

PROGRESS IN BRITISH EAST AFRICA

LAND-VALUE RATING IN NAIROBI

IN LAND VALUES of October, 1916, p. 147, and in ECONOMIC JUSTICE, pp. 66-67, will be found some account of the East Africa Protectorate Crown Lands Ordinance, 1915, No. 12, Part iv., which, based on the principle that the Government holds the land in trust for the people, empowers the Government to let considerable amounts of land on leases for 999 years, at rents based on percentages of its improved value; increasing periodically to a maximum of three per cent. of that value, with revision of valuations every thirty years and a proviso that "in the ascertainment of the value of any land under this section there shall not be taken into consideration in augmentation of such value the value of improvements made or done on the land."

This Protectorate is now known as the Colony and Protectorate of Kenya. Not only does that Ordinance still hold good; but it has now been followed by another, which was passed by the Legislative Council of Kenya and received the assent of the Crown in February of this year, for the establishment of Land-Value Rating in Nairobi, the capital. This "Nairobi (Rating of Unimproved Site Values) Ordinance, 1921"—as it is officially called, formed the subject of a paragraph in last month's LAND & LIBERTY, p. 118. After a reference to the need of municipal rating in Nairobi for certain public purposes, its preamble states that the Municipal Council "are desirous of rating land within the township by the system known as Rating of Unimproved Site Values," and have prepared a preliminary valuation of that character, to which, later on, the Ordinance gives effect.

In the definitions, the "Unimproved value" of land is defined as the sum which, if unencumbered by a mortgage or other charge, the owner's interest in the land might be expected to realize if offered for sale on reasonable terms "and if no improvements as hereinafter defined had been made on the said land." Then comes this definition:—

"Improvements on land" means all work actually done or material used thereon by the expenditure of capital or labour by any owner or occupier of the land, nevertheless in so far only as the effect of such work or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation; but shall not include machinery, whether fixed to the soil or not; nor shall it include work done or material used on or for the benefit of land by the Crown or by any statutory public body, unless such work has been paid for by the contribution of the owner or occupier for that purpose. Provided that the payment of rates or taxes shall not be deemed to be a contribution within the meaning of this definition.

A special feature of this Ordinance is the provision (s. 26) that—

Subject and without prejudice to the rights of the Crown, the rate shall be a first charge on the property in respect of which it is assessed, and if not paid within the prescribed time shall be recoverable in manner hereinafter provided,

and there is a provision that the tenant who pays the landlord's rate to avoid seizure of his property may deduct from his rent.

For rates in arrear the first remedy is the attachment and sale of personal effects, &c., found on the premises. But if these are not sufficient, there is the more effective method of proceeding against the land, as provided for in the following sections:—

29. If the arrear cannot be recovered in the manner aforesaid the Court may by notice of sale (to be served or, if service cannot be effected, to be posted up on the premises and published in the Gazette) declare its inten-

tion of selling at the expiration of three months from the date of such notice of sale the premises in respect of which the arrear has accrued, and if at the expiration of such period such arrear has not been paid or satisfied, the Court may sell by public auction the whole of such premises or such portion thereof or such interest therein as it may deem sufficient. Provided that no premises the property of Government shall be sold under this Ordinance.

30. The proceeds of such sale shall be applied in the first place in satisfaction of the arrear together with interest thereon at the rate of 7 per cent. per annum and costs, and in the event of there being any surplus remaining the Court shall, if it is satisfied as to the right of any person claiming such surplus, pay the amount to such person, and if it is not so satisfied shall hold the amount in trust for the person who may ultimately succeed in due course of law in establishing his title thereto. If no title is established to such surplus within the period of five years from the date of the sale, it shall be paid to the credit and form part of the municipal fund.

31. (1) The purchaser at a sale under the provisions of section 29 shall be deemed to have acquired the right offered for sale free from all encumbrances created over it and from all subordinate interests derived from it, except such as are expressly reserved by the Court at the time of sale.

(2) The Court shall notify in the Gazette the result of the sale and the conveyance to the purchaser of the property or right offered for sale.

32. All costs of any proceeding under this Ordinance for the recovery of arrears may be recovered as if they formed part of such arrears.

33. If any person having any interest in any property liable to be sold under the provisions of this Ordinance at any time previous to such sale tenders the Council the arrear with interest and costs, the Council shall thereupon desist from all further proceedings in respect thereof.

There are, of course, a number of other sections, including a provision enabling any person who disputes the propriety of an attachment or sale to make an application to the High Court for a stay of proceedings.

The Authorities concerned are to be congratulated on this further step in the direction of the rating of land-values and the unrating of improvements; though they would have done better still if they had included machinery among the "improvements." To one who has consistently advocated making the rate or tax a first charge on the land itself, with provisions enabling other interests to protect their rights by making payment on behalf of the debtor and debiting the payment against him, it is satisfactory to note that the Ordinance proceeds on somewhat similar lines. My suggestion has been that the community should be entitled to resume the land if payment is in arrear for a certain term of years: there, however, the authorities may proceed to sell with a valid title after only a few months, though it will be noticed that any surplus does not go to the municipal fund unless no other title has been established to it within five years. The half-way house of attaching and selling personal effects, &c., found on the premises does not seem altogether satisfactory, and makes the plan more complicated than it would otherwise be. The definition of "Unimproved value" instead of saying, as do most kindred definitions, that it means the sum which the land might be expected to realize, &c., says that it means the sum which the owner's interest therein might be expected to realize, &c., thus lengthening the definition, and requiring a further definition of "Owner," which would otherwise be unnecessary. These, however, are only minor points; and this Nairobi Ordinance is an important landmark in the progress of the Land-Value Legislation in the British Dominions Oversea.

J. D. W.