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PREFACE AND ACKNOWLEDGEMENT

It has been said that experience is the best teacher and that people learn from past mistakes. Modern African States should therefore always reform their social, economic and political affairs in full awareness of the weaknesses of the Colonial institutions. The Settler agriculture was particularly faulty in Colonial Kenya between the years 1900-1940. Independent Kenya has inherited most of the institutions that governed that economy. This being the case, it is important that the short-comings of the Colonial economy receive particular attention. This will help steer clear the present economy from some of the economic pitfalls of the past. One such pitfall was the practice of land speculation.

Not everybody however shares the same view. Difficulties are presented by the conditions under which independence was granted. Its price was the maintenance of the status quo. Thus any suggestions that would tend to indicate the need for changes are eyed with near hostility. This explains the difficulties that one may find from some quarters that should supply the relevant information in regard to land matters.

What I am driving at are the difficulties I encountered in my research. One misfortune was that most of the material for the paper has been graded as "strictly confidential information" -absolutely classified! In one place, the writer was told that the scope of the topic involved too many delicate political issues. Strange indeed it appeared to me! Worse still, some files needed from one Department (National Archives) are still under censor by one more year. Most interviews proved fruitless. Where land transactions are concerned, people are very guarded in what they say about it. It is as if there is an invisible tape, recording whatever is said. These are no doubt problems that any research-especially that based on primary sources of information entail.

Despite these difficulties, the help received from certain quarters outweighs them all. An acknowledgement of gratitude to others is usually the most pleasant of tasks, I believe. First, the help and advice given by a particular friend will be of permanent value. My gratitude in this regard will never diminish. Secondly, that the failings of this paper are not greater than they would have been is due to my supervisor, Mr. Okoth-Ogendo. His critical and constructive help and guidance at every stage of the paper was invaluable. The kind of gratitude that is owing for such help is much indeed. Thirdly, special thanks to the Staff of the Registry Section of the

Lands Department who patiently found for me file after file that nobody has looked at in the past two decades or so. Last, but by no means least, lots of thanks to the wonderful kind soul who agreed to type the paper. Not forgetting certain members of my family who never tired of giving any help as need arose. To them all, I owe bountiful gratitude. / we

Settlement to the 1940s has been a subject of comment by many writers. Areas of comment have been on matters concerning land tenure, labour recruitment and agricultural production. One vital aspect of that agriculture has however been over-looked. This is the speculative aspect of it. Land speculation accompanied every stage of the settler agriculture from the period 1905-1944.

Speculation, for the purposes of this discussion is that practice whereby the settlers acquired agricultural land with a view to reselling it at high profits rather than developing it. While it is true that setting up an agricultural economy was a difficult task for the settlers, this can hardly justify the amount of misuse of land that went on in that agriculture. This was in direct contravention of what Britain had undertaken to do in her Colonies as did the other great powers. Under clause 6 of the Berlin Act of 1885; Britain had impliedly undertaken to use the resources in Kenya for the benefit of the Natives. This meant proper use of the land assets. The Colonial Government however established an economy that was to operate on the basis of a free market. Speculation ensued on a large scale. It is the concern of this paper to examine the relationship between this practice of land speculation and settler agriculture in the period 1905-1944. More specifically, we seek to find out why and how speculation occurred and what its short and long term effects on Kenya's economy was.

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(ii) The objective of the study:

The ultimate objective of this discussion is two-fold. First, it will seek to expose the exploitative aspects of Colonial Capitalism. This required the subordination of African Societies to settler Control. For this purpose, the Colonial Government adopted policies and legislations that were conducive to the maximum exploitation of land resources. This practice essentially destroyed the economic base upon which African economic institutions were founded. Related to this is a second objective, which is to provide a background for a fuller understanding of the present economy. This is important in the sense that except for a few accidents

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THE INTRODUCTION
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and modifications, the present economy is essentially governed by the same land legislations and institutions that operated in the settler economy. These were merely designed to protect the European Settlers. An exposure of their purpose and operation will show how irrelevant they are to the present economy whose purpose it is to build an egalitarian society.

(iii) The Hypothesis:

The working hypothesis of this discussion lies in the proposition that state participation is fundamental to any kind of economic planning. This may take the form of direct involvement in the distribution of the resources on which the economy is based or the creation of such measures as would ensure maximum utilization of these resources. Settlement in Kenya was initiated by the state. During the first three decades however, the Government limited itself to the task of distributing land to the settlers rather than ensuring its utilisation. Thus settlers were left to individual private enterprise which logically meant that individuals could speculate and engage in any other activities for profit. In consequence, by the 1940s, a stage was reached when the whole economic set up seemed to be hinged on speculation with little development. It was then that the state realised that complete laissez faire was unworkable and if society was left to free enterprise, chaos might ultimately result. The main argument of this discussion therefore is that it is the Colonial Government which made speculation possible. This was done by the adoption of land policies and legislations that would keep settlers in Kenya and foster their interests.

(iv) The Methodology:

In order to test the validity of the above contention, use will be made of both primary and secondary data. Primary information has been supplied by official data on the settler economy found in Lands Department, Land legislations and other primary source documents in the University Library. Information from the National Archives would have been first class but the period under discussion is still censored by one more year. Occassion was seized to hold talks with some people who worked in the colonial economy from the 1940s onwards. A final primary source is newspaper reports on settler agriculture-specifically the Kenya Critic and the East African Standard. Secondary information was supplied by other writers' books on settler agriculture and legislative Council debates.

CHAPTER IV
THE PROCESS OF LAND ACQUISITION IN THE YEARS 1900-1915

The discussion will be divided into four chapters. The first part will discuss how the Colonial Government legally and politically acquired Native land for parcelling out to the Settlers. We shall examine here how the manner of land grants to settlers as directed by the Colonial Land Legislations made speculation possible. The second part will discuss the conduct of speculative practices and their effect on the economy in general and the small farmer in particular. The third part will examine state intervention to save the economy. The final part, the conclusion will involve an analysis and synthesis of the discussion for Colonies in Africa. In Africa itself, certain events stirred British philanthropic feelings that dictated direct intervention. This was coupled with a desire to extend white civilization from the Cape to the Kenya Highlands. The area chosen for expansion, though poor in mineral wealth, had great agricultural potential.

The Kenya Highlands were seen as ideal for agricultural development. The area was described as of equal suitability for White Settlement as New Zealand or Canada or Australia. More important, the idea of starting up European Settlement became a necessity after the Completion of the Uganda railway in 1901. It was contended that the railway should maintain itself. This could be done by starting up agricultural development on a large scale and British subjects were chosen as the most appropriate people to engage in such development. Other races (Africans and Asians plus other European Nationalities) were rated as neither capable nor suitable for the task.

Kenya was declared a Protectorate in 1895. From henceforth, British policy in Kenya was guided and directed by the one aim of establishing a white Colony. This required attracting British Whites to come over and settle. But the Colonial Government, as a protecting power had no right to deal with the property of the Native inhabitants of Kenya. This was in accordance with the prevailing British legal opinion concerning protectorates and Colonies.² This meant that, direct acquisition of land for settlement purposes by settlers would be illegal.

The Colonial Government was therefore faced with the task of devising ways and means of assuming sovereignty over Native Lands. The British Law Officers drew up several solutions. First, they decided that "For reasons of expediency, ... it is not in the best interest of the colonial Government to admit that the Africans had any rights to land or any notions of land ownership."³ Since the Africans had no rights to land, they could hardly claim a right to control unoccupied or waste land. Secondly, it was argued

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(THE PROCESS OF LAND ACQUISITION IN THE YEARS 1900-1915)

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(1) The Political and legal process of acquisition of Native Lands by the British Crown:

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International events during the last quarter of the 19th Century had significant effects on British outlook on its mission in Africa. The

political climate in Europe forced Britain to enter the race for Colonies in Africa. In Africa itself, certain events stirred British philanthropic feelings that dictated direct intervention. This was coupled with a desire to extend white civilization from the Cape to the Kenya Highlands. The area chosen for expansion, though poor in mineral wealth, had great agricultural potential.

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that between 1843-1890, the British Foreign Jurisdiction Acts had endowed the Crown with certain powers. The Crown could exercise jurisdiction in Protectorates in the same and as ample a manner as in Colonies. This meant that there was no difference in administration between Colonies and protectorates.⁴ Thirdly, it was further argued that protection in the African circumstances involved control over all lands that were deemed vacant.⁵ Such lands accrued to Her Majesty on the basis of the theory of Crown Prerogative.

All these arguments were seriously omitting the African side of the issue. The Africans no doubt had a concept of land ownership. It was believed that people used land to satisfy a human need. The land which a man used was not his possession. Possession was limited only to active occupation and use of the particular land. Beyond this, no further rights to that land could be claimed. It followed therefore that an individual could not give or sell his land to anyone he pleased. No one therefore had authority to distribute his land to other persons which would enable them to claim the land as their own. When not in use, the African land reverted to the Community as a whole. It did not become vacant and ownerless as the colonial officers maintained. It was thus a serious legal and technical error when the British Crown declared that all vacant land belonged to the Crown. The declaration was the first step in the subsequent measures that were made to favour increased White Settlement.

(ii) Early Land legislations:

In order to strengthen the legal position of the settlers, a series of enactments designed to give an outline of settlement procedure were brought into effect. First in line was the East African (Lands) Order in Council 1901. This order made all lands Crown Lands. Land in the Protectorate was vested in the Commissioner and the consul-General to hold in trust for Her Majesty. The Commissioner could make grants or leases "On such terms and conditions as he might think fit, subject to the direction of the Secretary of State."⁶

The Commissioner next promulgated the Crown Lands Ordinance in 1902. One fact of importance to the Colonial Government was that since the British Settlers had many Settlement options, and they could easily have chosen to go to Canada or Australia or anywhere else in Africa; it was necessary for the Kenya authorities to provide such terms and conditions as would not hinder the free flow of settlers. This explains why the settlement conditions in this ordinance were very mild and attractive. Under sec. 31, "The Commissioner may grant leases... containing Native villages... and any land within an area leased which has been in the occupation of natives shall on ceasing to be so occupied, pass to the lessees." Leases could run upto 99 years.

curity of tenure. The Ordinance had excluded land in actual occupation Clause 6 stated that in ascertaining the value of land, no consideration was to be taken of the value of improvements done on it.

There were different rules applying to the purchase of agricultural and of pastoral land. The Ordinary terms for the purchase of agricultural land of average quality for settlement was at the rate of Rs.2 (2s. 8d) per acre- that is, for freehold land. If taken on lease, the rent for terms not exceeding 99 years was 15 Rs. per 100 acres. Land within one mile on either side of the railway could not be sold but could only be leased. Sec. 33 contained terms for the purchase of pastoral or grazing land. Land suitable for this purpose could be let on 21 years lease upto a total area of 3,000 acres at a rent of one anna per acre per annum. All land was to be fenced within 4½ years or earlier depending on acreage taken up. With regard to active use of the land, it was stated that in every year for the first three years, the settler should bring 1 of his original holding under cultivation. All cultivated land was to be kept "in good heart" and condition until a final certificate of possession was acquired after which free dealings with one's land was permitted.

Apparently, there were very few restrictions on the terms of acquisition. A few of these were that every settler was under compulsion to occupy his selection within 6 months from the date of such acquisition agreement. Each settler was also to erect within three years, a living house of a reasonable, permanent character. A land holder was also under obligation to reside continuously upon his holding or leave a responsible person of British or American stock to represent him in case of absence. Purchases of homesteads (these will be discussed later) had same restrictions as those of purchase of agricultural and pastoral land.

On the above terms, a considerable area of land was alienated to settlers on leasehold and freehold terms. There is an indication that the restrictions that there were ^{were} not for the purpose of ensuring genuine development, but only to ensure that the settlers did not abandon their holdings. As sec. 31 indicates, no protection was afforded to African land holders-except for the mild provision that prohibited the sale or leasing of "any land in the actual occupation of Natives"- but even here, no distinction was made between occupied and unoccupied land.

Yet mild as the above provisions of the Ordinance were, the settlers were strongly opposed to them. From the outset, they wanted maximum freedom in their dealings in the country. Because of their limited financial resources, they considered that the development conditions spelt disaster for them. The 99 years leasehold period was too short and could not ensure

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curity of tenure. The Ordinance had excluded land in actual occupation of the Native from settler alienation. This was irksome for it limited the amount of land available for alienation. Finally, the Ordinance was criticised because it did not spell out the position of the settlers in the highlands. Their demand here was that all land considered or likely to be suitable for European Settlement should be set aside for their exclusive occupation and future use. The Asian element in the country was the source of worry in this regard. It was feared that the Asians, being financially strong might buy off all the best settlement lands. Moreover, the presence of Africans on some of the desired land was detested. It was suggested that they should be removed and settled into "reserves". Such measures, it was hoped, would ensure enough security to make Kenya a white man's country.

The Colonial Government got alarmed at these dissatisfactions. It was aware that the first priority of this period was to maintain a European farming community. To do this, it was important that the allocation of land should be reserved for settlers only. But there were other reasons to explain the delimitation of the highlands. Between 1904-1930, the boundaries of the settler "reserves" remained fluid. The purpose was to keep reducing the area occupied by Africans as more settlers arrived. In this way delimitation increased the population pressure within the reserves. This directly led to emigration of the Natives to seek employment on settler farms and stem-off labour shortages. Reduction of land available for African use also ensured that the settlers did not encounter competition in production from the African sector especially in production of the cash crops. Such control of African productive capacity would guarantee sufficient protection to settler enterprise. In any case, the delimitation process ensured that land in the settler reserve was always in short-supply and so did command

These however, were just recommendations and they pointed to the need for policies that would satisfy settler demands. To meet this need, the 1913 Crown Lands Bill focused on the policy that should be followed in land matters. New regulations were therefore promulgated in the 1915 Crown Lands Ordinance. This Ordinance abolished freehold titles and transformed them into 999 years ~~old~~ leaseholds of upto 5,000 acres. It redefined Crown land, and declared Africans tenants at will of the Crown.⁷ The Ordinance further stated that from 1915 onwards, all dealings in land between races needed the Governor's consent. Non-whites could not therefore manage; transact in or control settler lands.

From the official point of view, this ordinance was ^{aimed} arrived at ensuring adequate security that would encourage an increase in settler migration. Steps were definitely taken to remove Africans from European vicinity and drive

them elsewhere into reserves. This period witnessed the removal of the Masai en masse to Laikipia and other areas. In similar manner, other Native tribes were removed from their traditional lands to make room for incoming settlers.

The last of the early land legislations were the Kenya (Annexation)

Order in Council of 1920 and the Kenya Colony Order in Council 1921. These two converted Kenya into a Colony. This was a positive indication of the development of a white man's dominion and a strong encouragement to settlement.

(iii) The delimitation of the Kenya Highlands:

Settler agriculture was confined to particular regions that appeared most attractive for agricultural enterprise. When the Carter Commission was appointed in 1930⁸, it gave the definition of the Highlands as "That region within which people of European extraction have a privileged position". The belief was that the area suitable for white settlement was limited and should thus be reserved for settlers only. But there were other reasons to explain the delimitation of the highlands. Between 1906-1939, the boundaries of the settler "reserve" remained fluid. The purpose was to keep reducing the area occupied by Africans as more settlers arrived. In this way delimitation increased the population pressure within the reserves. This directly led to outmigration of the Natives to seek employment on settler farms and stem-off labour shortage. Reduction of land available for African use also ensured that the settlers did not encounter competition in production from the African sector-especially in production of the cash crops. Such control of African productive capacity would guarantee sufficient protection to settler enterprise. In away also, the delimitation process ensured that land in the settler reserve was always in short-supply and so did command a money price when bought or sold.

All possible measures were in effect taken to keep the secluded area exclusively as desired. During the 1905 Land Committee. Kiu to Fort Ternan was accepted as a suitable definition but not binding. Allowance was made for future farther expansion as need arose. The 1906 "Elgin Pledge" further reinforced the seclusion of the White Highlands. This was followed in 1907 with the formation of an Advisory Land Board. The Board was to work on the restriction of the holding of land in the Highlands by Asiatics. The 1915 Crown Lands Ordinance further prohibited inter-racial transactions in the Highlands.

In 1923, the Devonshire White paper stated that the Asians should not be admitted into the highlands. A further delimitation of the boundaries

was given by a sub-committee of the Executive Council in 1928. Its boundaries were however objectionable as restricting European expansion. This gradual extension of the White Highlands went on until the 1930s. Finally, the recommendations of the Carter Commission (1933/34) were accepted by the Imperial Government. The final boundaries were drawn up in 1939/39.

The significance of this delimitation process cannot be overestimated. It was doubtlessly aimed at securing monopoly of whatever would favour increased settlement. The area delimited was along the railwayline. This would serve the purpose of easing settler tasks of transporting their agricultural produce and livestock, as agriculture yielded produce.

(iv) Land Alienation to the Settlers:

Land alienation to individual settlers was very extravagantly done. There was no plan in the manner in which it was done. No attention was for instance paid to the acres an individual should get in accordance with the immediate economic needs. Nor was it considered important to devise a plan to guide the settlers in the productive use of the land alienated to them. This failure to follow an ordering of priorities led to the creation of landed proprietors and not productive farmers.

Land alienation policy was summed up as "sell for a reasonable price to those who are able to pay, and give without price to those who are not able." This generous pricing policy was based on the assumption that land was plenty. It was not realized that there was an explanation for the emptiness of the land. This had been caused by draught, famine and internecine wars. The majority of tribes in the Highland areas had been affected by these natural calamities which forced them to flee elsewhere for survival. The Colonial Administration was impressed by these fertile but "ownerless" expanses of land they found. It was therefore hoped that the settlers would yield from such land something close to the Biblical "Milk and honey."

The procedure for acquisition by individuals was fairly favourable. Grants were to be made on priority of application under a homestead system of settlement. An individual could get himself a homestead of 160 acres. If ³ of this was cultivated within three years, an additional area of 480 acres would be granted. The purchase price was Rs.2 (2s. 8d) per acre. This could be paid at once or spread over 16 years. A freehold title would be granted on payment of the purchase price and after the cultivation conditions had been fulfilled. This applied to agricultural land. With regard to pastoral land, leases of upto 10,000 acres could be acquired at a rental of 1 anna (1d) per acre.

The actual grants themselves were extremely generous. Anybody interested could apply. A settler's wife and sons over 16 years old could apply for separate grants if they wished. Free grants of 640 acres each, for example were being offered to anybody who applied for them. Later, this offer was extended to include 5,000 acre stock farms. Individuals and syndicates applied, as did limited corporations like Brook Bond. In one case, 32,000 acres of leasehold land was granted by Sir Eliot to two immigrants, each of whom had the option to purchase 10,000 acres of these at 8d per acre. A Major Burnham was granted two 50 square mile blocks of agricultural land at Limuru. He could purchase the whole area within the next six years for 4d per acre. Lord Delamare was offered 10,000 acres. 200,000 acres went to Grogan Forest Concessions. In similar manner, particular outstanding syndicates made their hand as well. 350,000 acres were allotted to the Uplands of the East African Syndicates, and a further 320,000 acres were granted to the syndicate around Thomson Falls.

In point of fact, this was the origine of inequalities in the ownership of land in Kenya. The extravagant manner of alienating land to individual settlers was done in abid to create a large scale farm sector, producing for the local and overseas market. But there were some important economic factors that were not put into the picture. It was for instance not realised that large scale farming would require cheap labour and the technical know-how to make it successful. It is highly doubtful whether even ecological factors were considered as these were to affect greatly the production efforts. The lack of a plan in this process of land alienation to individuals resulted in a continuous speculative economy.

Secondly, right from the period of early settlement, the Colonial Government was determined to create an economic climate sympathetic to European agricultural enterprise in this period was therefore to ensure increased security of settler ownership of land in the highlands. The settlers were thus not allowed to sell the land to Asians and Africans who might well have put it to productive use. At the same time, the settlers resorted any form of public control and easily evaded the development conditions. They had in fact made it plain through Lord Delamare in 1905 that speculation was to be expected in a free economy, since land, being a commodity of commercial value in English legal theory had to be kept freely transferable.

The established legal and administrative systems were also most conducive to speculation. The legal system was aimed at the maintenance

CHAPTER TWO (THE SPECULATIVE ECONOMY)

(i) Contributory Factors

It has been argued that the initial justification for large alienations of land was the establishment of a strong agricultural market economy. Such an economy would not only serve British interests, but also build a white Colony. Little account was however taken of prevailing conditions of tropical agriculture. This was particularly important since the settlers were few, their financial resources limited and their technological know-how almost nil. Settler ignorance of the Soil Texture in Kenya was a big setback. They misunderstood the climatic conditions especially in regard to rainfall distribution, knowledge they could well have obtained from the indigenous tribes. Most important, it was not realised that without the necessary agricultural implements, coupled with skilled manpower, and labour, large scale farming would be impossible.

In other words, small scale farming would have been most suitable to an agriculture that was just beginning. The Government should have allocated small sizes of land to individuals for easy management. As things were however, the settlers found themselves in grave difficulties. They did not even know what to plant, where and when. They began their tasks on trial and error which drained their limited resources. In these circumstances, the sale of parts of their large estates to incoming settlers at high profits commended itself as one easy way of making money.

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The established legal and administrative systems were also most conducive to speculation. The legal system was aimed at the maintenance

of a dual agrarian system of agriculture with tight control where the Africans were concerned and none on the settlers. Because Administration was run on the basis of cooperation between the Government and the farmers, the latter, of whom had an overwhelming ^{say} in the direction of Government policy and who at times acted as Administrators, administrative and legal control on speculation was out of the question.

(ii) Speculation in the settler economy:

It goes without saying that speculative men will buy an article when the price is low. They will then hold onto it until the price has risen when the article would be released on the market. This couldn't be more applicable to the settlers-especially the more established ones. It was these established settlers and settler organizations, who, in the agency of Lord Delamare argued that speculation should not be hindered. They held the opinion that "... speculation is ... a sign of activity ... of greater benefit to the country... than to shrink from taking the necessary steps to that end for fear that over-speculation will be indulged in".⁹ The settlers were backed by other private enterprises.¹⁰ These were the people of whom Wheloff says that "in so far as they speculated in land, the established settlers had a vested interest in further immigration of Europeans interested in buying or leasing land."¹¹

But the official view was opposed to this settler attitude. Lord Elgin raised the opinion that the right to free transfers was only too likely to lead to amassing of large areas in single hands. He stated that much as he supported "... the settlement and development of the Protectorate... I consider the evils of unrestricted speculation in land much more serious than the committee appears to regard them as being."¹² Lord Elgin was right in this respect because the Delamere School of thought was overlooking some very crucial factors. They did not for instance realise that making land easily transferable leads to all manner of social evils and dispossessions. The right to acquire land for ownership or other purposes will usually require careful checks. It must of necessity be restricted to the area requisite to the individual's immediate economic needs. This fact being overlooked, there naturally resulted the twin evils of land speculation and land monopoly. Secondly, under an owner-occupier system of agriculture, a prospective farmer was first expected to find the capital to purchase land. This requirement led to over-borrowing, and excessive land purchases. Most early settlers did not have enough funds to start with. They had to depend on borrowed loans at high rates of interest. Yet because of an absence of mechanisms for the control of land transfers, a substantial amount of the borrowed money was waiting for the windfall they anticipated when prices peaked.¹⁷

for themselves. Such individuals usually bought the land under the pretext of investing for their sons, who would come over to settle after education abroad.

The methods of speculation were many and varied. The 1919-1921 Soldier Settlement Scheme provides a good illustration of what went on. After W.W.I, the Colonial Government sensed a need for more settlers. In addition, settlement was seen as necessary for softening war effects on the British ex-servicemen. These were invited into Kenya under the Soldier Settlement Scheme. The Scheme originally envisaged 257 farms of 160 acres to be given free. A further 1,053 farms, covering 2,500,000 acres were also envisaged. These were to be sold at 6s. 8d to 13s.4d per acre. Applicants were required to have a minimum of £1,000 to be raised to £5,000 by 1920.

What followed however completely disrupted the original plan, 2,200 applications were submitted. The draw was done by lottery and the names of the successful applicants published.¹³ It was however found that among the successful applicants were a good number of outstanding English personalities.¹⁴ These were not the people expected in the applications. Unfortunately the best lands in the Scheme got these absentee applicants who had no intention whatsoever of coming to settle. They offered their lands to the unsuccessful Soldier Settlers at terribly high prices. The little capital that these lower rank Soldier-Settlers had was spent in land purchase. They soon ran into financial troubles and could not therefore start on any development. Unable to weather the conditions, they sold to adjacent more established settlers at low prices. These on their part held onto the land in anticipation of future price increases.

Dummying was another mode of speculation. A large capital landowner would provide funds to a number of individuals. This was to enable the individuals to purchase any available land. After some time, the money-lender "purchased" the land from those he had financed. It was alleged that Lord Delamere obtained the greatest amount of his estates through this practice.¹⁵ Where possible, he exchanged his estates for better ones - those better watered and which would fetch him high rates of profits. In 1924 for instance, he gave up 63,000 acres in Laikipia in exchange of 100,000 acres that were better watered. At other times, Delamere would buy developed or half developed estates with a view to resell up as prices rose.¹⁶

But Delamere was by no means the only speculator. Many times, other settlers applied for land in different names and got it. It was reported that "Landed gentlemen in the municipality of Nairobi, who had received their land for almost nothing had hung onto it, doing nothing whatever to and waiting for the windfall they anticipated when prices boomed."¹⁷ With similar objectives, people came as tourists and ended up buying vast

for themselves. Such individuals usually bought the land under the pretext of investing for their sons, who would come over to settle after education abroad. This land was however always resold during periods of price boom.

Similarly, the large syndicates that applied for land had no real commitment to genuine agricultural development. Most of them had had speculative experience elsewhere. The East African Syndicate for instance had commercial links with South Africa. Land purchased by this syndicate was basically for prospecting in Minerals which were not found. The syndicate thus turned to speculating in the land. It usually advertised its estates in some other countries where it was never unusual to find invitations such as the following: "Kenya Colony - A syndicate has ... a 14,000 acre property ... in the highlands of Kenya ... recently surveyed"¹⁸. As table I shows, in the 1930s, more than one and half million acres of land was owned by people who had never put a foot on it and never spent a cent on its development.

Table I

The use made of European alienated Land years 1920-1938

	ACRES OCCUPIED	ACRES CULTIVATED	
European owned alienated land			6,847,000
Land alienated but not owned	5,157	170	845,440
Land beneficially occupied, under crop or stock	5,301	650	2,828,000
Land owned but not beneficially used	5,138	556	2,562,000
Land owned but not occupied or cultivated		547	1,457,000

Source: East African Standard 11th September, 1931.

This account indicates the ease with which land was bought and resold. Early land legislations had made it possible for pioneer settlers to acquire and accumulate land which they could not use productively. They took advantage of the ignorance of the incoming settlers by selling to them at high profits. The practice raised land prices beyond the productive capacity of the soil. This adversely affected the small farmer. Usually, it was he who had to buy his land from the established settler. The price forced him to waste his limited capital in land purchase. The little that was left was hardly sufficient for paying labourers, buying farming implements stock and crops to grow. Since in most cases he could not cope, he resold out to others and then quit. Again, the small farmer was at a disadvantage with the commercial and Merchant Banks.

These were never interested in financing for production purposes. Their interest was to finance for speculation. This meant that he was denied credit-he could not risk planting cash crops and turned to producing maize for quick returns.

Consequently, in the 1920's, of all the alienated land, not more than 10% was ever in production. Settler agriculture during these years was an inefficient, artificially protected enterprise. As table II below indicates, the early 1920s were the least rewarding years in settler agriculture. The war had affected production but speculation had done worse. From around 1926 to 1930, the international prices on maize, flax and coffee were very encouraging. But then followed the economic difficulties of the 1930s which led to drastic fall in production, a situation which continued to deteriorate as the W.W.II approached. This pattern continued till the Government stepped in to boost war production in the 1940s.

Table II

Acreage Under Cultivation between the years 1920-1938

YEAR	NUMBER OF OCCUPIERS	ACRES OCCUPIED	ACRES CULTIVATED	%
1920	1,183	3,157	176	5.58
1929	2,035	5,001	636	11.40
1934	2,027	5,138	556	10.82
1938	1,890	5,053	547	10.81

Source: VAN ZWANENBERG - Colonial Capitalism and Labour in Kenya.

(iii) The Pattern of Price Increases

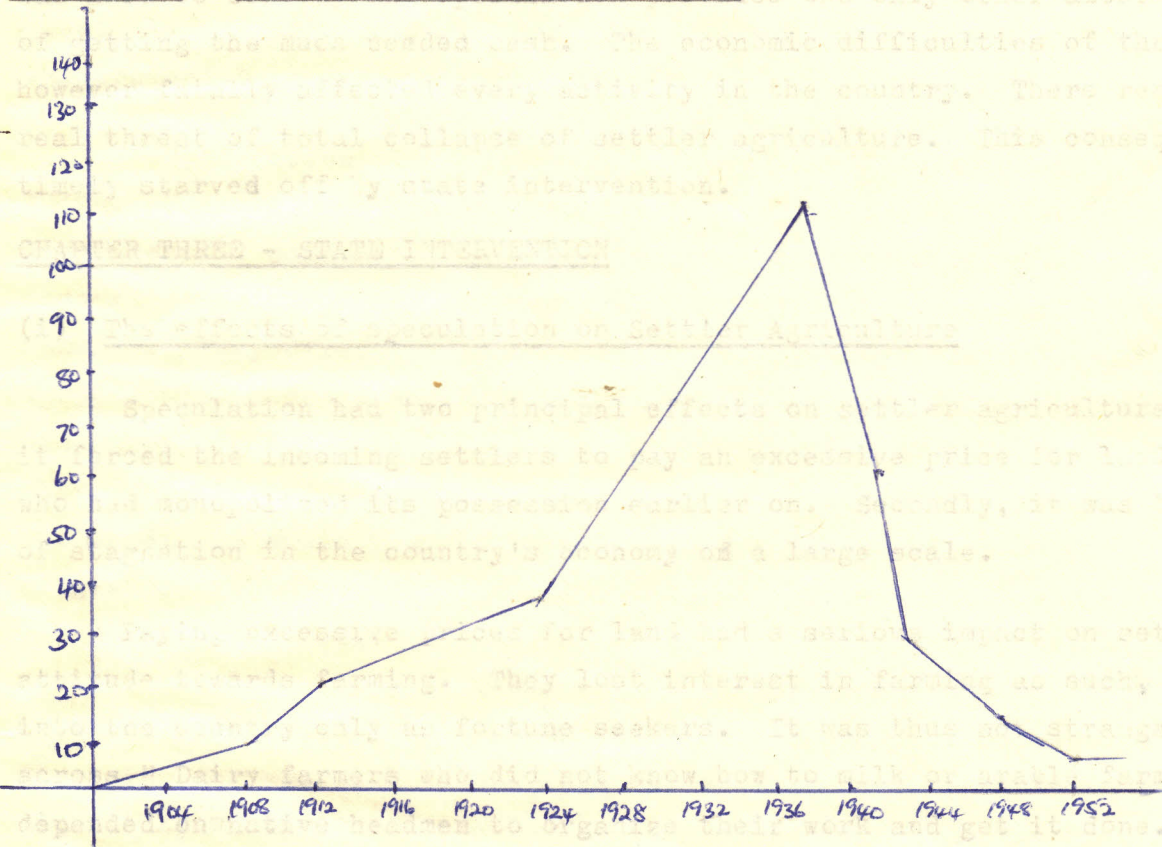
The value of land rose with the concentration of holdings whereas it should rise with its productive capacity. Between 1911-1912, land prices rose very sharply as new settlers purchased the underdeveloped parts of the " Pioneer estates." An interesting account of the pattern of price boom was given by one old settler as follow:"... Kiambu farms of 600 acres freehold...sold freely at £2, then £4, and even £8 an acre...buying and selling options because as popular ...as football pools today." 19

Farms in the Rift Valley region which sold for 6d an acre in 1908 were resold for 10s per acre in 1912. In 1912, the same land changed hands on the

market at £1 per acre. Estates that were hardly developed were highly priced. In 1904, for example, a certain Hamis family was granted 100,000 acres at Thika. In 1915, 5,000 acres of these were sold at £550. In 1920, the new owner refused £50,000 for the same 5,000 acres. He wanted more. This was the sort of gambling that Lord Delamere along with others indulged in.

This patterns of price increases was very much linked with the increase of the settler population and also with the international crop prices. As figure III shows, between 1912-1920, these was an increase in settler.

Figure III - Land Prices between 1904-1952



Source: (i) Between 1904-1936, source from books and the Crown Lands Ordinance 1902.

(ii) From 1944-source is the Crown Lands Valuation Board-established in 1937. Population and correspondingly, the price of land got particularly high. Between 1920-1928, the market price of flax, maize and coffee was very encouraging. Land purchases increased at sharp prices because of this. 1929-1936, there was a drop caused by the economic difficulties of those years which forced the Banks to go out of business so that the speculators had no credit. In 1937, the Crown Lands Valuation Board was formed to compile prices of land in accordance with its value. It is noticeable that between 1940-1952, no land was sold at above 20/- an acre. In fact the price in this period ranged between 2/- to 12/50 per acre (in Trans-Nzoia).

During the auction, it was sold at an average of £12:12:00 per acre. The bidders were of various nationalities.

As the account in this section indicates, settler agriculture during this period was based on unsound policies. The "Reserve" policy reduced the amount of land available for production in African regions while in the European "Reserve", the early concentration of land in a few hands forced the rise in land value as settler population increased. Major economic factors that do always affect agricultural production were not taken into account during land alienation. In addition, lack of finance and agricultural technics resulted in little development. Subsequently cash was hard to come by and speculation provided the only other alternative of getting the much needed cash. The economic difficulties of the 1930s however fatally affected every activity in the country. There resulted real threat of total collapse of settler agriculture. This consequence was timely starved off by state intervention.

CHAPTER THREE - STATE INTERVENTION

(i) The effects of speculation on Settler Agriculture

Speculation had two principal effects on settler agriculture. First, it forced the incoming settlers to pay an excessive price for land to those who had monopolized its possession earlier on. Secondly, it was the cause of stagnation in the country's economy on a large scale.

Paying excessive prices for land had a serious impact on settler attitude towards farming. They lost interest in farming as such, and came into the country only as fortune seekers. It was thus not strange to come across "Dairy farmers who did not know how to milk or arable farmers who depended on native headmen to organize their work and get it done." Speculative profits became the source of income, and adequately so to some well organized speculators.²⁰ Between 1913-1939, land policies were specifically shaped to make easy the acquisition and transfer of land. More specifically, in 1913, the principle of granting land directly by application on "First come, first served" basis was abolished. In its place was instituted the auction system. Auction however is quite a bad system of conducting sales. It frequently forces the price of commodity beyond its true economic value. As one critic pointed out, "it is not sound policy on the part of the Government to encourage the payment of too high a price for land, which necessitates a diversion of cash in the land purchase which ought to be used for land development."²¹ Auction bidders in Kibos suffered under this ill-practice in 1926. Here, farmers were offered land at an upset price of £2 per acre.

During the auction, it was sold at an average of £12:12:00 per acre. The bidders were of necessity left with little capital with which to start development. They most likely ended up borrowing, with consequent indebtedness. Also, under the auction system in the settler agriculture, competent farmers were apt to be outbitten and thus unable to get land. Wealthier persons easily got the land, and more than they could actively develop. Finally, the auction system usually caused unnecessary delays in the acquisition of land by intending farmers. The Commissioner usually had to keep collecting all land available for auctioning. This forced the settlers in immediate need of land to purchase from the landed more established settlers. This was precisely why the settlers voted for the auction system of buying land. It was congenial to speculation.

Speculation also adversely affected the loaning system before the 1930s. Banking had been left entirely to private enterprise by the Colonial Government.²² Commercial Banks in London set up subsidiaries in Kenya as did several Merchant Banks. The contribution of these banks to speculation was immense. They directly financed it. Usually, any genuine participant in an agricultural economy would be expected to make some sort of a plan to guide his enterprise. He would for example be expected to take into consideration what qualities of the various agricultural commodities he wanted to put on his land. He would also be expected to device, however simply a productive programme. The settlers did none of these things. The Banks were not concerned about this. So long as there was security of ownership of land for the settlers, they were willing to accept the market price as the valuation on which they would lend cash despite the obvious deficiencies of such a system. Financing for speculative dealings was still very profitable in itself especially in days of price boom. Only short-term high interest finance was available at the rate of 8% interest. This no doubt tended to place the borrowers heavily in debt. As the economic pitfalls deepened, the borrowers were not able to repay their liabilities. The banks themselves got in bad shape and started borrowing, which in turn directly led them in heavy debt too. They stopped giving out any more loans and in fact opted out of the system at the crucial stage in 1930. Left hanging in the air was the perplexing question as to who would provide the capital to aid the indebted farmers?

Speculation also led to a serious state of stagnation in the economy. Between 1936-1940, Kenya's agricultural regions were a sorry sight. Most settlers had drained their sources of capital. They either abandoned the farms or just did nothing towards development. A Mr. C.E. Mortimer visited Uasin Gishu and Trans Nzoia Districts in 1937. He was "Impressed by the large

areas of under developed and unoccupied farms." He reported that in some instances, the farms appeared to be partially developed and then abandoned. In others, no sign of development could be seen at all.

After the economic difficulties of the 1920s, most settlers had turned to maize production. Maize was quite an easy crop to grow and brought in about the quickest return though not the most rewarding. Between 1930-1934, however, the world price of maize fell by 44%. The number of maize growers decreased as did the acreage under maize production. A survey carried out in 1936²³ showed that of the 1,807 farms surveyed, 590 were small. The value of the output of the 590 small farms did not exceed £5000 per annum. According to the settler standards of living this could not meet all the expected expenses.²⁴ Real estate was the only one commodity from which profits could be made to make ends meet.

On the whole, the general picture on land distribution, utility and development was discouraging. In the words of a Mr. Louis Syke- "At present the existing land laws are applied or otherwise at the discretion of the head of the state, the head being advised by the Chief of the department dealing with land, and the result-Chaos!"²⁵

(ii) The Measurers Taken

The crucial question was, who was to shoulder the responsibility of putting right the chaotic state into which agriculture had fallen? The Colonial Office in London had several times in the past years ~~refused~~ ^{refused} to give consent to land Bills that were aimed at curtailing land accumulation.²⁶ This brought the Colonial Government in Kenya to one realization, that is that, if anything in the way of improvement was to be achieved, authorization from London had to be dispensed with. In other words, state intervention became imperative with no regard to directives from London. The outlook taken by the East African Standard on this issue shows a remarkable contrast with its outlook in 1905. It lamentably reported that "... the farmer should be anancipated from a precarious price system that undermines security and limits enterprise... the use of the land thus becomes a state matter and its ownership a direct concern."²⁷ Gone was its support for private enterprise with no monetary qualification as it had advocated for in 1905.

Several decisions were accordingly taken in a bid to regularise the prevailing state of affairs. First, the Commissioner for Lands decided that land in the country should be granted to the correct type of settler-one who would make the best use of the land. It was hoped ~~that~~ ^{to} attract men in the category of retired soldiers, business or officials on a pension or fixed income, who would be helped to avoid misusing this income.

The settlers themselves also became particularly concerned as to who should own land. In view of this, the Molo and Mau Summit Settler' Association met to discuss the issue. Their aim was to devise ways of preserving land for British subjects serving in W.W.II. These settlers were against the selling of available agricultural land to aliens and syndicates during the war as had happened in W.W.I. Among the resolutions proposed by the Association was that " No land whatsoever shall be sold to a syndicate or company whether British or otherwise, unless such syndicate or company, is composed of demobilized soldiers and until two years after the war".²⁸ This was quite an important decision. It would, if enforced, go along way in getting rid of speculators.

In regard to the loaning system, the Government intervened too. It introduced a number of interim measurers to save the settlers from extinction. Governor Grigg expressed the view that the most urgent need was to get some capital to aid the indebted farmers.²⁹ The first thing done in 1930 was to set up the Agricultural Advances Ordinance as an emergency measure. It provided the statutory means to set up a Central Board to assess the problems of the indebted farmers. It was also to draw on Government surplus balances for finance. The purpose of the measure was to help those who had " Exhausted the existing sources of credit." The money granted was to be used for the payment of interest on mortgages and overdrafts. Where necessary, it was hoped to retain deserving farmers on their land and prevent foreclosure.

In 1931, the Land Bank came into existence.³⁰ The Government was authorized under the Land Bank Ordinance to raise £240,000 from London. The loans to individual farmers were on long term basis at 6.5% interest. The Bank could not lend beyond a stated sum. This was to safeguard against overborrowing. The Agricultural Mortgage Relief Ordinance of 1936 supplemented the already established support. It legally prohibited Mortgages from taking over a farmer's property.

Similarly, there was a complete revolution in the manner of alienation of Crown Land. In 1922, the Land Tenure Commission had recommended the abolition of the auction system in favour of direct allotment. The recommendation had been rejected. Now however, the Commissioner for Lands pointed out with firmness that " In my opinion, alienation by auction is fundamentally wrong and has at any rate outlived its usefulness."³¹ In support of this, Governor Marshall stated that " The best interests of the country lie in obtaining a reasonable price for its land and in leaving the settler as much as possible of his initial capital to put into development."³² To make this possible, it was decided to start making land grants by direct allotment.

Consequently in 1937, the Commissioner (Mr. W.M. Logan) devised a new method of alienating Agricultural land. Particular importance would henceforth ~~be~~ be attached to discovering the applicant's previous experience and farming capacity. The applicant had to submit a development programme for the land concerned. If the applicant appeared to be suitable, his application was published for remarks and objections. After a specified period, the application together with any comments, was to be considered by an Advisory Land Board. Then, a recommendation would thereto be made to the Government. This was to ensure that so far as would be practicable, land would be allotted to those who would make the best use of it. The purchase price was to be assessed by the Crown Lands Valuation Board.

The determination to enforce strict control over dealings in land transactions was reinforced in 1943 by the Settlement and Produce Board. This Board was established in 1939 as successor to the Land Advisory Board of 1928. During its deliberations in 1943, it stated that "...Government, by legislation take power to control transfers of Agricultural Land... at prices to be fixed by a competent Board."³³ This was followed by a decision to secure all surplus land that was in private ownership for sale to others at controlled prices. The Government was to take the responsibility of advancing something in the region of £1,500 to £1,800 to the applicants.

A Select Committee was appointed to work on the above scheme. It finally gave its report in the form of a bill in 1944.³⁴ The object of the Bill was the Control of speculative dealings in land. It was also to provide for the compulsory acquisition of land by the Crown for Settlement purposes. To give effect to this objective, a Land Control Board was to be set up. Its duty was to be the control of all land transactions in the Highlands. The Board was given power to refuse its consent to such transactions on grounds of the excessive price agreed upon or on the ground that the applicant already had enough land. In addition, the Board was empowered to recommend land for compulsory acquisition by the Crown. It would then assess the compensation that would be paid for land so acquired. Thus came into existence the Land Control Ordinance of 1944.

Before the Select Committee gave its recommendation, it toured the Highlands, interviewing the settlers. The settlers showed hostility and fear towards the measure. They were doubtful as to whether the Bill would apply to both developed and undeveloped land. Moreover, even if the measure was only to be against undeveloped land, it was viewed as a threat to complete and unrestricted ownership of land. During the debates on the Bill, it was questioned how long the measure would last. Lord Francis Scott, though very much in support of the Bill and its necessity, expressed the opinion that

"...after a period of time...this Bill could very reasonably be wiped out ... I feel strongly that...the freer powers...over...dealings in land...the better...for the country and...for white settlement in this country." ³⁵

Similarly, Col. Grogan, though aware of the dire need for measurers of control, was opposed to the Bill on the ground that it would stagnate land transactions and bring in the country a flock of lawyers.

Despite these doubts and protests, the need for control was accepted by all. In the view of Major Cavendish Bentfick, there was no need for a time limit. He made it known that in his view " The Bill represents a turning over of the page, a new philosophy in regard to land holdings in this country." ³⁶ Improvement was extended beyond mere control of land transactions. Measures were also taken to encourage the preservation of the soil texture of all agricultural land. The Land and Water Preservation Ordinances of 1940 ³⁷ were enacted. They gave the Governor and the Director of Agriculture power to make rules that would ensure the preservation of Agricultural land. These were followed by the Defence (Agricultural Production) Regulations of 1940 ³⁸ and the increased Production of Crops Ordinance 1942. This latter introduced compulsory planting of crops and the system of guaranteed Minimum Return in respect of certain essential crops. Farmers were now required to submit programmes of production to the Agricultural Production and Settlement Board. There was also increased Government control in the marketing of food crops.

Such were the measures that were taken to help the settler economy to get going again. The settlers, though recognising the necessity for the measurers, felt insecure. They were however asked to change their attitude and think in terms of the great benefit to the economy the measures would bring. All land transactions thus came under control. Land prices became regularised and more settlers settled. It was a revolution indeed!

CHAPTER FOUR - CONCLUSION

Analysis And Synthesis:

From the foregoing discussion, many things become apparent. First, the settler economy had no organization whatsoever before 1940. The legal system within which it operated was based on the maintenance of separate administration and control of the white minority settlers and the other races. This resulted in laws that were designed to benefit the settlers at the expense of the Africans and direct confusion in both African and settler agricultural production. The settlers considered that what was most urgent for the purpose of their agricultural enterprise was as much liberty as was possible in land matters. To meet this demand, they actively participated

in ensuring that the laws that governed the other races spelt absolute subservience to settler needs.

But society and its institutions cannot be organized on absolute freedom of action. This of necessity and naturally leads to chaos. There has to be some restraint and control. This fact is important not only to the understanding of the settler economy but also, it telescopes the forces at work in most modern economies - and Kenya's economy in particular. The Colonial land registrations led to a state of imbalanced distribution of land not only among the settlers themselves, but more seriously among the Africans. This led to speculative exploitation of the landed upon the landless. By the time the dangers, of this practice were realised, the harm had already been done. The 1944 Land Control Ordinance was just an indirect way of sanctioning the accumulation of land by those who could afford it but in a more modest and civilized (concealed perhaps) manner. The only difference here from the earlier amassing was that the land was now to be put into active productive use.

Yet the link between the colonial economy and the present economy can not be divorced as both share the same institutional base even though there seems to be a big difference in their objectives. The institutional framework of Colonial Kenya was geared towards cementing economic and social inequality. The present Kenya, through its recurrent sessional papers has pledged its Commitment to build an egalitarian society. It is however difficult to understand how the Government hopes to do this within the framework of the inherited colonial land legislations. Society is necessarily shaped by its laws. It follows logically that if Kenya is to build a society in which there is equal distribution of land and its products, laws that will help create such an atmosphere need to be created too. Without such laws, Kenya's economy will remain infested with economic malpractices that breed class division. Chaos is usually the end result of such developments. One however hopes that just as the authorities intervened in time in the 1940s to save settler agriculture, the present economy will also be saved. This will depend alot on who the ruling class will be.

.../26...

It really is a topping gear, and someone seems to say, "Oh, there is really such a charm in being "called" a farmer, (though one doesn't have to farm."

1. The Native Problems in Africa - Buell Page 895
2. The theory was that the mere establishment of a protectorate does not entitle the protecting power to deal with private rights to land in the Protectorate. Any such power must be based upon the express grant or acquiescence on the part of the Local Government. The Dual Mandate-Lord Lugard.
3. Origins of European Settlement in Kenya - Sorrenson M.P.K.
4. Nyali Ltd v A.G. (1956) K.B. I at Pg 15.
5. Public Law & Political Change in Kenya - Ghai & Mcauslan.
6. The Crown Lands Ordinance = S.R.O. 66I
7. Isaac Wainaina v Murito Wa Indagara (1923)9(2)K.L.R.102
8. The Commission was appointed in April 1932, under the Chairmanship of Sir ~~Morris~~ Carter, to investigate and make recommendations on African claims to alienated land.
9. The 1905 Land Committee Report - Lands Department
10. East African Standard - 8th June 1905
11. The Economics of Colonialism - Wolff Richard.
12. Land Committee Report - Supra
13. Primitive Colonial accumulation - Van Zwanenberg
14. These included ladies MacMillan and Belfield (the wife of an ex-Governor), the countess of sefton; 36 colonels, 46 majors and 60 captains.
15. Delamere would find prospective farmers and ensure that they had enough cash to pay the survey fees demanded by the Survey Department.
16. For instance in 1925, he bought a deceased's farm at £11 an acre. He would not however resell this one nor did he complete payments. He was caught up in the 1927 -28 slump.
17. The Kenya Critic 1923 - in Primitive Colonial Accumulation - Vaz Zwanenberg.
18. The Times 26th January, 1926
19. Van Zwanenberg - *ibid*.
20. The Kenya Critic 3/6/1922 made a poem to this effect, "...oh, lid love to be a farmer,. Not the kind who ploughs the land and sweats from morn to dewy eve, with rough and horny hands; But one who plays at politics and grinds his axe (i.e. looks after his interests) all day. It really is a topping game, and somehow seems to pay. Oh... there is really such a charm in being "called" a farmer, though one doesn't "need" to farm."

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21. Official Correspondence File on Land Policies - Lands Department.
22. In the mid 1920, it had been suggested to the Colonial Government to set up a Land Bank. The Parent Commercial Banks in London had however influenced the Foreign Office to refuse permission for setting up the Bank. : The Native Problem in Africa, (Frank Case & Co. 1965)
23. The Livingsage Survey : British Policy in Kenya Colony (New York, University Press 1970)
24. This included occasional home leave, education of children abroad, an annual holiday at the coast, Club membership, bar bills and a car of a recent model. : The Law and Political Change in Kenya (London, East Africa Publishing House, 1972)
25. East African Standard 26/2/1943. University Press 1970)
26. These attempts included the 1905 Lord Elgin's warning against free transfers; the 1908 bill on the enforcement of a surtax; and the 1921 bill on the imposition, assessment and collection of land-tax legislative Council Debates 20/1/1921.
27. East African Standard 14/1/1942 west of Agricultural Marketing
28. Confidential file on Colonial Land Policy - Lands Department.
29. Stated to the Hilton Young Commission in 1931.
30. The Land Bank Ordinance No. 3/1931 : Kenya from 1918 to 1968 (Frank Case & Co. Ltd 1968)
31. Land Policy in Kenya Colony - Confidential file -Lands Department.
32. Supra : University Press 1966
33. Supra
34. Legislative Council Debates 8th June 1944 at Pp.148 Development
35. Ibid - 9th June 1944 : Strategies in E.A. (Nairobi E.A. Publishing House, 1972)
36. Ibid
37. No 4 & 33 of 1940 : The Official Land and Kikuyu Land Tenure 1895-1930 (S.A.I.S.S. Conference paper, January 1963.)
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2. The Carter Commission 1932
3. The Colonial Annual Reports - Kenya, Report of the Agricultural Commission 1929.
4. The Hilton Young Commission 1929
5. The Kenya Land Commission Report 1933
6. Report of the Land Committee 1905.

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