navigable river. These rates appear somewhat high, but it must be remembered that the value of the land has been enhanced by the expenditure of Government capital, and that the leases are for 21 years. Probably long before the expiration of these leases the rentals will appear very small. Leases of land, the value of which has not been directly enhanced by Government expenditure, have been granted on merely nominal terms varying from £5 to £10 for a plot of the ordinary dimensions of a trading station, the lowest rate being charged for areas in hitherto undeveloped districts—such as on the Gongola and Gurara rivers—the rather higher rate being reserved for stations on the frequented Niger and Benue rivers.

SCALE.

11. The following is the existing scale of charges to lessees of lands, subject to any modification approved by the High Commissioner in particular cases:—

(1.) *Building leases* of 21 years and over with option of renewal at rate to be then agreed upon:—

(a) Land having a frontage on the Niger free of rocks at Lokoja, £1 per yard with 100 yards depth. Any extra depth to be paid for by acreage as in (b).

(b) Land within the cantonments of Lokoja and Zungeru, unless falling under clauses (a) or (c), £20 per acre.

(c) Land within 600 yards of the railway station at Zungeru, Barijuko, Railhead, or the Kaduna bridge, £25 per acre.

(d) Land within one mile of the railway, but not as in (c), £10 per acre.

(e) Land fronting the Niger or Benue within a mile of a Government station, or 10 miles of an existing factory, £5 for every 50 yards frontage (with 100 yards depth), or £5 per acre.

(f) Land fronting the Niger and Benue, not as in (e), £1 per 50 yards (with 100 yards depth), or £1 per acre.

(g) Land fronting any other river, or public Government road, 10s. per 50 yards (with 100 yards depth), or 10s. per acre.

Leases for a shorter period would be on smaller rentals.

(2.) *Agricultural Holdings*—not in cantonments, nor for trade buildings. Conditions as in Southern Nigeria, viz.:—

If within one mile of a Government station or railway station, 1s. 6d. per acre, otherwise 1s. per acre.

Missions may be granted special terms.

TERMS OF SHORT LEASES.

12. Plots of land in cantonments at Lokoja have been set apart for natives and non-natives on two-year leases, with the obligation to build thereon a house worth £20. The rental is about £4 per annum for an area 20 by 150 yards, and larger or smaller plots are leased proportionately; compensation for buildings will be paid by Government if the lease is terminated within 10 years. In the Zungeru cantonment, smaller holdings, at a proportionate rental and on similar conditions, have been assigned to those who desire to live in the native quarter. The detailed conditions of such leases are set out in para. 24 of Memo. 20.*

DUTIES OF RESIDENTS.

13. It is very important that Residents should have a full knowledge of, and possess plans of, all Crown lands in their Provinces, and that they should submit for registration, or, if already registered, should retain copies of, the leases of all lands leased to non-natives or aliens. The law regarding land registration is contained in Proclamation 10 of 1901 (*vide* also Sec. 3 of Proclamation 16 of 1902). A Resident will never allow any non-native to occupy any land in his Province, unless and until he can produce a properly executed lease or deed of sale, or has made an application in due form, and has received authority from the High Commissioner to occupy the land in question pending completion of documents. All applications must be made through the Resident of the province (or, in the case of cantonments, through the cantonment magistrate); and

* Not printed here.

will be submitted with his observations, as described in para. 9. Residents will also submit to the High Commissioner plans of any land they may consider it advisable to declare to be Crown lands—such as the sites occupied by Government stations, transport depôts, lands within 50 yards of any road made under the Roads Proclamation (*vide* Proclamation 9 of 1903, Sec. 2), or along any railway, etc., which are not already declared as Crown lands and registered. Documents concerning title to lands should be done in duplicate, one copy will be deposited in the Government House safe, and one retained by the Resident. A copy will be made by the secretary for purposes of reference. The notification to the Emir of any public lands declared to be Crown lands, or the concurrence and assent of the chiefs and people when the lands so appropriated have not been declared to be public lands, will form necessary attachments to the plans and other documents for registration and file. These will also include the High Commissioner's formal approval.

NATURE OF APPLICATIONS.

14. The High Commissioner is most anxious to encourage traders to open depôts in the Protectorate, and leases for sites for such depôts will be granted on easy terms, since they are usually of small area. Leases to missions, when approved, have usually been granted on nominal terms, so long as no profit is made by trading. Leases for experimental farms, or for cotton or other experimental cultures, would also be granted on advantageous terms, provided that extended frontage on a railway is not demanded. A condition of the lease in these cases would be that, unless the lessee carried out the cultivation for which he had acquired the land, the title would lapse. At least a quarter of the land leased for such agricultural work should be brought under cultivation in the first year, or if the lease be for ranching, ostrich farming, or horse or mule breeding, an adequate stock should be placed on the land in the same period, and a Government official would have a right of inspection. It would not be allowable in the terms of the lease to build on the land (or to sub-let it for building purposes), except for the residences of the persons actually engaged in the industry. Transfer of leases, or the sub-letting of a whole or a part, may only be carried out with the sanction of the High Commissioner.

NATIVE LANDS.

15. Lands around Kano, and possibly elsewhere, are stated to be rented to occupiers by owners at an average rate of 3s. 4d. per "farm." In my opinion, the ownership of land by the upper classes is a most useful principle to inculcate, so that the native rulers and alkalís, who devote their time to executive and administrative work, may be provided with a private income to supplement their official salaries, and replace the wealth which formerly consisted in ownership of slaves. But while encouraging the principle of private ownership in estates, Residents should be careful to make the peasantry (and indeed all classes) clearly understand the distinction between rent paid to a landlord, and taxes paid to the State. (See Memo. 5, para. 22.)

F. D. LUGARD,
High Commissioner.

March, 1906.
Revised Sept., 1906.

MEMO. No. 21.—NATIVE REVENUE PROCLAMATION.

SANCTION OF ASSESSMENT.

1. The "Native Revenue Proclamation," No. 2 of 1906, has repealed the former "Land Revenue Proclamation," and has given legal sanction to the system of taxation sketched in Memo. 5, and the means of enforcing it.* The proclamation enacts that the assess-

* In my covering despatch to the Secretary of State I thus described the object of the new Proclamation: "The essential difference between this Proclamation and the one it supersedes is that the former Proclamation was limited to land and produce (including live stock), whereas this includes all forms of taxation known to the country, and makes any taxation not authorised by it illegal and punishable. While the former Proclamation was only a tentative one, with the object of securing to the revenue a certain proportion of the taxes on land and produce levied by the native chiefs, and did not in any way touch the nature of those taxes nor restrict the power of chiefs as to the extent to which they might transmit over and exact from the peasantry; the object of the present Proclamation is to lay down limits to taxation by native chiefs, to define and legalise the various taxes, and to place them under the supervision of the Administration, and at the same time to assign an adequate portion of the revenue so collected to Government."

ment proposed by Residents must be approved by the High Commissioner before it becomes legally operative; and that the shares assigned to officials of the native administration must likewise be sanctioned. The approval is clearly intended to refer to the general basis, and its application to the general circumstances of the Province, while the detailed application to the case of each town rests with the Resident and his staff. It is, at the same time, necessary that the High Commissioner shall be kept fully in touch with what is being done in the matter of taxation in each Province, the incidence upon the individual, the methods of realising tribute in kind, etc., in order that he may, on the one hand, be able to make any modifications he may consider necessary, promote uniformity of method and of incidence where conditions are similar, and, generally speaking, may be in possession of the information which the heavy responsibility that rests upon him demands, and, on the other hand, may be in a position to reply to any question asked by the Secretary of State, and able to frame his annual report on this very important subject.

FORM TO BE USED.

2. In order to meet these requirements and to obtain the sanction required by law, Residents will submit to the High Commissioner a summary of their Tribute Register on the forms W and X attached.† These forms will be submitted in duplicate for each tax-paying unit or administrative division (whichever is the smaller), as it is completed. One copy will be signed by the High Commissioner and returned to the Province, where it will be placed in a guard-book, and will form the authority for the assessment and division of the taxation of the unit or division and the basis of the Treasurer's and Auditor's examination of Tribute accounts. The other copy will be retained in the High Commissioner's Office. Erasures and alterations in these forms will be avoided, and, when they occur, must be initialled by the Resident. The High Commissioner will also initial them in the copy returned to the Province. Alterations subsequently proposed will be submitted annually as soon as possible after March 31st, and, when approved, the original assessment in the Tribute Register will be altered in red ink to correspond. In order to supply the information required for the other purposes I have alluded to, and to enable a compilation to be made for the whole Protectorate, a report dealing with the points noted in para. 10 together with the other forms attached—Y and Z—will be submitted simultaneously with the original assessment forms, and thereafter annually, as soon as possible after March 31st. A skeleton map on a scale of 1:1,000,000 showing the different administrative "divisions," headmen's "districts," and also approximate boundaries of Emirates and of tribes, will also be sent in with the assessment sheets, and from time to time afterwards as alterations are made (Memo. 5, paras. 23 and 26 (c)). Forms W and X are not required annually, but Forms Y and Z are required for the High Commissioner's annual report each year. They must show the whole province, whether the assessment is a merely temporary one, and is being revised, or whether it is finally sanctioned. Even if a part of the province is not under administrative control at all, and pays no tax, it will be entered and its estimated population stated, in order that the totals of population in these returns may form the data of the census return of the Protectorate.

DESCRIPTION OF FORMS.

(a) Assessment Summary.

3. The specimen of Form W attached is, of course, only a model. Separate sheets will be used, as directed in para. 2, for each unit or administrative division, and unsettled districts, whether they form the whole or part of a division, will be shown on separate sheets. Divisions (under an Assistant Resident) and districts (under a headman) must not be confused. (Memo. 5, para. 23.) The first column of Form W gives the name of each "unit of taxation" which pays its taxes through a single "principal chief" or independent district headman. In the case of unsettled pagans, the unit may be shown as a tribe, or section of a tribe, assessed as a unit, even though paying through a number of petty village chiefs direct to the Resident. In

† The forms referred to are not printed here.

this case, however, it is not properly speaking a unit, and the fact should be noted in the column of remarks. The various Emirs and the first class pagan chiefs are such units through whom the native administration is paid. There may be only one or a part of one, or there may be several in the administrative division under an Assistant Resident. Independent towns, such as are described in Memo. 5, para. 24, are in reality separate units, and their number and assessment, and the division of the tax, etc., will be shown as a single entry at the foot of the unit in which they are situated. Column 2 gives the names of the district headmen, who divide a tax-paying unit between them (or the whole of a unit may be under one district headman), and against each in column 3 is shown the total number of towns in his district. He will be given a list of these with their authorised assessment in Arabic. Column 4 shows the gross assessment under the general tax, made up of, or based upon, the ancient taxes, or, in the case of an unsettled pagan tribe, the gross capitation or income tax which has been assessed upon it. (The detail as to how this has been arrived at appears in the Tribute Register.) The next column shows the percentage and the actual amount assigned to revenue, viz., usually 50 per cent. to 75 per cent. (see below) in settled districts, and up to 80 per cent. or 90 per cent. among unsettled tribes who have no native administration to collect and share it with Government. In the latter case, the usual share to the village headman is the only deduction, and the shares which would accrue to the principal chief and district headman lapse to Government. The next group of columns show the amount paid through the principal chief or independent district head to the native administration—usually 50 per cent. if the unit is under a principal chief, and 75 per cent. if under an independent chief ranking as a district headman only. It is divided into (A) the net personal income of the principal chief, about 22 per cent. of the whole, which is augmented as shown in Form Z from other sources, (B) the amount he pays to authorised office-holders, about 6 per cent.—exclusive, of course, of his own head slaves and entourage, and of any unauthorised office-holders and ex-hief-holders whom he pays, and (C) the amount he hands over to the district heads, about 22 per cent., which they again share with village heads. The amounts paid by district heads to village headmen, *matungwa*, etc., of course vary—the *Seriki* of a big town perhaps sharing equally with the district head, while the head of a small hamlet might get as little as 3 per cent. or 4 per cent. A separate sheet must be adapted for showing the urban tax—the column “district head” will be altered to “*matungwa*,” and “village head” to “collectors.” The seventh column shows the population with a view to arriving at the incidence per adult (columns 8 and 9). Column 10 shows the name of each “principal chief” and his recognised office-holders (who receive the amount shown under column 6). These will be inserted opposite the unit over which the chief has control. The totals of the columns will be added at the foot of each complete unit.

In all cases the amount assigned to district and village headmen will vary according to the amount of work to be done by them, and especially in unsettled districts in proportion as they approximate to the conditions of a settled district, and pay through fewer chiefs with larger groups of villages.

(b) *Jangali*.

4. Form X deals with the *Jangali* tax. In the third column is entered the mode of payment, viz., the rate per head or the 5 per cent., according to which system is in vogue. The fourth column shows the value received, and the fifth the name of the principal chief or independent district head to whom a share is assigned. The remaining columns show the division of the tax, in accordance with Memo. 5, para. 44. If the herd is in the jurisdiction of a principal chief Government takes 50 per cent., if in that of an independent district head 75 per cent. If there is no responsible head to the *Ruga*, his share would lapse to Government, and, as in the general tax, payment should only be made to such heads and collectors as render an equivalent service. In *Bornu*, the chiefs of the nomad *Shuwa* Arabs, and nomad *Fulani*, would probably receive larger shares, but in no case should the Government share be less than

50 per cent. With regard to the inclusion of semi-nomads, or large detached herds of pagan tribes in the *Jangali* tax, see Memo. 5, para. 31. Collectors of *Jangali* will not be allowed to live at free cost on villages, but will pay for their requirements. The *Jangali* assessment, unlike the general tribute, is a variable tax, since the number of animals in a herd must vary each year, but, if this variation is only normal and not the result of an epizootic outbreak, or of the inclusion of new herds, the form need not be re-submitted annually.

ANNUAL ESTIMATES SEPARATE FROM ANNUAL ASSESSMENT.

5. It would seem hardly necessary to point out that the annual estimate of revenue submitted by a Resident (Memo. 2, para. 27 (4) and G.S.O., 3, § 5 and 6)*, though based upon these returns is wholly separate from them, but the mistake has in some cases been made. It may be that the estimate will fall short of the normal and sanctioned assessment, either because of famine or other cause of remission, or because the Resident anticipates that there may be isolated towns who will fail to pay (consequential fines are credited to “fines” and not to tribute), or because there may be delay in realisation. On the other hand, the estimate may exceed the normal assessment, because the Resident anticipates that a new district will be brought under control or re-assessed more fully during the year, or because there are unrealised balances in kind from the previous year.

ANNUAL SUMMARIES.

6. Forms Y and Z are for the most part summaries compiled from Forms X and W. If the average proportions which I have assumed in the specimen Form Z are approximately such as would occur in practice, the result shows that, in the settled districts of a province, the total tribute from which amounted to £27,000 under the proclamation, £3,800 would be paid to revenue and £3,200 to the native administration. Of this the principal chiefs would receive £1,272, to which may probably be added £500 for presents, share of native court fines and fees (when imposed, see Memo. 8, paras. 21 and 27*), *gado* (death duties) and *kuridin sarauta*, bringing their net income up to £1,772, while district headmen and heads of *Rugas* (who occupy parallel positions) would share £1,200 between them; village heads and *Ruga* collectors are paid £350, leaving £378 to be distributed among authorised office-holders. This proportion seems to me to be a generally fair one, except that in some Provinces the payment to office-holders should be increased at the expense of the principal chief. With the information contained in these returns (which at the same time comply with the requirements of the proclamation), the High Commissioner will have what he requires for the purposes explained in para. 1, and the Auditor is satisfied that all the data and records necessary for audit will be available. When once the returns have been compiled, it will not involve much labour to correct and keep them up to date, and they will, year by year, grow more accurate and valuable.

Form Y is the annual summary of the land (or general) tax. Each administrative division is shown separately in column 1, and the units of taxation (see para. 3 and Memo. 5, paras. 23 and 41†) are grouped under three classes—settled and unsettled districts, and tribes not under control and not taxed at all. In the case of unsettled districts, column 3 and all of 5, except the amount to Government and to village chiefs, would be left blank; and in the case of tribes not under control, only column 10 (census) would be filled in. In column 11 the name of the officer in charge of the division will be entered, and the names of the principal chiefs and authorised office-holders (if any).

Form Z needs, I think, no explanation. I have fully filled in a specimen form in illustration. The table of incomes of principal chiefs must, of course, be merely an estimate, since it is impossible to say exactly how much has accrued in any given year under the last four heads. Column 10 is solely for census purposes. This is perhaps the most important of any return made by a Resident, and great care should be taken in rendering it accurately. From these returns the compiled statistics for the whole Protectorate are made up in the High Commissioner's office.

* Not printed here.

† Pages 117 and 122.

CURRENT ACCOUNTING BOOKS.

(a) *Tribute Account Book.*

7. For ordinary working purposes two accounting books are required, (a) tribute account book (b) Emir's account book. The former contains the list of towns and their latest amended assessment, with a space in which to note details or instalments of payment, where these amounts are credited, and what arrears remain at the end of the financial year. It is so devised—Form U—that the list of towns need only be copied once in four years, if desired (viz., by tearing off a strip from the two pages following the one containing the list of towns, so that the names serve for the two intermediate pages). This book is essential for the auditor's check. By entering the administrative division, unit, and district at the head of the sheet, unnecessary blank columns are avoided. The auditor sees that the list of towns and the assessment correspond with the tribute register of the province, and with the assessment approved by the High Commissioner, that the amounts paid in have been passed to revenue, and that remissions and arrears are duly supported by an "authority" as voucher.

(b) *Emir's Account Book.*

In those Provinces or portions of Provinces in which there is a "principal chief" who is capable of fully discharging the functions assigned to him in the scheme (Memo. 5, para. 48*), he is the ostensible authority by whom the taxes are imposed. They are brought to him by the district headmen, to whom he pays their proportion, while he accounts to Government for the half share due to revenue. He thus becomes a useful agent for converting into cash the tribute paid in kind, his dignity and importance are upheld, and the peasantry are led to regard him, and not the Government, as the tax-collector, and are therefore encouraged to appeal to the Resident against any irregularities, or demands in excess of their assessment. Without wishing to press Residents if the circumstances of their particular province are such as, in their opinion, render this system impracticable, I am, in principle, in favour of it, and hope to see it eventually adopted throughout the Protectorate. If the Emir is himself unable to do the accounting work, he can generally employ a capable Mallam for the purpose.

The method of procedure should be as follows: the Resident will open a book of account with the "principal chief," who will pay in month by month a proportion of the tax he has received, converted as far as possible into cash. This incidentally creates a steady demand for currency at a time when the demands by caravan traders cease, while the Emir thus receives his income by instalments, and not all at once. At the end of December, the Resident will ascertain from the Emir, and enter up in his tribute account book, the amounts received by him from each of the towns which pay through him, and will note which are in arrears. In order that the Emir may know whether a town has paid in full, he will be informed what number of "bags" of cowries (or number of dollars) represent the sterling assessment. He can then value the grain, cattle, etc., as brought in, and credit the village in cowries till the amount is complete. The Resident will total the amount received by the Emir, and will deduct from the half share due to Government the amounts already received from the Emir, and will call on him to pay in the balance due as soon as possible. He will also take steps to ascertain that he has already, out of the moiety assigned to the native administration, paid their proper proportions to the district headmen and to the "recognised" office-holders. The Emir will pay his own messengers and all other native officials out of the net income assigned to him, but he will not be called upon to engage extra messengers, or to otherwise incur novel expenditure without the concurrence of the High Commissioner.

The Resident will then take such steps as he may consider best for recovering, before the end of the financial year, the taxes due from towns which are in arrears. The sums thus recovered will be credited to Government in full, the principal chief receiving no share. When recovering these arrears, a Resident would naturally enquire carefully into the cause of non-payment, and, if he found that the assessment

had been too high, he would reduce it, and in all cases will impress upon the people their right of appeal to himself. If the assessment is sound in normal years, but is too heavy in the particular year on account of failure of crops or for other reason, he can reduce it for that year, obtaining the covering sanction of the High Commissioner as a voucher for the remission. If, on the contrary, he finds that non-payment is due to neglect or recalcitrancy, he can increase the tax up to 25 per cent. by way of a fine for that year. This would be an executive fine (the procedure regarding which is laid down in Memo. 7, para. 2*), and the amount realised by such a fine will, of course, be shown under head "fines," and not under "land revenue." If, however, he can bring home the fault to any individuals, he would deal with the matter judicially under Secs. 22 and 24 of the proclamation. Occasionally it may be well to deal with a case in the native court. I observe in the native court returns from Bornu a case in which a man was fined for planting his new crop before he had paid his tax on the old one.

REALIZATION OF KIND AND MODE OF ACCOUNTING.

8. The taxes imposed are specified in sterling currency, but as taxpayers have not always got cash in their possession, Government may have to receive all or a part of their taxes in kind, accepting so much goods (or cowries, etc.) as representing so much currency. If Government has to incur expenses to turn the goods (or cowries, etc.) into cash, those expenses are as much a part of the cost of collecting the revenue as are the salaries of officials, etc. The taxation of the country is the gross amount taken from the taxpayers, and it would be incorrect to deduct any expenses or losses incurred in the process of realisation. These must be shown separately as expenditure, and the gross amount received must be shown as revenue. Full rules on this subject are laid down in G.S.O. 3, § 13, 14, in accordance with the Colonial Office instructions dated October 19th, 1906. Whenever any of the proceeds of taxation are sold to Government, the vote against which they are charged will be clearly shown (unless cash is received), and supported by a voucher from the receiving officer. Thus cattle may be sold to the O.C. troops, and charged against the N.N.R. ration vote—or to the Transport Department, and debited to "purchase of animals." Cowries may in rare cases be paid to labourers on roads or telegraph construction, etc., and charged to the P.W.D. votes for roads or telegraphs. The *kind* will in that case be handed over to the department concerned in bulk on receipt, and the full assessed value credited to revenue. Losses incurred by deaths of live stock, or by depreciation in rate of exchange of cowries or dollars, etc., or expenses such as maintenance of live-stock, transport of grain or produce, will be shown as expenditure in the cash book under the head "revenue expenses"; credits will similarly be shown as "revenue profits." When the cash book is balanced at the end of the month, only the net loss or cost (or profit) will appear as final expenditure (or gain). At the end of each month the balances should be brought forward, together with the names of any persons to whom it may have been found necessary to give credit as purchasers or middlemen employed in the disposal of *kind*. The amounts due, with a reference to the page upon which the details appear, will be entered, so that the debt may not be lost sight of. Credit should, of course, only be given in rare cases to reliable persons, or on good security. If, however, cowries or dollars are merely purchased for cash, the profit or loss will be shown as directed in Memo. 12, para. 7.*

ARREARS AND REMISSIONS.

9. At the end of the financial year there may be three kinds of arrears—(a) Tribute not yet paid by towns; (b) tribute received by the principal chief of which the Government share has not yet been paid; and (c) tribute in kind received by the Resident, and not yet realised.

The first (a) has already been discussed in para. 7 (b). The Resident should not allow arrears under (b) to occur, except in so far as the Emir may have in charge a certain amount of cowries or other *kind*, which he is ready to pay, but which the Resident has not taken over because he has no means of keeping

* Page 123.

* Not printed here.

or realising it. In this case, the arrears really come under (c), and it is advisable that the Resident should take over all cowries or other *kind* from the Emir before the end of the financial year, and finally settle up with him. Residents must recollect that, in either of these first two classes of arrears, the High Commissioner's sanction in writing must be obtained before the amount is remitted, and must be attached as a voucher to their accounts. [Vide secs. 15 and 17 of Proclamation, and Memo. 5, para. 26 (e).] Similarly, no towns may be exempted from taxation (e.g., the "Maram" villages of Bornu) without prior sanction (sec. 18). Finally with respect to (c) unrealised tribute in *kind*. Before the financial year closes every effort should be made to convert into cash all such balances. If they consist of dollars or cowries, it is generally possible that livestock for the Transport Department, or saleable produce such as cotton, Kano leather, ivory, feathers, or beeswax could be purchased and sent down under arrangement with the chief transport officer in returning carts, or by other means of transport, for disposal to trading firms at Zungeru or on the Niger or Benue. Prior, however, to the purchase of such produce, reference should be made to the Secretary or to the Resident in whose Province the trading depôt is, who will arrange a price with the trading firm. (In this connection see section on Trade of the Annual Report for 1905*.) Residents must never, however, embark on any speculative transaction, however tempting it may appear, in their desire to realise produce or cowries advantageously. Only the actual articles which are wholly unrealisable may be used for the purpose of purchasing realisable goods, and in no case may cash or locally realisable articles be used to purchase goods, in the hope of gaining a profit or decreasing a loss. If, however, articles—cowries, etc.—are wholly unrealisable locally in cash, it is permissible to convert them into realisable goods, rather than to destroy them. Mr. Temple reports that sales of tribute in *kind* by auction brought in very good prices. The amount of unrealised balances in dollars, cowries, cattle, or other *kind* remaining on March 31st will be shown at the foot of the complete revenue return for the year, Form O.

REPORTS ON TAXATION.

10. Both in the annual report, and when submitting the assessment of a division or unit on Form W, a brief and terse report on the taxation inaugurated under the Native Revenue Proclamation should be submitted, and the following points *inter alia* are deserving of notice:—

(a) Whether any tax-gatherers (Jakada and Ajele) still remain, apart from the village and district headmen, and what obstacles to their removal have been met with.

(b) To what extent the districts under the headmen represent self-contained areas under their control; and the progress in re-grouping of estates and reduction of the number of independent towns under extra-territorial jurisdiction.

(c) To what extent the old fief-holders and office-holders have become district headmen; how far they are resident in their districts; and how many have become salaried office-holders; whether there are any left who are neither the one nor the other, and dependent on the Emir as part of his personal entourage, or engaged in any new occupations—trading, etc.; whether any of the Emir's head-slaves (Kachellas, etc.) are now district heads, and how soon the last of these may be expected to disappear. [N.B.—If it is at present an unavoidable necessity to retain a few of these, they should be located in the districts close to the capital, which are more directly under the Emir's control.]

(d) Full notes as to the basis adopted for assessment, viz.:—whether all the old taxes are included in it—noting especially if they were in the form of a capitation or "compound" tax, and whether the new assessment is higher or lower than the old. In the case of unsettled pagan tribes who formerly paid no tax, how the assessment has been arrived at, and whether the tax is paid at one time on both produce of land and on cattle, or separately.

(e) To what extent the tribute has been realised in cash, and of what does the non-cash payment chiefly consist, and how it has been realised. What arrears and unrealised tribute are anticipated at the end of the financial year.

(f) What special difficulties have presented themselves in collection of Jangali, more especially as regards herds which graze in another Province.

(g) Any special difficulties experienced. Reception of scheme by the chiefs, and by the peasantry. (See also para. 12).

(h) Progress made in organisation of the urban tax, and in the census of capital cities.

(i) Method of arriving at the census of population, and proportion of adult males and females, and of children. It should in especial be stated what is the limit of age included in the latter category. I think that those over 12 years of age might be included as adults. In some provinces the number of males is returned as exceeding that of females. I should imagine that the ratio was more generally two men to three women and three children (under 12). Assuming these proportions, there would be approximately 400 adult males, 600 adult females, and 600 children in a total population of 1,600.

MERGING OF TAXES.

11. Even in Provinces where the Zakka has a religious significance, or where it is a traditional custom that it should be paid in grain only, there is no reason why it should be collected as a separate tax so far as Government is concerned. There is only one general tax from the Government accounting point of view, and when a Resident assesses a village he takes into consideration all the old taxes, Kurdin Kassa, Shukka-Shukka, Korofi, Zakka, and the special taxes on artisans, etc., and assesses the town, as I have described in Memo. 5, para. 30 *et seq.*, in one lump sum, which covers all of them. Zakka, or any other, may be collected separately or by instalments, and paid to the Emir at different times of the year, and credited, when paid, towards the liquidation of the lump sum. Even Jangali is not, in reality, a separate tax, for it is merely the application of the general tax to nomads, who have no lands, crops, and industries; but it is, at present, shown separately, because the circumstances connected with its assessment and collection are different from those surrounding the general tax payable by agricultural and industrial communities. The Kurdin Sarauta is rather a fee (imposed for administrative purposes, and not for revenue) than a tax, and it will not be included under the head "land revenue" (see Memo. 5, para. 33f).

The principle of the scheme of taxation is that Government constitutes the village as a single tax-paying entity, and not the individual, the hut, or the compound. In the assessment of the village, the taxable capacity of each individual is calculated with the assistance of all native officials, and, thereafter, the village appears in the Resident's books as a single entity and all taxes are merged into one sum. The district and village headmen deal with the individual, who, moreover, has a right of appeal to the Resident, who will inquire into his case.† More than this, the Administration at the present stage, and with the existing staff, cannot do. The assessment of a village may be increased or decreased, according as it increases or decreases in wealth and population in future years, but the annual assessment on the value of each crop will disappear when the permanent assessment is made. The variable nature of the Jangali tax must, however, remain, since the size of herds may vary greatly in consequence of epizootic disease, migration, etc. It will be, as I have said in Memo. 5, the duty of all administrative officers to constantly verify and check the original assessment when on tour in their divisions, with a view to making the incidence as fair as possible, redressing injustice to individuals, and seeing that the taxation is moderate and within the resources of the people. These principles are worth emphasising at the risk of repetition, nor can I too emphatically repudiate the idea that a Resident's

* Page 120.

† Page 120.

‡ "I believe that under the Act of 1856 the Magistrate in India appoints a 'panchayat' (Council of five) to apportion the tax imposed upon a village to the individuals. This is done (a) By actual valuation of property, which is rare, or (b) by their general knowledge of the circumstances of each individual—a system which works much better." (Memo. on Taxation to Secretary of State of 23/10/06).

* Colonial Report, Annual, No. 516.

abilities are gauged by the amount of revenue his Province produces, though I consider that the care and thoroughness with which the assessment is made, the contentment of both chiefs and people, combined with a fair and just revenue, are the highest tests of administrative ability.

INCIDENCE.

12. The new forms show the population and the average amount of the general tax paid by every adult male, and by adults of both sexes. It is thus possible to compare districts in different Provinces which are more or less subject to similar conditions, and so to promote uniformity. A mere statement of the incidence upon the individual, however, can convey little meaning to anyone not intimately conversant with the conditions of the country, unless accompanied by some indication of the comparative wealth of the tax-paying units. Any notes that Residents can furnish, indicative of the proportion which the tax bears to the wealth of each tax-paying class, would be invaluable. Such details, however, belong to a later stage. Looking, however, to the immense progress already achieved in the assessment, and to the increase of the staff, I anticipate that, before long, political officers will have a thorough knowledge of the taxation problem throughout this large Protectorate, and will be able to supply whatever statistics are required. The calculation of the incidence is confined to those who pay the land or general tax, and Residents in arriving at this figure will, of course, be careful to divide the total tax only by the number of adults (males) who actually pay it. A separate calculation may be made, showing the incidence inclusive of the Jangali. The urban tax is, of course, included in the general tax. The forms show the incidence separately for each division, and for settled and unsettled districts.

KURDIN SARAUTA.

13. The Kurdin Sarauta, as I have said in Memo. 5, para. 33*, though it obtains legal sanction under

* Page 121.

the Native Revenue Proclamation, 1906, is in fact a fee on appointment, and in no sense a popular tax. In those Provinces in which Government takes a share of these fees, a return (which will serve as a Treasury voucher, and a record of appointments) will be submitted, showing the appointments made, and the assignment of the fees to Government and the native administration. The portion of such fees assigned to Government will be credited separately from land revenue, and the amounts received by principal chiefs will be shown in Form Z. The form of return—Form V—was prepared by Major Burdon.

PAGAN TRIBES.

14. The problem of how to collect taxes from unsettled pagan tribes must always remain a difficult one to solve. I am not myself in favour of the proposal that they should be made to pay not *to*, but *through*, an Emir as the agent of Government. This appears to me to be opposed to the spirit of the policy set out in Memo. 18†, and to be a distinction almost without a difference, and liable to be misunderstood on both sides. Nor does there seem to me to be any clear gain, unless the Emir is allowed to employ his own tax-gatherers, which means that independent pagans are placed under his rule. Possibly some years hence, when the Fulani rule has been purged of its faults, it may be less abhorred by pagan tribes, and more widely utilised by Government, but, in the present phase, I can see no feasible method other than for the Assistant Resident in charge of a division to collect direct from groups of villages, and gradually to enlarge these groups under responsible and selected men, until they become "first class" pagan States (like Argungu) as described in Memo. 5, para. 56‡

F. D. LUGARD,

High Commissioner.

18th April, 1906.

Revised Sept., 1906.

† Not printed here.

‡ Page 125.

APPENDIX IV.

NOTES ON THE THATHAMEDA TAX IN UPPER BURMAH.

By SIR J. DIGGES LA TOUCHE.

Before the annexation of Upper Burma there was a single tax, the Thathameda, leviable at the rate of Rs. 10 per household or family.

This tax was adopted by the British Government. It was payable by both agriculturists and non-agriculturists, and the inhabitants of every town or village were held jointly and severally liable for the whole of the Thathameda tax leviable therein.

Village headmen, Government servants, ministers and priests of religion, persons incapacitated from earning their livelihood by old age or physical or mental defect were exempted.

For determining the total demand the number of revenue-paying households was multiplied by the rate prescribed from time to time by the local Government.

The village headman prepared a census roll of all the households. He then proceeded to the village, and in consultation with the "thamadis" or assessors appointed according to custom, distributed the total demand over the households according to their circumstances and ability to pay, and he then published in the village a list of the persons assessed and of the amount payable by each person.

The collector was authorised to remit in whole or in part the amount of the tax assessed on:—

1. Households assessed through error.
2. Households when by reason of calamity the recovery of the whole or any part of the tax was in the opinion of the collector inequitable.
3. Households from which the tax was irrecoverable, in which case the collector was bound to record his reasons for not enforcing the joint responsibility.

Ten days after the publication of the list were allowed for objections.

Objections were dealt with in the presence of the assessors, who were heard in support of the assessments.

Groundless objections were rejected.

In the case of well-founded objections, the assessors were directed to re-adjust the assessment so as to give proper relief to the objector without reducing the total demand.

In 1898 the Government of India reviewed the working of the tax. They held that the tax was neither harsh nor oppressive, and that it was suitable for a country where there is not, as in India, a clearly marked and permanent distinction between the agriculturist and the non-agriculturist. They considered that the distribution of the tax as among the component families of a village is exceedingly equitable, far more so than any assessment would be which Government itself could frame, and infinitely more so than any all-round capitation tax. Their feeling was strongly in favour of leaving the people to manage their own affairs so far as this was possible; and not to be in haste to bring in a more rigid and mechanical system. So long as the favouritism which always accompanies an indigenous system is kept within bounds and the people do not complain it may be safely concluded that they think it a cheap price to pay for the permission to make their own distribution.

The Government of India, however, contemplated that land revenue must eventually be assessed on all land.

30/6/08.

(Intd.) D. La T.

Collection of papers on Settlement questions in Upper Burma.— Vol. 1., 492.

APPENDIX V.

THE NIGER COMPANY, LTD., TO COLONIAL OFFICE.

(Received 14th July, 1908.)

SIR,

I have to acknowledge your letter of the 10th inst., and am desired by my Directors to ask you to thank your Committee for giving them an opportunity of nominating a representative to give evidence in regard to the terms on which Europeans should be allowed to occupy land in Northern Nigeria.

They observe, however, that such evidence would have to be presented in the course of the next few days.

They regret that they are consequently unable to accept the invitation, as they cannot separate the question of terms to be granted to Europeans from the question of the Communal rights of the Natives, and

together these form a subject of great magnitude, which they feel unable to deal with at such short notice. They venture, however, to express a strong hope that the Committee in their recommendations may give no opening to land speculators in Nigeria, and so safeguard that country from the errors that are apparent in other parts of Africa.

I have the honour to be, Sir,
Your obedient servant,

W. G. RAND,
Secretary.

The Secretary,
Northern Nigeria Lands Committee,
Downing Street, S.W.

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