

F. A. W. LUCAS

NATIVE ECONOMIC COMMISSION.
NATURELLE EKONOMIESE KOMMISSIE.

Sitting at

Pretoria

10th June 1931.

MINUTES OF EVIDENCE.

(Pages 8840-8932)

J. H. Law. (pp. 8840 - 8896).
G. H. Ribbink (pp. 8897 - 8924).
8925 - 8932

Official
Reporters.

P.O. Box 1534.

Phone 1380.

JOHANNESBURG.

I n d e x.

*see Kraushof
for Hamanskraal*

Mr. J.C. Yates, Native Commissioner at Hamanskraal...	pages. 8840 -- 8860.
Mr. R.W. Thornton. Director of Native Agriculture.....	8861 -- 8896. 8913 -- 8932.
Mr. F.W.B. van der Riet Transvaal Agricultural Union	8897 -- 8912.

THE NATIVE ECONOMIC COMMISSION.

MEETING HELD IN THE NATIVE APPEAL COURT, PRETORIA,
on Wednesday 10th. June, 1931.

PRESENT:-

Mr. J.E.Holloway (Chairman)

Mr. F.A.W.Lucas, K.C.

Major Anderson,

Dr. A.W.Roberts,

and the Secretary.

MINUTES OF EVIDENCEMR JOHN COLQUHOUN YEATS (Examined)

THE CHAIRMAN: I understand there are certain questions and difficulties in connection with native land purchases in your new area which you would like to particularly bring to the notice of the Commission. I should be obliged if you would state the position? - - - The difficulties in the native area are connected with the fact that the natives are living away from their -Chiefs, and forming themselves into small communities of anything from fifty to two hundred individuals. They elect a headman and Council to regulate their affairs and to purchase ground. But many of these natives do not live on the farms they wish to purchase. They live on farms all over the country, and when they have paid their first instalment they generally have half the farm on bond. For perhaps one or two years they meet the

instalments/

- 8841 -

instalments as they fall due, and then they begin to tail off, and they fall into arrear with the payments, with the inevitable consequences.

Many of these natives, you say, do not live on the land they purchase? - - -No. Those living away from the farms naturally have no incentive to keep up the payments, and after a time they begin to lose interest in the farm, and are disinclined to fulfil their obligations.

What do you suggest to meet the position? - - -My contention is that we should have a Land Bank or something of that kind to assist these natives to acquire the land they want to purchase; otherwise they will lose their ground, or most of them.

In the case you refer to, do these natives get a bond, from a private person? - - -They get a bond from the seller of the farms in the first instance. I should like to explain that there are many different tribes of natives concerned. So many different tribes are buying these farms: it is not one particular tribe: they are all mixed, and that complicates the position immensely. As soon as these natives start to come on the ground and to divide it up, their difficulties increase straight away, and they begin to fight with the Headman and the Council; they refuse to pay, and it is a most difficult job in every way.

The fact that they do not belong to one tribe increases the difficulties? - - Yes, very much. If they were all of one tribe it would simplify the position to a considerable extent.

Is there no means of forcing them to meet their obligations? - - - There is no means of forcing them at present. If you bring a civil action against the natives and get judgment,

it/

it is usually a case of nulla bona. If you try to attach their cattle, there is an interpleader action straight away. The native concerned says that the cattle do not belong to him, and you cannot get the money out of him. My contention is that these transactions should be for cash, or at least three-quarters on cash terms instead of half as it is at present.

In that case the native would have more incentive to keep on paying? - - - Yes, especially if he is living on the farm. If he is not living there and he gets hard up he simply won't pay.

Even when they have paid and got transfer they do not occupy the farm, I take it? - - -No. The position is that they purchase shares in the farm.

MR LUCAS: They buy in individed shares - - -Yes. It may be a one-one-hundred and fiftieth share that a native buys.

THE CHAIRMAN: And when they have bought the share they do not occupy it you say? - - -No, not always. Some of them still live on the farms. Somebody dies possibly, and then some individual claims a fractional portion of the farm, and it is a hopeless position, as far as I can see. It is further complicated by the fact that some of the natives are married by native custom, which law you must apply in their case: others are married by Christian rites, and you must apply the law accordingly. Something will therefore have to be done without delay to try and put matters straight.

In regard to the organisation which buys the farm: is that simply a voluntary association of individuals? - - Yes. Some of them decide to withdraw, and others remain in, but if you sue them you cannot get anything out of them at all. They gradually get more and more backward with their payments until the position becomes practically impossible. I feel that unless the Govern-

Government steps in immediately the natives will lose a lot of ground. I estimate that they will lose about five or six thousand morgen of ground at Hamanskraal, Pretoria. There are at least twenty thousand morgen today that are on the verge of being lost in this way unless something is done.

MAJOR ANDERSON: You mean that the bond will be foreclosed, and the land put up to auction? -- Yes, the bondholder takes it over.

That is inevitable I suppose? -- Yes, unless, as I say, the Government steps in. I think the Government have stepped in in two or three instances: I remember in the case of a certain tribe they stepped in to the tune of £14,000, and took over the bonds. That was the Baquena tribe, only a small section of which comes into the Pretoria district. I had to attend to the matter on behalf of that section.

Have you reported the position to the Department? -- The Government have knowledge of every detail. We are told that o-and-so is behind with his payments, and we are asked if we can bring pressure to bear on these people, but there is no pressure that you can bring. Under the tribal law it was intended to have a tribal levy of these collections. We are supposed to enforce that similar to tax collections, but from the start off, the natives went to appeal, and you cannot prosecute them under the Act for not paying the levy. I believe a measure was proposed during this last Parliament, and that it even passed the second reading, but it is not through yet.

What bill was that? -- The Native Taxation Bill - introduced this year. There was a good deal of discussion, I believe, in connection with Section 15 (1): that is the clause which affects all the Transvaal purchases.

8844

MR LUCAS: Why is Hamanskraal in such a serious position? Why are conditions so much more serious there than elsewhere? - -

It is largely because the natives bought individually, and formed themselves into tribes, instead of through the ordinary Chief and Council. As I say, there are various tribes concerned, and they soon start quarreling amongst themselves.

Is it that the tribal system has broken down more in the Hamanskraal district than elsewhere? - - -Yes.

THE CHAIRMAN: Natives of different tribes are living together cheek by jowl as it were? - - - That is so. These natives have formed themselves into small sections for the purpose of purchasing ground. I would have these natives of different tribes separated every time as far as possible for the purchase of land. But as things are now, so long as the natives have money it does not matter to what tribe they belong. If he is willing to come into these schemes he comes in and there is no restriction.

MAJOR ANDERSON: Then you have a number of syndicates? - - -Yes, any number.

What is the strength of them? - - - Anything from 250 to about 21; that is the smallest number I know of. As I have stated, these natives form themselves into little artificial tribes with headmen over them.

THE CHAIRMAN: But the trouble is that there is no cohesion among them? - - There is no cohesion with very few exceptions.

You suggest that they should pay 75 per cent of the purchase price in cash: but surely if they have to contribute

that/

that proportion before purchasing the farm, it is not likely to hold them together any more than the present system of fifty per cent? - - -Yes, I think it would.

But fifty per cent is quite a lot of money for a native to put up? - - -It is, but if he pays cash then he knows he has finished, whereas if he knows there is still a bond on the land he shies off as soon as things begin to pinch a bit.

MR LUCAS: But still there would be a bond of 25 per cent on the farm? - - - That is true, but it is easier to pay off than fifty per cent.

THE CHAIRMAN: The native simply cuts his losses in many cases? - - -Yes; in quite a number of instances they say to me - We want to get out of it now. Then you have to sign all sorts of documents and try to fix up the transfer. The legal difficulties in such cases are, of course, enormous.

MAJOR ANDERSON: I take it that the lawyers are doing very well out of it? - - - In many cases they do very well.

Where the Government have taken over the bond, what fund is concerned with finding the money? - - - The Native Development Account - Loans.

THE CHAIRMAN: You suggest that there should be a development of that? - - - Yes, I suggest a Land Bank for natives.

MR LUCAS: Have you tried getting the present Land Bank to help in this matter? - - - They won't listen to natives. Well, there I am not quite correct. In one particular instance, in connection with the Baquena tribe, they did come to their assistance, though I would not like to go into the reasons for that. In that particular case, the Land Bank took over a farm from somebody else and exchanged it for ground in the Zoutpansberg District.

That/

That shows, at any rate, that the Land Bank is not restricted to Europeans? - - - But that is the only case I know of of that kind. I consider it should be recognised and placed on a proper footing.

If matters are as urgent as you represent, and no legislation can take place this year, surely that is worth looking into and making an effort to get something done along that line? - - - There are so many natives concerned in this. Some of them have paid for the ground three times over. Some of the ground which is not worth a pound has been paid for to the tune of three pounds.

THE CHAIRMAN: They agreed to too high a price in the first instance, I take it? - - - Yes, originally. In one particular case - that of Zandfontein - they bought the farm for £8,000, and the bond is now £4000, and they have been paying interest for 7 or 8 years at eight per cent.

Do you mean that the original purchase price was £8000?--
Yes.

Was that three times what the farm was worth? - - -In my opinion it was. The bond today, as I say, is £4000, but if you put that farm up to public auction, I am very doubtful, unless the bondholder took it over, whether it would reach £4000. At any rate, if you went to the Land Bank and said you wanted £4000 on that farm, they would say it was not worth that figure.

MR LUCAS: Was it over valued to that extent? Or at least, was the price that was asked and agreed upon more than twice its value at the time of the sale? - - -I think so.

Do you think that could be proved in a court of law?--Yes.

Because you have a case then for setting it aside? - - But

you/

8847

you would have to go back some years - 1922 or 1923 probably, and the people who valued the land then may be gone away, and some of them may be dead.

Well, under our law in the Transvaal, double the value is regarded as fraud, and if you charge double what the thing is worth the transaction can be set aside on the ground of fraud? - - - I do not agree that you can do that in all these cases. There are farms I know of which were formerly valued at a certain price and today, if they are offered for sale, they will fetch only a fraction of that figure. For instance, in the Nylstroom district, I have in mind a farm where the improvements amounted to about £20,000, yet when it was put up for auction £7000 was all it fetched.

But auction is different? - - - Well, the position to-day is that if you put up these farms for auction, in most cases they won't fetch the bond.

But my point is what they were valued at for ordinary sale at the time they were sold? - - - As I say, you would have to go back seven or eight years probably, and it would be almost hopeless to do anything in that direction at this date.

Well, what are the remedies that you would suggest for this? - - - The remedies are first of all, I think, that in connection with all land purchases, they should have a Board to value, the same as they have for the ordinary Land Bank, which would go round and value these farms. As things are now, there is nothing to prevent a native going to an agent and making arrangements about the sale of land, and the ~~XXXXXX~~ man

gets/

gets ten per cent Commission probably, to start with. There was a case of this sort that I had to deal with the other day. I said to the man - "Why don't you go to the Native Affairs Department, or come to me at Mamanskraal?" And his reply was that he did not know, and he thought the matter had to be done through an agent. The agent said there was a lot of correspondence and work connected with the matter, and ten per cent had to be paid. In that case, however, I managed to get the price brought down from £3 to £2.10.0. I pointed out that that was what was paid before, and I did not see why it should be £3 now, and so they came down; they brought the figure down a thousand pounds. Now if you had a Board to go into these matters - say the local Native Commissioner and two others appointed by the Government - valuers - they could go into the thing and find out if the ground was worth what was demanded.

MR LUCAS: You have dealt with one point - that is with regard to the value of the land. But there still remains the difficulty of dealing with these different unorganised and unincorporated bodies of people? - - - what I should restrict it if possible to members of the same tribe, or at the utmost to ten buyers, if they are of different tribes. At present, six individual natives can buy, but I would make it ten. I would cut out all these mixed communities, because they can never agree.

What is the law under which six individual natives can agree to buy? - - - There is no law: it is laid down by the department.

What is the object of limiting it to six? - - -That

is in order to prevent twenty or thirty natives coming along and buying land, and afterwards experiencing difficulties in dividing it up.

I thought you spoke of six as individuals? - - -Yes, they allow six individual natives to buy a farm together - in community. But they have to form themselves into a tribe, and elect their headman.

PROF. ROBERTS: I suppose you know that under the new Bill, there is an arrangement proposed for the formation of a Land Bank for natives.? - - - Well, to give you an idea of the extent of native land concerned, the natives have no Crown Location in the Hamanskraal District. These farms were all bought originally: some even before the Boer War. The amount of ground bought and owned by natives in that district is 159,403 morgen, and if you take the biggest location in the Transvaal it is only 120 thousand morgen, so you will see how important this is for the district. If they had had a fair valuation, they could have had 200,000 morgen today.

THE CHAIRMAN: This Land Bank that you suggest, would you make it an advisory body? - - -Yes. And if they did not recommend the purchase at that price the transaction would be vetoed by the department. Because the native himself has no idea at all of the value of land. Not the slightest. He does not mind if he pays £5 or £10 a morgen for ground as long as he gets it, and many of them have bought ground with not a drop of water on it, and today they are of course in difficulties about the water. Perhaps the owner sold half the farm to the natives, and keeps the half with the water on it. Naturally, he sells the worst bit. At first, he tells them they can use the water, but as soon as the bond is paid he

says/

says "No- unless you buy this piece too, I refuse to give you the water rights." I have a case like that now.

MAJOR ANDERSON: It is a leased area, is it? What is the amount of the area? - - - It is about 130 miles in length, and anything from 10 to 20 miles broad roughly. It is difficult to say how big this area is exactly. But there is plenty of land still available in that area for natives.

MR LUCAS: What advantages accrue from forming the natives into small tribes for the purchase of land? - - - The main idea, of course, is to get sufficient natives to fund money to enable them to put down half the purchase price. Many of the farms are too large for a small community of natives themselves to buy: they have not sufficient money.

Supposing you have your Land Bank or Land Board, would the natives then be prepared to take over the farms in individual lots? - - - The aim of most natives is to own their little piece of ground if they can, but as things are at present it is difficult for them to do so in most cases.

But it should be possible, with such a body, to devise machinery? - - - Yes. But then the Government would have to become owners, I think. The individual owner is not going to cut up the farm into hundreds of plots. The survey fees alone would cost hundreds of pounds.

But it would cost much less than the natives are paying today in excess, I take it? - - - But if you cut the farm up, the price rises immediately. I know an instance where a farm was surveyed, and it went up from £2 to something like £6. Of course there was the cost of survey to take into account, and the trouble involved in selling different lots.

That/

That is rather a different matter. You could get your natives to band together as they do today, and they could agree to take say 200 plots if the farm was divided, and then there would not be so many would fall back, would there? - - - Well, certainly if they have their own plot they do have some incentive, but when it is a community of natives of different tribes as at present it is practically hopeless as far as I can see. One section is represented by one firm of attorneys, and the other section by another firm, and when you want to bring the two parties together the two firms of attorneys interfere, and there is no settlement possible.

For a purpose of that sort, you would have to cut out the legal practitioners, of course? - - - That is so.

THE CHAIRMAN: The introduction of the legal practitioner has not been of advantage to the native in this respect? - - - Certainly not in the Hamanskraal District. In fact I would say just the opposite. It is the legal people who have taught them to bring interpleader actions about the cattle, and so on.

One of the results has been to confuse the question as to ownership of cattle? - - - Yes, or any other property they may have; wagons, and anything else.

MR LUCAS: I take it you are in favour of individual tenure by natives? - - - Yes, to a certain extent. Certainly, if there is sufficient land. That is the difficulty.

The land that is purchased by these groups under the present system is not adequate for the individual tenant, I understand? - - - No, not sufficient. There are 3705 morgen, which amount of land is owned by about 80 natives, and they

cut this up. Eight of them bought one portion and they divided it amongst themselves.

But take one of your 250 groups: what sized farm would you require? - - -Your difficulties are great to start with. You have for instance perhaps only one watering place for the whole 3,000 morgen farm. How are you going to regulate that water for each individual holding? And again, how are you to regulate the question of grazing? Assuming there are 500 or 600 head of cattle. That is the difficulty. It is not like having a series of small holdings with water to each holding.

THE CHAIRMAN: This practice of various tribes coming in and bringing interpleader actions, must induce immense difficulties in all civil litigation? - - -Yes, of course. In Rustenburg the other day, the Chief gave judgment, and could not carry it out, so he appealed to the Native Commissioner. Three head of cattle were attached, and before they got to town there were three interpleader actions over them. That will give you some idea of what it means.

Does not the action cost more than the cattle sometimes? - - -Yes. I had a case going on in my Court before I arrived. The whole amount involved was only about £10 and the costs then were about £30. I had to start the case again, but when I saw the position I said "This is absurd" "It will be three or four days before the case is finished: you had better settle it" which they did.

The nett effect is to convert these things into Attorneys' fees? - - -That is so.

And neither the party bringing the action nor the one against whom the action is brought has any benefit? - - - No.

MR LUCAS: Are there any other points on this particular question? - - - That is the main thing I wanted to bring before the Commission - the Land Board and Bank. If you got these two bodies they could take over most of these bonds and give the natives a longer time to pay, with possibly a lower rate of interest. Some of them in my area pay up to ten per ct. Very few of them pay six per ct. Mostly they pay seven per ct., but there are quite a number paying eight per ct., and as I say, in some individual cases it is as high as ten per ct. There are quite a few who have paid more than half the original purchase price in interest.

There is another rule of law in this country that you might bear in mind in dealing with these people, and that is that the interest can never exceed the principal? - - It goes back a good many years; in the case of some of these natives. In many cases the individuals taking up the bonds got "fed up" with ~~paying~~ ^{them} and then passed them on to others, and these again did the same. The original bondholder probably got out of it six or seven years ago.

You say in your answer to our questionnaire that Europeans are consulted wherever natives wish to buy land, and where they object the transaction does not go through? - - -That is out of the native area.

And is any attempt made, do you know, to try and persuade Europeans to withdraw their objections, or to find out what the reasons are? - - - I have come across certain cases in the leased area, where objections against the transaction going through were put up, but the government insisted that they take no notice of the objections, and they put the sales through.

Which district? e e - That was Middelburg. I have not

had/

had any cases in this area, because it all comes within the native district

Is there any poor relief provision in your district?
? - - - No.

Is there any need for it? - - -No.

Do you suggest there should be some such provision?
?- - - Occasionally you come across cases of natives who are old, and down and out, but very seldom.

PROF ROBERTS: They have a dislike to poor relief in any case? - - -That is so. Then I believe the Commission wanted to know something about native cattle in the cattle area. I have the figures for the district here. These only apply to native owned ground. On the 159,000 (in round figures) morgen, there are 52,433 cattle, 5569 donkeys; goats and sheep 28,283p besides pigs. The total stock - 70560 - running on this native owned land now and on the old locations means about three morgen per head of big stock. And with the recently triball bought farms, that is 101,000 morgen, it represents about 2.3 morgen per head of large stock, and on the individually bought farms it is down to 2,1.

MR LUCAS:
2.1 morgen per head? - - -Yes.

On the newly purchased land it is two morgen? - - -Yes. And on the old purchased land it is about three morgen. Now this land, in my opinion, is not capable of supporting more than one head to five morgen, and in some cases one to ten.

Mixed stock? - - -No, large stock. Now if you wanted to reduce the stock, the first thing you would have to tackle would be the donkeys. There are 5569 donkeys which are worth from half a crown to ten shillings: they are not an economic asset to the native at all. Half of them you cannot use, -

the/

the foals, mares, and so on. Actually, in Basutoland at the present moment they are trying to stop all importation of donkeys, as they are found to be a liability. As regards the cattle it is useless trying to force them to part by putting a tax on the cattle. The only thing is to sell them as much land as they can buy, and then turn round and say - "You owe so much for the land, and you have so many head of cattle: you must sell those cattle, and pay for the farm," and in that way you may get rid of them.

MAJOR ANDERSON: But they will re-stock again? - - -You must limit them then; once you have reduced the numbers.

MR LUCAS: Lay down certain conditions of sale? - -Yes.

PROF. ROBERTS: But do you not think that education will make a difference? Will it not give them a new insight in this matter in a few years? - - - No, I do not think it will help present conditions. By the time they are educated I am afraid the ground will have gone. The soil will have disappeared and it will become a desert, more or less.

THE CHAIRMAN: Do you think that is likely to happen if we leave things for a generation while education has its effect? - - -Yes, I think it is. I could take the Commission and show you certain ground, and you would see yourselves what is happening. You could not be mistaken when you saw the difference in the ground which has been bought, and the other land. In one instance, in connection with the Baquena tribe, where there was overstocking, I went to the Chief and said - "You have so many thousand cattle, and your bond is so-and-so: you must pay it off." The Chief replied that he could not, so I told him I would assist him, which I did indirectly. Then he went round to the heads of the Kraal and said "I want so many head of

cattle/

Collection Number: AD1438

NATIVE ECONOMIC COMMISSION 1930-1932, Evidence and Memoranda

PUBLISHER:

Collection funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

©2013

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of the archive of the South African Institute of Race Relations, held at the Historical Papers Research Archive at the University of the Witwatersrand, Johannesburg, South Africa.