DEVELOPMENTS AND REFORMS IN CAMEROON LAND LAW SINCE 1884

by

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ABSTRACT

This thesis is the first of its kind, so far as Cameroon land law is concerned, in that it is the first attempt to cover the country as a whole. The subject is treated in five parts comprising a total of twelve chapters. Part one, which is the introduction, has two chapters, the first of which briefly outlines the country's history whereas the second chapter explains the present administrative structure of Cameroon.

The third and fourth chapters, of which part two consists are devoted to the ethnic composition of Cameroon. Chapter three traces the patterns of settlement of the different ethnic groups in the territory and chapter four undertakes an analytical description of these groups from the point of view of their political, kinship and economic systems as well as their religions and languages.

The two chapters of part three which deal with the indigenous land tenures respectively analyse the interests of benefit on the one hand and the interests of control on the other. These are the two broad schemes of interests enjoyed under the indigenous land tenures in the territory.

Part four consists of three chapters corresponding to the three European Powers, Germany, Britain and France which administered the territory between 1884 and 1961. Apart from discussing the effects of this European administration on the indigenous institutions, the administrative and political separation of the territory between 1922 and 1961, when Britain and France administered the area is also discussed.

The fifth and final part also contains three chapters. The first two chapters examine the reaction of the governments of the two federated states of East and West Cameroon to the land tenure policies which had been adopted in these territories by France and Britain. The twelfth and last chapter takes a critical look at the current land tenure reforms in the country.

A NOTE ON PLACE-NAMES AND THE NOMENCLATURE OF ENACTMENTS

Everyone writing on Cameroon has to decide whether to adopt the English or the French spellings of place-names in the territory. Since this work is written in the English language, the standard English spellings of place-names which can be found on any current map of Cameroon will be used throughout except where it is inexpedient to do so. The French spelling of the country's capital city of "Yaoundé" has been retained. With regard to the nomenclature of enactments, the French term Décret is retained for those passed either in France or in Cameroon prior to June 2, 1972, when the United Republic of Cameroon was created; whereas the term Decree is used in the case of those passed after this date.

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PART ONE

INTRODUCTION

This introductory part is subdivided into two chapters. The first chapter briefly traces the history of Cameroon as well as that of its components which were later unified to form the present United Republic of Cameroon. This historical survey is followed in the second chapter by an analysis of the structure of the administrative institutions now[1] in operation in the country.

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1. July, 1979.

CHAPTER ONE

A BRIEF HISTORY OF CAMEROON

A useful introduction to this chapter would be to explain the various spellings which have been used by writers to identify what is now the United Republic of Cameroon or its components at different stages of their political evolution.

CAMEROON

This is the English form and refers to the country as a whole, whose full name since 1972 is "The United Republic of Cameroon".

CAMEROONS

This is another, older, English form designating the two British mandates or trust territories also known as Northern and Southern Cameroons. This name was discontinued after 1960.

WEST CAMEROON

This was the name given to the former Southern Cameroons between 1961 and 1972. Northern Cameroons became part of Nigeria as a result of a plebiscite organised by the United Nations in 1961.

CAMEROUN

This has been and still is the French spelling of the country's name.

KAMERUN

This German form was used to designate the German protectorate of 1884-1916.

CAMAROES

This is the name which was given to the Wuri river in Duala by the Portuguese and which after various mutations became the name of the country.

The Portuguese and German appellations of the country have fallen into desuetude and only the English and French spellings, Cameroon and Cameroun respectively, have survived the mutations occasioned by Cameroon's chequered history. English-speaking writers[2] still erroneously use the French spelling of the country's name in their writings. This, it is suggested, is wrong. These writers may argue, for instance, that Cameroon's seat at the United Nations Organisation bears the French spelling and this therefore is the internationally recognised spelling of the country's

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2. These include the journalists of some British newspapers like the Guardian and The Times.

name. To this argument, there is the answer that English-speaking Cameroon was not part of present-day Cameroon at the time of the country's admission to the world body. Not to labour this point, it suffices to say that the two forms of the country's name are used interchangeably. The English spelling has been adopted for the national newspaper, the national airline company as well as the national shipping company respectively known as Cameroon Tribune, Cameroon Airlines and Cameroon Shipping Lines. However, the different spellings will be used throughout this work in the appropriate contexts.

Discovery of Cameroon

The first recorded information about the area later known as Cameroon is to be found in the Periplus,[3] written by the Carthaginian sailor called Hanno (also Hannon). About the fifth century B.C. Hanno sailed to the west coast of Africa with an expedition of 60 vessels, each of which had 60 oars, and a total crew of some 30,000 men and women.[4] The furthest extent of this journey is believed to have been the Bight of Biafra,[5] and Hanno described what he and his crew saw after sailing for about 22 days:-

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3. Translated into English by Thomas Falconer.

4. Thomas Falconer, The voyage of Hanno, London, 1797, p.5.

5. Victor Le Vine, The Cameroon Federal Republic, London, 1971, p.2.

> "We saw by night fire arising at intervals in all directions, either more or less ... we could discover nothing in the day time except trees; but in the night we saw many fires, burning, and heard the sound of pipes, cymbals, drums, and confused shouts... passing on for four days, we discovered at night a country full of fire. In the middle was a lofty fire, larger than the rest, which seemed to touch the stars. When day came, we discovered it to be a large hill, called the Chariot of the Gods..."[6]

Even though doubts have been expressed by later writers as to the authenticity of Hanno's writings,[7] the large hill he referred to has been later identified as Mount Cameroon.[8]

Hanno might have been the first person to see Mount Cameroon but the Portuguese were the first Europeans to reach the coast of Cameroon. According to Le Vine, the Portuguese reached the Cameroon coast by 1472, the year they named the Wuri the Rio dos Camaroes, meaning "river of prawns".[9] This name stuck and was subsequently generally applied to the entire coastal area between Mount Cameroon and Rio Muni (formerly Spanish Guinea).

The Portuguese traders

The Portuguese traders were probably also the first Europeans to give a name to Mount Cameroon. They called it

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6. Thomas Falconer, op.cit., pp.11-13.

7. Ibid., p.v, where he names Dodwell as the greatest critic.

8. Victor Le Vine and Roger Nye, Historical dictionary of Cameroon, New Jersey, 1974, p. 55.

9. The Portuguese caught and ate a delicious variety of cray fish found occasionally in the Wuri river. Mistaking it for prawns, they named the Wuri the "river of prawns".

Ambozes and this name was later given to a town now called Ambas Bay not far from Victoria. The Portuguese did not explore the hinterland of Cameroon. The dense mangrove forest, the hostility of the coastal tribes and the humidity of the area, combined to discourage any penetration into the interior of the country. These early Europeans were probably contented with their lucrative trade in ivory and gold along the coast. Their main base was the island of Sao Tome from which they sent ships to visit their trading points at the mouths of various rivers along the Atlantic coast.

The slave trade

Discoveries of other areas far removed from the west coast of Africa played a major role in promoting the slave trade in West Africa. These were the discoveries of Christopher Columbus in the West Indies. The burgeoning plantations in the New World found imported African labour increasingly necessary. The Portuguese were the most important suppliers of slaves for these plantations, and it was only towards the beginning of the 17th century that the Dutch broke the Portuguese monopoly in this trade.[10]

Other nations, including Spain, France, Britain and America joined in the lucrative trade in slaves and Le Vine notes that for the next three centuries these nations systematically exploited the Cameroon coast for what he rightly referred to as its "human commodity".[11] The Spanish

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10. Le Vine, The Cameroons from mandate to independence, Los Angeles, 1964, p. 17.

11. Le Vine, The Cameroon Federal Republic, London, 1971, p.2.

acquired Fernando Po and it became their main collection point for slaves brought along the coast. British, French, German and Dutch traders established semi-permanent posts along the coast, principally at the mouth of the Wuri, at about which time the indigenous Duala began to act as middlemen in the slave traffic. As the trade spread along the coast, the other coastal tribes also entered the market as middlemen; apart from obtaining slaves for the European traders, they also distributed goods brought by the latter.

The British Presence

Attitudes in Europe, especially in Britain, towards the end of the 18th century and the beginning of the 19th, began to turn against the trade in human beings, with the emergence of the Anti-Slavery Movement. This development coincided with the establishment of British naval predominance in West African waters from Dakar to the Gulf of Guinea. In 1827, Britain obtained permission from the Spanish to occupy Fernando Po for the purpose of basing a naval squadron there in order to prevent the shipment of slaves from the Bights of Benin and Biafra.[12] By the 1830s and 1840s, British concern and interest had began to expand from the coastal region to the interior, which they explored to some depth at this period. Another aspect of British involvement

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12. Le Vine, The Cameroon Federal Republic, London, 1971, p.2.

in the coast of Cameroon at this time was the setting up of the so-called Court of Equity at Duala by treaty on January 14, 1856.[13] One of the signatories to this treaty was T. J. Hutchinson, Her Britannic Majesty's Consul for the Bight of Biafra and the Island of Fernando Po. He later acted as the judge of the court. The role of the court was to maintain peace and to settle disputes arising from the commercial transactions of the multinational trading community in Duala. In 1856, Alfred Saker, who was at the head of the English Baptist mission community on the coast, established the first European settlement at the foot of Mount Cameroon, which was named "Victoria" after the reigning British monarch at this time.

The annexation of Cameroon

The chiefs along the Cameroon coast expressed their willingness to accept British rule in letters written to the British consuls in the area as well as to the reigning British monarch. On August 7, 1879, a letter was written to Queen Victoria by Duala chiefs in the following terms:-

"Dearest Madam,

> We your servants have join together and thoughts it better to write you a nice loving letter which will tell you about all our wishes. We wish to have your laws in our towns. We want to have every fashion altered, also we will do according to your consuls word. Plenty wars here in our country. Plenty murder and plenty idol

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13. For the text of this treaty, see Hertslet's Commercial treaties, London, 1859, vol. 10, pp. 30-33; appendix XIV.

> worshippers. Perhaps these lines of our writing will look to you as an idle tale. We have spoken to the English consul plenty times about having an English government here. We never have answer from you, so we wish to write ourselves. When we hear about Calabar River, how they have all English Laws in their towns, and how they have put away all their superstitions, oh we shall be very glad to be like Calabar now".[14]

Repeated demands for British protection by the local chiefs, coupled with the extent of British influence along the Cameroon coast, made annexation of the area by Britain seem a foregone conclusion. The French as well as the Germans viewed the situation differently. The French established a number of trading posts along the coast and also signed treaties with some of the chiefs there. German commercial interests, which had been active in this area, had by 1882 convinced a previously reluctant Bismarck that it was desirable to extend imperial protection to the Cameroon coast.

Bismarck's decision to annex Cameroon took the British government at that time by surprise. British suspicions had been directed at the French and not the Germans, for the latter had not shown any interest in annexing Cameroon. The surprise was sprung in the Spring of 1884 when Bismarck despatched Gustav Nachtigal to the Guinea coast, ostensibly to investigate the state of German commerce there. The British government,having finally

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14. Letter signed by King Acqua (Akwa), Prince Deido Acqua, Prince Black, Prince Joe Garner and Prince Lawton on August 7, 1879. Cf. Victor Le Vine, The Cameroons from mandate to independence, p. 20.

become aware of the possibility that the Cameroon coast might fall into French hands (the Germans were thought to be uninterested in colonies), authorized their non-resident Consul, Edward Hyde Hewett,[15] to conclude treaties of annexation with the Duala chiefs. Hewett arrived in Duala too late to carry out his duties. Arriving a week earlier than Hewett, Nachtigal on July 14, 1884, ratified the treaty of annexation concluded on July 12, 1884 between Duala chiefs and two German firms, thus establishing the German protectorate of Kamerun". On his way to the Cameroon coast, Nachtigal had on July 1, 1884, also established the German protectorate of Togo.

German suzerainty on the Cameroon river did not go unchallenged. Buchner, whom Nachitgal had installed as the temporary official German representative in the region on July 19, 1884,[16] found himself in immediate conflict with the British traders and missionaries. The latter contended that prior British claims had been unjustly overlooked. They also accused the Germans of treachery in seizing the area. British influence in judicial matters through the Court of Equity, their superiority in numbers over the German traders in Duala and the frequent visits of the

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15. H.R. Rudin, Germans in the Cameroons, Yale, 1938, p. 40; Le Vine and Nye, op.cit., p. 56. One of the Duala chiefs, Bell, had in 1881, written to Hewett requesting British protection and annexation.

16. Le Vine, op.cit., p. 23.

British Consul to Duala were factors which contributed to the insecurity of the German position. Buchan, whom Hewett had left behind as the British Vice-Consul, became active in openly advocating resistance to the Germans among the natives on both banks of the Cameroon river. It would be recalled that the natives themselves had earlier indicated their preference for British rather than German rule. There were also squabbles among the native chiefs. In December, 1884, Lock Priso, chief of Hickory town, who had been hostile to the Germans, rebelled against them, and Buchner called in German gun-boats, which put down the rebellion. The British mission at Hickory town was destroyed. The Court of Equity, which the Germans considered a thorn in their flesh, was summarily dissolved despite protests by the British. Knorr took over from Buchner early in 1885 and issued a number of decrees which finally established German rule before the appointment on July 3, 1885, of Von Soden as the first governor of German Kamerun.[17]

The three decades of German rule in Kamerun were brought to an end by the First World War, which was declared in Europe in 1914. A three-pronged attack was launched by British and French troops against the German positions in Kamerun. General Dobell led a seaborne expedition against Duala, using Nigerian, British and French troops, while the French General, Aymerich, attacked from the Congo.

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17. Ibid., pp. 24-25.

A third column entered the protectorate from the north. The Germans resisted strongly, but the important town of Duala finally fell to the allied forces on September 26, 1914.

The condominium and the partition of Cameroon

The condominium was established following discussions between French and British officials in the conquered territory. This was on September 21, and 24, 1915, and the officers concerned were, for the French, Delcassé, and, for the British, Francis Bertie and Sir Edward Grey.[18] The two parties agreed to administer the conquered territory jointly until the Germans had been completely defeated. When German resistance collapsed, Britain and France decided to partition Cameroon. Each nation was to administer its own share of Cameroon according to its own methods and without interference from either party. The partition agreement, dated March 4, 1916, ended the condominium and delineated the spheres of interest of Britain and France. The French obtained four-fifths of the territory, and the British obtained two disconnected areas bordering Nigeria, which were thereafter called the British Cameroons.[19]

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18. Le Vine, op.cit., p. 32.

19. The French administered their own area of Cameroon under the Department of the Colonies in Paris, and separately from the countries of French Equatorial Africa.

The British and French generals were charged with effecting the transfer. By a Décret dated April 17, 1916, General Aymerich was appointed the French Commissioner in Cameroun and was instructed by the same Décret to set up a military government in the areas delimited by the partition agreement of March 4, 1916, as constituting the French sphere of Cameroon. Similarly, an Order-in-council was issued to General Dobell, who took charge of the new British Cameroons. The task of administering the newly acquired territory was going to be a difficult one for the British and the French. As a result of the war, there had been general uneasiness among the natives, who had run to hide in the forests. Some of them were dragged away to Rio Muni by the Germans, who had also carried away or hidden many vital documents.[20]

The French administration

The French military government in Cameroun was replaced by a civilian administration on September 5, 1916. The country was divided into circonscriptions, and the latter were in turn subdivided into subdivisions. The court system was reorganised to correspond to the system in operation in the French Equatorial African countries. Native courts, presided over by French administrators, assisted by native assessors, were to dispense justice according to custom if

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20. Nicolas Raoul, Le Cameroun depuis le traité de Versailles, Cherbourg, 1922, p. 37.

the custom in question was not in conflict with what Raoul termed "the principles of our civilization".[21] There were also the so-called mixed tribunals,[22] which had been set up before the arrival of the Germans. These courts were originally established to settle disputes between European traders and indigenous chiefs. They were usually presided over by representatives of the dominant power. Before the French established their own judicial system, the Native Courts and the mixed tribunals were already popular in many towns along the Cameroon coast. Le Vine states that the French continued to enforce most of the German legislation under a provision of The Hague convention of 1907, until French Cameroun had officially become a mandate.[23]

On May 7, 1919[24], the Supreme Allied Council allocated the various German colonies in Africa to their respective conquerors. Cameroon and Togo were however excluded from this exercise. In the case of these two countries, the Council decided that their status should be settled by Britain and France. The latter nations were invited to make a joint recommendation on the two territories in question. France was not in favour of Cameroon and Togo becoming mandated territories. The French colonial minister at this time, M. Simon, argued for annexation. He contended

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21. Loc. cit.

22. Le Vine, op.cit., p. 34.

23. Loc. cit.

24. Quincy Wright, Mandates under the League of Nations, Chicago, 1930, p. 44.

that as France had won both Cameroun and Togo by force of arms, they were not obliged to place these territories under the control of the League of Nations. In a speech to the Chamber of Deputies in Paris on September 7, 1919, he referred to the New Cameroun as a colonial Alsace-Lorraine, and indicated that it would return to the full sovereignty of France.[25]

Later, France changed her position in the course of negotiations with the British Foreign Office and agreed to hold both Cameroun and Togo under League of Nations Mandate. The two mandates were finally confirmed by the Council of the League of Nations on July 20, 1922. This date marked the beginning of 39 years of separate administrative, political and economic existence for the two Cameroons.

The French mandate

Early French colonial policy was aimed at completely integrating the indigenous people into French political, social and economic life. At the time of the French mandate in Cameroun, there was a watering down of French colonial policy, which shifted from one of assimilation to one of association. Although the end result of the latter policy was still assimilation, the aim was to achieve it piecemeal. The strategy was to develop the indigenous community slowly and gradually toward eventual assimilation, with separation of European and African communities until assimilation was achieved.

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25. Le Vine, op. cit., pp. 34-5.

The system made provision for some minor participation of Africans in the formulation of policies for the mandated territory but at the same time maintaining the political and cultural gap between the French and the assimilated African on the one hand, and the so-called indigènes sujets (subject natives) on the other. The French administration maintained and nurtured the legal separation of the two groups.[26] The aim of the system was to retard the political and social advancement of the indigènes sujets. This point finds support in the statement of a French Commissioner who said that:-

> "It was not, moreover, the wish of the local administration, that too rapid a progress should be made; it wished to prevent any disturbance of the balance in the organisation of the native tribes, which were still backward, and whose evolution should proceed steadily and reasonably".[27]

The French economic policy was that of mise en valeur (economic exploitation or development). It was first elaborated by a French colonial minister, Albert Sarraut in 1923, by which he called for an extensive local economic development as the basis of fruitful relations between the colonies and metropolitan France. The French economic policy in Cameroun reportedly[28] resulted in a five-fold increase in the territory's total trade between 1922 and 1938, a period during which the economies of many countries slumped

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26. R.L. Buell, The native problem in Africa, Vol. 2, Howard, 1928, p. 78.

27. Statement made by Marchand before the Permanent Mandates Commission. Cf. Minutes and reports of the 15th session, 1929, p. 131.

28. Le Vine, op.cit., p. 118.

because of the great depression. Le Vine,[29] however, points out that the success of the policy of mise en valeur in Cameroun was due to a heavy tax burden and the use of conscription, forced labour or corvée, reinforced by the indigénat system.

A word should be said here about the indigénat system. Throughout French Africa, until the enactment of the French constitution of 1946, the French drew a distinction between persons subject to customary law, sujets, and those assimilated to European law, citoyens. The latter had civil and political rights identical to those of persons of French origin. The differentiation was thus on the basis of varying standards of achievement toward the French culture. The indigénat system was introduced in French Cameroun much later by Décret,[30] and exempted not only the citoyens from its application, but also the following classes of persons;[31]

(i) Indigenes who served in the French colonial forces, including their wives and children.

(ii) Chiefs of regions.

(iii) Salaried indigenous agents of the French administration.

(iv) Indigenous members of deliberative or consultative assemblies.

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29. Loc. cit.

30. Décret of August 8, 1924.

31. Décret of August 8, 1924, article 4.

(v) Assessors serving in Native Courts

(vi) Indigènes sujets who had been decorated either with the Legion of Honour or the Military Medal.

The reason for exempting some people in French Cameroun from the application of the indigénat system was given in a letter addressed to the French President by Daladier, the minister of colonies on August 8, 1924:-

> "... Despite certain similarities, the indigenous races which populate the Cameroun present certain apparent differences from those of French Equatorial Africa: their social and moral level seems, on the whole, to be higher".[32]

The indigénat system was used in French Cameroun to punish natives who failed to cultivate their gardens or work on the railway, who failed to pay their taxes, who failed to take off their caps in the presence of the local administrator, or spat on the floor of a government office. The system was criticised by the French administrators attending the Brazzaville conference in 1944 and was abolished in 1946. As for the system of forced labour, it was reduced in 1933, and finally abolished in 1952.[33]

British administration

Unlike the French, the British administrative policy, which became known as indirect rule, was aimed at gradually

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32. Le Vine, op.cit., p.99.

33. Ibid., p. 110.

decentralising authority through existing indigenous political and administrative institutions.

Meaning of indirect rule

Indirect rule, as the term implies, was a system of administering through the indigenous chiefs. The system was introduced in Northern Nigeria by Lord Lugard, who defined it as:-

> "Rule by native chiefs, unfettered in their control of their people, yet subordinated to the control of the Protecting Power in certain well defined directions".[34]

This rather conservative philosophy stresses the need for the preservation of indigenous institutions as far as possible in their traditional forms and for sheltering them from European influences. The Lugard school saw the system as intended to bring the rule of the chiefs into line with what may be termed "civilised standards", which to some meant little more than the suppression of slave trade, witchcraft and other barbaric practices. The idea of popular democratic government eventually emerging from the system did not arise.

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34. R.E. Robinson, Journal of African Administration, July, 1950, p. 13.

The Cameron school

From 1930, Cameron[35] appeared on the scene with a new interpretation of the system of indirect rule, and at the same time altered the label to "indirect administration".[36] Cameron's interpretation was more liberal, and not restricted to preserving the personal and unfettered rule of the chiefs over their people. He defined the system as:-

> "the recognition of native authorities as self-governing local executives with clearly defined responsibilities - judicial, legislative and executive, enjoying under supervision, its own sources of revenue and a definite sphere of expenditure".[37]

The Cameron school was therefore in favour of abandoning the rather autocratic ideas of the Lugard school, by moving the emphasis from preserving and stereotyping indigenous institutions in their traditional setting to directing their evolution towards representative organs of democratic government. With Cameron, the emphasis begins to change from the chief as an individual to the chief's council as the essential element in the native authority. It would therefore appear that Cameron was the forerunner of the principle of "Local Government", which continued after the end of British administration in Nigeria and the Cameroons.

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35. Sir Donald Cameron was then Governor-General of Nigeria.

36. R.E. Robinson, op.cit., p. 14.

37. Loc. cit.

The differences in definition notwithstanding, the British system was aimed at

(i) making the native authority a living part of the machinery of government with judicial, fiscal and executive powers;

(ii) ensuring that powers should be exercised under statutory authority, and that the degree of delegation of such powers should vary in accordance with the stage of development reached by the particular native authority;

(iii) ensuring that each native authority runs its local native treasury financed from revenues raised locally.

The most important contribution to the economic development of the British mandate was made by the group of German plantations in the British Southern Cameroons, repurchased by their former German proprietors in 1924. These plantations were expropriated and the Germans repatriated on the outbreak of the Second World War in 1939.

The trusteeship period

In 1946, following the demise of the League of Nations, the two Cameroon mandates were converted into trust territories under the United Nations trusteeship system. Both Britain and France pledged themselves under this system to administer their respective spheres of Cameroon towards the attainment of self-government and eventual independence. The institution of the trusteeship system

therefore marked a change in the obligations of Britain and France, which under the system of mandates had not aimed at eventually leading the administered territories to independence.

French trusteeship administration

In the case of France this commitment represented a new and radical departure from the policies which she had pursued during the mandate administration of Cameroun. The modified French policy was however in line with the French constitution of 1946. Under the system of classification developed in this constitution, French Cameroun became an "Associated State" within the French Union. Overriding control of the territory still remained in the hands of the French National Assembly, but Cameroun now sent representatives to both houses of the French national parliament, as well as to various organs of the French Union. As Le Vine puts it,

> "the Camerounian legislators were able not only to gain experience at home, but learned parliamentary lore and the ways of the French political system first hand"[38]

A representative assembly, with limited and principally advisory powers, was set up in French Cameroun. Elections to the new assembly were held on a dual electoral roll in which the numbers on the African register were restricted.

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38. Le Vine, op.cit., p. 283.

Under the reforms of the 1956 Loi-Cadre (Enabling Act),[39] a new Cameroun assembly was elected for the first time under a single roll embracing an electorate of 1,752,903 voters. The reforms gave the Cameroun assembly and government almost complete internal control, and the first Cameroun government, headed by a Prime Minister, was formed in 1957.

The British trusteeship administration

The terms of the trusteeship agreement for the British Cameroons permitted the continuation of the administrative union by which the Southern Cameroons were administered from the Eastern Nigerian capital of Enugu. The Northern Cameroons were similarly administered from Kaduna, the administrative centre of Northern Nigeria. When in 1947 Nigeria became regionalised under the Richards constitution, the Southern Cameroons became a province of the Eastern Region of Nigeria.[40] With the reforms of the 1951 constitution of Nigeria, the Southern Cameroons sent 13 elected members to the Eastern Nigerian House of Assembly. In the meantime, the people of the Southern Cameroons wanted greater autonomy than was provided under the 1951 constitution.

In 1954, with the introduction of federalism in

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39. This will be discussed in detail in part four, chapter nine based on the period of French administration in Cameroun; pp. 289-336.

40. Le Vine, op.cit., p. 13.

Nigeria, the Southern Cameroons became a quasi-federal territory with its own House of Assembly and Executive Council. Furthermore, the Southern Cameroons sent six representatives to the Nigerian House of Representatives in Lagos and was guaranteed one ministry in the Nigerian government. The Northern Cameroons, whose representatives had expressed no desire for separation from the northern region of Nigeria, was given representation in the Northern Regional House of Assembly and House of Chiefs at Kaduna. The post of minister for the Northern Cameroons was created and a consultative committee for Northern Cameroons affairs formed.

The Southern Cameroons government

The Southern Cameroons House of Assembly met for the first time in 1954 and the head of government was named and given the appellation "Leader of Government Business". It was not until 1958 when new constitutional arrangements came into force that he was renamed "Premier of the Southern Cameroons".[41] In May of the following year, the United Nations General Assembly at the end of a special "Cameroons Session", recommended that separate plebiscites be held in Northern and Southern Cameroons to decide their respective political futures. The date for the plebiscites was February 11, 1961. The majority of the people of the

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41. The first Premier of the Southern Cameroons was Dr. E.M.L. Endeley, O.B.E. He is now a member of parliament.

Southern Cameroons voted for re-unification with the former French Cameroun, which had gained independence from France on January 1, 1960. The outcome of the voting in Northern Cameroons was a decision by a majority of the people there to join Nigeria. So after some 45 years of separate administration of English and French Cameroon, which started with the partition agreement between Britain and France in 1916, the country was to be re-united. This happened later in 1961, when the Federal Republic of Cameroon came into being under a constitution of October 1.

The Federal Republic of Cameroon

The Federal Republic of Cameroon was thus composed of West Cameroon (English-speaking) and East Cameroon (French-speaking). The country was ruled by a President who was the head of state and of the federal government. There were four legislatures in the country: West Cameroon had two legislatures,[42] as against one in East Cameroon, whereas the Federal National Assembly enacted laws which applied throughout the country. This state of affairs lasted only a decade as the country became a unitary state after a referendum held on May 20, 1972.[43] The

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42. Apart from the West Cameroon House of Assembly, there was also the West Cameroon House of Chiefs.

43. The purpose of the referendum was to consult the people as to whether the Federal Republic of Cameroon should be converted into a unitary state.

present United Republic of Cameroon came into force on June 2, 1972 and there has since then been just one legislature in the country called the National Assembly. The country is still ruled by a President, the only difference being that the post of Prime Minister was created in 1975.[44]

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44. The Prime Minister, like the other ministers, is appointed by the President who remains head of state and government.

CHAPTER TWO

ADMINISTRATIVE STRUCTURE OF THE UNITED REPUBLIC OF CAMEROON

The purpose of this chapter is to throw some light on the present administrative structure of Cameroon. The roles played by the various organs of government directly involved in the implementation of the present land tenure reforms in the country are also discussed. Cameroon, with a population of 7,663,246 inhabitants[1] and a land area of 178,381 square miles,[2] lies between latitudes 2 and 12 degrees. The country has common borders with Nigeria to the east, Niger and Chad to the north, the Central African Empire and the Congo to the East and Gabon and Equatorial Guinea to the south. The south-western corner of the territory is watered by the waters of the Atlantic Ocean.

The country is divided for administrative purposes into a total of seven Provinces.[3] Each Province is sub-divided into Divisions and Sub-divisions. In some Divisions there are Districts and these are the smallest administrative units in the country. Each Province is headed by a Governor, each Division by a Senior Divisional

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1. Cf., 1976/77 census figures, Cameroon Tribune, No. 984, October 1, 1977, p. 1.

2. Victor T. Le Vine, The Cameroons from mandate to independence, Los Angeles, 1964, p. 3.

3. Decree of July, 1972; the Northern, South-central, Eastern, Littoral, Western, North-west and South-west Provinces.

Officer, each sub-division by a Divisional Officer and each District by a District Head (Chef de District). All these administrators are appointed by the President whom each of them represents in the area put under his charge. Each administrator also represents every government Minister in his administrative unit.[4]

The Ministries

The Offices of the different Ministries[5] are based in the capital city of Yaoundé. Each Ministry is headed by a Minister who is assisted in his work by a Secretary-General, a number of Directors and finally Chiefs of Service (a direct translation of the French Chefs de Service). The external services of each Ministry operate at Provincial and Divisional levels. In each Province the services of each Ministry are co-ordinated by an offical known locally as a "Provincial Chief of Service". He is in charge of the services of his Ministry in all the Divisions coming under his Province and the "Divisional Chiefs of Service", are answerable to him. The latter cannot deal directly with

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4. Decree No. 72/349 of July 24, 1972, on the reorganization of the Ministry of Territorial Administration.

5. These are the Ministries of Territorial administration, Justice, Armed forces, National education, Youth and Sports, Information and Culture, Finance, Economic Affairs and planning, Agriculture, Animal Breeding and Fisheries, Mines and power, Equipment and housing, Public health, Labour and social welfare, social affairs, Post and telecommunications, Transport and Public service.

the Minister in Yaoundé without passing through him. There are just a few Districts in the country; all of them have only a few government offices[6] and are thus served from the Divisions under which they come.

Ministry of Finance

In Cameroon there is no "Minister of Lands."[7] On the creation of the unitary state in 1972, the Lands and Surveys Departments were placed under the Ministry of Housing and Equipment. These Departments were later[8] transferred to the Ministry of Finance. It thus plays an important role in the operation of the machinery set up to carry out the present land tenure reforms in the country. The collaboration of the external services of the Ministry of Territorial Administration, under which the Provincial Governors and Divisional Administrative Officers fall, is also of major importance in assisting the work of the Ministry of Finance in the reforms.[9] The Ministry of Finance plays the important

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6. Just a Police Post in most cases.

7. The non-existence of a separate Ministry of Lands in a country like Cameroon, where agriculture is the backbone of the economy, is a regrettable thing. The many land tenure problems existing in the country today are largely due to the fact that there has never been a "Ministry of Lands" in the territory. This situation means that the land problems in the country have never been fully and seriously investigated.

8. Decree No. 75/467 of June 27, 1975, reorganizing the government of the United Republic of Cameroon.

9. For the roles played by them, see pages 419, 421, 436, 470, 473-474, infra.

and difficult role of implementing the present reforms. The Minister of Finance has issued a number of circulars to the various organs of government and the Consultative Boards[10] giving directives as to the manner in which the different aspects of the reforms are to be carried out.[11] The Departments of the Ministry of Finance directly involved in the implementation of the present land tenure reforms in the country as just mentioned are the Lands and Surveys Departments. The internal functioning of each of these Departments will now briefly be discussed in order to have an insight into the various services put at the disposal of the public in the context of the reforms.

The Lands Section

The Lands Section of the Ministry of Finance is headed by a Director who is assisted in his work by two Deputy Directors, namely, the Deputy Director in charge of land registration and the Deputy Director of domanial lands. Under each of these Deputy Directors are three other Departments. The Departments which come under the Sub-Directorate of domanial lands are the Departments of state lands, compulsory acquisition and the Card Index. In the

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10. See pages 422 n.30; 425 n.34, infra.

11. These include Circular No. MINFI/DO/AF (no date), to members of the Consultative Boards, on their duties under the land tenure reforms, see page, 425, infra. circular No. 27/MINFI/CAB of July 1, 1976, to all the Provincial Governors defining their role under the reforms; see page 423, infra.

case of the Deputy-Directorate of Land Registration, the Departments are those in charge of Revenue, National Lands and land registration.

The Surveys Section

The Surveys Section of the Ministry is also headed by a Director assisted by one Deputy Director only. The Surveys Section is sub-divided into four Departments. These are in charge of land survey, topography and aerial survey, cadastre and general management. There are two offices under the Surveys Section but which are not attached to any of the four Departments just enumerated. These are the Archives and Documentation as well as the Liaison and Mails offices. The Lands and Surveys Sections of the Ministry of Finance just described are based in Yaoundé. In any case, the external services of these two sections exist in all the seven Provinces of the country and their respective Divisions. Provision was made for the establishment of these external services throughout the Provinces and Divisions in 1975 when the Ministry of Finance was reorganized by Presidential Decree.[12] Each Divisional office of either

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12. The Provincial divisions of each of these Services are as follows:
    (i) South-central Province with Headquarters in Yaoundé & Ebolowa Mefou, Nyong & Kelle, Lekié, Nyong & Soo, Nyong & Mfoumou, Mbam, Upper Sanaga, Ntem, Dja & Lobo, and Ocean Divisions.
    (ii) Eastern Province with Headquarters in Bertoua Lom & Djerem, Kadey, Upper Nyong, and Boumba Ngoko Divisions.

the Lands or Surveys Service is headed by an official known locally as a "Divisional Chief of Service". Whereas at Provincial level there is a Provincial Chief of Service for Lands and another for Surveys, there are in the Divisions the Divisional Chiefs of Service for each of these Services, be they for Lands or Surveys. The role of the Lands and Surveys services is to provide the public with the services necessary for carrying out the present land tenure reforms and also to educate the man on the street on the reforms. A word must now be said about the laws applying in the country as well as the system of courts.

Introduced laws

As will be seen later,[13] the British and French Administrations applied their respective laws in the areas

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12. Cont/....
(iii) Littoral Province with Headquarters in Duala Wuri, Sanaga Maritime, Nkam, and Mungo Divisions.

(iv) Northern Province with Headquarters in Garoua and Maroua: Benue, Adamawa, Diamaré, Margui-Wandala, Mayo-Danaï, and Logone & Chari Divisions.

(v) North-west Province with Headquarters in Bamenda Bui, Donga & Mantung, Momo, Mezam, and Menchum Divisions.

(vi) South-west Province with Headquarters in Buea Fako, Meme, Ndian, and Manyu Divisions.

(vii) Western Province with Headquarters in Bafussam Mifi, Bamum, Upper Nkam, Menoua, Nde, and Bamboutos Divisions. Decree No. 75/705 of November 10, 1975, articles 31 and 39.

13. See pages 255, 292, infra.

of Cameroon which they administered under the mandate and trusteeship systems. These introduced laws have greatly influenced the present land legislation in the country.[14]

English Law

The enactments which finally defined the quantum of English law to be applied in the English-speaking Provinces of the country are two in number[15]. These are the Southern Cameroons High Court Law, 1955,[16] and the Magistrates' Courts (Southern Cameroons) Law, 1955,[17] The Southern Cameroons High Court Law defines the laws to apply as comprising:[18]

> (a) The Common Law;
> (b) The Doctrines of Equity;
> (c) The Statutes of general application in force in England on the first day of January, 1900.

It is clear from the wording of this section that the limiting reception date of January 1, 1900, applies to the so-called Statutes of general application, but what is perhaps not similarly clear is whether this limiting date applies also to the common law and the doctrines of equity. In any case the position is thought to be[19] clearer than it is the case

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14. See chapter 12 generally.

15. These enactments are still in force in the English-speaking Provinces.

16. S.C. No. 7 of 1955, section 11.

17. S.C. No. 6 of 1955, section 29.

18. Section 11.

19. See Howard's view in this connection, p. 49, infra.

with the reception statutes of some other African countries which talk of the common law of England and not the common law simpliciter.[20] The Magistrates' Courts (Southern Cameroons) Law, 1955, states in section 29 that:

> "Subject to the provisions of this Law or any other written law, the common law, the doctrines of equity and the Statutes of general application which were in force in England on the first day of January, 1900, shall in so far as they relate to any matter with respect to which the Legislature of the Southern Cameroons is for the time being competent to make laws, be in force within the jurisdiction of the courts constituted by this law".

This brings out the point earlier made that the limiting date only relates to the Statutes of general application.[21] Nwabueze, has however defended the Nigerian formula with the argument that:

> "It is wrong to suggest that our courts are absolutely bound by the specifically English text or version of the common law. Though its basis is admittedly the 'system and habits of legal thought of Englishmen', the common law can no longer be regarded as an exclusively English heritage. Having adopted the English habits of legal thought, we are to apply and develop them according to our own lights and circumstances and not to regard ourselves as absolutely bound by their particular elaborations in the English courts. It is for our courts to find out what the common law is with regard to any particular situation, and in doing so, they ought to be free to regard the common law in other common law countries outside England, and finally choose that formulation of it which is best suited to our needs and conditions".[22]

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20. For instance, the Eastern Nigeria High Court Law, No. 27, 1955, section 14.

21. The whole question of reception Statutes has received copious and scholarly treatment elsewhere: A.N. Allott, New Essays in African Law, London, 1960, chapter five, A.E.W. Park, The Sources of Nigerian Law, London, 1963, chapter three.

22. B.O. Nwabueze, Machinery of justice in Nigeria, London, 1963, p. 21.

J. A. Howard,[23] states in connection with Nwabueze's argument that:

> "as the wording of the Southern Cameroons enactments refers to the common law and not to the common law of England as do the Nigerian enactments apart from that of the Northern Region, it is suggested that Nwabueze's attractive proposition has a rather stronger basis in relation to West Cameroon and in practice the West Cameroon courts do regard the common law as applied in countries other than England".

Howard then goes on to argue that the application by the courts of the Southern Cameroons of the law and practice concurrently in force in England regarding probate, divorce and matrimonial causes, subject to the observance and enforcement of customary law does not invalidate his views since section 15 of the Southern Cameroons High Court Law does not make this practice imperative.[24] One may however briefly comment that the distinction which Howard draws between the two types of reception clauses, one referring to "the common law of England" and the other to "the common law" simpliciter, is of no major significance since the courts in England also consider the common law as applied in other common law countries.

French Law

By a Décret of May 22, 1932, the laws and enactments promulgated in French Equatorial Africa prior to January 1, 1924, were rendered applicable in Cameroun under French

23. University of London Ph.D. thesis, 1972, p.53.
24. Section 15 states that:
> "The jurisdiction of the High Court in probate, divorce and matrimonial causes and proceedings may... be exercised in conformity with the laws and practice for the time being in force in England".

Administration. Under this enactment the introduced French law was applied to French nationals including Camerounians by birth who had acquired French nationality, referred to as assimilés. As regards those Camerounians styled Camerounais de statut coutûmier, they could choose whether a dispute in which they were involved would be heard by a court possessing jurisdiction to apply both French and customary law or by an exclusively customary court.[25] The system operated through a two-tier option. In a matter where the parties were persons of statut coutûmier, both of them could agree that their dispute was to be heard by a court staffed by French judges. This was known as option de juridiction. In such a case the court still applied the rules of customary law to the dispute, the only difference being that the judges were French and not Camerounians. The parties could go further and state in writing that their transaction was to be governed by French law. This was known as option de législation, by which the parties completely ousted the application of customary law to their transaction. In such a case the parties could not call into play any rule of customary law.[26]

On the attainment of internal autonomy by Cameroun under French Administration, the judicial system in the territory was reformed in 1959.[27] The 1959 reforms

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25. There were however virtually no Customary Courts in the territory until after the Brazzaville Conference in 1944, see page 55, infra.

26. Anne Marticou Riou (Assistante à la faculté de Droit et Sciences Economiques, Yaoundé), L'Organisation judiciaire du Cameroun, mimeograph, (no date).

27. Décret No. 59/86 of December 17, 1959, Journal Officiel du Cameroun, 1959, p. 1807.

abolished the dualité de juridiction, but the right of persons subject to customary law to choose between this law and French law, namely, the option de législation was and is maintained to this day.[28] So from 1959, all the courts in the territory had jurisdiction over all Camerounians by birth irrespective of their statuts.

Customary Law

The application of the rules of the local customary laws in Cameroon today differs according to the area of the country (English- or French-speaking), where the rules of the customary laws are called into operation. The local customary laws apply to the majority of the inhabitants of the English-speaking Provinces. Laws passed by the British Administration in the territory recognised and preserved the continued application to the people of this important body of law. This application was however subject to the famous repugnancy provision, by which the application of the customary laws in many other British-administered territories in Africa had been circumscribed.[29] The repugnancy clause in the case of the former Southern

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28. Marcel Nguini, "Droit moderne et droit traditionnel", Recueil Pénant, Paris, 1973, No. 83, p. 7. Marcel Nguini is the President of the Cameroon Supreme Court.
29. For a fuller discussion of the "repugnancy clauses", see A.N. Allott, New Essays in African Law, London, 1960, pp. 158-181.

Cameroons was contained in the Southern Cameroons High Court[30] and the Magistrates' Courts[31] Laws, which stated that these Courts shall:

> "observe and enforce the observance of every native law and custom which is not repugnant to natural justice, equity, and good conscience, nor incompatible either directly or by implication with any law for the time being in force..."

As regards the French-speaking areas of the country the application of customary law to the inhabitants of these areas as already stated was and is still a matter of choice[32] as the system introduced there by the French Administration is basically still in force. Even where the parties opted for customary law, the Supreme Court has in a number of cases refused to uphold their choice and instead applied French law. The Supreme Court has also not hesitated to apply French law whenever there was no rule of customary law governing a specific matter or where such rule existed but was "manifestly contrary to modern concepts".[33] In one of these cases,[34] the former East Cameroon Supreme Court in a

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30. Section 27.

31. Section 31.

32. See page 51, supra.

33. Marcel Nguini, op.cit., p.9.

34. Cour Suprême du Cameroun Oriental, January 16, 1968, Recueil Pénant, Paris, 1973, No. 83, p.7.

matter concerning custody of an infant whose father had died decided that the eldest surviving male child of the deceased was no longer automatically the guardian of the infant as was the case at customary law, and gave custody of the infant to the deceased's widow on the ground of sex equality recognised by the territory's Constitution.[35] In an earlier case,[36] the same court refused for the same reason to uphold a Duala custom by which a female child cannot share in her deceased father's estate. The rules of Basa customary law are silent on the issue whether a man who already had children could adopt other ones. In a case which came before the Supreme Court of Cameroon in 1973,[37] this court quashed the decision of the Duala Court of Appeal, which had on October 22, 1973, refused to set aside the adoption of a child by a Basa man who already had a number of children. The Supreme Court held that in the absence of a rule of customary law with respect to a given issue, it was permissible to apply les principes généraux de droit moderne. In this case article 344 of the French Civil Code which states inter alia that adoption is permitted only to persons who have no children was applied by the Supreme Court.

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35. Cf., preamble to the Constitution of the Cameroun Republic of March 4, 1960.

36. Case No. 67, June 11, 1963.

37. Ministère Public c. Nouck et Ngo Ntamack, December 20, 1973, Recueil Pénant, Paris, 1973, No. 8, p. 377.

System of Courts

Customary Courts

All the courts in Cameroon today including the Customary Courts are creatures of Statutes. The Customary Courts now existing in the English-speaking Provinces were created by the Customary Courts Ordinance, Chapter 142 of the revised Laws of Nigeria, 1948, as amended. This enactment was later amended in 1965 to bring the criminal jurisdiction of the Customary Courts into line with the Penal Code of the Federal Republic of Cameroon.[38] The judges of these courts are the chiefs of the areas where they are situated. In a Division or Sub-division, for instance, there may be a Customary Court of Appeal with jursidiction over all the other Customary Courts in the area. Further appeals from the Customary Courts of Appeal are heard by the Divisional Officer and later by the Senior Divisional Officer. Cases may be transferred from the Customary Courts to the Magistrates' Courts or High Courts on the written approval of the Divisional Officer. The Customary Courts Ordinance as amended states in section 28(1) (c) that:

> "Every Senior Divisional Officer and Divisional Officer shall at all times have access to Customary Courts both of First and Second Instance and Appeal in his Division or District,

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38. Cf. Adaptation of Existing Laws (Customary Courts Ordinance), Order, 1965.

> as the case may be, and may of his own motion or in his absolute discretion on the application of any person concerned.... order the transfer of any case or matter either before trial or at any stage of the proceedings to another Customary Court or to a Magistrate's Court or to a High Court".

It is however permissible for a litigant to appeal from the decision of a Customary Court to the Court of Appeal without waiting for the case to go through the entire hierarchy of the Customary jurisdiction in the area.

In those areas of Cameroun under French Administration, the latter did not establish any Customary Courts at the beginning of its administration in the territory. In 1927,[39] a forum for conciliation was set up in the name of the Tribunal de Conciliation, whose personnel was made up of the local chiefs and dignitaries. The purpose of this body was to settle disputes between two or more parties and it was the rule that no case could go to a court proper (the Tribunal de Premier Degré for instance),[40] except where the Tribunal de Conciliation had failed to settle the matter. It was not until after the Brazzaville Conference attended by the countries of French Equatorial Africa and Cameroun that Customary Courts proper were established in some villages in French Cameroun. The purpose of setting up these courts in the territory was according to Riou,[41] to encourage the native inhabitants of the then French Cameroun to participate more in the activities of the Administering Authority especially

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39. Décret of July 31, 1927.
40. The Tribunaux de Premier Degré were staffed by French officials.
41. Anne Marticou Riou, op.cit., p. 9.

the administration of justice. In areas without Customary Courts, customary jurisdiction was exercised by the Tribunaux de Premier Degré.

The Ordinary Courts of Law

The ordinary courts of Law now existing in Cameroon are enumerated in section 1 of the 1972 Ordinance on judicial organization. It states that:

> "Justice shall be administered in the name of the people of Cameroon by:
> (a) The Courts of First Instance;
> (b) The High Courts;
> (c) The Courts of Appeal;
> (d) The Supreme Court."[42]

Two other courts do not figure on this list. These are the Military Tribunals and the Customary Courts. With regard to the first ones, section 2 of the Ordinance states that the military judicial organization of the state shall be established by a special law. In the case of Customary Courts, the enactment states inter alia that their civil jurisdiction shall be maintained for the time being and nothing is said about their criminal jurisdiction.[43] Since the Penal Code introduced in 1965 greatly reduced the criminal jurisdiction of the Customary Courts, one is tempted to hold the view that this provision is just the continuation of a policy aimed at gradually and imperceptibly phasing out the

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42. Ordinance No. 72/4 of August 26, 1972 as amended.

43. Section 26.

existing Customary Courts in the country. After this greatly abridged preliminary account of the history and the present administrative structure of Cameroon, part two which follows undertakes a study of the country's people and their social economic and political institutions.

PART TWO

THE ETHNIC COMPOSITION OF CAMEROON

The purpose of discussing the ethnic composition of Cameroon in a thesis on the country's land law is because people's historical origins, cultures and ways of life greatly influence the development of their laws. A knowledge of the people is thus essential for a better understanding of their laws. This discussion is sub-divided into two chapters. The first chapter describes the patterns of settlement followed by the various ethnic groups while the second analyses some of the ethnic groups in the country on the bases of five factors.[1]

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1. Political, economic, kinship, religious and linguistic factors.

CHAPTER THREE

PATTERNS OF SETTLEMENT OF THE ETHNIC GROUPS

Cameroon may vividly be described as the hinge-point of Africa[2], as the three main ethnic groups in the country, the Bantu, Sudanic negroes and Bantoid,[3] are a representative sample of the main races of Black Africa. Mention of these main ethnic groups by itself, gives one no more than a broad idea of the country's ethnic content, as Cameroon has within its total land area of 178,381 square miles a diversified population of over 200 ethnic groups.[4] Commenting on this figure, Marguerat estimates that there are as many ethnic groups in Cameroon as in the whole of South America.[5]

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2. Engelbert Mveng in his L'Histoire du Cameroun, Paris, 1963, p. 211, describes the country as "a meeting-place of the peoples and races of Black Africa".

3. Edwin Ardener in The population of West Cameroon, Societe d'études pour le développement économique et social, Paris, 1965, p.35, and in "The nature of reunification of Cameroon, in African integration and disintegration, London, 1967, p. 294, prefers "Bantoid", to "Semi-Bantu", used by earlier writers; see p. 78, infra.

4. Le Vine, The Cameroon Federal republic, London, 1971, p. 45.
D. Gardinier, Cameroon, United Nations Challenge to French policy, London, 1963, p. 23; Yves Marguerat, Les peuples du Cameroun, Paris, 1976, p. 1; N.N. Rubin, Cameroun, London, 1971, p.9.

5. Yves Marguerat, op.cit., p.1.

The dictionary defines the term "ethnic group" as a group of people, racially, historically or linguistically related and having a common and distinctive culture. Social anthropology gives prominence to the linguistic indicium and Ardener argues in favour of this that the linguistic classification of ethnic groups is the only one that is impirical.

Classification of the ethnic groups

There is no generally accepted classification of the various ethnic groups in Cameroon. As it is beyond the scope of this work to discuss the views of the different authors[6] in detail, only the more recent and currently acceptable classifications will be taken.[7] The Bantu occupy an area in the southern part of the country as shown on the ethnic map of Cameroon.[8] This area has been described by C.G. Seligman as:

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6. H. Baumann and D. Westermann, Les peuples et les civilisations de l' Afrique, Paris, 1967, pp. 318-339; I. Dugast, Inventaire ethnique du sud Cameroun, Paris, 1949; C.G. Seligman, Races of Africa, London, 1959; E. Ardener, Coastal Bantu of the Cameroons, London, 1956; Mveng and Beling-Nkouma, L'Histoire du Cameroun, Yaoundé, 1976; Pierre Billard, Le Cameroun fédéral, Lyon, 1968, Bertrand Lembezat, Les populations païennes du nord Cameroun, Paris, 1961.

7. These include those of Ardener, and some of the classifications of Billard, Mveng Beling-Nkouma, Guthrie, Westermann & Bryan.

8. See appendix II.

> "starting in the west from the sea coast at the mouth of the Rio del Rey (separating southern Nigeria from the Cameroons), the line runs north-east with many irregularities to the south-east corner of the Cameroons".[9]

All the people living in this area speak Bantu languages of the north-western group.[10] These languages are nine in number[11] and Guthrie subdivides each of them into a number of clusters. Ardener prefers this classification to that of Greenberg[12], which draws the boundary, further north. He argues convincingly that Guthrie's linguistic boundary is drawn following genetic comparative linguistics and its geographical position is based on the axioms upon which comparative Bantu studies are founded.[13] The next main ethnic group in the country to be found to the north-west of the Bantu-speaking area is the Bantoid group. Ardener subdivides this group into two. The Cross River Bantoid are in the present Manyu Division whereas the Cameroon plateau Bantoid cover the whole of Bamenda, Nso, Nkambe,

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9. C.G. Seligman, Races of Africa, London, 1959, p. 162.

10. Malcolm Guthrie, Bantu languages of W. Equatorial Africa, London, 1953, pp. 15-54; Ardener, Coastal Bantu, op. cit. p. 33.

11. (i) Lundu-Mbo (ii) Duala, (iii) Bube-Benga (iv) Basa (v) Bafia (vi) Sanaga (vii) Yaunde-Fang, (viii) Makaa-Njem and (ix) Kaka groups of Bantu languages.

12. J. H. Greenberg, The Languages of Africa, Indiana, 1963.

13. Ardener, The nature of the reunification of Cameroon, African integration and disintegration, London, 1967, pp. 294-5.

Bamileke and Bamum. [14] The third and last major ethnic group in Cameroon is the Sudanic group which occupies the north of the country.[15] The Sudanic group comprises the Kotoko, Mandara and Adamawa people.[16] The entire Bantu group is acephalous, whereas the Tikar and Sudanic people have centralized chiefdoms headed by chiefs wielding much authority over their subjects. Parts of the Sudanic North Cameroon, especially Adamawa, are dominated by the so-called feudal societies under the leadership of lamido (chiefs). The country is almost wholly patrilineal except for one Tikar chiefdom called Kom, which is matrilineal.

The Bantu

The word Bantu is the plural of muntu and means "man" or "men" in Zulu. Variations of this word bearing the same meaning are commonly found in the Bantu languages in Cameroon. Moto is for instance, the ordinary Bakweri word for human being of either sex.[17]

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14. Ardener, op.cit., p. 294; M. McCulloch and M. Littlewood, Peoples of the central Cameroons, London, 1954, pp. 11-84. This group is also known as Tikar.

15. The term "Hamito-Semitic", used by authors like Lembezat in his Les populations paiennes du nord Cameroun, p. 17 and Baumann and Westermann in their Les peuples et les civilisations de l'Afrique, pp. 466-489, is now no longer acceptable.

16. Mveng & Beling-Nkouma, op.cit., pp. 155-126. As will be seen from the ethnic map of Cameroon, each of the Sudanic groups, Adamawa, Mandara and Kotoko is not geographically based in any one area of North Cameroon but dispersed all over the region.

17. E. Ardener, Belief and the probelm of women, Perceiving women, London, 1975, p.6. The prefix Ba is quite common among the Bantoid: Bamum, Bamenda, Bamileke.

It must be noted however that from the ethnic point of view, the word Bantu is a made-up term. It is of purely linguistic significance since the vast area of Africa spanning thousands of miles from northern Nigeria to Zululand,[18] in which the Bantu languages are spoken transcends ethnic boundaries.

It is not known when the first Bantu settled in Cameroon. Two Cameroonian historians,[19] who have written about the Bantu immigration merely state that the central and southern regions of the country were already occupied by Bantu-speakers on the arrival of Europeans. The first Europeans to arrive in the territory were the Portuguese, and this was about the middle of the 15th century. These historians state that the first Bantu groups to invade the present Bantu-speaking region of Cameroon[20] were the Maka, the Njem and the Duala who came from Bakota in equatorial Africa. The second wave of Bantu immigrants was composed of the Fang and Beti, now settled in the South-central Province of the country. These groups of immigrants were not fully settled when the Portuguese arrived in the territory in that they were still moving about in the area at that time. The Mveng and Beling-Nkouma version is not fully corroborated by at least one author,[21] who is of the

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18. E. Ardener, The nature of the reunification of Cameroon, African integration and disintegration, op.cit., p.299, (n) 31.

19. Mveng and Beling-Nkouma, op.cit., p. 145.

20. See map, appendix III.

21. René Gouellain, Douala ville et histoire, Paris 1975, pp. 32-33.

opinion that the Duala were the last of the groups to enter Cameroon. The history of each major Bantu-speaking group will now be stated, starting with the Duala.

The Duala

Most of the information on the Duala is collected from the works of Ardener.[22] He names the ultimate ancestor of the Duala as Mbongo. The direct ancestor of this group was Ewale whose father, Mbedi,[23] was a son of Mbongo. The Duala claim to have entered Cameroon from equatorial Africa. Although the time of their arrival in the territory is not known, Ardener names a locality called Pitti on the Dibamba River as their first settlement.[24] The Duala remained there for about ten generations,[25] before moving southwards to the mouth of the Dibamba. From there they journeyed north-westwards to the east bank of the Wuri estuary, settling among the Bakoko branch of the Elog-mpoo. Gouellain attributes the abandoning of Pitti

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22. Especially his Coastal Bantu of the Cameroons, International African Institute, London, 1956.

23. Mbedi was the ancestor of the Duala according to Gouellain, op.cit., p. 33, and Georges Balandier, Economie société et pouvoir chez les Duala anciens, Cahiers d'études Africains, Vol 15, No. 52, Paris, 1975, p. 361.

24. Ardener, op.cit., p. 17. Gouellain, op.cit., p.33. Pitti was situated on the Sanaga some 100 kilometres from the coast.

25. Ardener, op.cit., p.18 (n)14, argues that this period does not seem to fit with the Duala genealogies.

to famine. He relates that the Duala people, during one of their fishing expeditions, saw banana peelings floating on the river. They followed these banana peelings until they met with some Basa people, with whom they exchanged some of their fish for food. This elementary form of trade continued and during one of their visits to the south, the Duala obtained some land from the Basa on which they started a market. This is probably how trading which later became the main occupation of the Duala people was engendered. It would be recalled that they acted as middlemen between Europeans and the inhabitants of the hinterland in the trade which flourished on the Wuri estuary in the late 18th and early 19th centuries.[26] The Duala people possess certain characteristics which distinguish them from the other Cameroonian Bantu. Their language has little in common with the languages of the other groups. Their commercial dealings with the Europeans showed a level of intelligence which surpassed that of their neighbours. Their total unwillingness to work for the Germans made Puttkamer, the second governor of German Kamerun, describe the Duala as the vilest and most detestable people in the world.[27] Another Bantu-speaking group in the coastal area of the country is known as the Elog-mpoo.

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26. Ardener, op.cit., p. 18, states in this connection that: "by the beginning of the 19th century the Duala are reported as dominating the trade of the Cameroons estuary under the despotic King Bell".

27. Harry Rudin, op.cit., p. 108. The Germans carried out a campaign to dissuade other Kamerunians from learning the Duala language.

The Elog-mpoo

The Basa Bakoko tribes are collectively known as the Elog-mpoo,[28] although this name has been used only in reference to the Bakoko.[29] The probable reason why these two tribes ceased to be regarded as one is because of their long separation from each other. This may be true of the rest of the Bantu tribes of south-east Cameroon, whom Dikoumé regards as sharing a common ancestry with the Basa and Bakoko.

The Bakoko

The Bakoko occupy the Sanaga-maritime Division of the Littoral Province of Cameroon. They are descendants of Mpoo, and the term Elog-mpoo, means the children of Mpoo. They also refer to themselves as the Ba Ngey, which means the people to whom the Ngey fetish belongs. The Basa, for their part, use the word Woum[30] for the Ngey fetish. Dikoume[31] traces the geneaiogy of the Mpoo as follows:-

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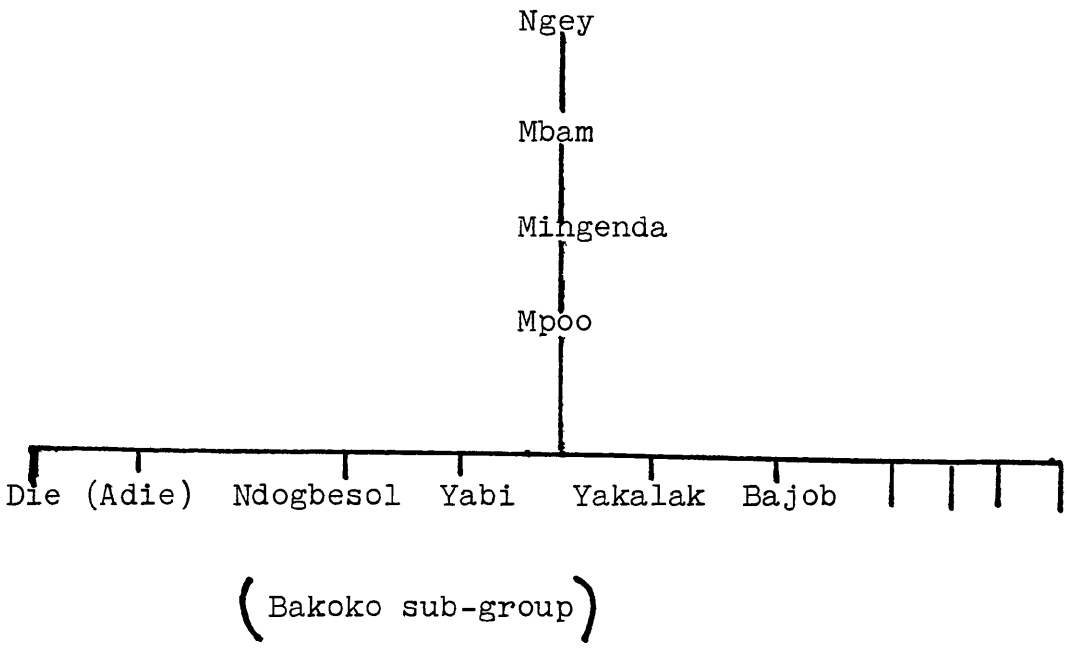
28. Cosme Dikoumé, Université de Lille II, doctoral thesis entitled Etude concrète d'une société traditionnelle, les Elog-mpoo, Lille, (no date) p. 7. (Received at ONAREST, Yaoundé on August 8, 1977).

29. Nicol, Tribu des Bakoko, Paris (no date).

30. Dikoumé, op.cit., p. 13.

31. Ibid., p.7.



The connection between Mpoo and the Ngey fetish is that Mpoo was himself a descendant of Ngey, who handed the fetish down to the rest of his descendants. Some Bakoko regard themselves as the descendants of Mingenda and not of Mpoo. Nicol sub-divides the Bakoko into six sub-groups,[32] each of which is ruled by its eldest lineal descendant. The first three live between the Sanaga and Nyong rivers whereas the other three are to be found further to the east, where their villages meet with those of the Basa.

Nicol is of the opinion that the Bakoko previously inhabited the savannah region of central Cameroon and later fled southwards as a result of raids by Fulbe (Fulani) horse-men from the north of the country.[33] This view, which is shared by Mveng and Beling-Nkouma, is not free from doubt. It will be examined after discussing the other

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32. Yakalak, Yasuku, Idié, Yawanda, Yabi and Ndogbesol.

33. Nicol, op.cit., p.14.

Bantu groups, which were also victims of Fulbe raids according to Nicol,[34] Mveng and Beling-Nkouma.[35] In any case, when the Bakoko reportedly moved southwards, they met with small bands of scattered Bantu groups in the area and waged war on them. These groups included the Batanga and the Yawanda. Nicol states that the Batanga were subdued but that the Yawanda put up a successful resistance, thereby preventing the Bakoko from pushing right through to the sea-coast. Some of the Bakoko also fought with Basa tribesmen around Sakbayeme. The Basa had been forced into the area by other Bantu groups from the Yaoundé areas of Eton and Ewondo, who had driven them into Sakbayeme. They opted for the first alternative and successfully resisted the Bakoko, who, having failed to force out the Basa, infiltrated and occupied the surrounding uninhabited forests. Inter-tribal wars continued in this area up to the beginning of the German administration in 1884. The Malimba people suffered most from these wars. The Bakoko pushed them on to a narrow strip of land on a small island of the Sanaga delta. They had to buy back some of this land from the Yakalak and the Idie through the instrumentality of the Germans.[36]

The intermingling of Basa and Bakoko tribes in this area posed administrative problems for the French. As a

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34. Loc.cit.

35. Op.cit., p. 133.

36. See page 159, infra.

result of the tangle, the local heads of these groups, through whom the French ruled, found it difficult to carry out their duties efficiently because some of the people resident in the villages of some chiefs refused to recognise the authority of the latter over them. Some of the residents argued that they could only take orders from the rulers of their own villages of origin, which in some cases were many miles away. Another source of difficulty was that the institution of chieftainship was foreign to some Basa. Marguerat suggests that the word "chief" does not exist in the Basa dialect.[37] The Basa, as mentioned earlier, were the other descendants of Elog-Mpoo and their own history will now be examined.

The Basa

The majority of those who have written about the Basa have attributed to this group an origin quite different from the version of Dikoume, who, as has been seen regards the Basa as sharing a common ancestor with the Bakoko.[38]

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37. Marguerat, op.cit., p.14; two Cameroonian lawyers of Basa origin interviewed by the present author have confirmed that the Basa do not have chiefs. They are Tjouen and Yanick both of whom are research students in Paris. Yanick adds that the only person who can command an entire Basa village is the person chosen to direct and co-ordinate military operations during a war.

38. See page 66, supra.

Origins of the Basa

There are at least two versions of the origins of the Basa. The first of them is that the Basa are of Egyptian origin. This is the opinion of a pastor called Samuel Massing Ma' a Tandy, who died in Edea in 1960. This information is contained in a manuscript left by the pastor, which he had intended to publish under the title Bilem bi Basa, meaning "the Basa customs". In this manuscript, Pastor Massing states that at the time when the Jews left Egypt for the Promised Land, under the leadership of Moses, a negro who was with them refused to cross the Red Sea. That would have been to abandon the land of his ancestors for unknown territory. He later decided to do so but without having to cross the sea. This negro, who then journeyed to the south of Africa and whom the Pastor called Melek, was to him the ancestor of Ndap Basa (the Basa household). Pastor Massing's version of the story does not appear to have been generally supported by historians and anthropologists for two reasons. Firstly, it is unlikely

that the origins of a negro group would have had any direct connection with the Jewish exodus from Egypt. Secondly, the pastor might have been misled by his religious acculturation. Tonye however argues that the name, Melek, given by the Pastor as the ancestor of the Basa is not entirely without significance because around the river Nile area of Egypt[39] the name Meleq means "king". This name was borne by people of royal descent in Nubia.[40] A number of powerful kings descended from Meleq, each of whom bore the title Nap. The problem here is whether a parallel could be drawn between the Nubian Nap and the Ntap, which is a dynasty of the Mbelek sub-lineage of the Basa in Cameroon and who today live between Makak and Otele along the Duala-Yaoundé railway. It is suggested with regard to Tonye's argument that since the word "chief" is non-existent in the Basa dialect,[41] the similarity between the Nubian Nap and the Mbelek Ntap may well be simply a coincidence.[42]

The second version of the origin of the Basa is that of Mpouma[43]. He traces the origin of the Basa back to a

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39. Nathaniel Tonye, op.cit., p. 3.

40. Loc. cit.

41. See p.69, supra.

42. Melek and mulk are common semitic names.

43. Histoire des Basa, Douala, undated, p.5.

rock 400 metres high situated in a Basa village of the Sanaga-maritime Division called Nyambol. Mpouma calls this rock Ngog Litouba, meaning "hollowed rock", as the rock has a hole at the top. Another author who supports Mpouma is Louis-Marie Mpouka,[44] whose spelling of the rock is slightly different: Ndog Litouba.[45] Both Mpouma and Mpouka share the view that the Basa came out of the rock and that not only the Basa but the whole Bantu race came out of the rock. Reference to the whole Bantu race here is probably restricted to the one in Cameroon. Other Cameroonian academic writers, like Cosme Dikoume and Alexandre Tjouen,[46] share the view that the place of origin of all the Bantu in Cameroon is Ngog Litouba. These views must however be treated with caution because all these authors are themselves of Basa origin; moreso, they have not produced any dependable evidence in support of their views.

The genealogy of the Basa

Mpouka and Mpouma again express similar views as to the genealogy of the Basa. Both authors agree that Elolombi

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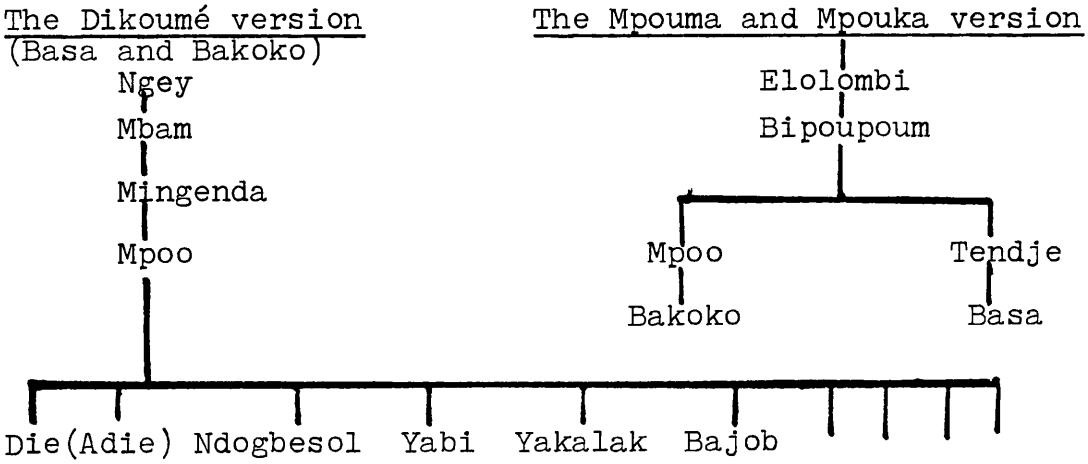
44. The present author had the opportunity of interviewing Mpouma, a Basa, and now a practising lawyer in Yaoundé, who stated that the difference in the spelling was of little consequence as the Basa use the two forms interchangeably.

45. Les Basa du Cameroun (place of publication missing), 1950, pp. 153-166.

46. Alexandre Tjouen, is a research student in Paris now writing a doctoral thesis on Cameroon Land Law.

was the ancestor of the Basa. This name does not figure among the names of the descendants of Mpoo enumerated by Dikoume.[47] Elolombi may nevertheless have been a descendant of Mpoo because Dikoume did indicate in his diagram that his list of the descendants of Mpoo was not exhaustive. This explanation does not settle the matter, because if Elolombi was the ancestor of the Basa, he was undoubtedly an important personality and should not be left out by anyone writing on the Mpoo. Mpouma and Mpouka state that Elolombi left the rock of origin on the orders of Nyame (God) and married Kimaya. They had a son called Bipoupoum.[48] Mpoo was according to this version, the first son of Bipoupoum, while the second was Tendje and these sons were the ancestors of the Bakoko and Basa respectively. This version is slightly different from Dikoume's which has already been discussed. The two versions may be represented graphically as follows:



47. Cf. p. 67, supra.

48. There is some similarity between this name and Woum, which is the Basa word for the Ngey fetish.

The difference between these two versions is that whereas the Bakoko and the Basa are according to Dikoumé direct descendants of Mpoo, Mpouma and Mpouka are of the opinion that only the Bakoko descended from Mpoo; and the Basa for their part, had a different ancestor, Tendje, who was Mpoo's brother. This amounts to saying that the Bakoko and Basa are merely cousins. Dikoumé adds to the confusion by failing to enumerate all the Basa groups descended from Mpoo.

There is yet another version as regards the Basa ancestry. This is that of Mousongo,[49] who names the ancestor of the Basa as Hillolomb. The difference between Hillolomb and Elolombi appears to be due to minor dialectical discrepancies between the various Basa villages. Mousongo enumerates the descendants of Hillolomb as Ngog Ngas, Mbimb and Bassikol. Without mentioning his name, Mousongo states that the son of Bassikol was the ancestor of the Bakoko. The only similarity between Mousongo's version and that of Mpouma and Mpouka is that both of them agree that Elolombi or Hillolomb was the ancestor of the Basa; but beyond this point the names of the descendants of either version do not agree although again they both attribute to the Bakoko an ancestor somewhere down the line of descent to whom Mpouma and Mpouka give the name Tendje whereas Mousongo does not refer to him by name merely calling him the son of Bassikol, a name not used by the other authors. All these divergent

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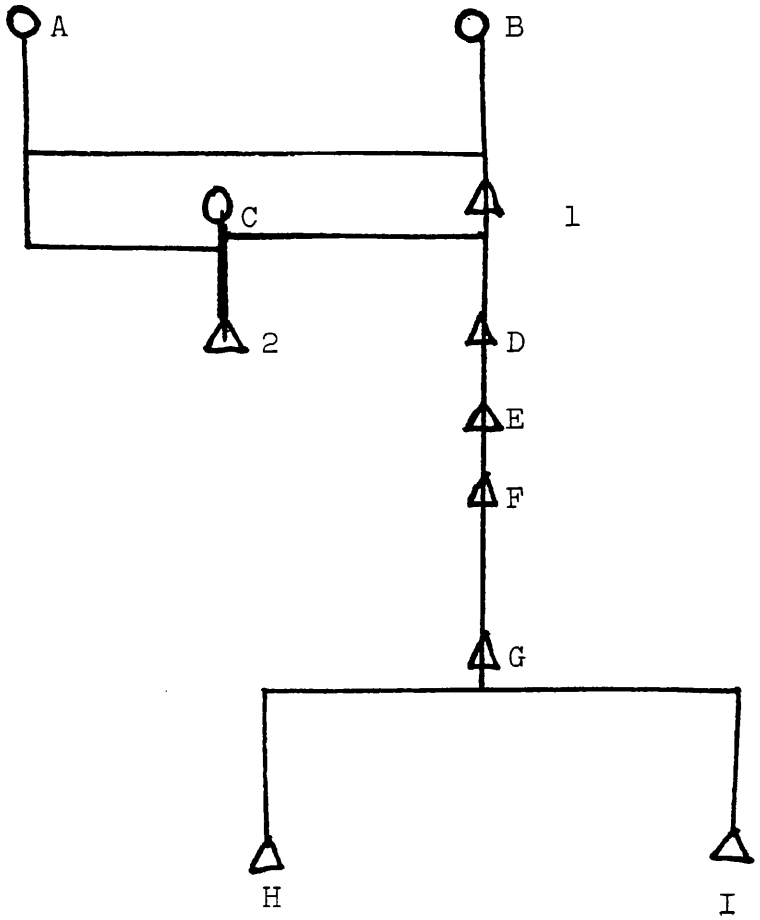
49. Histoire des Basa (Manuscript), p.9.

views leave the true history of these two Bantu groups in doubt and confusion. The cause of the confusion may be three-fold. Firstly, all these views are based on oral tradition, the accuracy of which cannot be ascertained. Secondly, each writer appears to be more inclined to painting a rosy picture of the group to which he belongs by trying as much as he can to bring it as near as possible to Mpoo. Thirdly, the confusion appears also to stem from the rather peripatetic nature of their early settlements, which might have been responsible for some of the groups tracing their descent directly from Mpoo and not from their immediate ancestors. Another diagram may help to make this clearer.



In this diagram it is supposed that the ancestor A had his two children 1 and 2 by different wives, B and C respectively. On his death, 1 being the elder and son of the first wife, B, becomes the successor and marries C his late father's widow, who was already the mother of 2. By this marriage, C and 1 had as descendants D, E, F, and G. G in turn marries and had two children, H and I. 1 and 2 are brothers of the half-blood, whereas D is the nephew and uterine brother of 2. If I migrates to another area because of any squabble with his brother H, and decides to tell his children that he was a descendant of 1 without mentioning G, F, E, or D, and his brother H does not do likewise, his (I's) descendants will appear to be four generations less than those of H. A similar sequence of events might have been responsible for the divergent views as to the ancestry of the Basa and Bakoko.

The Bakweri

The Bakweri occupy an area lying to the east and south-east of a line dividing the Cameroon mountain along its axis and is composed of 104 villages.[50] The administrative area within which the people live is Fako Division. As to the origin of this group, Ardener states that the Bakweri, formerly known as the Kpe, originated directly or indirectly in Womboko, a place to be found

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50. Ardener, Coastal Bantu of the Cameroons, London, 1956, p.9.

in the north of Mount Cameroon.[51] Ardener talks of one Eye Njie, who he says used to come from Womboko to hunt on the eastward side of the mountain with a friend named Nakande. The latter used to hunt near the site of the present Wanakanda, while Eye Njie moved on to the Mosele stream near the present Buea. There he built a shelter in which he slept and dried the meat of the animals he killed. Both Eye Njie and Nakande eventually brought their wives and planted gardens in the area. Eye Njie referred to his new settlement as his ligbea (place where work is in progress). In time the settlement became permanent and he was joined by friends and relatives from Womboko and the place was called Gbea (from ligbea) and the German form Buea, survived to this day.[52] Nakande's settlement also became permanent and was known as Wanakanda. Ardener does not name all the chiefs who descended from Njie, but however relates that the genealogy of the chief's family of Buea is only four generations between Kuva, who died in 1894, and Eye Njie. He situates the arrival of Njie at his ligbea or Buea between 1750 and 1770. The successor of Kuva was Endeli (now Endeley).[53] The next major ethnic group after the Bantu moving from south to north, as earlier mentioned, is called Bantoid.

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51. Ibid., p. 23.

52. It would be recalled that Buea was the capital of of German Kamerun.

53. The present chief of Buea is still an Endeley. The first Premier of the Southern Cameroons, Emmanuel Endeley, now (1979) a Member of Parliament is a descendant of the Endeley family.

The Bantoid

It was earlier stated that the Bantoid-speaking people in Cameroon according to Ardener consist of the Cross River and the Cameroon Plateau groups. Although classified together as Bantoid, these two groups have different political and social institutions. Only the Cameroon Plateau group will be discussed here as it is made up of at least three subgroups each of which is larger than the Cross River group. For brevity, the term Tikar will be used to refer to the Cameroon Plateau Bantoid.

The Tikar

The Tikar are situated at the north-west corner of Cameroon. They are made up of the people of Bamenda, Nso, Bamum and Bamileke.[54]

Origin of the Tikar

According to Kaberry [55] and Hawkesworth [56], the Tikar

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54. Mveng & Beling-Nkouma, op.cit., p. 133, do not classify the Bamum and Bamileke as Tikar; but these people have similar political, religious and kinship systems with the Bamenda people who they regard as Tikar. Although some of the Bamum are Moslems today, they combine their Moslem practices with their ancestral Tikar customs.

55. Kaberry, op.cit., p. 42.

56. Hawkesworth, The assessment report on the Bafut area of Bamenda division, Buea (Archives), 1926, para. 15.

have a common ancestor, Mbum, who migrated with them from Bornu in northern Nigeria to a place called Mbum near Ngaundere in north Cameroon.[57] Ritzenthaler, for his part, is of the view that the Tikar came not only from northern Nigeria but from the Sudan as well.[58] This author fails to say whether the Tikar of Sudanic origin were the same as those from Nigeria or not. Kaberry stated that after leaving Nigeria, the Tikar separated later on at a place somewhere between Ngaundere and Tibati from where they settled in a vast plain along the banks of the Mbam river. About 300 years ago, they split into small bands, reportedly[59] because of increasing Chamba pressure, internal dissension and a desire for new land. No reason is given as to why the Tikar first quit Bornu. The Chamba are a northern Nigerian Adamawa-based group, from which the Bali are reputed to have come.[60] Kaberry's reference to increasing Chamba pressure in a way suggests that the Tikar might have earlier clashed with the Chamba. McCulloch[61]

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57. Kaberry, op.cit., p.4;; Hawkesworth, op.cit., para.15.

58. Ritzenthaler, Cameroons village, Wisconsin, 1962, p.8.

59. Kaberry, opc.cit., p.4.

60. Ibid., p.7.

61. Merran McCulloch, The peoples of the central Cameroons, International African Institute, London, 1954, p.20.

suggests that not only the Chamba but the Fulbe as well caused the Tikar to leave the Mbam area.

Other smaller Tikar groups

The other Tikar groups which broke away from the main group in the course of their movements include the Bafut, Kom, Aghem (Wum), Fundong and probably Bali and Widekum. There is no general consensus as to the classification of these groups. Marguerat[62] does not regard the Bali as a Tikar group describing them simply as Sudanese horsemen. Marguerat might have used the term in reference to the Bantoid group, or to indicate that the Bali might have migrated from the Sudan. Kaberry also classifies the Bali as a non-Tikar group and traces the sequence of their movements from the Chamba-Leko area in Adamawa in northern Nigeria to their present settlements.

The Kom, Aghem (Wum) and Fundong, which are situated in Menchum Division are all matrilineal. These three groups are the only ones following matrilineal descent in the whole of Cameroon, although a couple of Aghem villages later opted for patrilineal descent. Kaberry regards the Kom and Fundong but not the Aghem as Tikar. She does not explain her exclusion of the Aghem from the Tikar. It is doubtful whether the different origin attributed to the Aghem by

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62. Marguerat, op.cit., p.15.

anthropologists might have influenced her decision. She herself records that their ancestors came from Munshi.[63] No more is said about the routes they followed other than that they passed through the neighbouring Fungom before settling in the present day Wum. The Kom and the Fungom for their part reportedly migrated from Ndobo and Banyo respectively. The latter places are situated in North Cameroon. The question here is whether it was just a coincidence that these three matrilineal groups originating in different countries[64] chose to migrate only to Menchum Division. If the dates and other information of their migration into the area were available, it would probably have been possible to find out whether it was not one of the groups that imposed the matrilineal system on the others. Kaberry names the patrilineal villages of Nchang, Ake, Mejang and Basaw, who were defeated and converted to the matrilineal system by the Kom. The last of the small groups are the Widekum. None of the authors classifies them as Tikar. As to their origin, Kaberry's view is that they came from Mamfe in Manyu Division, whereas the Ritzenthalers[65] link their origin with the Congo. There might well be no true contradiction in the matter as they

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63. Munshi in this context is probably a Tiv group of eastern Nigeria around Gboko area.

64. See map, appendix III.

65. Robert and Pat Ritzenthaler, Cameroons village, Wisconsin, 1962, p. 14.

might have settled in Mamfe for some time on their way from the Congo to their present settlement. The main Tikar chiefdoms of Bamileke, Bamum and Nso must now be described in detail.

The Bamileke

The Bamileke account for about one-sixth of the population of Cameroon. This figure may even be higher if account is taken of those now settled as traders in most urban areas of the country. The main Bamileke sub-groups are Bafussam, Chang, Bafang and Bangangte. The origin of the name Bamileke is obscure even to the Bamileke themselves. This is probably because this name has no connection whatsoever, with the origin of the Bamileke. This name was allegedly a corruption of a word in the Bali dialect. Delarozière[66] quotes a French author, André Raynaud, who states that the Bali referred to the Chang people as the Leke or Leukeu, meaning the inhabitants of the valley. The prefix Ba, is plural, which is typical of almost all Tikar place names.[67] Another view is that the name developed from the Chang word Mbaliku meaning those in the hole; a term, which corresponds to the belief held by the Chang people that their ancestors had a subterranean origin.[68] Margaret

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66. Les institutions politiques et sociales des populations dites Bamiléké, IFAN (Institut Français d'Afrique Noire), Paris, 1950, p.5.

67. Bamenda, Bafussam, Bamum, Bafang.

68. Littlewood, op.cit., p. 87.

Littlewood suggests a third form, Batongton,[69] which means people of the mountains. She attributes this name to the Bamum, who used it in reference to their Bamileke neighbours of the Bambutos mountains. Though used by a neighbouring people, it is suggested that the name Ntongtou, might have been used in reference to a Bamileke village now called Nkombu. The Bamenda people still refer to this village as Ntongtu. However, the names Leke, Leukeu and Mbaliku, after several mutations became Bamileke now used to designate congeries of people, who distinguish themselves by reference to the chief to whom they owe allegiance.

History of the Bamileke

The authors are again divided as to the origin and true sequence of the Bamileke migrations. Mveng and Beling-Nkouma[70] and Tardits[71] do not trace the origin of these migrations beyond Mbam, the second Tikar settlement in Cameroon after Mbum. A similar view is expressed by Littlewood,[72] who strangely quotes Delarozière as her source of information. Delarozière for his part[73] states that a group of Bamileke migrated from a place in Nigeria, which he calls Bali and that another group migrated from the upper Mbam area. If Delarozière is right (although he does not say whether the group of Nigerian origin also settled in Mbam), then it appears that the other authors

69. Loc. cit.
70. Op. cit., p. 133.
71. Claude Tardits, Les Bamiléké de l'ouest Cameroun, Paris, 1960, p.9.
72. Littlewood, op.cit., p. 93. She recorded her findings in 1954, whereas Delarozière wrote in 1950, so it is not clear why she had the wrong version of Delarozière.
73. Delarozière, op.cit., p.9.

were unaware of this other Bamileke group. It is not certain when these movements took place. Delarozière[74] names the 17th century as the period during which the Bamileke were driven out of Mbam by the Fulbe of North Cameroon. After leaving Mbam they journeyed westwards through Bamum to Bafussam. They claim to have founded the present Bamum villages of Nkupit, Folepon (Baleng) and Kunden. The Bamileke might have subdued other groups already settled in the area, which Delarozière strongly feels must not have been uninhabited on the arrival of the Bamileke. He gives two reasons for this point of view. Firstly, he argues that it was unlikely that such a fertile area would have been unoccupied at this time and secondly, the slight differences in the dialects of the other Bamileke groups are a strong indication that some people inhabited the area when the Bamileke came. Some of these other people were reportedly captured by the Bamum in a war with the Bamileke. The Bamileke plateaux were settled by five groups: the Baleng, Bagam Bamendu, Bati, Banjun and the southern groups.

The five Bamileke groups

The Baleng were the first of the five groups to cross the Nun river and settle in the most hilly area of

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74. Ibid., p. 10. Kaberry also reports the Fulbe invasions of these areas as having taken place about this same period.

the Bamileke region.[75] They still occupy this area today. The Bandeng and Bapi followed and finding the Baleng already settled, went beyond them settling on a higher elevation of the plateau. The Bafussam followed a similar route and settled to the south of Baleng from where they finally moved to their present location.

The Bagam Bamendu group

The Bagam Bamendu crossed the Nun at Bamenjin, thus going round the Baleng and settling further to the south. This group gave birth to Baham, Bangu, Bansoa, and Bazu, which is now under the Bangangte chiefdom.

The Bati and Banjun

The Bati and Banjun were the third and fourth groups respectively to settle in the Bamileke region. Both of them crossed the Nun but probably found it much more difficult than the earlier groups to settle; they therefore had to go beyond the first two groups before settling.

The southern group

This last group is termed the southern group because

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75. The chiefdoms of Banjun, Bafang and Bangangte are offshoots of the Baleng group.

the founders of the group claim to have come from the south.[76] This group was made up of Bamugum, Fonjomekwet and Fotuni. Delarozière states that the last places of origin of each of these three sub-groups are referable to Bafang and thus renders the information quite unreliable.[77] They might have been earlier settlers in the areas but were driven out by others coming later. The only other authors known to have written about the Bamileke migrations are Mveng and Beling-Nkouma. They appear to have simply recited the Delarozière version.[78]

The Bamileke did not regard themselves as a single group before the arrival of the Germans in Cameroon. They are a dynamic people, hardworking and imbued with a commercial spirit surpassing that of the Duala, who were dominant in the coastal trade during the German era. It is no exaggeration to state that the Bamileke traders are found in every big market in the country. They adapt with ease and thus do not experience any difficulty in becoming integrated into any group and always feel at home in whatever part of the country they live. Lying next to the Bamileke across the Nun river are the Bamum.

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76. Mveng and Beling-Nkouma, op.cit., p. 134.

77. Delaroziére, op.cit., p.9.

78. Mveng and Beling-Nkouma generally.

The Bamum

The Bamum who have been described by Marguerat[79] as Bamileke who have evolved differently, are the only Moslems in the whole of south Cameroon. She is of the view that it was through the initiative of their ruler, Njoya, that the Bamum were converted to the Moslem faith not more than half a century ago. Unlike the Bamileke, the Bamum are ruled by a monarch called Sultan. The first ruler of Bamum was a Tikar called Nshare[80] or Nchare.[81]

Nomenclature

The name Bamum according to Littlewood,[82] has a three-fold derivation. The first of them, Pa-mom, was reportedly used by Nshare because he set out from his place of birth on a day known as Fmtmom.[83] Another reason which raises doubts about this form of the name, is that it would have been more usual for Nshare to refer to his people as Pa-Fmtmom, using this weekday in full. The second

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79. Marguerat, op.cit., p.21.

80. Mveng and Beling-Nkouma, Dugast and Jeffreys use this version.

81. Littlewood's version.

82. Littlewood, op.cit., p.53.

83. A french pastor, called Martin, who translated the Bamum history written by sultan Njoya, doubts the veracity of this statement asserting that the Bamum weekdays were introduced by Manju, who was the third Bamum chief.

version goes that the name Mom may have come from the verb yi momm, meaning to dissemble or conceal; Pa-mom thus meaning those who dissemble. This version might have surfaced because the Bamum broke away from a bigger group. The village of Nji-mom, where Nshare first settled, is another suggested derivation of the name. A fourth version comes from Mveng and Beling-Nkouma.[84] They suggest that in his wanderings in search of land, Nshare defeated 18 chiefdoms in a place called Pa-mbam and subjected them to his rule, and that the name Bamum was thus derived from Pa-mbam. The advocates of this version give no explanation as to how Pa-mbam became Pa-mom. All four versions are not convincing derivations of the name and it is doubtful whether a power loving man like Nshare would have failed to give his people a name referable to him.

Traditions of origin

The authors consulted do not name the place of origin of the Bamum. Littlewood merely states that they were of Sudanic origin and broke away from the Tikar some 250 years ago.[85] Mveng and Beling-Nkouma for their part, relate that the Bamum journeyed south-wards and crossed the Mbam river in search of new land. From these two versions one may

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84. Op.cit., p. 137.

85. Op.cit., p. 53.

conclude that the Bamum probably left Mbam around the same time as the other Tikar groups. Apart from Pa-mbam, which is given as the place where they first settled after crossing the Mbam, nothing is known of the course of their journey up to when they arrived present-day Bamum.[86] No reason is given as to why they moved away from Pa-mbam, whose chiefs they had allegedly completely subdued.

The Nso

The Nso group lies to the ~~south-west~~ North of Bamum and like the latter is a monarchy. The only comprehensive writings on the Nso are those of Kaberry,[87] and McCulloch,[88] which the present author cross-checked during his field research in Nso in December, 1977 and January, 1978.

Traditions of origin

According to Kaberry[89], the Nsaw (now Nso) first settled at Kovifem, some 12 miles to the north-west of their present capital of Kimbaw (now Kumbo). No mention is made

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86. On arrival here, they met with the Bamileke whom they pushed out before settling in the area.

87. Women of the grassfields, London, 1952; Nso land tenure problems, African Abstracts, 1952, Vol.3, p.25.

88. Peoples of the Central Cameroons (Tikar), London, 1954.

89. Op.cit., p.5.

of the period of this settlement. McCulloch, who quotes Kaberry,[90] adds that the place of origin of the Nso is Tibati and also that they passed through Rifem in the French-speaking region of the country before arriving at Kovifem in the north-east of Nso. This journey he says, began some 200 to 300 years ago. Interviewed by the present author, some of the oldest people in Nso showed only a hazy knowledge of their history and the information was a series of contradictions in many cases. All of them said that their ancestors migrated from former East Cameroon but only some of them could remember the name of the place. Others insist that their ancestors settled in Nsungli some 25 miles to the north-west of Kumbo for a long time before moving down to Kovifem. It appears that each person interviewed knew mostly the history of his own lineage which he related as that of the whole Nso group. This again demonstrates that information handed down by oral tradition could be quite misleading.

Settlement in Kumbo

The Nso people have lived in their present capital for just about 100 years. Kaberry reports that it was because of constant Fulani raids that they abandoned Kovifem and moved southwards. At that time the people of Nkar were already in the Kumbo area. The Nso people sub-

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90. McCulloch purports to be quoting from page 5 of Kaberry's Women of the grassfields, but there is no such information in Kaberry's book except the direction of Kovifem from Kumbo given by Kaberry as in the north-west, but by McCulloch as in the north-east.

dued them in order to settle in Kumbo and Nkar is up to this day a Nso village. The other villages of Djottin, Din, Dom, Lassin, Mbinon, Nkor and Nser were independent villages and only came under the rule of the Fon Nso as a result of conquest. This discussion of the Nso people closes the analysis of the Tikar of north-west Cameroon. Beyond this area to the north and north-west, lies a vast area of land accounting for about half of Cameroon territory. This area is inhabited by people of Sudanic origin.

Historical Origin

Those historians who have written on North Cameroon do not say much about the original inhabitants of the area. They instead focus their attention on the groups, which invaded the area in the 18th century allegedly introducing Islam there. Mveng and Beling-Nkouma[91] name a group called Sao as the first inhabitants of North Cameroon, who occupied the banks of lake Chad about the year 500.[92] These people developed a civilization, which according to the authors, flourished between the 9th and the 15th centuries. These people made many objects ranging from pots, dishes, bracelets, masks, pipes, whistles, spears, lances and toys using burnt clay and metal. The other first North Cameroon

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91. Op.cit., pp. 49-50.

92. The Kotoko, descendants of the Sao, now inhabit this area.

groups include the Kanembu, the Musgu and the Gamegu. These groups are simply said to have come from the East. The Fulbe,[93] who were probably the last group to enter North Cameroon, dominate not only the history of the northern groups but of the rest of the major groups in the country. The Fulbe are depicted as the conquerors, who came from the north on horseback.[94]

Origin of the Fulbe

Mveng and Beling-Nkouma attribute three separate origins to the Fulbe. The first of them is an Adamawa legend about a man called Ukba, who was sent by Mohammad to preach the religion of Islam in the Kingdom of Mali. In Mali, Ukba fell in love with and married a princess of King Badiumanga. They had four children and Ukba went to Mecca for a pilgrimage leaving his wife and children with a freed slave. Ukba over-stayed in Mecca and on his return his wife married the freed slave, by whom she had five children. The Malians were angered by this, and expelled the slave with his children and bigamous wife. Two of the children, Vaja and Rendi, after a long journey settled in Adamawa. They were the ancestors of the Fulbe of Ngaundere and Illaga de Rey.[95]

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93. The English refer to the Fulbe as Fulani. The French version or appellation, Fulbe, will be retained if only for the purpose of distinguishing them from the Nigerian and other Fulani.

94. Mveng and Beling-Nkouma, op.cit., pp. 131-152.

95. Ibid., p. 121.

The second version is also connected with Mali. An Egyptian Arab historian, Makrizi, reported the presence of two literate Fulbe working in Bornu. If this is right, it would mean that the Fulbe were in Mali by the 13th century at the latest. Their migrations started by the 14th century. By the 18th century they had arrived at the Adamawa region of North Cameroon. They were at first submissive to the local chiefs and willingly worked for them. As their numbers increased, they constituted their own chiefdoms. The strategy of Fulbe expansionism was wisely thought out. They came in small bands and gave the indigenes the impression that they were obedient and peace-loving. In this way, they obtained land without much difficulty from the local chiefs on which they pastured their cattle and built their huts. When they outnumbered the indigenous population, they waged war against them overthrowing their chiefs and appointing Fulbe ones in their places.

The third version is linked with Usman Dan Fodio, who was born in 1754, in Marata in a Hausa region of northern Nigeria.[96] He became employed in the service of King Wawa Zangworo as governor. When Wawa died in 1802, Yumfa, his successor, suspicious of Fulani influence in his government, dismissed Usman Dan Fodio. After losing his job Usman assumed the functions of modibo (doctor of Islamic science or simply teacher of Islam). Yumfa was not happy with Usman's

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96. Ibid., p. 122.

new job and intervened probably by trying to prevent him from preaching. His intervention sparked off what became known as the holy war. The Fulani rose against Yumfa and from then, Usman preached the holy war doctrine to the Hausa. His influence spread throughout the Fulani world in Africa from Sudan to West Africa. He set up his capital in Sokoto in northern Nigeria. When Usman Dan Fodio died in 1817, his empire became divided. His brother, Abdalla, took over the administration of the western territory, while the larger eastern bloc was under his son, Mohammad Bello, who retained Sokoto as his capital. The Cameroonian area of Adamawa, which was under the Emir (chief) of Yola, was under his (Bello's) authority. This is why the Germans were told that they could not hoist their flag in Adamawa without obtaining the approval of the Sultan of Sokoto, as Adamawa was under his control religiously. The person who deputised for Usman in Yola was Adama and the town of Adamawa probably took his name. When the followers of Usman entered north Cameroon, they first settled around Marua in Diamare Division, Garua and Ngaundere in the central plateau. They fought the indigenous animist tribes forcing them to submit to their religion and authority. Adama died in 1847.

Before analysing the different ethnic groups now inhabiting North Cameroon, the claim of some anthropologists and historians that the other groups in the south of the country including the Bamum, Bamileke, Nso Bakoko and Basa fled from their former settlements because of Fulbe raids must be examined. The holy war, which allegedly brought the

religion of Islam to North Cameroon, took place in the 19th century.[97] The Bantu and Tikar of the south, who started their migrations much earlier could not therefore have been fleeing from invading Fulbe horsemen. If these southern groups were attacked by people from the north, these were certainly not Fulbe, who were at that time still the servants of the indigenous people of north Cameroon. It thus means that the myth of Fulbe invincibility and expansionism, which some historians have accorded so much prominence may simply be legendary so far as the period before the 19th century is concerned. The various groups, which inhabit North Cameroon will now be described. As earlier stated, these groups will be sub divided into three: the Fulbe, the Mandara and the Kotoko.[98] The presence of the last two groups in North Cameroon today means that the holy war did not have its full impact on all these people.

The Fulbe

The only North Cameroon group the majority of whose members practice the Islamic faith are the Fulbe. The majority of them now live in the towns of Marua, Garua and Adamawa. Marguerat records that the Fulbe met with more resistance from the groups living north of the Benue river, and thus

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97. Marguerat states that the inhabitants of the Benue area resisted the Fulbe invasion between 1810 and 1830.

98. Some of the northerners are christians, mostly Roman Catholic, but it is not intended to treat them here as a separate group.

Fulbe influence in these areas to this day is minimal. To the south however, they met with less resistance from the people of Banyo, Tibati, Ngaundere and Rey-Buba. The Moslem faith is predominant in these areas, where the Fulbe set up their lamidates. Although the south Benue area holds the greatest concentration of the Fulbe, small numbers of Moslems are to be found in all the administrative Divisions of north Cameroon today. This means that the people of these other areas were converted to the Islamic faith by their own free will rather than through conquest. Podlewski[99] notes that when the Fulbe settled down after the holy war and set up their so-called feudal administrative machinery in the conquered areas, this and their religion attracted many of the people, who had earlier resisted the Fulbe incursion. He thus concludes that more people were converted to the Islamic faith in peace time than during the holy war. There is no doubt that the Islamic faith continued to spread in North Cameroon in peace time but the other view that the Fulbe settled in North Cameroon for some time before waging the holy war reduces any credibility one may attach to Podlewski's statement, as peace time here may refer to the period before or after the holy war.
The information available from most of these authors is incomplete and unhelpful as they do not give the dates when

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99. A. M. Podlewski, La dynamique des principales populations du nord Cameroun entre Bénoué et le lac Tchad, Yaoundé, 1965, p. 42.

the events they describe took place. The Islamic faith also found favour amongst the Shoa Arabs who inhabited the extreme northern areas bordering lake Chad. The Mandara who escaped the Fulbe invaders and occupied the Mandara Mountains follow their traditional religions. The Kotoko who are intermingled with the Fulbe all over the territory have not been greatly influenced by the Islamic religion and are mostly Christians while the rest practice their traditional religions.[100]

The Kotoko[101]

The plains of North Cameroon are inhabited by the Mundang, Tupuri, who live along the banks of Logone river, the Giddar and the Giziga. Lembezat,[102] who has studied these groups, states that there exists a greater Mundang population in Chad than in Cameroon. The Masa, Musgum, Museye, and Tupuri are the riverine inhabitants of the Logone and occupy an area to the north of the Mundang. Like the Mundang all these groups except the Museye, who migrated from Nigeria, are of Chad origin. Living in the same area as the riverines but a little to the south are a group

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100. The word "animist" is used here only to contrast the the rest of the groups with the Islamic ones.

101. See map, appendix II .

102. Bertrand Lembezat, Les populations paiennes du nord Cameroun, Paris, 1961, p. 133.

called the Giddar. Their customs are not homogeneous especially with regard to marriage. Another Kotoko sub-group are the Giziga of the Diamare Division. This group is much more homogeneous and is not dispersed like the other Kotoko groups. They claim to have a common origin,[103] their names are similar and unlike the other groups, they speak just one dialect.

The Mandara

At least seven groups inhabit the highlands[104] of North Cameroon today[105] and most of them are in the Mandara mountains.[106] They claim that their ancestors successfully resisted the Fulbe warriors because the mountains served as a refuge for them. The form of social organisation in the highlands is fairly uniform. This will be evident when other aspects of the lives of these people are discussed later in this chapter. The first of these groups, the Mofu, consists of the Mafa and the Bulaii. Podlewski, unlike Lembezat regards the Mafa as a separate group from the Mofu. To him Mafa is just another name for Matakam. Lembezat for his part, does not only regard these groups as distinct

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103. The Giziga claim that their ancestors came from Gudur in Mokolo.

104. See map, appendix II.

105. Mofu, Mafa (Matakam), Mada, Muyeng, Hina, Gudde-Fali and Kapsiki.

106. The Mandara mountains are part of a chain of mountains extending between Chad and the Gulf of Guinea in West Africa.

groups but also that they have no direct relationship with the Mofu. These groups state that they originated in a rocky area lying between the Logone and the Mandara mountains. Two other groups in the area, the first of which will be analysed in detail later in this chapter, are the Mada and Muyeng situated in Margwi-Wandala Division. A word must however be said about the origin of the Mada. The Mada, though patrilineal, claim to be the descendants of the children of a woman, who after becoming pregnant was lost in the bush where she put to birth. Another version goes that they descended from an ancestor called Mada, who in search of his lost cow found water at the foot of Mount Guille, where he settled with his three wives, by whom he had a total of 15 children. These children then founded the 15 villages of which Mada consists.

The rest of the highland groups, the Daba, Hina, Gudde-Fali and Kapsiki each have certain peculiarities which distinguish them from any other group under this head. Since these characteristics relate to religion, dialect and forms of economic activity, which will be discussed in the next chapter, suffice it to say here that they only found themselves in the same area by accident. This brief history of the various ethnic groups in Cameroon shows that the country is peopled by a greatly diversified population. The three broad ethnic categories: Bantu, Bantoid and Sudanic, into which the people have been divided, are merely labels as it has been seen that even within these

categories certain groups exhibit characteristics, which differ from those of the rest of the group with which they are classified. This diversity is discernible in the political institutions, economic and kinship systems, religious practices as well as the languages spoken by these people. These factors will be taken up in the next chapter.

CHAPTER FOUR

ANALYTICAL DESCRIPTION OF THE ETHNIC GROUPS

Having discussed the patterns of settlement of the different ethnic groups in the country in the last chapter, the present chapter attempts an analysis of the major ones with regard to their political and economic systems, as well as their kinship, religious and linguistic structures. These factors will be helpful in the understanding of most of the rules of customary land tenures of the people. It is not intended to treat all the ethnic groups discussed in the last chapter, firstly because it is outside the scope of this work to do so and secondly because of the dearth of material with regard to all these factors. The sub-groups chosen from each main ethnic group are thus simply samples which are not necessarily representative of the entire ethnic group in every respect.[1] The first of the five factors to be discussed here is the political one and each of the three main ethnic groups in the country will be taken up in turn beginning with the Sudanic peoples.

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1. The subgroups chosen from each major ethnic group are as follows: the Duala and Bakweri from the Bantu, the Bamileke and Nso from the Tikar and the Fulbe and some Kokoko groups from the Sudanic peoples. This approach is preferable because it enables one to discuss each of the five factors fully. It is however not without its shortcomings. Some fascinating data on some of the subgroups not included in the sample must of necessity be left out. In the present chapter, some of these extraneous points will be touched only by way of contrast and where appropriate.

The Political Institutions

In the discussion of the political institutions of the different ethnic groups in the country, an attempt will be made to discuss the functions of the political authorities with regard to land tenure and the administration of the unit over which political authority is held. In the acephalous areas of the country where there are no chiefs strictly speaking, the lineage authorities have come to be regarded as and called chiefs. This practice is purely an innovation introduced into these areas by the European administrations.

Sudanic Political Institutions

In the present discussion, the so-called feudal organisation[2] of the Fulbe will be analysed. The area occupied by the Fulbe is divided into lamidates, each of which is headed by a lamido who holds office for life. Eldridge Mohamadou states that the term lamido was derived from the Fulbe verb lamaago, meaning "to govern".[3] This suggests that the lamido was simply an administrator and did not possess absolute powers over those he was elected to rule. Mohamadou adds that each lamido-elect

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2. The term "feudal" is discussed later at pp. 104-105.

3. Eldridge Mohamadou, "Sociétés du nord Cameroun", Abbia, Nos. 9-13, 1965-66, Yaoundé, p. 266.

had to go to Yola where he was enthroned by the emir of Yola before he could legally exercise his functions as lamido. Mveng[4] expresses the view that a lamido must be of Fulbe descent; to this may be added the requirement common to many other African societies that each candidate for the throne must also be a prince. The lamido is not the proprietor of the land occupied by his subjects. The right to alienate or otherwise effect dealings in the land within a given lamidate was vested not in the lamido but in the people as a whole. The fact that the lamido exercised the right of consenting to dealings which affected certain land rights led some of the first European administrators to conclude that the lamido had absolute rights to effect dealings in the lands as he pleased. However, the fact that the lamido is merely a sort of manager of the land in his lamidate is so well established by both academic writers and case-law that it is no longer in dispute today. The lamido's functions are of a political and religious nature. In his political capacity, he rules over his lamidate and holds a court in his palace of which he is judge. As a religious leader, he is an iman, a post which involves leading the faithful at prayer in the mosque. He does not always carry out these functions personally but often delegates them to members of the Council appointed by him.

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4. Mveng and Beling-Nkouma, L'Histoire du Cameroun, Yaoundé 1976, p. 127.

The Council

It is through the council that the lamido rules his people. The members of the council include the galdima who officiates whenever the lamido is indisposed. Another important council member is the jamu lesdi who is the land priest and land administrator. He exercises the important functions of allocating land to the members of the lamidate and of conducting annual rites to maintain the fertility of the soil. The alkali who acts as judge for the whole lamidate whenever the lamido is indisposed or too busy also sits on the council. This alkali must be distinguished from other alkali who are the judges in the various village courts in the lamidate. The latter are non-members of the council. The defence portfolio is held by the sarkiyaki, a sort of minister of defence, in charge of the security of the lamidate. The Fulbe society is less stratified today than it used to be in the pre-European era when the people were classified into the categories of free and unfree inhabitants. Before taking up the non-Fulbe groups, the question whether the Fulbe system could rightly be styled "feudal" must first be answered. Land, which was held immediately or mediately from an overlord in return for a variety of services, was at the centre of the feudal system which originated in Europe in medieval times. Under the Fulbe system, land did not and does not play such a role. The Fulbe system

is thus better described as hierarchical rather than as feudal.

The political institutions of the inhabitants of the Mandara mountains of north Cameroon contrast sharply with those of the Fulbe just described. A striking feature of the highlanders is the complete absence of a hierarchy of political leadership. Their societies are characterised by segmented lineages each of which is under the authority of its head. The different lineages are greatly dispersed all over the area with no centralised political organisation such as that of the Fulbe. The highlanders have been graphically described by Froelich[5] as une anarchie ordonnée (an orderly anarchy) and by Mohamadou[6] as l'anarchie politique (the political anarchy). The different lineage heads have the power to settle the internal disputes of their people and also represent them as a group in any disputes with other lineages. The highlanders are noted for their willingness to settle their differences out of the local customary courts.[7] They do not like taking their disputes to court where they will be given orders as to what to do. Lembezat describes this attitude of the people as follows:[8]

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5. Jean-Claude Froelich, Les montagnards paléo igritiques, Paris, 1968, p. 181.

6. Edlridge Mohamadou, op.cit., p. 253.

7. Madeleine Richard, Traditions et coûtumes matrimoniales chez les Mada et les Mouyeng (Nord Cameroun), Paris, 1977, p. 83.

8. Lembezat, op.cit., p. 38.

> "It is evident that the highlanders do not like receiving orders. A lineage head who makes the mistake of giving too many orders is hardly obeyed; especially if such orders have nothing to do with the customs. These include, for instance, orders from the government that some community work should be done or other demands on their time like invitations to attend meetings.[9]

The political institutions of the Tikar, situated to the southwest of North Cameroon will now be discussed. The sub-groups chosen from this area are the Bamileke and Nso.

The Tikar

The political institutions of the Tikar groups are much more similar to one another than those of the Sudanic peoples just discussed. In all the Tikar groups one finds that political power is in the hands of a chief called Fo, Nfon, Fon or Fong.[10] The chief is at the top of a hierarchical institution of subchiefs, village heads and finally quarter-heads at the lowest level.

The Bamileke

As earlier noted[11], the term "Bamileke" has a geographical rather than an ethnic significance. The

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9. Author's translation.

10. These appellations are used throughout the area, except in Bamum, whose ruler is now called sultan.

11. See pages 82-83, supra.

Bamileke do not constitute a single political unit but are a collection of people divided into a number of autonomous chiefdoms,[12] headed by a Fo, Fon or Fong. The Bafussam chiefdom will be taken as a representative sample of the Bamileke chiefdoms.

The Political Institutions of Bafussam

The Bafussam chiefdom is subdivided into 9 sub-chiefdoms, each of which is headed by a Kamve. A ruling Kamve is a descendant of the founder of each sub-chiefdom. These sub-chiefdoms are again sub-divided into several villages, each of which is headed by a fonteh.[13] To these titles, may be added several others of varying significance, held by brothers of the fon and other village members who have rendered meritorious services to the fon. The title of mbu, for instance, is conferred as a recognition of war services. The only titles of significance held by women are those of Mafo (Fon's mother), jukam (fon's first wife), and Kukon (fon's second wife). All the Fon's wives are placed under the authority of the Mafo, who exercises it through the jukam and the Kukon.[14]

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12. Margaret Littlewood, op.cit., p. 102.

13. This appellation, which is of Bangu origin, is not generally used in the Bafussam chiefdoms. It is adopted here because it has almost the same significance throughout the Tikar chiefdoms. In other Bafussam sub-chiefdoms a sub-chief is called fo or foe.

14. M. Littlewood, op.cit., p. 106.

The mafo controls all the wives whose dwellings are situated to the right-hand side of the fon's house through the Jukam and the ones on the left-hand side through the Kukon. The Bamileke political authority may be diagrammatically represented as follows:

Diagram of Bamileke Political Authority

MEN

Fo or Fong (chiefdom)

Kamve (sub-chiefdom)

Fonteh (village)

Mbu (Honorary title outside the political hierarchy).

WOMEN

Mafo

Jukam Kukom

The Fo or Fong

The Bamileke believe that the fo or fong is endowed with certain powers, which enable him to regulate the rhythm of the seasons, to turn himself at will into animals like the leopard, elephant or buffalo. The people also believe that the fong does not eat, though he may take a drink in public. The fong always carries a small bag, which is believed to represent the very soul of the whole group. If this bag is seized in a war, then the group loses

the war and must surrender to the enemy. As regards the land occupied by the chiefdom, the people assert that it belongs to the fong.[15] He has the right to settle any one of his choice in any part of the land, provided it is not already allocated to someone else.[16]

The Kamve

The next position on the Bafussam political hierarchy below the fong is occupied by the Kamve or sub-chief who is at the head of the largest subdivision of the chiefdom. In Bafussam and elsewhere in Bamileke country, the chiefdoms do not have standard names but place-names unlike in Ibo society for instance.[17] Each Kamve or sub-chief is the descendant of the founder of the sub-chiefdom. It thus means that a Kamve is also the head of his lineage. This situation is absent among the rest of the Tikar groups where the fon's lineage is just one of the lineages in the chiefdom. The Bamileke lineages are thus exogamous groups and there can be no intermarriages within them. This will be discussed in greater detail later in this chapter under the Bamileke kinship system. Some acephalous areas, which are neighbours of the Bamileke, are reported to have copied the Bamileke example by converting their lineage heads into

15. J. C. Barbier, Essai de définition de la chefferie en pays Bamileke, Yaoundé, 1977, p. 10.
16. Loc. cit.
17. Ibo society is divided into four categories or divisions and each of them has a standard name like the umunna; cf. Obi, The Ibo law of property, London, 1963, p. 11.

chiefs. Some areas of Bafia and Yambeta have been given as examples.[18]

The Fonteh

The fonteh, who comes beneath the Kamve is a quarter-head and the number of fonteh in a given village depends upon the number of quarters therein. The fonteh is appointed to office by the Kamve. The office of fonteh is hereditary and may not be taken away from anyone except for serious misconduct. Other title holders like the Mbu do not exercise any particular functions. They are, however, easily identifiable at public functions as they wear particular caps and drink from cups used only by dignitaries. During ceremonies in the fong's palace, the Mbu sit with other dignitaries flanking the fong on either side.

The Mafo

On the death of a Mafo, the successor is either her eldest daughter or her eldest sister in the absence of daughters. A Mafo has her separate dwelling place in the palace, where her hut and those of her servants are built. Her hut is regarded as a place of refuge and no one including the fong can pursue anyone who escapes into it. Littlewood

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18. J.C. Barbier, op.cit., p.9.

states that a Mafo selects her husband herself,[19] but this must be in the case of a young girl, who becomes Mafo in her spinsterhood. Another debatable point made by Littlewood is that a mafo could commit adultery with impunity and also freely leave her husband when she pleases.[20] These things may be true but she seldom does them. A Mafo is a highly respected person in the whole chiefdom. She commands almost as much respect as the fong and if she were to indulge in disrespectful conduct, she will certainly suffer a loss of respect. Law and order is maintained in the chiefdom through societies of a religious and political nature. The other Tikar group which must now be turned to are the Nso of the North-west Province of Cameroon.

The Nso

Lying to the north-west of the Bamileke area are the Nso, whose political institutions resemble those of the Bamileke in many respects. The fon of Nso is at the apex of the political hierarchy. Below him are other political authorities who use the title of fon as well but who are his subordinates. These include the afon of the Mbiame, Nkar and Ndzerem sub-chiefdoms. These sub-chiefdoms were conquered by the fon of Nso before settling in the area.

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19. Littlewood, op.cit., p. 110.

20. Loc. cit.

At the next point of the hierarchy, below the afon, come the afai[21] (lineage heads). Though the afai are lineage heads, they also perform political functions and are ultimately accountable to the paramount chief or fon. The lowest point of the hierarchy is occupied by the atanteh or quarter heads. All these offices are hereditary but accession to any of them is subject to ratification by the paramount chief. The position of the fon with respect to land was the same as in other Tikar chiefdoms, namely, that the land belonged to him and the various landholding units in Nso recognised and respected his supremacy in this respect.

The fon of Nso has an inner circle of 7 councillors called Vibai[22] whom he consults before taking or implementing some important decisions.[23] Each sub-chief also has his own councillors. The members of the council are drawn from important lineages. The fon may also appoint influential people in the chiefdom to sit on the council. Like the Bamileke the Nso have great respect for the fon's mother known as Ya'a. All the uterine sisters of the fon are also called aya'a (plural)[24] and also enjoy much respect from the people. As earlier stated, the Nso political hierarchy is quite similar to that of the Bamileke.

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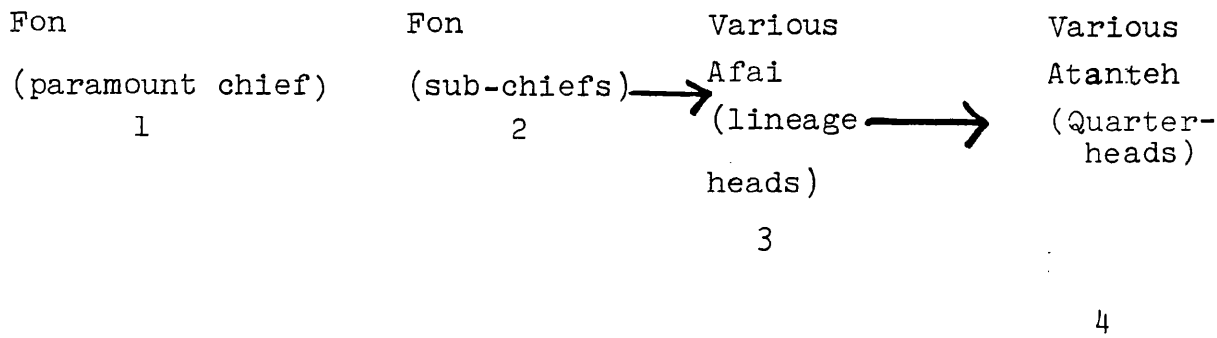
21. The singular is fai. There is also the shu-fai who is considered to be higher in rank than the fai because the shufai heads a bigger lineage.

22. The singular is Kibai.

23. Some of the decisions are executed by secret societies.

24. No confusion arises in referring to each of the Fon's sisters and mother as Ya'a because this title when used in reference to any of the sisters is always followed by her name. Ya'a Adela, for instance, is now (1979) the most influential of the sisters of the fon of Nso.

Diagram of Nso political authority



Attention will now be turned to the institutions of the Bantu speaking people in the country.

The Bantu

The Bantu-speaking societies are styled acephalous societies and are ruled not by chiefs but by lineage heads. It is thus more appropriate in discussing those societies to talk of lineage rather than of political authority. Throughout the Bantu-speaking area of Cameroon the idea of chieftainship never existed prior to the European era; and even today the Basa still do not have chiefs.[25]

The Duala

The idea of chieftainship was introduced into Duala society by the British in the 19th century.[26] By the beginning of that century the Duala people under their lineage head, Bele ba Doo (Bele son of Doo) who came six generations after Ewale the ancestor of the Duala, dominated the lucrative trade at the Cameroon river. The British

25. See pages 69, n. 69, n.37, supra.

26. E. Ardener, op.cit., p. 18; S.J. Epale, op.cit., p.94.

nicknamed the Duala leader "King Bell" and the title "King" was later adopted by the heads of the sub-lineages. Ngand'a Kwa (Ngando son of Akwa) was also nicknamed "King Akwa". The head of the Bonabela lineage was named "King Dido" after a British gunboat of that name which used to moor in the river opposite their settlement.[27] The heads of smaller lineages were referred to as "chiefs". This practice of referring to the lineage heads, as either "Kings" or "chiefs" became widespread in the Bantu-speaking area of the country and was later adopted by some anthropologists and sociologists.[28]

The influence and importance of a Duala lineage head depended upon the role he played as an active middleman in the trade that flourished at the Wuri estuary in the late 18th and early 19th centuries. Ardener states in this respect that :

> "The Duala chiefs (lineage heads) obtained their wealth and influence through the trade in the Cameroons estuary, and the continual fission within the Duala chiefdoms (lineages) appears to have been the result of the desire of more and more lineage heads to be recognised as "kings", that is as persons to be dealt with directly by the English (British) traders..."[29]

Wealth was thus the yardstick by which the authority and

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27. Loc.cit.

28. The present land legislation in the country has followed this practice in some of its provisions by failing to distinguish between chiefs and lineage heads; see page 423, infra.

29. Ardener, op.cit., p. 20.

importance of a lineage head was measured. A lineage head who had much property, many slaves and wives, commanded greater respect and authority than one who could not afford the money with which to acquire them. In the Tikar areas of the country the fo or fon was respected not on account of his wealth but on account of the political power he wielded over his people.[30] The head of a Duala lineage must be a descendant of the ancestor and as a general rule he must also be the eldest son of the first or most senior wife of the lineage. This will be made clearer when the Duala kinship system is discussed later.[31] It will then be seen that the lineage is subdivided into smaller segments down to the household level.[32] Each segment has a distinct name.

The Bakweri

Among the Bakweri, the head of a maximal lineage, which may be called a village, is known as sango a mboa. This unit consists of a number of households descended from a common ancestor. Buea for instance was founded by the ancestor of the Bakweri called Eye Njie. Some Bakweri villages are quite small in size and may have only about 15

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30. In Bamileke society there is a fictitious kinship between the lineage of the fo or fong and all the lineages in his chiefdom, see p. 126 infra.

31. See pages 118-126, infra.

32. Loc. cit.

households. Although the Bakweri are like the Duala, classified as Bantu-speaking people, a Bakweri lineage head combines his lineage functions with political ones.

The sango a mboa

The Bakweri sango a mboa never wielded as much political authority as the Tikar fo or fong or the Fulbe lamido even though he was the chairman of a body of elders called vambaki[33] The head of each segment of the lineage was also the chairman of the vambaki[34] in his unit. Ardener notes that in spite of his lack of autocratic powers, the Bakweri sango a mboa was more highly respected than the heads of the segments by virtue of his position as father of the whole lineage group and descendant of its founder. Today, however, younger lineage members have a greater say in the affairs of the group provided their education or social standing warrants it. Ardener[35] states that in villages where the Bakweri are greatly outnumbered by immigrants the sango a mboa cannot hope to exercise authority over the immigrants; and a system has grown up whereby the major tribal or regional groupings within the stranger population each has its own headman, who confers with the Bakweri elders in cases involving immigrants and Bakweri. This is equally true of all the coastal Bantu-speaking areas

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33. Ardener, op.cit., p.70.

34. The plural is mombaki.

35. Ardener, op.cit., p. 71.

of Cameroon especially Duala,[36] Victoria, and Tiko, where the immigrant population greatly outnumbers the indigenous population. This is because even though the sango a mboa exercises some political authority as chairman of the vambaki, his powers over his people are not as extensive as those of a chief of Tikar immigrants for instance. It must however be noted that the sango a mboa's lack of greater political authority over the immigrant population was not solely because the immigrants outnumbered the indigenous people as he does not possess extensive political powers even over his own people as do the Tikar chiefs. The Kinship systems of the main ethnic groups will now be discussed beginning with the Bantu.

The Bantu kinship systems

The kinship systems of the Bantu-speaking people are neither fully patrilineal nor matrilineal. It would have been possible to classify all of them as patrilineal but for the Duala, whose system is bi-lineal with the patrilineage dominating the matrilineage so far as property rights are concerned. The size of the interests which members of a matrilineage may enjoy in land is determined by the patrilineage.

36. David E. Gardinier states in Papers in International Studies, Ohio University, 1966, No. 3, p. 5, in connection with the Duala that: "The French like the Germans, soon found that the chiefs (lineage heads), who had never been absolute rulers, could only with difficulty enforce the decisions of the administration".

The Duala Kinship System

The Duala kinship system may broadly be described as composed of greatly segmented agnatic groups of people. It is pertinent at this stage to define the Duala bi-lineal system before describing the individual units. The patri-lineage consists of all the descendants of a male ancestor, their wives and unmarried daughters. The matrilineage for its part, consists of both the men and women who are the children of the same woman. To simplify this discussion the analytical method of describing the Duala society, segment by segment, from the smallest to the largest unit will be adopted.

The Masoso

The masoso is the smallest unit in the Duala kinship system and consists of a wife and her children. If the husband takes other wives, each of these and her children also constitute a masoso. In such a case, the status of the first wife changes as a new unit, the mwebe or "house" is now brought into being.

The Mwebe

The mwebe[37] is a cluster of co-wives and their children in a polygnous household. The members of the

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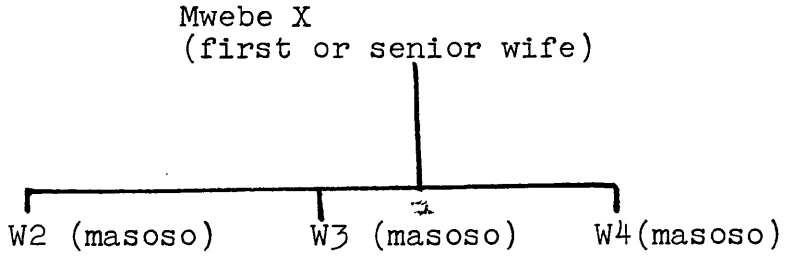
37. The plural is myebe.

mwebe are a collection of the members of all the masoso in a given compound. The term "compound"[38], here does not necessarily mean "household", as a number of households may still be regarded as a single mwebe. The senior wife, nyango a mboa, is regarded in Duala custom as the mother of every member of the mwebe including the co-wives and their children. Ardener[39] refers to a wife's mwebe as a separate "kitchen". This may be right, but other sources, scholarly and otherwise, do not make mention of "kitchen" in this context, so that it is difficult to know what meaning to attribute to it here. However, a possible explanation is that it was used to include all the wives and children in a polygynous household.

Diagram of a mwebe



The next unit after the mwebe is called the eboko (plural beboko).

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38. Ardener, op.cit., p. 58.

39. Loc.cit.

The Eboko

The eboko comes into being when a number of myebe are constituted. However the membership of the eboko is not restricted to the members of the myebe of which the eboko is composed.[40] The head of an eboko is called manjule and he is the most senior male member of the myebe which make up the eboko. When the daughters of a mwebe marry and later constitute their own masoso, these become the smallest units of the eboko. A woman who deserts the eboko forfeits the succession rights of her children. This is a major loss where she happens to be the mother of the most senior mwebe in the eboko as it is from this unit that a successor must be chosen on the death of manjule. An example given by Ardener,[41] of the household of Ebele, may help to explain how a number of myebe may grow into an eboko.

The household of Ebele

Ebele was the founder of Bonabele (now Deido). He was married to seven wives. The first wife was called Jinje and the second, Mula. As first wife Jinje constituted a mwebe and had three subordinate wives as members of her

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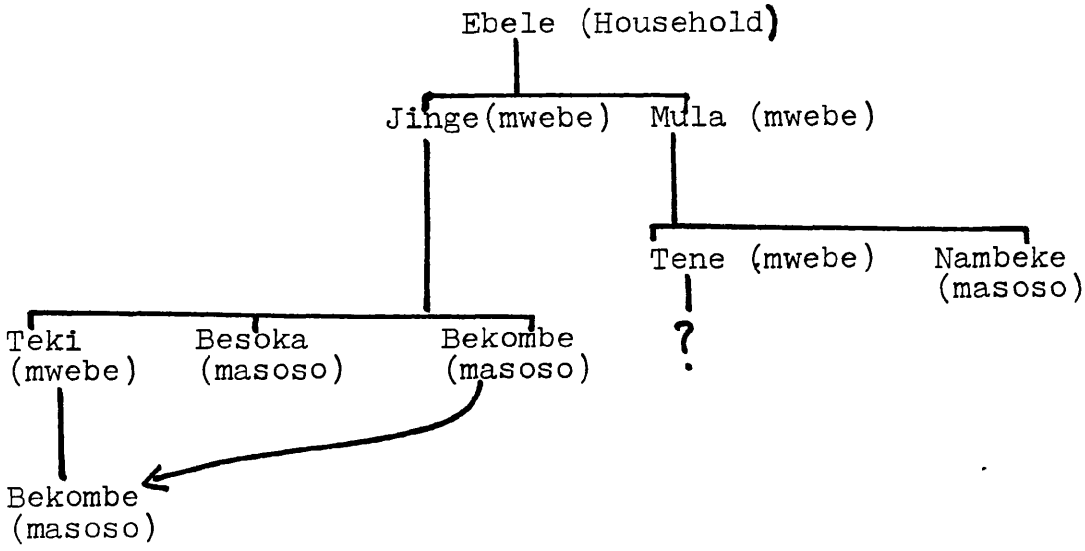
40. The members of the eboko may include the uterine brothers of its head (manjule), their wives and children as well as manjule's descendants.

41. Ardener, op.cit., p. 58.

mwebe.[42] These were Teki, Besoka and Bekombe. Mula, the second wife, also later constituted a mwebe having Tene and Nambeke as subordinates. Later still, Teki, who probably was the third wife, established her own mwebe and received as subordinate Bekombe, with whom she had earlier been attached to the mwebe of Jinje. Similarly Tene, who was Mula's first subordinate set up her own mwebe but had no subordinate as there were no other wives left. A diagram may make the situation clearer.



The descendants of Ebele are now divided into five sub-lineages. These are Bonajinje, the descendants of the mwebe of Jinje; Bonamuduru, the descendants of Muduru son of Mula; Bonateki, the descendants of the mwebe of Teki; Bonatene, the descandants of the mwebe of Tene and Bonatone, the descendants of Ntone son of Nambeke, subordinate wife to

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42. The descendants of this mwebe are known as the Bonajinje (the descendants of the mwebe of Jinje).

Mula. As Nambeke never left the mwebe of Mula, Bonamuduru and Bonatone are jointly known as Bonamula; and according to Ardener may never intermarry even after a lapse of six generations or more.[43] Gouellain is however of the view that members of a mwebe may be able to intermarry after the sixth generation.[44] A mwebe is inseparable. In other words, among the Duala, uterine relations can never separate. The Duala mwebe may thus be likened to the Yoruba omoiya, which Lloyd[45] defines as "the children of one woman" albeit by different men, as the omoiya is by Yoruba custom also inseparable.

The mwebe plays an important role in the inheritance of property and in deciding the issue of succession to the office of lineage head, as the legitimate heir to the headship of a lineage is the eldest son of the mwebe of the most senior wife (nyango a mboa); irrespective of genetrix. All her children are also regarded as senior to the children of the other myebe irrespective of their ages. As regards inheritance rights, Ardener expresses the view that every member of the mwebe irrespective of sex can inherit the property of the mwebe. This is of course a common practice in the acephalous Bantu-speaking areas of the country where the right of women to inherit property is upheld. When the

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43. Ardener, op.cit., p. 58.

44. Gouellain, op.cit., p. 87.

45. Lloyd, Yoruba land law, London, 1962, pp. 300-301.

head of the eboko, manjule, dies another unit called the mboa comes to life.

The Mboa

On the death of manjule his eboko becomes the mboa. The myebe which made up his eboko (now mboa) will each rise to the status of new beboko with other manjule as the heads.[46] This development is followed by a corresponding rise in the status of each unit down to the masoso. The next unit in size after the mboa is known as the dio la mboa.

The Dio La Mboa

When a mboa dies, his son, the reigning manjule succeeds him and is from then known as mboa. At the same time, the deceased's surviving eldest brother constitutes another mboa, which he heads. The reason for this second mboa is that without it the deceased's eldest surviving brother will be subordinate to a younger person, his nephew who had just become mboa. The Duala custom regards such a situation as likely to cause dissension within the group. Since two mboa are thus constituted, a compromise solution is arrived at by a fusion of the two mboa to form a dio la mboa. Another reason for the fusion is that since the heads of the two mboa were members or descendants of the same mwebe, failure to fuse them in the dio la mboa will

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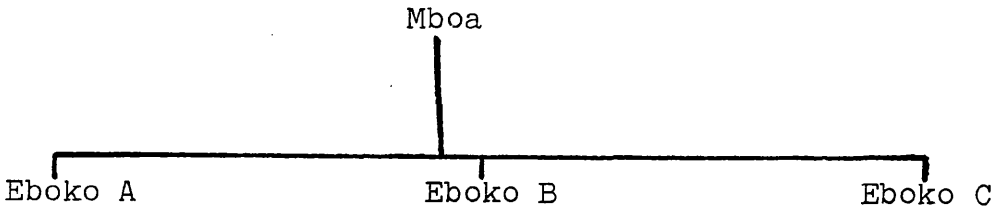
46. The head of the mboa is called mboa.

offend against the Duala custom which requires that the descendants of a given mwebe must never separate. The authors consulted do not however state which of the mboa heads the dio la mboa after the fusion.



(i) Reigning Manjule, son of mboa

(ii) Eldest brother of mboa

After decease of mboa

Eboko A = mboa x / mboa y = dio la mboa

In the diagram the reigning manjule as well as the eldest brother of mboa are members of the eldest mwebe in "Eboko A" which is also the eldest eboko in the mboa. This mwebe would attain the status of mboa after three generations. It is this unit together with the mboa constituted by the eldest brother of the deceased mboa that formed the dio la mboa. 'Eboko A', being the eldest of the three beboko becomes the ndambia after three generations. The next unit immediately above the ndambia is the tumba la mboa which is the maximal lineage beyond which relations with other lineages begin. The eboko is essentially a production unit, whereas within the mboa kinship and affinity is distinguished. At the level of the dio la mboa, links

with the land occupied by the lineage are established and this is where land is allocated to the different units down the line. The ndambia is really not an identifiable unit today and would have constituted separate villages if the Duala people did not settle around the Wuri estuary as a unit. On December 17, 1951, the Tribunal Supérieur d'Appel du Cameroun, passed its judgment in a dispute over a piece of land situated in Akwa, Duala between an eboko called Bonamouang and one of the myebe of which it was composed, Bonéwaké. The case in question, Edoubé Dikoto Aarou, ès-qu. représentant de la collectivité Bonamouang c. Etonde Eyidi François ès-qu. représentant la collectivité Bonéwaké,[47] was an appeal from the decision of the Duala Tribunal de Second Degré of July 5, 1951. In 1950, the Bonéwaké mwebe had applied to the French administration in the territory for recognition of their customary land rights over a piece of land in their occupation in keeping with the provisions of a Land Décret enacted by the administration on July 21, 1932.[48] This application was objected to by the Bonamouang eboko which also filed an application for the recognition of their customary land rights over the same piece of land. In upholding the judgment of the lower court which had found for the defendants, the Court of

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47. Recueil Pénant, Paris, 1955, vol. 65, pp. 208-211.

48. See pages 320-325, infra.

Appeal took the view that although the Bonéwaké mwebe was only one of the units which made up Bonamouang, the piece of land in question had been allocated to the Bonéwaké mwebe over two generations earlier and consequently Bonamouang, the larger unit could not become the proprietor of land which had already been allocated by the founder of the group to one of the units. The kinship situation in the Tikar area will now be looked at with the Bamileke and Nso as examples.

The Bamileke kinship system

In Bamileke country, emphasis is laid on the political rather than the lineage grouping. The patrilineage is identifiable but a Bamileke chiefdom which is a collection of lineages, may consist of several patrilineages which, though not interrelated, regard the chief as their overall founder and father.[49] There is thus the establishment of a sort of artificial or fictitious blood relationship between the chief and each lineage in the chiefdom. In each patrilineage, the members can only pay homage to the memory of their ancestor through the successor, who may be a brother or cousin of theirs. The fact of filiation or descent alone does not enable one to address requests for help directly to the ancestors. A diagram may make this clearer.

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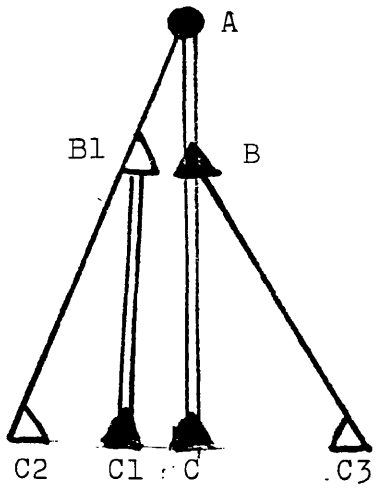
49. J.C. Barbier, Essai de définition de la chefferie en pays Bamiléké, Yaoundé, 1977, p.6.



▲ Heir or successor
Δ Descendant (non-heir)
—— line of descent
═══ line of succession

In this diagram, C1, C2 and C3 cannot offer worship to their ancestors A and B directly. They must pass through C, the successor. If C2 is to pay homage to the memory of his father B1, he has to go through C1 and not C to do this, since it is C1 and not C that is the successor of B1. As regards C1, he does not have to worship B for the latter is not his ancestor but only his uncle. C and C3 will continue to worship A and B whereas C1 and C2 will do likewise to B1 and A.

If the descendants of B1 emigrate to a distant place ruled by a different chief, they may voluntarily or involuntarily forget their patrilineage of origin and live as an independent lineage under their present fo or fong (chief). When after a long time memories of their patrilineage of origin wane, the migrated group may link their origins with their present chiefdom, regarding themselves as descendants of this chiefdom with which they must not intermarry. The descendants of each patrilineage thus

constitute an exogamous unit. To ensure that members of the unit continue to identify themselves even after the lapse of whole generations, everyone of them is given a second name at birth, which is meant to identify him with his patrilineage of origin. This may mean that members of a lineage who migrate and become attached to a new chiefdom may not be able to intermarry with members of their former chiefdom if these second names are meaningfully retained. In a case as this, the exogamous unit is thus unnecessarily enlarged.

Nso kinship system

Under the system which obtains in Nso the patrilineages are categorised in accordance with the status of their respective heads. In descending order of importance, the head of a unit is either a shu fai, fai, shey, tanteh or ta la'a (also ta lav).[50] Each lineage takes the name of its founder and the lineage head is designated in reference to this name. The head of the yuwar lineage is called Shufai yuwar. Although Kaberry prefixes the names of Nso lineage heads with "o" (Shu fai-o-yuwar) throughout her book,[51] this form is not generally used today by the Nso people either verbally or in writing. The "o", which means "of" in this context and also "your" is better left out.

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50. Chilver and Kaberry, Notes on the pre-colonial history and ethnography of the Bamenda grassfields (mimeograph), 1966, p. 118.

51. Woman of the grassfields, London, 1952.

The Fai

A fai is the head of an exogamous unit which traces descent through the male line from a common ancestor. Chilver and Kaberry state that:

> "the exogamous localised unit is the patrilineage, a number of whose male members occupy a single compound controlled by a lineage head having the title of fai (lord) or shey (lordling)." [52]

Although this statement may once have been accurate it is no longer so. There is a possibility that when these two authors carried out their research in Nso, it was still a common practice for the descendants of a lineage to live in a single compound. They might have been influenced by the practice in Nso where some married men, their wives and children continue to live in the same compound as the fai. Generally, married males are allotted some land from part of the land occupied by the lineage on which to settle. Where there was a shortage of land in the lineage, it was usual for the fai of that lineage or the newly married male to beg for a piece of land from another fai, who was either a friend or neighbour of the boy's lineage. The title of shufai is conferred by the fon on a fai, who must satisfy a number of requirements to qualify for it. Firstly, the size of his lineage must be big enough to warrant the title. Secondly, he must have been obedient to the fon and proved to be an able leader of the lineage of which he is head.

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52. Chilver and Kaberry, op.cit., p. 118.

Thirdly, the fon must be satisfied that he respects the rules of the local customary laws and sees to it that members of his lineage are law abiding. It is thus not an easy thing to qualify for this title and this explains why the number of Shu fai in Nso today is still quite small.

The Shey

A shey for his part is the head of a sub-lineage. Although Chilver and Kaberry[53] state that a shey could like a fai head a full lineage, such a lineage must be a small one. It is inconceivable that a shey could become a fai. Unlike the Duala example,[54] where the death of a lineage head may be followed by a rise in the status of the successor as well as that of the heads of the rest of the units in the group and the units themselves, in Nso a shey's status does not change even when the fai of his lineage becomes a shu fai. The new shu fai himself after promotion is still the head of the unit he ruled prior to his change of status.

The Ta lav

A ta lav is the head of a household, consisting of his wives and unmarried children. When a boy marries and later has children, he and his wife or wives and children

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53. Loc. cit.

54. See pages 122-124, supra.

constutite a lav (house). A married woman is regarded in Nso custom as a member of her husband's patrilineage, though she still maintains links with the matrilineage. She still returns subject to her husband's permission, to live with her mother whenever it is necessary to assist in certain traditional rites of benefit to her or to members of her matrilineage. A married woman may continue to farm the land of her matrilineage given to her by her mother when she was still unmarried. All the title-holders, from the shu fai to the ta lav are accountable to the fon as regards the administration of their units of the Nso group. Unlike the Bamileke, the Nso lineages do not claim any kinship ties with the fon, whose lineage is distinct from the rest of the lineages in the chiefdom. The fon of Nso is also head of the lineage into which he was born and thus combines his functions as lineage head with his political functions as ruler of all the lineages in his chiefdom. The system applicable to the Sudanic-speaking people will now be taken up.

Sudanic kinship systems

Much has been written by sociologists and anthropologists on some of the Sudanic people in Cameroon, but, as earlier mentioned, their writings are based on studies of individual groups in this area of the country. The Fulbe lamidate, as indicated earlier in this chapter, is a

political rather than a kinship unit. The lamido was an administrator and the social and political organisation of the lamidate was based on the islamic religion which overshadowed the significance of kinship ties. It thus follows that throughout north Cameroon it is only among the non-islamic groups that kinship plays a preponderant role in the social organisation of their societies. The present discussion will thus be based on two predominantly non-Islamic areas of north Cameroon. These are the Muyeng and the Masa. The Muyeng are highlanders of the north-west corner of north Cameroon near Mora whereas the Masa inhabit the Mayo Danaii Division near the Chad border.

The Muyeng

The Muyeng are made up of 19 patrilineages, 14 of whom recognise Anohay as their ancestor. Each patrilineage bears the name of its founder, who is descended from Anohay[55]. All 14 patrilineages constitute an exogamous unit within which intermarriage is forbidden. Madeleine Richard states that this rule is so strictly adhered to that even members, who have migrated, are still bound by it. She however does not say what method is adopted to ensure that members, who have migrated to other parts of the territory, might be able to recognise themselves so as not to intermarry. It was seen in the case of the Bamileke

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55. Madeleine Richard, op.cit., p. 79.

that the situation was catered for by giving each member a second name at birth, which identified him with the lineage.[56]

The other five Muyeng patrilineages were only fictitiously related to Anohay because they were founded by later immigrants into the area. These lineages are Mboko, Molko, Uldeme Gadray and Gweje Kray.[57] Each of them has its ancestor, who is different from Anohay. In Muyeng society there is a distinction between the original Muyeng and those who arrived in the area later. Apart from the fact that these two groups cannot intermarry, the distinction is not of great significance since the immigrant group still regards itself as the children of the present ruler, who is a descendant of Anohay. A descendant of an immigrant cannot become the ruler of the Muyeng; so also is it the case with any descendant of the other 13 lineages, since by Muyeng custom the chief must be a member of the royal lineage.

The Masa

The Masa, like the Bamileke, are a number of patrilineages owing allegiance to a given chief without necessarily being of the same lineage as the chief. Like the Muyeng the Masa are an exogamous unit within which intermarriage is prohibited. Igor de Garine uses the Masa

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56. See page 128, supra.

57. Loc. cit.

word, djaf, to designate units of varying sizes, who claim to have descended from a common male ancestor.[58] This type of situation is not peculiar to the Masa. Another example may be taken from Mendankwe, a Tikar village in Bamenda, where the word allan may be used to refer to units of varying sizes within a lineage claiming descent from a given ancestor. The Mendankwe term allan-a-Atighe, means the "Atighe lineage" and may be used to refer to the entire unit or to divisions of it down to the household level. The members of a lineage may settle in different quarters in a village but they still regard themselves as a unit.

Some of the Masa lineages, which no longer live in the villages founded by their ancestor called Fulay, but who now occupy a neighbouring village founded by Fulay's son, Madaw, are given the name djaftusina,[59] and constitute a sub-group of the Masa. De Garine does not say whether this sub-group and the main group constitute an exogamous or an endogamous unit. This rather sketchy account of the Muyeng and Masa is more of historical than of kinship significance. This is due to the dearth of material on the subject of kinship. More research is thus called for on this topic not only with regard to the two groups discussed here but on the Sudanic area of the country as a whole. Having discussed

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58. Igor de Garine, Les Massa du Cameroun, Paris, 1964, p. 44.

59. Ibid., p. 45.

the political and kinship systems, the types of economic activities undertaken by the country's main ethnic groups will now be analysed starting with the Sudanic peoples.

Economic activities of the Sudanic peoples

The economic activities of the Sudanic peoples include farming, cattle rearing, fishing, handicrafts and trading. The physical features as well as the climate of each of the Sudanic regions, as it is the case elsewhere in the country, determines the forms of economic activities carried out by their inhabitants.

The Fulbe

The majority of the Fulbe are farmers and Marguerat estimates the figure to be as high as 81% of the group.[60] The crops farmed include cotton, millet and groundnuts.[61] It would appear that, contrary to the view generally held by most Cameroonians that the Fulbe are mostly cattle-rearers, only a small fraction actually practise cattle-rearing.[62] The rest of the Fulbe carry out a variety of other activities, including handicrafts, butchery, tailoring and trading from which they earn a livelihood.

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60. Marguerat, op.cit., p.43. It has not been possible for the present writer to compare these figures as the writings of other authors consulted show little or no inclination to statistics.

61. In 1973, the total output of groundnuts in the country stood at 60,889 tons whereas the figure for cotton was 27,760 tons; cf, the 6th report of the National Council of credit, Yaoundé, 1977, pp. 170-172.

62. Marguerat puts the figure of cattle-rearers at 6% of the population.

The Kotoko

It is intended to cover just a few Kotoko groups here. These are the Giziga, Tupuri, Giddar and Mundang. According to Lembezat, the Giziga were the first people in this sample to cultivate maize, and that though they now also grow groundnuts and cotton, these two crops were introduced in the area by the Tupuri.[63] The Tupuri for their part are the only cattle-rearing people in the area. The further north one goes, the hotter and drier it becomes, and this explains why the people living furthest to the north of the Sudanic region do not rear cattle on a large scale. The Tupuri have the advantage over their neighbours of being situated along the banks of the Logone river and thus keep more cattle. Lembezat attributes the absence of any hunting in the area to the inexistence of game, adding that the few antelope and deer which were in the area are extinct today. The craftsmen in this region of north Cameroon make knives, swords, hoes and spears from metal. Most of these craftsmen sell their finished articles themselves in the local markets. Other members who specialise in trading sell these items in other parts of the country. Apart from the craftsmen, most of the traders in the local markets in this area are women and children selling foodstuffs.

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63. Bertrand Lembezat, Les populations du nord-Cameroun, Paris, 1961, pp. 76-79.

The Mundang and the Tupuri are the two groups in the region whose main occupation is fishing. The fish is caught in Lake Lerey and the Mayo Kebbi river. The more enterprising fishermen use small engine boats, while others make do with vertical baskets and other fishing traps. The next ethnic group to be discussed now is the Tikar represented by the Bamileke.

The Bamileke

The physical features (valleys, highlands and plains) and the vegetation in Bamileke country closely resemble those to be found throughout the Tikar area of the country. Most of the Bamileke are farmers and traders. The farming of foodstuffs is carried out exclusively by women, though the men help in clearing the farms prior to the planting seasons. The women work on their farms throughout the week except market days and today, with the spread of christianity Sundays too are observed. The crops which the women plant on their farms include maize, cocoyams, groundnuts, cassava, sweet and Irish potatoes and vegetables. Today each adult male has a coffee farm of his own which he sets up either with the assistance of friends or hired labour. Beyond this stage, it is the duty of the man's wives to weed the grass in their husband's coffee farms.[64] In addition to these coffee farms, the men have raffia bushes and palm-trees, which in many cases constitute lineage property,

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64. The women plant seasonal foodcrops like maize in between their husbands' coffee trees.

the produce of which go to the lineage head. Since the lineage head often entertains visiting members, it is but proper that palm wine and oil palm from these bushes should go to him. Littlewood describes the Bamileke domestic architecture,[65] but only one aspect of it still exists today, namely the carved doors and doorways of the chiefs and persons holding titles in the society.[66] This too is being eroded by modernity and less adorned plank and metal doors are now fast replacing them.

Sculpture and carving

The Bamileke were experienced craftsmen and the display of numerous Bamileke statues, drums, masks and stools during important traditional feasts and in museums in the country is testimony of this. Pottery, metal-work and weaving are still undertaken today but these are of secondary importance because many of the craftsmen are dead and some of the surviving ones have turned their attention to other more lucrative activities like trading.

Trading

Special mention must be made here of trading. Almost all of the over 300,000 Bamileke[67] who have migrated

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65. Littlewood, op.cit., p. 98.

66. Cf., pp. 107-108, supra.

67. J—C. Barbier, Les Villages pionniers de l'opération Yabasi-Bafang, Yaoundé, 1971, p. 151.

to other parts of the country are traders. The leading traders in the country during the German era were the Duala, but the Bamileke have now taken the upper hand. Most of the Bamileke who graduate from colleges and universities either turn to business or take jobs in business houses like banks and insurance companies. The Bamileke have been so successful in business that they have, within the last decade, converted the town of Bafussam into a modern city by Cameroon standards. The only towns in the country with more multi-storey buildings than Bafussam are Duala (usually known as the "economic capital") and the capital city of Yaoundé. The Bamileke, because of their business acumen, are sometimes referred to locally as the Ibo of Cameroon. The position among the Duala will now be discussed.

Economic activities of the Duala

The history of the Duala suggests that their main occupation was fishing. As already mentioned, when the Duala arrived in Cameroon, they first settled at Pitti, from where they carried out fishing expeditions down to the Wuri estuary.[68] Although some authors[69] express the view that the Duala did no farming at that time, it is inconceivable that they lived only on the fish that they caught.

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68. Cf., p. 64, supra.

69. Georges Balandier and René Gouellain, for instance.

Some form of agriculture must have been undertaken by them no matter how passively. There is however no argument about the other suggestion, that the Duala did not have as much food as they needed. It was in their endeavour to meet this need that they unexpectedly met with some Basa tribesmen in one of their fishing voyages downstream. They obtained some food from the Basa and gave the latter some of the fish they had caught. According to Gouellain, it was this trade by barter that imbued the Duala people with the trading spirit.[70] If this is right, it then means that an activity, which later played a preponderant role in the economic life of Duala society, only occurred by chance. The Duala later had other customers for their fish. They canoed their way upstream and traded with the Bakoko of the Sanaga river, and along the Atlantic coast to the neighbouring Tiko and sold some of their fish to the Bakweri. The town of "Tiko" obtained its name from this trade.[71] Epale supports this view in the following terms:

> "At one time a lucrative barter trade was carried on between Duala fishermen and the people of the Bakweri hinterland at a place in the British Cameroons, which has since been named Tiko (a corruption of the Bakweri word Litikoa which means 'exchange')."[72]

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70. René Gouellain, op.cit., p. 33.

71. Ardener, op.cit., p. 23 (n.45).

72. S.J. Epale, Essentials of Duala Grammar, Bota, Victoria, 1966, p. 98.

A word should now be said about the Bakweri.

The Bakweri

In Bakweri society the men keep a few domestic animals mostly pigs and goats while the women grow cocoyams (their staple foodcrop) and some plantains and bananas. The men were predominantly hunters, taking after their ancestor, Eye Njie, who was himself a hunter[73]. This activity has now been abandoned by a large majority of the people, probably because their hunting grounds have been taken up by plantations.[74] Almost all the cash crops in the Bakweri area, like rubber, palm produce, cocoa, banana and tea, are grown in the plantations of the Cameroon Development Corporation. Attention will now be turned to the indigenous religious practices of the ethnic group under discussion, namely, the Bantu.

Religious practices of the Bantu

The Cameroonian Bantu do not have a uniform word for "God". They use the words Nyame,[75] Nzambe,[76] Loka or

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73. See pages 76-77, supra.

74. E.H. Duckworth, African Abstracts, London, 1952, vol. 3, p. 25.

75. Duala.

76. Ewondo.

Love[77], to mean "God". The coastal Bantu such as the Duala worship water-spirits, whereas the hinterland Bantu believe in terrestrial "Gods".

The Duala

The Duala, like other coastal Bantu tribes, worship a water spirit called jengu.[78] Both German,[79] French,[80] and Cameroonian[81] authors, who have written about these water-spirits, relate that the coastal Bantu tribes describe mengu similarly, though none of them claims to have seen any. These people believe that a jengu is partly fish and partly man and that it can swim like a fish and walk like a man. It is neither male nor female. Its feet are reversed backwards and it has a long beard. Its foot-prints can be seen on the sand-banks of the rivers. A pregnant woman must not touch the foot-prints of jengu, for her baby's legs will be deformed.

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77. Bakweri.

78. The plural is mengu or maengu.

79. Ittmann Johannes, "The djengu association of the Cameroons coast", African Abstracts, London, 1958, vol. 9, p.19 and 1956, vol. 7, p. 74.

80. René Bureau, "Ethno-sociologie religieuse des Duala et apparentés", Recherches et Etudes Camerounaises, Paris, 1962-1966, pp. 1-372.

81. S. J. Epale.

Powers and attributes of jengu

The Duala believe that a jengu has supernatural powers. It is capable of causing or calming storms in the sea. When someone drowns or property is lost in a storm at sea, it is jengu that is the cause. It is firmly believed that every member of the Duala society is guarded by a guardian jengu, which requires him to act according to a number of norms well known to members of the jengu association. Anyone who fails to observe these norms may either become insane by becoming possessed by his guardian jungu or die by drowning. Anyone possessed by his guardian jengu is believed to have hallucinations and to speak in a language intelligible only to members of the jengu association. Only members may cure a possessed person and the patient must first be initiated into the association. Bureau suggests that the requirement that a possessed person must be initiated before he could be treated was not a general rule and was only insisted upon where the parents or family of the patient could afford the food and other things required for the initiation ceremony[82]. The Duala also believe that all the fish and animals in the waters belong to jengu and that the outcome of a fishing expedition depends solely on the temperament of the jengu at that time. A jengu can be appeased by sacrifices of food which in Duala are offered during the Ngondo festival, which takes place in the Wuri river yearly on June, 19th. The food is taken

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82. René Bureau, op.cit., p. 114.

into the river by the chief priest, who dives and remains in the water for about three minutes before returning to the surface. His duty is to deliver the sacrifices to the mengu and bring back messages from them, which constitute a code of conduct for the whole society during the ensuing year. The annual festival precedes the fishing season, which starts immediately after the conclusion of the festivities. Once the gifts have been accepted, the fishermen are sure that their expeditions will be quite fruitful. Other benefits obtainable from the mengu include peace, signified by the absence of quarrels, fertility of the women an indication of which is an increase in the number of pregnancies and good luck in general. The appeasing of the mengu is a sine qua non for the peace and prosperity of the Duala people. Mengu worship is regarded as a unifying force among the coastal Bantu tribes in Cameroon. These people regard themselves as superior to the hinterland groups. This is evident in the way they interpret their relationships with mengu. They, for instance, interpret the expression "sons of God" in Genesis 6:4,[83] as referring to the mengu and thus conclude therefrom that since they (coastal Bantu) are the offspring of the latter, they are certainly a superior people.[84]

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83. Genesis 6:4 reads:- "There were giants in the earth in those days; and also after that, when the 'sons of God' came in unto the daughters of men, and they bore children to them, the same became mighty men of old, men of renown". Cf. Trinitarian Bible Society, The Holy Bible, pp. 9-10.

84. Bureau, op.cit., p. 113.

The Bamileke

The Bamileke believe in the existence of a supreme "God", Si, and a number of other subordinate Gods.[85] They further believe that Si is the creator of the universe, is omnipresent and more powerful than the subordinate Gods. A Bamileke chief, fo, is sometimes referred to as fopousi (blessed by the Gods). It is as a result of these blessings that the Bamileke chief is believed to be capable of changing himself into an animal at will.[86] It is through the chief that his chiefdom receives the blessings of the Gods. In Bamileke society, there is a class of people (men and women) called nkamsi[87] (God's nobles). These people are believed to have acquired some devine revelation from Si himself who has thus instructed them to move from village to village to deliver the message from him. The nkamsi are believed to be capable of performing miracles. On arrival at each village, the nkamsi take those of its occupants suffering from any disease to a big stream where the patients are bathed. By this bathing ceremony, the nkamsi are believed to wash away bad spirits from the bodies of the patients so that they would regain good health. Of the other Gods in which the Bamileke also believe, only three,

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85. Emmanuel Ghomsi, Les Bamiléké du Cameroun, Doctoral Thesis, University of Paris, 1972, p. 199.

86. See page 108, supra.

87. Ghomsi, op.cit. p. 199.

the Sigun, the Bemmo and the Bemmu will be discussed here.

Sigun

Sigun is the God of each chiefdom. Ghomsi argues that, contrary to the views of other authors, Sigun is not the ancestor of the chiefdom.[88] Each reigning chief who is always a descendant of the ancestor of the chiefdom offers sacrifices to sigun as well as to the ancestors for the well being of the whole chiefdom.

Bemmo

Bemmo, translated by Ghomsi as meaning creator of man, is also greatly revered by the Bamileke.[89] The Bamileke believe that each member of their society has his creator. These creators look after them throughout their lives. Bemmo is thus a sort of guardian-angel.

Bemmu

Bemmu for his part is the creator of children. This God shows itself to people, especially women, in the form of a toad or a small green snake. The Bamileke

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88. Ghomsi, op.cit., p. 200.

89. Loc. cit.

believe that if a woman puts to birth a lame child, then she must have inadvertently killed either a toad or a green snake in the course of working on her farm.[90] Apart from these Gods, all the Bamileke also offer worship to their ancestors.[91]

Religious Practices of the Sudanic Peoples

The religious practices of the Sudanic peoples in Cameroon is one of the areas which has been neglected by the authors who have written about the inhabitants of this area of the country. A few authors who have written on this topic have restricted their works to the Islamic religion which, being an imported religion, is outside the scope of the present discussion. In the circumstance, the information available is rather sketchy and incomplete. Marguerat states that the non-Islamic peoples of this area believe in a single God although they also offer worship to their ancestors.[92] Writing about the Fali, Lebeuf expresses the view that they too believe in one God whom they call Fay or Fao.[93] During ceremonies at which they offer sacrifices

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90. In other Tikar areas, especially Bamenda, a green snake found in any house was believed to be a sign that the occupant of that house or his wife was soon to become pregnant. The snake must not therefore be killed but gently directed to go out of the house.

91. See pages 127-128, supra.

92. Marguerat, Les peuples du Cameroun, Paris, 1976, p.3.

93. J-P. Lebeuf, L'Habitation des Fali, Paris, 1961, p.62.

to their ancestors, the Fali pray to this unique God. Prayers are also said to this God during other ceremonies such as agricultural rites, for the enhancement of the fertility of the soil, rites to increase the number of pregnancies within the group and rites to ensure the success of hunting expeditions. As regards the worship of ancestors, each deceased ancestor is represented by a small marble-like stone planted in a special house in the chief's palace. The chief, in his capacity as the living representative of the ancestors occasionally pours libations of wine over each stone and at the same time calls the name of the ancestor whom the stone represents. This activity is performed as often as the occasion to call for help from the ancestors arises. It appears from this discussion of the religious practices of the main ethnic groups in the country that rites directly aimed at increasing the fertility of the soil are not a common feature of the coastal Bantu. This view does not however entirely rule out the possibility of this practice being carried out by some Bantu-speaking groups, especially those of the hinterland areas. [94] It also appears that, unlike the rest of the other ethnic groups, the coastal Bantu did not regard the soil as a sacred asset. This was probably because these coastals obtained most of their wealth not from the land but from the sea. This analytical description of the main ethnic groups in

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94. The Basa for instance worship a terrestrial God called Ngey in whom all rights in the land are believed to be vested; cf. Cosme Dikoumé, op.cit., p. 123.

Cameroon will now be concluded with a survey of the languages spoken by these groups.

The Bantu languages

Guthrie subdivides the Bantu-speaking people in Cameroon into nine subgroups, namely, the Lundu-Mbo, Duala, Bube-Benga, Basa, Bafia, Sanaga, Yaunde-Fang, Makaa-Njem and Kaka.[95] The Lundu dialects are spoken mainly in the South-West Province of the country in Manyu and Meme Divisions. The Mbo cluster of this group (Lundu-Mbo), comprises a number of dialects spoken by the inhabitants of western Chang and Nkongsamba in the Mungo Division of the Littoral Province. The Duala group includes the Bakweri, Isubu, Bimbia, Duala, Wuri, Ewɔdi, Pongo, Mungo and Malimba, situated between Mount Cameroon and the sea-coast in the south-west and the Littoral Provinces. The Bube-Benga sub-group of the Bantu dialects are spoken in Cameroon by the inhabitants of Kɨbi and Big Batanga situated to the east and south-east of Duala.[96] The Basa group of dialects are spoken by the

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95. Malcolm Guthrie, Bantu languages of Western Equatorial Africa, London, 1953, pp. 15-34.

96. These dialects are also spoken by the inhabitants of the neighbouring island of Fernando Po in Equatorial Guinea, as well as by small groups of people living along the southern coast of Rio Muni, in the island of Corisco, and at Cape Esterias in Gabon; cf., Guthrie, op.cit., p. 24.

Basa and Bakoko of the Sanaga Maritime area. The Bafia dialects are spoken by the Bafia people of the Mbam Division whereas the Sanaga group of dialects are spoken by the Yambasa, the Mangisa and the Bati in the South-Central Province. The Yaunde-Fang group is spoken by the Ewondo, Eton, Bulu and the Fang of the Yaoundé area. Finally, the Maka-Njem and the Kaka groups of dialects are spoken by the inhabitants of the East Provincial areas of Abong-Mbang, Yokaduma and Makaa on the border with the Congo and Gabon.

The Bantoid Languages

The Bantoid languages in the country are subdivided into the Cross river Bantoid and the Cameroon plateau Bantoid. The Cross river Bantoid languages are spoken in Manyu Division by the Keaka whereas the Cameroon plateau Bantoid languages are spoken in the whole of Bamenda, the Bamileke area and also in Bamum.[97] Johnston is of the opinion that although this group is hardly separable from the Bantu, the weight of their affinities inclines them on the whole to the "Semi-Bantu" (sc. Bantoid), who according to him, extend from the Cross river to the Gambia.[98] Ritzenthaler who agrees with Johnston, argues that there is a clear distinction between these languages because the phonology or morphology of the Bantoid languages does not match that of the purely Bantu languages.[99]

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97. See pp. 61-62, supra.
98. Harry H. Johnston, A comparative study of the Bantu and Semi-Bantu languages, Oxford, 1922, vol. 2, p.162.
99. Ritzenthaler, Cameroons village, Wisconsin, 1962, p.17.

The Cameroon plateau Bantoid Languages are subdivided into five clusters. These are the Nkom-Esu, Lamnso, Ngemba, Pati-Bamum and Bamileke clusters.[100] The first three of these dialects are spoken in the Northwest Province whereas the last two come under the Western Province. Almost all the dialects spoken in the Northwest Province of the country are mutually comprehensible. The Pati-Bamum cluster comprises Bamum and the Bali dialects of both the English- and French-speaking areas of the country. The Bali entered Cameroon as a unit from Banyo, but settled later in different parts of the country. Two of these groups, the Bali-Nyonga and the Bali-Kumbat, are in Bamenda, whereas Bali-Bakoh and Bali-Gham are in the French-speaking zone. The Bamileke dialect is almost fully mutually understood by all the Bamileke. In any case, there are slight variations, which enable the dialect to be subdivided into three subclusters: the Dschang (Chang), Bafussam and Bangangte. There are only slight differences between them, which are hardly detectable by non-Bamileke. These subclusters may thus conveniently be regarded simply as variations of a single dialect.[101]

The Sudanic languages

The Sudanic languages in the country, may be subdivided into three main groups. These are the Fulbe group

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100. Chilver, E.M. and Kaberry, P.M. Traditional Bamenda, Buea, 1967, pp. 9-12; McCulloch, M., "Tikar" in Peoples of the Central Cameroons, London, 1954, pp.17-18; M. Littlewood, "Bamum and Bamileke", pp. 58-59 and p. 95.

101. Hurault, Structures sociales Bamiléké, Paris, 1963, p.56.

of languages called fulfulde, the Mandara and the Kotoko groups.[102] This classification is however not satisfactory because the fact that most of the people classified as Kotoko inhabit areas which are hundreds of miles away from other Kotoko groups suggests that such classification ought to be reconsidered. What is more, it is no longer strictly correct to continue to regard the dialects spoken even in some predominantly Fulbe-inhabited areas such as Adamawa as pure fulfulde. Eguchi[103] points out that due to the reluctance of the Fulbe on the one hand, and of the indigenes on the other to learn each other's dialect, a hybrid dialect has evolved.[104] Such a situation constitutes a dilemma to the linguist, who thus finds it difficult to classify these dialects with any degree of accuracy. However, what is more important here is the question of how useful a knowledge of the Cameroonian dialects could be in rightly interpreting some of the rules of the indigenous land tenures.

The local dialects and land law

There is no doubt that a knowledge of the locally spoken dialects of any society is a useful tool in the

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102. See p. 62, supra.

103. Eguchi was a member of a team of researchers from the "Institute for the study of languages and cultures of Asia and Africa", Tokyo University of Foreign Affairs. The team carried out research in Marua, north Cameroon from October, 1971 to March, 1972.

104. Paul Kazuhisa Eguchi, Miscellany of Maroua Fulfulde (north Cameroon), Tokyo, 1974, p.3.

hands of anyone investigating the indigenous institutions of that society. Allott[105] points out in the case of land law that investigations into the local dialects of any African society, could be a useful ancillary technique of investigating the property systems of such society. It is however regrettable that this method has been under-employed by earlier investigators into African property systems. In Cameroon where there has been no research into the indigenous land tenures on a country-wide basis, this technique could prove to be quite fruitful if it is properly carried out. This system as Allott suggests, could include the recording of the naive presentations by indigenous informants of the land law system being investigated.[106] In so doing, the investigator must avoid trying to establish a one-to-one correspondence between an indigenous and a European term since it is necessary to understand and be able to compare the property systems which underlie each of the languages. It must not also be assumed that an institution cannot exist in the indigenous laws unless there is a term to refer to it. This is of major importance because it is here that the investigator must go beyond what he is told by uninstructed informants. A few examples taken from the Tikar area of the country, of the vocabulary of "ownership" and

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105. A.N. Allott, "Language and property", African language studies, 1970, vol. 11, p.13.

106. A.N. Allott, loc. cit.

"possession", may make this argument clearer. The words here are ajwi in the Bali dialect and achi in the Ngemba dialects of Bamenda.

Bali dialect

ajwi wo yo n'dalé? - who lives in or occupies this house?
ajwi wo yo mutu le? - who has this car?
- who is in charge of this car?

Ngemba dialects

achi wo nda wi? - who lives in or occupies this house?
achi wo nu mutu wi? - who has this car?
who is in charge of this car?

In these sentences the words ajwi and achi may be translated as "occupy", "have", "live in" or "inhabit" or "to be in charge" of something. The task of the investigator here will be to find out whether there are any words in the dialects concerned which distinguish between the mere fact of possession, and possession in pursuance of a lawful title. Such inquiry will lead him to a reconsideration of some Tikar maxims translated as "the land belongs to the chief". This ancillary technique of investigating the indigenous land tenures through the medium of the local dialects will undoubtedly lead to the building up of a specialised legal terminology for each society investigated. Part three which follows is based on an analysis of the indigenous land tenures in the country.

PART THREE

CUSTOMARY LAND TENURES IN CAMEROON

It is clear from what was said in the last chapter with regard to the local dialects that the use of European terminology (English or French), in describing the customary land tenure systems in Cameroon is not technically correct; and even though it may be desirable to resort to European terms in order to avoid the excessive use of Cameroonian customary terms, these European equivalents are merely labels approximating to the Cameroonian customary terminology. One point which stands out clearly with respect to customary land tenure in Cameroon, as in many other African countries, is that the system is community based. Most of the land rights of the members of the customary communities are derived from the unit (larger or smaller) into which they are born. The conditions of tenure are determined by the rules of the customary laws in operation at any particular time in a given community. Customary land tenure in Cameroon is one of the areas of law where almost no legal research has been undertaken. This dearth of material compels one to turn to the works of anthropologists and sociologists; but these too are quite few. Another important source would have been the decisions of the customary courts in land disputes but unfortunately points which would have brought out the relevant rules of the customary land laws are either not fully discussed or simply

ignored. This remark also applies to the courts applying the introduced laws (English and French) although in their own case it is largely because the judges were not sufficiently versed in customary laws. The present discussion will be based on the rules of customary land tenure which were evolved by the different ethnic groups in the country prior to the European era. However, the judgments of courts applying introduced laws will be discussed so far as they are relevant to the period under discussion. It is important to point out here that since rules of law develop and change with the societies to which they apply one must constantly bear in mind the different stages of social evolution which each society has reached. The preliminary points to be discussed in this chapter include some early forms of property and the manner in which rights in land have developed.

Some early forms of property

The term "early" here must be explained. This term refers to the period when a given group settles down to a form of agriculture after migrating to the area it now occupies. So far as the various ethnic groups in Cameroon are concerned such period must only be approximative as the historians have not provided helpful information in this regard.[1]

1. Mveng and Belling-Nkouma in their L'Histoire du Cameroun, for instance state, without more, in connection with the Fang and Beti, that they were not yet settled on the arrival in Cameroon of the first European missionaries. No date is given to evidence such event which might have occurred late in the 15th century.

In Bakoko society, the first forms of property consisted mainly of medicinal plants or formulae as well as hunting and farming implements. No intrinsic value was then attached to land in the sense that it was not regarded any differently from water, air and light. Land was desired solely for its produce. All rights in the land occupied by the Bakoko were owned by the subterranean spirit, the ngey[2], which they believed shepherded the souls of their ancestors, and which granted the living members of the society the conditional right to farm and construct their dwellings on the land. In return for the enjoyment of these rights the living had to offer sacrifices to the ancestors. This situation may be compared with the famous ideology of customary land law graphically stated by two West African chiefs from Nigeria and Ghana, Gboteyi[3] and Ofori Ata respectively, who said that land belongs to a vast family of which many are dead, few are living and countless members are still unborn.

According to Nicol,[4] each Bakoko notable (lineage head) had exclusive rights to palm, raffia and other fruit-bearing trees whether planted by the ancestor or already growing wild in an area cleared by one of his lineage members. He however does not say what rights such lineage

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2. See pp. 66-67 supra.

3. Gboteyi, a Yoruba chief made this statement to the West African Lands Commission, cf. Committee Report of 1917, para. 91.

4. Y. Nicol, Tribu des Bakoko, Paris, p. 135.

member had in trees which he might himself have planted. It is not also clear how planted trees were to be distinguished from those growing wild (spontannément poussés). The rights of the lineage head were not restricted to trees but included those parts of streams where the ancestors had caught fish. Nicol is categorical that the lineage head did not claim any rights in the land itself; and did not intervene to prevent one of his members from building or farming an area already occupied by another member. The latter view is unlikely to be correct. There was plenty of land in traditional society and cases of a member encroaching on land already occupied by another were rare. Consequently the lineage head's power to prevent such encroachments was hardly exercised. Such a situation, coupled with the lineage head's lack of proprietary rights in land occupied by his lineage group was what probably led Nicol to his erroneous conclusion. It is a well established rule of customary law that once a piece of land had been appropriated the rights of the first occupant could not be encroached upon with impunity, even by the chief in the case of a centralized society. It would thus be wrong to conclude that a power did not exist simply because it was never exercised.

Development of rights in land

The evolution of traditional society was accompanied by a corresponding change in its needs and tastes.

Increase in population and the farming of crops which took a longer time to yield were just two of the factors. Briefly, an increase in the value of the products of land eventually increased the value of the land itself. These developments in traditional society have been attributed by some people to the coming to Africa of Europeans. This is not however true because the coming of Europeans to Africa only acted as an impetus to a situation which had already started. The sum total of these developments was that they set in motion an irreversible movement towards the institution of claims on the land.

The people of Malimba who are neighbours of the Bakoko were enthusiastic to set up plantations like the Germans. To carry through this objective, they approached the Bakoko from whom they purchased some land. The purchase price of the land was settled partly in kind and partly in German marks.[5] The Malimba set up cocoa plantations in the acquired areas and were assisted by German advisers.[6] The encouraging returns from these early plantations spurred other Malimba to enter the plantation business, and this pushed up the value of land. After some time not only the purchase price of land but the proprietors had changed. It was no longer the lineage head who received the purchase money, but the people who had

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5. The Bakoko had conquered the Malimba and taken most of their land; see p. 68, supra.

6. Nicol, op.cit., p. 137.

the right to occupy the land which was the subject of the purchase. There had thus been a movement on the part of the lineage members from rights in the products of land to rights in the land itself.

As just argued, it is important to realise that the nature of the land rights tenable in a given society evolve and change with that society. For any statement of these rights to be valid, the stage at which the society has reached on the ladder of social organization must clearly be identified, bearing in mind that the enjoyment of rights in land is subject to the manner in which the machinery of control is structured. Berriedale Keith states that there are two opposing theories as to the manner in which the ownership of rights in land evolve.[7] The first theory, attributable to Sir Henry Maine,[8] is that land is first held by the tribe, then the village community and finally by the individual. The other theory, to which Keith subscribes, puts the rights of the individual first in time to those of the community or tribe, so far as they are real and not a matter of territorial sovereignty.[9] The first theory is untenable because apart from assuming that there is something of the nature of what may be referred to as a

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7. "Land tenure in Nigeria", Journal of the African society, London, 1912, vol. 11, pp. 325-331.

8. Berriedale Keith, op.cit., p. 331.

9. Loc. cit.

"typical African society", it also ignores the time factor which as just argued is so important in a discussion as this. The shortcoming of the second theory is that it could not have applied to a centralized society. It follows that neither of these theories is right. Indeed, Lugard expressed the view that neither of them was conclusive in the matter.[10] He argued that the true position depended upon the manner in which the area in question was settled. He then went on to suggest two possibilities. Firstly, if the land was settled through conquest and the invaders had already attained the level of tribal organization, "vacant" (sc. unappropriated) lands were at the disposal of the tribal head. Ready examples here in the case of Cameroon are the Tikar chiefdoms like Nso, Bamum and Kom as well as the Lamidates of North Cameroon. The areas now occupied by these chiefdoms were settled by communities under the command of their leaders. Statements made by anthropologists and sociologists, with regard to these communities, like "all the land belongs to the fon, mfom, fo", mean no more than that the chief is a sort of manager of the land occupied by his people. This status of the chief was recognised in the case of Northern Nigeria as far back as 1910 by the Northern Nigeria Lands Committee[11], whose report gave birth to the Land and Native Rights Ordinance

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10. F. D. Lugard, The dual mandate in British Tropical Africa, London, 1922, p. 280.

11. Cf., Cmd 5103, p. 100.

of Northern Nigeria,[12] which was applied to the British Cameroons in 1927.[13] In any case this example is open to the objection that it does not apply to acephalous communities which have no chiefs. Secondly, Lugard stated that in the case of a group which had not attained the status of a tribe, the question of rights in land remained indeterminate until the tribal stage was reached.[14] This view too cannot be accepted because it assumes that every group necessarily evolved into one with a paramount chief in whom rights in the group-held land were vested. He also added that where an area was settled by peaceful means the rights of the individual members preceded those of the group. None of these theories answers the question. It is an issue about which it is difficult to be categorical. The true position appears to be that it depends upon whether the conquest (in a conquest situation), or the original occupation (in a peaceful settlement), was the work of a single chief or of a community acting without any one directing force.[15] In the former case, rights in land are vested in the chief, while in the latter, they are vested in the group in the first place. Apart from the manner in which the area was settled, it is important to distinguish between centralized societies on the one hand and acephalous societies on the other. The present discussion of the

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12. Laws of Nigeria, 1948, chapter 105.

13. British Cameroons Order-in-Council, 1927, No.1.

14. F.D. Lugard, op. cit.,p. 221.

15. M. Delafosse, Journal of the African Society, London, 1910, p. 259. The acephalous areas of Cameroon were settled by communities without any one directing force in the person of a paramount ruler as was the case with the centralised areas.

customary land tenures in Cameroun is subdivided into two chapters corresponding to the dual interests of benefit on the one hand and of control on the other tenable under customary land tenure. The first of these chapters which deals with the interests of benefit analyses the various interests capable of being enjoyed in land under customary law by the various members of a given land-holding group. The second chapter is devoted to the interests of control held by chiefs and lineage heads and which are aimed at regulating the enjoyment of the interests of benefit.

CHAPTER FIVE

THE INTERESTS OF BENEFIT

The rights capable of being enjoyed in land under the customary laws of the different ethnic groups in Cameroon may be rights attributable either to a group or to its individual members. The term "group" here refers to an organized group of people in a social and ethnic context from the household unit to whole villages. Each of these entities will be referred to by name whenever appropriate. It is similarly necessary to make it clear at this stage that the discussion is about the rights, which individual members or groups hold in land rather than the land itself for there is no category of land, which may be termed family land. It is thus in this sense that terms like family land, lineage land or group-held land will be used throughout this work. Although there is no formal process of incorporation in customary law, the family or lineage here may be likened to a corporate entity despite the fact that its members do not have all the attributes of the members of an incorporated company under company law.[16]

16. The family has a name by which it is known. In matrilineal societies the family almost invariably takes its name from its clan and the place where the clan segment is found. The patrilineal family goes by the name of its founder. The family is a more or less permanent institution with a defined membership although this may vary from society to society. The members acknowledge a common head to whom they owe allegiance. Those in authority in the family are precisely picked out in family meetings where the common will of the members is ascertained. Both the family and its members as well as the local customary laws attribute certain rights and duties to the family thus regarding it as a separate entity.

The corporate title

The customary law corporation or group, being inanimate apart from its members, has no mind or hands of its own. The rights which this entity is capable of enjoying in land are indeed enjoyed by its members. The corporate interest is however clearly distinguishable from the rights of the members. Bentsi-Enchill,[17] who in the Ghanaian context refers to the members' rights as rights of common user brings out the point that these rights are rights shared by the members inter se. The interests of the group as an entity will now be analysed before returning to those of its members.

In both the centralized[18] and the uncentralized[19] areas of Cameroon or what anthropologists term "chiefly" and "acephalous" societies, the "title" held by the customary law corporation in land is circumscribed in the machinery of control. This control, "extends to the creation, enjoyment, transfer and termination of beneficial interests in property."[20] It is thus the sum total of these rights that constitutes the "title" of the group in the land occupied by its members.[21] Such title is vested

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17. Ghana Land Law, London, 1964, p. 91.

18. The Nso, Bamum, Bamileke, Bali, Bafut, Kom, Adamawa, Tibati.

19. Bakweri, Duala, Bakoko and Basa.

20. A.N. Allott, "Language and property", op.cit., p.19.

21. The title of each corporator consists in an agglomeration of the claims and powers held by such corporator with respect to a given piece of land.

in the customary law corporation and not in the corporators. It is not vested in the chief or lineage head either. This view finds support in the Bamenda Court of Appeal judgment in the recent case of Presbyterian Church Moderator v. D. C. Johnny.[22] This case concerned a piece of land in Mankon town, which the fon of Mankon purported to allocate to the appellants. The respondent claimed title to the land under customary law through inheritance from his father. The fon of Mankon asserted in court that all land in Mankon belonged to him.[23] In dismissing the appeal, the court held that the fon of Mankon held the land of Mankon not in his own name, but in the name of the people of Mankon. Although this ruling is much more relevant to the other rule of customary law that the fon cannot allocate a piece of land already occupied by a member, it nevertheless brings out the point that title to the land is vested in the group rather than in the fon. One of the attributes of the group's title in land is the power of the group to deal in its land in any way permitted by the customary law of the area where the land is situated. The group can therefore sell, pledge, or make a gift of its rights in land as it pleases. The group as an entity carries out these acts through the agency of the manager assisted by representatives of each component of the group. In Nso

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22. BCA/27/74, November 30, 1974, unreported.

23. Cf., Extract of Judgment, p.5.

for instance, the Fon-in-Council may dispose of some of Nso land whenever the need arises. This council is composed of the heads of important lineages, whose function is to advise the fon in all important administrative and political matters. In the acephalous coastal area of Cameroon, the members of the council, which advises the lineage head, are drawn from a number of sub-groups of the lineage.

The chief or lineage head

The chief or lineage head has been variously described by both academic writers[24] and judges as a trustee or custodian[25] of the group property. Since the group as an entity can only act through a human being, the chief or lineage head, as the case may be, is the representative of the group in different spheres. With regard to the question of title to land, the position of the chief or lineage head is not clearly brought out by referring to either of them as trustee or custodian. The trustee or custodian analogy may rightly be used with regard to money or other property of the group, which has come into the possession of the chief or lineage head. When, however, it

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24. Bentsi-Enchill, op.cit., p. 42, uses the word "trustee".

25. The judge in the Johnny case, uses the word "custodian"; cf. Extract of the Judgment, p. 5.

comes to the question of title to land, this analogy breaks down because reliance on the trust concept would imply, under the ordinary rules of English law, that the chief or lineage head was the legal owner of the group property, and that the other members merely had equitable interests in the property.[26] The lineage head or the chief may thus be referred to generally as a manager of the group property as earlier mentioned. The chief cannot affect the group's title in any capacity other than that of manager. He cannot as an individual transfer this title without consulting the group as a whole, acting through the principal heads of the group. Although the judge in a 1951 Duala case[27] stated that the head of a mwebe (lineage) has the exclusive right to inherit the property rights of the mwebe, it is submitted that this view is wrong as it suggests that such lineage head being the exclusive heir of the group's property rights could register them in his own name. It is not clear from the judgment which property the judge was referring to, but it is most likely that it must have been rights in the unappropriated portions of the land in the occupation of the mwebe since it would have been against the rules of Duala customary land law for the lineage head to personally own exclusive rights of inheritance in land which had already been appropriated by some of his kin.

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26. Anderson, Family Law in Asia and Africa, London, 1968, p. 133, chapter 6, A.N. Allott, "Family property in West Africa".

27. Edoubé Dikoto Aarou, és-qu-représentant de la collectivité Bona mouang c. Etonde Eyi di François, ès-qu. représentant la collectivité Bonéwaké, Recueil Pénant, Paris, 1955, vol. 65, p. 210; see p. 125, supra.

Effect of alienation of group title by chief

The problem here is the extent to which transactions by the chief or lineage head, capable of impairing the group title, are binding on the group. There are two possible effects of the chief or lineage head purporting to alienate the group title, or part thereof, without previously obtaining the authority of the group. Such a transaction may either be void or just voidable. The difficulty however is to determine when such a transaction would be void, but validable if either the group adopts it or by its failure to act to set aside the alienation impliedly approves it; or simply voidable, in that it is in the first place valid as far as the purchaser is concerned, provided he acted bona fide and lacked actual or constructive notice of the defect in title, but capable of being set aside if the group acts in good time.[28] Although there is no relevant case-law authority in Cameroon on the matter, a discussion of what goes on in practice amongst the various groups in the country may be helpful.

There is no clear-cut answer to the problem. Whether or not the chief's purported alienation of the group's title to land would be void or only voidable would depend largely upon the type of land and the part of the country concerned. It appears that in the acephalous coastal area the chief's transaction would be absolutely void in respect of every

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28. Allott, op.cit., p. 134.

category of land, the title of which is vested in the group. In these areas of the country, the power to deal with land is vested not in the chief but in the lineage heads. So far as the members of a lineage are concerned, it is the lineage heads and not the village chief who can engage in dealings likely to affect the group's title. The lineage heads themselves must obtain the consent of the whole lineage through its principal members validly to alienate the group title. Failure to do this renders the transaction null and void and unless the group adopts the transaction or fails to set it aside within a reasonable length of time, the purchaser acquires no title at all. It is not easy to determine what the length of a reasonable time should be in the absence of decided cases on the matter.

As regards the centralized areas of the country,[29] where the people would readily assert that all the land and people belong to the chief, the transaction may only be voidable. In this case, to set aside the transaction, the group must act promptly. The Bamileke require special mention here. Although like the coastals, they are a collection of groups of lineages under the authority of chiefs, the authority of the Bamileke lineage heads in land matters is tempered by that of the chiefs. This is because by Bamileke custom, each lineage claims a blood relationship, fictitious or real, with the chief of the village of which it is member.[30] The requirement of the group's consent does

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29. Bamenda, Bamileke, Bamum, Adamawa, Marua and Tibati for instance.

30. See page 126, supra.

not apply to the power of the chief or lineage head to allocate unappropriated land. This is a power exercisable without consulting anyone. This point brings on the other question of the accountability of the chief or lineage head in his dealings or management of the group property. The position appears to be as a general rule that he is accountable not to individual members but to the group as a whole. However, there is the possibility that some of the principal members of the group may require an account of the management of the group property from the chief or lineage head. No matter how influential an individual member may be, he cannot on his own obtain an account from the chief without enlisting the support of the other members of the management committee. Another crucial problem would arise where the rest of the management committee purports to act in disregard of the chief's views. Since the management committee represents the group as a whole, it is tempting to argue that on that score they may well disregard the view of the chief or lineage head. Such a view is untenable because the function of the rest of the management committee as regards the management of group property is to give the consents necessary to validate the chief's dealings in the property. If the people are dissatisfied with the manner in which the chief is managing the property, they could remove him from office and elect another chief to take his place. The rules governing the self-acquired property of an individual member will now be discussed.

Member's self-acquired property

The self-acquired property of a member may be defined as property which the member acquires through his personal efforts and resources. Examples of this type of property include land appropriated from virgin forest or land acquired by purchase or gift. Property acquired by a member in this way could be freely disposed of by the member as he pleases without consulting the group. He could sell it, make a gift of it, or otherwise dispose of it to anyone. Although a member has a free hand in dealing with his self-acquired property, when it comes to improvements effected by a member on group-held land, the position is not entirely clear. It is for instance uncertain whether a member, who builds a house on group-held land, could deal with his improvement as his individual property in disregard of the group. This issue is best examined by considering the nature of the group's interest in the member's self-acquired property.

Group's interest in member's property

Throughout Cameroon, the self-acquired property of anyone who dies intestate vests in the group of which he is member. Again, it is not certain whether it is in the maximal or the immediate group that the property vests. In other words, taking Duala as an example, it is not clear whether title to the property vests in the mboa or in the mwebe of the deceased. There is only one decided Duala case, which though not directly relevant to the point under discussion, may nevertheless throw some light on it. This is the 1967 case of the Supreme Court of East Cameroon

concerning a piece of land in Duala.[31] The disputed piece of land had been allocated to the appellant's deceased father, probably by the deceased's mwebe, to which the appellant, Lobe Mouelle, was related. For some unexplained reason, this same piece of land was later allocated to the respondent, Ntou Ewane, by what the judge termed "his family or customary group". This possibility of the families of the appellant on the one hand and of the respondent on the other allocating the same piece of land to them may look strange to anyone who is not familiar with the Duala kinship system. Under this system, the elementary unit of a lineage is the mwebe whereas the mboa is the maximal lineage.[32] A number of myebe constitute an eboko and the manjule, who is the head of the eboko is also the head of all the myebe which make up the eboko. It is possible in the present case that the land in question was in the first place allocated by the mwebe of the appellant's father and later by their eboko, without knowledge of the first allocation. The appellant contended that the land had been allocated to his father, whereas the respondent argued that he had developed the land. There was no dispute as to which of the two units or segments of the family had title to the land; and this was undoubtedly because both parties to the case were members of the same family; although the wording

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31. Lobe Mouelle c. Ntou Ewane, Cour Suprême du Cameroun Oriental, March 14, 1967, Pénant, Paris, 1969, pp.381-383.

32. See pages 118-126, supra.

of the judgment seems to suggest that two separate families were involved in the case. The Supreme Court, however, ruled that Ewane could not on the score of his developing the land alone defeat rights which had been enjoyed over the land, or what the court referred to as the undisputed rights of the appellant's family in the land. If the Supreme Court's ruling was in keeping with the Duala customary law, it would then appear that so far as the Duala are concerned, the property of a member who dies intestate vests in his mwebe, which may be loosely referred to as his "immediate family".

Another case,[33] which comes from the Tikar area, may throw more light on the matter. This case concerns land situated in the village of Bamunka in Ndop, Bamenda. The land in question was allocated to the plaintiff by a quarter-head of Bamunka in the early 50s. The plaintiff and the defendant come from Mendankwe in Bamenda and are thus strangers in Bamunka. In 1954, when the plaintiff was transferred to Bamenda, he left the defendant on the land as caretaker. There were two mud huts built on the land by the plaintiff. In 1976, the defendant purported to sell part of the land to someone, who had started building a foundation on it. The plaintiff, on discovering this, brought an action in the Bamunka Customary Court for a declaration of his title over the land and the eviction of the defendant and his friend. The defendant argued that the plaintiff being his "father" (sc. uncle) had made a gift

33. Edward D. Ndifor v. Arona Neba, Civil suit No. 80/76-77, C.R. 398725, February 9, 1977 (unreported).

of the land to him as his first wife. The quarter-head, who had allocated the land to the plaintiff, told the court that he had given the land to the plaintiff as his (plaintiff's) individual property and that is why he did not intervene when he saw a foundation being built on the land. The court, regarding the matter as a family dispute, ruled that both parties should reimburse the money paid to the defendant's friend and that the compound should be divided into two halves between the plaintiff and the defendant. Both parties appealed to the Ndop District Officer's Court of Appeal, which ruled in the following terms:-

> "from the evidence, it is clear that the plaintiff has proper title to the disputed land, having acquired it from the quarter-head entitled to allocate land in the quarter on behalf of the fon of Bamunka".[34]

The court then awarded title in the disputed land to the plaintiff and ordered the defendant's friend to demolish his foundation and quit the land. The defendant was similarly ordered to quit the land. The legal issues raised in this case must now be critically examined.

Statement of quarter-head

The quarter-head, 61-year-old Njindu Tachinjeh, told the trial Customary Court that he ceded title over the disputed land to the plaintiff as the latter's individual property. This statement, as it stands, suggests that a

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34. Extract of Judgment, pp. 3-4.

quarter-head has the right to alienate village land. From the record of proceedings, it appears that the court never bothered to find out whether the customary law procedure of alienating the title of the village over land to a stranger was followed. It is clear that at customary law, the chief cannot alienate the group title without the consent of the group. The quarter-head cannot thus purport to exercise in the name of the chief, a power, which the chief himself did not possess because nemo dat quod non habet. If it is to be argued that the plaintiff ever acquired title over the land in question, it was probably as a result of long possession, which lasted over 20 years, and not through the quarter-head, the latter's assertion notwithstanding. If a court were to decide that title to the disputed land was eventually vested in the plaintiff because of the failure of the Bamunka people to act promptly to set aside the alienation for want of consultation, it would be important in order to arrive at a just decision to determine the length of period under Bamunka customary law, after which a squatter's rights may ripen to full property rights. The number of years after the plaintiff became entitled to the land may be crucial in determining the extent to which the defendant had developed the disputed land prior to and or after title became vested in the plaintiff. The determination of this period is also important in deciding when the plaintiff could have validly made a gift of the land to the defendant as the latter claims. These are important issues to which the court failed to address its mind.

Decision of the trial Customary Court

The trial Customary Court ordered partition of the disputed land between the plaintiff and the defendant, without saying on what rule of customary law it based its decision. Both parties in the case, being non-members of the entitled group, could not have acquired title over the land of this group through one of its quarter-heads acting, as the quarter-head in question claims, by virtue of powers conferred upon him by the fon of Bamunka. The Bamunka people could have thus by acting in time, regained their rights over the land. Since they failed to act, the plaintiff and or defendant could only acquire title over the land through long and undisturbed possession under Bamunka customary law. As the court neither alluded to this point nor gave reasons for its decision other than stating briefly that the matter was a family dispute it is difficult to discuss the Bamunka rules of customary law which would have been applied to the points at issue in the case. The parties were not satisfied with the decision of the trial court and appealed to the Ndop Divisional Officer's Court of Appeal.

Decision of the Court of Appeal

The Ndop Divisional Officer's Court of Appeal ordered the defendant, as already stated, to quit the land and expressly recognised the plaintiff as the sole title holder. This court based its decision on the conduct of the defen-

dant, saying nothing as to how the plaintiff acquired title over the land. The Court of Appeal considered neither the development, which the defendant had carried out in the land nor the hardship which would result from ejecting him, his wife and seven children. Both the trial and appeal courts handled the case rather cursorily and their decisions were not well grounded, as each of them failed to delve into the concrete legal issues raised in the case.

The present author, who was in Cameroon a few months after the judgment of the Divisional Officer's Court of Appeal, interviewed the father, senior brother and sister of the defendant as well as the family head of both parties in this case. Apart from the defendant's sister, who expressed sympathy for the defendant, the rest blamed him for his conduct. In reply to the point that this land was in another village 24 miles away and that it was unlikely for any of them including the plaintiff, now 62 years old, to go and reside on the land, the family head retorted that if the plaintiff had been similarly disregardful of family interests, the defendant himself would not have settled on the disputed land in the first place. What is amazing in the matter is that all the male members of the parties' family interviewed regarded the disputed land as already tainted with a family character, even though the plaintiff was still alive. If this attitude is widespread in Bamenda, it appears that the acquisition of property by a family member by his own means gives birth to the interest of the family in the property. This interest remains in abeyance as long as the acquirer remains in occupation and revives not only when the latter

dies intestate, but probably also when another member deals with the property in a reckless manner capable of causing the family to lose its interests in the property. These family members thus regarded themselves as holding "potential rights" in the self-acquired property of one of their number even though he was still alive. Having discussed the nature of the group's interest in the self-acquired property of a member, the reverse situation, namely, the interests of the members in the property of the group will now be examined.

Members' interests in family property

As a general rule, the members of the family have the right to use the family-occupied property for their sustenance and that of their dependants if any. The indicium of this right, apart from status, is membership of the entitled group. Non-members of the group, referred to here for want of more appropriate terminology as "strangers", are as a general rule excluded. Family rights over land may fall in two categories: rights in land allocated to a member or group of members for their use on the one hand, and rights in reserve land over which members enjoy collective rights of user on the other. The interests of the members over land in the second category were earlier described as interests enjoyable by the members inter se.[35] It is from part of the reserve land that a member may be allocated land by the appropriate land allocating authority. Building materials, firewood, and fruits

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35. See page 165, supra.

may be collected by the members from the reserve land. The term "members" here refers to persons of full status as well as those of less than full status so far as the enjoyment of rights in the family land is concerned. The adult males are members of full status whereas infants, women and the servile class lack full status. The so-called strangers, fall in a hybrid category of their own, as they are non-members until full integration into the family group has been achieved.

Adult males

Every adult male, on becoming married, qualifies to be allocated land from the family's reserve land by the chief or family head for his sustenance and that of his dependants. A family which is short of land may obtain land for its members from a neighbouring or friendly family as a gift. Land obtained in this way becomes the property of the recipient group. This point partly accounts for the fact that the land over which a single family lays claim may be found in different parts of the village. A man with more than one wife allocates farm land to his wives yearly and may vary the plots to be farmed by each wife. The land allocated to a male adult is held by him throughout his life-time but the land remains family land and the member is prohibited from alienating it to a non-member without the consent of the family. Although the interest of the family subsists even in respect of land allocated to a member, the member's tenure is assured for as long as he lives and behaves himself well. There is thus no fear that a member

may one day be ejected by the family and the land reallocated to another person. Although the term "family-member" has been used quite often this is not to suggest that the "kinship rule", by which one must be a member of a kinship group in order to enjoy rights in land occupied by that group, is of universal application in Cameroon. Among the Fulbe lamidates which are, strictly speaking, administrative rather than kinship units the "kinship rule" does not apply. In these lamidates the right to hold land is based on membership of the administrative unit rather than on membership of a particular kinship group. Writing about the Nso of north-west Cameroon, Kaberry[36] recalls an adage that a fai (lineage head), only has the right to give a new place (unappropriated land). This adage was judicially supported with regard to the Mankon customary law in the case of Presbyterian Church Moderator v. D. C. Johnny,[37] in which the court stated that the fon of Mankon could not take away land over which a Mankon man had possessory and customary rights and give it at will to some other body or person.[38] Although the chief or lineage head has much latitude in deciding the quantity or nature of land to allocate to a member, the latter's enjoyment of family land is regarded at customary law as a right and not a privilege.

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36. Kaberry, op.cit., p. 42.

37. Suit No. BCA/27/74, November 30, 1974 (unreported).

38. Extract of the Judgment, p. 5.

The interests which an adult male enjoys over a piece of land allocated to him by the lamido is known in fulfulde (the language of the Fulbe) as hurum.[39] This interest cannot be alienated to a non-member of the lamidate without the consent of the lamido. This notwithstanding, the lamido cannot legally dispossess any of his subjects of his hurum without good cause. The gifts and services which a member provides his chief or lineage head are often erroneously interpreted as a form of rent payment by the member.[40] The payment of tribute is a concrete demonstration of the member's allegiance and recognition of the authority of the chief and not an incident of tenure. This is so because a landless member is not excluded from the payment of tribute to the chief.

The way a member develops family land allocated to him may in the long run considerably affect the nature of the land. A member who is allocated family land often builds a house or plants a farm on it. The effect of these improvements is that the member has a possessory life interest in them. This life interest may be broken down into an absolute interest in the improvement and a subordinate interest in the land.[41] It may not be right in all cases to describe

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39. J.C. Froelich, "Le commandement et l'organisation sociale chez les Foulbé de l'Adamoua", Etudes Camerounaises, Yaoundé, 1953-55, Nos. 45-46, p. 30.

40. A.H.M. Kirk-Greene, Adamawa, past and present, London, 1969, p. 25, in connection with Fulbe customs.

41. Allott, op.cit., p. 129.

a member's interest in the improvements as absolute because this suggests that the member could dispose of his improvements at will. If a member's improvement is a house, which he builds on family land, the position so far as Cameroon is concerned seems to be that he cannot dispose of his improvement to a non-member of the group. Such an act is open to the objection that it has the effect of thrusting a stranger into the group in a manner inconsistent with customary law. It thus follows that a member's interest in self-acquired improvements in family land is absolute only so long as he restricts his dealings within the group, in which title to the land is vested. This point calls for a discussion of the maxim quicquid plantatur solo, solo cedit, which, following Allott's view[42] that a member's interest in improvements in family land is absolute, ousts the applicability of this maxim to customary land tenure.

Quicquid plantatur solo, solo cedit

The Cameroonian situation as regards the maxim cannot be stated with certainty in the absence of decided cases. However, developments following the case of Joseph Dinga v. Edward Ndifor,[43] may help to clarify the position, though the maxim was not one of the issues directly raised in the case. In the Magistrate's Court, the plaintiff was awarded 2,500

42. See page 181, supra.

43. Suit No. BCA/7/7, April, 9, 1973 (unreported).

Cameroon francs for the cost of the tree, which was cut by the defendant. This award is not helpful in deciding whether the court recognised the non-applicability of the maxim at customary law or not. The judgment of the Court of Appeal in this very case is not of much help either. All that the judge said in connection with the award of the lower court for the tree was that the amount was in excess of what the plaintiff had claimed. The Court of Appeal then awarded a global sum of 15,000 Cameroon francs to the respondent labelling it as "damages", without specifying the nature of the damages covered by this sum of money. This court clearly stated that the issue of title to the land had been thrashed by the Court of the Senior Divisional Officer, Bamenda, which had awarded title to the land in dispute to the Roman Catholic Mission. Although the Court of Appeal did not expressly say whether the cost of the tree was included in its award, it is safe to conclude that it was, since the only thing this court said in this connection was that the award of the lower court was excessive. The combined effect of the Court of Appeal's recognition of the Mission as the holder of the title to the land on the one hand and of the respondent as entitled to the tree on this land on the other is open only to one interpretation, namely, that the court accepts the non-applicability of the maxim to customary land tenure at least in Bamenda. The question however remains, whether there is provision for the enjoyment of rights in land at customary law by a religious organisation like the Roman Catholic Mission.

Another rule of customary law which applies to a member's self-acquired property is that, if he dies intestate, this property immediately vests in the family. The precise meaning of this rule has been befogged by the controversy as to which of the units, which may loosely be referred to as the "family", is entitled to the intestate. Again, the dearth of Cameroonian case-law and legal literature makes it difficult to answer the question precisely, but from the works of anthropologists[44] and sociologists[45] it appears that as a general rule, when a man dies intestate, his self-acquired property devolved and vested in his immediate or elementary family, which in some cases consists of his wives and children. The operation of this rule is not automatic as the devolution on the immediate family group is subject to the ratification of the wider family. The interest which the latter group has in the intestate is one of control, which will be discussed in the next chapter. The use of terms here like "elementary" or "immediate" family is unsatisfactory as these terms do not bring out the precise dimension of the group under the various systems of customary law in Cameroon. It may for instance be stated in connection with Duala customary law that, when a man dies intestate,[46] his self-acquired property vests in his mwebe and not in his eboko.

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44. E.A. Ardener, Plantation and village in the Cameroons, Oxford, 1960, pp. 317-19.

45. Paul Nkwi, Traditional government and social change Fribourg, 1976.

46. For a detailed description of these units, see pp.118-126, supra.

Member who dies childless

Under the customary law of the Bafut people of Bamenda generally and the people of Mendankwe in particular, the intestacy rules also apply to the devolution of the self-acquired property of a man who dies without leaving issue. His death-bed directives as regards the disposal of his property are generally disregarded. If the deceased were married and his widow(s) decide to marry within the deceased's group, they may continue to reside in their late husband's compound with their new husbands if the latter had not set up homes elsewhere. Rights of enjoyment in the land in such an eventuality vest by operation of law in the newly constituted group of the deceased's widows and their new husbands, and the wider family's interest remains one of control. If the occupants of the deceased's compound remove therefrom for any reason, the property immediately vests in the wider family.

Infant males or persons below the age of majority do not as a general rule have any interests in family land. They are regarded in law as dependants of the adult males upon whom they rely for their livelihood. When the proper successor to the land rights of a deceased is an infant,[47] the latter may be made successor in his infancy but an adult relative is chosen to act in his place until he attains the age of majority.

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47. There is no precise age of majority at customary law.

In the case of women, the position under customary law is that although they do most of the farming, their rights in the land they cultivate are restricted to the crops only. Women thus enjoy only the rights of user over the plots allocated to them for the purpose of farming. In Nso, the nature of a woman's interest in land is circumscribed in the maxim discussed earlier that women are only entitled to rights over the crops and not the land. The affirmation that women's rights are restricted to their growing crops on the land masks what goes on in practice. A woman under Nso customary law has the right to lend rights over some of her farmland to friends for a short period. This type of arrangement is simply one of mutual convenience not legally binding on either party. It differs from grants of rights over farmland by the land allocating authorities. It does not carry with it the obligation on the beneficiary to hand over a basket of grain at harvest to the head or fai of the entitled lineage. The position may be explained in terms of some measure of confidence in the women, who are generally permitted a good deal of latitude in their exploitation of the land assigned to them by the men. Once the farmland is cleared of grass by the men for cultivation, they no longer concern themselves with it as it became the sole responsibility of the women. The rule that women's rights are restricted to the crops is so strongly adhered to that when a land dispute, which was taken to the local customary Court in Nso in 1945, was erroneously interpreted as having ended in favour of a

woman, the men were most worried about it. The woman in question, was only representing her father who was a fai. Customary law does not give women the right to inherit landed property. There are however suggestions that the acephalous areas of the country are exceptions to this general rule. According to Gouellain, all the members of the mwebe, be they children of the first wives or not, have the right to inherit the property of the mwebe.[48] Gouellain seems to confuse inheritance and succession, which are two distinct matters under Cameroon customary laws. Women definitely have the right to be made the successors of other women, namely, their mothers and grandmothers; but this alone does not give them inheritance rights in property as such. Women, who succeed others may inherit only the chattels of the deceased like hoes, clothes and kitchen utensils and no more. Women may deputise for men, where the rightful male successor is still too young to take office as was the case in 1888, when young Njoya's mother was made the interim ruler of Bamum pending her son's attainment of majority.[49] Another example of female inheritance in an acephalous area is the Bakweri case of Simon Esove Mbua v. Lyenga La Linonge,[50] in which the Buea Court of Appeal awarded title over a piece of land to the respondent, a woman, who claimed to have

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48. Gouellain, op.cit., p. 90.

49. Mveng and Beling-Nkouma, op.cit., p.129.

50. CASWP/CC/27/76, November 18, 1977 (unreported).

inherited the piece of land in question from her brothers, in the absence of males. The land in question was family land and on the decease of all the respondent's brothers, the court recognised her right to inherit title over the land in the following terms:-

> "We are satisfied on the evidence that the respondent did inherit the land from her brothers, who no doubt had been on it longer than 20 years. Thomas Mbua's evidence and the propriety of the inspection of the disputed area both by the Customary Court of First Instance and the Victoria Native Appeal Court were never challenged..."[51]

Another class of people who lacked the right to enjoy rights in land were servants and slaves. Slaves were regarded as the property of their masters. They depended solely upon their masters for all their needs of food and shelter. Balandier[52] states in connection with the Duala servile class that they occupied the arrière-cour (back-yard) on the way to the master's farms in the forest. This suggests that in Duala the servile class was socially separated from their masters and other free people. As elsewhere in the country, they worked for their masters in return for a living with no rights at all in the land they tilled.

The last category of people which has attracted the attention of writers on customary land law and has been generally referred to as "strangers" must now be considered.

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51. Extract of the Judgement, p. 5.

52. Georges Balandier, op.cit., p. 371.

The term "strangers" is used in this context to mean people who are regarded as non-members of a family group of any size or allogenes to it. The term must therefore be used at all times in relation to a group, be it a village, lineage, or household unit. X, Y and Z may be members of the same lineage but strangers to one another at the level of their individual families. At customary law, a stranger has no rights in the land of the welcoming group until he becomes integrated into that group and recognises the authority of the chief or headman of the group over him. In other words the stranger must pay allegiance to the head of the group into which he is received. This rule, which more than any other is of universal application in Cameroon, was repeated by chief Endeley in the case of Molyko v. Wokoko,[53] that under Bakweri customary law, if a stranger desires to build a house on the land of a given village, he must apply to the village head and present a pig to him. This rule was reaffirmed in the recent Bamenda High Court case of Adamu v. S.S. Fombi,[54] in which the judge ruled that strangers have a conditional right to enjoy interests in land held by the group into which they are received. These conditions are according to the judge, the fact of the strangers' integration into the group and their allegiance to its head.[55]

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53. (1938) 14 N.L.R. 41, at p. 44.

54. Suit No. HCB/15/76, June, 24, 1977 (unreported).

55. Extract of the judgment, p.3.

In this chapter, the various interests capable of being enjoyed in land under customary law as applied to the different areas of the country have been explained. It is seen that the rules of law governing the enjoyment of these rights vary from group to group, although a synthesis may be drawn between the centralized areas on the one hand and the so-called acephalous areas on the other. Before this is done, however, it is necessary to find out how the enjoyment of interests in land is controlled. The next chapter, which is based on a discussion of the interests of control of the land-controlling authorities under customary law, provides the answer.

CHAPTER SIX

THE INTERESTS OF CONTROL

In the last chapter, the interests capable of being enjoyed in land by the members of various family groups all over the country were discussed. The purpose of the present chapter is to explain the manner in which these interests of enjoyment are controlled. In the centralized areas of the country, the interests of control are held by a hierarchy of political and lineage authorities and in the uncentralized areas by lineage heads. These political authorities and lineage heads may be generically referred to as land-controlling authorities in the sense that they both exercise land-control functions. This view is not shared by other authors,[1] according to whom the Fon or paramount chief is the so-called "titular owner" of all the land in his chiefdom, whereas the rest of the persons in the hierarchy (sub-chiefs, quarter and lineage heads), are the ones exercising the control functions.[2] It was argued in the last chapter that the paramount chief is simply a manager of the group property and cannot on his own affect the group title.[3] The view

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1. Nkwi, Kaberry and Barbier for instance.

2. Paul Nchoji Nkwi, Traditional government and social change; a study of the political institutions among the Kom of the Cameroon grassfields, Fribourg, 1976, p. 59; P.M. Kaberry, Women of the grassfields, London, 1952, p. 31; J.C. Barbier, Essai de définition de la chefferie en pays Bamiléké, Yaoundé, 1977, p. 12.

3. See pages 168-169, supra.

that the interests held by the chief in the land of his village are of a different type from those held by a subordinate authority (quarter or lineage head) is erroneous as either authority exercises land-control functions albeit at different levels in the village community. Allott clearly points out the source of this error of the proponents of this theory, who attribute different types of interests to the chief on the one hand and to the other land-controlling authorities on the other. He states in this connection that:

> "Obsessed by the ... feudal theory that one can only grant an inferior interest out of what one possesses himself, some analysts are forced to conclude that the paramount rulers... must have possessed the plenitude of proprietary rights in land, out of which they 'carved' the subordinate interests of sub-chiefs, lineages or individual occupiers".[4]

It was argued in the last chapter that title to the group land was vested in the group and not in the chief or individual members of such group.[5] The chief may enjoy beneficial rights in the land of his lineage, but that is a different matter. It is thus not helpful to describe the chief as "owner" of the land of his polity; and qualifying this term with adjectives like "titular" does not cure the defect in this theory.

DUTIES OF LAND-CONTROLLING AUTHORITIES

The duties of the land-controlling authorities are those of land control, which is the subject-matter of the

4. A.N. Allott, "Language and property", African language studies, Vol. 11, 1970, p. 19.

5. See pages 165-167, supra.

present chapter. These duties consist in land allocation, control of land use and the maintenance of the fertility of the land. These duties are mainly aimed at protecting the group title so that it is not lost to outsiders or impaired with in any way and also to ensure that the productive capacity of the land is maintained. So much importance is attached to the proper carrying out of these functions in the Bamileke society that the duties and obligations rather than the rights of the fong are recounted to him at the time of his enthronement.[6] The fong, on taking office, pledges on oath that he is going to be fair to all his subjects. The present discussion will be based mainly on the centralized areas of the country, where the functions of land-control are carried out by the hierarchy of land-controlling authorities, as these functions are better understood in the light of this hierarchical structure.

Land Allocation

When an area was first settled by a group under the authority of a paramount chief, the latter allocated portions of the newly acquired land to his different sub-chiefs. The sub-chiefs in turn allotted plots to their quarter-heads, who in turn shared some amongst the lineages in their quarters. The lineage heads similarly allocated land for

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6. V. Kanga, Le droit coutumier Bamiléké au contact des droits Européens, Yaoundé, 1959, p. 130.

building and farming to their members for their sustenance and that of their dependants. This descending order of land allocation is not strictly observed in practice as some amount of leapfrogging is permissible, by which an individual village member may be exceptionally allocated land by the paramount chief. The land-allocating function does not come to an end even when the group is finally settled because as members die and younger ones qualify to be allocated land by becoming married, the carrying out of this function goes on ad infinitum. The paramount ruler alone becomes less actively and personally involved in land allocation, by delegating much of this function to the other land-controlling authorities. Among the Fulbe of Adamawa in north Cameroon land allocation is carried out by the djamou lesdi[7], one of the councillors of the Lamido. Land matters reach the level of the paramount ruler mostly by way of appeal and this is not because he is the so-called "titular owner" of all the land, but simply because he is at the apex of the hierarchy of the land-controlling authorities.

As regards the sub-chief,[8] land-control generally constitutes one of his important duties. Once all the

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7. J. C. Froelich, op.cit., p. 29.

8. Only large chiefdoms like Nso, Kom, Bafussam, which are ruled by paramount chiefs, have sub-chiefs. The highest political authority in smaller chiefdoms is the chief.

quarters in the village are settled, the chief only exercises his land-allocating function with regard to the reserve land of the village. The quantity of the village reserve land may be added to when land abandoned by a villager for any reason is incorporated into it. If the population of the village increases and it becomes necessary to constitute a new quarter,[9] the chief allocates land out of the reserve land for this purpose. The quarter-head's function with regard to land allocation is, like that of the sub-chief, exercised only in respect of unappropriated land. Even at the household level where the husband doles out farm plots to his wives,he cannot reallocate farm land which is being cultivated by one of his wives. He can only vary the plots to be farmed by his wives at the time he carries out his annual allocations. The land-controlling authorities, the chief, quarter or lineage head, follow basically the same rules in the execution of their land-allocating functions.

Although these authorities cannot, without good cause, interfere with the enjoyment of rights over land already allocated by them, they have a freer hand when it comes to unappropriated land. Each of them can decide to turn down a request for land or to allocate any type or quantity of land. There is authority suggesting that in Fulbe society, the chief or Lamido may decide not only the type or quantity of land to allocate to any of his subjects but also the size

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9. Most of these newly created quarters in the Bamenda chiefdoms go by the name nu tong, meaning "new town".

of the interest to be enjoyed by such subject. This rule was stated in the 1967 case of the Supreme Court of the former East Cameroon concerning a piece of land situated in the town of Gidder.[10] The appellant in the case was one Tizi, the son of the deceased, who prior to his death had been in occupation of the land. On the death of the appellant's father, the lamido reallocated some of the land to one of his subjects. The appellant's case was that the lamido was wrong to act as he did. The Supreme Court found for the respondent who, according to the court, had exercised his powers rationally and in keeping with the Fulbe customary law, adding that the lamido had not deprived the appellant's mother of the rights she was still enjoying in a portion of some of the land occupied by her late husband. This decision was, according to the court, based upon a Fulbe custom by which the lamido can grant an interest in land meant to cease on removal by the occupant, or an interest which continues to be valid only so long as the land is in the effective occupation of the grantee. If the court rightly interpreted the Fulbe custom on which it based its decision, it thus follows that, under this custom, death counts as removal and effective occupation means occupation by the grantee himself and not his dependants. This issue calls for a discussion of a similar

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10. Tizi c. The Lamido of Gidder, Cour Suprême du Cameroun Oriental, June 6, 1967. Pénant, Paris, July-September, 1968, p. 361.

problem, namely, of the circumstances under which a chief or other land-controlling authority may validly revoke an allocation or terminate an interest of enjoyment. This problem, though not directly raised, was mentioned in the 1973 Bamenda Court of Appeal case of Joseph Dinga v. Edward Ndifor,[11] which concerned the Mendankwe customary law being the lex situs. The piece of land in dispute had earlier been allocated to the respondent and other natives of Mendankwe by the fon of Mendankwe who later asked them to relinquish their rights over the land in favour of the Roman Catholic Mission which intended to build a school on the land. The fon's order was obeyed by everyone on the land except the respondent. The fon of Mendankwe himself told the Court of Appeal that:-

> "I formally allocated the land to the plaintiff (respondent), but later asked the plaintiff (respondent) to leave the land for the school. The other people obeyed but the plaintiff (respondent) refused".[12]

The respondent sued the fon and the matter went through the entire customary jurisdiction in the Bamenda central area, from the Customary Court of First Instance to the Senior Divisional Officer's Customary Court of Appeal, where he finally lost his claim of title over the land. It thus appears that the fon can for "good cause" revoke his subject's rights in land. This point was discussed

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11. Suit No. BCA/7/72, April 19, 1973 (unreported).

12. Cf., Extract of Proceedings, p. 4.

obiter, but the judge gives two erroneous impressions; first, that it was the Senior Divisional Officer, who revoked the customary rights and second, that the exercise of the power of revocation was derived from the Land and Native Rights Ordinance. This is brought out in the following statements:-

> "In his letter the Senior Divisional Officer refers to the land as school land set aside by the people of Manda-Nkwe (Mendankwe). This would suggest that he had been acting in an administrative capacity, and that the land being native land, the customary right of occupancy of the plaintiff/respondent and the other occupants had been revoked to accommodate the school as provided under the Land and Native Rights Ordinance".[13]

The customary rights of the respondent in the present case were revoked by the fon of Mendankwe and not by the Senior Divisional Officer. This official who in his judicial capacity constitutes the highest level of appeal in the customary jurisdiction of the area, had merely confirmed what the fon had done. As the Senior Divisional Officer is not one of the land-controlling authorities under Mendankwe customary law, he cannot dispossess anyone of his rights of enjoyment in land situated in that village. As to the source of the power of revocation of customary rights, it is certainly not the Land and Native Rights Ordinance, as such a view suggests that this power could not be exercised

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13. Cf., Extract of Proceedings, p.4.

in the area before 1927, when this Ordinance came into force in the then British Cameroons.[14] This power as just stated is based upon the rule that the land rights of one of the village members may be revoked for "good cause" by the fon or other land-controlling authority. Another point worth mentioning is that some of the customary courts, including the Senior Divisional Officer's Court of Appeal, never considered the question of compensating the present respondent for the loss of his rights in the land. The fact that the other occupants of the land removed therefrom without asking for compensation is no answer to the point.

Since the fon is free to deprive one of his subjects of his rights of possession in land allocated to him, it follows that the fon can also allocate some of the village reserve land to anyone without consulting the village as he is free to deal in this land as he pleases. Strangers in early customary law were simply non-members of the land-holding unit, even though these non-members may come from neighbouring villages. As society evolved, different categories of stranger came to be recognised. These include religious bodies and companies. This evolution came by only gradually and Meek reports an instance in Mamfe, where the chiefs refused monetary compensation from the Compagnie Pastorale, offered in return for granting grazing rights to the latter company. The chiefs, according to Meek, were worried that such a transaction might be construed as an outright sale of the land. They preferred

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14. British Cameroons Order-in-Council, 1927, No. I.

to allow the company to use the land free provided the latter paid the cattle tax the collection of which was the responsibility of the chiefs.[15] The recognition by customary law of religious bodies and companies as other categories of strangers answers the question asked in the last chapter, whether there was provision at customary law for the enjoyment of rights in land by a religious body[16]. The second function of the land-controlling authorities, which follows land allocation, is the control of the manner in which the land allocated is to be exploited.

Control of Land Use

Once land is allocated for a particular purpose like farming or building, it cannot be utilised otherwise without the permission of the chief or other authority who made the allocation. This rule is aimed at ensuring that the group continues to have sufficient land in the future for its various needs. Where the authority making the allocation is silent as to the use to which the land is to be put, though this is unlikely, it appears that the allottee is given a carte blanche and can thus use the land as he pleases. As regards varying or changing the purpose for which the land is allocated, it appears that the land-

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15. C.K. Meek, op.cit., p. 395.

16. See page 183, supra.

controlling authority would be less willing to act if the allottee were a stranger. This view finds support in remarks made by the judge of the Buea High Court in a Bakweri case concerning a piece of land situated in Victoria. The rights of occupancy in the land had been purchased by the plaintiff, who was a stranger in Victoria. Endeley J., as he then was, remarked in this case, Roman Catholic Mill Hill Missions v. Robert Abunaw,[17] that:-

> "Even though Exhibit H restricts the defendant's use of the land he occupies to farming only, he admits that there are at least four houses and several other marked building plots already on the land. This is certainly not in keeping with the conditions spelt out in Exhibit H".[18]

Exhibit H here is a Certificate of Occupancy which was issued by the Victoria Traditional Council to the plaintiff in recognition of his customary rights of occupancy over the disputed land, which he acquired from one Madam Emma Mokomo by purchase in 1962. The plaintiff was a stranger in Victoria, where the land was situated, and even though the rights he acquired in the land were not the subject of an allocation, the judge did not hesitate to point out that the plaintiff had to respect the terms governing the rights he acquired in the land by restricting its exploitation to farming. Since this rule is so strictly adhered to even in a case as this, where the rights in the land were acquired through purchase,

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17. Suit No. WC/24/66, June 6, 1967 (unreported).

18. Extract of Proceedings, p.9.

it is safe to conclude that there could be no change of attitude where the rights in the land were acquired through allocation. It is important to recall that the objection of the Buea High Court in the Abunaw case, was against building houses on land instead of restricting its exploitation to farming only. It appears that doing the opposite, namely farming on land acquired for building purposes, may not be similarly objectionable. This seems to be the case in most other towns in the country even today as the problem of food shortage seems to take priority over housing.

The next point to be considered is the control of land occupation. The exercise of this function has nothing to do with the precise manner in which houses are built on the land provided they do not substantially adversely affect the enjoyment of other interests in land. Rather, this function concerns disputes within and without the group. It is exercised by the authority who allocated the land in question be he the head of a household, lineage, quarter or the village. It is also the responsibility of the land-controlling authorities to ensure that members of their groups do not trespass on the reserve land or property of a public nature like sacred groves. There is provision for appealing to a higher land-controlling authority by a dissatisfied party to a dispute. In the village, the chief or fon constitutes the highest level as regards appeals.

Another control function is intended to regulate all farming operations. The unit concerned here is the village as a whole and not fractions of it like quarters and lineages. The other land-controlling authorities are thus not directly

involved as this function is exclusively carried out by the village head. Every year the chief or village head publicly declares the beginning of the planting season of the staple food crops. This announcement is followed by another, which fixes the dates on which each quarter has to work on the chief's farms. The contribution of each quarter's labour force consists in men and women, who respectively clear the grass and till the land. The planting of crops on the fon's farms is carried out by his wives, who also have their own farms to attend to elsewhere in the village. The time for harvest is similarly announced by the chief and again the whole village comes out and harvests the crops in the chief's farms before turning to theirs. This procedure is followed in most of the centralised areas of the country, where some of the crops harvested are given not to the chief but to the other land-controlling authorities, namely, the quarter and lineage heads. In those areas where the villagers do not work on the chief's farms as described, tribute of food is paid to him. The chief does not restrict himself to announcing the planting and harvesting periods but also has the power to compel any of his subjects to follow proper methods of farming or good husbandry. The exercise of this function in some cases extends to the manner in which the food harvested is prepared. The Nso people eat a type of vegetable called nyusë, without salt because they believe that salt has an adverse effect on its growth. If a lineage head is aware of any household which eats salted nyusë, it is his duty to intervene and stop the malpractice.

One of the most important functions of the land-controlling authorities throughout the country, is the duty to ensure that no one deals with the group land in such a way as to impair the title of the group without its consent. Although a married male, to whom a piece of land is allocated for the sustenance of himself and his dependants is entitled to rights of enjoyment over the land for the rest of his life, he does not have a free hand to deal with the land as he pleases. It is the duty of the relevant land-controlling authority to ensure that he does not make inter vivos gifts of some of his rights over the land to non-members of the group. The chief, lineage or quarter head must similarly oppose any attempt to levy execution against allocated land in a member's occupation to recover a debt owed by such member. The exercise of these two functions, which requires the constant vigilance of the land-controlling authorities, is intended to ensure that the land is kept within the group. It is also the duty of these authorities to resume control and management of any interests in land, which become vested in the group for any reason including the death intestate of a member. Although it was stated in the last chapter that the self-acquired property of an individual member who dies intestate vests in his so-called immediate family,[19] this rule does not apply to all the property of the deceased in Nso society. When a Nso adult male dies, his gun and kola trees become the property of the lineage and thereby come under the direct control of

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19. See page 185, supra.

the fai of that lineage.[20] A lineage, which has more land than it requires for its present needs may lend some of this land to a neighbouring lineage or an individual member thereof for a given period of time. It is the duty of the head of the lending lineage to collect any rents agreed upon for the use of the property and to recover the land at the expiration of the period for which it was lent. It is also the responsibility of the lineage or other authority to collect the proceeds of sale of any property of the group and to keep proper accounts of the funds.

Another important duty of land-control is one aimed at maintaining the fertility of the land. The ancestors of the group are of particular significance in this regard and it is of paramount importance to keep their souls happy. This is done annually in most of the Tikar and other chiefdoms, where the offering of sacrifices of food and wine to the ancestors is regarded as a necessity not only for the fertility of the soil but also to ensure the general well-being and prosperity of all the members of the group. It is believed by Nso people for instance, that quarrels have an adverse effect on the growth of crops. In Nso there are two types of fertility rituals. The first is performed once a year in December by the fon himself for the entire Nso group, whereas the second is carried out at lineage level by the afai before planting and after harvesting the main

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20. Kaberry, op.cit., p. 43.

foodcrops like maize, Irish potatoes and beans. Kaberry describes the national ritual in the following terms:-

> "Once a year, at the end of December when the fon has given permission to his people to harvest their finger millet, he makes the journey along the route which once linked Kovifem with the royal raffia plantations at Mba, south of Kimbaw (Kumbo). Minor rituals are carried out at altars along the path, which has been cleared in preparation by the women beforehand. But it is at Kovifem that the fon with the tawon and ndzendzef, performs the major sacrifice to his ancestors and to nyooiy (God) to ensure the fertility of all Nsaw (Nso) land and Nsaw (Nso) women".[21]

The national ritual is intended to pacify and appease all the Nso ancestors who are expected to ensure the prosperity, peace and tranquility of the whole chiefdom throughout the ensuing year. As regards the minor ones performed by the afai at lineage level, the first part, which is carried out at the beginning of the planting seasons of the main food-crops takes the form of a symbolic blessing of the farms and seeds to be planted by the women of the lineage. The fai blesses the lineage farm (shu shum) early in the morning and returns to his house, where he blesses the seeds by scraping off shavings from a piece of a type of wood called menkam, into a basket of seed provided by the yelaa (senior wife). The blessed seeds are thereafter referred to as God's seeds (Ngwassa-nyooiy, means "corn of God". The rest of the women in the compound accompany the yelaa to the lineage farm, where they all sow the blessed seeds. This rite is

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21. Kaberry, op.cit., p. 33.

believed to favourably influence the growth of the seeds planted on all the land held by the lineage. A fai who failed to perform this ritual was criticised by one of his lineage members as follows:-

> "At the time of planting maize, the fai should perform rites on the shu shum (lineage farm) ... The fai does not look after the things which we eat. He washes his body and then goes to drink palm wine. He only drinks palm wine".[22]

Another member, who regarded this fai as exceptionally negligent, remarked: li dze djee djee, meaning "his ways are different". The other minor rituals take place at the end of the harvest of each main foodcrop and consists in the offering of thanks to nyooiy (God) and the ancestors for coming to the assistance of the lineage by providing it with food in abundance. In the case of Kom, the sacrifices to the ancestors are carried out under the control of the foyn. According to Kwi, the foyn is the "protector of the fertility of land, promoter of good harvest and prosperity ..." This description suggests that the foyn forms the link between the ancestors and the living members of the chiefdom; although Kwi erroneously regards these attributes as the indicia of the foyn's so-called "titular ownership" of the land of Kom.[23] Although it is evident from the discussion of the functions of the land-controlling authorities in this chapter that the individual members are subject to the superior control of these authorities, some measure of control is discernible in the individual members as they can exclude others from the

22. Ibid., p. 38.

23. Kwi, op.cit., p. 60.

land allocated to them. This notwithstanding, the degree of respect which the members of any group have for their ruler, be he a chief, quarter or lineage head, depends to a great extent upon how well he carries out the duties described so far in this chapter. A word should now be said about the uncentralized societies in the country.

The Uncentralized Areas

It was earlier stated that, whereas the duties of land-control are carried out in the centralized regions of the country by a hierarchy of political and lineage authorities, these duties are performed by lineage heads in the uncentralized regions. As pointed out in the last chapter,[24] the uncentralized regions of the country were settled in the first place by the so-called acephalous communities acting without any one directing force in the person of a paramount chief for instance. The result of this is that in these regions the chiefs, where they exist do not wield as much influence and authority over their people as it is the case in the centralized Tikar and other chiefdoms. This explains why land-control in these loosely structured societies is not in the hands of chiefs. The absence of a hierarchy in these areas means that all the functions of land-control have to be carried out by a single category of persons - the heads of the different lineages.

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24. See page 162, n.15, supra.

The powers of land-control exercised by these lineage heads are not as extensive as those enjoyed by the land-controlling authorities (chiefs) in the centralized areas of the country. Whereas in the centralized areas, the chiefs have the exclusive rights of alienation with regard to rights in unappropriated land, the head of a mwebe (lineage) under Duala customary land law must consult the principal members of the mwebe before alienating any rights in this category of land.[25] The rest of this chapter will examine how such a system has influenced the rules evolved by the customary laws of these areas with regard to land-control. It is an enormous task for the lineage heads alone to carry out efficiently the multifarious functions of land-control catalogued in this chapter. What has happened and is happening in these so-called acephalous societies is that the lineage heads, unable to perform all these duties, have simply abandoned most of them, and things go on as if there were no land-controlling authorities in these areas. This, as will be seen from decided cases, has created a vacuum the result of which has been that some individual members, let alone women, have tended to claim exclusive rights in family land. This practice is inconceivable in the centralized areas of the country. In the first of the cases to be discussed here, Moderator of the Presbyterian Church in Cameroon v. George Eko,[26] the case against the defendant was that he had trespassed on the plaintiff's land. The plaintiffs for their part, traced the history of title over the land,

25. Récueil Pénant, Paris, 1955, Vol. 65, p. 210.

26. Suit No. HCSW/21/75, July 21, 1977 (unreported).

20 hectares in area, back to December 15, 1897, when the German Imperial Government in Kamerun made a grant of this land to the Basel Mission. The plaintiffs also produced a document in court, by which the Basel Mission had transferred all its properties in the former West Cameroon to the Presbyterian Church in Cameroon. The defendant for his part, stated that part of the land over which the plaintiffs held title had been his family land from time immemorial. Apart from stating that the land he was claiming was his family land, the defendant did not establish that he was the head of his family. He told the court that he was not the eldest member of the Eko family and although he said that he was the successor to his late uncle, he neither established that this uncle was the family head, nor the fact of the succession. His argument that the plaintiffs had violated the terms of the German grant, by which they were supposed to cultivate about half an hectare of the land annually, was rejected by the court, which ruled against the defendant in the following terms:-

> "It was argued on behalf of the defence that the grant of 20 hectares was conditional upon the grantee cultivating annually about half an hectare. On the strict interpretation of the deed of conveyance, this argument is well founded. But the big question is that the defendant has no locus standi in this matter".[27]

In another case, the Buea Court of Appeal awarded title over a piece of farm land situated in Buea to the respondent. This was the case of Simon Esove Mbua v. Lyengu La Linonge,[28]

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27. Extract of Proceedings, p. II.

28. CASWP/CC/27/76, November 18, 1977 (unreported).

which had gone through the entire customary jurisdiction in the Division before reaching the Court of Appeal. In the Court of Appeal as in all the customary courts, the plaintiff stated that she based her rights in the farm land on succession from her brothers who, according to her, had no male heirs. The appellant's case was that he had acquired the disputed land from his ailing father but it is not clear from the record of proceedings in this case whether the land was his father's self-acquired property or family land. The appellant's evidence in this regard was contradicted by one of the respondent's witnesses, who told the court that the appellant acquired the land from one Elinge Nwafise. It is not also clear from the record of proceedings whether this witness was denying the propriety of the appellant's rights in some only or all the land he was farming in the area. In this mêlée of contradictions the Court of Appeal in awarding title to the respondent, apparently based its decision on long possession. The court found that the appellant had been on the land for 20 years and that although the respondent's period of occupation was only 6 years her brothers had been longer on the land than the appellant.

In the third case, rights of occupancy over land in Victoria, which had been acquired by purchase from a woman by a stranger to the area, were recognised by the Buea High Court. This was the case of Roman Catholic Mill Hill Mission v. Robert Abunaw.[29] In this case the plaintiffs sued the

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29. WC/24/66, June 6, 1967 (unreported).

defendant for trespassing on their land, which was covered by a Certificate of Occupancy issued in December 1964, by the West Cameroon Government. The defendant's answer to the charge brought against him was that he had acquired his rights of occupancy by purchase from the vendor. It is difficult to trace the vendor's root of title in this case, from the record of proceedings. The court appears to have been satisfied with the fact of the vendor's long possession, which was confirmed by one John Ekona, who "worked in the Victoria Botanical Gardens in 1910 and knew Emma Mokomo's farm near the Botanical gardens very well".[30] It is evident from these cases that the functions of land-control in the uncentralized areas are largely neglected. In such societies, the group title could be alienated by individual members almost with impunity thereby depriving the other members, especially the younger ones, of their rights in the group asset. The present land shortage problem in the coastal areas of the country is not unconnected with the laxity with which the machinery of land-control has been handled; though the German plantations also took their own toll. The next three chapters will be devoted to a study of the effects which the European administrations had on the indigenous land tenures.

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30. Cf., Record of Proceedings, p.5.

PART FOUR

THE EFFECTS OF EUROPEAN RULE

It was stated in the introductory part of this work that what is now Cameroon was first ruled by Germany and later as separate territories by Britain and France. The era of German rule started on July 14, 1884, when the treaty of annexation between the Duala Kings and Chiefs on the one hand and two German firms on the other, signed two days earlier, was ratified by Nachtigal acting on behalf of the German Chancellor. German rule however came to an end in 1915, when the First World War was only half fought. Britain and France, after defeating the German forces in the area, set up a joint administration on September 24, 1915. This lasted only up to March 4, 1916, when the two parties partitioned the territory into what later became known as English- and French-speaking Cameroon. This separate administration continued throughout the mandate and the trusteeship periods. The 45-year period of separation of the two Cameroons as earlier noted,[1] ended on October 1, 1961, with the birth of the Federal Republic of Cameroon. The indigenous political and social institutions as well as the economic systems and land tenures of the different ethnic groups in Cameroon have already been discussed.[2] The

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1. See page 39, supra.

2. For the various institutions, see pp. 101-154, supra; for the indigenous land tenures, see pp. 153-213, supra.

present part will investigate the manner in which European rule affected these indigenous institutions especially with regard to land tenure and land administration. This inquiry is subdivided into three chapters corresponding to the three European Powers in question.

CHAPTER SEVEN

THE PERIOD OF GERMAN RULE

Introduction

The era of German rule in Kamerun was ushered in by the treaty of annexation just mentioned. The parties to this treaty were a number of Duala Kings and Chiefs on the one hand and two German firms on the other. One of these firms was called Woermann and the other Jantzen and Thormählen. Both firms had their headquarters in Hamburg. The treaty was signed by King Akwa on behalf of the Kings and Chiefs of Duala and by Ed. Woermann on behalf of the two German firms.[3] These signatures were witnessed by a total of 23 people most of whom were natives of Duala.[4] Nachtigal's role was limited to according the recognition of the German government to the treaty which was signed two days before his arrival in Duala.

Terms of the Treaty of annexation

In the absence of the original text of the treaty and because the earlier writers consulted are silent about it,[5]

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3. See appendix I.

4. Loc. cit.

5. These include Mveng, L'Histoire du Cameroon; N.N. Rubin, Cameroun; and Le Vine, The Cameroons from mandate to independence.

it is not certain whether this treaty was written in German or in English. There are minor differences in the wording of the English text of the treaty reproduced by Rubin and the French version relied upon by Mveng.[6] By the terms of the treaty, the Duala Kings and Chiefs agreed to abandon all their rights relating to sovereignty, legislation and administration of their territory to Messrs Edouard Schmidt and Johannes Voss representing the two German firms. The purported abandonment of these rights, some of which the Duala rulers never had, was however subject to five reservations included in the treaty. Firstly, it was agreed that the territory might not be ceded to a third party. This is one of the provisions of the treaty which was honoured more in the breach. It was violated by the same stroke of the pen by which Nachtigal ratified the treaty of annexation on July 14, 1884. The territory referred to in the treaty was on this day ceded to a third party, namely, the German government. The Duala rulers could have set aside the convention (when on July 14, 1884, Nachtigal had the imperial flag hoisted near the German factors' station on the right bank of the river and stayed long enough to instal his assistant, Dr. Buchner, as temporary imperial representative on July, 19)[7] for violation of one of its provisions or for

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6. In N.N. Rubin, op.cit., p. 28; and E. Mveng, op.cit., p. 291, for instance, the two versions respectively describe the location of the German factory in which the treaty was signed as situated "on the banks of King Akwa's territory", and "sur le rivage du roi Akwa". In the second but not the first case can the banks in question be regarded as belonging to King Akwa, whatever that means.

7. Le Vine, op.cit., pp. 22-23.

mistake as to the identity of the other party. Secondly, the treaty provided that all the treaties of friendship and commerce concluded with other foreign governments were to be respected. This provision, like the first, was also violated. The Court of Equity which was set up by treaty on January 14, 1856,[8] was abolished by the Germans.[9] Thirdly, provision was made to ensure that the farm- and dwelling-lands of the indigenes remained their private property. This provision will be discussed later in this chapter. Fourthly, payments were to be made annually, as in the past, to Kings and Chiefs. This provision probably referred to sums of money or goods which were paid as presents to the native rulers by the European traders. Fifthly, the customs and usages of the indigenes were to be respected during the initial period of the establishment of an administration in the area. The question may be asked whether the Duala people really agreed to cede their rights to just a couple of German firms in preference to several others of the multinational trading community on the Cameroon river. The answer to this question requires a discussion of the area covered by the treaty as well as the events leading up to its conclusion.

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8. Hertslet's Commercial treaties, London, 1859, vol. X, p. 30; cf. appendix XIV.

9. See page 25, supra.

Area covered by the treaty[10]

The area purportedly ceded to the Germans was described in the treaty as situated;

> "between the rivers Bimbia in the north and Kwakwa in the south, and as far as longitude (sc. latitude)[11] 4°, 10' north".

This area may be said to be bounded in the west by the sea and in the south by the Kwakwa river. The present author has not been able to locate the Bimbia river referred to in the treaty in any of the maps of the area in question. Bimbia itself lies to the south-west of Duala.[12] The northern boundary is fixed at latitude 4°, 10', after correcting the term "longitude" used in the treaty to read "latitude". This correction however leaves the eastern boundary of the area indeterminate. It is thus impossible to determine the size of the area which was the subject of the treaty. The validity of the treaty itself was questioned by two Duala Chiefs. Chief Deido of Joss argued that he had not received his own share of the payments made by the Germans to Kings Bell and Akwa as inducements to the latter to sign the treaty. Chief Lock Priso of Hickory (Bonaberi), who opposed the Germans and did not regard himself

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10. See appendix XIII for map of the area.

11. Latitude 4°, 10' is nowhere near Cameroon.

12. N.N. Rubin, op.cit., p. 29.

bound by the treaty, signed a separate treaty with Hewett, the non-resident British Consul.[12] Even if the claims of Kings Bell and Akwa that the towns of Joss and Hickory were included in the territory under their control can be substantiated, it proves no more than that the treaty applied to the whole of Duala. Such proof does nothing to justify the views of some historians who erroneously regard this treaty as applying to the whole of Cameroon. Its provisions bound only the signatories to it as the inhabitants of the hinterland areas were unaware of its existence.[13] At that time, the Germans also thought about signing another treaty with King Pass-All of Malimba, a neighbouring town situated south of Duala. It was later that the Germans ventured inland and signed treaties of friendship with the rulers of tribes further away from the coastal areas. It may be argued that the hinterland Chiefs, by signing treaties of friendship with the Germans, impliedly recognised and thus ratified the treaty of annexation. Even if this view is acceptable, the treaty of annexation cannot be said to apply to the hinterland until the date of such ratification. It was not until 1896,[14] for instance, that the Fon of Bali in Bamenda signed a treaty of friendship with the Germans and it was three years later that the Germans reached north Cameroon

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13. The Bakweri Land Committee in their petition to the League of Nations dated November 3, 1949, argued that the occupation of Bakweri lands by the Germans was illegal because they (Bakwerians) were never party to the treaty of July 12, 1884.

14. E. M. Chilver, Zintgraff's explorations in Bamenda, Adamawa and the Benue lands, Buea, 1966, p. ix.

in 1899.[15]

As to the events and developments leading up to the conclusion of the treaty of annexation, it appears that both parties to the treaty did not fully and clearly foresee the type of relationship which their negotiations were going to achieve. The Duala rulers had prepared a memorandum dated July, 12, 1884, whose terms were probably intended to be incorporated in the treaty. It contained a provision preserving the right of these rulers to have their territory annexed by any other European Power of their choice:-

> "We need no protection, we should like our country to annect with the government of any European Power".[16]

It follows from this that even on the day the so-called treaty of annexation was signed with the Germans, the Duala people were still against German annexation. It is significant that the provision in question talks of the right to be annexed by the "government of any European power". This clearly shows that the Duala Kings and Chiefs concerned knew the distinction between "German firms" and the "German government". The reasons behind the abrupt change of mind on the part of the Duala rulers were two-fold. Apart from being heavily indebted to the two German firms which also offered bribes to these rulers to induce them to sign the treaty,[17] the latter were finding the task of

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15. E. M. Chiver, op.cit., p. 17.

16. See appendix IV.

17. J.N. Monie, University of London Ph.D. thesis, 1970, p.28.

ruling their people more and more onerous because of rivalry between sections of the Duala community, some of which preferred the British to the Germans.

As for the Germans, they appear to have been in no clearer position as regards the type of relationship they should have with the Duala. This was certainly the situation prior to the departure of Nachtigal from Lisbon to West Africa. Rudin argues in this connection that when Bismarck requested Lord Granville, the British Foreign Secretary, in writing on April 19, 1884, to secure the co-operation of the British for Nachtigal during his forthcoming trip, the Chancellor had no definite idea of what he wanted his Commissioner to do in West Africa and that the vague description of the mission was the only one possible.[18] Bismarck stated in his letter that Nachtigal was being sent to West Africa,:

> "in order to complete the information now in possession of the German Foreign Office at Berlin on the state of the German commerce on the coast, and to conduct on behalf of the imperial government negotiations connected with certain questions".[19]

On April 28, 1884, nine days after writing to the British Foreign Secretary, Bismarck consulted Hamburg traders in West Africa about the nature of the instructions he should give his Commissioner, who was then waiting in Lisbon. This consultation according to Rudin, might well have caused

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18. Rudin, op.cit., pp. 36-39.

19. Le Vine, op.cit., p. 22.

Bismarck to see new possibilities in the African (West African) mission. About a year later, during a debate in the Reichstag on March 2, 1885, the government said that it had originally been planned to send out Nachtigal merely for the purpose of obtaining information but that the fear of territorial occupation by others led to the modification of the instructions to him by authorizing him to place under the Kaiser's protection the land that had been acquired by traders. One point that stands out quite clearly is that the whole scheme of the annexation of Kamerun was master-minded and financed by the two German firms. After annexing the territory, the next task of the Germans was to set up a government to administer it.

The setting up of German administration

After ratifying the treaty of annexation, Nachtigal appointed Buchner on July 19, 1884, as representative of the German government in Kamerun. The beginning of German administration was greeted with disapproval and dissension by those native inhabitants who opposed German rule. The British enjoyed greater influence in the area than the Germans. For a start, German traders were outnumbered by the British traders and missionaries. Also, the Court of Equity established by treaty[20] in Duala on January 14, 1856,

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20. Hertslet's Commercial treaties, London, 1959, Vol. X, pp. 30-33, cf. appendix XIV.

for the settlement of commercial disputes between members of the multinational trading community on the Cameroon river was set up through the initiative of the British traders. The signatories to the treaty other than the natives were all British. The Court House was to be erected on land to be purchased through the joint effort of the "Supercargoes" of the ships,[21] which called at the Cameroon river for trade. The Court House was by the terms of the treaty to be considered British property.[22] The British Consul for the Bight of Biafra and Fernando Po, who was a signatory to the treaty, acted as the judge of appeals for the court. The membership of the court was made up of four native rulers, King Bell and Akwa as well as Priso Bell and Charley Deido. The Europeans who sat in the court were provided by the trading houses on the Cameroon river, at the rate of one member per trading house or firm. This meant that the British were the majority in the court as they outnumbered the Germans in the area. The British naval presence was maintained, as English gun-boats often appeared on the Cameroon river. Consul Hewett visited the region frequently from his headquarters in Calabar. There were reports that the English were at work to cut off the Germans from the hinterland by making treaties with the natives there and this made the Germans anxious about their future in Kamerun.

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21. The persons in charge of the cargo on the ships were referred to in the treaty as "Supercargoes".

22. Treaty of January 14, 1856, article 2.

The atmosphere became even tenser when those natives hostile to the German presence in Duala revolted in December, 1884. These were the inhabitants of Joss and Hickory whose rulers had refused to recognise the treaty of annexation. German gun-boats under the command of Admiral Knorr were called in to put down the rebellion. The English Baptist mission at Hickory town was levelled to the ground and the Court of Equity was abolished by outright fiat. The English argued to no avail that the Court of Equity was set up by international convention and that it was thus illegal for the Germans to abolish it unilaterally. After this initial military victory in Duala, Admiral Knorr took over the administration of the area from Buchner and requested the setting up of a formal government in Kamerun. Little did Admiral Knorr know that the imperial government back home was facing more difficult problems with the Reichstag as regards the status of Kamerun, than he was facing with the rebellious Duala people. Although the first Governor of German Kamerun, Von Soden, was appointed as early as July 3, 1885, there was still no provision for colonies in the German constitution.

On January 12, 1886, Bismarck presented a Bill to the Reichstag in which he proposed measures intended to lay the constitutional foundations on which the colonial structure could rest. The aim was to establish a centralized control of the overseas territories to be exercised through the Kaiser, who was to legislate for the colonies by Decree with the consent of the Bundesrat in all matters except budgetary allocations. The Reichstag was to be merely informed of

the decrees issued. Bismarck tried to win approval of his proposed methods as regards legislating for the colonies by arguing that Germany had had no experience in colonial administration and that such experience was needed before details of a complex system could be worked out. He also pointed out that Britain had followed a similar policy by her Orders-in-Council.[23] After heated debate, the Reichstag handed the Bill to a Committee appointed to consider it. The Committee preferred the application of the law of consular jurisdiction to the colonies with minor exceptions necessitated by special conditions. The Bill became law on April 10, 1886, thereby giving colonies a legal basis in the German constitution. According to Rudin, there were some difficulties experienced in applying the Law of 1886 in Kamerun especially with regard to the strict requirements of German land law. This led to the passing of another law on June 17, 1887, authorizing the Kaiser "to make whatever changes were found necessary in the colonial application of German law on real property".[24] This development thus meant that at the end of the day, the Kaiser was after all permitted to legislate for the colonies in property matters by decree. It even appeared that this was the practice prior to the Law of June 17, 1887. This is evident from an Order passed by Von Soden, the first Governor of Kamerun, on March 27, 1888. This Order entitled "66th Order concerning the acquisition and loss and the restrictions on real property", appears to derive its legal basis from an

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23. Rudin, op.cit., p. 127.

24. Rudin, op.cit., p.28.

imperial Decree of July 19, 1886.[25] Order 66 was passed to control land transactions between the native inhabitants of Kamerun and Europeans. The Kaiser could at that time have permitted Von Soden by Decree to pass Order 66 by virtue of the provision in the Law of 1886, which permitted the Kaiser to vary this law where special conditions in the Protectorate necessitated it. This proviso inserted in the Law of 1886, was probably not wide enough and that was why the Law of June 17, 1887 was passed. It is thus not clear why Von Soden still referred to a pre-1887 decree as the legal basis of his Order 66 of 1888. The situation is bound to remain doubtful until the original texts of these enactments are available. The Germans were not content with their acquisitions in the coastal areas. They pushed their way into the hinterland making treaties with the chiefs there and militarily subjugating those who resisted the German presence.

Penetration into the hinterland

The German penetration of the interior was no easy task because the English had made treaties with the native inhabitants of these areas. A Russian Official on the British pay-roll called Rogozinski concluded treaties with the natives at an alarming rate. He is reported to have boasted in January 1885, that he had forestalled German efforts in ten villages where he made treaties with the inhabitants at a

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25. Public Record Office, Document No. C.O. 583/157/04857.

cost of only £115.[26] As if to reward Rogozinski for his work, White, the British Vice-Consul, after proclaiming himself to the inhabitants of Victoria on February 5, 1885, as the British Chief Civil Commissioner of the colony of Victoria, also made the Russian his representative with powers to act in that capacity in his absence.[27] The Germans protested to the British government about Rogozinski's activities. The British government denied that they had a Russian in their employ but this was not convincing as the British Press had already reported how Rogozinski had saved the Cameroons for the British and had confined the Germans to Bimbia and the Cameroons river.[28] The British government thereupon ordered the dismissal of Rogozinski and nullified the treaties he had made with the native inhabitants.

The Germans pursued their penetration inland by first subjugating the Bakweri around Mount Cameroon.[29] This area had fertile land, suitable for the establishment of plantations, and ultimately, because of its good climate, Buea became the capital of Kamerun. Between 1892 and 1895, the Basa and Bakoko were also conquered by the Germans who had followed the Sanaga and Kwakwa rivers from Duala. The Basa in particular proved difficult to subdue. The occupation of their territory and the use of their men by the Germans as

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26. Rudin, op.cit., pp. 46-47.

27. Ibid., p. 47.

28. Loc. cit.

29. The Bakweri strongly resisted the German incursion and were not defeated until 1892.

labourers on the Duala-Yaoundé railway was a constant source of friction, which lasted throughout the period of German rule. Earlier on, the Germans had tried another route to expand into the interior. This was in 1887 and the route chosen was to go through Big Batanga and Kribi in the south. These moves started as an attempt to explore the Nyong river to its source. In the process, Yaoundé was settled after the Ewondo had been overcome. Other settlements were established in Ebolowa in 1895, and four years later a major military campaign was launched against the Bulu who attempted to defend their monopoly of the hinterland trade. They were finally subdued in 1901, after the town of Kribi was nearly destroyed in the process. The thrust in the west was started in 1888 by Zintgraff and his campaigns led to the subjugation of the Tikar tribes. These campaigns were followed by others under the command of Hirtler who, after overcoming Tibati, reached the Bamum capital of Fumban. In these northern operations, the Germans began to encounter the organized military apparatus of the Fulbe under their Lamibe (Chiefs). The Germans solved the difficulty of defeating some of these people militarily by recruiting the lamibe to work as administrators within their administration or imposing other lamibe where existing ones failed to co-operate. One sees here an introduction of a species of the so-called system of "indirect rule" in the northern areas of Kamerun. By 1902, the Germans had pushed up to the Benue area, from where the campaign which conquered Garua was launched. From Garua, the Germans moved southwards and subdued Ngaundere and then northwards again to the end of the first decade of the 20th century, these campaigns

established the essential geographical limits of German control over Kamerun.[30] Although these expeditions into the hinterland would not have succeeded without the support of the imperial German government, the latter's commitments were greatly limited. The hands of the imperial government were tied down by a parsimonious and watchful Reichstag which compelled the government to concentrate more on building the country's economic base and securing a profitable return from the Protectorate. No great German General was ever sent to Kamerun. The soldiers and explorers involved were not important figures in the German colonial establishment.[31] The German administration in Kamerun had the intention of reaping the greatest economic benefit from its Protectorate. To do this, it needed capital with which to exploit the rich agricultural potential of the territory. This capital was not forthcoming from the Reichstag so the only alternative for the government of the Protectorate was to turn to the traders. This government granted two large areas of land situated in the north-west and south-east of the Protectorate,[32] to two companies, the Gesellschaft Süd-Kamerun and the Gesellschaft Nordwest-Kamerun in the late 1890s. Rudin states in this connection that:

> "These grants of extraordinary rights over extensive areas, each one being nearly one-fifth of the whole colony, were made to attract German capital into the interior at a time when the lack of money in Germany and the reluctance of the Reichstag to appropriate funds made it impossible for the government to develop the hinterland".[33]

30. Rubin, op.cit., p.32.
31. Loc. cit.
32. See appendix V showing the area of the two concessions.
33. Rudin, op.cit., p. 290.

The granting of these large concessions was not also unconnected with an attempt by the government of the Protectorate to stifle the efforts of the traders of other nations to trade profitably in the area and to prevent them from diverting goods from the Protectorate to neighbouring European overseas territories. Both companies agreed by the terms of the concessions to explore the land assigned to them, to construct roads and bridges in the area, to encourage the settlement of the native inhabitants of these areas and to exploit the regions. The government of the Protectorate was to share in the profits of both companies. This provision was inserted with the sanguine hope that the great profits expected from the scheme would help in financing government projects beyond the grants made available by the Reichstag.

The Gesellschaft Süd-Kamerun

The Gesellschaft Süd-Kamerun was formed in Brussels on November 28, 1898. The 80,000 square kilometres of land assigned to it were situated in south-eastern Kamerun near the border with Gabon and the present Central African Empire. The area was rich in rubber and ivory. It is not clear whether this concession was a freehold or a leasehold grant. There was bitter criticism of the concessions in Germany and fear was expressed as to its effects. In Germany, the main criticism was that the participation of Belgian capital and the establishment of the headquarters of the company in Belgium might result in the control of the

company being in Belgian and not German hands. It was also argued that the grant had given a virtual monopoly of trade to a few people in the richest parts of the Protectorate. It was also charged that the Kolonialrat[34] had not been given prior notice of the concession. The missionaries in Kamerun became worried about the grants, wondering whether they could obtain any land in the concession areas for their schools and churches. The Kamerun government replied to these criticisms and fears to justify its policies. As to Belgian participation, the Governor pointed out that this was necessary because Belgians were already exploiting that part of Africa and might otherwise make use of their position in the Congo to hamper an exclusively German company. He also pointed out that the Germans still retained control of the company and that the supervision of the organisation by the imperial Chancellor was a guarantee that the co-operation of foreign capital would not lead to foreign control.

The Gesellschaft Nordwest-Kamerun

The Gesellschaft Nordwest-Kamerun was formed on July 31, 1899, and its land grant covered an area of 100,000 square kilometres stretching from Ossidinge (Mamfe) to Adamawa on the Nigeria border and almost as far inland as Tibati. The terms of this concession were slightly modified

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34. Kolonialrat (Colonial Council). This body of experts in colonial affairs was formed in 1890 to advise the imperial German government on colonial matters.

because of the criticism following that of the Gesellschaft Süd-Kamerun. New clauses were inserted to prevent control of the company passing to non-Germans. The company was required to spend a fixed amount of money over a period of years for the exploration of the area and was to contribute funds for an expedition to Chad. The grant was limited to a 50-year lease, with the possibility of an extension to 60 years if a railway was constructed within a specified time. The question that may be asked is whether the sanguine expectations of the Kamerun government in granting these unprecedented concessions in the territory were ever realised. Both companies discovered and exploited vast quantities of rubber, ivory, timber and other raw materials, and established factories for the processing of some of these, but neither company was a great success. The Gesellschaft Nordwest-Kamerun only declared a profit in five of the fourteen years of its operations. As for the other company, it lost nearly two and a half million marks during the course of its existence. Nevertheless, it cannot be denied that both companies played a major role in the injection of capital into the Protectorate. Rubin estimates that between them, these two companies contributed just under a fifth of the total of 96 million marks which was the amount invested in the Protectorate throughout the period of German rule.[35] Apart from issues of economic gain, the Kamerun government also tackled those relating to the administration of justice.

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35. Rubin, op.cit., p. 36.

Establishment of courts

The Court of Equity, set up in Duala in 1856, did not interfere with the continued application of the local customary laws which were administered in the Customary Courts in the territory. The Germans administered the area for eight years without setting up a proper court system. During this period the only role played by the Germans in the administration of justice for the natives was to act as arbitrators in disputes between them. It is not clear what law the arbitrators followed in their proceedings. From what Rudin says, it appears that the rules of the local customary laws were applied where appropriate. He states in this connection that "matters were adjudicated by German officials assisted by interpreters so that native customs could be considered and native languages could be used".[36] It was not until 1892 that a court system was provided in Duala for the native inhabitants.[37]

The courts for natives

The 1892 court system consisted of Courts of First Instance and those of Second Instance. Justice was administered in the Courts of First Instance by the native rulers according to the rules of the customary laws of their areas. The jurisdiction of these courts was limited in civil matters to issues the subject matter of which did not

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36. Rudin, op.cit., p. 200.

37. Loc. cit.

exceed 300 marks in value and in criminal matters to cases which carried a fine not exceeding 300 marks or six months' imprisonment. As for the Courts of Second Instance their judges were some of the native rulers appointed by the Governor. It is not known how many of them sat at a time. These courts exercised appellate jurisdiction over the Courts of First Instance and also had original jurisdiction in cases falling beyond the powers of the latter courts. The Courts of Second Instance did not have any jurisdiction in cases involving manslaughter or murder or other crimes punishable by death. Appeals from these courts were heard either by the Governor or the Oberrichter (Chief judge) appointed by the Governor. The Oberrichter or the Governor also exercised original jurisdiction in cases which were beyond the powers of the first two courts.

Courts with jurisdiction over Europeans

A different set of courts was established in Duala for Europeans. The system of courts for Europeans had a two-tier structure composed of a Court of First Instance called the Bezirksgericht, and a Court of Second Instance called the Oberigericht. The Bezirksgericht was presided over by the Bezirksrichter (Judge) who sat with four lay assistants. Its decisions were subject to appeal.[38] The German system of administration of justice in the Protectorate

38. Rudin neither states the powers of the courts for Europeans nor the procedure which these courts followed.

had a number of shortcomings.

Criticism of German administration of justice

Firstly, by setting up a dual court system, one for Europeans and the other for natives, the Germans laid themselves open to accusations of discrimination and of introducing two standards of justice in the territory. This led the natives to the belief that justice could not be done to them in their own courts. They often went on appeal to the courts for Europeans where they thought they could have fair trials. Secondly, the rules of the local customary laws which the Germans had agreed by the treaty of annexation to respect, were largely ignored. The period between 1884 and 1892, during which the Germans administered justice for the native inhabitants of the Protectorate without courts and only through arbitrators, was sufficient for some of the natives to form the habit of disliking their own customary laws and preferring the German consular law which these arbitrators purportedly followed. Thirdly, when the Germans found that they could not cope with the case-load, they increased the court fees. It also had to be paid in advance. This was a calculated attempt to discourage litigious natives from bringing their grievances before the law courts. This is understandable because the administration of justice for natives which was not rated highly on the list of the priorities of the German administration was taking up too much of their time. Fourthly, a family or group was often punished or compelled to pay for the transgressions of any

of its members. Some of the German traders even suggested that since the natives regarded their wives as property, these should be seized where the husbands failed to settle their debts;[39] and in 1913, members of the local Chamber of Commerce which had suffered loss as a result of frequent thefts suggested that the Chiefs of people suspected of theft should be imprisoned until the stolen property was restored.[40] It is uncertain whether these proposals were acceptable to the administration. However, there is no doubt that the government of the Protectorate was influenced in many of its decisions by the German traders and understandably because these traders paid part of the cost of administering the Protectorate. Fifthly, in many cases, the standard of justice obtainable even in these courts set up for Europeans was low as most of those serving in these courts had little or no legal education. This led the Colonial Society as well as some members of the Reichstag to demand the establishment of a Court of Appeal or Kolonialgerichtshof in Germany. This court was to serve as a Civil Court of Appeal for Europeans in the colonies. Although the matter was discussed in the Reichstag many times, no decision was ever arrived at because the traders could not agree whether the court should be located in Berlin or in Hamburg.[41]

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39. Rudin, op.cit., pp.205-206.

40. Rudin, op.cit., p.205.

41. Rudin, op.cit., pp. 199-200.

Apart from setting up courts in the Protectorate, the Germans also introduced Councils in July 1885 to advise the government of the Protectorate on matters which had to do with the administration of the territory.

The Advisory Councils

Although the German appellation of these Councils is not known to the present author, their functions suggest that they were legislative bodies. Two of these Councils were set up along the Kamerun coast, the first in Duala in 1885 and the second in Victoria in 1888. The membership of the Councils was restricted to European traders and Missionaries in the territory. It is not clear how often the Councils sat to discuss matters relating to budgets, administration, health, land tenure, education and native commercial rivalry with the Europeans. These were their main functions and the Governor, who was the President of the Councils, was not bound to adopt their views. It appears that these Councils came to be seen by the imperial government as a movement destined to gradually lead to the administrative autonomy of the government of the Protectorate. After lengthy discussions of the matter in the Reichstag, the final decision was in favour of continuing with the Councils. This decision was contained in a Decree of December 24, 1903, which styled the Councils as Gouvermenräte (Government or Provincial Councils). At this point, the land tenure policy elaborated for Kamerun by the Germans will be discussed.

German land policy

The Germans appeared to have been in no hurry to elaborate a comprehensive land law for its newly acquired Protectorate. The territory was ruled for four years before the government passed an Order regulating land transactions by which rights were to be acquired in lands held by the native inhabitants. It was not until 1896 that a Land Decree was passed defining government and private property as well as the methods of disposing of both forms of property. The salient points of this Order and the Decree will be examined before turning to the effects which they had on the indigenous land tenures. The original German texts of these enactments are not available to the present author, so it is the English translations of both texts as made by British Administrators who later worked in the territory that are being used here.

The Order of 1888

This Order, which goes by the long and unattractive title of "66th Order concerning the acquisition and loss and the restrictions on real property", and which was passed by Governor Von Soden on March 27, 1888, came into effect on April 1, 1888. By the first article of this Order, the consent of the Governor was required to validate all agreements by which property rights might be acquired in native lands. The Governor reserved the right to attach certain conditions to his consent. This meant that the continued validity of

a transaction depended upon the proper carrying out of the Governor's conditions. The Governor, in article 3, gave himself the power of forfeiting any rights acquired as well as improvements thereto where the acquirer failed to fulfil the conditions imposed by him.

Governor's power of forfeiture

The Governor exercised his power of forfeiture in respect of certain lands near Mount Cameroon over which a Swedish national, Knutson, had by agreement with the natives, acquired rights of user in 1885 and 1886. It appears that the Governor later purportedly ceded the rights of user in these lands to the Westafrikanische Pflanzung-Gesellschaft, Victoria. In 1903, Knutson sued the Kamerun government in the Civil Division of the Royal District Court No. 1 at Berlin, claiming 25,000 marks for damages suffered as a result of the forfeiture and for return to him of his rights in the land.[42] Knutson, who claimed to have purchased rights of full property in the land, withdrew the action instituted by him, probably because he later realised that the Governor had acted rightly. Knutson had established no formal cultivation on the stretches of land in question, but had only exploited the rubber trees growing on the land at the time of the agreements. Knutson had departed from the exhausted territory after tapping the last rubber liana, so he could

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42. Public Record Office, Document No. C.O. 583/157/04857, pp. 23-24.

not argue that he had put the land under cultivation as required by the Governor's Order. Knutson's action could not stand in the light of article 4 of the Order. According to this article, land over which rights had been acquired prior to April 1, 1888, had to be put under cultivation within four years counting from this date. Land used only for hunting or for collecting wild-growing vegetable products was not by the terms of the Order being put under cultivation. This definition of cultivation, which excluded what the native inhabitants of the Protectorate regarded as an effective means of utilising their lands, was the first act of the German administration formally to introduce a rule of land tenure foreign to the indigenous systems. This innovation, coming after the signing of the treaty of annexation by which the Germans had pledged to respect the native customs, was bound to be opposed by the indigenes. One should not be too quick to criticize the Germans for introducing this foreign concept of land tenure into Kamerun because this rule was certainly directed at the foreigners in the territory and not the natives. The rule was directed at people like Knutson who were only interested in exploiting what was already growing on the land. Indigenous opposition did come, but this was much later because, inasmuchas the indigenes were engaged solely in selling rather than in purchasing rights in land, the requirement of putting the land under cultivation to the satisfaction of the Governor was not directed at them.

The Order of 1888 was silent as to the fate of land

forfeited by the Governor for want of cultivation. Although the legal effect of forfeiture was that the rights of the acquirer under the contract with the natives ceased to exist, it was not also the case with any rights which the natives might have reserved in the contract either expressly or impliedly. If for instance the natives in a contract with Europeans reserved the reversion in the land, then it was the duty of the Governor not only to ensure that this right was preserved when he later (taking Knutson's case as an example), purportedly ceded Knutson's rights in the land to a third party but also to obtain the consent of the natives to the new transaction. It appears that the 1888 Order was aimed only at ensuring that rights were not irregularly acquired in native lands. An even greater evil, namely, the excessive alienation of rights in land by the indigenes which characterised the early period of German administration in Kamerun, appears to have either gone unnoticed or simply been regarded as normal. By the end of the first decade of German rule, the acquisition of rights in land did not follow any uniform set of rules. It was however not the intention of the German administration that this disorderliness should continue for so long. On June 15, 1896, a Land Decree was passed.

The Land Decree of 1896

The Land Decree of June 15, 1896,[43] given the cumbersome title of the "All-Highest Decree concerning the

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43. See Appendix VI.

creation, occupation and disposal of Crown Land and the acquisition and disposal of landed property in the Protectorate of Kamerun", was intended to regularize the previously haphazard land tenure. This Decree, with the exception of two classes of land, regarded all land in Kamerun as herrenlos land (land without a master) and declared all such land Kronland (Crown Land) vesting the same in the "Empire".[44] The two categories of land exempted were land over which the private property rights of private persons, Chiefs or native communities could be substantiated as well as land in which rights of user had been created by agreement with the Kamerun government.

The concept of herrenlos land

The novel concept of herrenlos land was effectively a suggestion that there was some land in the territory which had no master. The combined effect of this concept and the German ideas of property meant that, apart from the land on which the natives lived and farmed by 1896, all the native land in the territory had become Crown Land. Since the land on which the natives lived and farmed at any given time was just a small fraction of all their land, the implementation of the provisions of article one of the Land Decree meant that most of the land of the natives had been taken away from them. The Land Decree thus did not only cut across the rules of customary land tenure but also directly violated the treaty of annexation in which the Germans had undertaken to respect the customary laws of natives. As if this were not enough, the Kamerun government tacitly expropriated all the existing rights of the natives under the contracts by

44. Cf., the Land Decree, article 1. The term "Empire" was later modified by a Decree of November 21, 1902, to read "Government of the Protectorate".

which they had sold rights of user over these lands to Europeans. This is evident in the words which spelt out the second category of land not caught by the definition of herrenlos land.[45] The operative words, "rights created by contract with the Kamerun government", undoubtedly referred to rights disposed of by the natives before 1896 subject to the consent of the Governor. It thus follows that by giving his consent to a contract, the Governor stepped into the shoes of the natives and usurped any rights of theirs existing under the contract. This appears to be the only possibility, and a spurious one at that, because the Germans did not acquire any land in the Protectorate by the act of occupation in 1884 and thus had no land to dispose of before 1896 when the so-called Crown Land was declared.

Crown Land

The idea of creating Crown Land had been brought up in 1894 by Governor Zimmerer but its adoption was delayed as the Government was then still consulting the traders especially Woermann and the firm of Jantzen and Thormählen about the matter.[46] When the Decree of 1896 finally introduced Crown Land, stipulations were worked out to regulate its management, occupation and disposal. Most of this land

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45. Article 1. This was land covered by "rights of user created by contract with the Kamerun government".

46. Rudin, op.cit., p. 399. This goes to strengthen the view earlier expressed that most of the decisions of the Kamerun government were in keeping with the wishes of the European traders.

was either sold or leased by the Governor to traders and plantation owners. Where land was sold in the neighbourhood of village settlements, the Decree provided that sufficient land should be left for the use of the native inhabitants to meet their existing needs taking into account future increase in population. Sufficient land was also to be reserved for public purposes including forest reserves. Crown Land and other land which had been disposed of could be compulsorily acquired by the Governor for public purposes[47] against compensation. The Land Decree provided for the appointment of Land Commissions by the Governor to work with Surveyors in the exploration and delimitation of Crown Land.[48] It was thus the task of the Land Commission to determine how much land constituted Crown Land in the Protectorate. Unfortunately, no Land Commission was appointed until six years later, in 1902. It appears that during this six-year period, and even later, rights over large tracts of native land were acquired by the Europeans in an irregular manner. The Land Decree itself had expressly provided fertile ground for such a situation by stipulating in article 12 that as regards areas which the Land Commission had not yet delimited as Crown Land the Governor might with the approval of the imperial Chancellor,[49] authorize individuals and companies

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47. These were enumerated as including roads, railways, canals, telegraph lines and other public works.

48. Land Decree, article 4.

49. The Imperial Chancellor gave the Governor a blanket authorization in this respect in his Order of October 17, 1896, on the execution of the provisions of the 1896 Land Decree.

to enter agreements with possible owners and other parties concerned regarding the cession of land in these areas and to occupy this land provisionally as herrenlos land. It follows from this provision that those Europeans who wanted to acquire rights in land in areas where the Land Commission had not started its work, had to do the work of the Commission in order to ascertain existing rights in the land and finally to decide whether or not the land was herrenlos land. It is doubtful whether the Governor himself expected the traders who were interested in acquiring this land for commercial gain to report fairly on any points capable of militating against their business interests.

Puttkamer,[50] who was the German Governor in Kamerun when the Land Decree was passed was one of those Governors who paid more attention to the interests of the traders and cared little about the native inhabitants of the Protectorate. Though his tenure of office was the longest of all the German Governors his views often conflicted with those of the German government. Even though the Imperial Chancellor by his Order of October 17, 1896, suggested that a cautious and friendly approach be adopted in converting native land into Crown Land, Puttkamer was quoted as having categorically stated that the natives owned only the lands they cultivated.[51] In the Protectorate he was often in conflict with the missions

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50. Governor of Kamerun, 1895-1907.

51. Rudin, op.cit., p. 403.

which fought for the preservation of the rights of the natives in land. The missions pointed out to the Governor that the natives needed much more land than that which they had under cultivation at any given time by reason of their methods of agriculture in moving from one cultivated area to another. This meant that land ought to be allotted to the natives on this basis rather than on the basis of scientific agriculture. The missions worked through the Colonial Council in Germany in its efforts to help the natives win back their land rights. Some members of the Council like Staudinger, Vietor and Vohsen were in sympathy with the views of the missions.[52] The Reichstag for its part, became interested in investigating further into the land needs of the natives especially after the grants of the giant concessions to the Gesellschaft Süd-Kamerun and the Gesellschaft Nordwest-Kamerun became known and appeared to have been effected without considering the interests of the natives.

The Land Commissions

Through the efforts of the missions the first Land Commission was appointed in 1902. It began work in the plantation region near Mount Cameroon by exploring the land to determine the land needs of the native inhabitants and to fix the boundaries between the land held by the Europeans and that held by the natives. From 1903, the Governor ordered that the missions were to be represented on the Land Commission

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52. Vietor had carried on trade in Kamerun some years back.

working in the Mount Cameroon area. It was not until 1904, that Land Commissions were formed in all the other administrative districts throughout the Protectorate. By this time, most of the herrenlos land in Kamerun had been alienated. The Land Commissions were ill-equipped for their work because of shortage of personnel and in any case there was little land left that could be salvaged for the natives. The land problem was aggravated by the attitude of some of the Commissions which were accused in 1904 by the head of the Basel mission of favouring the plantation owners. The Governor was also dissatisfied with the work of the Commissions but for a different reason. He thought that they could have been greatly improved but for the presence of the missionaries whom he saw as obstacles to the efficiency of the Commissions.

When the German Imperial Government became aware of the magnitude of the damage that had been done to the land rights of the native inhabitants of the Protectorate by its land policy, it attempted to water down the effects of the system obtaining in the territory but these attempts were more or less constantly thwarted by the government in Kamerun which was itself faced with the dilemma of striking an acceptable balance between the interests of the natives and those of the traders who were footing a considerable fraction of the bill involved in running the government of the Protectorate. The question may be asked here whether anything could be said in favour of the policy of creating Crown Land under the 1896 Land Decree. The German administration had from the outset been interested in preventing speculation in native land and thought that the best way out was to

expropriate all the land which the natives were not living and farming on by June 15, 1896. Even if one agrees with the Germans that this was the only way to stem land speculation, one must also point out that they were obliged by treaty to respect the customary land rights of the natives by adequately compensating them for what they had lost as a result of the expropriation. The effects of the German land policy in Kamerun may also be gauged by the reactions of two coastal tribes, the Duala and the Bakweri, which were most adversely affected by this policy.

The Duala land question

The land problem in Duala reached boiling point in 1913, when the Kamerun government started to implement a decision taken in 1910 to move the inhabitants of the four villages of which Duala consisted[53] from the banks of the Wuri to new sites a few miles away. The government planned to build a model European town in the area to be vacated.[54] It has already been argued that the act of seizing the land of the native inhabitants without paying compensation to them violated the treaty of annexation by which the Germans had agreed not to interfere with the rights of the natives over their land. The compensation offered by the Germans was rejected by the natives as insufficient.[55] The Kamerun government refused to pay the rate of three marks per square metre of land demanded by the natives arguing that the increased value of the land had been due to European activity.

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53. Bell, Akwa, Joss (Deido) and Hickory (Bonaberi).
54. Such a plan was indeed carried out in Bonaberi across the Wuri.
55. The offer was to pay 90 pfennig per square metre of land.

The Duala people, for their part, pointed out that many of them had given up trading in the interior areas of the Protectorate to take up cocoa cultivation and fishing at the request of the government as by their trading activities they competed with the concession companies.[56] In the face of these protests, the government went ahead with its plans and obliged the natives of one of the villages (Joss) at gun point to move into the settlement built for them. It was the outbreak of the First World War that prevented the government from forcing out the natives of the three other villages.

Petition to the Reichstag

In 1914, the Duala people petitioned the Reichstag about the expropriation of their land by the Kamerun government. They engaged counsel in the person of Halpert to argue their case before the German Parliament. On March 18, 1914, the Budget Commission of the Reichstag requested the Kamerun government to explain the circumstances under which the land of the Duala people was expropriated. The Kamerun government replied in May but the Reichstag was prevented by the outbreak of the First World War in August from continuing with the case of the Duala people. Back in Kamerun and whilst their petition was still receiving the attention of the Reichstag, the Duala people represented by King Bell sought military help from the Sultan of Fumban for the purpose of recovering

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56. Buell, op.cit., p. 341.

the land seized by the government. The question of turning to Britain for help in this regard was also discussed. As a result of these moves King Bell was accused of treason, tried and executed in 1914 before the outbreak of war.

The Bakweri land problem

The subjugation of the Bakweri by the Germans might have come only at a later date if a missionary had not reported to the government that the Bakweri were subjecting suspected criminals to the sasswood ordeal. After defeating the Bakweri militarily and finding the climate in the area better than that of Duala, the Germans moved their capital from the latter town to Buea. The land around the foot of the mountain proved to be fertile and because of this, the provisions of the 1896 Land Decree were strictly applied to the Bakweri lands which the Germans wanted for plantations. The native inhabitants were systematically moved into reservats created by the Germans as their settlements were declared Crown Land. Although the Land Decree required that Crown Land should be declared only over areas not in the occupation of the natives, it was still found necessary to move them because they lived in greatly dispersed villages. Scientific agriculture could not have been carried out in the areas declared Crown Land without moving the natives as this land would have constituted a number of scattered plots dotted between the villages. It has earlier been stated that the Bakweri complained that the land given them in the German reservats was insufficient for their needs. The missions also shared this view. Another complaint was that only the

non-fertile land was given to the natives. The Basel mission was instrumental in exposing the ill-effects of the land tenure practices of the Kamerun government to the Imperial German government and the German public. As earlier stated, complaints from the Protectorate about these practices caused the Imperial German Government to send a visiting mission to the territory to study the land problem. In a recently prepared memorandum, the Bakweri stated that it was after the visit of this mission to the territory that Puttkamer was recalled to Germany and dismissed.[57] This document also pointed out one of the worst effects of the German land policy which is alive to this day. This statement in reference to the Bakweri is that:

> ".... there is no doubt that their relegation to reserves has to a large extent made them lose interest in life, as is demonstrated by the dilapidated state of their houses and their neglect of most sanitary measures in spite of years of culture contact with Europeans".[58]

A total of five categories of land were in existence in Kamerun at the close of the period of German rule. These were free-hold, leasehold, Crown Land, reservats and in most of the hinterland areas of the territory where the effects of the German land policy were least felt, native lands.[59] The next chapter discusses the period of British administration.

57. Memorandum on the Bakweri land problem, September 17, 1972, p. 7.

58. Ibid., p. 13. This statement is attributed by the authors of the memorandum to the report of the United Nations visiting mission to the Cameroons in 1949; U.N. document No. T/461. Unfortunately the present author could not find this document as it was (March 1979) listed as missing at the British library.

59. The German land legislation was applied strictly only in the coastal areas of Kamerun where land was required by the Germans for plantations. The hinterland areas were not as fertile and the added difficulty of having to transport the products to the coast for shipment also militated against setting up plantations on a large scale in the hinterlands.

CHAPTER EIGHT

THE PERIOD OF BRITISH ADMINISTRATION

Introduction

It was stated in the introductory chapter of this work that when the Germans left Cameroon, Britain and France set up a joint administration in the territory under an agreement of September, 1915.[1] This joint administration was shortlived, for the two parties partitioned their respective spheres of interest on March 4, 1916. Germany formally renounced her suzerainty over Kamerun by appending its signature to the Treaty of Versailles concluded on June 28, 1919. Although the Supreme Allied Council had on May 7, 1919, allocated the various German overseas territories to their respective conquerors, the status of Cameroon like that of Togo was left to be settled by Britain and France. Negotiations between these two parties resulted in the Declaration of London of July 10, 1919,[2] by which Cameroon and Togo were to be administered under the League of Nations Mandate. The Declaration of London was in effect a ratification of the Franco-British accord of March 4, 1916.[3]

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1. Le Vine, The Cameroons from mandate to independence, Los Angeles, 1964, p. 32; Buell, The Native problem in Africa, Harvard, 1928, Vol. 2, p. 277.

2. Public Record Office, document No. C.O./649/25/N.4604, pp. 6-8, see appendix VII.

3. Buell, op.cit., p. 277.

The mandates for the two Cameroons were confirmed by the Council of League of Nations on July, 20, 1922.[4]

Purpose of the Mandates System

Under the mandates system, the Mandatory Powers agreed to administer the mandated territories under the supervision of the League of Nations. This supervision was entrusted to the Permanent Mandates Commission. Prior to the setting up of the League of Nations European countries had acquired territories overseas. Since the League of Nations did not abolish colonies, the question may be asked why the Mandatory Powers were not allowed to annex the former German overseas territories and administer them as their colonies. The answer to this question is contained in a statement made by M. Rappard[5] at the first meeting of the Permanent Mandates Commission held in Geneva on October 4, 1921. He stated that those countries whose former overseas territories were subsequently placed under mandate had been accused of maladministration and abuses of every kind. He added that a hope of freedom had been kindled in the people of these former colonies and it was thus not only unwise but also undesirable to return to the former position.

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4. Le Vine and Nye, op.cit., p. 74.

5. This statement was made at the request of the Chairman of the Commission, the Marquis Theodoli of Italy, who asked M. Rappard to make a general statement on the mandates question.

The British Mandate for the Cameroons[6]

The mandate enjoined Britain to assume the responsibility for peace, order and good government of the British Cameroons and to promote to the utmost the material and moral well-being as well as the social progress of its inhabitants.[7] The mandate in its fifth article required the Mandatory Power to take native laws and customs into consideration in framing laws relating to the holding or transfer of land and also to respect the rights and safeguard the interests of the native inhabitants. Article 9 empowered Britain not only to enact and administer legislation for the Cameroons but also to apply its laws in the area, subject to modifications required by local conditions. This article also allowed Britain to administer the Cameroons as an integral part of its territory. This very article, apart from permitting Britain to administer the Cameroons as an integral part of British territory, also put Britain at liberty to constitute the mandated territory into a customs, fiscal or administrative union or federation with its adjacent territories. It is arguable that Britain acted in excess and beyond the latter provision by passing the British Cameroons Order-in-council of June 26, 1923, which enabled it to administer the Cameroons as if it had become an integral part of Nigeria. This Order-in-Council was criticised by the Germans and the French, who were of the

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6. This mandate was confirmed by the Council of League of Nations on July 20, 1922.

7. The British mandate for the Cameroons, article 2.

opinion that under the pretext of the necessities of administration in the territory under mandate, the Mandatory Power was gradually turning the territory into what was in reality a colony.[8] This issue was discussed by the Permanent Mandates Commission and Lord Lugard pointed out that the British administration in the territory had in one of its reports to the League of Nations described certain districts in the Cameroons as having become an integral part of Northern Nigeria, adding that this violated article 9 of the mandate. It appears from the minutes of the Permanent Mandates Commission that Mr. Tomlinson, who was the accredited British representative to this body, was not asked to clarify the issue raised by Lord Lugard. Instead, the Chairman of the Commission expressly declined to reproach Britain on the matter, arguing that the Treaty of Versailles had in various respects granted a certain amount of latitude to the Mandatory Powers in the exercise of their mandate. This view is untenable inasmuchas the Mandatory Power acted in violation of any of the provisions of either the Treaty of Versailles, article 22 of which is in point here. The last paragraph of this article states that

> "the degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the members of the League, be explicitly defined in each case by the Council".

The peculiarity here is that, unlike the mandate agreements for the other territories, that of the Cameroons was drafted

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8. This criticism was according to the Permanent Mandates Commission made by the German and French press; cf., minutes of the Permanent Mandates Commission, 4th session.

by Britain and the League of Nations merely rubber-stamped it. It is thus arguable that this document, coming later in time than the Treaty of Versailles, superseded those of its provisions which conflicted with it. In other words, the impugned provisions of article 22 of the Treaty of Versailles could not stand in the light of article 9 of the British mandate for the Cameroons. This is a formidable argument, but the situation must be looked at in the light of the whole system of international supervision introduced by the League of Nations to oversee the administration of the territories surrendered by Germany in favour of the Allied Powers. The Chairman of the Permanent Mandates Commission was probably more concerned with maintaining a working and cordial relationship with Britain, so long as the British administration did not administer one of its mandates as a colony in disguise, than with the complaints of the French and German press. He probably did not rate highly the likelihood that Britain's attitude in the Cameroons might set a precedent capable of undermining the very purpose and intent of the mandates system. The Chairman was probably also influenced by the fact that Britain held 9 out of 14 of the mandates established by the League of Nations, and the allegations directed against Britain concerned only one of these 9 mandates. A word should be said at this juncture about the nature of the rights which Britain was to exercise in respect of German property in the British Cameroons. Two articles of the Treaty of Versailles, namely articles 120 and 257, regulated the fate of ex-enemy property in the mandated territory. Article 120 provided that -

> "all movable and immovable property in such territories, that is, former German overseas territories belonging to the German Empire or to any German state shall pass to the Government exercising authority over such territories on the terms laid down in article 257".

Article 257 itself provided inter alia that ;

> "all property and possessions belonging to the German Empire or to the German State and situated in such territories shall be transferred with the territories to the Mandated Power in its capacity as such".

Since by the terms of article 120, the movable and immovable property passed not to Britain as a State but to the British administration in the Cameroons, it followed that there had not been any cession of the full proprietorship of the property in question in favour of the Mandatory Power. This view is confirmed by the terms of article 257 which clearly stated that the properties in the mandated territories should be transferred to the Mandatory Powers in their capacity as such. This provision certainly does not imply or suggest that the signatories to the Treaty of Versailles could have intended that the Mandatory Powers were being granted private proprietary rights in the ex-enemy property as such would imply an annexation pure and simple of these territories. In other words, what was transferred to the Mandatory Powers was the right to administer the property left in the former German overseas territories and not the right of proprietorship. This interpretation finds support in a statement made by the Permanent Mandates Commission that what had been passed or transferred by virtue of articles 120 and 257 to the governments exercising authority over the territories under mandate in their capacity of Mandatory Powers had been transferred without alienation; neither the territories nor the

rights and the property and possessions of the German State were to vest in the Mandatory Powers. Both the territories under mandate and the ex-enemy property therein were to be placed at the disposal of the Mandatory Powers in their capacity as managers - a capacity which they acquired in consequence of their appointment to administer the territories under mandate, and in order that they might be able to accomplish the task entrusted to them.[9]

Beginning of British Administration

When the British took over the Cameroons, it was necessary in connection with land tenure to examine the German records in order to ascertain questions of title to land and the conditions under which these titles had been held under the German administration. These records were incomplete, as many had been destroyed or lost during the First World War. The German Grundbuch (land register) was however found by the French authorities in Duala, who placed it at the disposal of British officials in the Cameroons.[10] From the Grundbuch and other records the British administration discovered that most of the German titles to land in the territory had been irregularly acquired but were nevertheless recognised by the government of German

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9. Minutes of the Permanent Mandates Commission, first session, October 4-8, 1921, pp. 195-196.

10. Cameroons Report, 1921, paragraph 49.

Kamerun.[11] The British administration thereupon decided to vest the ex-enemy private properties in a Public Custodian. These properties were later put on sale in 1922. The sale was to be by public auction in London on October 11-12, 1922. By the terms of this auction sale, reserve prices were put on the properties and German nationals and their agents were forbidden to bid.[12] The fact that the titles to some of these ex-enemy properties were impeachable did not deter the British administration from including them in those put up for sale.

Title to the Ex-enemy Properties

As just stated, some of the ex-enemy properties in the Cameroons were acquired by the Germans rather irregularly. So far as these properties were concerned, the titles vested in the Public Custodian were defective and the British administration who effected the sales of these properties in the name of the Custodian could not thus pass to the purchasers titles better than those vested in the Custodian. A better and more just course would have been to return those lands over which no proper titles could be established to the native inhabitants of the areas where these lands were situated, in the light of the many complaints by these natives about the irregular methods by which the Germans

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11. Loc.cit.

12. See Appendix VIII.

had acquired them. The British administration preferred to try to sell all the properties and was prepared to assure prospective purchasers that no effort was to be spared to grant them good titles. This is evident from a reply by the British Colonial Office to a request made by a British official in the Cameroons on behalf of a British firm, Alsop, Stevens Crooks and Company, as to the security of title to the ex-enemy properties in the Cameroons.[13] In this letter, dated November 17, 1922, a Colonial Office official stated that:

> "..... I do not think we should be drawn into making any answer than that every effort will be made to grant purchasers good titles, as we have said before to enquiries as to the validity of titles if the mandate is revoked".

The British administration was surprised that at the 1922 auction sale, only a few of the properties put up for sale were purchased. In a letter written by the auctioneers of these properties, Messrs. Hampton and Company, to the British administration in the Cameroons, the sale was described as a total failure, Messrs. Hampton stated:

> "... As you are aware, we did not contemplate it for one instant that the present sale could have proved such a fiasco as it has, and for us the business at present means a considerable loss. We take it, however, the properties will be left in our hands for sale, and whatever form it is decided to pursue in the future but we shall obtain renewed instructions and thus have an opportunity to reap some reward for our services, even though we may to an extent have to do our work twice over."[14]

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13. Public Record Office, document No. C.O./649/26, Vol.3. p.1.

14. Public Record Office, document No. C.O.649/86/04656,p.4.

In order to evaluate the substance of the allegations about the validity of the titles to the ex-enemy properties in the Cameroons, the Under Secretary of State at the Colonial Office wrote to the Solicitors who were handling the title deeds of these properties. In a reply dated February 10, 1922, the Solicitors, Messrs Burchells, stated:

> "We have had several interviews with Mr. Evans, who has left us with a large box full of documents, which we have now gone carefully through. We gather from these that the titles to the various properties are in a state of extreme confusion. Some are entered in the Official register, but many are not, and there are great discrepancies between the entries in the register and the descriptions of the estates. In our judgment, there will be great difficulty in disposing of these properties under the German titles, many of which contain restrictions in favour of the German government, and most of which contain a prohibition against alienation in favour of any but a German subject".[15]

In reply to an earlier enquiry as to these titles by the Secretary of State for the Colonies, the Governor of Nigeria stated in a letter dated August 23, 1921,[16] that he had been informed by British Officials in the Cameroons that in several cases the titles to the properties which were to be put up for sale were missing and it was not anticipated that any more information as to titles was forthcoming from Buea. The Governor then suggested that although a clear title could be provided by means of a proclamation, it would be difficult to state when putting up the properties for sale, whether it was the freehold or the leasehold that was being disposed of.

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15. Ibid., No. C.O. 649/26/04656, p.1.

16. Ibid., No. C.O. 649/22/04580, pp. 1-5.

This difficulty was likely substantially to affect not only the price which might be offered, but also consideration of the question whether or not such a price was reasonable as the British administration had instructed the auctioneers not to dispose of the properties if the prices offered were not regarded as reasonable. Even the question of title to a large area of land in the north-west corner of the Cameroons which was granted by the German administration to the Gesellschasft Nordwest-Kamerun was not free from doubt. In this same letter, the Governor of Nigeria stated in this connection that:

> "... the company obtained a concession from the German government in 1899 which became the subject of continuous litigation between the concessionnaires and the State-litigation which was not brought to a final issue before the outbreak of war and on the information that this government has, so far, been able to obtain there is no defined property that can be put up for sale".[17]

Some members of the Permanent Mandates Commission also thought that the difficulty encountered in disposing of the properties in the Cameroons was due to the fact that the titles thereto were not unimpeachable. Lord Lugard stated in a note he submitted to this body on July 23, 1923 that he had personal knowledge of the situation in the British Cameroons where the precarious nature of the titles to property has been the direct cause of the difficulty experienced in finding a market for them. A Swedish national, one Mr. Knut Knutson, wrote from Stockholm on September 20, 1922, to the Auctioneers of the ex-enemy properties, Messrs. Hampton, stating that he held

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17. Letter of August 23, 1921, p.2.

better titles to some of the properties which were to be sold by public auction in London on October 11 and 12, 1922. Mr. Knutson described the properties over which he claimed title as "Bibundi freehold No. 2 and Oechelhausen freehold No.3,[18] contained in the catalogue of properties advertised for sale, and stated categorically that he bought these properties in the Cameroons in 1885 and still held the title deeds thereto. He then argued that the British administration could not validly dispose of these properties as his title thereto was better than any which the administration could ever establish.[19] It is submitted that since Mr. Knutson was not of German nationality his property should not have been seized along with that of Germans. If the decision taken by the British administration was to sequestrate all titles of German origin, it appears that it is a misnomer to style all these properties "ex-enemy properties". Since only a few of the properties put up for sale in 1922 could find purchasers, the British administration decided to modify the terms by which the properties were to be readvertised for sale. It was decided to conduct a second auction sale on November 24-25, 1924, and the restriction on ex-enemy nationals was lifted and there were to be no reserve prices this time.[20] This meant that the former proprietors of the plantations could repurchase them and return to the Cameroons and continue to manage them. The British press and public reacted with disapproval to this liberal attitude of the British government.

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18. See appendix VIII.

19. Public Record Office, document No. C.O. 649/26/04656; see pp. 240-242 supra.

20. See appendix IX.

Reaction of the British press and public

The Morning Post, which was in the forefront of the British newspapers which argued against the British government's decision expressed the view in its issue of November 4, 1924, that if German influence once again predominated amongst the white population of the Cameroons and Germany became a member of the League of Nations, Britain might be urged to surrender its mandate over the Cameroons. The Morning Post also pointed out in its editorial that:

> "... in the forthcoming sale, the removal of the reserve on the prices may be necessary for economic reasons, but it is amazing that any British government could be so lacking in a sense of what is due to the country's sacrifices in the war, so blind to commercial interests and to the opportunity of helping British subjects who cannot find work in this country and so indifferent to strategical needs as to allow Germany to get the thin end of a wedge back into her colony through this removal of the restriction on ex-enemy purchasers".

This same newspaper on November 5, 1924, again carried an article which expressed the concern of some Liverpool merchants who had business interests in the Cameroons. They were of the opinion that to allow the Germans to compete for the plantations would tend, to say the least, to create unrest, and might easily be inimical to British trading interests. These merchants also pointed out that it seemed likely that if Britain disposed of the plantations to the Germans it would not be on the best terms. They blamed the British government for imposing stringent terms on the sale of these properties in 1922, thereby defeating the objects of the British traders; and they still blamed the

government for having gone to the other extreme in 1924. Sir Harry Johnston[21], a former British colonial Governor and historian, expressed the view that a revision of the terms by which these properties were to be disposed of would harm the Imperial prestige of Britain immensely. He however thought that the question of title to these estates was quite a different matter and that he saw no justification whatsoever for allowing ex-enemy nationals to acquire these properties in freehold. He suggested that they should now be leased and not sold in freehold. In an interview published by the Sunday Times on November 10, 1924, Major-General W.H. Grey, said that the British administration was wrong to allow ex-enemy nationals to bid for the properties. He suggested that an enquiry should be made as to whether the best policy in the long run would not be to hand back these lands to the native inhabitants of the Cameroons, to be cultivated by them in exactly the same way as the native inhabitants of those countries like Nigeria and the Gold Coast (Ghana), who were left proprietors and cultivators of the soil. This view appeared to find favour amongst other members of the British public one of whom stated in an article published in the Morning Post of November 7, 1924, that British policy throughout West Africa for a long time past, had been to leave the land in the possession of the African races whose members were left free to get the most

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21. Morning Post, November 5, 1924, P.R.O. document No. 649/29/04656.

out of their land. British Officials in the territory have made statements on at least one occasion which indicate that this policy could possibly have worked if it had been tried in the Cameroons at that time. Twelve years after disposing of the ex-enemy lands in the Cameroons, the British administration in the territory reported that:

> "... it will be seen from this survey of the general position that native custom in itself provides adequate security for the individual villager to grow permanent crops of economic value and indeed in the Victoria, Kumba and Mamfe divisions this security has enabled large crops of cocoa to be raised for export".[22]

Nevertheless, the British administration was undaunted and refused to be persuaded to lift the ban thus enabling the ex-enemy nationals to repurchase their properties in the Cameroons. The British government however assured its public that British business interests in the Cameroons were unlikely to be jeopardized by the liberal attitude. The Daily Mail, of November 7, 1924, published a statement by the then Colonial Secretary to the effect that the decision taken by the British government was because of the government's desire to get as much money as possible for the properties in the interests of British nationals. He pointed out that the money was to go towards the payment to British subjects of debts owed to them by the Germans. The Colonial Secretary also stated that, by the terms of the mandate given by the Leage of Nations, it was not allowed to give British subjects special advantages. This explanation from the Colonial Secretary was intended to correct the erroneous impression created by the press which had assumed that as a Mandatory

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22. Cameroons Report, 1936, p. 124.

Power Britain had proprietary rights in the ex-enemy properties in the Cameroons. The position was further clarified by a British member of the Permanent Mandates Commission and former Governor of Nigeria, Lord Lugard, in a paper which he presented to the Royal Society of Arts on June 2, 1924 in London. Lord Lugard pointed out that, under article 260 of the Treaty of Versailles, Germany was called upon to indemnify her nationals who possessed any rights or interests in her former colonies - their value being credited to the reparations account. The ex-enemy estates were not therefore the property of the Mandatory Power. They were, however, like any other property, subject to taxes due to the territory under mandate, and no preferential treatment in respect of labour supply or otherwise could be accorded to them even though retained by the Mandatory Power. The latter, Lord Lugard continued, intended to dispose of these properties and intended to apply in generous measure the spirit of the "equal commercial opportunity" of the Treaty of Versailles.

The sale of the ex-enemy properties did take place on November 24, and 25, 1924, under the modified terms. The second sale was more successful and almost all the properties were disposed of. Most of them were repurchased by their former German proprietors, who returned to the Cameroons to manage them. A few however were purchased by British nationals. It was pointed out in the last chapter that most of the ex-enemy properties in the Cameroons were not surveyed and it was thus not possible to determine with any degree of accuracy the sizes and boundaries of these

properties.[23] It was also noted that the survey teams which were appointed by virtue of the "All-Highest" German Land Decree of 1896 did not carry out any extensive survey operations in German Kamerun before the outbreak of the First World War. Although a few of the estates were surveyed, these surveys were carried out hurriedly on the instructions of Puttkamer, the German Governor in Kamerun,[24] who was then expecting a visiting mission of the Imperial German government sent to investigate allegations by the native inhabitants of Kamerun that the Germans in the territory had seized their lands. These hurried surveys, on which the boundaries of the German estates were based, could not have been carried out properly. When the purchasers of the ex-enemy estates arrived in the Cameroons to manage them they found that there were native settlements in the estates, most of which had been created by the German administration. This state of affairs revived the conflict between the plantation owners and the native inhabitants of the areas where these plantations were situated. The natives had been moved into the reservats by the German administration which had, by implementing its Land Decree of 1896, declared areas in the occupation of the natives to be Crown Land. Some of the German plantation companies had protested to the German administration that some of the areas where the latter established native reservats had already been sold to them by the natives.

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23. See page 245, supra.

24. Puttkamer was Governor of German Kamerun from 1895-1907.

The rights of these companies over the areas in question had been recognised and registered by the German administration, which had issued certificates of title to evidence them. In many cases the German administration had put itself in a position where it could not compel the plantation companies to allow the natives to settle in the reservats over which the plantation companies claimed full property rights recognised by the German administration. This quandary, which had characterised the land tenure position for most of the German era in the territory, had not been corrected by the time Britain took over the charge of administering it. The British administration in an attempt to solve the enormous land tenure problems thus existing in the territory, passed a number of Ordinances which must now be analysed.

British-inspired land legislation

When the British formally took over the administration of the Cameroons in 1922[25] this administration had to study the German records in order to ascertain the basis of the existing German titles and rights in land before enacting legislation in order to put the land tenure situation in a better perspective. It was thus not until three years later that the British administration decided what land legislation to introduce in the territory. By the British Cameroons Administrative Ordinance, No. 1, 1925, the

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25. This was under the terms of the British mandate for the Cameroons confirmed by the Council of the League of Nations on July 20, 1922.

British administration applied the land laws of the Southern Provinces of Nigeria to the Cameroons Province.[26] Two years later the British administration changed its mind and decided instead to introduce an entirely new Land Ordinance into the Cameroons. An Ordinance was thus passed providing for the extension of the Land and Native Rights Ordinance which was then in application in Northern Nigeria and the other northern half of the Cameroons called the Sardauna Province.[27] This Ordinance, so far as the Cameroons Province was concerned superseded the Native Lands Acquisition Ordinance of Southern Nigeria and all regulations made under it. By applying the Land and Native Rights Ordinance to the Cameroons Province, the territory became linked to Northern Nigeria with regard to land tenure but the administrative link with the Southern Provinces of Nigeria was maintained.

Two reasons have been advanced for applying the Land and Native Rights Ordinance to the Cameroons Province.[28] The first was expressed as the need to harmonise the land legislation in the two contiguous territories (the Cameroons Province and the Sardauna Province) which made up the British Cameroons. It is submitted that this reason has little to commend it because harmonisation could still have been

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26. These included: The Native Lands Acquisition Ordinance, 1917; The Crown Lands Ordinance, 1918; The Land Registration Ord., 1915 (later superseded by that of 1925); The Land (Perpetual Succession Ordinance, Laws of Nigeria, 1958, Cap. 98.

27. The British Cameroons Administration (Amendment) Ordinance No. 1, 1927.

28. Cameroons Report, 1926, paragraph 297.

achieved the other way round, by applying the land legislation of the Southern Provinces of Nigeria to the Sardauna Province. The second reason was that the British administration found it impracticable to reconcile the working of the land legislation of the Southern Provinces of Nigeria with certain conditions which had developed in the Cameroons prior to the advent of British administration. Not all the areas declared Crown Land in the Cameroons by the Germans had been demarcated, and the task of declaring Crown Land had by no means been completed by the time of the British take-over. The Germans had been caught in the middle of the process of declaring and de-limiting Crown Land by the outbreak of the First World War. The British administration was thus faced with the task of sorting out the so-called lands without a master and of demarcating and administering them as Crown Land. Until this exercise was completed, there could be no security of tenure beyond those areas which had been demarcated as Crown Land by the Germans. It was pointed out by E.J. Arnett, the Resident of the Cameroons, that until all the lands without a master had been demarcated as Crown Land, a lease under the Native Lands Acquisition Ordinance could not be issued until a title to the land acquired by the lease had been established. The Land and Native Rights Ordinance, which declared all lands whether occupied or not to be native lands, was thought to solve these problems. E. J. Arnett wrote to the Secretary to the government of the Southern Provinces of Nigeria in November, 1925, suggesting to the

latter that most of the land problems in the Cameroons could be solved by applying to the territory an Ordinance modelled on the Land and Native Rights Ordinance. These views might be right but they were open to the objection that their implementation amounted to trying to tackle purely Cameroonian problems with solutions which had been worked out to solve problems existing in Northern Nigeria. The Northern Nigeria Lands Committee, whose recommendations eventually gave birth to the Land and Native Rights Ordinance[29] had been appointed to study the land tenure problems then existing in Northern Nigeria. These problems were different from those which the Germans had created in the Cameroons. The British administration ought to have appointed a Committee to study the land tenure problems in the Cameroons and suggest appropriate measures to solve them. The decision to apply the Land and Native Rights Ordinance of Northern Nigeria to the Cameroons was tantamount to looking at a Cameroonian situation with Nigerian spectacles.

The Land and Native Rights Ordinance

Effect was given to the views of the British Officials in the Cameroons in 1927 when, as earlier stated, the Land and Native Rights Ordinance of Northern Nigeria was extended to

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29. These recommendations were approved by the Secretary of State for the Colonies and were embodied in the Land and Native Rights Proclamation of Northern Nigeria, No. 9, 1910, which was later revised and re-enacted by the Land and Native Rights Ordinance, No. 1, 1916.

the Cameroons.[30] The Ordinance, which constituted all lands in the territory into native lands, was intended to assure, protect and preserve the then existing customary rights of the natives of the Cameroons and also to define the rights and obligations of government and other persons claiming to have an interest in land in the territory. The Ordinance also aimed at preserving so far as possible the existing native customs with regard to the use and occupation of land.[31]

Highest interest under the Ordinance

Under the Land and Native Rights Ordinance, the highest interest that could be enjoyed in land in the British Cameroons was a "right of occupancy." This interest was defined by the Ordinance in section 2 as "a title to the use and occupation of land and includes the title of a native or native community lawfully using or occupying land in accordance with native law and custom, but does not include a licence granted under section 26 of the Ordinance".[32] This definition, which has given rise to much discussion, has two aspects which require a careful analysis. The first one concerns the title of a non-native to the use and occupation of land, whereas the second one relates to the title of a native or native community lawfully using or occupying land

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30. The Land and Native Rights Ordinance was applied to the Cameroons with effect from February 27, 1927.

31. Preamble to the Ordinance, which is in accordance with the Treaty of Versailles, article 22 and the British mandate for the Cameroons, article 5.

32. Section 26 of the Ordinance regulated mining licences.

under customary law. The title of a non-native was evidenced by a certificate of occupancy issued by the Governor, whereas that of a native or native community resided in the lawful enjoyment of land under customary law. The controversy inherent in the nature of a right of occupancy was that it appeared to equate the title of a native to that of a non-native. This was contrary to the rules of customary law which limited and regulated the enjoyment of rights in land by a non-native or stranger. It was pointed out earlier[33] that strangers had to fulfil certain conditions in order to win the right to enjoy interests in the land of the welcoming group. No provision was made in the Land and Native Rights Ordinance for the consultation of the native inhabitants of the area where a piece of land was situated in order to obtain their consent before the Governor could grant a right of occupancy over such land to a non-native.

The legal title of a native

At the 22nd session of the Permanent Mandates Commission in 1932, Lord Lugard raised the question of the legal title of a native to the land he occupied. This was during a discussion of the annual report of the Cameroons. A right of occupancy could be granted for 99 years and was liable to be revoked by the Governor for good cause.[34]

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33. See page 190, supra.

34. Good cause was defined in section 13 of the Ordinance as non-payment of rent, alienation contrary to the provisions of the Ordinance, requirement of the land for mining or connected purpose, abandonment or non-use of the land for two years not counting fallow periods, breaches of certain specified provisions of the Ordinance.

Lord Lugard's question was whether the rights of the native over his ancestral lands were to determine after 99 years and whether these rights could be revoked by the Governor under section 13 of the Ordinance. This question was pertinent because section one of the Ordinance vested the power of control and disposition of all the lands of the territory whether occupied or not in the Governor. It followed that a native occupying land did so with the consent of the Governor - a consent which was revocable at any time by him or his successors.[35] In the light of section one of the Ordinance, a right of occupancy did not thus confer upon a native or native community any permanent and inalienable title in their ancestral lands.

Some light was thrown on this problem by the Attorney-General of Nigeria, who explained that there were two kinds of "right of Occupancy" in view of the definition of this term in section 2 of the Ordinance.[36] The first kind was a title to the use and occupation of land granted by the Governor, whereas the second was the title of a native community lawfully using or occupying land in accordance with customary law. As regards a right of occupancy of the second kind, the term "lawfully" referred to customary law and did not mean that the Governor must have given his consent under section four of the Ordinance. The second kind of right of occupancy would be valid against everyone

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35. Meek, op.cit., p. 375; Minutes of the P.M.C., 22nd session, 1932, pp. 155-156.

36. Cameroons Report, 1932, paragraph 3.

except the Governor. It should also be noted that the Governor could not under section 5 of the Ordinance deprive any holder of the second type of right of occupancy of his rights unless such deprivation was in accordance with the customary law. The crux of the position thus appeared to be that a native or native community would have a cause of action against the Governor if the right of occupancy inherent in the use and occupation of the native or the native community were revoked otherwise than in accordance with customary law. One may thus conclude that the second type of right of occupancy was a much more secure form of right than the first granted by the Governor to non-natives. This view of the Attorney-General of Nigeria does not appear to have been shared by other British officials in the Cameroons. Mr. Arnett, a former Resident of the Cameroons Province, told the 22nd session of the Permanent Mandates Commission in 1932, in his capacity as the accredited representative of the British government to the Commission that certificates of occupancy granted by the Governor constituted a much more definite instrument than any native tenure. He argued that the mere fact that tenure under the government was evidenced by a document put it in a different category from tenure granted by a Chief. In reply to a question asked by Lord Lugard, Mr. Arnett stated that the native administrations could not revoke grants made by the Governor. They could revoke their own grants for good cause, but the cause might be different from that involved in the case of the government grants. The grounds on which the Governor might cancel a grant were quite definite, as

these were defined in the Land and Native Rights Ordinance. What Mr. Arnett said in effect was that the rights which non-natives could enjoy by virtue of grants made by the Governor were more secure than those enjoyed by the native or native community by virtue of customary law. This view has led to much criticism of the Land and Native Rights Ordinance for reducing the rights of a native or native community in their ancestral lands to mere rights of occupancy of 99 years' duration. The natives themselves were led to the belief that because a grant made by the Governor was evidenced by a document, a certificate of occupancy, this form of grant was more secure than their rights under customary law. It thus follows that the true nature of a right of occupancy was not clear to the minds of the native inhabitants of the Cameroons, for some of them applied for certificates of occupancy to evidence the rights they held in their lands. In 1953, for instance, one Mr. A. E. Joss Agbor, a native of Mamfe Division, applied for a certificate of occupancy for himself and eight villages, one of which he was member. These applications were forwarded by the Acting Resident of the Cameroons Province to the Eastern Regional Lands Officer in Enugu. The Acting Resident made the following comments in a covering letter to the Lands Officer in Enugu:

> "... I doubt whether the Land and Native Rights Ordinance was ever intended to grant rights of occupancy to communities already enjoying customary rights... I think that Mr. Agbor's application springs from a feeling which an ignorance of the Land and Native Rights Ordinance augments... He has not read Lord Lugard, and cannot appreciate that land is held in trust for the benefit of the people, the Governor allowing local rulers to deal according to their own customary law with those land matters affecting only natives, and himself only interfering

> in those land matters affecting non-natives. I would suggest that Mr. Agbor be advised that as the matter concerns native communities, there is no need for certificates of occupancy, particularly as the certificates imply the revocation of all customary rights, the very rights that Mr. Agbor wishes to preserve".[37]

This interpretation of the Land and Native Rights Ordinance is quite different from that of Mr. Arnett, who like the author of this version was also a former Resident of the Cameroons Province. It thus follows that each official interpreted the Ordinance the way he understood it. The Regional Lands Officer in Enugu replied that he would not have objected to granting a few persons certificates of occupancy in place of their customary rights, particularly if improved methods of agriculture were contemplated. He added that he had no intention of granting certificates to whole villages until he knew far more about communal customary rights.[38] A pertinent question as regards the Governor's powers in respect of native lands was how the Governor could exercise a right under customary law. The answer to this question seems to be that the Governor's powers in this respect sprang from the Land and Native Rights Ordinance, under which all lands whether occupied or not in the British Cameroons were declared native lands and vested in him.[39] Another statement made by the Attorney-General of Nigeria further explains the legal nature of the two kinds of right of occupancy with regard to

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37. National Archives, Buea, Letter No. L.1889/10, July 3, 1953.

38. Ibid., Letter No. 4991/10, July 19, 1953.

39. Land and Native Rights Ordinance, section one.

the exercise of the Governor's powers. The Attorney-General supposed in his statement that since lands which had not been individually appropriated could prior to the introduction of the Land and Native Rights Ordinance be assigned to strangers by the native community of the area where the land was situated, he thought that, in view of the Ordinance, the Governor could himself exercise that right. This again is by virtue of the vesting in the Governor of all the native lands in the Cameroons. The Land and Native Rights Ordinance by the same token took away the rights of the native inhabitants freely to dispose of their land rights as in the past without the consent of the Governor. Even though it is arguable that the tenure of the native inhabitants of the Cameroons was secure, since the Governor could not deprive them of their land rights other than in keeping with the relevant customary laws, they still suffered the disadvantage that the Land and Native Rights Ordinance did not give them any right to oppose land grants made to non-natives by the Governor. This situation was stated, as earlier mentioned, by Mr. Arnett to the Permanent Mandates Commission in 1932, in terms that the native administrations could not revoke grants made by the Governor.[40] The position was however corrected in 1956, when the British Cameroons, having been renamed the Southern Cameroons in 1954 and been allowed to create its own legislature, amended the Ordinance. This amendment enabled native communities and members thereof to oppose grants made

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40. See page 277, <u>supra</u>.

by the Governor in the High Court of the area where the land in question was situated.[41]

The Germans who had repurchased their plantations and returned to the Cameroons to manage them remained in the territory up to the outbreak of the Second World War in 1939. When the war broke out, these plantations were again sequestrated and, on the conclusion of hostilities in 1945, were purchased as a reparation transaction and declared native lands by Ordinance[42] to be held by the Governor of Nigeria for the use and common benefit of the inhabitants of the Cameroons as a whole, which Britain continued to administer but this time as a trust territory under a Trusteeship Agreement with the United Nations Organization. In furtherance of the purpose for which these lands became vested in the Governor of Nigeria, the Governor was empowered to grant leases of the lands to a corporation to be formed to manage them.

The Cameroons Development Corporation

The Cameroons Development Corporation (C.D.C.) was created by Ordinance[43] for the declared purpose of developing the resources of the ex-enemy lands for the common benefit of the inhabitants of the trust territory and also for providing for the social welfare of its employees. This corporation was thus placed in possession of an area which, at the end of 1950, comprised 252,742 acres of land.[44]

41. Cameroons Report, 1957, paragraph 275.
42. Ex-enemy Lands (Cameroons) Ordinance, No. 38, 1946.
43. Cameroons Development Corporation Ordinance, No. 39, 1946.
44. Meek, op.cit., p. 406.

It meant that not less than one-quarter of the land in Victoria Division was now held by the C.D.C.[45] During the debates in the Nigerian Legislative Council on the Bill to establish the C.D.C., allegations were made that, despite the acquisition of 14,851 acres of land in 1931,[46] the natives residing around the European plantations were still short of land. The land shortage in Victoria Division was during the era of British administration exacerbated by the immigration of C.D.C. plantation workers.[47] A word should be said here about the Bakweri land problem during the period of British administration. The Bakweri people had formed a Committee, as earlier stated,[48] to handle their land shortage problems and to look for solutions thereto in discussions with the government as well as the United Nations.

The Bakweri Land Committee

The Bakweri Land Committee prepared a memorandum outlining Bakweri land problems, which it presented to the United Nations visiting mission to the trust territories in West Africa in 1949[49]. This Committee pointed out inter alia

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45. The total land area of Victoria Division (Fako) is 1,166 square miles.

46. This land was purchased from the plantation companies by the British administration and handed back to some of the native inhabitants of the Cameroons.

47. The C.D.C. labour force in the 1930s was 16,000, of whom 9,515 were immigrants.

48. See page 220 supra, footnote No. 13.

49. United Nations, document No. T/PET. 4/3 Add.4, November 3, 1949.

that the oppressive methods pursued by the Germans in formulating theories like those contained in the "All-Highest" Land Decree of June 15, 1896, went contrary to the rules of Bakweri customary land law, under which the concept of masterless land was quite foreign. They also pointed out that the policies pursued by the German administration as regards land resulted in the Bakweri losing almost all their arable land to the Germans and being forced into native reservats created by the latter. They also claimed that the land bought back from the plantation companies and handed back to the Bakweri was insufficient fully to alleviate their land shortage. The United Nations mission was also told that, out of a total arable land area in Victoria Division of 634 square miles, only 134 square miles including swamps were available to the Bakweri for their farms and dwellings. The Committee argued that it was not proper for the British administration to have vested the ex-enemy lands in a Public Custodian without taking their land needs into account.[50] The administration in the territory took the view that the Bakweri land problem was more apparent than real. This view was arrived at after a study of the problem by the Nigerian Institute of Social and Economic Research. The administration thus concluded that the situation had started to improve with the growth of the cooperative movement and saw the problem as one which lay in the need for a rationalisation of Bakweri land tenure to keep

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50. By 1949, the C.D.C. held a total of 252,766 acres of land in leasehold, while the trading companies held 34,260 acres of land of which 33,907 acres were held in freehold; Cameroons Report, 1948, p.77.

pace with the rapid economic expansion of recent years.[51] Before making a general appraisal of the effects which the period of British administration had on the land tenure situation in the British Cameroons, one other Ordinance will be briefly discussed.

The Land Registration Ordinance

The Land Registration Ordinance, passed in 1924, became operative in Nigeria and the Cameroons on January 1, 1925. The preamble to this Ordinance stated that it was enacted to consolidate and amend the law relating to the registration of instruments and the filing of judgments affecting land. It thus follows that it was a misnomer to have given this Ordinance the name it bore, as it was not intended to deal with the registration of title to land but merely with the registration of instruments evidencing transactions affecting interests in land.[52] The Ordinance provided for the registration of instruments executed after its commencement and also for the registration of every instrument executed before the commencement of the Ordinance but which was not already registered. The term "instrument" was defined as a document affecting land whereby a grantor conferred, transferred, limited, charged or extinguished in favour of a grantee, any right or title to or interest in

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51. Cameroons Report, 1958, pp. 127-128.

52. When Western Nigeria consolidated its laws in 1959, it renamed this Ordinance as the "Instruments Registration Law".

land.[53] An instrument included a Certificate of Purchase and a Power of Attorney but a will was not considered an instrument.

Effect of failure to register an instrument

By section 15 of the Ordinance, no instrument could be pleaded in any court as affecting any interest in land unless the same was registered. In the West Cameroon Court of Appeal decision in the case of Njifornu v. Okwuchi,[54] Endeley J., as he then was, refused to accept a leasehold agreement in evidence, holding that, being a leasehold agreement, the document was an instrument affecting land within the letter and spirit of section 15 of the Land Registration Ordinance, and as it was not registered it violated the provision of section 15 and could neither be pleaded nor given in evidence in any court. The fact of registration of an instrument under the Ordinance merely evidenced a transaction affecting an interest in land. As section 25 of the Ordinance clearly stated, registration did not cure any defect in any instrument or confer upon it any effect or validity which it would not otherwise have had.

Conclusion

The period of German administration saw a policy of carving out large areas of land and ceding them to

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53. Land Registration Ordinance, section 2.

54. W.C.C.A./1969/6/67, unreported.

commercial companies and to individual German plantation owners for the cultivation of cocoa, banana, rubber and oil palm. By 1914, some 264,000 acres of land in Victoria and Kumba had been ceded to these plantation owners by the German administration. The majority of these estates were held under German freehold grants and a few of them were held on lease. By a Proclamation of 1920, No. 25, the Governor of Nigeria was empowered to administer such parts of the Cameroons as were in British occupation and the estates in question were vested in a Public Custodian. The British administration decided to dispose of these ex-enemy estates by auction and to charge the proceeds to the reparations account payable by Germany in accordance with the terms of the Treaty of Versailles. By 1939, most of these estates were in the hands of either German companies or German individuals and much development had taken place in the cultivation of cash crops. On the outbreak of the Second World War, the estates were once more vested in the Custodian of Enemy Property. At the end of the war it was the desire of the British administration that these properties should not revert to private proprietorship but that they should be held and administered for the use and common benefit of the inhabitants of the Cameroons as a whole. In order to implement this decision, the estates were purchased by the British administration in Nigeria from the Custodian, vested in the Governor as native lands, and then leased to the Cameroons Development Corporation. It appears that most of the land problems faced by the British in the Cameroons (problems of German making) could have been greatly reduced if the British administration had from the outset endeavoured to ascertain the validity of the titles of

German creation over these properties before either disposing of them or vesting them in the Public Custodian. If this course of action had been adopted, the British administration would have avoided the embarrassment of having to dispose of estates which turned out in the long run to be less in area than those purportedly sold as described in the title deeds. Secondly, such a measure could have gone a long way in alleviating the land shortage problems of the native inhabitants of the coastal areas of the Cameroons. It would have been a better policy to hand back all estates whose titles contained flaws which were going to pose problems for would-be purchasers. If these estates had been handed back to the native inhabitants, the claims now being made against the C.D.C. lands[55] would have been avoided. Since the holders of the title deeds of areas now included in the C.D.C. lands could not substantiate their root of title, it goes without saying that so far as these particular estates are concerned, the C.D.C. cannot claim that their titles are unimpeachable. One may thus conclude that the claims of these native inhabitants were not entirely without foundation. It was also not a wise decision to vest the ex-enemy properties in the Public Custodian, as the British administration did. A proper course of action at that time would have been to form a corporation on the lines of the present C.D.C. to

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55. Report of the Commission of Inquiry appointed to probe the affairs of the Lands and Surveys Department of West Cameroon, 1967, p. 123. The native inhabitants of the plantation areas argued strongly that the C.D.C. lands were indeed native lands.

manage the plantations, after handing back to the native those lands over which the former holders could not satisfactorily establish title. After all, between 1916, when British administration started in the Cameroons and 1920, when these plantations were vested in the Public Custodian, Mr. Evans, the British administrator of the plantations in the Cameroons successfully managed these plantations at a profit. The C.D.C. plantations which continue to thrive up to the present date, are still being managed on much the same lines and the labour force is supplied by the native inhabitants of Cameroon without the importation of labour from any other country. It thus means that the allegations that the British administration could not run these plantations without difficulty because of labour shortage does not sound convincing.[56] The next chapter will be devoted to finding out how the French administration in Cameroun wrestled with the land tenure problems created in their own sphere of the territory.

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56. The views of the British administration in the territory as regards the possibility of running these plantations with the local labour force was clearly stated in one of the annual reports prepared by this administration and mentioned earlier on at page 267.

CHAPTER NINE

THE PERIOD OF FRENCH ADMINISTRATION

Introduction

The French, like the British, administered their sphere of Cameroon as a mandated and later as a trust territory. Mention has already been made of the fact that, in its allocation of the German overseas territories in 1919, the Supreme Allied Council declared that while other territories should definitely be allocated as mandates, the status of Togo and Cameroon should be settled by negotiations of the British and French governments. The French government interpreted this to mean that Togo and Cameroon could be administered not as mandates but as colonies; that is, that these two territories could be divided up between Britain and France and simply annexed. In a speech in the Chambre des Députés (Chamber of Deputies) on September 7, 1919, M. Simon, the French Minister of Colonies, likened the new Cameroun to a sort of colonial Alsace-Lorraine, and added that it should return to the full sovereignty of France. As for the other territories, the Minister admitted that France was bound by the general obligations of the Treaty of Versailles in article 22. He interpreted these obligations in the case of Cameroun and Togo to mean that France would be obliged merely to give to the members of the League of Nations the benefit of the open door. He also admitted that France would publish a yellow book annually on the administration of these territories. He also added

that the French government would insist upon the right of recruiting the native inhabitants of these territories to serve in Europe, of establishing a customs and administrative union with adjoining territory, and of maintaining entire liberty with regard to public works. Subject to these qualifications, the French government would agree to administer each of the two territories (Cameroun and Togo), without a mandate but in the spirit of the mandate. The chief difference between this form of administration and the mandate proper would apparently be that France would not be responsible to the Council of the League of Nations for the fulfilment of these obligations.[1] As earlier noted,[2] the French government changed its mind and finally agreed that both Cameroun and Togo should be administered under mandate.[3]

French rule and the status of Cameroun

France, like Britain, had established a rudimentary form of administration in its sphere of Cameroun before the confirmation by the Council of the League of Nations of the draft mandate. A Décret of the French President of September 5, 1915, provided for the appointment of a Civil Governor to

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1. Journal Officiel, Chambre des Députés, September 17, 1919, p. 4395.

2. See page 29, supra.

3. Cf., the declaration of London, March 4, 1916.

replace the military Commandant, General Aymerich, who had formerly controlled the local administration. Between then and 1921, Cameroun was administered by this Civil Governor who was under the Governor-General of Equatorial Africa, whose office was based at Brazzaville in the Congo. Unlike Britain, France did not administer its sphere of Cameroun together with any of its neighbouring colonies in Equatorial Africa. Buell expresses the view that it was probably because of the poverty of Equatorial Africa that France thought it contrary to the spirit of the mandate to incorporate Cameroun as a member of that Federation.[4] Whether or not Buell was right depends upon the manner in which France observed the terms of the mandate as a whole. This will however become evident in the course of this chapter. By another Décret of the French President dated March 23, 1921, Cameroun was granted political and financial autonomy and under this enactment the territory was to be administered by a Commissioner with the status of Governor who was no longer directly answerable to the Governor-General in Brazzaville. The French Governor in Cameroun was, from 1921, the depository of the powers of the French President. However, the laws of French Equatorial Africa were applicable in Cameroun, except where they were superseded by a new enactment or where their provisions were inconsistent with the obligations of the mandate.[5]

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4. Buell, The native problem in Africa, p. 279.

5. Rapport du Cameroun, 1924, p. 127.

The French judicial system in Cameroun

Like the German, the French administration also introduced a dual system of courts in Cameroun.[6] There was a set of courts for French citizens and these courts applied the various codes in force in France as modified by local conditions. As regards the native inhabitants, justice was administered by what the French administration styled the tribunal de races.[7] Cases only came to court after an unsuccessful attempt by a Chief to reconcile the litigants. Each administrative district in the territory had a tribunal de races which was presided over by a French administrator. The latter was assisted in his judicial functions by assessors who were either Chiefs or other important personalities in the territory. The tribunal de races arrived at its decisions by taking a vote. The outcome of a vote was adhered to only in civil cases, whereas in criminal matters the French administrator had the power to ignore the views of the native assessors. This procedure was strongly criticised at the 16th meeting of the Permanent Mandates Commission held on July 10, 1929. M. Van Rees pointed out that since the penalties which the tribunal de races could impose ranged from a fine to imprisonment for life and even the death sentence, it meant that the judicial powers of the French administrator over the native inhabitants were almost unlimited.[8] M. Van Rees also asked M. Marchand, the

6. See pages 234-235, supra.
7. The judicial powers of the local Chiefs were not recognised by the French and these Chiefs became arbitrators in disputes amongst their subjects; see p. 50, supra, as to the choice of law by the native inhabitants.
8. Minutes of the Permanent Mandates Commission, 16th meeting, 1929, p. 144.

accredited French representative to the Commission at that session, why there was no Penal Code in Cameroun as was the case in Togo. M. Marchand replied that it had been thought that the natives of Cameroun had not reached a sufficiently high level of development to justify the application of a Penal Code modelled on the French one, though it had been found possible to do so in Togo. The French representative thereupon made a statement which apparently contradicted what he had just said. This statement is to the effect that, according to him, the participation of two natives as assessors in the tribunal de races, enabled the French administrator to reach a just view of the case in so far as local customs were concerned, taking account at the same time of the provisions of the French Penal Code. The contradiction in M. Marchand's statements lies in the fact that after having stated that a Penal Code modelled on the French one could not be applied in Cameroun because of its stage of development, he went on to say that the native assessors who sat with the French administrator enabled him to dispense justice in the cases, based on the local customary laws and taking account of the French Penal Code, which he had earlier said could not be applied to the territory. Another French official however had an entirely different view of the native inhabitants of Cameroun five years earlier. M. Daladier, as already stated,[9] wrote to the French President in 1924, stating that the indigénat system could not be applied to the whole of Cameroun because the social and moral level of some of the inhabitants seemed to be higher than was the case with the inhabitants of French Equatorial Africa. M. Marchand concluded his argument that the native inhabitants of

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9. See page 32, supra.

Cameroun could obtain justice from the judicial system then operative in the territory because there was provision for appeals. He said that there were three courts before which a case could be brought, namely, the District Courts (tribunaux de races), the Court of Appeal and the Chambre d'Homologation. Frequent instances, he said, occurred in which the Chambre d'Homologation referred some sentences thought to be too mild to the lower courts for reconsideration. The French administrator in the territory, he said, should not therefore be criticised for being too severe with the native inhabitants.

The judicial system in the territory was re-organised by a Presidential Décret of July 1, 1927, on similar lines to the system then in operation in French Equatorial Africa. The courts with jurisdiction over the native inhabitants became the Tribunaux de Premier Degré and the Tribunaux de Deuxième Degré as well as the Chambre d'Homologation based in Duala. The latter court was a court of review which re-examined the decisions of lower courts. By another Décret, dated June 30, 1935, the court system of French Equatorial Africa was re-organized. This enactment was applied to Cameroun by an Arrêté of February 2, 1936, which abolished the separate Court of Appeal for Cameroun and transferred its jurisdiction to the Court of Appeal for French Equatorial Africa at Brazzaville.[10] Another court in the territory

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10. Naval Intelligence Division, French Equatorial Africa and the Cameroons (B.R. 515, Geographical handbook series), Oxford, 1942, pp. 278-280.

which was technically an administrative tribunal was the Conseil du Contentieux (Council of Disputes), which had jurisdiction in land matters and other disputes involving the government. This court was introduced into the territory by article 7 of an Arrêté of September 21, 1921, passed to implement a Décret on land tenure.[11] This court did not have jurisdiction in land matters arising between individuals. Such disputes fell for consideration by the ordinary courts of law. The Conseil du Contentieux also had no jurisdiction where the dispute concerned the validity of a certificate of title to land.[12] The highest court of appeal for the territory was the Conseil d'Etat in Paris, just as the Privy Council in London was the highest court of appeal for the British Cameroons. After having discussed the French judicial system, the question of the property left behind by the Germans during the First World War will now be examined.

Fate of Ex-enemy Property

Following the close of the First World War, the French government was confronted with the problem of disposing of German property in Cameroun. It has been a principle of international law that private property rights should remain

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11. This was a Décret of August 11, 1920, which will be discussed later. See p. 302 et seq. infra.

12. The Conseil du Contentieux declined to consider the question of the validity of a certificate of title to land in the case of Baba Ngambo c. Administration du Territoire, June 23, 1956, Révue Juridique et Politique d'Outre-Mer. Vol. 13, Paris, 1959, pp. 129-130.

undisturbed as a result of war or the transfer of territory from one state to another. Although, as Buell argues,[13] this rule was not strictly followed by the Allied Governments, they did not confiscate German private property outright. The Treaty of Versailles provided that the Allied Governments could retain and liquidate all German property within their territories, including the mandates.[14] The Treaty also provided for compensation by which the price at which the property was to be taken should be fixed in accordance with the methods of sale or valuation adopted by the laws of the country in which the property had been retained or liquidated. After satisfying the claims of creditors against the Germans, the Government had, whether directly or through the clearing offices, to credit any final balance to Germany's reparations account.[15]

In 1919 the French Parliament passed a Law of Sequestration defining the procedure under which former German property was to be handled; and in 1920 another enactment was promulgated establishing a special procedure for Cameroun and Togo. All ex-enemy property under the latter enactment was placed in the charge of an Administrator

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13. Buell, op.cit., p. 294.

14. Treaty of Versailles, article 297 (b).

15. Ibid., article 243.

Sequestrator,[16] who was to liquidate the property subject to the advice of a Commission, whose duty was to establish the conditions of sale. The actual liquidation of the property took the form of a court judgment. As a rule, this ex-enemy property ought to have been sold by public auction but there was a provision empowering the Mandatory Power to exercise a right of pre-emption and to acquire any of the property at a price fixed by the Commission.[17] By 1925 the French administration in Cameroun had liquidated 116 German firms holding 362 different properties. Of this number, 219 were sold by public auction,[18] and a total of 107 were taken by government pre-emption. Forty properties also passed to government under article 120 of the Treaty of Versailles.[19] The decisions of the local courts in any dispute as to the nature of such property was final. The total amount of money realised from these properties came to 11,561,990 francs or about £116,000.[20] This money was credited to Germany's reparations account. Buell suggested that the proceeds of sale of German property in Cameroun would have been greater than the amount actually realised if the French administration in the territory had not pre-empted some of the properties.

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16. The opposite number of this official in the case of the British Cameroons was the Public Custodian.

17. Rapport du Togo, 1920, p. 117.

18. Of the properties auctioned, 132 were acquired by Frenchmen, 40 by British nationals and 29 by native inhabitants.

19. This article authorized the Mandatory Power to acquire some of the ex-enemy property on the terms laid down in article 257 of the Treaty of Versailles, part IX, Financial Clauses.

20. Rapport du Cameroun, 1925, p. 69.

The French administration had interpreted the power of pre-emption under the Treaty of Versailles as entitling it to acquire virtually any property it liked upon the payment of the token sum of one franc.[21] One property which was the subject of pre-emption was that of the North Cameroun Railway. It appears that the French administration acquired this railway for a compensation not exceeding one franc.[22] The power of pre-emption was similarly exercised in the acquisition of five former German tobacco plantations in the vicinity of Dschang (Chang). A special Décret vested title over these plantations, having an area of 9,935 acres of land, in a private concern, the Compagnie des tabacs au Cameroun for a term of 60 years.[23]

German Missionary property

The French administration in Cameroun followed rather different methods in disposing of the property of the German Missionary bodies. Realising that this property was devoted to the advancement of the welfare of the natives of the former German territories, the Treaty of Versailles

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21. Testimony of M. Marchand, Minutes of the 9th session, P.M.C., 1926, p. 63.

22. Rapport du Cameroun, 1924, p. 87.

23. These plantations were pre-empted by the Commissaire de la République; cf., Journal Officiel de la République Française, April, 1924, p. 3439; judgments of the Duala tribunal of January 17, 1924, and February 12, 1924, authorized the liquidation of the property of the Tabak bau Pflanzung Gesellschaft, following which the Commissioner exercised his right of pre-emption.

provided in article 438 that the property of German missionary bodies in mandated and other Allied Territories... should continue to be devoted to missionary purposes. In keeping with this provision, the Allied Governments agreed to hand over such properties to the Boards of Trustees appointed or approved by the government, and composed of persons holding the faith of the missionary body whose property was involved.

The Basel Mission

The leading missionary body in Kamerun before the First World War was the Basel mission. Although technically a Swiss organisation, it was composed almost entirely of Germans. This missionary body entered Kamerun after the expulsion of the British Baptists, at the invitation of the Basel Missionaries Conference of Bremen. The first Basel Missionaries arrived in Kamerun in 1886. When the allied armies entered the territory, the German missionaries were led prisoners to the coast, and in many cases their stations were pillaged either by troops or civilian native inhabitants.[24] The French government in 1916 requested the Paris Evangelical Society (Mission) to carry on the missionary work which the Basel and Baptist Missionaries had been obliged to abandon.[25] This society took over all the German Baptist stations and the Basel stations except those at Edea and Sakbayeme, which the

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24. Buell, op.cit., p. 301.

25. F. Christol, Quatre ans au Cameroun, Paris, 1922.

American Presbyterians took over.[26] Both the Paris Evangelical Mission and the American Presbyterian mission made conventions with the Basel mission to the effect that they would return these properties to the Basel Mission as soon as it was readmitted to the territory.

These inter-missionary agreements providing for the return of the German missionary property did not, however, bind governments. According to article 438 of the Treaty of Versailles, these properties had to be handed over to the Boards of Trustees appointed by the Mandatory Power. The French administration in Cameroun adopted an interpretation of this provision to mean that the title to the German Missionary property should not actually vest in such a Board. According to an opinion of the French Advisory Committee on War Property of October 24, 1921, it should remain the property of the French State, rights of user over it being transmitted to these Boards of Trustees. This interpretation of the French certainly does some violence to the language of article 438 of the Treaty of Versailles, which required the property to be handed over to the Boards of Trustees. Buell argued that, under such an interpretation, the Boards which were for the most part missionaries, might not, on their own authority return the property of the German missions to the Basel or other German societies in accordance with the principle laid down in the inter-mission agreements.[27]

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26. Buell, op.cit., p. 301, refers to the Paris Evangelical Mission as a "sturdy little society".

27. Ibid., p. 302.

Interpretation of the Treaty of Versailles

It appears that in dealing with the ex-enemy property in Cameroun the French administration interpreted the Treaty of Versailles rather loosely, construing many of the provisions to its advantage as against that of the Mandated territory and the other Allied Powers. The French administration, for instance, interpreted its power of pre-emption to mean that it could acquire any of the properties for the token sum of one franc. At the fourth meeting of the Permanent Mandates Commission held on June 21, 1927, where the annual report of Cameroun under French mandate for 1927 was discussed, the members of the Commission found that an area of ex-enemy property measuring 7,355 hectares of land which the French administration had pre-empted had been leased to the Compagnie Camerounaise du tabac. It was possible that although pre-empted by the administration for the token sum of one franc, this property was leased to this company at a considerable profit. This was clearly contrary to the spirit of the mandate and the Treaty of Versailles by which the Mandatory Power was precluded from administering the territory under mandate in such a way as to give itself or its nationals special advantages not available to the other Allied Powers or their nationals. In an attempt to conceal this act, the property in question was referred to in the 1926 report on Cameroun sent to the League of Nations as State land.[28] This was discovered nevertheless by the

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28. Rapport du Cameroun, 1926, p. 26.

Permanent Mandates Commission. The accredited French representative, M. Duchêne, replied to a question in this regard that the property in question was made up of ex-enemy plantations which had been pre-empted because there were no purchasers and then leased to the tobacco company. He conceded that this property had never been publicly advertised for sale. If members of the British public had been aware of this, they would have protested more loudly when the British government decided to dispose of the ex-enemy plantations in its sphere of the Cameroons in 1924 without any restriction on the rights of ex-enemy nationals to bid for them. The question of land tenure figured prominently on the list of the priorities of the French administration in Cameroun. It enacted land legislation for the territory two years prior to the confirmation of the French mandate by the council of the League of Nations.[29]

French Land Policy

It is significant that the first enactment touching land in the territory was devoted to the so-called domaine lands. This Décret was applied to Cameroun and Togo. Before discussing the salient provisions of this enactment, the term "domaine" in French law will be briefly defined. The concept of domaine public in French law has been fraught

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29. Décret of August 11, 1920, regulating the domaine de l'état.

with much controversy and it is not clearly defined either by the French Code civil (Civil Code) or by other French legal materials. The French Civil Code may however throw some light on this concept by the terms of three of its articles.[30] Henri Dementhon, an honorary French Director of Lands, expressed the view that the concept of the domaine public was one of the most confusing in French law, and added that it could be conveniently excluded from the law without creating a vacuum.[31] Today, however, both text-writers and judges seem to agree that property held by public bodies as well as land destined for the carrying out of a public service,[32] could be classified as forming part of the domaine public. This was the sense in which the concept of the domaine public was regarded throughout the period of French administration in Cameroun. The objection to the creation of the domaine public de l'état in Cameroun was that

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30. These are articles 538, 539, and 540, the terms of which are as follows:- Article 538 states that - Roads and streets maintained by the State, rivers and streams flotable and navigable beaches, alluvium and derelictions of the sea, ports, harbours, anchorages and generally all parts of French territory which cannot become private property are considered as forming part of the domaine public.

    Article 539:
    All property which is vacant or is without an owner and that of persons who die without heirs or whose property is later abandoned by their successors, belongs to the domaine public.
    Article 540:
    Trenches and bulwarks of fortified cities and fortresses also form part of the domaine public.

31. Henri Dementhon, Traité du domaine de l'état, Paris, 1964, pp.21, 443.

32. "Public service" has been defined by Pierre Vergnaud as an activity carried out by or under the control of a public body with a view to providing a service in the general interest (cf. Lectures in droit administratif, University of Yaoundé, 1971).

that term "état" referred to the French State as Cameroun under mandate had not then acquired the status of a state.[33]

The Décret on domaine lands

The Décret on domaine lands divided the land in Cameroun into three categories[34] and declared any land not included in any of these categories as terres vacantes et sans maître (vacant lands without a master). The so-called vacant lands were incorporated into the domaine lands and thus vested in the French State. This was a wholesale adoption of the German concept of herrenlos land introduced into German Kamerun by the "All-Highest" Land Decree of June 15, 1896. This situation sharply contrasted with that which obtained in the British Cameroons where all the lands except those held under German freehold titles were declared native lands and the customary rights of the native inhabitants therein recognised and preserved. The native inhabitants of French Cameroun protested strongly against the concept of terres vacantes et sans maître as they had done against that of herrenloss land of the German era.[35]

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33. Minutes of the P.M.C., July 21, 1923, pp. 21-22.

34. Lands held under German titles, Lands held by natives or native communities and village lands.

35. The Northern Nigeria Lands Committee had pointed out in its report that there was not an inch of territory in the whole of West Africa which could rightly be regarded as vacant.

The creating of a domaine de l'état in the mandated territory stirred up much protest not only in Cameroun but abroad as well as will be evident in the course of this chapter. Officials of the French government admitted openly that the term "état" in the expression domaine de l'état, referred to the French State as opposed to the territory under mandate.[36] In the words of the French member of the Permanent Mandates Commission, M. Beau,

> "... just as the limited sovereignty of the Mandatory Power created a state of limited or quasi-subjection for the inhabitants of mandated territories so would it appear that the domaine public of mandated territories had become the quasi-property of the Mandatory Power. It is therefore difficult in this case to see how title over this land could be vested in Cameroun and not France since there was no Cameroun State."[37]

M. Van Rees, disagreeing with M. Beau, expressed the opinion that the Mandatory Power could not by virtue of its power to legislate for a mandated territory, however extensive such a power might be, arrogate to itself the right to declare land forming part of the territory in respect of which it did not possess sovereign rights to be its own, or to put its legislative powers to such a use that the territory would at least partially become its own property.[38] M. Van Rees

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36. This view applied to Togo as well.

37. Minutes of the P.M.C., 4th meeting, 2nd session, August 2, 1922, p. 23.

38. The Chairman of the P.M.C., the Marquis Theodoli, pointed out to M. Rappard, the accredited French representative, that to describe land in Cameroun under mandate as vesting in the French State seemed to violate the Treaty of Versailles.

thereupon suggested that the impugned provision of the enactment in question be modified so as to vest the so-called vacant lands not in the Mandatory Power but in the territory under mandate. This request was eventually carried out in the case of Togo,[39] but the position in Cameroun remained unchanged.[40] The fate of the so-called vacant lands will now be discussed.

Vacant lands

Under the Décret of August 11, 1920, vacant lands could be alienated to Europeans and natives by means of concessions by the French Commissioner in Cameroun. Concessions over these lands could be obtained by means of application addressed to the Commissioner. Applications received in this respect were published in the Journal Officiel (Official Gazette). Anyone who had any reasons to object to the grant of a concession had to indicate this within one month of the publication of the application in the Journal Officiel. This right to oppose applications was according to the Décret not available to the native inhabitants, as it was expressly provided that once the Commissioner had approved an application the natives could have no right of appeal. The Arrêté[41] which implemented the provisions of

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39. Raport du Togo, 1926, pp. 129-130.

40. Minutes of the P.M.C., June 20, 1927, p.31.

41. This Arrêté was passed on September 15, 1921.

the Décret in question even went further to state that any opposition which was unjustified made its author liable to a maximum fine of 1,000 francs. Furthermore, the sole judge of whether any opposition was justified was the French Commissioner. This was undoubtedly a calculated attempt to deter the natives from opposing applications for concessions. Each concessionnaire had to carry out certain obligations defined in the cahier des charges (record of specifications).[42] After fulfilling the obligations defined in the cahier des charges with regard to development of the land, the concessionnaire acquired a freehold title over the land.[43] While the French Commissioner could freely grant concessions of less than 1,000 hectares of land, a Décret of the home government in Paris was necessary for larger areas. In keeping with this requirement, the French government promulgated a Décret in 1924 approving a convention between the Minister of Colonies and the Compagnie de Colonisation du Congo Française. Subject to the obligations of the Acts of Berlin and of Brussels (article 22 of the Treaty of Versailles was not mentioned) and to the rights of the native inhabitants of Cameroun, the French government gave this company the right to choose 4,000 hectares of land in Cameroun free of charge, over which the company was granted freehold title subject to

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42. The cahier des charges, laid down certain development conditions. A concessionnaire who required the land for grazing, for instance, was required to maintain 200 head of cattle.

43. Arrêté of September 15, 1921, articles 35-40.

the fulfilment of development conditions outlined in the cahier des charges. This land was given to the company in compensation for the renunciation of concessions in the Congo which had been granted by a Décret of June 9, 1899.[44] Similarly, in a convention of January 9, 1924, the Minister of Colonies granted another company, the Compagnie Française de l'Ouhame et de la Nana, a concession of 6,500 hectares of land in Cameroun (together with 6,000 hectares of land in French Equatorial Africa), in return for abandoning an old concession in the Congo. The policy of the French administration in Equatorial Africa was to exchange the old monopolistic concessions for smaller holdings in propriété or full ownership. The objection to this exercise is that the French administration had utilised land in Cameroun, a mandated territory, to ease a situation in a neighbouring colony. In this way the French government ceded to these two companies some 25,000 acres of Cameroun land free from any obligation on the part of these companies to pay any money to the Cameroun treasury. Although some of the decisions which were taken by the British administration in its sphere of the Cameroons touching land matters have been criticised on the ground that by administering the Cameroons with Nigeria Britain was at times constrained to look at purely Cameroonian problems through Nigerian spectacles,

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44. Buell, op.cit., p. 336. Apparently the former concession lay within the area ceded by the French government to the German government in an agreement of November 4, 1911, that had been made the object of an agreement between the company and the German government which had at the time of the convention of 1924 become invalid.

the magnitude of damage which had been suffered by the Cameroons as a result is trifling compared to that which resulted from the French concessions in Cameroun. The French administration made no mention of these concessions in any of its annual reports on the administration of Cameroun. Buell points out that the Décrets which approved these concessions were not published in the Cameroun Gazette and the Official Bulletin of the Ministry of Colonies listed the two enactments but did not print the texts and also did not mention them in connection with Cameroon.[45] The disregard of the rules of customary land tenure in Cameroun by the Décret of the French administration of August 11, 1920, caused the Anti-Slavery and Aborigines Rights Protection Society in London to write to the Permanent Mandates Commission in 1922.[46] This Society quoted the report of the Northern Nigeria Lands Committee,[47] which stated inter alia that there was practically no land in the whole of West Africa which was not subject to village or tribal claims. As regards the procedure employed by the French administration for determining vacant lands, the Society suggested that, although they did not for one moment deny that bona fide vacant lands existed in Cameroun, lands should only be declared vacant and alienable after the most exhaustive and impartial enquiry. Even when lands had been declared vacant, some recognition should if not in equity

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45. Loc. cit.

46. Letter dated March 28, 1922.

47. Cf., Cmd. 5102 (1910).

then at least from the stand point of good policy be made of native tribes in the region. There were also numerous petitions sent to the League of Nations by the inhabitants of Cameroun under French mandate, complaining that the legislation introduced by the Mandatory Power in the territory had disregarded their customary land rights. These petitions were passed on to the Permanent Mandates Commission, which expressed the view that they could not, in the light of the Treaty of Versailles, compel the Mandatory Power to change its mind. The Commission thus followed a policy of persuasion in an attempt to bring about a change in the legislation in Cameroun. As it turned out, this policy of using the carrot instead of the stick failed colossally, as the French administration maintained its concept of domaine de l'état throughout the period it administered Cameroun.

The weakness of the League of Nations vis-à-vis the Mandatory Power was further exposed by the fact that this International Organization could not do any thing in the face of the express disregard of the customary land rights of the native inhabitants of Cameroun. In answer to one of the petitions of these natives, M. Marchand told the Permanent Mandates Commission, that the natives had been guilty of a misuse of words, and that their rights had not been expropriated because they had never been owners; they simply had rights of user.[48] Another category of land which the French

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48. Minutes of the P.M.C., November 14, 1930, p. 142.

administration created in its Décret of 1920, was the category of village lands.

Village lands

The village lands were lands situated around villages on which the inhabitants of the villages made their farms and from which they collected forest products. This category of land was a species of the German reservats.[49] The native inhabitants were prohibited from alienating any of their rights in the village lands. The right of alienation over these lands could be exercised by the French Commissioner against some form of compensation for the natives. Buell notes that the amount of this compensation was fixed by the French administration, which could pay the natives any amount it pleased.[50] The enactment distinguished between land described as belonging to natives by virtue of customary law and land over which the natives only had rights of user. In the first case, but not in the second, the natives may dispose of their rights in the land. The land at the disposal of the native inhabitants could be greatly reduced by the French administration through alienation. This power of alienation could be indirectly exercised over lands of the first category, namely, lands in the holding of the native inhabitants. This was possible,

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49. The French administration classified some 14 German reservats in Dschang (Chang) area in this category.

50. Buell, op.cit., p. 335.

as the determination of the category into which a given piece of land fell rested with the administrative Officials. Buell added that in some cases the French officials advised concession-seekers to list the lands they required (i.e. village lands) in the second rather than in the first category in order to simplify procedure. [51] Since, by the legislation applicable in Cameroun, title over this category of land was not vested in the natives and since the Mandatory Power gave itself the right and power to alienate this category of land, it followed that this land was considered part of the domaine lands. The question of title over village lands in Cameroun was discussed by the Permanent Mandates Commission on August 2, 1922, but no decision resolving the problem was taken at that session.[52] The Anti-Slavery and Aborigines Protection Society also protested in writing[53] against one of the provisions of the Arrêté which implemented the enactment on domaine lands in Cameroun[54].

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51. Loc. cit.

52. Minutes of the P.M.C., 2nd Session, 4th Meeting, p. 23.

53. The protest was contained in a letter dated March 28, 1922, and addressed to Sir Eric Drummond, the then Secretary-General of the League of Nations in Geneva; see P.R.O., Document No. C.O. 649/25/XN/4604, pp. 88-90.

54. This was the provision which stated that the native inhabitants only had rights of user and not those of full property over the village lands.

Many of the provisions of the first land legislation enacted for Cameroun by the French were thus criticised both in the territory and abroad. These provisions took away most of the customary land rights of the natives and the few that were not affected were largely ignored. As if this were not enough, the Mandatory Power went ahead and disregarded some of the provisions of its own enactment to the disadvantage of the native inhabitants.

Manner of implementation of first land legislation

The manner in which the French administration implemented its first enactment on land tenure in Cameroun left much to be desired. At least two articles of the Décret of August 11, 1920, were not respected by the French administration.

Violation of article two

On May 10, 1929, the French administration made an Order approving the allotment of land in Bali (Duala) in favour of Europeans whose interests in the land eventually ripened to full property. This Order violated article two of the land Décret. This article had empowered the administration to allot vacant lands. Bali was in the effective occupation of the native inhabitants of Duala at

the time and could not thus in any guise pass as vacant land.[55] The only way by which the lands in question could have been properly acquired was by means of an Order of the French Commissioner acquiring them for a public purpose against adequate compensation paid to the displaced natives.[56]

Violation of article three

This article laid down the procedure to be followed in allotting plots to applicants. Each applicant had to be allotted only one plot and on condition that he undertook to fulfil the development conditions outlined in the cahier des charges. The names of successful applicants were to be published in an Arrêté to be issued by the French administration. In 1929, the applications of displaced natives of the Joss plateau (Duala) were approved in a manner inconsistent with the provisions of this article. Instead of allotting a plot to each applicant as required by the article, the administration apparently carved out an area, not demarcated into plots, and granted it to all the former inhabitants of Joss. Article 3 was again violated by two Arrêtés,[57] by which the administration allotted lands without evidence that the allottees had filed in any applications.[58] The

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55. One of the accredited representatives of the French government to the P.M.C., answered the petition of the native inhabitants as mentioned earlier, that they could claim no more than rights of user over the lands.

56. Décret of August 11, 1920, article 2.

57. Arrêté Nos. 404 and 416 of October 25, 1929.

58. Mémoire sur l'expropriation des biens fonciers des indigènes de Douala, 1930, p. 39.

fifth article on domaine lands required the administration to adequately publicise its intention whenever it desired to allot land in the territory. The Arrêté of September 21, 1921, passed to implement the enactment on domaine lands stipulated in its seventh article that after the publication mentioned in the enactment, a period of one month, during which objections by natives affected by the decision to allot must elapse before any allotments were made. The French administration in the territory has been accused of acting as if none of these provisions existed, by having allotted land to non-applicants, without any publicity and without consulting the interests of the native inhabitants.[59] The cahier des charges was itself in many cases a dead letter. The administration has also been accused of granting freehold titles to applicants outright without waiting for these applicants to fulfil the development conditions.[60] The people of Duala feeling that they had been adversely affected by the French land legislation and unjustly treated by the administration petitioned on many occasions to the Council of League of Nations and later to the United Nations Trusteeship Council complaining about the expropriation of their lands by the Administering Power. The next land legislation passed in the territory by the French administration was a Décret to regulate the compulsory acquisition of land.

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59. Ibid., p. 43.

60. Loc. cit.

The Décret on compulsory acquisition

The Décret on compulsory acquisition of land[61], stated in its second article that land could be compulsorily acquired only through a decision of the Commissioner in the Council of Administration, and that such land must be clearly designated in a separate decision of the Commissioner taken in like manner.[62] Before any piece of land could be acquired under this Décret, an administrative enquiry lasting 30 days had to be undertaken in order to determine the rights currently held in the land. Article 10 provided that structures,[63] on the land to be acquired, may also be included in the acquisition if these were considered necessary in carrying out the public purpose for which the land was being compulsorily acquired. The Décret provided in this same article that the Commissioner (the words "in-council" are omitted), could expropriate the structures in question by force if he failed to arrive at an amicable agreement with their proprietors. The only passing remark one may make here is that it would have been less objectionable if the enactment had provided for some form of arbitration in case of disagreement between the Commissioner and the proprietors of the structures as to the value of the latter. Six days

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61. Journal Officiel du Cameroun, 1922, p. 246; Codes et Lois du Cameroun, Vo. 4, p. 40.

62. Persons affected by this decision had 40 days within which to appeal.

63. The maxim quicquid plantatur solo, solo cedit, is not unknown to French law, so article 10 intended to include fixtures not forming part of the land.

after the Commissioner's decision, the Public Prosecutor declared the land and structures in question compulsorily acquired in pursuance of a public purpose. The persons affected by the expropriation could only appeal if work did not begin on the land in question one year after the declaration of the Public Prosecutor. This declaration could be appealed against within 15 days, after the mandatory one year period to the Court of Appeal of Equatorial Africa.[64] The period of 15 days, it is submitted, is too short even today when a letter posted to a neighbouring province,[65] in the country may take up to a fortnight to get to its destination.

The question of compensation

Once the Public Prosecutor's approval was pronounced, the proprietor of the land so acquired, had to designate his land valuation expert, who was to work with that of the government for the purpose of determining the amount of compensation payable to the dispossessed proprietor. In case of disagreement between the two experts, a third expert was appointed by the government and his decision was final. In the case of collectively held land the procedure was different. Here publicity for the Commissioner's decision was the responsibility of the Chief of the group in which

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64. During the period of its existence, this court had an office in Yaoundé.

65. The South-Central and the Western Provinces for instance.

title to the land was vested.[66] It is not clear who was supposed to carry out this task of publicity where the land being acquired was situated in those acephalous areas of the country which had no chiefs.[67] The task of choosing expert valuers also fell on the shoulders of the Chief. In case of disagreement here, a third expert was not appointed as in the case of individually held land. Instead, the amount of compensation was fixed by the President of the Civil Court.[68] A provision, aimed at checking speculation, was inserted in article 18 of the Décret. It stated that no compensation was payable for any improvement effected on the land prior to the decision of the Commissioner, but which could be shown to have been carried out for the purpose of claiming compensation. Appeals against the decision of the Commissioner to acquire a piece of land compulsorily could be made to the Conseil du Contentieux which was an Administrative Court as already stated. The chances of any native inhabitant obtaining a fair hearing in this court were quite slim as the judges were Administrative Officials who were by virtue of their offices inclined to be more sympathetic with decisions taken by their colleagues. On top of this the Conseil du Contentieux was not a proper tribunal for land matters of this nature. Paul Blanc castigated this procedure as against

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66. Article 27.

67. See page 69, supra.

68. Article 28.

the principles of French law[69]. A court of law would have been a more appropriate forum. The spirit of this enactment on compulsory acquisition of land partly expressly demonstrated the attitude of the French administration towards the customary land rights of the native inhabitants of Cameroun. Apart from castigating these rights as nothing more than mere rights of user, the French administration also expressly approved the methods which had been employed by the Germans in expropriating the lands of the natives. The accredited representative of the French government to the League of Nations, Mr. Marchand, told the members of the Permanent Mandates Commission in the course of their 15th meeting that "the expropriation procedure followed by the German authorities had been perfectly regular".[70] By way of contrast, again, it is to be noted that the British administration in the Cameroons never on any occasion approved the methods used by the Germans in acquiring land in the territory. These methods were on many occasions condemned by the British administration which actually bought over 14,000 hectares of land from the plantation companies and handed them back to the natives of the coastal areas of the Cameroons where the German land legislation had been vigorously enforced.[71] The Décret on compulsory acquisition was followed 10 years later by two others.[72]

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69. Paul Blanc, "A propos des concessions domaniales au Cameroun", Révue juridique et politique d'Outre-mer, Paris, Vol. 13, 1959, p. 139.

70. Minutes of the P.M.C., 15th meeting, p. 139.

71. Cameroons Report, 1948, p. 75; see page 282, supra.

72. One of them dealt with the establishment of customary land rights by the natives, constatation and the other introduced registration of title.

The Décret on customary land rights[73]

The attitude of the French administration in Cameroon as regards the nature of the customary land rights of the native inhabitants of the territory appeared to substantially disregard article 22 of the Treaty of Versailles, article 5 of the French mandate and Article 7 of the Trusteeship Agreement for Cameroun. All these provisions required the Administering Power to take into consideration the customary land laws of the native inhabitants of the territory in framing laws on land tenure. The French administered Cameroun as if these provisions did not exist and in spite of strong opposition in the territory and in the face of the disapproval of the Permanent Mandates Commission and other international bodies. This reaction to the policy of the French administration in the territory brought about a change in that the administration passed the Décret of July 21, 1932, providing for the procedure by which the native inhabitants could establish their customary rights in land. This enactment was nevertheless aimed at only a limited recognition of the customary land rights of the natives. Applicants desiring their customary land rights to be recognised by the administration had to complete application forms provided by the latter for this purpose. In the case of group-held land, the application was to be

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73. Décret passed on July 21, 1932; Journal Officiel du Cameroun, 1932, p. 618; Codes et Lois du Cameroun, Vol. 4, p. 45.

completed by the Chief in the name of the group concerned. After completion, the application was to be filed in the District Office of the area where the land was situated. The information which was filled on the application form, in the case of individual applicants, included the latter's name, his approximate age, his place of birth and of residence, his occupation and or status, and information about his family group. All available details about the land in question were also to be included.

Each application was recorded in a special register kept at the District Office of the relevant Division. There was no demarcation or survey of the land in question. In order to identify the land, the physical features surrounding it were enumerated in the application. In the case of group-held land, the plan of the area had to be attached to the application. Article 4 of the enactment made provision for the post of a Land Conservator. Each District Officer was the Chairman of the Board in his Division which studied the various applications for the purpose of finding out whether or not the rights held by the applicant were enough to warrant the recommendation of the Board for recognition. At this meeting, persons contesting the rights of any applicant with respect to a given piece of land, were invited to file petitions at the District Office within three months. After this meeting a report stating the decisions arrived at, was published in the Journal Officiel.[74]

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74. Article 5.

Recognition of customary land rights

The power to confirm the customary land rights of an applicant, according to article 6, was vested in the Court of First Instance or a Justice of the Peace. This confirmation came after the expiration of the three-month period during which appeals could still be made by persons contesting the findings of the District Officer's Board. The court judgment or pronouncement of the Justice of the Peace, was merely an endorsement of the decision of the District Officer's Board. A copy of the judgment in question was sent to the Public Prosecutor who had the right to appeal against it to the Court of Appeal if he thought that the procedure followed at the District Officer's Board was in any way improper or that the rights claimed by an applicant should not be recognised. Any applicant who was dissatisfied with the judgement could also appeal to the Court of Appeal. The appeal had to be in writing and the power to call for oral evidence was the prerogative of the Court of Appeal. The enactment also provided that appeals had to be heard within one month. This marks an amazing departure from the procedure whereby appeals of this nature were subject to the exclusive jurisdiction of the Conseil du Contentieux. There was no provision for a visit to the locus in quo by either the Court of First Instance or the Court of Appeal. Such a visit ought to be provided for as there were no permanent or dependable boundary marks on the lands.

The decision of the Court or of the Justice of the

Peace as to the fate of an application was res judicata and the administration was required to establish a complete dossier of the plot of land in question which had to include a plan prepared by the government. Thereafter, a document with three parts was prepared in respect of each plot.[75] The first part of this document called Livret foncier (Land booklet), was filed with the court which had confirmed the rights stated therein, while the second part was handed to the proprietor whose customary land rights had been confirmed. The third part was sent to the Land Conservator who entered the plot number on the map of the area in his office. It appears that the District Officer who kept the land register was not sent a copy of the Livret foncier for entry therein. In this case the register was incomplete as it was impossible to know from it whether an application was finally confirmed or not except the judgment of the court or the pronouncement of the Justice of the Peace was communicated to the District Officer. Even so, since the plot in question still had no number at that state, the register even if brought up-to-date then would still be incomplete at the end of the whole process.

Significance of the Livret foncier

A Livret foncier, which was issued to successful applicants after the mandatory three-month period following

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75. This was called a Livret foncier, which was in three parts, each of which contained the same information.

the meeting of the District Officer's Board, described the nature of the rights of the holder as well as the land over which the rights were held. It was clearly stated in the Livret foncier whether or not the holder of the rights could alienate them. Most individual rights could be alienated with the consent of the French administration. This requirement of the consent to alienate meant that a Livret foncier could in no way be equated to a certificate of title in land and this confirms the view earlier expressed that the Décret in question was only aimed at a limited recognition of the customary land rights of the natives.[76] Where a village or other group had established its rights over a piece of land, the land in question could not later be partitioned without further investigation by the administration. Article 13 declared void all dealings in land, covered by a Livret foncier, which might have the effect of changing the interest holders, the interests or the mode of their enjoyment without the prior authorization of the administration. Where land over which customary rights had been established was alienated or partitioned all three parts of the Livret foncier had to be accordingly annotated to reflect the changed situation. The definition of "native" under this Décret excluded Camerounians who had

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76. The administration recognised and protected the right of a Livret foncier holder to exclude others from his land and to be paid compensation in case of expropriation and no more.

become French citizens through naturalization.[77] Once a native inhabitant had established his customary rights over a piece of land, he could lease the land to a third party, but if the lease were for more than three years, the consent of the administration must be obtained.[78] In the 1952 Duala case of Lobe c. Dupont,[79] the plaintiff had leased a piece of land in Duala to the defendant for 10 years. A contract was concluded by the two parties in this respect on October 25, 1949. Three years later, Lobe filed an action in the Duala court of First Instance praying the court to declare the contract null and void for want of the consent of the administration. The court acceded to this plea holding that the contract in question violated article 13 of the 1932 Décret as well as article 7 of the Trusteeship Agreement. A valuation expert was appointed by the court to calculate the cost of the building constructed on the land by the defendant so that he could be compensated for his improvements on the land.[80] Passed on the same date with the enactment under discussion, was another which dealt with the registration of title to land.

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77. Henri Douala Bell of Duala origin who had acquired French nationality by naturalization under a Décret of October 27, 1937, had his application for the recognition of his customary rights in land situated in Duala turned down because by virtue of his naturalization, Henri Douala Bell had acquired French citizenship and was in the eyes of the law like any other native born Frenchman resident in Cameroun; cf., Ministère Public c. Henri Douala Bell, judgment of the Chambre Spéciale d'Homologation du Cameroun, December 29, 1951; Recueil Pénant, Paris, 1955, Vol. 65, pp. 316-17.
78. Article 13.
79. Recueil Pénant, Paris 1955, Vol. 65, pp.108-109.
80. It appears that the court did not bother to find out whether the plaintiff knew at the time of the contract that it was illegal.

Décret on registration of title

This enactment introduced the registration of title to land to the whole of French Cameroun. The Décret was intended to guarantee title in land through registration. The land rights of the native inhabitants, which had been recognised by the French administration under the other Décret just discussed, could after the appropriate procedure now be registered. After registration such native land rights could be equated to propriètè in French law or the fee simple of English law. Those native inhabitants who did not obtain the recognition of their customary rights by the French administration did not qualify to go through the process of registration of title which was concluded by the granting of a titre foncier (certificate of title) by the French administration. The native inhabitants of the territory thus had to go through the dual process of constatation and then immatriculation to obtain certificates of title over their lands.

Extent of the exercise

By article 2, registration of title in the territory, immatriculation, was not compulsory except in two cases. The first case covered land intended for sale. Such land had to be registered before the sale could take place. The second case was one capable of shocking the conscience of the Germans. It required that titles which had been recorded.

in the German Grundbuch had to be re-registered in the land register of the French administration. Provision was made for the Court of Appeal to examine any petitions which rendered doubtful or impeachable, any title registered in the Grundbuch.[81] This was tantamount to non-recognition of the titles recorded in the Grundbuch. It would be recalled that in the British Cameroons, the British administration adopted a more straightforward procedure of investigating the German titles, not for re-registration but for recognition. The French procedure may be likened to baptizing a man twice over because he has changed his religious denomination. The French administration laid itself open to the charge of discrimination by inserting article 108 in an enactment dealing with concessions. The concession lands were comparable to lands covered by titles recorded in the Grundbuch. The French administration artfully discouraged petitions against concessionnaires by providing that if a petition failed, the petitioner had to bear the cost of the whole process of proving him wrong.[82] There was no similar provision as regards German titles, which could thus be opposed without running the risk of footing any bill. It is strange indeed that after the French administration had categorically stated to the Permanent Mandates Commission that the procedure followed by the German administration in the territory in expropria-

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81. Article 113.

82. Article 108.

ting the lands of the natives was just and fair only turned round to enact legislation which did not only ignore but expressly refused to recognise the German titles. Since the procedure laid down in the registration of title Décret in question is still relevant as some of its methods are still followed in Cameroon today, it is as well to briefly discuss it.

Registration procedure

The whole process of registration of title to land was under the control of the Land Conservation Officer whose office was based in Duala. Provision was made for the creation of sub-offices in the various administrative Divisions of the territory,[83] by the Commissioner-in-Council. All applications for registration of title to land were to be addressed to the Land Conservation Officer, who published them in the Journal Officiel, a copy of which was sent to the courts in the areas where the applicants lived. The Conservation Officer also sent notices to all District Officers as regards applicants living in areas administered by the latter. These notices were required by the enactment to be posted in the District Offices as well as on the lands over which title registration was desired.

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83. The provision was put into effect by an Arrêtée of March 29, 1934, authorizing the Conservation Officer to open sub-offices in 17 Administrative Divisions, Journal Officiel du Cameroun, 1934, p. 265.

The demarcation exercise

A Demarcation Officer, who took office on oath, proceeded to demarcate the land in question. The public was informed of this exercise 20 days prior to its commencement. Where the land in question was held under customary law, the Chief of the area was invited to take part in the demarcation. Where through the negligence of an applicant, the land over which he wanted his title registered was not demarcated within one year from the date of application, such application lapsed.[84] The Demarcation Officer then prepared a report for each parcel of land demarcated by him. This report was sent to the Land Conservation Officer who published it in the Journal Officiel. As regards oppositions these may be filed within two months of the publication of the demarcation report. After this period, the Land Conservation Officer issued a certificate of title to the applicant in the absence of objections form third parties. The hearing of objections to any applications fell within the jurisdiction of the ordinary courts of law of the area where the land in question was situated.

Registration of group title

There was provision for registration of the title

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84. Article 85.

of "several persons" in a piece of land.[85] This provision did not use the term "group". It was a curious provision which permitted the registration of title as regards concurrent rights held by "several persons" over the same piece of land. This provision was to the effect that where a number of persons were registered as proprietors of a piece of land, some of them who had exclusive rights over some of the land in the same area could have their title to the latter registered.[86] This provision was capable of giving rise to at least three certificates of title over the same piece of land, namely, the title of the group, that of the sub-group and finally that of the individual. The French administration probably intended to maintain the hierarchical system of interests in land under customary law, "with sets of co-existing concurrent interests of different legal types."[87]

Significance of certificate of title

A certificate of title evidenced a bundle of rights held by a named person over a defined parcel of land. The French administration maintained a register of all the parcels of land over which title was registered and the

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85. Article 122.

86. Under the Décret on the establishment of customary land rights.

87. A.N. Allott, "theoretical and practical limitations to registration of title in tropical Africa", p.3.

register should normally be a guarantee that the particulars entered therein were complete and correct. The act of registration of title to land was final and could be revoked only by the Land Conservation Officer.[88]

Law applicable to registered land

Once title over a piece of land was registered, such land was subject to the rules of French law to the exclusion of customary and all other laws.[89] The only exception to this rule was the case of mortgages effected during the German era in the territory. By article 115, the law applicable to these mortgages, was the law under which they were made. The enactment on registration of title in Cameroun under French administration, conflicted in some of its provisions with the local customary laws and this will now be examined. The magnitude of these conflicts was exacerbated by the provision which ousted the application of customary law to registered land. M. Besson, one of the accredited French representatives to the Permanent Mandates Commission, in answer to a question by Lord Haily,[90] stated that the land legislation in Cameroun was aimed at

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88. Article 125.

89. Article 6.

90. Lord Haily had now (1934), become the British member of the P.M.C.

maintaining the cohesion of the indigenous tribes. Lord Haily thereupon stated that the legislation in the territory[91], appeared to contradict M. Besson's statement. Lord Haily argued that the French policy of applying French law to the exclusion of the customary laws over registered lands might lead to the disintegration of the indigenous groups. He also made the point that a statement made in the 1934 report on the French administration in Cameroun contradicted article 6 of the registration of title enactment which had ousted the application of all non-French laws over all registered land in the territory. This statement was to the effect that the object of the enactment on the registration of title to land in the territory was not to change the tenure of land but to safeguard the rights of the title holders.[92] It is submitted that this argument cannot stand in that the interests which were after registration capable of being enjoyed in the land under French law were of a different nature from those tenable at customary law. The accredited representative of the French government was probably greatly embarrassed when members of the Permanent Mandates Commission exposed so many shortcomings in the registration of title enactment passed in Cameroun. When discussions opened at the sessions where this enactment was discussed,[93] the French

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91. These were the Décrets on the recognition of customary land rights and on registration of title.

92. Rapport du Cameroun, 1934, p. 73.

93. Minutes of the P.M.C., 29th session, 1934.

representative had elaborated at length on the advantages of introducing the registration of title enactment in the territory. These advantages, which to him, included the freeing of native property from the rules of customary laws and bringing it under the French law, were instead seen by members of the Permanent Mandates Commission as a mixed blessing to the native inhabitants of Cameroun. M. Besson thereupon replied that he did not think that the new land legislation was inimical to the interests of the native inhabitants of Cameroun because the exercise of the right of alienation by these natives was subject to the consent of the French administration in the case of leases exceeding three years. This however did not settle the matter because the requirement of the consent of the administration applied only to lands over which the customary rights of the natives had been established but in the case of registered lands, no consent was required to validate any alienation of land rights by the native inhabitants.

Conclusion

Throughout the period of French administration in Cameroun, the Administering Power adopted a policy which appeared to have catered for its interests mostly as in many cases the interests of the native inhabitants were ignored. This policy finds expression in the attitude of the administration towards the indigenous customary laws of the people of the territory. The terms under which France

administered the territory, first under mandate and later as a trust territory, required France to take the local customary laws into consideration in framing laws for the territory. From what has been seen in this chapter, the Administering Power went about things as if these provisions never existed. For instance, no proper system of customary courts was ever established in the territory throughout the period of French administration. It has been seen that most of the lands subject to customary law at the time of the commencement of the French administration in Cameroun were declared vacant lands (as the Germans had done), and taken over by the "State", a term which was defined to mean the French State and not the territory being administered. The Permanent Mandates Commission and later the United Nations Trusteeship Council requested the French administration to modify the impugned provision of its enactment on land tenure of August 11, 1920, so that the lands purportedly vested in the "State" should be vested in the territory of Cameroun. This request as stated earlier,[94] was carried out in Togo but never in Cameroun. Despite the repeated requests in this regard by the two international bodies whose duties included the overseeing of the administration of Cameroun, the French administration continued to give one excuse after the other and no modification was effected as requested until the end of its

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94. See page 306, <u>supra</u>.

administration of Cameroun. The Cameroonian Director of Lands could thus state in 1970 that "since January 1, 1960,[95] all lands which had been acquired in the country by the foreign Administering Power, had become ours".[96] Within the first decade of the French administration of Cameroun, Raymond L. Buell wrote a book entitled The Native Problem in Africa, in which the author criticised the French administration in Cameroun pointing out that its policies were contrary to the terms of the mandate under which it administered the territory. The International Bureau for the protection of native races, addressed a petition to the League of Nations on May 20, 1928, in which this organisation took up some of the points raised in Buell's book.[97] The League of Nations thereupon wrote to the French government requesting it to answer the allegations. In a reply of October 4, 1928, the French government declined to answer the allegations as requested and instead invited the League of Nations to itself find out the truth or the untruth of the allegations. From the minutes of the sessions of the Permanent Mandates Commission and of the United Nations Trusteeship Council, it is evident that in many cases, the answers given to questions posed to the accredited representatives of the French government were couched in general

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95. This was the date on which Cameroun became an independent State.

96. Revue juridique et politique, indépendance et coopération, Paris, 1970, Vol. 24, p. 1166.

97. Cf., appendix to the minutes of the P.M.C., 17th meeting, July 10, 1929, p. 242.

and evasive terms which were unhelpful as such answers concealed the substance of the various problems existing in the territory. It is possible that most of the problems in Cameroon could have been resolved if the Treaty of Versailles had given the League of Nations more powers over the Mandatory Powers. Alternatively, the Treaty could have made provision for an international appeal tribunal to handle matters arising in the territories and which could not be resolved by the Permanent Mandates Commission. In the final analysis, although the Administering Powers also contributed their own quota, the blame for most of the problems which persisted in Cameroon thus lies squarely at the door of the clumsily-framed covenant.

PART FIVE

THE PERIOD FOLLOWING INDEPENDENCE AND REUNIFICATION

Introduction

British administration in the Cameroons came to an end on October 1, 1961, when the constitution of the Federal Republic of Cameroon came into force. In the case of French Cameroun, internal autonomy was won on April 16, 1957 but it was not until January 1, 1960 that the country became independent of France. The French Administrators thus left the territory at least a year earlier than their British counterparts.

In the preceding discussion of the effects of European rule, it was seen that the European Administrations introduced into the territory certain concepts which were entirely foreign to the indigenous institutions and ideas. These institutions were modified in order to make the introduced policies workable. In so doing, the European Administrations formulated policies on matters including land tenure, which for the most part put their interests ahead of those of the indigenous population. In this part an analysis will be made of the methods adopted by the post-independence administrations to solve the land tenure problems existing in the territory at the close of foreign rule as well as the system of land administration followed in pursuance of the economic and social objectives of the

respective governments.[1]

This part will be divided into three chapters, the first of which will be a discussion of the land tenure in the former West Cameroon, whilst the second chapter will deal with the former East Cameroon. The current land legislation of the United Republic of Cameroon will be the subject of the third and last chapter.

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1. These are the governments of the former Federated States of East and West Cameroon and that of the present United Republic of Cameroon.

CHAPTER TEN

LAND LEGISLATION IN FORMER WEST CAMEROON

The main enactment which regulated land tenure in the Cameroons under British administration as earlier stated[1] was the Land and Native Rights Ordinance. This, and the other Land Ordinances applicable in the territory continued to be applied to West Cameroon. In fact, these Ordinances continued to regulate land matters in the English-speaking provinces of Cameroon up to 1974, when land legislation was enacted for the whole of Cameroon.
In the present chapter, the changes effected by the West Cameroon government in the Land and Native Rights Ordinance will be examined.

Since the Land and Native Rights Ordinance was not originally intended to apply outside Northern Nigeria, it was necessary to modify some of its provisions when it was applied to the Cameroons in order to make the Ordinance better suited to the circumstances of the inhabitants of the Cameroons. The British Administration had effected some changes in the Ordinance as applied in the Cameroons but these changes were mostly terminological and the changed status of the territory on attaining independence in 1961,

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1. See pages 270-281, <u>supra</u>.

meant that further modifications had to be carried out in the provisions of the Ordinance to reflect the changed political situation. These were carried out by the government of West Cameroon. The powers vested in the Governor of Nigeria by the Land and Native Rights Ordinance with respect to the Southern Cameroons were from October 1, 1961 exercised by the Prime Minister of West Cameroon.[2]

Significance of Prime Minister's succession

It was earlier noted in discussing the Land and Native Rights Ordinance that all native lands and rights therein were under the control and subject to the disposition of the Governor, which he was to hold and administer for the use and common benefit of the natives.[3] All these rights and duties became vested in the Prime Minister, by virtue of his succession as just stated. The changes in the Land and Native Rights Ordinance were carried out by means of decisions taken by the Executive Council (Cabinet) of West Cameroon. Two important decisions were taken on January 30, 1963. These were the passing of the General Delegations Order, 1963, and the Land (Control of Customary Rights of Occupancy)

2. The Prime Minister's succession to the powers of the Governor of Nigeria in this respect did not appear to follow a proper legal process. The only evidence of this succession available to the present author was a circular letter issued by the Secretary to the Prime Minister announcing that the Prime Minister had assumed the powers of the Governor of Nigeria under the Land and Native Rights Ordinance.

3. Land and Native Rights Ordinance, Section 4.

Regulations, 1963.[4]

The General Delegations Order 1963

By the General Delegations Order, 1963, the Prime Minister in Council delegated some of his powers and duties under the Land and Native Rights Ordinance to recognised chiefs in respect of land in the lawful use and occupation of any native or native community.[5] A recognised chief according to the Order was a chief whose name was inscribed in the Register of chiefs as being the chief of a given community.[6]

Nature of powers delegated to chiefs

The General Delegations Order 1963, did not clearly state the nature of the powers which the Prime Minister had delegated to the recognised chiefs. The Order barely stated, without more, that the Prime Minister had delegated "some of his powers and duties under the Land and Native Rights Ordinance to recognised chiefs in respect of land lawfully used and occupied by any native or native community".[5]

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4. West Cameroon Legal Notice No. 8 of 1963.
5. General Delegations Order, 1963, Section 2.
6. Recognition of Chiefs Law, 1963, Section 5.

At this juncture, it is important to analyse the powers of the Prime Minister under the Land and Native Rights Ordinance and then to find out which of these powers the Prime Minister might have delegated to the chiefs.

Powers of the Prime Minister

The powers of the Prime Minister under the Land and Native Rights Ordinance (now repealed)[7] were enshrined in section four of the Ordinance. Section one declared all the lands of the territory to be native lands, and section four vested the power of control and disposition of all these lands in the Prime Minister. As regards his duties, the Prime Minister was required by the Ordinance in section four to administer the lands for the use and common benefit of the natives. The powers of the Prime Minister were to be exercised as far as possible in accordance with native laws and customs (customary law).[8]

Power of control and disposition

The power of the Prime Minister to control and dispose of land in West Cameroon covered land held under customary law which was subject to the provisions of the Land and Native Rights Ordinance. From the tenor of section four of the

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7. Cf., Ordonnance No. 74/1 of July 6, 1974 on land tenure and state lands, section 22.

8. Land and Native Rights Ordinance, section 5.

ordinance, none of this land could be disposed of by any person without the consent of the Prime Minister. At first sight, this provision appears to amount to an outright expropriation of the lands of the natives. This is however not the case in the light of the proviso which was to the effect that this power should be exercised in accordance with native law and custom (customary law). This proviso indeed appears to take the sting out of section four of the Ordinance.

As regards the few freehold lands in the territory, the other aspect of the Prime Minister's power may be said to apply. This was the Prime Minister's power of <u>control</u>, since the freeholders could dispose of their lands as they pleased subject only to other wider restrictions, such as the requirement not to dispose of the land to aliens. The Prime Minister's power of control as exercised over the freehold lands might consist for instance in the passing of town planning regulations.

The question of precisely which powers the Prime Minister delegated to the chiefs cannot be answered with any certainty, because the General Delegations Order was imprecise in its wording, merely mentioning "some" of the powers of the Prime Minister. One may read in this impreeision the Prime Minister's desire to play safe and to avoid a situation where an unforseen and intractable future event might crop up. Nevertheless, there is little to

commend vagueness in a document of this nature, if it has been inserted only for the purpose of acting ex abundanti cautela especially where care is not taken to ensure that the vaguely-worded provision is not given an undesirable meaning.

Whether or not the charge of expropriating the lands of the natives levelled against section four of the Land and Native Rights Ordinance could be substantiated depended upon the appreciation of what the customary law was in respect of any given issue affecting native lands.

The Prime Minister to act in accordance with customary law

As earlier noted the Prime Minister was required by section 5 of the Land and Native Rights Ordinance to exercise his powers under the Ordinance in accordance with customary law, and by section four to administer the lands for the common benefit of all the natives. The crux of the difficulty posed by these provisions was that the Prime Minister, on the one hand, and the natives, on the other, held diametrically opposed views not only as to what the customary law on a given issue was, but also as to what it should be. The Prime Minister was prepared to observe the rules of customary land tenure only to a certain extent, namely, up to the point where it did not interfere with the economic policy of the government. These opposed views were evident in statements made by chiefs and natives to the Inglis Commission of Inquiry appointed in 1967 to probe the affairs of the Lands and Surveys Department in West

Cameroon:

> "Then I go down to the Great Soppo layout. This layout is situated between Great Soppo and Buea. This land at one time government intended to take it over and build the Bilingual School... When they got into that land, Surveyors just came and started surveying the land without asking us. The owners of the farm came to the town and informed the Traditional Council and ... Chief Endeley wrote a letter to the Native Authority, who informed us that government was building there... This matter went on until there was a letter written to chief Endeley by the Director of Lands and Surveys dated 13th April, 1964, that a more suitable site had been found for the Bilingual Grammar School and that land had been left.... but that if government wanted land they will take it irrespective of their protest. This letter is No. V.53/Vol.2/655."[9]

Under customary law, land could be appropriated for a public purpose; but where the land was occupied by buildings or farms, the persons affected had to be given alternative land or adequately compensated in keeping with the customary law of land of the area. The Director of Lands and Surveys was therefore wrong when he wrote that if government wanted land they could take it irrespective of the objections of the natives. Such an act would violate the other rule of customary law recognised in the territory that a chief could not give out a plot which was in the effective occupation of a native.[10] Another person who appeared before the Inglis Commission spoke about the lands of the Cameroon Development Corporation (C.D.C.). He said:

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9. Report of the Inglis Commission, p. 120.

10. See page 181, supra.

> "I have shown the Commission that the C.D.C. lands are native lands... Rents should be paid to the natives for their own land... In the 1948 Report,[11] I think in section 43, Government makes it clear that in the management of the C.D.C. government will make sure that the natives of the area should be given participation on the Board of Management. That we have lost completely. It was a matter of principle that the natives of the area were represented on the Board. Now we have lost all that."[12]

Here one may again observe from the statement made by the second witness to appear before the Commission as quoted above, that the issue of compensating the natives for lands they considered lost to the C.D.C. was again directly raised.[13]

The third witness to the Commission, still talked about the acquisition of native lands by government.

> "The law was enacted and said very clearly in paragraph 3 that all lands in the Cameroons under U.K. Trusteeship were native lands except those lands which were described in the Deeds in the 4th chapter (sc. 4th Schedule) of this ordinance... So any other lands which were not mentioned in the schedule are native lands. That is my case about native lands. That all these lands are native lands and I want to press that whether it is a layout or not a layout, only under the Public Lands Acquisition Ordinance can government take lands. The Land and Native Rights Ordinance shows them how they can take these lands - they had to consult the owners, but we are not consulted."[14]

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11. Report on the Cameroons under U.K. Trusteeship to the U.N.O., 1948.
12. Report of the Inglis Commission, p. 123.
13. See page 287, supra. Claims by natives over the C.D.C. lands had earlier been made by the Bakweri Land Committee to the United Nations Trusteeship Council in 1949, see pages 283-84, supra.
14. Ibid. p. 122, the point made about the Public Lands acquisition Ordinance is irrelevant to the argument because the purpose of this Ordinance was to enable the administration to set aside government land for a public purpose.

It is evident from all these statements that the Prime Minister came face to face with the dual problem of preserving the rules of the customary land tenures of the people of West Cameroon and managing the lands in the territory so as to reap the optimum return from the land. The task facing the Prime Minister, to paraphrase Allott, might be likened to what he referred to in another context as the problem of "extracting and weaving together the rules of customary land tenure"[15] with the development priorities of the West Cameroon government with the minimum of opposition from the people.

Effects of Delegations Order

The Delegations Order was of paramount importance. The powers contained in section 4 of the Land and Native Rights Ordinance, which during the period of British administration were exclusively within the prerogative of the Governor of Nigeria, could now be exercised by the local chiefs. The indigenous population reacted favourably to the changed situation, for the powers of the local chiefs over the lands of their ancestors, which had earlier been taken away from them by the European Administration, were now handed back by the government of West Cameroon. The Executive Council was not, however, blind to possible abuses, against which it provided by clearly stating that the dele-

15. "Ghana Courts Act, 1971", [1972] Journal of African Law, 62.

gation of these powers was revocable.[16] The General Delegations Order had the adverse effect of reviving a situation which section four of the Land and Native Rights Ordinance had attempted to curb by vesting the power of control and disposition of all native lands in the Prime Minister. The natives had been known, since the days of the Germans, on occasion to purport to dispose of their rights in land to more than one person concurrently. The Land and Native Rights Ordinance in section four sought to put an end to incompatible alienations by requiring that the consent of the Prime Minister must be first had and obtained before any rights in land could be disposed of. The General Delegations Order led to violations of the Land and Native Rights Ordinance not only by the chiefs but also indirectly by officials of the Department of Lands and Surveys.

These violations were brought out in the Bamenda Court of Appeal case of Presbyterian Church Moderator v. D.C. Johnny[17]. This was an appeal from the judgment of the Bamenda Court of First Instance (no date given) which had earlier decided the question of title over the disputed piece of land situated at Mankon village in favour of the respondent. The respondent had between 1958 and 1967 successfully sued three persons in the Ngemba Customary

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16. General Delegations Order, 1963, section 3.

17. Suit No. BCA/27/74, November 30, 1974 (unreported).

Court for trespassing on the land in question which he claimed to have inherited from his father. In 1970, the fon of Mankon purported to make a grant of the land in question to the appellants, the Presbyterian Church, who went on to plant eucalyptus trees thereon. The appellants also applied for a Certificate of Occupancy over the land. The respondent opposed the application pointing out to the Lands and Surveys Department that the land was his. The Lands and Surveys Department took the view that the appellants could enter the land in question on payment of compensation to the respondent which they valuated at 79.950 Cameroon francs. The latter was however not willing to part with the land, and refused the compensation. The respondent was forced by the Governor of the North-West Province to take a cheque in the amount of the compensation from the appellants. He did not cash the cheque but proceeded to sue the Presbyterian Church in the Bamenda Court of First Instance and the court judgment was in his favour. The Church appealed on the grounds inter alia,

> "that the learned trial Magistrate was wrong in law to hold that the grant of a Certificate of Occupancy does not extinguish all customary rights; that the court had no jurisdiction to question the validity of a Certificate of Occupancy; and that the court had no jurisdiction to go into the question of title to land".

In the Court of Appeal, the trial judge noted that the respondent had from the very beginning resisted the surrender of his customary rights over this piece of land. The judge added that, from the tone of letters from the appellant, the Lands and Surveys Department, the District Officer Bamenda Central, and the Governor of the North-West Province, it could only be said that it required a man of the

respondent's courage and tenacity of mind to have resisted. This comment was justified in that important organs of government in the Province, from the level of the Lands and Surveys Department to the highest in the person of the Governor, had been deployed to obtain the respondent's land for the Presbyterian Mission.

As regards the ground of appeal which raised the question of title, the trial judge ruled that the issue of title to the land in question had already been settled by the series of the Ngemba Customary Court judgments which vested title in the respondent. It is submitted that the trial judge was right in rejecting the appellant's attempt to reopen the question of title over the land in question, because the Ngemba Customary Court judgments on the matter still stood. There was no alternative conclusion possible, because there was no evidence before the court to suggest that any of the respondent's relatives contested his right of inheritance over his father's land. The judge recalled that, although the Land and Native Rights Ordinance vested all lands in the former state of West Cameroon in the Prime Minister of that state, the Ordinance by Section 5 limited the free hand of the Prime Minister in dealing absolutely with native lands.[18] The judge then went on to discuss the Mankon customary law of land.

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18. Section 5 reads: "The Prime Minister, in exercise of the powers conferred on him by this Ordinance with respect to any land, shall have regard to the native laws and customs existing in the district in which such land is situated".

The appellant had maintained that the fon of Mankon had allocated the said piece of land to him. The fon himself contended that all lands in Mankon belonged to him. One now sees how by virtue of the General Delegations Order the fon of Mankon could still assert that all the land in his area of jurisdiction belonged to him (and not the Prime Minister). The judge continued:

> "He (the fon), owns the land of Mankon in the name of the people of Mankon. He is therefore the custodian of the land of Mankon. In the same way as the land in West Cameroon was vested in the Prime Minister of West Cameroon, so also the land in Mankon is vested in the fon of Mankon. And in the same way as the Prime Minister of West Cameroon by section 5 of the Land and Native Rights Ordinance had to have regard for the native laws and customs existing in the district in which the land is situated, so also the fon of Mankon has to have regard for the Mankon customs in dealing with land situated in Mankon. The proposition that the Mankon land is vested in the fon of Mankon cannot mean that the fon of Mankon is in a position to take away land over which a Mankon man has possessory and customary rights and give it at will to some other body or person".[19]

Indeed, the Prime Minister himself did not have such a power, so a chief or fon could not under the General Delegations Order purport to acquire from the Prime Minister a power which the latter did not have. Therefore any chief or fon who purported to exercise a power which the Prime Minister could not himself exercise must be acting ultra vires. The trial judge concluded, following the decision in Maria Eko v. The Director of Lands and Surveys,[20] that

> "it was clear that the grant of a Certificate of Occupancy did not necessarily extinguish

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19. Extract of judgment, p. 5.

20. Reference and facts not available to present author.

> customary rights and the validity of a grant of Certificate of Occupancy could be challenged in the appropriate courts."

This view of the judge ties up with the opinion of a one-time Attorney-General of Nigeria,[21] namely, that the grant of a certificate of Occupancy only partly extinguished the customary rights in the land covered by the grant. To round off this discussion, it is germane to point out that the General Delegations Order made it abundantly clear that the powers delegated to the chiefs were in respect of land in the lawful use and occupation of natives. The nature of some of the powers which were also the subject of delegation to the chiefs by the Prime Minister was made clearer by regulations passed on the same date as the Order just discussed.

The Land (Control of Customary Rights of Occupancy) Regulations, 1963[22]

In accordance with section 27 of the Land and Native Rights Ordinance, the Prime Minister in Executive Council, on January 30, 1963, made regulations to control customary rights of occupancy. Under these regulations, the term "native" was redefined to mean a person whose parents were members of any tribe or tribes indigenous to the Federal Republic of Cameroon and their descendents as well as any person one of whose parents was a member of such tribe.

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21. C.K. Meek, op.cit., p. 377.

22. These Regulations revoked the Regulations contained in the third schedule to the Land & Native Rights Ordinance.

By virtue of this definition, inhabitants of the French-speaking regions of Cameroon were, in so far as they were "natives", allowed the enjoyment of rights in land situated in the English-speaking areas.[23] Section 3 of the Regulations required the consent of the chief to validate any dealings in land by any native holding a customary right of occupancy.[24] The Prime Minister, however, still reserved the right to specially authorise any person or body of persons to give such consent in the place and stead of any such chief.[25] The chief's consent which was required to validate dealings in land by natives of his area was clearly one of the powers delegated by the Prime Minister. The delegation of this power was not total since section 3 of the Regulations stipulated that the Prime Minister could still require the consent to be given by any person or body of persons in place of the chief. The Prime Minister could validly do this as long as the person or body of persons were recognised by the system of customary land law concerned as empowered to oversee dealings in land.[26] Talking of persons recognised by the system of customary law concerned in no way supposed that the Prime Minister's

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23. 1963 Regulations, section 2.

24. W. Cameroon Legal Notice No. 7, 1963.

25. 1963 Regulations, section 3.

26. Such person or body of persons under customary land law may be the family head or the family council composed of the principal members of the family.

hands were tied in the matter. He was free to authorize any appropriate person or body of persons outside the system of customary law to validate any dealings in land. A good example was the Director of Lands and Surveys,[27] who acted in this respect in the name of the Prime Minister. It must however be pointed out that whoever the Prime Minister appointed to oversee dealings in native lands must act in accordance with the customary laws of the place where the land concerned was situated as required by the Land and Native Rights Ordinance in section 5.

The Regulations in section 4 also permitted a chief, with the approval of the Secretary of State for Local Government, to delegate his power of consenting to the alienation of customary rights of occupancy. Such delegation according to the section would in most cases be approved by the Secretary of State if he was satisfied that the person to whom the chief delegated his powers was a person recognised by customary law as exercising authority on the chief's behalf over any group of persons subject to the chief's authority. The persons to whom the chief would be most likely to delegate his power of consent would be quarter and lineage heads. The effect of section 4 was that a power which was up to 1962 exercised solely by the Prime Minister of West Cameroon could now be exercised by a lineage or quarter head. The passing of these Regulations meant that

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27. It was also the place of this official to enforce the observance of the development covenants attached to grants of Certificates of Occupancy.

matters concerning lands held under customary law were in the hands of local chiefs and quarter heads, with the Prime Minister only intervening from time to time in cases of abuses and other irregularities.

These abuses occurred quite frequently in some areas, and in October 1966, the Ministry of Local Government issued a circular letter to all District Officers on the matter.[28] The Minister noted in his circular letter that there had been a number of cases where some chiefs, for no just cause, had refused their consent to the granting of Certificates of Occupancy.[29] The Minister made it clear to all District Officers that although the Prime Minister had delegated powers to the chiefs to control land, such delegation did not prevent the exercise of those powers by the Prime Minister himself. The Minister then ordered that where a chief refused to act after three months on an application referred to him, the District Officer of the area concerned should investigate the matter and report to the Minister, who would in turn report to the Prime Minister. In such a case, the Prime Minister could grant the consent himself if he considered that the chief was withholding consent for no good reason.

The question may be asked at this point whether by permitting the sub-delegation of powers by chiefs to quarter and lineage heads the government was pursuing a sound policy.

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28. Circular Letter No. C.2.802/166, October 4, 1966.

29. Other chiefs gave their consent in undeserving cases.

No clearcut answer is available to this question. In some parts of the country like Victoria and Kumba, when there are acephalous societies, the lineage heads have more say over their family or lineage lands than the chief of the village.[30] This is a point which the government appears not to have taken into consideration when passing the Regulations. In the acephalous areas, the government had merely made official a practice which was already in existence. The position was different in Bamenda, for instance, where all the land in any village was considered as the land of the fon. So the answer to the question would depend on the area where the land in question was situated. Strictly speaking, it was wrong to talk of sub-delegation in reference to the acephalous areas for the chiefs there had no powers over the lands of other lineages which they could sub-delegate. Now one must turn to the vexed question of allegations made by members of the general public that some departments of government, especially the Department of Lands and Surveys, were violating certain provisions of the Land and Native Rights Ordinance. It is these allegations which led to the appointment of a Commission of Inquiry to probe the activities of the Lands and Surveys Department. The Commission was headed by a High Court judge, O.M. Inglis, and sat between April 1 and June 23, 1967.

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30. See page 209, <u>supra</u>.

The Inglis Commission of Inquiry

The Commission was charged, inter alia, with the duty to inquire into allegations regarding the issue and allocation of plots by the Lands and Surveys Department, and also to ascertain to what extent the Department had complied with or deviated from requirements of law in all transactions regarding land. The first point to be considered here is the acquisition of native lands by Government. As noted earlier in this chapter, the natives complained that their lands were irregularly acquired by government through the instrumentality of the Lands and Surveys Department.[31]

Acquisition of Native Lands

The Commission noted that the government had acquired land for public purposes without first consulting the community that occupied the land and without giving the community notice that government intended to acquire the land.[32] The Commission also pointed out that in addition to that departure, no compensation as required to be paid under section 14 (2) of the Land and Native Rights Ordinance had been paid.[33] The Commission then recommended that appropriate action be taken by government, in accordance with the law, to compensate the communities affected.

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31. See pages 344-5, supra.

32. Report of the Inglis Commission, p. 171.

33. Loc. cit.

Irregular dealings in land

The other matter which attracted the attention of the Commission and which took a considerable fraction of its time, was the question of dealings in land which were allegedly tainted with serious irregularities. The irregularities discovered by the Commission took two forms. In the first place the Commission found that there were cases where the consent of the Prime Minister had not been obtained before the holder of a Certificate of Occupancy had subleased his plot, in direct violation of section 4 of the Land and Native Rights Ordinance. The second type of irregular dealing covered the more serious cases of persons who purported to sublease plots before obtaining Certificates of Occupancy over the plots in question. Worse still, some of these persons received rents for these plots many years in advance.

Evidence which was given by two persons appearing before the Commission would bring out clearly how these irregularities were carried out.[34] The first of them was a one-time Secretary of State for Local Government, Lands and Surveys. He admitted to the Commission that final approval for a Certificate of Occupancy rested with him by virtue of his office. Persons who had been granted Certificates of Occupancy over certain plots had with the

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34. Report of the Inglis Commission, pp. 14-17.

knowledge of the Secretary of State exchanged their plots for others, which in some cases were, situated miles away from the original plots. When he was questioned about this, the Secretary of State assured the Commission that:

> "there was nothing wrong in exchanging one plot for which a Certificate of Occupancy had been given for another in the same layout or in another layout".

The Secretary of State also admitted that he was aware of a case where in addition to exchanging his plot, the holder of a Certificate of Occupancy had received five years' rents in advance for his subleased plot. He was also aware that the annual rents on the sublease amounted to 120,000 Cameroon francs, whereas the sublessor was assessed to pay to government a meagre 22,000 Cameroon francs per annum as rents. It was also known to the Secretary of State that the contract to sublease was concluded on September 1 and that it was not until October 1 that the sublessor obtained a Certificate of Occupancy for his plot.

The other example concerned a local limited company which purported to sublet its plot to an oil company for the purpose of constructing a petrol station thereon. The contract was concluded on August 31 but the subletting company only obtained a Certificate of Occupancy over the plot of land in question on October 1. When the Director of the latter company was questioned about the matter by the Commission, he tendered a letter from the Director of Lands and Surveys which stated that the application of the local company for a Certificate of Occupancy had been

approved in principle.[35] He therefore argued on the strength of this letter that his company could not be accused of subletting the said plot prior to being granted a Certificate of Occupancy over it. As was the case with our first example, the rents which the sublessor received on the sublease were considerably higher than the amount paid to government. These examples could be multiplied as speculation in land in West Cameroon within the first few years of independence had attained unprecedented proportions. There was, it appears, no effective machinery for curbing most of the excesses of some government officials.

The Commission recommended that Certificates of Occupancy which had been irregularly obtained be revoked and also that all those who purported to sublease plots without obtaining the necessary consent should be prosecuted under section 11 (2) of the Land and Native Rights Ordinance.[36] No evidence of any prosecutions as recommended by the Commission is available to the present author though it is known that some Certificates of Occupancy were revoked.

Revocation of Certificates of Occupancy

A Certificate of Occupancy, as noted in the previous chapter, could be revoked for good cause. The term "good

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35. Letter No. MVM. 86/15 of August 24, 1966.

36. Report of the Inglis Commission, p. 17.

cause" has been defined in section 13 of the Land and Native Rights Ordinance to include failure to pay rents and other violations of the provisions of the Ordinance.[37] On November 1, 1968, the West Cameroon Secretary of State for Lands announced that the West Cameroon government had revoked a total of 21 Certificates of Occupancy held over land in the territory. This revocation was in implementation of some of the recommendations of the Inglis Commission. The Secretary of State explained in a memorandum of December 1968, the reasons for the revocation of the 21 Certificates of Occupancy.

Speculation in land

Prior to his announcement, the Secretary of State had noted[38] that it was becoming a regular practice for people he referred to as intelligent people, within the community, to speculate in land and obtain Certificates of occupancy merely in order to sublet the land to foreign firms at very high rentals, while paying only a small amount of rent to government. Generally, these so-called intelligent people effected no development on the land with the rent which in some cases was received many years in advance from oil and other companies. This practice ran contrary to the spirit of the Land and Native Rights

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37. See page 275, n.34, supra.

38. Memorandum submitted to the Executive Council, July, 1968, File No. C.M.L.S. 40.

Ordinance which provided for the administration of the land in the territory for the common benefit of the whole community.[39]

Common Benefit

In furtherance of the idea of common benefit, the Executive Council decided in 1961[40] that rents on native lands should be shared between Government and the communities where the lands were situated. The Department of Lands collected the rents and paid half of the amount to the Local Authority of the area. The latter in turn had to pay two-thirds of the amount it received to the Village Improvement Fund of the village where the land was situated. This money was expended on projects approved by the Council and these ranged from water supply and dispensaries, to maternity homes. In this way, the whole community enjoyed the benefit of rents paid on land situated in its area.

The holder of a Certificate of Occupancy

A Certificate of Occupancy entitled its holder to use and occupy the land covered by the certificate. The Secretary of State for Lands opined in his Memorandum that a certificate holder's rights in respect of any parcel of

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39. Land and Native Rights Ordinance, section 4.

40. S.C.A. (61) 2nd Meeting, Conclusion No. 7.

land was extinguished when he was not occupying and using the land. Once this right of occupancy was extinguished, the land was considered to have reverted to the whole community.[41] It was therefore clear that even though an individual obtained a Certificate of Occupancy over a parcel of land, his rights in the land could only be properly established when he developed the land. Where he failed to develop the land in the manner stipulated in the Certificate of Occupancy[42] his right of occupancy could be revoked. Undeveloped land was therefore the property of the community and no one had the right to sublease it and to enjoy the benefits therefrom to the exclusion of the rest of the community.

The enforcement of the development covenants in a Certificate of Occupancy was the responsibility of the Department of Lands and Surveys. The allegations made by members of the public were, inter alia, that the department failed in its duty thereby facilitating the violation of these covenants. Indeed, the propriety of some of the decisions of the Department of Lands in granting Certificates of Occupancy to some persons was put to question as it has been seen that these persons sublet their rights soon after obtaining the grants and in some cases even before. The 21 Certificates in question were cases of this nature.

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41. Memorandum of July, 1968, File No. C.M.L.S. 40.

42. A Certificate of Occupancy usually carried development covenants.

By subletting their rights these 21 persons had violated section 4 of the Land and Native Rights Ordinance which required, inter alia, that for such a transaction to be valid, the consent of the Prime Minister must be first had and obtained. To this, the Director of Lands and Surveys put forward a formidable argument. He said that he was exercising the powers of the Prime Minister under section 4 of the Land and Native Rights Ordinance to give prior consent for the subletting. The Inglis Commission commented that even if the Director of Lands and Surveys had powers delegated to him to act on behalf of the Prime Minister, he could not exercise those powers in violation of section 4 of the Land and Native Rights Ordinance which required the Prime Minister himself to administer the lands for the common benefit. The Inglis Commission supported its views by quoting Meek:

> "the vesting of lands in the Governor (Prime Minister) had not implied a transfer of ownership (proprietorship) of the land of the territory to the Governor (Prime Minister) but had merely conferred on him a power of supreme trusteeship; nor had it affected native titles, whether community or individual".43

Rights which could be sublet

The subletting of rights to improvements on land covered by a right of occupancy did not require the consent of the Prime Minister. The subleasing of bare land had to be consented to by the Prime Minister. On September 13,

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43. C.K. Meek, Land Tenure and Land Administration in Nigeria and the Cameroons, London, 1957, p. 370.

1968, the Executive Council resolved[44], at the request of the Secretary of State for Lands,[45] that consent for the alienation of property covered by a Certificate of Occupancy by sublease should in future be given only in cases where the property had been developed. It also resolved that, as far as possible, foreign firms should be given direct leases by Government.

Categories of land affected

The lands involved in the revocation were of three categories:-

(a) Those lands in which certain individuals enjoyed customary rights before the issue of a Certificate of Occupancy.

(b) Those lands in which certain individuals held rights as a result of developments effected by them before the issue of a certificate.

(c) Those lands in which certain individuals neither held rights in unexhausted improvements nor enjoyed any customary rights, but acquired statutory rights with the sole intention of subleasing to foreign firms.

In respect of the first two categories, the government, apart from revoking the Certificates of Occupancy involved,

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44. W.C.A. (68) 14th Meeting, Conclusions 7 and 8.

45. Memorandum of July, 1968.

ensured that full compensation was paid to all those concerned to cover the value of their unexhausted improvements and disturbance in exchange for customary rights which they had extinguished. As regards the third category, the government pledged in the words of the Secretary of State for Lands,

> "to give any necessary assistance within our power in order to minimise any difficulties or embarrassments brought about by the unfortunate errors, deliberate or inadvertent in this not too happy story".[46]

The recommendations of the Inglis Commission do not appear to have been fully implemented. There have been complaints about this that the Commission was appointed by one government and its recommendations were implemented by another.

Lapse of Certificate of Occupancy

It is pertinent at this stage to discuss the fate of land covered by a Certificate of Occupancy which lapses. A lease under a Certificate of Occupancy may determine by surrender, revocation or by the enforcement of the right of re-entry for breach of any covenant. In the case of government land, there was no problem, but where the land was native land the matter was not entirely clear. The question here was whether the land concerned should revert to the common pool of native land or to the Prime Minister since it was he who granted the lapsed right of occupancy.

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46. Ibid., p. 7.

For native lands to become government lands, they must be acquired according to law. It follows from this that although the reversion would in the first place be to the Prime Minister in his capacity of grantor, the land did not become government land. Nothing precluded the Prime Minister from declaring such land government land, but if he did, the value of the reversionary interest would form the basis of compensation to be paid by government to the Local Authority concerned.[47]

Since the grant of a right of occupancy only partly revokes the customary rights of the native community, it followed that the community was not without some form of interest (albeit limited to the right to be consulted in the case of a proposed disposal of any interest in the land by the Prime Minister) in the land during the term of the lease. When finally the lease lapsed and the interest in the land reverted to the Prime Minister, he could not deal with it in disregard or to the detriment of the native community.

The Prime Minister could hand the land back to the native community if he considered that it might serve a better social purpose to the community. The question here was whether such land was under the control of the registered chiefs of the community or not. The answer seems to be that since compensation for loss of rights over land which was

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47. S.C.A. (61) 2nd Meeting Conclusion No. 7.

the subject of a grant of a Certificate of Occupancy was payable to the Local Authority of the area, as decided by the Executive Council, the land should be under the control of such Authority instead of the chiefs.

The nature of a right of occupancy in land in West Cameroon reveals that the holder of such a right did not enjoy full property rights over his land as would have been the case if he had a freehold title in the land. The West Cameroon government was not insensitive to this shortcoming in the operative land law in the territory. This point calls for a discussion of the attempts which were made by the West Cameroon government to introduce freehold tenure in the territory. The few freehold titles then existing in West Cameroon were of German creation. Under the British-inspired land legislation in the territory, the highest interest capable of being held in land was a mere right to reside on the land for a period not exceeding 99 years.

Attempts to Introduce Freehold Tenure in West Cameroon

The first attempt to introduce freehold tenure in West Cameroon was initiated by the Prime Minister. He suggested that this could be done by amending the Land and Native Rights Ordinance in such a way that natives granted rights of occupancy should pay rent for a period not exceeding ten years and thereafter to hold the land in

perpetuity. The Prime Minister did not suggest what such title should be called. There was no mention of the procedure by which the Certificate of Occupancy was to be converted after the ten-year period and into what type of certificate it was to be converted. It was stated that holders of rights of occupancy prior to the proposed amendment were to conform to the new regulations. The Prime Minister stated the purpose of the projected amendment as one intended to grant to natives greater security of title to land and at the same time to ensure continuous availability of land for future generations.

The area of land to be granted to natives under the scheme was not to exceed half an acre for residential purposes and between 25 and 50 acres for agriculture and grazing respectively. The Prime Minister's scheme was contained in a letter addressed to the Legal Department by the Acting Director of Lands and Surveys.[48]

More than a year later the Attorney-General of West Cameroon replied to the Prime Minister's requested amendment of the Land and Native Rights Ordinance.[49] The Attorney-General in his reply, expressed the opinion that the Prime Minister's proposals could be carried out without actually amending the Land and Native Rights Ordinance. He suggested two methods of doing this. Firstly, the Attorney-General suggested that, since section 3(1) of the Ordinance excepted certain lands from the provisions of the

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48. Letter No. L.2.2/105/ of August 16, 1963.

49. Letter No. L.B.262/120 of October 20, 1964.

Ordinance and section 3(2) provided that those lands could be added to by an insertion in the Fourth Schedule to the Ordinance, land could therefore be conveyed by deed to a purchaser and the deed included in the Fourth Schedule and that would establish freehold tenure. Secondly, since government would be unable effectively to control freehold tenure, the Attorney-General thought that the alternative of granting long leases on a nominal rent plus a large down payment on the signing of the Certificate of Occupancy might provide better safeguards.

Propriety of Attorney-General's suggestions

It is submitted that the first method of attaining freehold tenure suggested by the Attorney-General was impracticable under the Land and Native Rights Ordinance. The highest interest tenable under the ordinance was a right of occupancy and no more. It was thus not possible to fashion a higher interest in the land than was available under the Ordinance as far as that land remained subject to it. It may be argued that section 3(2) of the Ordinance was intended to cater for cases similar to the system which the Prime Minister was advocating and therefore that the Attorney-General's suggestion was right; but section 3(2) was not intended to convert native lands eventually put up for sale into freeholds whenever the need arose. It is possible that some German titles in the territory were not proved to the

satisfaction of the Governor of Nigeria by the cut-off date.[50] These lands were not native lands, strictu sensu, but may be regarded as titles of a hybrid nature. One may read into section 3(2) the unexpressed intention of the legislature that these titles could be converted into freehold titles in future whenever it became proper to do so. After all, the first date that was set by the British Administration as the last date on which the German titles had to be proved to the satisfaction of the Governor of Nigeria was later extended[51]. It was but proper to insert a section 3(2) type of provision in the Land and Native Rights Ordinance rather than keep setting date-line after date-line. The alternative solution put forward by the Attorney-General, that the government should content itself with granting long leases, has little to commend it, as it was based on the assumption that the government would be unable effectively to control freehold tenure. This suggestion was untenable, since it was freehold tenure that the government wanted introduced in West Cameroon.

As one would expect, the Prime Minister replied a few months later,[52] that he did not consider any of the alternatives suggested by the Attorney-General easy to understand or carry out. The Prime Minister again suggested

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50. December 31, 1930; cf. Cameroons Report, 1928, para. 219.

51. The extension was for three years from 1927 to 1930; C.K. Meek, op.cit., p. 371.

52. Letter No. P. 909/21 of December 16, 1964.

that each Cameroonian who required a Certificate of Occupancy should pay a fixed charge to which he applied the term improvement fee. He added that "such a fee, if calculated at the present rental for a term of ten years might be a "fair fee". It is difficult to follow what the Prime Minister meant by using the terms, improvement fee, followed by such a fee, without any precision. He nevertheless reiterated that if in executing his suggestion it was necessary to amend the law, he considered the amendment worthwhile and concluded that he wished to put the policy in operation as soon as possible. The Attorney-General still did not see the need to amend the Land and Native Rights Ordinance and the whole project was abandoned.

The Secretary of State for Lands

In 1968, the matter was brought to life again by the then Secretary of State for Lands and Surveys, N.N. Mbile, in a memorandum which he presented to the Executive Council proposing the introduction of freehold tenure in the country by registering customary titles in land. This project, may be likened to the one carried out in the former French Cameroun for the purpose of recognising the customary rights of natives in their lands.[53] That of N.N. Mbile was an illuminating project which will be quoted verbatim. The Secretary of State pointed out in his memorandum that

53. The difference between the two was that whereas the outcome of the process was in the case of West Cameroon to be the grant of freehold title, it resulted in the case of East Cameroon in the grant of a Livret foncier which evidenced what might be termed an "embryonic" form of property rights.

a native requiring a statutory right of occupancy on native land (land held under customary law) could have his request granted, in which case he automatically forfeited his customary right of occupancy. He thereby became a tenant of or a lessee to Government paying an annual rent. The natives themselves resented the payment of rent on land which they regarded as theirs. The question here is why did some Cameroonians want the statutory rights of occupancy when they already enjoyed the customary rights of occupancy free of rent. To this question, the Secretary of State had the answer that:

> "the fact remains that the Certificate of Occupancy which was meant for foreigners has of late found favour among enlightened and progressive Cameroonians because of the many benefits that they are offered by this system. Investors and Banks have tended to accept only statutory titles as the only proof of title and a means of security for investment or loan."

The Secretary of State quoted as examples some of the advantages being enjoyed by Cameroonian freehold title-holders to support his proposal. "The proposal for a certificate of title over customary land in West Cameroon", he continued,

> "is not altogether without a background. Some Cameroonians took advantage during the German Imperial Government and registered their customary titles and these titles (which are few today) were later accepted in 1922 as Freehold titles by the succeeding Government (British Government). These freehold titles exist in Victoria mainly, examples of which are Rhoom's land, Manga William's land, Mokeba's land etc. These freehold land-owners (free-holders) are very prosperous today because they have the power to lease, mortgage, and assign part of their properties for a reasonable consideration. The majority of Cameroonians who enjoy customary rights of occupancy would of course be jealouse ...."

Registrable interests

The memorandum went on to explain the type of customary interests which could be registered and therefore converted to freehold. Natives in Cameroon recognise that there is individual title in the land besides the communal interest in it. There are many land cases today in the courts, all seeking to confer title on this or the other person, or on this community or the other. This therefore, indicates that within the community one can recognise title in individual customary ownership (proprietorship). When undisputed property passes from father to son no one within this community can lay claim to it in preference to the recognised heir.[54] This is the uncontested title. It is this type of title that one would wish to register, and to obtain a certificate of title, as proof of title. By this way the proprietor was secured his property for himself and his heirs. This memorandum went on to enumerate the various advantages which security of tenure would afford, pointing out that the proposed system aimed at promoting those privileges which the memorandum concluded, in political rhetoric, would usher in an era when

> "money would flow into the country, and our present landscape would be transformed overnight into a scene of modern developments".

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54. This example appears to tie up with that of D.C. Johhny the respondent in the case of Presbyterian Church Moderator v. D.C. Johnny, (1974) fully discussed in this chapter, pp. 348-352.

The memorandum also pointed out how the receipts of the government treasury were going to increase, since all transactions in land under the new system of land registration would be taxable and how the state would realise a large revenue from that source alone.

The memorandum also recalled that certificates of title existed in the former East Cameroon and concluded with the pertinent question, "who knows whether harmonisation would not swallow our present system". The Secretary of State finally prayed the Executive Council to decree that where a Cameroonian could prove title over customary land in accordance with section 23 of the Land and Native Rights Ordinance, such native should be granted a certificate of title in perpetuity. On the whole, the memorandum was not an overly ambitious project as its spirit was salutary. Nevertheless, the Executive Council dragged its feet on the matter for so long that the proposals never saw the light of day. So the second attempt to introduce freehold tenure in West Cameroon was also unsuccessful, but that was however not the end of the matter.

The Proposed West Cameroon Land Registration Law

In 1972, a proposed West Cameroon Land Registration Law was drafted and was to be presented to Parliament for adoption in the June session of that year. This never happened as the said Parliament was dissolved on May 20, 1972, just a few weeks prior to its June, 1972 session.

The proposed law had a total of 158 sections divided into eleven parts. It provided for the investigation of title by the process of adjudication before the recording of the investigated title on a Land Register.[55] Only a cursory analysis of some of the provisions of the proposed law[56], will be undertaken as it never saw the statute book. The Law did not intend to introduce wholesale registration of title in West Cameroon. It was to apply only to areas to be named by the Secretary of State for Lands as compulsory land registration areas. These were areas where it appeared to the Secretary of State to be expedient to provide for the ascertainment and recording of rights or interests in land in any part of the state. There was also provision to apply the Law to optional land registration areas, being areas where natives desired to bring their lands onto the register. In the case of non-natives, the relevant provisions of the Land and Native Rights Ordinance with regard to consent were to apply.[57]

Conversion of native titles to freehold titles

Provision was made in section 12(1) (a) of the Law, to convert into titles of freehold, the rights of persons who had under recognised customary law exercised rights in

55. Cf. sections 4-19.

56. For the purpose of brevity, the term the law would be used in reference to the proposed law, in the remainder of this chapter.

57. See page 279, supra, Land and Native Rights Ordinance, section 1.

or over land. By way of clarification, the subsection stated that

> "for the removal of doubt any person in active occupation of land, except by way of a registered lease or unless there was a pending civil suit challenging such occupation, shall be deemed to be the owner (proprietor) of such land."

The titles of natives holding Certificates of Occupancy were similarly convertible. In the case of non-natives holding Certificates of Occupancy, their titles were to become leases from the Prime Minister. This meant that Northern Nigerians holding Certificates of Occupancy over land in the state automatically became leaseholders since the 1963 Regulations,[58] had removed them from the category of natives. The provision did not say whether the leases were to continue to run for the remainder of the term for which the converted Certificates of Occupancy were granted or not.

Provision was made in section 13 for the recording of family interests in land in the names of at most ten family representatives.[59] Section 18 provided for appeal from decisions of the Adjudication Officer to the High Court.

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58. Land (Control of Customary rights of Occupancy) Regulations, 1963, section 2.

59. This provision was similar to that of section 11(3) of the Registered Land Act (Lagos), 1965, which also never came into force. It did not like the Lagos model assume that family interests in land are held on the basis of divisible shares like the English real property interest of common proprietorship.

Effect of Registration

By section 37, registration of a person as proprietor of any land, vested in that person the absolute ownership (proprietorship) of that land together with all rights and privileges belonging to or appurtenant thereto. The fact of registration conferred no rights to minerals or mineral oils.

Leaseholds

The Law made elaborate provision for the creation and registration of leaseholds, devoting a total of 19 sections to this alone.[60] Anyone registered as the proprietor of a lease was vested with the leasehold interest described in the lease together with all rights and appurtenances thereto.

Overriding Interests

Provision was made in section 40 for the preservation of overriding interests.[61] Failure to register an overriding interest was not however detrimental to its proprietor as he could still enforce it against the proprietor of the servient tenement.

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60. Sections 54-72.

61. The overriding interests enumerated in the section do not include interests tenable at customary law.

Fragmentation and dispersal of parcels

Many African countries have for a long time found it difficult to introduce scientific agriculture in their countries because of fragmentation, which consists in each farmer holding a piece of land considered too small to be farmed profitably. A similar shortcoming of the systems of agriculture practised in these countries is that one farmer held a number of plots dotted here and there necessitating his having to move from one plot to the other to tend his farms.

The Law attempted to cure the defect by providing in section 7 that where the boundaries between adjoining plots was curved or irregular such boundaries should be realigned and the rights of the adjoining proprietors adjusted by exchange of land. Separate plots held by one person could be regrouped into one or fewer plots by exchanging land. The weakness of these provisions lay in the fact that their implementation depended upon the consent of the proprietors of adjoining parcels.

Co-proprietorship and Partition

Where joint proprietors of a plot of land desired to partition their interests[62] the Law provided that the land must not be divided into more than ten plots.[63]

62. They had to do this in keeping with section 104(3) which stipulated that they had to opt for proprietorship in common.

63. Section 103(1) (b).

This provision was undoubtedly intended to fight against excessive fragmentation of plots. Also, where there was doubt in any instrument presented for registration, joint proprietorship was to be presumed to have been intended by the parties unless the contrary was therein expressed. Certainly, these provisions could not have succeeded in curbing fragmentation and the excessive dispersal of parcels of land. It required a Consolidation Law to effectively reduce these ills to a minimum. It must however be pointed out that fragmentation is for now not a big problem in Cameroon.

Having thus briefly considered some of the provisions of the proposed West Cameroon Land Registration Law, the question may be asked whether the law would have catered for the shortcomings evident in the operative land law in the territory had it received the imprimatur of the legislature. In answer to this question, one might say that the success of this law like any other piece of legislation of this nature would have depended to a great extent upon the integrity and goodwill of those charged with its implementation. In any case, the proposed law never saw the light of day as a result of political events which culminated in the fusion of West Cameroon with East Cameroon to form the United Republic of Cameroon on June 2, 1972. In the chapter that follows, attention will be focussed on the land laws of East Cameroon.

CHAPTER ELEVEN

LAND LEGISLATION IN FORMER EAST CAMEROON

Introduction

On December 23, 1956, a 70-man Assembly was elected to operate under a new statute which granted internal autonomy to French Cameroun. The new institutions which took over from the French Administrators came into being on April 16, 1957. The government was headed by a Prime Minister named by the French High Commissioner and invested by the newly elected Assembly.[1] Citizenship of French Cameroun as well as its flag, National Anthem and seal were recognised. The Prime Minister's government was previously called the Territorial Assembly but later changed its name to the Legislative Assembly.[2] The members adopted a resolution on October 24, 1958, calling for an end to the trusteeship and the granting of independence to French Cameroun on January 1, 1960. This request was granted by the United Nations and French Cameroun became independent of France on January 1, 1960.

The new constitution of independent Cameroun was adopted by national referendum on February 21, 1960. The first President was elected on May 5, 1960, and the country

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1. Le Vine and Nye, Historical dictionary of Cameroon, New Jersey, 1974, p. 136.

2. Ordonnance of October 17, 1958.

was admitted to the United Nations Organisation on September 20, 1960. The present chapter undertakes an analysis of the land legislation passed in the former East Cameroon between 1960 and 1972 before the United Republic of Cameroon came into being. This land legislation was modelled on that enacted during the mandate and trusteeship administration of the territory which has already been discussed.[3] The post-1960 enactments in this chapter[4] will thus be considered only briefly and the comments will be based largely on points of difference between these laws and those passed by the French Administration. This will be the more so because some of the provisions of the latter legislation were still in force after independence. Mention must however be made of two 1959 enactments promulgated just within two years of attaining internal autonomy. This was Loi No. 59/47 of June 17, 1959, and its Décret d'application... passed on October 7, 1959. The post-1960 enactments, were two in number and were passed in 1963 and 1966. They were implemented by a number of enactments passed between 1964 and 1966.

The 1959 Land tenure reforms.

These reforms, carried out on the spur of the moment, were probably aimed at placating the electorate.

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3. See chapter 9, pages 302-333, supra.

4. These will for brevity be referred to as "the reforms of the 1960s".

They immediately abolished the controversial notion of terres vacantes et sans maître, declaring that there was not an inch of land in Cameroun that answered such description.[5] Individuals and customary communities could continue to obtain Livrets fonciers to evidence their customary land rights. The practice of inserting the "inalienability clauses" in Livrets fonciers issued to customary communities introduced by the French Administration under the 1932 system,[6] continued. It did not take a long time however for the government of the former East Cameroon to realise that the customary communities were not putting their lands into any productive use and that this was inimical to the economic advancement of the territory. The purpose of the Décret Loi of 1963 was thus to correct the error made in 1959. The main provisions of the Décret-Loi will be discussed before dealing with the question of lands held under customary law.

The Décret-Loi of 1963

Whereas the main enactment which governed land tenure in West Cameroon was the Land and Native Rights Ordinance, under which the highest interest in land was merely a right of occupancy, the system under which a certificate of title evidenced the full property rights of its holder, which had been introduced by the French administration in French

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5. A similar provision was inserted in the Mauritanian Décret of May 20, 1955 on land tenure; Cf. Pénant, Paris, 1961, p. 315.

6. See page 324, supra.

Cameroun in 1932, was maintained by the reforms of the 1960s. The 1963 Décret-Loi enumerated four categories of land:-

(a) National Lands

(b) State Lands

(c) Lands held under customary law

(d) Other lands covered by certificates of title.

National Lands

The concept of national lands was one of the innovations of the reforms of the 1960s. Article 26 of the Décret-Loi employed the technique of definition by exception to designate what lands constituted national lands. According to the article, national lands included all lands in the territory except three categories of land, namely:-

(a) lands held under customary law

(b) lands covered by certificates of title

(c) public and private property of the state.

This category of land was known as the domaine de l'état throughout the period of French Administration of Cameroun. During this same period, as earlier stated,[7] the French expressly regarded all the lands comprised in the domaine de l'état as the property of the French state as against Cameroun under French administration.

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7. See pages 305-306, supra.

The management of national lands was the responsibility of the state, to be carried out in keeping with the economic and social objectives of the country.[8]

The term "national lands" was undoubtedly a euphemism for "vacant lands". This modification in terminology was effected by the Camerounian legislator with the hope of placating the people, since they hated the imported concept of vacant lands. Melone has wondered whether the introduction of the apparently less objectionable term "national lands" would succeed in pacifying the indigenous population which had in the past protested vehemently against the concept of vacant lands (terres vacantes et sans maître).[9] Indeed, some native inhabitants of the territory regarded and still regard the situation as unchanged and feel that what the legislator did in 1959 and 1963 was to replace one form of evil with another. In any case, the situation so far seems to be that the legislator prevented, albeit temporarily, any protest on a large scale, by allowing to the customary communities the retention of their rights of user in the national lands.

A burning question, which still remains unanswered, is how much land was actually delimited as national lands throughout the territory. The precise areas of these lands remains vague in the light or article 3 of the Décret Loi, whose definition of lands effectively occupied under customary law overlaps with the definition of national lands in article 26. Melone sees in this deliberate vagueness a

8. Cf. Décret-Loi of 1963, article 26.

9. Melone, op.cit., p. 148.

strong weapon at the disposal of the state, which it could use at any time to increase the national lands.[10]

The reforms of the 1960s in general and the introduction of the concept of national lands in particular were aimed at directly involving the state in the development and modernisation of the country's agriculture, as well as the utilisation of vast areas of land which were not being cultivated. Less than a year after the introduction of national lands in the country, a decision was taken by the government to carve out an area in the Western Province from what had become part of the national lands for the purpose of agriculture. This was in 1964, when a total of 120,000 hectares (about 300,000 acres) of land were set aside in a place called Nkonjock, which is a sub-division of the Nkam Division. This area, located to the north-east of the Littoral Province, is bounded on its southern axis by Yabassi and to the north by Bafang.[11]

The Nkonjock area of Nkam Division has since the German era been plagued by emigrations, which came to a peak during the pre-independence disturbances which forced most of the remaining villagers out of the area. Demographic studies carried out in certain areas of the Western Province by J. C. Barbier,[12] in 1970 revealed that the

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10. Loc. cit.

11. See appendix X.

12. J.C. Barbier is a sociologist in the employ of ORSTOM (Office de Recherche Scientifique et Technique d'Outre-Mer), Yaoundé.

total population of the province stood at 700,000 inhabitants, and that another 300,000 people had emigrated to live in other parts of the country.[13] He put the average population density of the province at 7,000 inhabitants per square kilometre.[14] In the Nkonjock area, the figure was still less than 10 inhabitants per square kilometre in 1977.[15] The Nkonjock area was thus caught by the definition of national lands in article 26 of the 1963 Décre-Loi. It will be recalled that article 26 had declared all lands in the country national lands with the three exceptions of lands held under customary law, lands covered by certificates of title and the public and private property of the state. The abandoned lands in the Nkonjock area did not fall into any of these categories, and it was thus proper to regard them as part of the national lands. It has already been noted that the state's policy of becoming much more actively involved in improving the country's agriculture and land utilization was the sole purpose of introducing the idea of national lands in the 1963 enactment. This policy gave birth to the Yabassi-Bafang project, a child whose period of gestation was two years.

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13. Les villages pionniers de l'opération Yabassi-Bafang, aspects Sociologiques de l'émigration Bamiléké en zone forêt, dans le département du Nkam, ORSTOM, Yaoundé, 1971, p. 151.

14. J. C. Barbier, A propos de l'opération Yabassi-Bafang Cameroun, Yaoundé, 1977, p.4.

15. J. C. Barbier, op.cit., p. 34.

The Yabassi-Bafang Project

The project took off in January, 1966, with a three-year experimental phase, a period which was devoted to planning the programme before commencing the recruitment drive in the different regions of the country. Camps were constructed to serve as temporary accommodation for new arrivals. After the experimental phase, a government corporation took over the management of the project from the government. It was named la société du developpement du Nkam, or SODENKAM, for short (Nkam development company).[16] Its functions included the provision of technical advice, the control of farming, and the carrying out of research aimed at increasing the quality and quantity of the two main cash crops (coffee and cocoa) in the area. By 1977, there was an agricultural officer in each of the thirteen camps in the area, an average of one agricultural officer to 78 farmers.[17]

Conditions of tenure

Land was apportioned to the farmers at the rate of six to eight hectares per head provisionally. No farmer was allowed to alienate any of his land. Mixed farming was prohibited from the outset, but later on it was allowed on

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16. The company was formed under a Loi of June, 11, 1968.

17. J. C. Barbier, op.cit., p. 60.

a limited scale. Each farmer was to be granted a certificate of title over his plot after five years of continuous presence on his farms. During this period, the farmer was expected to have cultivated at least three hectares to the satisfaction of the agricultural expert of the project. The rights of a farmer during the first five years on his farm were and are still those of a provisional concessionnaire of national lands. These rights may be nullified in case of removal within the first year. The Minister of Agriculture passed an Arrêté on August 13, 1976, stipulating the different periods of absence which might be considered as removal. For new arrivals, the period was put at 30 consecutive days. In the case of farmers with provisional titles over their plots, they had to be absent therefrom for three months before they could be dispossessed, whereas the period was one year for holders of certificates of title. In case of forfeiture, the land affected returned to the pool of national lands for reallocation to other farmers. Those farmers who arrived Nkonjock in 1966 were supposed to be granted certificates of title over their plots in 1971, after the mandatory five-year period. But up to 1977 the pioneers could only boast of provisional land titles. The only probable explanation for this could be that none of the farmers whose stay on the project qualified him for a certificate of title had farmed his plot to the satisfaction of the authorities concerned. The unwillingness on the part of the Ministry of Agriculture to recommend

the farmers for the grant of certificates of title over their plots is probably partly due to the increasing number of farmers deserting their farms annually. Published statistics reveal that in 1974, a total of 201 farmers left Nkonjock as against 232 newcomers. The net increase in the number of inmates that year stood at 26 since a total of 5 deaths were recorded.[18]

Other deserters

Most of the farmers recruited from Bamenda left after three years. During the first three years on his farm, each farmer was paid a monthly allowance,[19] to keep him going until his farm started yielding crops. The Bamenda people, since the days of the Germans, have been used to working on the plantations but always with the idea of saving the money and using it later, when they returned home, to build more attractive houses and also for the payment of their marriage considerations. It was not the intention of many of them to leave their homes and reside permanently in the coastal plantation areas of the country. The farmers of Bamenda origin remained at Nkonjock during the three-year salaried period but left immediately the money payments stopped. Another reason was that more and more younger men were being recruited. The rate of desertion among them was higher because they found it much more

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18. J. C. Barbier, op.cit., p. 99.

19. J. C. Barbier, op.cit., p. 102.

difficult to adapt to the life of farmers in camps. Most of these youngsters were recruited from urban areas in a bid to stem their flow from these areas towards the big towns. Some married men showed signs of home-sickness in their desire to pay visits to their villages of origin to meet their wives. Some of these never returned, even though they were encouraged to bring their wives along to Nkonjock. Also, a few Northerners, who were recruited for the purpose of working as herdsmen, did not remain in Nkonjock for long. Most of the farmers who stayed on, came either from areas with poor agricultural land or areas with a higher density of population.

Mention of density of population allows one to note the fact that most of the farmers came and still come from the thickly populated Bamileke regions. During the first five years of the project, only 40 farmers came from other parts of the country, as against 803 of Bamileke origin.[20] The population of the farmers stood in 1977 at 5,162, one-third of the population of Nkonjock.

On the whole, the Yabassi-Bafang project has been a remarkable success. In 1977, the 11th year of the project, the yield of coffee stood at 493,500 kilograms whereas that of cocoa was 5,800 kilograms. As regards foodcrops,[21] the

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20. Loc. cit.

21. Plantains and banana accounted for about 67.4% whereas cocoyams and cassava made up 28.8% of the total produce of foodcrops.

tonnage sold has increased steadily from 18 tons in 1972 to 77 tons in 1976. The figure could be higher if the condition of the roads was improved. The second category of land covered by the 1963 Decret-Loi was the State lands.

State Lands

The Décret-Loi of 1963 defined the State lands as lands at the disposal of the state and which could not be held by individuals. This form of property was inalienable, unattachable and imprescriptible. These qualities of the state lands notwithstanding, article 14 empowered the Prime Minister to allocate State lands to individuals by way of grant. Article 9 divided the State lands into two broad categories, namely, the Public Property of the State and the private property of the State. The article further subdivided the Public Property of the State into natural and artificial properties.

The Natural property of the State

The natural property of the State included what article 9 referred to as the maritime and fluvial properties. Article 10 defined the natural property of the State as composed of the seashore up to the highest tide mark and banks and estuaries of waterways subject to tidal influence up to the highest tide-mark. The same provision defined the fluvial property as including waterways and their banks, river beds, lakes, ponds, and lagoons within the

levels determined by high water level. There is some overlapping in what article 10 considers as the Maritime Property and the Fluvial Property of the State. This is because the provision includes waterways and their banks in its definition of both forms of property. Another source of confusion is that it would be difficult to determine the extent of these forms of State Property at certain times of the year when the tides are low. It may still be difficult to determine this by observing the level of high water mark from year to year, since the tidal influence is not the same every year. This state of uncertainty may lead to encroachments on State lands by people living in areas where these forms of State property are situated. The second type of State Property of a public nature as already seen, was the artificial property of the State.

The artificial property of the state

The state's Artificial Property covered the transport and communications network of the country ranging from sea and airports to roads and railways. Military installations and property of any sort serving any public utility was also included. The second broad category of State Property was the Private Property of the State.

The Private Property of the State

In this category was included property held by the State by virtue of a registered title, exchange compulsory

acquisition and abandoned lands covered by certificates of title. The period of abandonment was 30 years in keeping with article 2262 of the French Civil Code.[22] The power of the State to acquire abandoned lands was exercisable over lands held under customary law as well. Compulsory acquisition was the subject of a different enactment to be discussed later in this chapter. The Public and Private Property of the State just considered may also be said to be held by various Administrative Divisions of the state or even Area Councils in whose areas the given land was situated. These other divisions of the State were vaguely referred to in the reforms of the 1960s as collectivités locales (local groups). It is important to emphasise that the property of the state whether public or private, situated in any province or local council area, was the public or private property of the province or local council as well.

The national lands and the State lands being the first two of the four categories of land enumerated by the Décret-Loi of 1963 have so far been defined. There remain two other categories of land, namely, lands held under customary law on the one hand and registered lands on the other.

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22. The acquisition of property in this way was however discontinued under the 1974 land tenure reforms in the United Republic of Cameroon.

Lands held under customary law

Included in this category were lands in the effective occupation of individuals or customary communities for farming, building, and grazing purposes. Unlike under previous laws, fallow lands were not regarded as vacant lands. Lands not effectively occupied but which were likely to be cultivated in the future as a result of increase in population were included under this head. These provisions, contained in the third article of the Décret-Loi, were more in line with customary law under which the concept of vacant lands is unknown. These provisions gave a decent burial to a concept which was introduced or imported into the country by the Germans in 1896.[23]

The term "customary community" was defined in the Décret Loi as a group of people living together in the same territory as a result of parental ties, adoption or by simple association. This definition enabled a stranger to become a member of any customary group into which he was received. This would normally be subject to the customary law rule that such a stranger must accept to become integrated into the group and owe allegiance to its head.[24]

In 1964[25] the 1963 Décret-Loi was amended abolishing

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23. Imperial Land Decree of June 28, 1896; see page 243, supra.

24. See page 190, supra.

25. Décret No. 64/9 of January 30, 1964, articles 1 and 2.

the right of customary communities to obtain Livrets fonciers to evidence their customary land rights. By articles 1 and 2 of the 1964 enactment customary communities could claim no more than rights of user over their lands.[26] Individual members of these communities could still cause their customary land rights to be recognised by the government and Livrets fonciers issued to them. These then qualified the holders to go through the process of registration of title which was concluded by the issue of certificates of title.

Rights of individuals

Each member of a customary community could obtain a certificate of title to evidence his rights in land effectively occupied by him under customary law. If the land was in a rural area, he was prohibited from disposing of his rights therein during the five years following the grant of the certificate of title. This provision was

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26. Commenting on these provisions, Melone observed that (Melone op.cit., p. 160):

> "Il s'agit bien d'un simple droit de jouissance que ces collectivités auraient sur certaines portions de terre".

The land tenure reforms carried out in Guinea between 1959 and 1961, which nationalised all the land in the territory, did not draw any distinction between customary communities on the one hand and their individual members on the other. They could claim no more than rights of user in the lands they occupied. Cf Décrets of October 20, 1959 and of February 20, 1961, Pénant, Paris, 1962, p. 303.

intended to stem land speculation. Any contract for future sale of the land entered into during the five-year period was void ab initio. The certificate of title might however be used as security for a loan during the period of prohibition.[27] Persons holding customary rights in land in urban areas had to cause their rights to be recognised for the purposes of having them registered. They were required to commence the process within five years of the coming into effect of the 1963 Décret-Loi.[28] After this period lands not effectively occupied, and lands in respect of which the procedure for recognition had not yet been commenced, were to be considered as part of national lands.[29] These lands became national lands not because they had been declared vacant but because the persons who would have been recognised as proprietors failed to act or slept on their rights for too long. One may briefly comment here that the two-tier process of recognising customary land rights and then registering them before obtaining a certificate of title was a direct repetition of the system introduced into the territory by the French administration under their Décrets on the recognition of customary rights and the registration of title respectively.[30] The only difference between the

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27. 1963 Décret-Loi, article 5.

28. July 3, 1968.

29. Article 6.

30. See pages 322 et seq and 326 et seq.

two systems was that unlike that of the French administration, that which applied in the former East Cameroon was provided for in a single enactment.

Article 6-bis

One of the provisions of the Decret-Loi which has caused much controversy and attracted bitter criticism from the public was article 6-bis. This article stated that:

> "Every Cameroonian by birth in effective occupation of land in an urban or rural area before the passing of the present Decret-Loi, ceded to him for value or gratuitously, by someone holding the land under customary law, becomes a customary holder and can obtain recognition of his rights within a maximum period of 5 years" [31]

Even though this provision has been the subject of much criticism, it is not without its good points. Before the promulgation of the Decret-Loi it was impossible for a Cameroonian freely to hold interests in land situated outside his area of origin. He was considered a stranger to the community and, as already mentioned, he had to accept certain conditions before being allowed to settle. This provision

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31. Author's translation.

in effect enabled strangers to a community to enjoy similar interests in the land of that community as its indigenous members, without fulfilling the customary requirements of allegiance and integration into the group in question[32]. The indicium of land holding was then the acquisition of Cameroonian nationality by birth and no longer membership of a particular community or lineage. It appears that the effects of this provision turned out to be undesirable and not what the government had contemplated. By enabling strangers to a community eventually to become registered proprietors of land ceded to them gratuitously, this provision in a way expropriated the dispossessed members of that community of their lands against their will. The latter did not lightly accept the idea implicit in the provision that to show a stranger a piece of land on which to farm was tantamount to divesting themselves of their rights in the land in favour of the stranger. It turned out that those who had welcomed strangers became the victims of their own hospitality. The notorious article 6-bis sparked off much criticism. Dispossessed persons protested against the expropriation of their lands and the rigours of article 6-bis were watered down five years later by an Arrêté of the East Cameroon Secretary of State for Lands.[33] This object was achieved by re-defining some of the terms used in the 1963 enactment. The term "customary holder" was defined this time to mean one who showed that he held his

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32. See p. 190, supra.

33. Arrêté No. 28/PG of June 26, 1968 on the application of article 6-bis of the 1963 Décret-Loi.

rights legitimately and justifiably before the coming into effect of the enactment. Legitimate holding was also defined in article two of the Secretary of State's Arrêté as:

> "all effective and peaceful occupation in good faith of land acquired from another Cameroonian by birth who himself must have been capable of legitimately disposing of the land in question".

Effective occupation was evidenced by acts of enjoyment of the land such as the construction of buildings and farming on it. Provision was also made to enable persons contesting the propriety of anyone's occupation of land to be heard by the court. Such petititions had to be in writing. These clarifications reduced the injustice brought about by article 6-bis, but the Arrêté of the Secretary of State did not go far enough. Provision would have been made to the effect that proprietors of land ceded gratuitously be compensated if it could be shown that they did not intend to divest themselves of their rights in the land in favour of the stranger.

Article 6 itself was amended in 1967[34] postponing its coming into effect for another five years. It will be recalled that article 6 was to come into effect five years after the promulgation of the 1963 Décret-Loi, namely, on July 3, 1968. This postponement meant that article 6 was now to come into effect on July 3, 1973. This article, it would be recalled, required the holders of customary land

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34. Cf. Loi No. 67/7/COR of June 28, 1967.

rights in urban areas to cause them to be recognised or lose them to national lands, failing to do so within the stipulated period. The closing date of July 3, 1973 was caught by developments culminating in the introduction of the unitary state on June 2, 1972. By 1973, new land Ordinances were being worked out for the whole country. Nevertheless, the reforms of the 1960s sought to improve the lot of the Camerounian landholder in other ways.

Enhancement of the value of the livret foncier

Under the Décret of July 21, 1932, a holder of land under customary law could obtain a livret foncier (land booklet) to evidence his rights in the land if he proved the existence of these rights to the satisfaction of the French administrators.[35] The holder of a livret foncier was however not regarded as having full property rights in his land. The value of the livret foncier was up-graded in 1966 through an amendment of article 5 of the 1963 enactment.[36] By this amendment it became possible for the first time since 1932, for the holders of Livrets fonciers to legally exclude others from their lands and to be compensated as of right for loss of any of their rights in the land. Since the holders of the Livrets fonciers still had to go through the process of registration of title, it cannot be argued that

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35. See page 322 et seq., supra.

36. Amendment Loi No. 66/3 COR of July 9, 1966.

the reforms of the 1960s accorded direct recognition to all the customary land rights of the native inhabitants of the former East Cameroon.

It would appear that the purpose of article 5 was misunderstood by many people as well as by some courts of law. This state of affairs prompted the Minister of Justice to issue a circular in 1968 to the Courts of Appeal of Duala, Chang (Dschang) Garua and Yaoundé.[37] The Minister enjoined these courts to desist from facilitating the violation of article 5 of the 1963 enactment as amended, which prohibited the disposal of lands not covered by certificates of title. Even though the nature of a Livret foncier had changed as a result of the amendment, its holder could not dispose of his land until his title was registered and a certificate issued to him. The Minister pointed out in his circular letter that some dishonest vendors disposed of their lands to more than one person at a time, thereby causing confusion, and also that some of the vendors had no rights in the lands they purported to sell. Individual holders of certificates of title could freely sell their lands. These were persons who had caused their land rights to be accordingly recorded in the land register.

Registration of Title

The government of East Cameroon passed another Loi

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37. Circular letter No. 30021 of November 5, 1968.

of July 7, 1966, regulating the registration of title.[38] This decree superseded that of July 21, 1932, enacted by the French administration on the same subject matter.[39] In any case, customary rights in land which had been proved during the period of French Administration in accordance with procedure laid down by Décret[40] were re-examined by the East Cameroon government, and, if found satisfactory, were confirmed and registered. In fact, the East Cameroon government continued the process of investigating customary rights in land in keeping with the procedure elaborated in the earlier enactments.[41] A procedural innovation was to be found in article 3 of the Décret on title registration which provided that in order to be valid, customary rights had to be recognised by Arrêté of the Secretary of State for Lands in Council on the proposition of the Director of Lands.[42] A Board was set up in each division for the purpose of investigating the customary land rights of applicants in the area. The

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38. These were complemented by a Décret of November 30, 1966 and an Arrêté of Nov 25, 1966.

39. See page 326 et seq., supra.

40. Décret of July 21, 1932 on proof of customary rights in land.

41. Loc. cit.

42. Livrets foncier issued under the 1932 decree were equivalent to the Arrêté of the Secretary of State for Lands.

membership of the Board comprised the heads of the Public Works, Lands and Surveys and Agricultural Departments in the division and a Municipal Counsellor. The 1966 Décret on registration of title was similar as regards procedure to that instituted by the French administration, so there is no need for a further specific discussion of it. The effects of the reforms of the 1960s on customary land tenure in general and on the land rights of customary communities in particular must now be discussed.

Effect of reforms of the 1960s

From 1964, customary communities could no longer be registered as proprietors of the lands they occupied; they could enjoy only rights of user over these lands. This policy was maintained when the registration of title procedure was amended in 1966.[43] Prior to these enactments, the two-tier process of constatation to obtain a Livret foncier and then immatriculation to obtain a certificate of title was still in application in the territory. The process of immatriculation was in many ways a repetition of the constatation procedure as persons desirous of having their land rights registered had to have the land surveyed and have disputes settled by the same set of courts during each of the two processes. Under such a system, the cost of registering

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43. Loi of July 7, 1966; completed by two other enactments of the same year.

rights over a piece of land could in some cases be prohibitive. Some court cases took many years to be decided. The system discouraged rather than encouraged people to have their customary land rights registered. The reforms of 1966 were thus intended to simplify the registration procedure which was now shortened and solely in the hands of administrative officers. The latter took over the functions of the courts of law[44] in settling disputes arising from any objections raised against the registration of the rights of a given individual over a parcel of land. The constatation process was abolished and certificates of title could be obtained by going through the process of immatriculation alone.[45] Another enactment, which was part of the reforms of the 1960s, was passed in 1966 and dealt with compulsory acquisition of land by the State.[46]

The enactment on Compulsory Acquisition

This enactment starts off in its very first article with

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44. Jurisdiction in these disputes had been retained by Tribunaux de Premier Degré; cf., Décret-Loi of January 30, 1964, article 10.

45. The constatation procedure was also abolished in Mauritania by Loi No. 139 of August 2, 1960, but this was not for the purpose of simplifying the registration of title. The intention was to abolish customary land tenure, cf. Pénant, op.cit., p. 312.

46. Loi No. 66/LF/4 of June 10, 1966.

the provision that land may be compulsorily acquired by Presidential Décret. This provision went on to state that the Décret must clearly describe the land, the subject of compulsory acquisition, and the purpose for which the land was to be acquired. A copy of the Décret was to be sent to the Divisional Officer of the area where the land to be acquired compulsorily was situated. On receipt of the Décret, the Divisional Officer was supposed to form a Board charged with the duty of ascertaining the rights in the land in question as well as the persons affected by the acquisition. The Board which was presided over by the Divisional Officer, was composed of the Divisional heads of the Public Works, Lands and Surveys, and Agricultural departments and a Municipal Counsellor.[47] The local population was notified 15 days in advance of the date on which the Board of their area proposed to sit. The purpose of the notification was to give them time to bring to the notice of the Board, evidence of their rights in the lands to be acquired. The State's title to the acquired lands had to be registered one month after the Board completed its work.

The compensation for loss of rights in land compulsorily acquired was in cash or alternative land. As regards the calculation of the amount of compensation payable, article 7 simply stated that the amount of compen-

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47. Décret on compulsory acquisition, article 3.

sation payable, was limited to the damages suffered as a direct consequence of the eviction of the dispossessed proprietor. Persons not satisfied with the amount of compensation awarded by the Board, according to article 11, had the right to appeal to the Divisional Officer who in turn transmitted the appeal to the Board. This was indeed a curious use of language to refer to the process, whereby the same Board re-examined the question of compensation, as an appeal.

The whole process from start to finish was handled by administrators and the shortcomings of the enactment was its denial of any right of appeal at any stage to a court of law. To say the least, there is little to commend any piece of legislation which expressly ousts the jurisdiction of the law courts. Such a state of affairs was undoubtedly open to much abuse. This was just what happened as some of the administrators acted ultra vires, by purporting to exercise functions which were not within their authority. Such conduct caused the Prime Minister to issue a circular within six months of the enactment of the Décret on compulsory acquisition.[48]

The Prime Minister's circular, which was addressed to Secretaries of State, complained that some Divisional Boards had approved the compulsory acquisition of parcels of land which had at no time been declared by Presidential

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48. Circular No. 28/PG/SG/O of December 2, 1966.

Décret as land required for a public purpose. The conduct of the Boards amounted to a violation of article one of the enactment and such violations could have been avoided or much reduced if access to the courts of law had not been barred. There was not a single provision in the enactment for any form of disciplinary action to be taken against any unscrupulous Boards or its members.

Under the French administration, a decision to acquire land compulsorily was taken by the Commissioner-in-council and not by Décret simpliciter; the question of compensation was entrusted to land valuation experts; there was a distinction in procedure depending upon whether the land to be compulsorily acquired was individually or collectively held; and above all, there was provision for appealing to the courts of law.

Conclusion

The last chapter and the present one reveal how the post-independence state parliaments in both the state of East and West Cameroon have stuck faithfully to some of the principles bequeathed to them by the English in the case of West Cameroon and the French in the case of East Cameroon even though these parliaments claim that their laws unlike those of the European administrations were passed with the particular conditions and circumstances of their people well in mind. In the case of West Cameroon, the coming into being of the unitary state in 1972 had the effect of nipping in the bud what would otherwise have been the only major land tenure reform in that part of the country since the beginning of British administration. In the case of East Cameroon, the 1972 political change had little or no effect

on its land legislation. The East Cameroon land legislation was affected only in one respect. It prevented article 6 of the 1963 Décret-Loi as amended from coming into effect in July, 1973.[49]

The land tenure policy pursued by the British administration in the former Southern Cameroons which recognised and ensured the continued application of the local customary land laws, subject only to the repugnancy provisions, was largely accountable for the absence of any sweeping land tenure reforms when British administration of the territory came to an end. This was however not the case in the former French Cameroun where the French administration in the long run accorded only grudging recognition to the customary land rights of the native inhabitants of the territory. The spate of land legislation which followed the attainment of internal autonomy and independence, characterised a period during which the post independence legislature in the territory, which enacted legislation to correct the errors of the French administration, later discovered that it had gone to the other extreme in some cases.[50] The next chapter discusses the latest land tenure reforms in Cameroon as a whole.

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49. Under the said article 6 as amended, certificates of title had to be obtained by July 3, 1973, by those persons holding land in rural areas of East Cameroon under customary law or forfeit the said land to the pool of national lands.

50. See pages 382-408, supra.

CHAPTER TWELVE

LAND LEGISLATION OF THE UNITED REPUBLIC OF CAMEROON

Introduction

The United Republic of Cameroon, as earlier stated,[1] came into being on June 2, 1972. Prior to this date some areas of the law applying in each of the two states that made up the former Federal Republic of Cameroon had been unified.[2] Further unification of the laws was, on the creation of the unitary state especially in the field of land law considering the importance of land to the country's economy, one of the tasks which the government intended to carry out without delay.

A Commission was set up on November 14, 1972, to study the land laws of the former states of East and West Cameroon with a view to enacting uniform land legislation for the whole of Cameroon. The Commission was thus required to prepare draft legislation embodying the English, French and customary rules of land tenure then applying in the territory. The work of the Commission resulted on July 6, 1974, in the enactment of three Ordinances, dealing with

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1. See page 40, supra.

2. The Penal Code enacted in 1965 and the Labour Code which came into force in 1967, applied to the whole of the federation.

land tenure, state lands and compulsory acquisition respectively.[3] These were followed almost two years later by three Decrees,[4] which provided for the detailed application of the Ordinances. The first of these Decrees established the conditions for obtaining certificates of title to land. It can rightly be regarded as dealing with registration of title to land. The second sets out rules for the management of national lands. National lands come under the first of the 1975 Ordinances concerned with the question of land tenure. The third Decree concerns itself with the management of the private property of the state. The latter category of land and the public property of the state together make up state lands defined in the second of the 1974 Ordinances. It thus follows that although the Land Ordinances like their Decrees of application, are three in number, each Ordinance does not have a matching Decree of application. By way of demonstration, the first of the 1974 Ordinances, which deals with land tenure, has two Decrees of application.[5] With regard to the second Ordinance, only one Decree of application has been enacted, and

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3. These Ordinances were respectively given the numbers 74/1, 74/2 and 74/3; they will mostly be referred to in this chapter as the first, second and third of the 1974 Ordinances.

4. The three Decrees, issued on April 27, 1976, were respectively numbered as Decree Nos. 76/165, 76/166 and 76/167. They will for brevity be referred to as the first, second and third of the 1976 Decrees.

5. These are the first two Decrees of 1976: Decree No. 76/165 on registration of title to land and Decree No. 76/166 on the management of national lands.

its provisions apply to one only of the two categories of state land defined in the Ordinance, namely the private property of the state. Nothing is said in this Decree about the public property of the state. The third of the 1974 Ordinances, which is concerned with the question of compulsory acquisition, has no Decree of application. It is difficult to say now whether the legislator will enact legislation on these other matters.

On the eve of the enactment of the 1974 Ordinances in Cameroon, the rules of land tenure operating in the territory were haphazard as they were based on at least three different systems of law, namely, English, French and customary laws. The situation at that time may be likened to the scenery at a seashore where the tide had ebbed leaving behind the debris: the battered remains of the English and French land laws substantially overshadowing the sands of the local customary land laws. It was not the intention of the Cameroon government that the situation should persist for long. The first indication of governnent policy with regard to the land tenure situation came from the President of Cameroon at a Press Conference held in Yaoundé in 1973. He stated in this connection that:

> "...this means first of all completing the work of unification within the framework of the new national institutions by harmonising the national legislation in those areas where disparities still exist. This is both an urgent and delicate task; urgent because it is obvious that sets of laws which correspond to different principles cannot co-exist for long within a unitary state; delicate because it affects the traditions and values of men. This is in any case particularly necessary as it regards land and forestry regulations".6

6. Cameroon News Agency, February 10, 1973, p. 30.

The present chapter will be devoted to a critical study of the present land tenure reforms in Cameroon. It will begin with a discussion of the creation of national lands. The next point of discussion will be the state lands made up of the public and private properties of the state. This will be followed by an examination of the techniques adopted in fitting the various categories of individual property in the country into the framework of the present land legislation. An appraisal of two thorny issues, namely, the jurisdiction of the ordinary courts of law in land matters and customary land tenure which the present land legislation in Cameroon purports to abolish will round off this chapter.

National lands

Under the first of the 1974 Land Ordinances, national lands have been defined to include all lands in Cameroon whether occupied or not except state lands and private properties over which the proprietors hold certificates of title.[7] It will be recalled that the term "national lands" was introduced for the first time in the former East

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7. Ordinance No: 74/1, section 14(1) and (2). The holders of title deeds like Certificates of Occupancy and Livrets foncier, which under the present Ordinance are considered as evidencing rights falling short of full property, are required to convert their deeds to Certificates of title within 10 years of the coming into force of the 1974 Ordinances. Failure to respect this time limit will result in the forfeiture of the rights in question; cf., section 14 (3).

Cameroon in 1963[8] in preference to the expression "terres vacantes et sans maître" adopted by the French Administration in the territory.[9] Under the 1963 enactment only native lands not effectively occupied were considered as national lands. The 1974 legislation gave a wider conception to "national lands", namely:

> "lands occupied with houses, farms and plantations, and grazing lands manifesting human presence and development".[10]

The combined effect of sections 14 and 15 of the first of the 1974 Ordinances is that all lands held under customary law in the country including land in the effective occupation of customary communities has been nationalised. The likely effects of this aspect of the reforms will be examined later under the head of individual property.

Purpose of new concept of national lands

The desire of the government to improve the country's agriculture in particular and its economy in general was the main purpose of widening the concept of national lands under the 1974 legislation. By nationalising all lands in the country, except registered lands, the state becomes the sole proprietor of these lands and the state alone could allocate the lands in question or deal with them in any other manner. The question might be asked whether it was necessary

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8. See page 384, supra.

9. Loc cit.

10. Ordinance No. 74/1, section 15(1).

to include land in effective occupation in the category of national lands in order to ensure the effectiveness of government policies with regard to land development. In other words, what was wrong with the concept of national lands adopted by the East Cameroon government under the Décret-Loi of 1963? The experience gained from the Yabassi-Bafang Project[11] partially answers this question. The land which the government acquired in 1964 for this project[12] included dwelling and farmland which had been abandoned by the inhabitants of the region following the disturbances of the early 1960s. At that time, the government could not legally acquire the land on which the fugitives had planted their crops and built their dwellings because the legislation then in force had defined national lands to exclude dwelling and farmland. In order to avoid the possibility of being faced with a similar situation in the future, the government decided to give the term "National lands" the widest possible connotation. This, however, only partly answers the question because a repeat of the Yabassi-Bafang exodus can now only remotely be contemplated. It appears that another and possibly stronger reason is to curb irregular dealings in land by customary communities and their members. It is trite learning, so far as the student of African Customary land law is concerned, that some of the rules of this law are inimical to the

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11. A total of some 300,000 acres of land; see page 386, supra.

12. See pp. 386-7, supra.

practice of modern agriculture. What the Cameroonian legislator did in 1974, was to empower the state to assume control over almost all the land in the country and to manage it according to its economic goals. The manner in which the land is to be managed in order to achieve the desired objectives must now be discussed.

Management of national lands

The management of national lands is entrusted in the hands of Consultative Boards set up for this purpose.[13] Under the present reforms, the state is empowered to allocate national lands to individuals or corporate bodies able and willing to develop them. The allocation may be by grant, lease or assignment.[14] This power may be exercised only with respect to unoccupied or unexploited national lands since provision is made for customary communities and their members and any person of Cameroonian nationality occupying or exploiting national lands on the coming into force of the Ordinance on national lands[15] to continue to occupy and exploit such lands.[16]

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13. Each Administrative Division in the country has at least one Consultative Board.

14. Ordinance No. 74/1, section 17(1).

15. Ordinance No. 74/1, which came into force on August 5, 1974.

16. Ibid., section 17 (2).

Temporary grants

Temporary grants of national lands may be made to persons desirous of carrying out development projects in line with the economic, social or cultural policies of the state.[17] The term of a temporary grant must not exceed five years though this period may be extended in exceptional cases at the request of the grantee.[18] Apart from extending its duration, a temporary grant may be converted to a lease or an absolute grant. All applicants for temporary grants of national lands must channel their applications through the Lands Service to the Consultative Board in charge of the area where the land is situated. Each application[19] must be accompanied by a sketch map of the land in which the applicant is interested as well as a development programme clearly outlining the different stages by which he intends to accomplish the project. If the area of land applied for is less than 50 hectares, the allocation could be made by the Minister in charge of lands. Approval must come from the President in the case of a larger area.[20] The enactment does not outline the rights and obligations of a grantee of national lands but merely states that these shall be set out in special clauses and conditions.[21] Section 18(2), seems

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17. Decree No. 76/166 of April 27, 1976, section 2.

18. Ibid., section 3.

19. For a copy of an application, see appendix XI.

20. Ibid., section 7 (1).

21. Ibid., section 7 (2).

to suggest with regard to the revocation of temporary grants that the power to revoke them shall be exercised either by the Minister in charge of Lands or the President depending upon which of them allocated the particular lands in the first place. It thus follows that allocations made by the Minister could not be revoked by the President and vice versa. Section 8 (1), further enumerates other events the happening of which shall constitute good cause for the revocation of temporary grants.[22] On the occurrence of any of these events, the Minister or the President may, again, depending upon which of them was the grantor of rights over the land concerned terminate temporary grants.

Conversion of a grant

When the term of a temporary grant comes to an end or, even before that, when the grantee completes his project, the grant may be converted to a long lease[23] or an absolute

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22. Section 8(1): Temporary grants shall terminate:
    (a) on expiry of the period stipulated in section 3 above;
    (b) in the event of non-fulfilment of the grantee's obligations;
    (c) in the event of voluntary relinquishment;
    (d) in the event of transfer of property without the consent of the grantor;
    (e) if, in the event of the grantee's decease, the heir does not apply for the transfer of rights within a period of one year from the date of decease;
    (f) in the event of the grantee's insolvency, or winding-up in the case of a company;
    (g) in the event of an absolute grant.
23. Although the long lease is not unknown to French law (le bail emphytéotique), it was not popular in the former East Cameroon. Its inclusion in the present land legislation is attributable to the influence of the former West Cameroon.

grant. Conversion may be effected either by the Minister in charge of lands or the President as the case may be following the recommendations of the Prefect (Senior Divisional Officer) of the area where the land is situate. This official in making his recommendations is guided by a report drawn up by the Consultative Board on how the grantee had carried out his development project. What one would like to know here is why it is the Senior Divisional Officer's recommendations that are called for when it comes to the extension or conversion of a temporary grant and not those of the Consultative Board on which the approval of the grant was based in the first place. It is possible to explain this away in terms of the desire of the Legislator to introduce some checks and balances between the Consultative Boards and the Senior Divisional Officers, who are non-members of these Boards. In recommending the conversion of a temporary grant into an absolute grant the Senior Divisional Officer must also take into consideration the amount of money invested in the land by the grantee. Where the grantee is a foreigner, the Senior Divisional Officer must not recommend the conversion of the rights held under the grant into absolute rights as the highest interest which foreigners can hold in the national lands is the long lease.[24] An application for renewal of a temporary grant must be made at least six months before the expiration of the lease.

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24. Section 10(3).

Where such application is turned down, section 11(2) provides that the procedure to be followed with regard to "expenses incurred for development" (unexhausted improvements), shall be that applying to leases on the private property of the state. When one turns to the enactment concerned with leases on the private property of the state one finds that it contains no helpful information as regards the payment of compensation for unexhausted improvements on national lands. The only relevant provision on the point states that:

> "on expiry of the lease, the State shall repossess the property and may exercise its right of pre-emption over any amenities, buildings or installations existing on it".[25]

Nothing at all is said anywhere in the enactment as to the manner in which the unexhausted improvements on the land covered by the expired lease are to be valued for the purpose of compensating their owner. Although it would be a hazardous venture to contemplate how the State intends to exercise its power of preemption over unexhausted improvements on national lands the enactment being just three years old, the way a similar power was exercised in some parts of the country during the period of European administration[26] may instil fear in the minds of prospective investors as to the safety of their investments. One may however suggest

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25. Decree No. 76/167 of April, 27, 1976, section 20 (3).

26. The power granted to the French Administration in Cameroun under the Treaty of Versailles to preempt ex-German property was interpreted by this Administration as meaning that it could acquire any of the properties for a token sum of one franc. Cf., p. 298, n.21, supra.

that the Cameroon government intends to interpret the provisions of section 20(e) widely as to do otherwise will amount to a negation of the government's policy of encouraging investment in agriculture.

The Consultative Board

The Consultative Board which exists in every Administrative Division in the country apart from its supposed exclusive jurisdiction in land matters,[27] is also charged with the responsibility of putting into effect other important areas of the present land tenure reforms. The members of a Consultative Board[28] include the Divisional Officer (Chairman), experts of the Department of Lands and Surveys as well as representatives of the customary communities of each District or Sub-division.

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27. See p.454 et seq., infra.

28. These are enumerated in section 12 as:
    (a) the Sub-prefect (Divisional Officer) or the District head, Chairman;
    (b) a representative of the Lands Service, Secretary;
    (c) a representative of the Surveys Service;
    (d) a representative of the Town Planning Service, in case of an urban project;
    (e) a representative of the Ministry concerned with the project;
    (f) the chief and two leading members of the village or the community where the land is situated.

Composition of the Consultative Board

Since the duties of the Consultative Board include the important function of acting as a tribunal in many land matters, it is strongly suggested that the Board ought to have a Magistrate or Judge as one of its members. This is indeed most desirable as the present legislation vests the Board with jurisdiction which was previously exercised by the courts of law. The present members of the Consultative Boards will find it difficult to understand the various technicalities of land law and most of their decisions are likely to do untold injustice to one party or the other in the many cases that will come before them. Another matter concerns the representation of the customary communities on the Boards. Their representatives as already seen,[29] are "the chief and two leading members of the village ... where the land is situated". If the aim of including members of the customary communities on the Consultative Boards is to ensure that the interests of the communities concerned are consulted in dealings affecting or likely to affect their land rights as well as to obtain information on certain points of customary law, then the enactments ought to ensure that the fact of representation does not turn out to be a sham. The chief and two leading members of the village may not in every case truly and

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29. Section 12(f), see page 421 n.28, supra.

and adequately represent the lineage or other group in the community whose land rights may be affected, especially as the provision as it stands does not prevent the chief from choosing his cronies to sit with him on the Board.[30] This provision thus calls for rewording so that in every case, the head of the particular lineage or other group as the case may be should be heard by the Board before any decision likely to affect their land rights is taken. What is more, the use of the word "chief" in section 12 is open to the objection that not all the ethnic groupings in Cameroon have "chiefs" as has already been argued.[31]

Other functions of the Board

The other functions of the Consultative Board enumerated in section 14 reveal more loopholes in the present legislation. The first function indirectly gives the Senior Divisional Officer the power to allocate land in rural areas for the purpose of agriculture and grazing according to the needs of the inhabitants. This allocation is according to the section to be done on the recommendations of the Consultative Board. Section 14 raises a number of questions. Since section 17(2) of the first of the

30. In his circular letter No. 27/MINFI/CAB of July 1, 1976, the Minister of Finance reminded all the Governors of the Provinces that: "... Vous comprenez dès lors que tout la réforme foncière et domaniale de 1974 est axée sur ces commissions et les autorités administratives doivent donc porter une attention toute particulière à la composition et au functionnement de celles-ci".

31. See page 69 n. 37, supra.

1974 Ordinances allows customary communities, their members, and any person of Cameroonian nationality occupying or exploiting national lands on the coming into force of the Ordinances to continue to do so, is section 14 suggesting that "agriculture and grazing" are activities falling outside the ambit of "occupying or exploiting national lands"? If the answer to this question is in the affirmative what is the procedure to be followed by the customary communities in applying for agricultural and grazing land? What is the purpose of section 14 if the answer to the question is in the negative? Would allocations of land made by the Senior Divisional Officer be temporary leases or absolute grants? Another vaguely worded function of the Consultative Board contained in section 14 empowers it to select the lands which are indispensable for village communities. It might be desirable for the purpose of certainty to expressly enumerate in the provision that sacred groves, burial places and "bad bushes" could be included in the category of land indispensable to the villages but the wording of the provision was probably left as it is in order to cater for regional variations throughout the country. The quantity of land to be set aside for the private use of the villages must be a matter for decision by the Consultative Boards. Another function of the Board, which calls for the inclusion of Magistrates or Judges on these Boards as earlier argued,[32]

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32. See page 422, <u>supra</u>.

requires them to examine and, if necessary, settle disputes arising in the process of applications for land title certificates on occupied or exploited national lands. This point will be discussed in detail later in this chapter.[33]

Lands previously held under customary law

The concept of national lands under the present legislation nationalises all land in the country except land covered by a certificate of title.[34] This sweeping aspect of the reform purports completely to phase out the whole category of lands held under customary law prior to the enactment of the present legislation. The fate of these lands is outlined in section 17(2) and (3),[35] of the first of the 1974 Ordinances. Section 17(2) is to the

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33. See page 454 et seq., infra.

34. Cf., section 15 of the first of the 1974 Ordinances; the Minister of Finance stated in his circular No... /MINFI/DO/AF, addressed to members of the Consultative Boards throughout the country that:

> "L'Ordonnance No. 74/1 du 6 juillet 1974 a mis fin à l'existence des droits fonciers coutumiers en créant le Domaine National et les commissions consultatives pour son administration".

35. Section 17(2):
Provided that customary communities, members thereof, and any person of Cameroonian nationality occupying or exploiting lands in category 1 as defined in section 15, at the date on which the Present Ordinance enters into force, shall continue to occupy or exploit the said lands. They may apply for land certificates in accordance with the terms of the Decree provided for in section 7.
Section 17(3): Subject to the regulations in force, hunting and fruit-picking rights shall further be granted to them on lands in category 2 as defined in section 15, until such time as the State has assigned the said lands to a specific purpose.

effect that so far as these lands (enumerated as including lands occupied with houses, farms and plantations, and grazing lands manifesting human presence and development) are concerned, customary communities as well as their members and any person of Cameroonian nationality occupying or exploiting them by August 5, 1974, shall continue to do so and may apply for certificates of title over these lands. The purport of the sub-section is that when the Ordinance came into force in 1974, these communities and the persons named therein were allowed the continued enjoyment of their rights with respect to these lands. This provision raises a number of questions, the first of which is: to what law are these lands subject since registration of title is not compulsory under the present legislation? As regards lands not effectively occupied, the rights to hunt and pick fruits could only be exercised following government grant,[36] until such a time that the land is assigned to a specific purpose. The position on August 5, 1974, was thus that the interests of customary communities and those of their members in land effectively occupied or exploited by them were reduced to greatly restricted rights of user. Nothing at all was said about the interests of control of chiefs and lineage heads in these lands. The only possibility is that the exercise of these interests of control must have ceased since all the lands with respect to which they were held had become national lands on August 5, 1974. From

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36. The conditions of such grants are contained in the Forestry Regulations of Ordinance No. 73/18 of May 23, 1973.

this date the Consultative Boards assumed control of these lands; but the unfortunate thing about the Boards was that although provision was made for their creation by the first of the 1974 Ordinances,[37] this was never done until nearly two years later.[38] Who was therefore supposed to carry out the duties of the Consultative Boards during this period? Since the present reforms do not disturb the continued enjoyment of rights in land previously held under customary law,[39] and registration of title is not compulsory, under what law are these rights supposed to be held as customary land tenure has purportedly been abolished. Even if customary land tenure no longer exists in Cameroon, so long as the rights in these lands are not recorded in a land register, Statute law cannot apply to them. Does it then mean that these lands fall in a hybrid category where neither Statute nor customary law can venture? Since incidents of customary law must necessarily continue to apply to these lands even after registration,[40] the purported abolition of customary tenure seems to be no more than paper legality.[41] Also what was the purpose of including "any person of Cameroonian nationality" among those

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37. Ordinance No. 74/1, section 16(2).

38. Decree No. 76/166 of April 27, 1976, section 12 et seq.

39. According to Ordinance No. 74/1, section 17(2).

40. See pages 475-476, infra.

41. One cannot abolish customary tenure simply by enacting legislation to say that one has done so.

whose customary rights were preserved in land effectively occupied or exploited by them? This expression certainly excludes all non-Africans who have acquired Cameroonian nationality through naturalization in the light of the decision in the Duala case of Ministère Public c. Henri Douala Bell.[42] This case decided that a Cameroonian who had acquired French nationality through naturalization could no longer enjoy customary land rights in Cameroon. It follows from this decision that Europeans and other non-African naturalized Cameroonians cannot claim to enjoy rights in land tenable only at customary law. Even companies registered in Cameroon must also be excluded as it is inconceivable that companies can enjoy rights in land under customary law. Having thus eliminated all non-Africans and companies, the only other category of persons left in this discussion consists of Africans who have acquired Cameroonian nationality. The phrase in question might have been inserted in section 17(2), to enable them also to preserve some of their customary land rights; but again this could only apply to those Africans who had not become integrated into the customary community over whose land they held their rights.

It is too early now to predict accurately what the reaction of the customary communities to the sweeping changes

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42. Recueil Pénant, Paris, 1955, Vol. 65, pp. 316-17; Cf. p. 325 n.77, supra.

introduced by the present reforms is likely to be. Tjouen Alexandre[43] does not however share this view. He holds the opinion that many areas of the country welcome the reforms while a few others are either indifferent or opposed to these reforms. He subdivides the country for this purpose into three parts and states that two of them, the Northern Province as well as the North-west and South-west Provinces accept the reforms. With regard to the third part, the southern half of the country, he states that the rural population opposes the present reforms whereas the reaction of the urban population is one of indifference. According to him, those areas of the country which accept the reforms are areas with paramount chiefs at the head of the political hierarchy whose places the state easily took under the 1974 land tenure reforms. To subscribe to this view amounts to accepting the fallacy that "the land belongs to the chief".[44] Tjouen also argues that the southern part of the country has not accepted the reforms because, unlike the centralized areas, they are acephalous communities and lack paramount authorities whom the state could replace under the reforms. Even if this argument is acceptable, Tjouen still has to account for the alleged acceptance of the reforms by the South-west Province most of which, as has been stated earlier,[45]

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43. Tjouen Alexandre is writing a doctoral thesis at the University of Paris on Droit foncier et domanial du Cameroun.

44. See pp. 109, 154, 192 and 208, supra.

45. See p.113, supra.

is acephalous. It is most likely that both the centralized and acephalous communities in the country will resist these reforms which to them constitute unnecessary interference with their rights by the government. The present reforms directly affect the interests of benefit in land with regard to members of these communities and the land control interests of chiefs and lineage heads. As regards people in the first category, it has already been noted that they have been allowed to continue to enjoy limited rights of user in the lands they effectively occupied or exploited by August 5, 1974. None of these limited rights may be exercised over land which was being fallowed by the cut-off date. Similarly, all rights in lands in rural areas not exploited for 10 years since this date shall be lost as the land will be incorporated into the private property of the state without payment of any compensation.[46] For the second category of people (chiefs and lineage heads) all the Land Ordinances are silent as to the fate of their interests of land control. This silence notwithstanding, the chiefs and lineage heads have theoretically been stripped of their land control interests. The government went about this tactfully by issuing a Decree in 1977,[47] in which the duties of chiefs were defined and nothing was said about their interests of land control. As if to

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46. Cf., Ordinance No. 77/2 of January 10, 1977, section 11, modifying Ordinance No. 74/2 of July 6, 1974, section 11.

47. Decree No. 77/245 of July 15, 1977, on the organization of chieftainship.

compensate them for this loss, the Decree provides for the payment of salaries and allowances to the chiefs. The chiefdoms are classified under three heads and chiefs whose chiefdoms fall in the first two earn higher salaries and allowances than their counterparts whose chiefdoms are classified under head three. Apart from the national lands under discussion, another category of land also included in the 1974 Ordinances was called "State lands".

State lands

The Ordinance defined State lands as comprising all movable and immovable property which by nature or destination is meant either to be directly used by the public or for public services. State lands consist of two types of land. The first type is the public and private property of the state whereas the second is known as the property of other public bodies.[48] The public property of the state is again subdivided into natural and artifical properties.[49] The 1974 reforms introduced a new category of artificial state property. This category is made up of chief's palaces and chieftainship paraphernalia which thus become state property for the first time in Cameroon and only the rights of user over this form of state property is vested

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48. The term "other public bodies" in the Ordinance is the English translation of the French Personnes morales de droit public which in reality are bodies like Area councils.

49. This was also the case under the Décret-Loi of 1963, see p. 392, supra.

in the chiefs.[50] The inclusion of this subsection was probably aimed at preventing further losses of such important articles to foreigners.[51]

Private property of the state

The Ordinance gives a wide definition to the term "private property of the state" in section 10.[52] Section

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50. Ordinance No. 74/2, section 4(k).

51. The reverred Afo-Akom statue of the Kom people which was bought back from an American Museum in 1973 at a high price is a ready example.

52. Section 10: The following shall form part of the private property of the state:
    (1) Personal and real property acquired by the state without consideration or for valuable consideration according to the rules of ordinary law;
    (2) Lands which support buildings, constructions, structures and installations established and maintained by the state;
    (3) Real property devolving upon the state by virtue of:
        (a) Article 120 of the Treaty of Versailles of June 28, 1919;
        (b) Enactments on war sequestrations;
        (c) Classification deeds drawn up in pursuance of enactments previous to the present Ordinance;
        (d) Being struck off the list of public property of the state;
        (e) Expropriation for reasons of public interest;
    (4) Grants of urban or rural lands which are forfeited by effluxion of title or confiscation, as well as the properties of associations which have been dissolved for acts of subversion or offences against the internal or external security of the state;
    (5) Property withdrawn from national lands by the state in pursuance of the provisions of section 18 of the Ordinance to establish rules governing land tenure.

10(3) which includes the "real property devolving upon the state by virtue of article 120 of the Treaty of Versailles" in its provision, is certainly an updating provision which has the effect of vesting in the present unitary state, property acquired by the two former federated states of East and West Cameroon under the same Treaty. This property was prior to the First World War vested in the German administration in Kamerun. Also included in this category of state property are properties acquired by the state by virtue of enactments on war sequestrations, compulsory acquisition and property excised from the other category of state property, namely, the public property of the state. Rights granted to persons over urban or rural lands anywhere in the country and later forfeited or confiscated become vested in the state as its private property.[53] Further additions to this category of state land include the properties of organizations which have been dissolved or banned for acts of subversion or other offences against the internal or external security of the state.[54] Another provision the operation of which had the effect of increasing the private property of the state was section 11. It was to the effect that from the coming into effect of the Ordinance and for a transitional period of two years, lands in rural areas of the

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53. Rights of grantees may be forfeited for various reasons including failure to respect the terms of the grant.

54. It is doubtful whether the property of a religious body like the "Jehovah Witnesses" who were banned in Cameroon nearly a decade ago for dissuading people from voting at elections could be acquired in this way. Their church building in Duala has apparently not been acquired by the state.

country which have remained unexploited for ten years might, after due notice has remained ineffective, be incorporated in the private property of the state without compensation. The first question which arises here is: what is the meaning of "due notice"? Another observation to be made about this section is that, combined with section 17(3)[55] of the first of the 1974 Ordinances[56] they have the effect of introducing through the back door a dichotomy into the second category of national lands (i.e. lands free of any effective occupation). The two types of land inherent here are firstly, the land over which hunting and fruit-picking rights could be granted by government to customary communities and secondly (section 17(3), land in rural areas which remain unexploited for 12 years[57] (counting from the end of the two-year transitional period) following August 5, 1974. The first type of land is made up of forest land as it is in such land that customary communities enjoy the rights to hunt and pick fruits. The second, certainly comprises the farmland which according to section 11 was intended to be incorporated in the private property of the state if not exploited within the stipulated period.

As regards the uses into which the private property of the state may be put section 12 of the Ordinance enumerates

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55. Section 17(3):
Subject to the regulations in force, hunting and fruit-picking rights shall further be granted to them (customary communities), on lands in category 2 as defined in section 15, until such time as the state has assigned the said lands to specific purpose.

56. Ordinance No. 74/1, to establish rules governing land tenure.

57. This period has been reduced to 10 years as a new section 11, deleting the transitional period, was inserted by Ordinance No. 77/2 of January 10, 1977.

these as well as the methods by which this property could be alienated.[58] By section 12(2), the detailed procedure to be followed in alienating this land was to be outlined in a future Decree. It was promulgated two years later[59] and must now be examined. The Decree starts off in the first section with the provision that "allocation, assignment or allotment," were the three methods by which the private landed property of the state might be alienated. Section two begins with a definition of the first of these three terms, namely, "allocation", giving one the impression that the other terms were also to be defined. This turns out not to be the case.

Allocation

Section 2(1) defines "allocation" as an act by which the state places some part of its private property at the

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58. Section 12(1):
The private property of the state may be:
(a) Allocated to public services;
(b) Assigned to public bodies;
(c) Allotted as a contribution to the capital of companies with a right of reincorporation in the private property of the state in the event of dissolution, bankruptcy or liquidation of the said companies;
(d) Allotted leasehold or freehold to international bodies of which Cameroon is member;
(e) Allotted leasehold or freehold and subject to reciprocity to diplomatic or consular missions accredited to Cameroon.

Section 12(2):
The terms and conditions of such allocations, assignments and allotments shall be laid down by Decree.

59. Decree No. 76/167 of April 27, 1976, to establish the terms and conditions of management of the private private property of the state.

disposal of a "public service".[60] It follows from this definition that "allocation" is used only in connection with alienation of land intended to serve a public purpose. Any government Department wishing to have state land allocated to it must apply in writing to the Senior Divisional Officer of the Division where the land concerned is situated. On receipt of such application the Senior Divisional Officer convenes a Board whose members include an authorized representative of the Ministry concerned with the application and the representatives of the Lands, Surveys, Highways, Town Planning and Health Departments in the Division. Apart from the representative of the Surveys Department whose role is to draw a detailed plan of the land showing its geographical location, nothing is said about the functions of the other members of the Board. On the completion of its work, this Board's observations and all other papers relating to the land are sent to the Minister in charge of Lands. The Minister probably sends the dossier after studying it and making his comments to the President since the fate of every such application is decided by Presidential Decree. When an application is approved the Government Department concerned may enter the land immediately if it is unoccupied. If the land is occupied, this Department must compensate the occupants. Nothing is said in the Decree as to how those displaced have to be compensated. By section 4(2) if

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60. The term "public service" in the subsection is a direct translation of the French term service public which means either a Government Department or an Area Council.

allocated land is not exploited within three years of the allocation, such allocation may, on the recommendation of the Minister in charge of lands be withdrawn by Decree.

Freehold Allotment

Under this head, the Decree states in section 5 that state lands which have not been allocated, or whose allocation has been withdrawn may be alienated by sale, assignment or exchange. Public auctions of state land may be carried out by a Board composed of almost the same Divisional representatives of the other Board charged with studying applications for land allocation. For the present Board, there is a new entrant in the person of the Lands Revenue Collector whereas the Divisional representatives of the Health and Town Planning Departments are excluded. Properties put up for sale by public auction shall have reserve prices and the notice of sale shall be broadcast on radio, published in the press, and posted at the Department of Lands and in the headquarters of the Division where the land to be sold is situated. At the sale, which is held 30 days after the posting of the notice, bids may be accepted only from persons who had earlier declared their intention to bid.[61] Section 6(5) states that the property

61. Such declaration of intention according to section 6(4) must include:
(a) all information on the civil status, form of marriage, profession, domicile and nationality of the bidder;
(b) acceptance of the special conditions attaching to the sale;
(c) in the case of a company, a copy of the memorandum and articles of association, or a court registry certificate of its legal existence;
(d) if the bidder is acting through an agent, a power of attorney explicitly empowering the latter to bid;
(e) a receipt from the Lands Revenue Collector's Office for the payment of a bond equal to half the reserve price.

is adjudicated, without guarantee to the highest bidder.[62] Another provision contained in section 7(4), and which may act as a deterrent to potential purchasers of state land, states that the sale shall not be final until approved by Order of the Minister in charge of Lands. Although this provision is aimed at checking any possible irregularities which might occur at Divisional level, it may discourage potential purchasers of state land who may entertain the fear that Ministerial approval may not be easy to obtain or take too long to come through while their money is unnecessarily held up in a process rather too long to be endured by businessmen.[63] When the sale receives Ministerial approval and the balance of the purchase money is paid the certificate of title over the land is then accordingly altered to reflect the change of proprietorship. The expenses involved in effecting the alterations are incurred by the new proprietor. The certificate of title must contain a clause prohibiting the purchaser from alienating either his title or improvements effected by him on the land, without prior authorization. The person from whom this authorization

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62. The French text of this provision carries a slightly different meaning. It is to the effect that the property shall go to the highest and last bidder without guarantee. It is possible latent defects in the title that are not guaranteed and not whether or not the property will go to the highest bidder which is what the English text seems to suggest. Such a suggestion makes nonsense of a public auction.

63. This provision is a departure from article 1583 of the French Civil Code by which a sale is deemed complete once the purchase price is agreed and the subject matter of the sale known.

to alienate has to be obtained is not mentioned in the Decree but one may suggest that it must be the Minister in charge of Lands since it is he who has the power to approve the sale of state land by auction. The whole transaction though crowned by the issue of a certificate of title to the purchaser does not give him full property rights over the land purchased. This is because the certificate of title itself contains restrictions as to the manner in which he is to enjoy the property. He cannot dispose of his rights in the land to anyone of his choice as should be the case with the holder of full property rights in land. Should the purchaser die without fulfilling the development conditions to which the sale was subject, his successors shall remain bound by them. In case they fail to carry them out, the Minister declares the sale cancelled.[64] The certificate of title, in such a case, becomes null and void and the purchase money refunded.[65] The land concerned will then revert to the pool of state land.

Sale by private treaty

Any person who wishes to purchase state land by private treaty must make a written application to the Minister

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64. The notice of cancellation must be published in the Official Gazette; section 7(6).

65. Section 7(5).

in charge of lands.[66] The documents to be attached to the application here[67] are similar to those required from persons who declare their intention to purchase state land by public auction. In a sale by private treaty, the prospective purchaser must attach to his application a statement of all land he might have acquired in any manner whatever from the state or from private persons. This requirement is probably aimed at checking the development of a trend which might in the long run result in most of the land in the country being held by a few rich people. This is undoubtedly a laudable policy but it is doubtful how far it is likely to be effective considering that there is no similar requirement when it comes to purchasing state land by public auction.[68]

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66. Section 8.

67. The documents which a prospective purchaser must attach to his application are:
    (a) a certified true copy of his identity card;
    (b) A statement of all land he might have acquired in any manner whatever from the state or from private persons;
    (c) a power of attorney if the applicant is acting through an agent;
    (d) if the applicant is a company, a copy of the memorandum and articles of association or constitution, or a court registry certificate of its legal existence.

68. Section 30 contains another restriction but this too may not be so effective as the present land legislation allows people to hold land anywhere in the country. This section prohibits individuals and companies from holding more than two parcels of land in the same urban centre or more than 50 hectares of land in rural areas freehold or leasehold by virtue of state grants.

Assignments

The term "assignment", though not defined anywhere in the Decree under discussion,[69] is used with respect to the alienation of state land in freehold to the so-called public bodies (Rural or Urban Councils). Section 11(1), states that state land may be assigned to public bodies (Area Councils) without consideration or for valuable consideration. A Council which requires state land for its purposes must apply for it through the Senior Divisional Officer of the Division where the land is situated. The purpose for which the land is required must be stated in the application. If the land is situated in an urban area, the application must first be submitted to the Office of the Town Planning Service for endorsement. Section 11(3), states that the assignment shall be made by Decree which shall state the nature of the assignment and the various obligations of the assignee. It is not clear whether the application of a Council to be assigned state land has to go through the Minister in charge of Lands or is sent directly to the Presidency. In any case, the assignee Council is prohibited from using the land for a different purpose without the authorization of the state. Here again, it is not clear whether this authorization must come from the President or, through delegation,

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69. Decree No. 76/167 of April 27, 1976.

from the Minister in charge of Lands or from the Senior Divisional Officer.[70]

The present Decree also makes provision for the state to subscribe for shares in a company, and to pay for them in kind, by allotting some of its land to such company. The allotment is made by Decree and the land must be re-incorporated in the private property of the state when the company winds up, becomes insolvent or goes into liquidation.[71] The land allotted to the company by the state is valued by a body composed of the Director of Lands or his representative who acts as Chairman, the Director of Surveys or his representative and a representative of the company appointed in general meeting who must be an auditor qualified to value assets in kind. The state is also empowered by the Decree to exchange its property whether built upon or not, against property of the "same" (sc. similar) description held by individuals or corporations.[72] The properties prior to the exchange must be first valued by the Department of Lands and the other party concerned. If there is a difference in value, it is paid for in cash. The individual or corporation as the case may be must, prior

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70. Individuals and corporations may acquire state lands in leasehold by following similar procedure as the Councils; cf., sections 16-19.

71. The question which arises here is whether the repayment of the contributories to the assets of a company in Cameroon when such company goes into liquidation does not in the first place depend upon whether it is English or French law that must apply. This must be so because company law has not yet been unified in the country. The applicable law will be determined by the town of registration of the company concerned: English law in the case of a town situated in the English-speaking- and French law in the case of a town situated in the French-speaking region of the country.

72. Section 13(1).

to the drawing up of the deed of exchange, testify that the property is not currently burdened by any mortgage.

Lease of state land

The private property of the state may be allotted leasehold to individuals or corporations. The lease may be either an ordinary or long lease. The term of an ordinary lease must not exceed 18 years whereas long leases are granted for periods ranging between 18 and 99 years.

Ordinary lease

An ordinary lease which entitles the lessee to possession of the property for 18 years carries the obligation on the part of the lessee to hold the land covered by the lease subject to stipulations laid down in section 20.[73]

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73. Section 20 enumerates these conditions as follows:
(a) the rent shall be payable in advance and be subject to revision;
(b) the lessee shall bear all charges relating to the property and shall pay all property taxes and accessory taxes;
(c) authorized state employees shall be allowed to visit the property to check whether the lessee is fulfilling his obligations;
(d) the lessee shall not assign his lease or agree to sublease without authorization;
(e) on expiry of the lease, the state shall repossess the property and may exercise its right of preemption over any amenities, buildings or installations existing on it.

Section 20(c), is not entirely free from doubt as it is not clear from the subsection who authorized state employees are. No mention is made of the person (President, Minister or Senior Divisional Officer), entitled to authorize the inspection of leased state land. Section 20(d), states that the lessee shall not assign his lease or agree to sublease it without authorization. As it stands, this subsection is suggesting firstly that there is a distinction between assigning a lease and agreeing to assign a lease; and that the first but not the second act is prohibited. Secondly, the lessee is not allowed to enter an agreement to sublet his rights in the lease without authorization. It is however arguable that it is nonsense to talk of agreeing to assign a lease without the intention of carrying out the agreement but then that is what the subsection seems to suggest. Section 22(2),[74] which lays down the penalty for violating the provisions of section 20 (d), only adds to the confusion. It is to the effect that any agreement to do any of the things prohibited by section 20(d), namely "to assign or to agree to sublet", shall be null and void thus terminating the lease.[75] Apart from annulling the lease

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74. Section 22(2), states that:
An agreement entered into by the lessee in violation of the provisions of section 20(d), shall as of right, be null and void... and shall entail the immediate termination of the lease...

75. This confusion probably results from an admixture of English and French law and a desire to fit it into the strait-jacket of the provision.

under section 22(2) the state may also terminate it for failure on the part of the lessee to fulfil his obligations. In such a case, no compensation is payable to the lessee for unexhausted improvements on the land. This is a hard provision so far as the lessee is concerned but the fact that he is served with a warning notice three months before the termination of his lease slightly waters down the rigour of the provision. The lessee may also terminate his lease provided that he is not owing rent and gives six months' notice of his intention to bring the lease to an end. In such a case, he must leave the property as it is; but the state may insist that the property be left in the same condition as it was at the beginning of the lease.[76] Proceedings could be taken against the lessee for the recovery of any money owing by him.

Long Lease

The long lease which according to section 23 confers a real property right of up to 99 years and which may be mortgaged is of the former West Cameroon parentage where such property rights were tenable under the Land and Native Rights Ordinance.[77] The conditions of tenure of a long

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76. Cf., section 21.

77. The French equivalent of the long lease is the bail emphytéotique which did not feature in the land laws of the French-speaking region of the country.

lease are similar to those of an ordinary lease.[78] The holder of a long lease may be authorized to assign his lease, or to sublet part of the property.[79] This authorization where applicable should be included in the conditions of tenure drawn up at the time when the lease is granted. The difference between this and an ordinary lease is that the lessee of an ordinary lease has to obtain the authorization of the lessor each time he wishes to assign or perhaps sublet his rights in the land. Like an ordinary lease, the state may terminate a long lease for non-fulfilment of the lessee's obligations. Where the lessee burdens the land with any charges, the lease may not be terminated until the proprietors of such charges have been informed of the government's intentions. These proprietors are entitled, according to how they rank, to take over the obligations of the defaulting lessee. Where they fail or refuse to act, all their rights and all other rights created by the lessee in the land will be nullified with effect from the date of publication of the Decree terminating the lease.[80]

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78. Section 23:
    (a) the rent shall be payable in advance and be subject to revision;
    (b) the lessee shall be required:
        (i) to maintain the leased premises in a clean and proper state;
        (ii) to bear all charges relating to the property and in particular to pay all property taxes and accessory taxes;
        (iii) to allow authorized state employees to visit the property to check whether the lessee is fulfilling his obligations;
    (c) on expiry of the lease, the state may exercise its right of preemption over any amenities (unexhausted improvements), buildings or installations existing on the property.
79. Section 24.
80. Section 25.

Allotments to International Bodies

The present land legislation has not altered the policy by which international organizations of which Cameroon was member, as well as diplomatic and consular missions accredited to the country, were allowed to enjoy rights in state land. These rights may be granted in leasehold or in freehold at the request of the body or mission concerned. The application for a grant must be sent to the Minister in charge of Lands through the Minister of Foreign Affairs together with a plan of the land in question. In the case of diplomatic missions, it must be indicated in the application whether the governments of the countries they represent have already granted similar rights to Cameroon or are in a position to do so. All allotments are made by Decree and do not have the effect of alienating the resources of the sub-soil as these are vested in the state.[81] The first of the 1976 Decrees will now be discussed. As earlier stated,[82] this Decree may properly be named a "registration of title" enactment. The present discussion must be preceded by an analysis of some of the provisions of the Ordinance,[83] which the Decree under discussion implements.[84] These two enactments, namely, the first of the 1974 Ordinances and the first of the 1976 Decrees are mostly concerned with the rights of individuals in land.

81. Section 28.

82. See page 411, supra.

83. Ordinance No. 74/1 of July 6, 1974, on land tenure.

84. Decree No. 76/165 of April 27, 1976, to establish conditions for obtaining land certificates.

Individual interests in land

It is under this head that the multiplicity of categories of land created all through the country's chequered history is most marked. Prior to the enactment of the 1974 Ordinances, there existed in the country at least seven types of land over which individuals held property rights. Of this number, five were accorded the status of full property rights in section 2 of the first of the 1974 Ordinances.[85] All what the holders of the title deeds over these lands, except the holders of land certificates obtained under the system of registration in the former East Cameroon, were required to do to bring their tenure into line with the present legislation was to lodge their deeds at the Lands Services of their areas for "publication" (sc. entry) in the land registers. Where any of them fails to have his title deeds recorded in the land register, section 3(2),[86] states that dealings which he effects with respect to the land in question shall be of no effect. The meaning of the subsection is not entirely clear; and it is uncertain to whom the term "third parties" refers. In any case, since the Ordinance accords the status of full property rights to these pre-1974 title deeds it

85. Section 2(a) registered lands; (b) freehold lands; (c) lands acquired under the transcription system; (d) lands covered by a final concession; (e) lands entered in the Grundbuch. The other two are lands covered by Certificates of Occupancy and lands covered by Livrets Foncier.

86. Section 3(2): Failing such "publication" (sc. entry), no deed to establish, amend or transfer real property rights to the lands in question may be transcribed or opposed to third parties.

follows that their validity is not affected by failure to have them recorded in the land register. The inescapable conclusion which results from such a situation is that the fact of proprietorship is ascertainable not from the land registers established under the present legislation but from earlier registers some of which were created by the German administration since 1896. In the case of the other two types of land covered by Certificates of Occupancy and Livrets Fonder, the holders of these documents must convert[87] them into certificates of title under the new legislation within a period of five years [88] from the coming into effect of this legislation. Where the holders of these documents of title are either foreigners or companies, each case must be studied separately before conversion could be effected. Any holder of either a Certificate of Occupancy or a Livret Foncier who fails to observe the time limit laid down in section 4(1) forfeits his rights. In such a case, the land concerned becomes incorporated as of right in the pool of national lands.[89]

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87. For copy of application for conversion, see appendix

88. Ordinance No. 74/1 of July 6, 1974, section 4(1). This subsection was later amended by Ordinance No. 77/1 of January 10, 1977, increasing the period to 10 years in the case of land situated in urban areas and to 15 years where the land concerned was situated in rural areas.

89. Section 14(3).

It is noteworthy that the Certificate of Occupancy on the one hand, and the Livret Foncier on the other, both regarded by the present land legislation in Cameroon as evidencing rights falling short of full property, were not of the same parentage.

The Livret Foncier

The Livret Foncier, it would be recalled, was introduced in French Cameroun by Décret in 1932 by the French administration.[90] Under this Décret, customary communities as well as its members could apply to the French Administration in the territory for the recognition of their customary land rights. A successful applicant was issued a Livret Foncier to evidence his recognised customary land rights, but the French Administration nevertheless regarded this document as inferior to a certificate of title to land which was tenable under another Décret also passed in 1932[91]. The holder of a Livret Foncier could then apply for a certificate of title over his land in keeping with the procedure laid down in that Décret. When the territory gained independence in 1960, the land tenure reforms later carried out in 1963 up-graded the status of the Livret Foncier but this development notwithstanding, it still did not attain the status of a certificate of title. This is still the position under

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90. Décret of July 21, 1932; see page 323, supra.

91. This was the Décret on registration of title to land.

the present legislation; but as regards the Certificate of Occupancy, it is submitted that it was not accorded its rightful place in the present reforms.

The case for the Certificate of Occupancy

Introduced from Northern Nigeria into English-speaking Cameroon by the British Administration in 1927,[92] the Land and Native Rights Ordinance was the main land legislation in the territory up to 1974, when the present reforms repealed it. The highest interest in land under the Land and Native Rights Ordinance and which was evidenced by a Certificate of Occupancy was a right of occupancy. This right was defined in section 2 of the Ordinance as a "title to the use and occupation of land and includes the title of a native or native community lawfully using or occupying land in accordance with native law and custom". It was earlier stated[93] that there were two types of rights of occupancy, namely, those of natives and those of non-natives, or customary and statutory rights of occupancy respectively. The customary rights of occupancy were held in perpetuity whereas the statutory rights were held for at most 99 years. Although some natives who were desirous of

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92. Cf., pp. 273-274, supra.

93. See pages 274-275, supra.

having some documentary evidence of their land rights applied for and obtained Certificates of Occupancy, it will be wrong to suggest that by so doing they had consented to having their land rights reduced to rights merely entitling them to occupy the land for a period of at most 99 years. One of the provisions of the present land legislation,[94] subjects Certificates of Occupancy held by individuals of foreign nationality and corporate bodies to a separate conversion procedure,[95] thereby distinguishing them from those held by natives. The true nature of a Certificate of Occupancy of a native of the former West Cameroon under the Land and Native Rights Ordinance was that it evidenced not only the highest interest capable of being held in land in that territory but also one which was held in perpetuity. Since the present reforms resulted in an aggregation of the various land rights held in the former federated states of East and West Cameroon, it was but proper to consider the status of each form of right in its former jurisdiction in order to be able to place it in the right category in the new set up. Under the draft "Land Registration Law" of the former West Cameroon prepared in 1972[96], provision was made for recording Certificates of Occupancy together with registered freehold deeds (German) on the new land register to be established,

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94. Ordinance No. 74/1, section 4(2).
95. Each of these has to be examined separately before being approved for conversion into a certificate of title, under the present legislation.
96. See page 375, supra.

without requiring any formal applications from the holders of these title deeds[97] and without any distinction between the two. The Certificate of Occupancy of natives ought then to be given similar status under the present legislation by being classified together with the other title deeds enumerated in section 2 of the first of the 1974 Lands Ordinances.[98]

In the case of persons in favour of whom court judgments have established or transferred property rights, they must notify the Lands Department of their rights so that certificates of title be issued to evidence them. The notice must be given within two years of the coming into effect of the 1974 Ordinances.[99] Where title over

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97. Draft West Cameroon Land Registration Law, section 5(2) (e):

> "A separate notice shall be published in respect of each adjudication section, and in each such notice the adjudication officer shall state the right to and the interests in the land within the boundaries of the adjudication section which are already covered by Certificates of Occupancy or Memorandum of Agreement issued under the provisions of the Land and Native Rights Ordinance or by registered freehold deeds will be brought onto the register without requiring any formal application by the persons interested".

98. See page 484,n.85, supra.

99. This date-line was later extended to 10 years in the case of urban lands and to 15 years where the lands were situated in rural areas; cf., Ordinance No. 77/1 of January 10, 1977, section 5. This extension of time like the others has probably been introduced because the former time limits were later considered too short.

a piece of land changed hands as a result of a court judgment, bona fide occupants of such land have a right of preemption whenever the new proprietor decides to sell the land. This right of preemption is not automatic as section 5(2) stipulates that it can only be exercised if it does not adversely affect the economic development of the area.

Land cases pending before the courts

One of the most controversial provisions of the Ordinance under discussion states that:

> "All landed property cases pending before the courts and introduced outside the scope of the registration procedure shall fall within the jurisdiction of the Boards provided for in section 16 below. The dossiers relating to such cases shall be transferred to the said Boards when the present Ordinance enters into force".[100]

This provision together with that of section 14 of the second of the 1976 Decrees circumscribe the powers and functions of the Consultative Boards. By section 5(3), all landed property cases pending before the courts by August 5, 1974, and introduced outside the scope of the registration procedure were to be transferred to the Boards since the subsection purportedly ousts the jurisdiction of the courts

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100. Ordinance No. 74/1, section 5(3); the Boards mentioned in the subsection are those which were set up under Decree No. 76/166 of April 27, 1976 (sections 12-15) for the purpose of administering the national lands.

in these cases. However, other landed property cases should normally still be heard by the ordinary courts of law. The subsection is not quite clear and it raises many questions. Before discussing them, it might be useful to first discuss the Supreme Court's interpretation of the powers vested in the Consultative Boards by the subsection. This interpretation is to be found in two decisions of the Supreme Court both of which were taken in 1977. The first case[101] concerned a dispute as to title over a piece of land situated in Kom. The Kom Customary Court had awarded title to the land to one Jam Jeng in 1958. This decision was appealed against by Mbain, the other party in the case, to the Court of the Administrative Officer (Special Duties) who upheld the judgment of the Kom Customary Court. That was in 1961, but five years later, Mbain petitioned the then Prime Minister of West Cameroon who thereupon partitioned the land in dispute between the two parties. In 1974, Jam Jeng challenged the action of the Prime Minister in the Bamenda High Court.[102] The High Court held that the Prime Minister was wrong to intervene in the dispute as there was no appeal before him. 500,000 Cameroon francs were awarded as damages for trespass in favour of Jam Jeng. Mbain then appealed to the Bamenda Court of Appeal,[103] but this Court confirmed and upheld the

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101. Michael Mbain v. Jam Jeng, suit No. 76/58, unreported.

102. Bamenda High Court, suit No. HC/29/73, June 25, 1974, unreported.

103. Bamenda Court of Appeal, June 27, 1975, unreported.

judgment of the High Court adding that the issue of title to the land had been determined in 1961 when none of the parties appealed against the decision of the Court of the Administrative Officer (Special Duties). Mbain was still not satisfied and appealed to the Supreme Court. The second case,[104] originated in the Mbengwi Customary Court in 1951, where Moses Ndam won title to the disputed land. This decision was appealed against in a number of customary courts and the dispute reached the Resident of Bamenda in 1953 when he upheld the Mbengwi Customary Court judgment. The defendants refused to vacate the land which they had been occupying throughout the period of the dispute. In 1973, the Bamenda High Court[105] awarded 900,000 Cameroon francs damages for trespass to Moses Ndam and ordered the defendants to leave the land. The latter appealed to the Bamenda Court of Appeal[106] which confirmed the findings of the High Court. Still dissatisfied, the appellants appealed to the Supreme Court which on March 17, 1977, and November 3, 1977, gave its judgments in the two cases. The judgments were to the effect that the Bamenda Court of Appeal had no jurisdiction to hear the cases and ought to have sent them to the Consultative Boards set up under the

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104. Moses Ndam v. Fomukum and others, suit No. 39/51, 1951.

105. Bamenda High Court, Suit No. HC/4/71, May 25, 1973.

106. Bamenda Court of Appeal judgment, June 27, 1975, unreported.

second of the 1976 Land Decrees. The Supreme Court stated inter alia in the second case that:

> "Considering the judgment of the Bamenda Court of Appeal against which the appeal is brought and the judgment of the lower Courts relating to the subject-matter of the appeal... Considering the citations, particularly Ordinance No. 74/1 of July 6, 1974, establishing rules governing land tenure and Decree No. 76/166 of April 27, 1976, prescribing the terms and conditions of management of national lands with special reference to the chapter on the Consultative Board.... The Bamenda Court of Appeal exceeded its jurisdiction in the matter ... The competent tribunal for adjudicating in the matter is the Consultative Board set up by the Decree of 1976..." 107

The Supreme Court then transferred the case to the appropriate Consultative Board and ordered the refund of damages and costs paid by one party to the other in the case in respect of proceedings in the High Court and the Court of Appeal. A similar view was taken by the Supreme Court in the first case.

The stand taken by the Supreme Court in these cases is bound to have far-reaching consequences in the country. Before discussing them, it is important to note a few dates and events. The first of the 1974 Ordinances which gave rise to the existence of the Consultative Boards became law on August 5, 1974; and by section 16, provision was made for the setting up of these Boards to administer national lands. Under section 5(3) of the very Ordinance as already mentioned, landed property cases pending before the courts

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107. Extract of judgment, pp. 1-2.

were to fall within the jurisdiction of the Consultative Boards provided for in section 16 of the Ordinance. It was earlier pointed out that although provision was made for the institution of the Boards on July 6, 1974, it was not until almost two years later, namely, on April 27, 1976, that the enactment setting up the Consultative Boards was published. In other words, the Bamenda Court of Appeal was expected on June 27, 1975, to transfer the two cases to Boards which were not then in existence as they were set up only on May 1, 1976 when the 1976 Decrees became law.[108]

The Supreme Court is in effect saying that from August 5, 1974, no courts outside the Consultative Boards could hear any land cases. The implication here is that the legislator had ordered the courts of law in the country to transfer land cases to non-existent Boards and then delayed creating the Boards for almost two years thereby creating a period during which land cases were left out in the cold. Another issue is the meaning which should be given to the term "courts" in the Ordinance. Since the Ordinance does not define this term, it can be argued that the courts from which land cases have to be transferred to the Consultative Boards include Customary Courts, High Courts Courts of Appeal as well as the Supreme Court itself, but the latter Court never held that it had no jurisdiction in

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108. Cf., Official Gazette of the United Republic of Cameroon, May 1, 1976.

the two cases which came before it.[109] Again, since the Ordinance uses the blanket expression, "landed property cases", it appears that any action which touches and concerns land, whether it is a dispute as to title, or involves the interpretation of the terms of a mortgage or lease, fall within the jurisdiction of the Consultative Boards as the ordinary courts of law seem, from the standpoint of the Supreme Court to be completely ousted from adjudicating any landed property cases.

In the two cases earlier mentioned, the question of title to the parcels of land concerned had long been determined by the proper courts at the time. The decision of the Supreme Court in these two cases means that all titles obtained by virtue of the judgment of any court whatsoever have now become matters for adjudication by the Consultative Boards where such judgment is still unregistered and this notwithstanding the fact that the procedure for registering judgments independently of the Consultative Boards has still to be set up. Therefore, any decision given by any court touching and concerning landed property after August 5, 1974, stands void if such decision never came from a Consultative Board.

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109. The argument may even be taken to the other extreme by suggesting that since the Consultative Boards are Administrative Courts and are not excluded from the definition of courts by the Ordinance their jurisdiction appears also to be ousted.

The question now is whether the legislator intended to vest in the Consultative Boards the wide powers which have been attributed to them by the Supreme Court. To answer this question the relevant provisions of the Decree setting up these Boards must be resorted to. The powers and functions of the Boards are contained in section 14 of the Decree:

> The Consultative Board shall:
>
> (a) make recommendations to the Prefectorial authority (Senior Divisional Officer) on the allocation of rural areas to agriculture and grazing according to the needs of the inhabitants;
>
> (b) make reasoned recommendations on applications for grants;
>
> (c) examine and, if necessary, settle disputes submitted to it under the procedure for allocation of land certificates on occupied or exploited national lands;
>
> (d) select the lands which are indispensable for village communities;
>
> (e) note all observations and all information concerning the management of national lands and transmit its recommendations to the Minister in charge of Lands;
>
> (f) examine and, if necessary, settle all landed property disputes referred to it by the courts pursuant to section 5 of the Ordinance No. 74/1 of July 6, 1974;
>
> (g) assess the development of land for the issue of a land certificate.

There is no doubt that this section gives the Consultative Boards extensive powers in the so-called landed property cases but it is not true that they have been accorded a monopoly of jurisdiction in this area of the law. So far as the jurisdiction of the Boards in land matters is concerned (Section 14(c) and (f)), this jurisdiction is

to be exercised only if necessary. The question now is: what will happen to those cases which the Boards consider as unnecessary or improper for them to decide? There is also the question of those land matters not coming within the jurisdiction of the Boards. Firstly, who has jurisdiction to settle disputes over national lands where the parties to such disputes have not applied for land certificates and have no intention of doing so? Secondly, have the Consultative Boards taken over all the jurisdiction of the courts of law in the so-called landed property cases including the interpretation of the law? Thirdly, what is the procedure to be followed in bringing disputes to the Boards other than those on transfer from the courts? It is most doubtful that the legislator intended to give the Consultative Boards the wide powers now being ascribed to them by the Supreme Court. None of the members of the Boards is a trained lawyer and it is thus difficult to suggest that the legislator intended that these bodies of laymen should be the final arbiters in deciding the nature of the proprietary rights of the people, which rights are found in several property legislations. There is no doubt that these Boards, if allowed to exercise their alleged jurisdiction, will come out with ridiculous decisions which might be meaningless in the light of the laws in force and even at variance with decisions of the Supreme Court itself. However, section 14 needs to be substantially reworded to answer all these questions and also to clarify the intention of the legislator.

Section 5(3), of the first of the 1974 Ordinances states that:

> "All landed property cases pending before the courts and introduced outside the scope of the registration procedure shall fall within the jurisdiction of the Boards provided for in section 16 below. The dossiers relating to such cases shall be transferred to the said Boards when the present Ordinance enters into force".

According to the subsection, from the date that the Ordinance comes into effect all cases pending before the courts must be transferred to the Boards. It follows that from this date the only cases so transferable are cases which were pending on August 5, 1974, when the Ordinance came into effect. No cases can be entertained legally by the courts after this date and so after August 5, 1974, the courts have no powers to transfer any cases which were pending thereafter. Any cases touching and concerning land thus filed after August 5, 1974, in any court in Cameroon are not legally before those courts and any action taken by those courts on the cases must be null and void. There must be several of such void decisions emanating from the courts in the country since August 5, 1974, some of which have already been discussed.[110]

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110. (i) See page 166, supra: Presbyterian Church Moderator v. D.C. Johnny, Bamenda Court of Appeal, BCA/27/74, November 30, 1974.
(ii) See page 174, supra: Edward Ndifor v. Arona Neba, Bamunka Customary Court, No. 80/76-77, C.R. 398725, February 8, 1977.
(iii) See page 188, supra: Esove Mbua v. Lyenga La Linonge, Buea Court of Appeal, CASWP/CC/27/76, Nov.18,'7
(iv) See page 190, supra: Adamu v. S.S. Fombi, B'da High Court, HCB/15/75, June 24, 1977.
(v) See page 210, supra: Moderator of the Presbyterian Church in Cameroon v. George Eko, Buea High Court, HCSWP/21/75, July 21, 1977.

Another point is that according to the subsection the pending cases which are transferable on August 5, 1974, must have been introduced into the courts outside the scope of the registration procedure. It is difficult to understand the purpose of this provision. No court exercises the functions of a land registry so what cases could possibly be pending before the courts before August 5, 1974, and which were introduced within the scope of the registration procedure?

The position of the courts of law

The present land legislation as already argued does not seem to have ousted the jurisdiction of the courts of law in all land matters and does not seem to have conferred on the Consultative Boards the monopoly of exercising exclusive jurisdiction in landed property cases as the Supreme Court has suggested. The true intention of the legislator must now be sought from the present legislation in order to know what powers it intends to give the courts on the one hand and the Consultative Boards on the other. Firstly, so far as the courts of law are concerned, where the final but unregistered judgments of these courts have not been set aside by a higher court, it appears that the ordinary courts will in the absence of the operation of the penalty of forfeiture, have jurisdiction to deal with landed property cases over areas covered by such final judgments. This is because no power has been given to the Consultative Boards to set aside or review decisions of the courts. Secondly, land coming within section 2 of the first of the 1974 Ordinances must be within the exclusive jurisdiction

of the courts of law as against the Boards as the present legislation gives the latter no power to interfere with any rights in such lands. The Boards cannot thus set aside any interests acquired in such lands some of which have lasted over a century.[111] Thirdly, lands covered by Certificates of Occupancy and Livrets Fonciers still seem to be subject to the jurisdiction of the courts of law, even where the title deeds are not yet converted into certificates of title until the penalty of forfeiture contemplated by the Ordinance has been imposed.[112] In the absence of any power given to the Consultative Boards to award damages, in the absence of any possibility of appealing against their decisions, considering that the procedure of these Boards in no way resembles that of the courts, in the light of the fact that the members of these Boards are all laymen and the infrequency with which they are by law required to sit, it is hard to accept the view of the Supreme Court that the legislator intended that they take the place of the courts of law in such important areas of land law. The powers which the legislator has conferred on the Boards under the present reforms seem to be restricted to lands over which

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111. It is doubtful that the legislator intended to disturb these rights acquired by recognised legal process as the same Ordinance in section 17(2), gives customary communities and their members occupying and exploiting their lands under customary law, the blanket protection of continuing to do so almost ad infinitum.

112. Ordinance No. 74/1 July 6, 1974, section 4(1).

there has been no valid adjudication by a court of law, no Certificat of Occupancy, no Livret Foncier, no Freehold interest, no registration, no final concession or entry in the Grundbuch as well as lands which are not state lands. All lands included in these categories should only come within the jurisdiction of the Consultative Boards where there has been failure on the part of the holder to register his interests within the prescribed period followed by the imposition of the penalties for failure to register as stipulated in the present land legislation. It is thus submitted that where the issue of title to a particular parcel of land has already been determined by a court of law which has jurisdiction to do so, the Boards have no power to reopen the matter.

At this point, the requirements to be fulfilled by customary communities and persons occupying or exploiting national lands desirous of having their interests in these lands registered will be briefly discussed. By the terms of section 9 of the first of the 1976 Decrees, those who are eligible to apply for certificates of title over any parcel of land classified as national land[113] and which the applicants must already occupy or develop include:

> (a) customary communities, members thereof, or any other person of Cameroonian nationality, on condition that the occupancy or exploitation

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113. The term "national land", here includes land held under customary law and land covered by title deeds which have been forfeited by operation of sections 4, 5 and 6 of the first of the 1974 Ordinances.

predates August 5, 1974, the date of publication of Ordinance No. 74/1 of July 6, 1974, to establish rules governing land tenure;

(b) persons who have forfeited their rights as a result of application of section 4, 5 and 6 of the above-mentioned Ordinance No. 74/1 of July 6, 1974.

Section 9(a), thus excludes non-Cameroonians from applying for certificates of title over any land in Cameroon falling under the category of national land. This provision certainly forfeits the land rights of non-Cameroonian Africans acquired from customary communities under customary law if no title deeds had been established to evidence them before the coming into effect of the present reforms, except in the unlikely event where non-Cameroonian Africans are to be regarded as members of customary communities in the country. The subsection thus undermines the well established customary law rule by which strangers to a community are granted full rights of enjoyment in the land of that community provided the strangers agree to become fully integrated into the community.[114] Since the subsection permits "any other person of Cameroonian nationality" to apply for a certificate of title over national land, foreigners may circumvent their lack of Cameroonian nationality by forming companies in Cameroon which would then qualify to enjoy rights in national land by virtue of their Cameroonian nationality.[115] Children born to foreigners in Cameroon

114. See p. 190, supra.

115. A one-man company belongs to its sole-director. If such a company applies for and obtains a certificate of title over land in Cameroon the title is in reality, though not technically, held by the sole-director of the company.

acquire Cameroonian nationality by birth;[116] so their parents could also obtain land certificates in the names of their children. In the light of these possibilities it appears that the subsection may not be so successful in keeping the national lands exclusively in the hands of the indigenes which seems to have been the purpose of the provision.

The fact of occupation or exploitation

When an application for a certificate of title over a parcel of national land is made, the applicant must, apart from proving his Cameroonian nationality, also prove that he had occupied or exploited the parcel of land in question before August 5, 1974, when the 1974 Ordinances came into force. It may be quite easy to prove that one was in occupation of an area of land before this date but it could be an uphill task when it comes to proving that another piece of land was also then in one's exploitation. In other words, it might be easier to satisfy the first requirement of section 9(a), which concerns residential land but not the second where one requires a certificate of title over grazing- or farm-land. The subsection makes it impossible for anyone to obtain a certificate of title over a parcel

116. Cf., Décret of 1968 on the acqusition of Cameroonian nationality.

of the present national land which he did not start developing or occupying before August 5, 1974. Another problem is that the present legislation does not define the terms "exploitation" or "occupation". One may take the hypothetical example of a customary community in the country where it is a recognised practice of good husbandry to fallow the land for say three years. If some parcels of farm-land were fallowed in that community in 1972 with the intention of resuming farming on them in 1975, it is not clear from the present legislation whether by August 5, 1974, these parcels of land were to be considered as land under exploitation or occupation or not. Another question is how far back in terms of years should exploitation or occupation predate August 5, 1974, to satisfy the requirements of the subsection. The subsection ignores the fact that it makes good sense, in economic terms, to grant title to one who has since August 5, 1974, invested substantially in a piece of land in preference to another applicant who merely shows that he had farmed or lived on a piece of land albeit sporadically before the cut-off date. By way of example, an heir of many acres of land who has passed many years in college and University and who later takes up a well-paid job with the hope of starting a plantation in the vast area of land he inherited now finds his intentions frustrated by the subsection as it debarrs him from obtaining a certificate of title over the land for no reason other than that he did not start his project before August 5, 1974. This provision

ought to make an exception of cases of this nature where substantial investments in the land are contemplated. The requirements of the subsection are indeed unnecessary since the present land legislation makes provision for the leasing of national land to whoever is interested in developing it.[117] The present reforms do not affect only individual customary land rights but those of customary communities as well. It was stated earlier in this chapter how under the present legislation, the rights of these communities in the lands from which their members collected firewood, fruits and building materials, have been greatly restricted.[118] These lands became part of the national forest estate in 1973 by virtue of the Forest Ordinance.[119] Now, permission must be obtained from the Forestry Department before any member of the customary communities can lawfully enter the national forest estate to collect either building materials or firewood.[120]

Registration procedure

Any person eligible to apply for a certificate of title to be issued to him in recognition of the rights he enjoys in a parcel of national land in his occupation or

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117. See pp. 417-421, supra.

118. See page 426, supra.

119. Ordinance No. 73/18 of May 22, 1973, to define the national forest estate.

120. A fee must be paid if the building materials or firewood are collected for commercial purposes; cf., Ordinance No. 73/18 of May 22, 1973.

exploitation must file an application at the Divisional Office of the area where the land is situated.[121] Applications in respect of lands which are entirely unoccupied or unexploited are inadmissible under this procedure. Such lands could only be leased. On receipt of an application, the Divisional Officer issues a receipt to the applicant and forwards the dossier to the Divisional Lands section of his Office. He then publishes extracts from the application to identify the land concerned as well as the applicant.[122] This information is posted at his office, the Senior Divisional Office as well as in the Town Halls in the villages where the land is situated.[123] This process is intended to inform the public about the application so that persons who hold interests in the land, and are interested in having them preserved and persons objecting to the grant of a certificate of title to the applicant over the land concerned could write to the Divisional Officer within the stipulated period.[124]

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121. The complete dossier to be prepared by each applicant is enumerated in the first of the 1976 Decrees, section 11(1):
   (a) an application in quadruplicate, the original of which shall be stamped, giving full name, parentage, domicile, profession, form of marriage, nationality, and the name in which the property is to be registered;
   (b) a description of the property: situation, area, nature of occupation or exploitation, estimated value, details of the liabilities (charges) with which it is encumbered.

122. See appendix XV.

123. Section 11(3).

124. The stipulated period is at least 60 days from the date the application for a certificate of title was published.

Preservation of interests

The interests which can be preserved by being annotated in the land register and the certificate of title are expressly named in section 16(b), as real rights or encumbrances "liable" (sc. likely) to be entered in the certificate under preparation. This means that all interests enjoyed in the land under customary law by persons other than the applicant for a certificate of title are kept off the register and thus not legally protected. It is not much of a problem where the land which is the subject-matter of registration is the self-acquired property of the applicant; but many problems arise when it comes to land which was allocated to him by the family head for his sustenance and that of his dependants (children and wives). In whose name is this land to be registered? Is it to be registered in the name of the father alone or jointly in his name and in the names of his wives and children? Who is to have the final word in deciding which of these alternatives must be adopted? These are some of the questions to which the present legislation provides no answers. It ought to protect the land rights of wives and children. By providing only for three representatives per village on the Consultative Boards (which is no effective representation as the immediate head of the unit whose

land is involved could be left out),[125] a household head may register the land allocated to his household in his own name to the detriment of his dependants. Children nearing the age of marriage will be the first to be affected as they will have no land on which to settle when they eventually marry. The shortcomings of the present legislation in this regard must not be viewed from one angle. The interests of the dependants are probably kept off the register because of the difficulty involved in fitting them into the present land registration system. Writing in another context, Simon Coldham stated in this connection that:

> "It is admittedly difficult to define accurately the rights of the widowed mother, the wives, the unmarried daughters, the married sons, and all other members of the house-hold".[126]

He however went on to express the view that some way ought to be devised to protect these rights as they will be extinguished on the registration of the household head as absolute owner. The relevant question here is whether the Consultative Boards in Cameroon are likely to protect the rights of dependants. Will they for instance insist that certificates of title should be granted to heads of households only over lands personally occupied or exploited by them and not their dependants? Such a policy if adopted may lead to disharmony in the households but it is in line with the present legis-

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125. This is probably thought to be of no consequence as the present reforms purport to abolish customary land tenure. The situation is however unsatisfactory because the system purports to record existing customary land rights.

126. "Registration of title in Kenya" [1978] Journal of African Law, 99.

lation which insists that applicants must be in occupation or exploitation of the land which is the subject of an application.

It is the duty of the Divisional Officer to convene the Consultative Board, of which he is Chairman, for the purpose of determining whether each applicant for a certificate of title had fulfilled the requirements of section 9(a) by having occupied or exploited the land in question before August 5, 1974. There is no guide in the Decree as to how the Board goes about this task. Where the Board is satisfied that the applicant was in occupation or exploitation of the land as required the Board orders the immediate demarcation of the land by a sworn Surveyor of the Surveys Department in the presence of the applicant's neighbours.[127] On completion of his job, the Surveyor is expected to draw a plan of the demarcated land which he attaches to his demarcation report.[128] Section 15(1), requires the Divisional Officer, within 30 days of the meeting of the Consultative Board, to forward to the Lands

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127. Section 13(3): the term "neighbours" here probably refers to people whose lands lie adjacent to the land under demarcation.

128. See appendix XII, for a copy of a report. Section 14(1) states:
(a) the full names of the parties concerned;
(b) a description of the recognized boundaries with the lengths of the sides. Each angle of the polygonal area of the property shall be given a serial number.
(2) The plan of demarcation shall indicate the triangulation or polygonation reference points.

Service all documents which were filed by the applicant, the report of the Board, five copies of the demarcation plan and the Surveyor's demarcation report. This requirement assumes that after each assessment meeting of the Consultative Board, the Surveyor must complete the task of demarcation in good time to enable the Divisional Officer hand the final documents to the Lands Service within the 30 days. The legislator probably did not address its mind to the difficulty of respecting this date-line of 30 days given the shortage of trained personnel in the Surveys Department in the country up to the present moment.[129] However, on receipt of the complete dossier, the Lands Service gives it a number, countersigns it if it is approved and then publishes the notice of final demarcation in the Official Gazette. From there all approved dossiers proceed to the Provincial Lands Service for onward transmission to the Director of Lands, who then certifies that the laid down procedure has been followed. He returns the dossier after noting it in his records to its office of origin where a certificate of title is then issued to the applicant. Unsuccessful applications are returned to the Lands section of the Divisional Office.

The question of objections

Between the date on which the Divisional Officer

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129. Batje-Batje Calvin-Gustave, Les nouvelles administrations foncières et domaniales face au public, Mémoire de Licence en Droit Privé, Université de Yaoundé, June, 1978, pp. 29-31.

publicises the fact of an application and 30 days after the publication of the notice of final demarcation, any interested party may either object to the approval of an application or himself apply for the registration of any existing real right or encumbrance in his favour likely to be entered in the certificate under preparation.[130] Section 16(2) requires that apart from stating the ground for an objection or application the intervening party must also provide a list of the deeds, certificates or documents on which the objection or application is based. Objections or applications for annotation lodged prior to the assessment of occupation or exploitation are examined by the Consultative Board at the time of assessment. Where the Board fails to take a final decision as to the fate of an objection or an application for annotation of an encumbrance during its assessment meeting, these as well as other objections and applications lodged later are sent to the Provincial Lands Service for entry in a special register in chronological order of arrival at the latter office.

Effect on customary law of succession

Although the aim of the present land legislation in

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130. Section 16(2):
Objections and applications for registration shall be formulated in a stamped request stating the full name and domicile of the intervening parties, the grounds of intervention and a list of the deed, certificates or documents on which the objection or application is based.
(3) The request shall be addressed to the sub-prefect (Divisional Officer) of the sub-division where the property is situated.

the country is to abolish customary tenure, it is wrong to suggest that the fact of registration ousts the application of the customary law of succession to the registered land. The devolution of property on the death intestate of a registered proprietor who is subject to customary law is governed by the rules of the customary law of succession;[131] and this notwithstanding whether the beneficiaries are themselves subject to customary law or not. What this means is that a Cameroonian who marries under statute and registers his land under the present legislation is not completely divorced from the application to him of the rules of customary law. Allott graphically put the situation with respect to Ghanaians married under statute in these words:

> "Persons married under the Ordinance continue to be liable for torts by customary law, to be able to contract by customary law,... to succeed to property by customary law of succession, to administer the estate of a deceased relative under customary law and to act as head of a family".[132]

This view applies to the greater majority of Cameroonians who have married by statute. The nature of the church marriages in Cameroon today must now be examined.

Church marriages in Cameroon

A careful distinction must be drawn between some of the "church marriages" in Cameroon today and what is often referred to as "christian marriages". The present author holds the view that most of the church marriages in

131. See page 174, supra.

132. A.N. Allott, Essays in African Law, London, 1960, p. 219.

Cameroon today are not christian marriages but customary marriages. Up to 1968, marriages by Statute in Cameroon were regulated in the English-speaking regions of the country by the Nigerian Marriage Ordinance as superseded by the legislation for the time being in force in England on this subject-matter.[133] In the French-speaking areas of the country, the operative law was contained in the provisions of the French Civil Code.[134] In the English-speaking areas marriages were conducted in Magistrates' Courts, whereas in the rest of the country they took place in Marriage Registries. In 1968, a Civil Status Registration enactment[135] was passed making it lawful to contract polygamous marriages at the Registries which were also later introduced in the English-speaking areas of the country. Intending spouses were required by section 39 of the 1968 Law to indicate their intention to marry, at least one month in advance to the Registry. Section 41 provided that this requirement could be waived by a Magistrate having jurisdiction over the area where the future spouses were resident. This waiver was obtainable by the parties and four witnesses appearing before a Magistrate and swearing on oath that the spouses had been married by the customs of the village of one or both parties on a date not later than

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133. Cf., the reception statute, Southern Cameroons High Court Law, 1955, section 11.

134. Articles 144-228.

135. Loi No. 68/LF/2 of June 2, 1968.

three months ago. The Magistrate then signs the declaration which the parties take to the Registry where they must state whether their marriage was monogamous or polygamous. This information is noted on the marriage certificate issued to them by the Registry. Whether the parties later celebrate their marriage in church or not is optional. If they intend to celebrate it in church, the marriage certificate must be presented to the Priest who performs the church marriage ceremony; and the churches do not object to celebrate marriages for spouses who have opted for polygamy. Can it then be argued that these marriages are christian marriages by virtue of the church ceremonies which the spouses went through? These marriages are certainly different in many respects from the type of marriage contemplated by Lord Penzance in the classical case of Hyde v. Hyde.[136]

It is thus only in respect of the registered lands of those spouses who marry monogamously that it can be argued that the rules of the customary law of intestate succession do not apply. Such an argument is not so convincing so far as it suggests that everyone who marries monogamously has in all respects completely opted out of the customary law of marriage. The customary law rules relating to marriage apply fully to the marriages of non-Christian members of customary communities in the country even though they might have opted for monogamous marriages. It appears

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136. (1886) L.R. 1 P. & D. 130 at p.133: "I conceive that marriage, as understood in Christendom, may ... be defined as the voluntary union for life of one man and one woman to the exclusion of all others".

that the spouses, apart from marrying monogamously, must also be Christians in order to exclude the rules of the customary law of marriage from applying to their union. Even in such a case the situation remains inconclusive and each case must be examined on its particular circumstances as Van Der Meulen J. held in the Nigerian case of Smith v. Smith.[137]

Since the points raised in every chapter of this work were discussed therein, only a concluding remark will be made here on the present land tenure position in Cameroon. Although the European Administrations in the territory have been criticised for either having ignored or accorded only grudging recognition to the customary land rights of the indigenous inhabitants of the area,[138] it is amazing that the present reforms have gone to the other extreme by purporting to abolish customary land tenure. This policy has been adopted in the name of economic development; but as Allott has argued,[139] "if the result of systematic registration and land reform is a shattering of existing social patterns",

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137. (1924) 5 N.L.R. 107:

> "the fact that a man has contracted a marriage in accordance with the rites of the Christian church may be very strong evidence of his desire and intention to have his marriage generally regulated by English laws and customs, but it is by no means conclusive evidence. In my opinion, the question as to what law is equitable to apply in any given case can only be decided after an examination of all the circumstances of the case..."

138. See generally, chapters 7, 8 and 9, on the periods of German, English, and French Administrations respectively.

139. A.N. Allott, Theoretical and practical limitations to registration of title in tropical Africa (unpublished), p. 10.

which is the likely outcome of the present reforms in Cameroon if vigorously pursued, "this may be too high a price to pay for facilitating lending by some banks to some farmers". After all "the maximisation of economic return is not the sole object of existence and human happiness can be measured by other indices than the Gross National Product". Another point is that although the present land legislation applies to the whole of Cameroon, provision ought to be made for the settlement of internal conflicts of laws. The internal conflicts situation in the country is exacerbated by the fact that, the unified land legislation notwithstanding, the substantive land laws on the one hand of the English-speaking areas and on the other of the French-speaking areas of the country are not uniform.[140] The question now is whether in the long run the present land legislation in the country will not have to be substantially amended.

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140. See pp. 46-53, supra.

ABBREVIATIONS

A.E.F.	Afrique Equatoriale Français.
A.O.F.	Afrique Occidentale Français.
C.D.C.	Cameroon Development Corporation.
C.E.P.M.A.E.	Centre d'Edition et de Production de Manuels et d'Auxiliaires de l'Enseignement.
Cmd.	Command Papers (United Kingdom).
H.M.S.O.	Her Majesty's Stationery Office.
I.A.I.	International African Institute.
J.A.A.	Journal of African Administration.
J.A.L.	Journal of African Law.
J.O.C.	Journal Officiel du Cameroun.
P.M.C.	Permanent Mandates Commission.
N.L.R.	Nigeria Law Reports.
O.U.P.	Oxford University Press.
P. & D.	Probate and Divorce.
S.C.H.C.L.	Southern Cameroons High Court Law.
S.C.L.N.	Southern Cameroons Legal Notice.
W.C.L.R.	West Cameroon Law Report.

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Land Decree of June 15, 1896.

Order of October 17, 1896 on the application of certain provisions of the June 15, 1896 Land Decree.

BRITISH/SOUTHERN CAMEROONS

Proclamation No. 1 of 1916.

British Cameroons (Ex-Enemy Immovable Property Disposal Ordinance) No. 22 of 1924.

British Cameroons Administration Ordinance No. 1 of 1925.

British Cameroons Order-in-Council No. 1 of 1927.

Magistrates' Courts (Southern Cameroons) Law No. 6 of 1955.

Southern Cameroons High Court Law No. 7, of 1955.

Southern Cameroons High Court (Amendment) Law No. 9 of 1955.

Magistrate's Court (Southern Cameroons Amendment) Law No. 8 of 1956.

Southern Cameroons Customary Courts Law No. 9 of 1956.

NIGERIA INCLUDING BRITISH/SOUTHERN CAMEROONS

Land and Native Rights Proclamation of Northern Nigeria, No. 9 of 1910.

Public Custodian Ordinance of 1916.

Crown Lands (Amendment) Ordinance, 1945.

Cameroons Development Corporation Ordinance, No. 39 of 1946.

Ex-Enemy Lands (Cameroons) Ordinance, No. 38 of 1946.

Cameroons Under British Mandate Administration Ordinance, Cap. 27 of 1948.

Crown Lands Ordinance, Cap. 45 of 1948.

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FRANCE/FRENCH CAMEROUN

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Arrêté of September 15, 1921, to implement the Provisions of the Décret on the Domaine de l'état.

Décret of July 10, 1922 on Compulsory acquisition.

Décret of 1924, approving a convention between the Minister of Colonies and the Compagnie de Colonisation du Congo Français.

Décret of July 31, 1927, setting up the Tribunal de Conciliation in Cameroun.

Arrêté of May 10, 1929 on allotment of land in Bali, Duala.

Arrêté Nos. 404 and 416 of October 25, 1929 on land grants in Duala.

Décret of May 22, 1932 rendering the laws and enactments promulgated in French Equatorial Africa applicable in French Cameroun.

Décret of July 21, 1932, on the recognition of customary land rights in Cameroun.

Décret of July 21, 1932 on registration of title to land in Cameroun.

Arrêté of March 29, 1934, authorizing the setting up of land conservation offices in Cameroun.

Ordinance of October 17, 1958, on the Cameroun legislative assembly.

Décret No. 59/86 of December 17, 1959, on the reorganisation of the judicial system in French Cameroun.

FEDERAL REPUBLIC OF CAMEROON

Décret of 1968 on the acquisition of Cameroonian nationality.

Loi No. 68/LF/2 of June 2, 1968, on Civil Status registration.

EAST CAMEROON

Décret-Loi No. 63/2 of January 3, 1963 on land tenure.

Loi No. 66/LF/4 of June 10, 1966 on Compulsory acquisition.

Loi No. 66/3/COR of July 9, 1966 on the amendment of article 5 of the 1963 Décret-Loi.

Décret No. 66/307/COR of November 25, 1966 on registration of title to land.

Loi No. 67/7/COR of June 28, 1967, on the amendment of article 6 of the 1963 Décret-Loi.

Arrêté No. 28/PG of June 26, 1968 on the application of article 6-bis of the 1963 Décret-Loi.

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Decree of July, 1972, naming the Provinces of the United Republic of Cameroon.

Decree No. 72/349 of July 24, 1972, on the re-organisation of the Ministry of Territorial Administration.

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Decree No. 76/167 of April 27, 1976, to establish the terms and conditions of management of the private property of the State.

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Decree No. 77/245 of July 15, 1977, on the organisation of Chieftainship.

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WEST CAMEROON

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EAST CAMEROON

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Cameroon Tribune, Yaoundé

Daily Mail, London

Etudes Camerounaises, Paris

Journal of African Administration, London

Journal of African Law, London

Journal Officiel du Cameroun, Yaoundé

Journal of the African Society, London

Le Monde non-Chrétien, Paris

Morning Post, London

Official Gazette of the United Repulic of Cameroon, Yaoundé

Recueil Penant, Paris

Revue juridique de l'Union française, Paris

Revue juridique et politique indépendence et coopération, Paris

Revue juridique et politique Outre-mer, Paris

West Cameroon Gazette

E. Archival Material

Public Record Office, Richmond

Field Reports of British Administrators in Nigeria and the Cameroons, 1916-1959.

Minutes of sessions of the Permanent Mandates Commission of the League of Nations, 1923-1938.

British Museum and Library, London

Minutes of sessions of the United Nations Trusteeship Council, 1946-1959.

Centre de Documentation Française, Paris

Field Reports of French Administrators in French Cameroun.

Cameroon National Archives, Buea and Yaoundé

Assessment Reports on various tribes of the British Cameroons.

Correspondence of British Administrators in Nigeria and the Cameroons.

Land Files of the British Administration.

Recueil des textes législatifs et réglementaires rélatif au régime foncier et domanial.

LIST OF APPENDICES

APPENDIX 1

The Treaty of Annexation

The treaty signed on July 12 with the Douala kings read:

'We the undersigned, Kings and Chiefs of the territory named Cameroun, situated along the River Cameroun between the Rivers Bimbia in the north and Kwakwa in the south, and as far as longitude 4° 10′ north* have voluntarily decided, during the course of an assembly held at the German factory on the banks of King Akwa['s territory], that:

We are today abandoning totally all our rights relating to sovereignty, legislation and administration of our territory to Messrs Edouard Schmidt, agent of the firm C. Woermann and Johannes Voss, agent of the firm Jantzen and Thormahlen, both of Hamburg and merchants for many years among these rivers.

We have transferred our rights of sovereignty, of legislation and of administration in our territory to the above-mentioned firms, with the following reservations:

1. The territory may not be ceded to a third party.
2. All the treaties of friendship and commerce which have been concluded with other foreign governments shall remain fully valid.
3. The lands cultivated by us, and the sites on which villages are situated, shall remain the property of the present possessors and their descendants.
4. The payments shall be made annually, as in the past, to Kings and Chiefs.
5. During the initial period of the establishment of an administration here, our local customs and usages shall be respected.

Signed: Ed. Woermann. Signed: King Akwa.

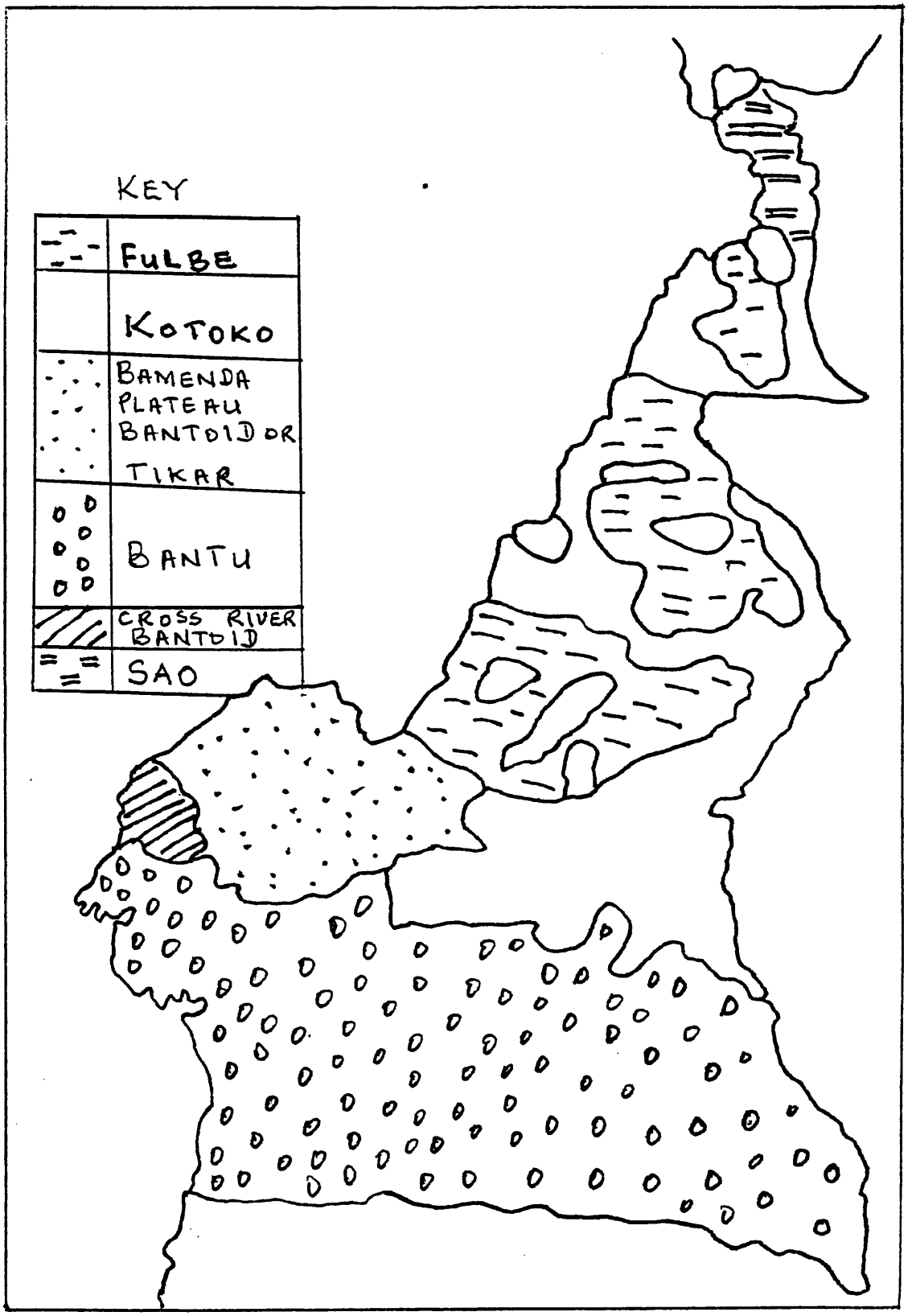
Witnesses:

O. Busch, Endene Akwa, Ed. Schmidt, Coffee Angwa, John Angwa, Manga Akwa, Scott Jost, Lorten Akwa, Ned Akwa, David Meatom, Joh. Voss, King Bell, Joe Garner Akwa, Big Jim Akwa, William Akwa, Jim Joss, Matt Joss, David Joss, Jacco Esqre, London Bell, Barrow Peter, Elame Joss, Lookingglass Bell.'[10]

* This should read 'latitude 4° 10′ north'.

APPENDIX II

MAJOR ETHNIC GROUPS IN CAMEROON



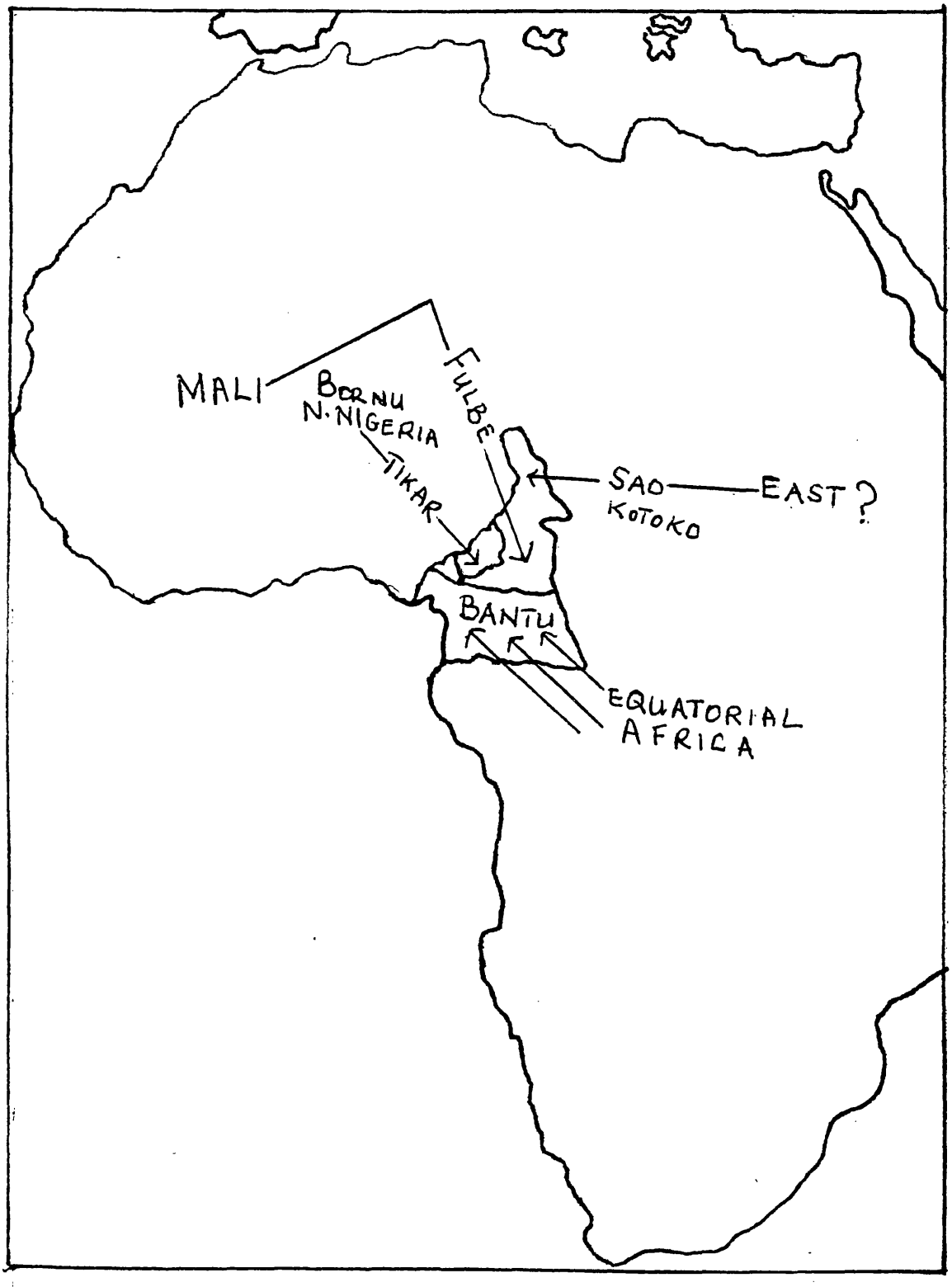
Adapted from: (i) Ardener, Coastal Bantu of the Cameroons; Peoples of the central Cameroons;

(ii) Mveng & Beling-Nkouma, L'Histoire du Cameroun;

(iii) Pierre Billard, Le Cameroun federal.

APPENDIX III

MAP SHOWING PATTERN OF IMMIGRATION OF THE MAIN ETHNIC GROUPS



APPENDIX IV

'WÜNSCHE DER KAMERUN LEUTE'

Cameroons River
July 12th, 1884

OUR wishes is that white men should not go up and trade with the Bushmen, nothing to do with our markets, they must stay here in this river and they give us trust so that we will trade with our Bushmen.

We need no protection, we should like our country to annect with the government of any European Power.

We need no attention about our Marriages, we shall marry as we are doing now.

Our cultivated ground must not be taken from us, for we are not able to buy and sell as other country.

We need no Duty or Custom House in our country.

We shall keep Bulldogs, Pigs, Goats, Fowls, as it is now, and no Duty on them.

No man shall take another man's wife by force, or else a heavy [fine(?)].

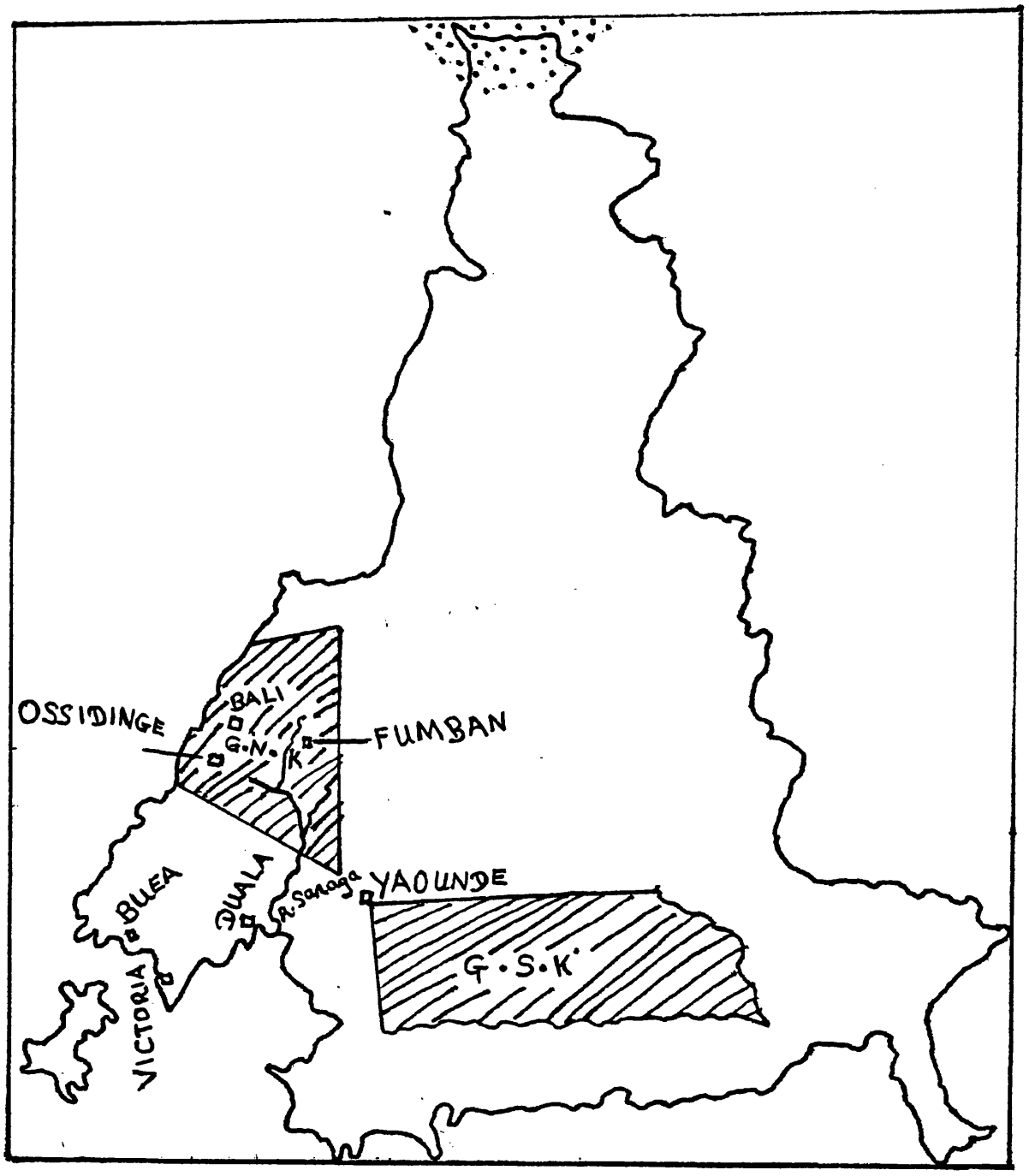
We need no fighting and beating without fault and no impression on paying the trusts without notice and no man shall be put to Iron for the trust.

We are the chiefs of Cameroons.

N.B. The following words were written on the paper:[1] 'Dieses Dokument ist von dem Herrn Consul zum Zeichen seines Einverständnisses unterzeichnet worden.'

APPENDIX V

Map of Kamerun showing areas ceded to the Gesellschaft Nordwest-Kamerun and the Gesellschaft Südwest-Kamerun.



Adapted from Rudin, H.R. Germans in the Cameroons

APPENDIX VI LAND DECREE OF JUNE 15, 1896

CROWN LAND. NATIVE LAND.

His Majesty's decree as to the establishment, occupation and alienation of crown land, and as to the acquisition and alienation of properties in the protectorate of Kamerun.
As of June 15th 1896
(Colonial Gazette, pg.435)

We Wilhelm, by God's grace Emperor of Germany, King of Prussia, etc., ordain in the name of the Empire for the protectorate of Kamerun under para.1. and para.3. no.2. of the law concerning legal relationships in the German protectorates (Imperial Law Gazette 1888, pg.75) as follows:

I. Establishment of Crown Land

para.1. Subject to proprietary rights and other real claims which private or juristic persons, chiefs or native communities can establish, as well as subject to those tenancies of third parties which were created by contract with the imperial government, all land in the protectorate of Kamerun is considered to be ownerless crown land. All rights of ownership are vested in the Empire.

II. Occupation of Crown Land

para.2. The occupation of crown land takes place subject to the provisions in para.12.

para.3. In the occupation of crown land by the government in the vicinity of native settlements, those areas should be reserved, whose cultivation and utilization, also in regard to future population increases, secures the livelihood of the natives.

para.4. The investigation and ascertainment of ownerless land (crown land) is carried out by the land-commissions, which are to be set up by the governor in appointing the necessary survey teams. These commissions will also settle possible claims entered by private persons. Appeal against these decisions is admissible in the course of law.

para.5. The registration of the properties occupied as crown land in those districts where a land registry exists, takes place in virtue of a certificate granted by the governor or a civil servant authorized by him, which states that the occupation duly took place in compliance with those regulations relevant to the acquisition and that the registration must take place thereafter.

III. Alienation of Crown Land

para.6. The cession of crown land takes place through the governor, that is either by transfer of ownership or

leasing. In regard to the order controlling subterranean mineral resources, the existing mining laws as well as those to be passed will not be affected by the cession.

para.7. The stipulations for the cession of crown land will be laid down by the governor following further instructions from the imperial chancellor.

para.8. In the cession of crown land sufficient areas must be retained for public use, in particular forest stands whose preservation is in the public interest shall be excluded from the cession. Furthermore the right is to be retained to take back land necessary for highways, railroads, canals, telegraph systems and other public facilities against compensation for actual loss directly incurred by the claimant.

para.9. Navigable rivers and waterways are to be excluded from the cession.

IV. General Regulations as to the Alienation and Acquisition of Properties

para.10. An official permit is not requisite for the transfer of title or tenement of properties, whose ownership or leasehold is vested in non-natives. The governor, however, is authorized to order the obligatory notice of such legal transactions in general and for specific districts.

para.11. The cession of municipal properties of more than one hectare basal surface, as well as the transfer of title or leasing for a period of more than fiteen years of any rural property by a native to a non-native, is only admissible with the governor's approval. Hereafter contracts requiring approval which are not approved of are ineffective.

para.12. Following further instructions from the imperial chancellor, the authority can be conferred to the governor to grant single persons or companies the power to seek out on their part areas where the land-commissions have not been active so far, to enter into agreements with possible owners and other parties concerned regarding the cession of land, and temporarly take possession of such land as ownerless land. The authorization of such agreements, as well as the ascertainment of stipulations under which the cession of land considered to be ownerless and recognized to be ownerless by the governor subject to the admissibility of the course of law, has to take place, is to be governed by the regulations of paras. 3., 6.-9. and 11.

para.13. The imperial chancellor, and the governor with his approval, has to promulgate the regulations necessary for the execution of this decree.

para.14. The imperial chancellor is empowered to cancel or re-

vise the instructions given in virtue of this decree by the governor.

At the New Palais, June 15 1896

Wilhelm I. R.
Prince of Hohenlohe

352.

Order of October 17, 1896, on the Application of the Land Decree.

The following is ordered for the protectorate of Kamerun under para.13. of His Majesty's decree of June 15 (*) as to the establishment, occupation and alienation of crown land, and as to the acquisition and alienation of properties in the protectorate of Kamerun:

I. Establishment of Crown Land

para.1. Before land is occupied as ownerless land, in order to safeguard against infringement of well-established rights of private persons and in particular natives, it is to be ascertained by preliminary inquiry that claims of the kind specified in para.1. of His Majesty's decree of June 15 do not exist (compare para.2. of His Majesty's decree of June 15). The inquiry, if necessary, has to be carried out by local inspection, and, as far as practicable, by interviewing persons settled or staying in the vicinity. A record of the result of the inquiry has to be drawn up.

para.2. If claims for specific plots of land are put forward by chiefs, village communities or other native communities, which are founded on alleged sovereign rights, or to whom the chief or the village community as such should be entitled, then the rights of the natives shall be taken into account as far as possible, and first of all an amicable settlement shall be considered, by which the land necessary for the survival of the community shall be excluded, whereas the remainder shall be made available to the government.
The governor will settle the matter if such an agreement cannot be reached.

para.3. Claims to ownership or right of use of land by single persons in virtue of private rights of appeal shall be investigated and dealt with separately. Such claims shall be allowed in particular if either legal instruments are submitted which were binding in accordance with legal norms and conceptions valid at the time they were drawn up, or if the property has been cul-

(*The original reads: June 15, of this year which has been omitted here and subsequently below)

tivated, planted or enclosed and the owner has been in uninterrupted possession for two years before the opening of the inquiry.

II. Occupation of Crown Land

para.4. The occupation has to take place gradually according to the progress of the exploration and ascertainment of the land's condition. The investigation of conflicting rights has to be dealt with in like manner. The governor will determine the expansion and sequence of the advance.

para.5. Size and location of the occupied crown land shall be visibly established whenever practicable, and minutes about it shall be drawn up, too. These minutes shall be effected by the signature of a civil servant who is a member of the land-commission (para.4. of His Majesty's decree of June 15). If it is possible that a map can be added, the location of the property, whenever practicable annexed to fixed spots, as well as the possibly effected boundaries shall be inserted with utmost accuracy.

III. Alienation of Crown Land

para.6. In the districts where properties (crown land) earmarked for cession can be found, a register of these properties with details as to location, quality and extent, with possibly available maps or sketches shall be disclosed for examination.

para.7. The cession of crown land can take place privately or by way of public auction (compare para.6. of His Majesty's decree of June 15).

para.8. The governor will appoint the office where applications for cession shall be filed.

para.9. It shall be made a standard condition in the cession that the acquired land must be cultivated, planted, furnished with living quarters or otherwise utilized within a period assessed according to circumstances. In case of non-compliance with the conditions a penalty can be fixed and furthermore the reversion of the land without compensation can be reserved.
The governor is authorized to refrain altogether from the making of special conditions in the cession of crown land by way of exception.

para.10. The payment of the purchase price in sales may be wholly or partly deferred against surety, in leasing a surety may be demanded. Proof of specific working capital is not requisite.

IV. General Regulations as to the Alienation and Acquisition of Properties

para.11. He who wants to purchase or rent property of the kind mentioned in para.11. of His Majesty's decree of

June 15 must give notice hereof to the governor or the office designated by him, with as accurate as possible a designation of the property as to location and extent and with information of the conditions agreed upon with the alienator or lessor.

para.12. The office authorized thereto is obliged to:

a) make sure whether and to what extent the cessor is entitled to dispose of the property, and, if it is proved that joint owners exist, to order the parties to consult the latter in the legal transaction;

b) to see that the alienator or the lessor is informed about the actual and legal consequences of the planned legal transaction and is not cheated by the acquirer;

c) to ascertain whether after the alienation or leasing, if these take place through chiefs or communities, enough land remains for the further subsistence of the community;

d) to recommend after having listened to those concerned which limitations or obligations shall be imposed in the public interest on the transferee or lessee, and to examine whether the transferee or lessee should be ordered to comply with specific conditions regarding time and extent of the utilization of the property.

para.13. The governor decides whether the permission shall be given and what conditions should possibly be made. Claims of third parties to the properties are not effected by the permission, provided the latter have not expressly waived their claims. Claims of this kind shall be referred to the course of law.

para.14. The governor is authorized to grant the powers in regard to temporary occupation provided for in para.12. of His Majesty's decree of June 15 to such persons or companies who plan large scale economic projects and warrant the solemnity of their projects.
The governor will prescribe the period within which the requisite authorization under para.12. section 2. of His Majesty's decree of June 15 has to be applied for.

para.15. The governor has to promulgate further regulations necessary for the execution of His Majesty's decree of June 15 and this order.

Berlin, October 17 1896

The Imperial Chancellor
Prince of Hohenlohe

APPENDIX. VII

CAMEROONS.

FRANCO-BRITISH DECLARATION.

The undersigned :

Viscount MILNER, Secretary of State for the Colonies of the British Empire,

M. Henry SIMON, Minister for the Colonies of the French Republic,

have agreed to determine the frontier, separating the territories of the Cameroons, placed respectively under the authority of their Governments, as it is traced on the map, Moisel 1 : 300,000, annexed to the present Declaration [1], and defined in the description in three articles also annexed hereto.

(Signed) MILNER.
HENRY SIMON.

London, July 10th, 1919.

DESCRIPTION OF THE FRANCO-BRITISH FRONTIER, MARKED ON MOISEL'S MAP OF THE CAMEROONS, SCALE 1 : 300,000.

Article 1.

The frontier will start from the meeting-point of the three old British, French and German frontiers situated in Lake Chad in latitude 13° 05′ N. and in approximately longitude 14° 05′ E. of Greenwich.

Thence the frontier will be determined as follows :

(1) A straight line to the mouth of the Ebeji ;
(2) Thence the course of the River Ebeji, which upstream is named the Lewejil, Labejed, Ngalarem, Lebeit and Ngada respectively, to the confluence of the Rivers Kalia and Lebaiit ;
(3) Thence the course of the River Kalia, or Ame, to its confluence with the River Dorma, or Kutelaha ;
(4) Thence the course of the latter, which upstream is named the Amjumba, the village of Woma and its outskirts remaining to France ;
(5) From the point where the River Amjumba loses itself in a swamp, the boundary will follow the medium line of this swamp so as to rejoin the watercourse, which appears to be the continuation of the Amjumba and which upstream is named Serahadja, Goluwa and Mudukwa respectively, the village of Uagisa remaining to Great Britain ;
(6) Thence this watercourse to its confluence with the River Gatagule ;
(7) Thence a line south-westwards to the watershed between the basin of the Yedseram on the west and the basins of the Mudukwa and of the Benue on the east ; thence this watershed to Mount Mulikia ;
(8) Thence a line to the source of the Tsikakiri to be fixed on the ground so as to leave the village of Dumo to France ;
(9) Thence the course of the Tsikakiri to its confluence with the Mao Tiel near the group of villages of Luga ;
(10) Thence the course of the Mao Tiel to its confluence with the River Benue ;
(11) Thence the course of the Benue upstream to its confluence with the Faro ;

(12) Thence the course of the Faro to the mouth of its arm, the Mao Hesso, situated about 4 kilom. south of Chikito ;

(13) Thence the course of the Mao Hesso to boundary pillar No. 6 on the old British-German frontier ;

(14) Thence a straight line to the old boundary pillar No. 7 ; and thence a straight line to the old boundary pillar No. 8 ;

(15) Thence a line south-westwards reaching the watershed between the Benue on the north-west and the Faro on the south-east, which it follows to a point on the Hossere Banglang, about 1 kilom. south of the source of the Mao Kordo ;

(16) Thence a line to the confluence of the Mao Ngonga and the Mao Deo, to be fixed on the ground, so as to leave to France the village of Laro as well as the road from Bare to Fort Lamy ;

(17) Thence the course of the Mao Deo to its confluence with the Tiba ;

(18) Thence the course of the Tiba, which is named upstream Tibsat and Tussa respectively, to its confluence with a watercourse flowing from the west and situated about 12 kilom. south-west of Kontscha ;

(19) Thence a line running generally south-west to reach the summit of the Dutschi-Djombi ;

(20) Thence the watershed between the basins of the Taraba on the west and the Mao Deo on the east to a point on the Tchape Hills, about 2 kilom. north-west of the Tchape Pass (point 1541) ;

(21) Thence a line to the Gorulde Hills, so as to leave the road from Bare to Fort Lamy about 2 kilom. to the east ;

(22) Thence successively the watershed between the Gamgam and the Jim, the main watershed between the basins of the Benue and the Sanaga, and the watershed between the Kokumbahun and the Ardo (Ntuli) to Hossere Jadji ;

(23) Thence a line to reach the source of the River Mafu ;

(24) Thence the River Mafu to its confluence with the River Mabe ;

(25) Thence the River Mabe, or Nsang, upstream to its junction with the tribal boundary between Bansso and Bamum ;

(26) Thence a line to the confluence of the Rivers Mpand and Nun, to be fixed on the ground, so as to leave the country of Bansso to Great Britain and that of Bamum to France ;

(27) Thence the River Nun to its confluence with the River Tantam ;

(28) Thence the River Tantam and its affluent, which is fed by the River Sefu ;

(29) Thence the River Sefu to its source ;

(30) Thence a line south-westwards, crossing the Kupti, to reach near its source east of point 1300 the unnamed watercourse which flows into the Northern Mifi below Bali-Bagam ;

(31) Thence this watercourse to its confluence with the Northern Mifi, leaving to France the village of Gascho, belonging to the small country of Bamenjam ;

(32) Thence the Northern Mifi upstream to its confluence with the River Mogo, or Doschi ;

(33) Thence the River Mogo to its source ;

(34) Thence a line south-westwards to the crest of the Bambuto Mountains and thence following the watershed between the basins of the Cross River and Mungo on the west and the Sanaga and Wuri on the east to Mount Kupe;

(35) Thence a line to the source of the River Bubu;

(36) Thence the River Bubu, which appears from the German map to lose itself and reappear as the Ediminjo, which the frontier will follow to its confluence with the Mungo ;

(37) Thence the course of the Mungo to the point in its mouth where it meets the parallel of latitude 4° 2′ 30″ north ;

(38) Thence this parallel of latitude westwards so as to reach the coast south of Tauben I. ;

(39) Thence a line following the coast, passing south of Reiher I., to Mokola Creek, thus leaving Möwe Lake to Great Britain ;

(40) Thence a line following the eastern banks of the Mokola, Mbakwele,

Njubanan-Jau and Matumal Creeks, and cutting the mouths of the Mbossa-Bombe, Mikanje, Tende, Victoria and other unnamed creeks to the junction of the Matumal and Victoria Creeks;

(41) Thence a line running 35° west of true south to the Atlantic Ocean.

Article 2.

(1) It is understood that at the time of the local delimitation of the frontier, where the natural features to be followed are not indicated in the above description, the commissioners of the two Governments will, as far as possible, but without changing the attribution of the villages named in Article 1, lay down the frontier in accordance with natural features (rivers, hills, or watersheds).

The Boundary Commissioners shall be authorised to make such minor modifications of the frontier line as may appear to them necessary in order to avoid separating villages from their agricultural lands. Such deviations shall be clearly marked on special maps and submitted for the approval of the two Governments. Pending such approval, the deviations shall be provisionally recognised and respected.

(2) As regards the roads mentioned in Article 1, only those which are shown upon the annexed map [1] shall be taken into consideration in the delimitation of the frontier.

(3) Where the frontier follows a waterway, the median line of the waterway shall be the boundary.

(4) It is understood that if the inhabitants living near the frontier should, within a period of six months from the completion of the local delimitation, express the intention to settle in the regions placed under French authority, or, inversely, in the regions placed under British authority, no obstacle will be placed in the way of their so doing, and they shall be granted the necessary time to gather in standing crops, and generally to remove all the property of which they are the legitimate owners.

Article 3.

(1) The map to which reference is made in the description of the frontier is Moisel's map of the Cameroons on the scale 1 : 300,000. The following sheets of this map have been used :

Sheet A 4. Tschad ; dated December 1st, 1912.
Sheet B 4. Kusseri ; dated August 1st, 1912.
Sheet B 3. Dikoa ; dated January 1st, 1913.
Sheet C 3. Mubi ; dated December 15th, 1912.
Sheet D 3. Garua ; dated May 15th, 1912.
Sheet E 3. Ngaundere ; dated October 15th, 1912.
Sheet E 2. Banjo ; dated January 1st, 1913.
Sheet F 2. Fumban ; dated May 1st, 1913.
Sheet F 1. Ossidinge ; dated January 1st, 1912.
Sheet G 1. Buea ; dated August 1st, 1911.

(2) A map of the Cameroons, scale 1 : 2,000,000, is attached to illustrate the description of the above frontier.

SALE OF EX-ENEMY PROPERTIES IN THE BRITISH SPHERE OF THE CAMEROONS, WEST AFRICA.

At Winchester House, London, E.C.,

On Wednesday & Thursday, October 11th & 12th, 1922,

At 2.30 p.m. Each Day.

LOT 1.

Idenau Estate (Freehold).

SITUATION—On the Sea Coast, W. of Cameroon Mountain, about 40 miles from Victoria.

TOTAL AREA—9,884 acres.

CULTIVATED PORTION—3,733 acres, divided into Five Sections.

CULTIVATION—Cacao, Oil Palms and Hevea Rubber.

NUMEROUS BUILDINGS—Including Six Bungalows, Artisans' and Labourers' Houses and Stores.

VALUABLE MACHINERY. FURNITURE. AGRICULTURAL TOOLS, &c. RAILWAY THROUGH ESTATE.

Formerly owned or occupied by Idenau Pflanzung Gesellschaft.

LOT 2.

Bibundi (Three Estates) (Freehold).

A group of Cacao, Oil Palm and Rubber Properties on Sea Coast S.W. and W. of the Cameroon Mountain, Eastern boundary about six miles W. of Victoria.

TOTAL AREA—24,595 acres.

CULTIVATED PORTION—4,000 acres, or thereabouts.

NUMEROUS BUILDINGS—Including 15 Bungalows, Artisans' and Labourers' Quarters. Store Houses, &c.

RAILWAY. ROLLING STOCK. BRIDGES. MACHINERY. HOUSEHOLD FURNITURE. STORES, &c.

Formerly owned or occupied by Westafrikanische Pflanzung-Gesellschaft, " Bibundi " (W.A.P.B.).

LOT 3.

Oechelhausen Estate (Freehold).

SITUATION—S.W. of the Cameroon Mountain, under two and a-half miles from Sea Coast.

TOTAL AREA—4,942 acres.

CULTIVATION—Some 800 Acres under Cacao, Oil Palm, Hevea and Funtumia Rubber.

BUILDINGS—Comprise Two European Houses, Artisans' and Labourers' Buildings, &c.

QUANTITY OF FURNITURE. FARM TOOLS.

Formerly owned or occupied by Plantage Oechelhausen Gesellschaft.

LOT 67.

Valuable Trading Site

situated at Bonge, on the Meme River, about 2½ acres of FREEHOLD TENURE.

Formerly owned or occupied by Westafrikanische Pflanzungs-Gesellschaft, "Victoria."

LOT 68.

Trading Site

of about ½ acre at Mouth of Boa Creek on the Atlantic Coast. FREEHOLD TENURE.

Formerly owned or occupied by Westafrikanische Pflanzungs-Gesellschaft, "Victoria."

LOT 69.

Trading and Residential Site

of about ½ acre at Buenga Beach of FREEHOLD TENURE.

Formerly owned or occupied by Westafrikanische Pflanzungs-Gesellschaft, "Victoria."

LOT 70.

Trading Store and Small Dwelling House at Mujuka

46ft. by 23ft. Corrugated iron and timber, in fair condition on Land rented from the Chief of Mujuka.

Formerly owned or occupied by Westafrikanische Pflanzungs-Gesellschaft, "Victoria."

LOT 71.

Small Shop Building at Buea,

29ft. 8in. by 19ft. 10in. In poor condition. Frontage to Molyko Road,
Formerly owned or occupied by Westafrikanische Pflanzungs-Gesellschaft, "Victoria."

LOT 72.

Small Shop and Dwelling at Victoria

40ft. by 16ft. 6in. Concrete foundation, Corrugated iron and timber.

Formerly owned or occupied by C. Woermann.

LOT 73.

Valuable Building Site at Buea

(the Sanitarium of West Africa) of 2½ acres, suitable for Residence.

Formerly owned by Justo Weiler.

To be Sold in separate Lots:—Launches, Lighters, Stocks of Produce and certain Stores.

WITHOUT RESERVE.

NO RESTRICTION AS TO NATIONALITY OF PURCHASERS.

SALE OF EX-ENEMY PROPERTIES IN THE BRITISH SPHERE OF THE CAMEROONS, WEST AFRICA.

At Winchester House, London, E.C.,

IN OCTOBER 1924.

LOT 1.

Idenau Estate SOLD 9,884 Acres.

LOT 2.

Bibundi Estates

(As formerly occupied by The Westafrikanische Pflanzungs-Gesellschaft " Bibundi ").

Cacao, Oil Palm and Rubber Estates of about 34,550 acres.

POSITION.—About six miles West of Victoria, and extending to the River Bibundi, on South-West and West of Cameroon Mountain.

GENERAL PARTICULARS.—Full Ownership. Divided into Three Estates.

(A). BIBUNDI.

Estate not worked since 1922.

(B). ISONGO and MERCKFELDE.

Cultivated Area about 900 acres with Bungalows, Hospitals, Stores, Labourers' and other Houses.

(C). MOKUNDANGE.

Cultivated Area about 900 acres with Two Bungalows, Hospital, Seven Stores, Labourers', Artisans' and Clerks' Houses, Fermenting House, Oil Palm Machinery, Cola House and other Buildings, Railway and Rolling Stock, and good Wharf.

LOT 3.

Oechelhausen Estate

(Formerly owned or occupied by Dr. von Oechelhauser and Another).

Cacao, Oil Palm and Rubber Estate of about 4,042 acres.

POSITION.—On the South-West side of the Cameroon Mountain, 640ft. above Sea Level.

GENERAL PARTICULARS.—Full Ownership.

Cultivated Area about 700 acres.

Buildings comprise Managers' and Assistants' Houses, Offices, Hospitals, Stores, Staff, Drying and Fermenting Houses, Sheds and other Buildings.

LOT 15.

A Commercial Site at Rio-del-Rey, of 12¾ Acres.

SOLD

LOT 16.

A Mangrove Swamp of 14 Acres at Rio-del-Rey.

SOLD

LOT 17.

Valuable Trading Site of 1¾ Acres at Rio-del-Rey.

SOLD

LOT 18.

Nicoll Island off the coast of Bimbia.

SOLD

LOT 19.

Valuable Land in Victoria

(Formerly owned or occupied by C. Woermann).

Eminently suitable for Bankers, Shippers, or Residential Purposes.

WITHDRAWN.

GENERAL PARTICULARS.—Full Ownership.

Two-storey House, Custom Store, Outhouses, Large L-shaped Building, Carpenter's Shop, Boat House on beach, Coal House, Marine Store, etc. Trolly Line and Landing Stage.

LOT 20.

Holtfoth's Factory at Victoria.

TRADING AND RESIDENTIAL PREMISES.

WITHDRAWN.

POSITION.—At corner of Suffolk Street and Blackwatch Road, Victoria.

Full Ownership.

Factory with Residence above.

LOT 21.

Two Valuable Trading Sites at Victoria.

SOLD

LOT 22.

Plot of Land at Victoria.

SOLD

LOT 23.

A Trading Site on the Buea-Soppo Road at Buea.

(Formerly owned or occupied by C. Woermann).

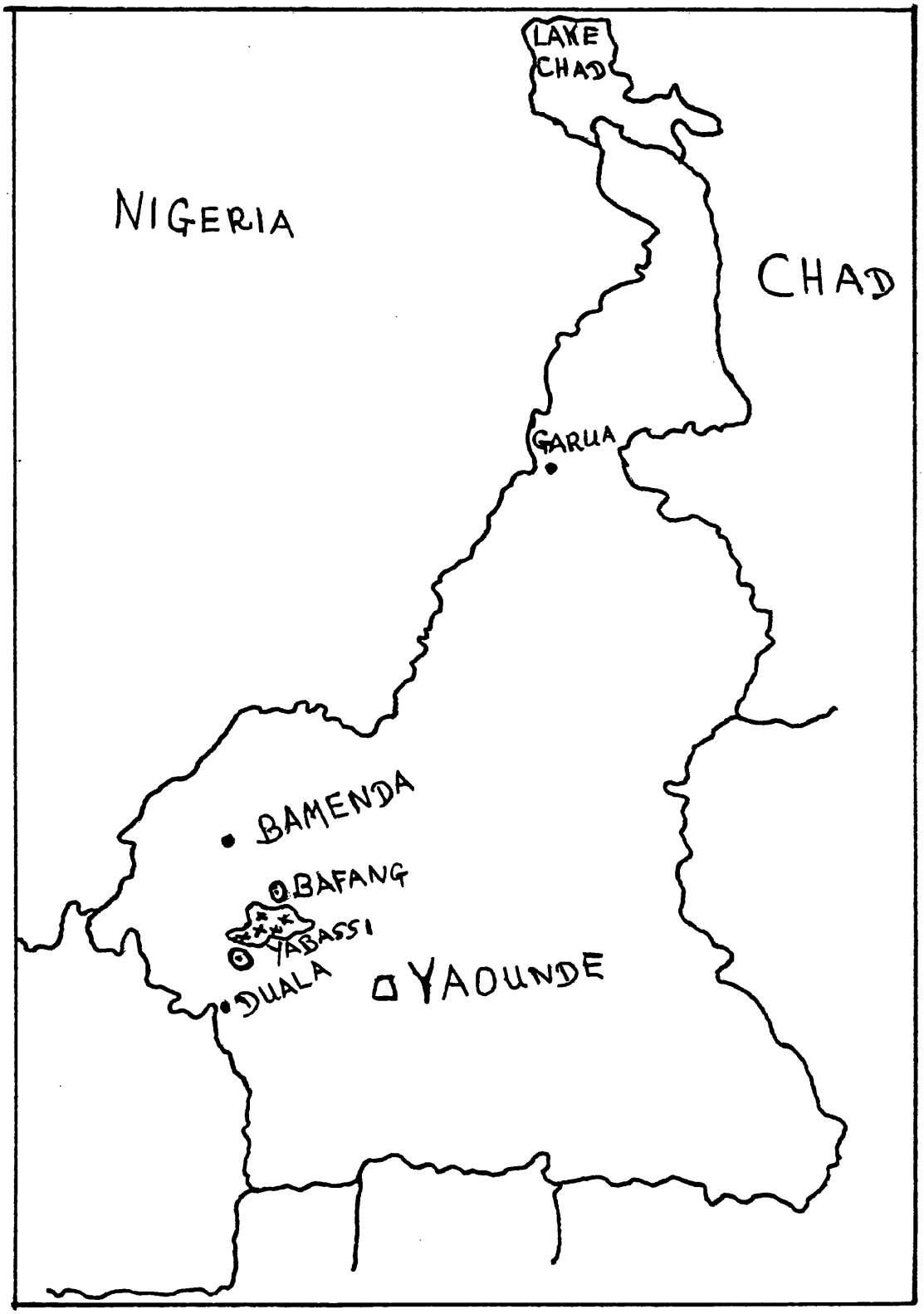
Area about 2½ acres.

Full Ownership.

Factory of two stories with Store and Three Rooms. Outhouse.

APPENDIX X

MAP OF THE UNITED REPUBLIC OF CAMEROON WITH LOCATION OF THE YABASSI-BAFANG PROJECT



REPUBLIQUE UNIE DU CAMEROUN
Paix — Travail — Patrie

MINISTERE DES FINANCES

DIRECTION DES DOMAINES

APPENDIX XI

UNITED REPUBLIC OF CAMEROON
Peace — Work — Fatherland

MINISTRY OF FINANCE

DEPARTMENT OF LANDS

Timbre fiscal
Fiscal stamp

DEMANDE D'ATTRIBUTION EN CONCESSION OU A BAIL (1)

d'une parcelle du domaine national. Application du décret nº 76-166 du 27 avril 1976 sur la gestion du Domaine national.

APPLICATION FOR THE ALLOCATION OF A PARCEL

of national land, concession or lease, (1) in application of decree No. 76-166 of 27th April 1976 on the administration of National Land.

Nom et prénoms ou raison sociale (en entier) .....
Name of applicant or firm (in full)

.....

Date et lieu de naissance .....
Date and place of birth

Fils de ..... et de .....
Son/Daughter of and of

Profession .....
Occupation

Nationalité .....
Nationality

Adresse .....

Adresse du siège social (s'il s'agit d'une société) : .....
Complete address (if corporate body state address of registered office).

Lieu de situation du terrain .....
Situation of land

Superficie approximative .....
Approximate area
Dimensions

Projet envisagé .....
Purpose for which land is requiered

a) Construction .....
Building

b) Agriculture .....
Agriculture

c) Industrie .....
Industry

Coût du projet .....
Amount of improvements

Source de financement .....
Sources of income

Etes-vous déjà attributaire d'une parcelle du domaine national ? .....
Have you any plot on national land?

Indiquer leur nombre et leur situation .....
Indicate number and where situated

.....

Je soussigné certifie exacts, sous peine de sanctions prévues par la loi, les renseignements sus-indiqués.
I the undersigned hereby certify, under pain of punishment as provided by the law, that the information given above is correct

Pièces annexées :
Supporting documents attached:

— Fiche descriptive des travaux envisagés.
Programme of the works envisaged.

— Croquis du terrain.
Sketch plan of land.

— Copie carte d'identité ou des statuts.
Copy of Identity Card or Articles and Memorandum of Association.

Date
Signature :

(1) Rayer la mention inutile.
(1) Delete as necessary.

NOTE : Le présent imprimé doit être soigneusement rempli en quatre exemplaires.
NOTE : This form should carefully be completed in 4 copies.

National Printing Press Offset - Yaounde — 2122

APPENDIX XII

Notices of final demarcation and application for registration.

Dja-et-Lobo division

The public is informed:

That an application No. 479 has been filed on 14 April 1975 whereby Mr. Piere BIZEME, born circa 1918 at Anyoungan, Tekmo Canton, domiciled and resident at Anyoungan, acting on his own behalf and in the capacity of landowner, requests the registration in the land register of Dja-et-Lobo Division of a rural built on estate consisitng of land of an area of 16 ha. 81 a. 50 ca. situated at Sangmelima, at the place known as Anyoungan.

He declares that the said estate belongs to him as freehald property by virtue of his having acquired it in accordance with Order No. 277-MINEHDOM-DD-SF of 11 March 1975 to declare admissible his application of freehold rights and that it is not, to his knowledge, burdened with any real and existing charge or liability.

This estate was the subject of a demarcation drawn up and closed on 4 January 1974 by Mr. Jean-Paul Nkomo Nkoumba, sworn surveyor of the surveys Department and is bounded:

To the north, by marshland,
To the south, the east, and the west by customary lands.

Haut-Nyong Division.

The public is informed:

That an application No. 532 hasbeen filed on 26 September 1974 whereby Mr. Etienne EFFOUFOU ZONG, chief superior of Makae at Abong-Mbang acting on his own behalf and in the capacity of landowner, requests the registration in the land register of Haut-Nyong Division of an urban built on estate consisting of land of irregular form of an area of 3 ha. 19 a. 11 ca. situated at Abong-Mbang.

He declares that the said estate belongs to him as freehold property by virtue of his having acquired it in accordance with land registration book No. 2479 of 13 May 1955 containing judgment No. 2 of 8 June 1953 of the Abong-Mbang Court of Second Degree as amended by Order No. 92 of 3 November 1953 of the Special Affairs Chamber and that it is not burdened with any real and existing charge or liability.

This estate was the subject of a demarcation drawn up and closed on 11 January 1973 by Mr. Joseph Metang, Surveyor of the Surveys Department and is bounded:

To the north-east by the Mayor's office,
To the south-east by the land of Mr. Paul Maboma,
To the south-west by an unnamed street,
To the north-west by the land of C.F.S.O.

Haute-Sanaga Division.

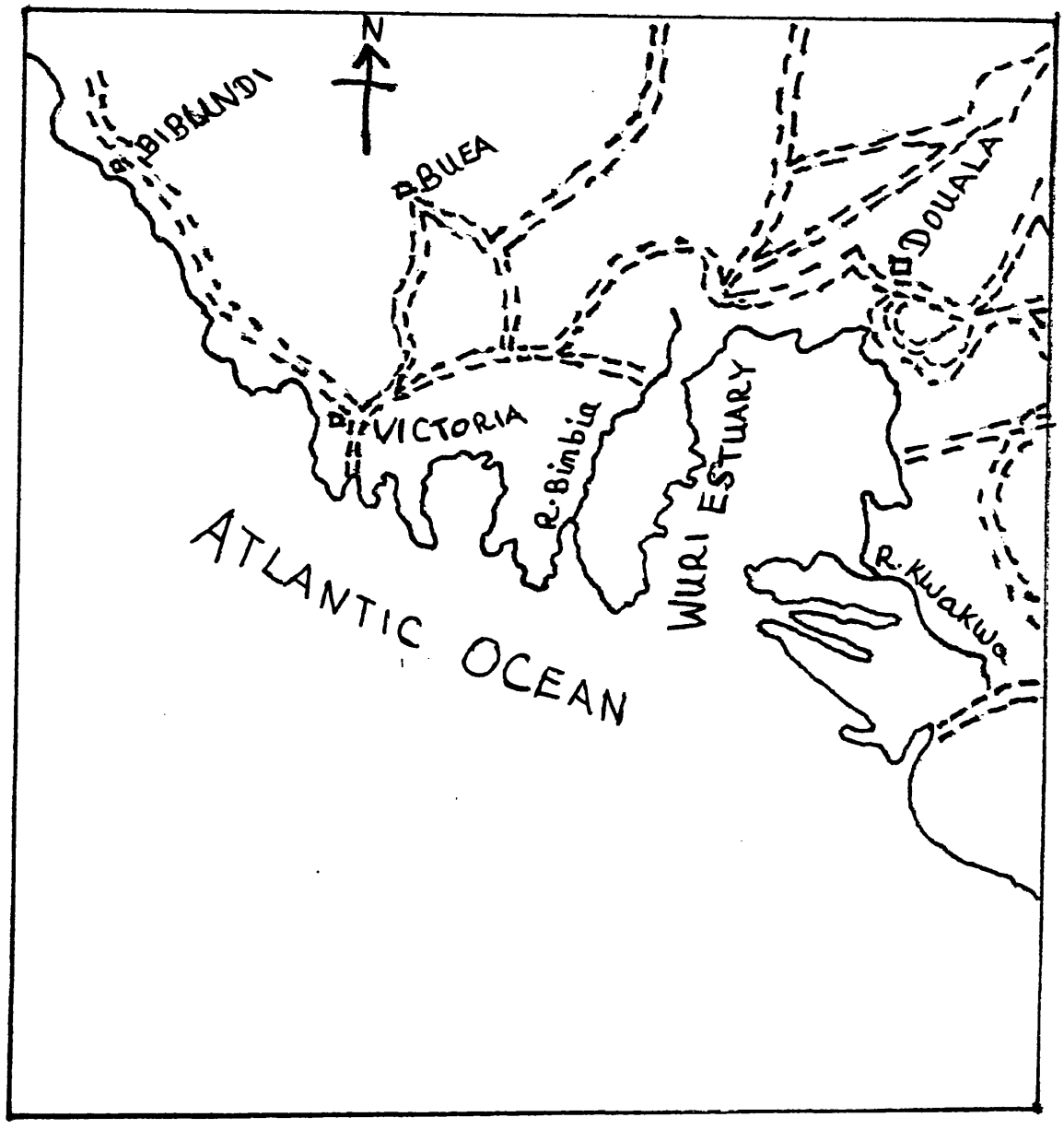
The public is informed:

That an application No. 6338 has been filed on 11 December 1974 whereby Mr. Louis-Valerie ADJEME, lands controller, born on 19 February 1939 at Mengueme-Yezoum (Nanga-Eboko) domiciled at Yaounde acting on his own behalf and in the capacity of landowner, requests the registration in the land register of Haute-Sanaga Division of an urban built on estate consisting of land of an area of 4 ha. 46 a. 41 ca. situated at Nanga-Eboko, at the place known as Nguinda.

Extracted from the Official Gazette of the United Republic of Cameroon of March 15, 1976.

APPENDIX XIII

MAP SHOWING THE AREA CEDED UNDER THE TREATY OF 1884



APPENDIX XIV

"(22) Agreement of the Chiefs of Dido and Acqua Towns, Cameroons, January 14, 1856.

We, John Acqua and Ned Dido, do guarantee, in presence of Her Britannic Majesty's Consul, that all palavers in our country being settled up to this day, to ask no reprisal of sacrifice or money for the 2 freemen killed in the late war, and bind ourselves in default by any penalty the Equity Court may inflict for the due performance of this Contract.

Given under our hands on board Her Majesty's steam-vessel "Bloodhound", Cameroons River, this 14th day of January, 1856.

Ned Dido John Acqua.

Witnesses to the marks of Ned Dido and John Acqua:
Thos. J. Hutchinson, H.B.M.'s Consul for the Bight of Biafra and Island of Fernando Po.
Thos. M. Simpson, Secretary to Her Britannic Majesty's Consul.

King Acqua Charlie Dido.

(23) Treaty with the Kings, Chiefs, and Traders of Cameroons. January 14, 1856.

Bye-laws for the better regulations of Trading Matters between the Supercargoes and Native Traders of the River Cameroons; passed at a Meeting held on board Her Majesty's steam-vessel "Bloodhound".

Art. I. That an Equity Court be established in the River Cameroons to keep in their integrity the following bye-laws and regulations; and that the Court shall consist of all the Supercargoes, as well as of the Kings and traders,

of the locality.

II. That the proposed Court-house be erected and the ground purchased at the joint expense of the Supercargoes now trading in the river; to be considered British property, and under the protection of Her British Majesty's Consul, subject to the approval of Her Majesty's Government.

III That this body have a monthly sitting, unless in special cases to be summoned at any time; that a Supercargo, each in his turn from seniority, be elected chairman for a month; and that a report of each meeting be forwarded to Her British Majesty's Consul, to Fernando Po.

IV. That these laws now entered into be complied with and respected by Supercargoes absent from this river, or this meeting, at the time of their enactment, or afterwards to be here: and any native traders to "come up" to be bound by them also.

V. That the native Kings and Chiefs pledge themselves, not only to pay their own debts, but to use their influence, each with his respective traders, to do the same, and that for their neglect of this they be subject to a fine, to be settled by the Court.

VI. That any 3 members of the Court have the power to make an appeal against its decisions, which appeal is to be deferred till the Consul's next visit; and that if, on examining this appeal, it be proved to be frivolous or invalid, the appellants are to be fined in the highest penalty the Court can inflict.

VII. That the Kings and Chiefs of Cameroons hereby solemnly pledge themselves to keep inviolate the Anti-Slave Trade Declaration made between Her Majesty's Government and the Kings of Cameroons on the 10th of June,

1840,* and to give information to any of Her Majesty's officers in the neighbourhood, of the presence of a slave-trader in Cameroons.

IX. That any Supercargo or native, after receiving a formal notice to appear at the Court, refusing to attend, thereby setting the laws of the Court at defiance, shall be fined in the amount of 5 pieces of cloth, unless he can show clear cause for his absence.

X. That any native refusing to pay any fine that may be inflicted by the Court,shall be stopped from going on board any ship in the river, either for trade or any other purpose, and any Supercargo refusing to pay a fine shall be denied the privileges of the Equity Court.

XI. That in the event of any native trader attempting to evade the penalty of the Court by non-appearance, or otherwise, and notice of such defaulter being sent to all the masters, traders, or Supercargoes, are hereby bound, under the penalty of 100 crews, to forbid such defaulter coming to his vessel for trade, or under any pretence whatever, and if necessary the final settlement to await the arrival of Her British Majesty's Consul.

XII. That all old palavers shall be considered as settled up to this date, and cannot be again brought forward to the detriment of trade.

XIII. That any vessel coming into the river for the purpose of trade shall pay to the King, or Headman, of the town at which he may choose to anchor, the amount of 10

original crews for every 100 tons of the vessel's register; in special cases, or those of resident agents, their comey to be according as they may arrange it annually, or otherwise, with the King or Headman of the town at which their cask-houses are situated; and under no pretence shall any other King or Headman demand any comey or dash whatever from such vessel; and also the said King or Headman to supply the said ship with a suitable cask-house, on payment of 5 crews.

XIV. That after the usual payment to the King or Headman for the use of the cask-house, if any agent or Supercargo can prove that his cask-house has been illegally entered or broken into, and any property stolen therefrom by any of the natives, the said King or Headman to be held responsible for the loss.

XV. That any King, Chief, or trader, attempting or threatening to stop the trade of any vessel or Supercargo, after the usual comey has been tendered for the privilege of trading, such King, Chief or trader, shall, at a meeting of the Supercargoes, be summoned before the Court to account for such stoppage, and if found guilty of illegal obstruction shall be fined to such an extent as may be agreed upon.

XVI. That any person acting as pilot shall receive as compensation, the value of 1 original crew for every 3 feet of the vessel's draught.

XVII. That whereas several boats have been frequently stopped and taken from alongside ships, and British subjects detained and maltreated, any aggression committed either on property or persons shall be visited by immediate punishment to the parties so offending; a special Court called for the occasion, and the heaviest fine inflicted allowed by the laws.

XVIII. That the regulations long existing, made by the natives, respecting intentionally watered or fomenting oil, shall still be in force.

XIX. That for any breach of any one Article of this Treaty the person or persons so offending be liable to whatever penalty the Judge of the Court may think proper to inflict, not exceeding 20 crews for a native, and not exceeding 300 crews for a Master, Supercargo or Agent.

XX. That any Supercargo or native, their employers or followers, appearing at, or in the immediate vicinity of, the Courthouse with fire-arms, or any other offensive weapons, be heavily fined and expelled.

Given under our hands, on board Her Britannic Majesty's steam-vessel "Bloodhound" laying in the River Cameroons, this 14th day of January, 1856

King Bell. Preso Bell. Joss. Jim Quan.

John Acqua. King Acqua. Charley Dido Ned Dido.

First Tom Dido Dido Acqua.

Thos. J. Hutchinson, H.B.M.'s Consul for the Bight of Biafra and the Island of Fernando Po.

G. J. Williams, Lieutenant, Commanding Her Majesty's steam-vessel "Bloodhound".

Thos. M. Simpson, Secretary to Her Britannic Majesty's Counsul."

REPUBLIQUE UNIE DU CAMEROUN
Paix – Travail – Patrie

MINISTERE DES FINANCES

DIRECTION DES DOMAINES

APPENDIX XV

UNITED REPUBLIC OF CAMEROON
Peace – Work – Fatherland

MINISTRY OF FINANCE

DEPARTMENT OF LANDS

DEMANDE DE TITRE FONCIER

sur une parcelle du Domaine National occupée ou exploitée (application de l'article 11 du décret n° 76/165 du 27 avril 1976 sur les conditions d'obtention du titre foncier).

Application for land certificate over a parcel of occupied or exploited national Land, in application of article 11 of decree No 76/165 of 27th April 1976 establishing the conditions for obtaining land Certificate.

Nom et prénoms du requérant (en entier) _____
Name of applicant (in full)

_____

Fils/Fille de _____ et de _____
Son/Daughter of and of

Nationalité _____
Nationality

Date et lieu de naissance _____
Date and place of birth

Profession _____
Occupation

Domicile et adresse complète _____
Residence and complete address

Situation de famille: marié, célibataire, polygame, monogame
Marital status: Married, single, polygamous, Monogamous

Régime matrimonial (séparation ou communauté des biens)
Matrimonial system (separation or joint-possession of property)

Lieu de situation du terrain: Arrondissement _____
Situation of land: Sub-division

Département _____
Division

Limites : au Nord par _____
Bounderies: bounded on the North by

à l'Est par _____
on the East by

à l'Ouest par _____
on the West by

au Sud par _____
on the South by

Ce que supporte le terrain: maison d'habitation; plantation de café, cacao, caoutchouc etc.
Existing developments on the land-houses, buildings, permanent crops.

Montant approximatif de l'investissement _____
Approximate value of existing developments.

D'autres personnes habitent-elles le terrain?
Is the land occupied by other persons ?

Ont-elles les mêmes droits que vous-mêmes?
Do they have equal rights with you ?

Indiquer leurs noms et prénoms (voir verso)
Give their full names (see overleaf).

(1) Rayer la mention inutile.
(1) Delete as necessary.
(2) Joindre le livret ou le jugement précité.
(2) Attach title-deed or judgement concerned.