LAND-TENURE IN MALTA

Constructive Suggestions

[The following letter from Mr. J. Dundas White, LL.D., was published in the DAILY MALTA CHRONICLE of 3rd October, together with a covering note from Mr. Geoghegan, to whom Mr. Verinder had forwarded it.]

43, BURTON COURT,
CHELSEA, S.W.3.

DEAR MR. VERINDER, 16*th September*, 1922.

Thanks for your letter of the 14th with the various enclosures for Mr. Geoghegan, who I understand from what you say invites my observations on the arrangements to be made as regards those lands in Malta which, being no longer required for military purposes, have been handed over to the Civil Government of the Island.

On general principles I would submit:—

(1) That these lands should be treated as the property of the people of the Island from generation to generation perpetually.

(2) That, if and in so far as they are not required for direct communal purposes, they should be leased in perpetuity subject to the prompt payment of an annual land-rent representing the full value of the land, apart from any improvements thereon, and that the holders should be neither rented nor taxed on their improvements.

(3) That the Civil Government, as trustees for the people of the Island, should get the best rents reasonably obtainable for these lands in the open market for the time being on the basis of a perpetual tenure, it being understood that these rents will be revised periodically to keep them adjusted to any changes in the land-value. (The plan of fixing a perpetual rent for all time on the basis of what happens to be the rent plus a certain proportion of it seems quite arbitrary and, besides its other disadvantages, may have the result of perpetually alienating from the people of the Island a considerable part of what rightly belongs to them.)

(4) That the rent thus fixed should be revised on the same principles about every five or every ten years thereafter, so as to keep it adjusted to the land-value for the time being, or at least to avoid any serious divergence between the two. (If this were not done, any substantial increase of the land-value above the rent would give the increase to the holder instead of to the community, while, in the event of a decrease of the land-value below the rent, part of the rent would really be chargeable on the improvements.)

(5) That any improvements on the land at the time when the perpetual lease is granted should be purchased either outright or by a series of instalments, and should not be included in the perpetual rent, which should be a rent for the land alone. (This plan would make a clear-cut distinction between the land and the improvements, would facilitate the revisions of rent, and would avoid complicated questions as to what improvements were original and what have been made since, as well as those relating to depreciation, replacement, etc.)

(6) That, as the people of the Island are entitled to the land or its economic rent in perpetuity, there should be no purchase or commutation of the land-rents for a capital sum. (No generation has the right to alienate the rights of subsequent generations to the land or its economic rent.)

(7) That the holder should have power to dispose of his tenant-right without any tax or fine being imposed on that transfer, beyond a reasonable fee to cover the costs incidental to any consequent entries in the land-register (if any) or any other public records of land or property-holding in the Island.

Under such a scheme the rights of the people to the rents of such of these lands as are in private hands would be safeguarded in perpetuity, the pressure of having to pay the full value of the land to the people whether it were being used or not would impel the holder to develop it, the non-taxation of improvements would give every facility for that process, and freedom of transfer would enable the landholder to realize his rights and his improvements at any time in the open market, while his successor would continue to hold the land under the same conditions.

Some further observations may be added:—

(*a*) Instead of treating "immovable property" as a single composite subject, these suggestions propose to differentiate land and improvements, to let the land on perpetual lease at a rent representing its full value, and to provide for the purchase of any existing improvements either outright or by instalments.

(*b*) So far as the land is concerned, the system would be practically that of "emphyteusis," the rent being a money-payment representing the full value of the land and being payable whether the land is utilized or not; and the amount of it would be subject to periodical revision, as described.

(*c*) I am against the proposal that there should be a "laudemium," or fine, equivalent to one year's ground-rent payable to the Government on the occasion of every transfer of the property by deed "inter vivos." It would operate as a heavy fine on the transfer of land to the person who, presumably, desires to put it to better use. The proposal, moreover, is quite opposed to the trend of modern land legislation. In Scotland, for instance, where the feuing system is descended, through feudalism, from emphyteusis, the Feudal Casualties (Scotland) Act, 1914, has provided for the compulsory redemption of fines on transfers and other feudal casualties (casual or occasional payments) in existing feus within a certain number of years, and has prohibited the reservation of them in future feus.

With kind regards, Yours sincerely,
J. DUNDAS WHITE.

THE NATIVE LAND-RESERVES OF SOUTH RHODESIA

(*To the Editor of* LAND & LIBERTY)

SIR,—The other day His Honour the Administrator of Rhodesia made a pronouncement as to the settlement of our communally held Native Reserves, which have now, with one apparent exception, been defined—mainly in accordance with the findings of the South Rhodesian Native Reserves Commission. This was what our Administrator wrote: "No doubt the findings of the Commission have not in every case been satisfactory either to Europeans or to Natives, but I feel quite satisfied that any inconvenience which may have been caused to either side has been fully compensated for by the attainment of finality in the matter. . . ."

Now what is finality as predicated of an African Native Reserve? The somewhat meagre minimum of their own Territory assigned to the Southern Rhodesian Tribes by an Order-in-Council dated 9th November, 1920, has surely been made over to them "finally," so far as our Imperial Government can achieve reasonable finality for any Trust in the South African sub-continent created to promote Native interests in the sort of reasonable way in which this Land Trust was created. What, then, do these somewhat ominous words mean in "the terms upon which Southern Rhodesia is invited to join in the Union of South Africa"—"Existing Native Reserves in Southern Rhodesia will be respected."

A friend of mine, a Rhodesian of many years' standing, has indicated to me that the more he reads the paragraph in these Terms of Union the less he likes it. He has characterized it to me as clever but not reassuring. He tells me that when he recently interviewed His Honour our Administrator he read the first clause, and asked why did the clause declare that the Reserves would be respected: was it in anyone's power to interfere? He was told in reply that alteration could be made by Act of Parliament, but that at the same time the policy of the Union would be to retain these, and in addition that the consent of the High Commissioner would have to be secured. My friend tells me, "I expressed surprise as I had understood that these boundaries were irrevocably fixed."

Now what I want to say plainly is this, that a self-governing Dominion, with the South African Union's record as to natives and land, ought not to be allowed to take over the big Imperial Trust of the Southern Rhodesian Native Reserve Land at all, even though a majority of our tiny Southern Rhodesian electorate should vote for Union at a Referendum Poll next month.

Enkeldoorn, Mashonaland, Yours truly,
Southern Rhodesia. 4th September, 1922. A. S. CRIPPS.