

W.S. 1.142 ORIGINAL

BUREAU OF MILITARY HISTORY 1913-21
BURO STAIRE MILEATA 1913-21
No. W.S. 1,142

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BUREAU OF MILITARY HISTORY, 1913-21.

STATEMENT BY WITNESS.

DOCUMENT NO. W.S. 1,142.

Witness

Joseph M. O'Byrne, S.C.,
55 Dartmouth Square,
Dublin.

Identity.

Captain 'D' Company 3rd Battalion
Dublin Brigade Irish volunteers;
Registrar Land Settlement Commission, 1919-'21.

Subject.

The Land Settlement Commission
1919-1921.

Conditions, if any, Stipulated by Witness.

Nil

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THE LAND SETTLEMENT COMMISSION
ESTABLISHED BY THE FIRST DÁIL ÉIREANN.

A short account of its objects and
of its operations during the years,

1920-1922 -

By

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In order to understand the circumstances in which this Land Settlement Commission was established, it is first necessary to make a brief survey of the general conditions prevailing in the country during the years, 1919 and 1920.

As a result of the General Election of 1918, there had been a complete landslide in the Irish political scene, the Irish Party under the leadership of John Redmond having been swept out of power, and a Republican Government elected. After the election, the first Republican Dáil Éireann was convened, it being the first native government in Ireland since the Act of Union of 1800.

During the years, 1919 and 1920, political feeling throughout Ireland was becoming increasingly intensified, aggravated by the brutal repressive activities of the "Auxiliaries" and "Black and Tan" forces created by Lloyd George, the British Prime

Minister.

Numerous attacks were made on the various local British posts, such as, R.I.C. barracks, while ambushes of British forces, raids and other militant activities on the part of the Republican forces increased week by week.

This state of actual war produced a gradual paralysis of the British administration, including the courts and the law-enforcing machinery. During the year 1920, this chaotic state of affairs led to the inevitable results which, as all history shows, follow where there is a clash between the de jure power and the revolutionary de facto government.

There is in every community an element always alert, without regard to any moral considerations, to seize any opportunity of personal gain when the forces, theretofore responsible for enforcing the ordinary law as between citizens, are rendered powerless. There are also those who feel that they have genuine social and economic grievances which should be remedied. Finally, there is that section of society which is always eager to take advantage of a state of disorder in order to embarrass the particular authority who may be in power. These diverse elements seized their opportunity in 1920 when the struggle between the British administration in Ireland and the Republican administration had become intensified. Reports from parts of the west, such as, the counties of Galway and Mayo; and, from Munster, in places such as Clare, Tipperary; North Cork and Kerry, and from other parts of the country, disclosed that self-constituted

groups of allegedly landless men and small-holders were taking illegal action by entering upon and seizing land by violence, with complete disregard of rights of property. Some of these bands sought to attach a patriotic significance to their lawless activities by flaunting the Republican banner (orange, white and green), while others committed their acts of trespass under the flag of the Irish Parliamentary party. The general social unrest, which followed the First Great War, the "Bolshevik" revolution in Russia and the universal lowering of moral standards in the post-War period no doubt had some influence in fostering the spirit of unrest from which sprang these illegal seizures of land.

It was in this atmosphere and against this background that the Land Settlement Commission was brought into existence as a vital and urgent corrective of this menacing disease which, if unchecked, would have resulted in widespread agrarian anarchy and have brought the authority of the first Republican Government into contempt.

In the month of August, 1920, a conference took place in the office of Mr. Seamus O'Connor, Solicitor (later City Sheriff of Dublin City), at his chambers, 66 Dame Street. At this conference were Mr. Art O'Connor, B.E., the first Minister of Agriculture of the First Dáil, the abovenamed Mr. Seamus O'Connor, solicitor, and Mr. Joseph O'Byrne, then in legal practice in a law office in Dublin. The object of the conference was to devise methods whereby the agrarian lawlessness, now weekly

increasing throughout the country, could be suppressed and genuine grievances examined with a view to effecting their redress. Mr. O'Byrne, as a result of a prior conversation with Mr. Seamus O'Connor, had prepared a draft of a proposed scheme for a Land Settlement Commission to investigate the grievances of uneconomic holders and landless men.

The object of the Land Settlement Commission was, of course, limited to the settlement of such pressing genuine grievances as might have inspired, or were likely to inspire, unlawful acts of trespass and seizure. Land settlement in the wider sense of that term was not, of course, contemplated in the proposals discussed. Such land settlement requires vast financial resources and was being effected through the machinery of the Land Purchase Code.

As a result of this conference, Mr. Art O'Connor, the Minister of Agriculture, having made certain criticisms and amendments of the draft scheme, arranged to submit it to the First Dáil, and accordingly that body (the First Dáil) passed, as a law of the Republic, a decree of the 17th September, 1920, embodying the scheme as revised and constituting a national Land Settlement Commission for the purpose of carrying the Land Settlement Schemes of An Dáil into effect.

Briefly, the broad lines of the scheme were as follows:-

A National Land Settlement Commission was to be set up under the presidency of the Minister

of Agriculture and was to be constituted as follows:-

Two legal Commissioners, being practising lawyers, and one lay Commissioner, an expert in land problems and with experience of land valuation.

In districts where real grievances existed on the part of landless men and uneconomic small-holders, these groups were to be induced to form themselves into co-operative farm societies.

In fostering the schemes of such societies, the policy was to give preference to societies which contained the largest proportion of married members. It was also the policy -

- (a) to limit the area of land to be acquired to an acreage of so much per head of the membership of the society;
- (b) to prevent, so far as possible, neighbouring farmers, who might hold substantial farms, from acquiring subsequently lands which had been purchased and allotted to any small-holder; and
- (c) to ensure, so far as reasonably possible, that such land should be used in a proper husbandlike manner.

The question of the financing of these schemes of land acquisition was a problem of considerable difficulty but, after some discussion, the following solution was adopted:-

Each of these local co-operative farming societies was, from its own resources, to contribute to a fund representing a quarter of the purchase price fixed by the Land Settlement Commission; and the National Land Bank (now the National City Bank) was then to be approached to advance the remaining three-quarters of the purchase price on a mortgage repayable over a reasonable period.

When the decree of the Dáil establishing the National Land Settlement Commission was duly passed, the first office in which it functioned was in premises at that time occupied by the Republican Department of Home Affairs under the late Mr. Austin Stack (then Republican Minister for Home Affairs) at 43 Henry Street. This was merely a temporary accommodation until suitable premises were found to house the Commission. In October, 1920, premises were leased in 3 North Earl Street, and the offices of the Commission were installed on the top storey thereof. The name plate on the front door bore the legend, "John McCann, C.E.", in order to mask the true character of the office.

The staff of the office at that time consisted of -

The Minister for Agriculture,

Mr. Art O'Connor, T.D.,

(late Circuit Judge of Cork, now deceased).

Two Legal Commissioners, viz.:

Mr. Conor Alexander Maguire

(now Mr. Justice Conor Maguire, the Chief Justice of Ireland);

Mr. Kevin O'Sheil

(now Senior Counsel and Chief Commissioner of the Land Commission).

One Lay Commissioner,

Mr. Martin Heavey, C.E.,

a Land Surveyor and Valuer from Sligo

(afterwards a Commissioner in the Land Commission, now retired).

Mr. Joseph O'Byrne, Chief Registrar of the Commission (now Senior Counsel, and at present Registrar of Titles and Deeds).

Mr. Gearoid McGann (afterwards Clerk of the Dáil, now deceased) acted as Secretary to the Commission.

In considering the method by which the rulings of the Commission were to be implemented, certain legal difficulties naturally presented themselves. As the de jure law then stood, the decrees of the Dáil were, under the law then extant in the country, without any

legal validity. The courts not being legal courts set up under the Judicature Act, there was always the danger that, in the event of any reverse to the Republican Government, these decrees would be quashed on the ground of their illegality and the activities of the Commission thus brought to a nullity. In order to surmount this difficulty, it was decided that the Land Settlement Commission should function as an Arbitration Tribunal; that the landowners on the one side and the co-operative farming society members on the other side should, as a preliminary to invoking the services of the Commission, enter into a submission to arbitration, binding themselves to adhere to the decision of the Land Settlement Commission on the issues brought before it. In this way, the decrees of the Commission would be unimpeachable inasmuch as a British court could not, in view of the submission to arbitration, overrule the award of the particular body, since it could be successfully argued that the Land Settlement Commission had acted as a body of arbitrators to whom a dispute had been submitted for their decision.

The Commissioners then proceeded to sit in various parts of the country - two legal Commissioners and one lay Commissioner sitting with a local Registrar and hearing claims. The general opinion, even amongst the landowners whose interests were more vitally affected, was that the assessments were fair and equitable and that no element of expropriation or oppression was a factor in the findings of the Commission. The members of the Commission were men of standing in the community, and the legal Commissioners

highly trained lawyers, bred in all the traditions of impartiality and with the objective outlook which characterises the profession of the law.

After the preliminary hearing, it was the practice of the Commission to require the relevant maps to be lodged with the Commission, and the lay Commissioner, having examined the land, would then delineate on the map the several allotments and make his assessments of their values. The deposit by the farming society was lodged in the Land Bank who then advanced the amount of the purchase money of the lands so allotted, which sum was paid to the owner on the execution of the mortgage to the Bank and of the conveyances to the allottees.

The operations of the Land Settlement Commission were most successful in allaying the discontent which had been rampant in the country with regard to the land distribution during the early part of 1920 up to the autumn of that year. The moral effect produced by the establishment of the Land Settlement Commission and the knowledge that its orders were made by a just tribunal, consisting of highly trained lawyers and other experts, enlisted a strong public opinion in support of its decrees, and the few malcontents, who felt aggrieved by the decisions, received little, if indeed any, sympathy from the community at large.

There were few cases indeed where the local small holders and the landless men evinced dissatisfaction with the findings of the Commission,

and, in the main, it may be taken as an historical fact that the Commission fulfilled, with signal success, its main object which was to control the growing tide of agrarian lawlessness and to prevail on those who felt they had genuine grievances to submit their cases to the judgment of a competent impartial court.

The Commission continued to function in the more intensified warfare of 1921 up to July 11th, the date of the Truce, but under great difficulties. Mr. Joseph O'Byrne, the Chief Registrar, was interned from 30th November, 1920, up to the 8th December, 1921, and the Commission then functioned with the depleted staff up to 1922.

It may here be mentioned that Mr. Joseph O'Byrne's arrest on the 30th November, 1920, was not by reason of his connection with the Land Settlement Commission as its Chief Registrar. His arrest on that date and subsequent internment in Ballykinlar Internment Camp, Co. Down, was due to his participation as Irish Volunteer Captain in charge of "D" Company, Third Battalion, Dublin Brigade, in the Rising of Easter Week, 1916, when he commanded the outpost garrison in Boland's Mills, Ringsend Road. The fact that his name and his subsequent internment in Wakefield Detention Barracks, Yorkshire, and in Frongoch Prisoner-of-War Camp, North Wales, from May, 1916, to August, 1916, was already entered in the British military records was the direct cause of his arrest on the 20th November, 1920, and second internment in Ballykinlar Camp up to the 8th December, 1921.

The sittings of the Land Settlement Commission in rural areas were conducted under conditions of great difficulty and indeed danger. The venues of these courts in such areas had to be fixed with great ingenuity, so as to avoid interference by the British forces. It may be

truthfully affirmed that the judicial and other Commissioners, who held these courts, did so in constant peril not only of arrest but of physical injury or death. The functioning of such extra-legal courts was rightly regarded by the British authorities as a most vital blow to their authority and prestige, in view of its paralysing effect on governmental administration.

In the disturbed conditions existing during the short period of about one and a half years, many of the files and records of the Commission were unavoidably destroyed or lost. Notwithstanding this, however, twenty-four boxes, containing over seven hundred of these record files, have been salvaged and are now preserved in the Records Branch of the Land Commission. These records include cases covering a wide range of cases, such as:-

- Injunctions;
- Claims for division of untenanted land;
- Rent disputes;
- Complaints of intimidation;
- Disputes with regard to turbary;
- Claims by evicted tenants;
- Applications for the purchase of land;
- Actions for breach of agreement relating to land;
- Trespass and forcible possession.

Of the seven hundred and twenty-eight files in existence, no less than two hundred and seventy-six relate to cases of trespass and forcible possession.

By the Dáil Éireann Courts (Winding-up) Act, 1923 (Amendment) Act, 1924 (No. 32 of 1924), a Winding-up Commission was established to hear appeals from decisions of the Land Settlement Commission, and this Winding-up Commission which was a judicial body heard and decided the very limited number of cases in which appeals for review of the Land Settlement Courts' decisions were presented.

Under the Land Acts, 1923 and 1927, lands, which had been acquired by societies of landless men and uneconomic small-holders by purchase under the awards of the Land Settlement Commission, were

incorporated into schemes formulated by the Land Commission for the settlement of such persons, financial adjustments where necessary being made out of the Land Purchase Fund.

In conclusion, it may be affirmed that the Land Settlement Commission established in the disturbed conditions of active warfare fulfilled with conspicuous success, in the short period during which it functioned, the object for which it was designed, that is, to suppress unlawful agrarian activities by inducing those who had genuine grievances to submit their cases to the judgment of an impartial tribunal established by the first native Government in Ireland since the Act of Union.

SIGNED: Seosain Ó Broin
Joseph M. O'Sydney
DATE: 4th April, 1955.

(Seosamh O Broin)

4th April 1955.

WITNESS: [Signature]
Chief Clerk,
Land Registry,
Dublin

Mr F. Ryan Comdt
(M.F. Ryan) Comd't.

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