POLICY AND ADMINISTRATIVE ASPECTS OF THE LAND DEVELOPMENT AND UTILIZATION ACT 1966 IN JAMAICA

IICA/JAMAICA

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OF THE

LAND DEVELOPMENT AND UTILIZATION ACT 1966

IN JAMAICA

PREFACE

Jamaica has limited land resources in relation to its population and its scope for economic development. All considerations of development for the agricultural sector have to face this reality.

One of the most important considerations in Jamaica at present relates to the efficient utilization of its land resources. Indeed such a concern has been existing from the period of Emancipation in 1838, which was emphasized in the findings of the Royal Commission for 1865. Several attempts have been made to come to grips with the skewed and extremely unequal distribution of land according to size groups of farms. The fact that over the years there have been observed sizeable quantities of idle or under-used land has prompted different Governments to pursue various strategies to correct this situation of "idleness" of Agricultural land. One such strategy was the enactment of the Land Development and Utilization Act in 1966 and the creation of the Land Development Utilization Commission to ensure its implementation.

Dr. Irving Johnson, Ph.D. in agricultural economics has served as chief technical officer at the Ministry of Agriculture and has been related to the agricultural sector for many years.

Mr. Samuel Thompson has headed the Land Development and Utilization Commission for a long time. His many years experience in this area of the Ministry's activities qualifies him as a suitable person for preparing this presentation on the legal aspects of "Land Development and Utilization of Agricultural Land in Jamaica.

The object of this publication is to gather under one cover information on the "Land Development and Utilization of Agricultural Land". Information on this subject has been very scattered and not always easy to find.

Our thanks to Dr. Irving Johnson and Mr. Samuel Thompson, the Office of the Land Development and Utilization Commission and D. Daniel Henry from the Ministry of Agriculture for their assistance in collecting the

information.

We are happy to add this valuable information to the collection of papers "Agriculture in Jamaica".

Dr. Percy Aitken-Soux
Director
IICA/JAMAICA

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Introduction to the Land Development & Utilization Act

by

Dr. Irving Johnson*

*IICA Economist

POLICY AND ADMINISTRATIVE ASPECTS OF THE LAND UTILIZATION ACT, 1966 IN JAMAICA

INTRODUCTION

Jamaica has a land area of 4,400 square miles and a population of approximately 2.2 million people. This population has increased relatively rapidly from 1,246,2400 in 1943, 1,624,000 in 1960 and 1,848,508 in 1970.

This land area and population (using data from 1980) result in a population density of approximately 500 persons per square mile, which when viewed in terms of land in farms and arable acreage indicates that there is only 0.68 acre per head of population on the basis of land in farms, and 0.41 acre per head of population on the basis of arable land.

Such a situation has been developing over the years. The 1954/55 Sample Census of Agriculture provided the following statistics:

area of land in farms.....1,914,000
number of farms..... 199,000
number of farms less than
5 acres in size..... 138,700

Percentage distribution of land in farms by size groups was:

	% of numbers	% of area
Farms less than 5 acres	70	13
Farms 5 to under 25 acres	26	27
Farms 25 to under 100 acres	3	12
Farms 100 and over acres	1	48
	100	100

(Farms 500 acres and over numbered 400, acreage 716,000 = 37% land in farms).

In the 1968/69 Agricultural Census carried out by the Department of Statistics relevant data were as follows:

area of land in farms 1,507,397
number of farms 190,582
farms under 5 acres in size numbered ..... 149,703 (78.6% of total)
farms under 5 acres in size occupied ..... 223,818 acres (14.8% of total)
farms 100 acres and larger numbered ..... 994 (0.5% of total)
farms 100 acres and larger occupied ..... 821,927 acres (54.5% of total)
farms 500 acres and larger numbered ..... 295 and
occupied 676,426 acres (approximately 45% of land in farms)

Land ownership by the masses of small farmers who relied mainly on agriculture for a livelihood, has been regarded as more than a means for achieving undisturbed possession of land for earning a living from agriculture and for siting a house. Many of these people feel that land-ownership has provided ex-slaves and their descendants with proof that they were no longer slaves in legal terms. However, it is somewhat of a paradox that in spite of the stigma which is attached to agriculture, many small land-owners still regarded themselves as being rather privileged in obtaining even small plots for undertaking agricultural pursuits of their own.

The intervening explorations into the area of land settlement for agricultural purposes has led to an increase in the number of land owners although there were many problems associated with the quality of the land which was made available for settlement, the area of land allocated to any one settler and factors related to these two main problems.

Simultaneously with the development of land settlement projects has been the matter of "idleness" as it relates to agricultural land, and this was made all the more difficult due to various definitions and interpretations which were applied. Much land held by Government itself was found to be idle and under-developed and paradoxically enough idle land "existed on both large and on small farms".

The main objective, however, was to make land available to the land-hungry, which for the purposes of this presentation includes those persons who are willing and able to use agricultural land for agricultural purposes, as well as those who wish to obtain additional land to complement the small parcels which they controlled.

Further considerations related to the strategies which should be used in obtaining land from large land-owners for redistribution to the land-hungry. The main targets were the large land-owners. The views of the two political parties tended to be polarized, one favouring acquisition (but with compensation) by the state for lease to farmers, the other favouring sale by large land-owners who would determine how much and what quality of land they would make available for land settlement purposes on a freehold basis.

It is against such a background that the Land Utilization Act of 1966 and its objectives must be viewed. At the same time, it is relevant to examine the contents and objectives in relation to other enactments.

DR. IRVING JOHNSON
Agricultural Economist

COMMENTS

on

THE LAND DEVELOPMENT & UTILIZATION ACT 1966

by

Samuel Thompson*

* Former Director of the Land Development and Utilization Commission. Retired in March 1981.

EXECUTION AND COMMENTS

The existing LAND DEVELOPMENT AND UTILIZATION Act has at various times been referred to as the "Idle Land Act", a term which does not adequately represent the full scope of the Act.

The Act makes provisions in respect of two categories of land namely:-

(a) agricultural land (which is land used for agriculture or land designated by the Land Development and Utilization Commission as agricultural land); and

(b) unused land, which is land, other than agricultural land, that is not developed and used.

When the Commission considers that, owing to the situation, character, and circumstances which affect the farming, use, or development of land, such land ought to be brought into use for agriculture, the Commission may with the approval of the Minister designate that land as agricultural land. The Commission cannot, however, designate land as agricultural land, if it has been approved under the Town and Country Planning Act for development other than agricultural development, or if the land is in the possession of bauxite or alumina producers and has been exempted by the Minister.

The Act lays down as a general principle that it is the responsibility of the occupier of an agricultural unit to farm the agricultural land as far as is practicable, and in determining whether the occupier is carrying out that responsibility certain factors are taken into account, namely the extent and manner in which pasture is being maintained, arable land is cropped and where the system of farming requires the keeping of livestock the extent of such stocking. Arable land which has not been cropped or used for agricultural purposes over a period of 2 years or more is presumed not to be farmed.

Similarly, in respect of unused land, a responsibility is placed on the occupier of land to develop and use it as far as may be practicable and in determining whether that responsibility is being fulfilled, the following factors are taken into account.

(a) the extent and manner in which industrial, commercial, residential or other activity is carried out on the land; and

(b) the nature and complexity of plans being considered for the development of the land.

If the occupier is not fulfilling his responsibility to farm agricultural land or develop and use the land the Land Development and Utilization Commission may declare (by an order) that the land is idle land, or (in the case of land other than agricultural land) declare it or a portion of it, to be unused land.

The Idle Land Order (ILO) in either case becomes effective at the end of a thirty (30) day period commencing from the date when it is published in the Gazette. An "idle land order" can only be made in respect of land of which the idleness is in excess of 10 acres, while the "unused land order" can only be made in respect of a portion of land if the entire land is more than 10 acres in size.

During the 30 day period, the occupier may appeal to the Minister against the Idle Land Order (ILO), in which case the order will not take effect until it is confirmed by the Minister. Immediately after the order is made the Commission must serve a copy of it on the occupier, and if the occupier is not the owner, then the owner must also be served with a copy and be given an opportunity to make representations to the Commission prior to the serving of the ILO. In respect of the "unused land order", the owner also has a right of appeal.

EFFECT OF ORDER

During the continuance of an order, the Commission has the power to review the farming or the development and use of the land at 12-month periods beginning initially with the expiration of the first 12-months after the order becomes effective. If while an order is in force, the land is disposed of so that some other person becomes the occupier, the continuation of tne order is not affected by the disposition.

In the case of a utilization plan, rejection or approval is subject to the provisions of the Town and Country Planning Act and the Local Improvements Act.

At the time when the order becomes effective the Commission must serve a notice to the occupier of the land to which the order relates requesting him to submit a development plan in respect of agricultural land or a utilization plan for the development and utilization of unused lands. The notice must specify the time within which the plan must be submitted and in either case that time must not be less than 2 months from the date the notice is served.

When a plan is submitted the Commission has the option to:

(a) reject the plan, giving reasons for the rejection;

(b) require that the plan be modified; or

(c) accept the plan.

In any case the owner/occupier must be advised.

DISPOSSESSION OF OWNERS OR OCCUPIERS

Occupiers

In cases where the occupier is not the owner and he fails to submit a development plan or a utilization plan; or fails to submit a

revised plan; or fails to complete the work or any part of it in the time specified in the plan, the Land Development and Utilization Commission has the power to impose a penalty for every day of such failure.

The penalty is recoverable in the Resident Magistrate's Court in a civil action brought by the Commission. The Court is empowered (if requested by the Commission to do so) to order that the occupier's interest be forfeited to the Crown, instead of payment of the penalty The occupier in those circumstances must leave the land and if he does not, the Minister may make a complaint to the Resident Magistrate who must then issue a warrant of possession to evict the occupier.

Owner/Occupiers

If the occupier of land who is also the owner fails to submit a development or a utilization plan; or fails to submit a revised plan; or fails to complete the work to be done or any part of it within the time specified in the plan, the Commission may certify that fact to the Minister. Thereafter the Minister has the power to acquire the land or part of it, compulsorily, as land needed for a public purpose.

The Commission cannot issue a certificate in respect of settled land (a fact which will be indicated in the register of owners or trustees kept by the Commission) until the trustee of the settlement, or an infant who has beneficial interest has been given an opportunity of making representations to the Commission.

The procedure for acquisition of the land is contained in the Land Acquisition Act and is as follows:

1. The Minister must first declare that the land is needed for a public purpose and the declaration must be published in the Gazette. The declaration is evidence that the land is needed for a public purpose.

2. The Minister then directs the Commissioner of Lands to take proceedings to acquire the land.

3. The Commissioner of Lands then surveys the land and makes a plan, if none exists.

4. The Commissioner of Lands values the land and enters into negotiations (by private treaty) for the purchase of the land.

5. If no agreement for purchase can be arrived at in a reasonable time the Commissioner of Lands then posts notices on the land stating that claims for compensation may be made to him. The notice must state the particulars of the land, and require interested persons to appear before the Commissioner at a time specified in the notice, the time to be after 21 days from the date of publication of the notice. The notice must in addition, be served on the occupier of the land as well as other persons interested in it.

6. The Commissioner of Lands has the power to request an interested person to submit a statement in writing containing the name of every other person with an interest in the land by way of mortgage, lease, sub-lease or tenancy and the rents and profits for the preceding three years.

7. At any time after the publication of the Commissioner's notice inviting compensation claims, the Minister may direct the possession of the land be taken, in which event the Commissioner of Lands must offer compensation for the loss of standing crops and fruits.

8. When the Commissioner of Lands takes possession, the land is immediately vested in the Commissioner of Lands in

trust for the Government of Jamaica, and a notice to this effect must be published in the Gazette.

9. The Commissioner of Lands then supplies the Registrar of Titles with a copy of the vesting notice and the Registrar enters the particulars in a book for the purpose.

10. When a plan of the land has been prepared the Commissioner of Lands then makes application to the Registrar of Titles for the land to be registered.

Power to lease instead of purchase

When the Land Development and Utilization Commissioner has issued his certificate the Minister instead of purchasing, may exercise an option and acquire compulsorily a leasehold interest in the land for a period up to 10 years, or he may by agreement acquire such an interest for a longer period.

If the Minister exercises this option and acquires a leasehold interest, the lease must contain terms and conditions which the Minister determines and the lease may be reviewed by agreement with the owner.

In the absence of agreement the Minister may renew the lease for a further 10 years or he may restore the land to the owner, or acquire the freehold compulsorily as land needed for a public purpose. The owner, may however, request the Minister to elect between restoring the land and acquiring it compulsorily, and such a request must be made in writing six (6) months before the expiration of the lease. If the Minister elects to acquire the freehold compulsorily in these circumstances, the compensation payable will be reduced by the value of any improvements to the land done by the Government or person occupying during the lease, and compensation will be determined on the assumption that the land will continue

to be used only for agricultural purposes. In respect of unused land, the compensation payable in circumstances where the Minister elects to acquire the freehold compulsorily, will be determined upon consideration of the use to which the land would be put if the determination of compensation had taken place at the commencement of the lease.

Procedure for acquiring Leasehold interest

The procedure to be adopted for acquiring a leasehold interest is the same procedure as for acquiring the freehold compulsorily as set out above, except that there would be no negotiations for purchase.

Compensation

Where a leasehold interest is acquired compulsorily, the compensation payable in respect of the land leased is determined on the following principles:

(a) the annual rental is to be equivalent to 1% of the unimproved value at the beginning or renewal of the lease; and

(b) a condition of the lease must be that during the continuance of the lease the Commissioner of Lands will pay -

(i) all land tax, and

(ii) interest and capital on an "approved mortgage" of the land.

An "approved mortgage" is one which was not entered into for the purpose of benefiting under the Act by virtue of the Government paying the interest and principal, and must be one in which the proceeds received from the mortgagee form a part of the expenditure for purchase, development or improvement of the land. If only a part of the mortgage money is so expended, the mortgage will be

treated as "approved" only with respect to that part.

If compensation is to be paid in respect of only a part of the land to which the "approved mortgage" relates, the Land Development and Utilization Commission can apportion the interest and capital to that part.

The unimproved value of the land must be related to the value of the land at the beginning or renewal of the lease and be determined by the Land Valuation office.

The Commission's decision on the determination of compensation is subject to referral to the Supreme Court and to appeal from the Supreme Court.

At any time during the continuance of a leasehold interest the Minister may exercise his power to acquire compulsorily the freehold interest in the land.

When a leasehold interest is terminated either by the expiration of time (i.e. the expiration of the term) or the election of the Minister to acquire the freehold, or by his restoring the land to the owner, the Commissioner of Lands must tender to persons interested compensation for any damage done to the land which was not provided for in any agreement. If the land is permanently unfit for the purpose for which it was used immediately prior to the occupation and if interested persons request it, the Minister must proceed in the manner set out above to acquire the land as needed for a public purpose.

LAND DEVELOPMENT AND UTILIZATION COMMISSION

The Act establishes the Land Development and Utilization Commission and empowers the Minister, after consultation with that body, to issue policy directions to be followed by the Commission in performing its functions.

The duties of the Commission are:

(a) to ensure that occupiers of agricultural or unused land fulfill their responsibility to farm, develop or use the land;

(b) to ensure that the land is properly developed and utilized; and

(c) to perform any other functions which the Minister directs.

In addition, agricultural land has been classified into seven (7) classes based upon the type of soil, the degree of slope, and degree of erosion.

Class I - comprises tillable land suitable for cultivation with negligible limitation.

Class II - comprises land suitable for cultivation but with "moderate limitations".

Class III - comprises land suitable for cultivation but with "strong limitations".

These three classes of land will be declared idle -

(a) if the land has not been tilled and cultivated in agricultural crops for 2 or more consecutive years;

(b) if the land is cropped but does not carry the required plant population; and

(c) if the land is cropped but has been abandoned for more than 3 consecutive years.

Class IV - comprises land suitable for tree crops, grass and very limited cultivation - may be declared idle.

Class V - comprises land not suitable for cultivation but suitable for planted forests, tree crops and improved grasses.

Land comprised of these two classes will be idle if there have been no crops of any kind on it for two or more consecutive years or if the land carries permanent crops or livestock less than the recommended population levels.

Class VI - comprises land suitable for forest and not suitable for cultivation.

Class VII - comprises land which has little or no productive use.

These latter classes will not be idle if the land is maintained in economic forest, or if the land is supporting its natural vegetation cover or if the land has no productive use.

The expected population per acre of permanent crops is as follows:

CROPS	POPULATION PER ACRE
Citrus	100 plants per acre
Coconut	100-120 plants per acre
Coffee	500 plants per acre
Cocoa	500 plants per acre
Pimento	700 plants per acre
Banana	500 plants per acre

The criteria for determining whether land used for pasture is idle, are based upon the livestock population and the availability of adequate supplies of water for drinking purposes. Pasture land is deemed idle if:

(i) one acre is used per cow or its equivalent of one horse (or mule) and 8 sheep and 8 goats, and if irrigation is available or the average yearly rain-

fall is 60 inches;

(ii) more than 1½ acres are used per cow or its equivalent, and if the average yearly rainfall is 50 - 60 inches;

(iii) less than 2 acres are used per cow or its equivalent, and if the average yearly rainfall is 40 - 50 inches; and

(iv) more than 3 acres are used per cow or its equivalent, and if the average rainfall is less than 40 inches.

If water is stored the required quantity is 1,000 gallons per cow per year, or if running water is available it is necessary to have 8 to 10 gallons per day, per cow.

The Land Development and Utilization Commission has very wide powers of Inspection and may at any time during daylight hours enter premises to inspect the condition of the land, to ascertain what crops are cultivated and the conditions under which they are cultivated. However, no person may enter the premises without the consent of the person resident on the land or the occupier unless the occupier or resident is given at least 3 day's notice.

In addition to its powers of inspection the Commission may also require owners and occupiers to furnish information regarding the land - information which includes among other things:

(a) the area of land owned or occupied and the boundaries;

(b) the area of land in use and the nature of the use;

(c) the tenure under which the land is occupied (whether by lease, tenancy, etc.);

(d) the number of tenants on the land;

(e) any encumbrances relating to the land; and

(f) the particulars of any registration number, volume, folio or other information which is recorded in any official records.

Where a person is to be given an opportunity to make representations to the Commission before it takes any action, the Commission has to give notice of the action intended to be taken. If the person makes his representations the Commission cannot take any action until he has considered or heard the representations.

An owner or occupier of an agricultural unit cannot without the written approval of the Commission, sell, lease or rent the land or transfer any interest in the land. If the owner or occupier does so, the lease transfer, sale or rental will be of no effect.

Any person who assaults or obstructs a member, servant or agent of the Commission in the exercise of his duty, or if requested to furnish information pertinent to the land, either refuses to do so or gives false information, commits an offence.

This is the law as it now stands.

The amendment to the Act will seek to give the Minister the option once the idle land order or the unused land order has come into force (namely, at the end of 30 days after its publication) to proceed immediately if he thinks fit to acquire the freehold of land compulsorily as land needed for a public purpose or to acquire compulsorily a leasehold interest in the land without first requiring a development plan or a utilization plan in respect of the land.

This will not remove the provisions requiring a development plan or utilization plan but gives the Minister the option to by-pass that stage of the procedure, where he thinks it necessary.

CONCLUSION

The Land Development and Utilization Act serves to encourage development and use of lands in Jamaica. It does not penalize any land owner as he will have nothing to fear by keeping his land idle - Government can only acquire it and he is assured of a fair and reasonable price. Very few properties are wholly idle, and where part is developed, it is always the best area. If Government is to acquire only the undeveloped portion, it would mean taking all the worst lands.

The organizational chart of the Land Development and Utilization Commission is presented in Figure 1.

THE LAND ACT

AND

ITS REGULATIONS

THE LAND ACT

AND

ITS REGULATIONS

APPENDICES

A. Land Development & Utilization Act, 1966

B. Rules & Regulations of the Land Development & Utilization Act

C. Organization Chart of the Land Development & Utilization Commission

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THE LAND DEVELOPMENT AND UTILISATION ACT, 1966

(Act 22 of 1966)

Arrangement of Sections

PART I - Preliminary

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2. Interpretation.
3. Designation of agricultural land.

PART II - Development and Utilisation of Land

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5. Power of Commission to declare idle land.
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PART III - Dispossession of Owners or Occupiers

8. Dispossession of owner.
9. Dispossession of occupier.
10. Power to lease instead of purchasing.
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PART IV - Land Development and Utilisation Commission

12. Establishment and incorporation of Land Development and Utilisation Commission.
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17. Provisions as to representations.
18. Service of notices.
19. Information as to dealings in agricultural land.
20. Restriction on disposition of agricultural land.
21. Power to make regulations.
22. Offences.
23. Amendment of Land Bonds Law.

No. 22 - 1966

I assent,

C. C. CAMPBELL,
Governor-General
10th June, 1966

AN ACT to Make provision for the development and utilisation of agricultural land.

(The date notified by the Minister bringing the Act into operation)

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:-

PART I - Preliminary

Short title and commencement.

1 - This Act may be cited as the Land Development and Utilisation Act, 1966, and shall come into operation on a day to be appointed by the Minister by notice published in the Gazette.

Interpretation.

2 - (1) In this Act -

"agricultural land" means land -

(a) used for agriculture; or

(b) designated pursuant to section 3 as agricultural land;

"agricultural unit" means land -

(a) comprising or including one or more parcels of agricultural land (whether contiguous or not) of not less than the prescribed acreage in the aggregate; and

(b) having the same person as occupier within the meaning of this Act,

which is either being farmed as a unit or as respects which the Commission directs that it should be so farmed in the interest of full and efficient production;

"agriculture" includes horticulture, fruit growing, seed growing, forestry, dairy farming and livestock breeding and keeping, the use of land as grazing land, pasture land, market gardens and nursery grounds;

"chairman" means the chairman of the Commission or any person for the time being performing the functions of the chairman.

"Commission" means the Land Development and Utilisation Commission established under section 12;

"farm" means to carry on in relation to land any agricultural activity with a view to the proper development and utilisation thereof;

"idle land" means land in respect of which an order under section 5 is in force;

"idle land order" means an order under section 5 declaring land to be idle land for the purposes of this Act;

"Minister" means the Minister charged with responsibility for the subject of agriculture;

"occupier", in relation to land, means the person having for the time being the right to farm the land;

"owner", in relation to land, means the person in whom for the time being is vested the legal estate in fee simple;

"prescribed acreage" means 100 acres or such other acreage, not less than 50 acres, as may be prescribed;

"relevant circumstances", in relation to land, includes all circumstances affecting the farming of the land other than the personal circumstances of the occupier thereof.

(2) For the purposes of this Act the Commission shall keep, in such form as it may determine, a register of owners of land and other persons who are trustees of, or interested under, settlements as mentioned in subsection (3) of section 8, being in any case persons who in the prescribed manner apply to be entered on the register.

(3) References in this Act to the use of land for agriculture include, in relation to land forming part of an agricultural unit, references to any use of the land in connection with the farming of the unit.

Designation of agricultural land.

3 - (1) The Commission with the approval of the Minister may from time to time by order designate as agricultural land any land which, having regard to its situation, character and other relevant circumstances, the Commission considers ought to be brought into use for agriculture, so, however, that no order shall be made under this section in relation to -

(a) land the use of which for some development purpose other than agriculture has been approved under the Town and Country Planning Law, 1957;

Law 42 of 1957.

(b) such land in the possession of recognised bauxite producers or recognised alumina producers within the meaning of the Bauxite and Alumina Industries (Encouragement) Law as may for the time being be exempted by the Minister by notice in the Gazette.

(2) Before making an order under this section the Commission shall consult with the Watershed Protection Commission established under the Watershed Protection Act, 1963, and with every Authority established under the Irrigation Law, or the Land Authorities Law in relation to the area in which is situated the land which is to be the subject of the order.

PART II - Development and Utilisation of Land

4 - (1) For the purposes of this Act, it shall be the responsibility of an occupier of an agricultural unit to farm the agricultural land in the unit to such extent as may be practicable having regard to the character and situation of the unit and other relevant circumstances.

(2) In determining whether the occupier of an agricultural unit is fulfilling his responsibility under the Act to farm the agricultural land in the unit regard shall be had to the extent to which and the manner in which -

(a) pasture is being maintained;

(b) arable land is being cropped;

(c) the unit is stocked where the system of farming practised requires the keeping of livestock,

so, however, that arable land which for two years or more has not been cropped or used for some other agricultural purpose approved by the Commission shall be conclusively presumed not to be farmed.

5 - (1) Where it appears that the occupier of an agricultural unit is not fulfilling his responsibility under this Act to farm any agircultural land comprised in such unit, the Commission, if so satisfied after affording to the occupier an opportunity of making representations to the Commission whether in writing or on being heard by a person named by the Commission, may by order published in the Gazette declare such unit or any of the agricultural land therein to be idle land for the purposes of this Act:

Provided that no such order shall be made in respect of land of less than 50 acres.

(2) Subject to subsection (3) an order made under subsection (1) shall come into force at the expiration of thirty days from the date of publication thereof in the Gazette.

(3) An occupier may within thirty days from the date of publication thereof in the Gazette and in the prescribed manner appeal to the Minister against any order made under subsection (1), and an order in respect of which an appeal is filed shall not come into force unless and until it is confirmed by the Minister on the hearing of the appeal.

(4) While an idle land order is in force, the Commission shall have power from time to time to review the farming of the land to which the order relates, and -

(a) a review shall be held under this subsection as soon as may be after the expiration of twelve months from the coming into operation of the order (unless a review has been previously held), and, where one or more reviews have already been held under this subsection in relation to the order, a further review shall be held as soon as may be after the

expiration of twelve months from the previous or last such review;

(b) a review under this subsection shall be held after affording to the occupier of the land to which the order relates an opportunity of making representations to the Commission, whether in writing or on being heard by a person named by the Commission.

(5) Where an idle land order -

(a) has not been confirmed by the Minister pursuant to subsection (3); or

(b) is in force and the Commission is satisfied that by reason of the extent to which and the manner in which the land is being farmed, it is no longer necessary that the order should continue in force,

the Commission shall revoke the order and such revocation shall be published in the Gazette.

(6) Forthwith after the making of an idle land order the Commission shall serve a copy of the order on the occupier, and forthwith after the revocation of such an order the Commission shall serve notice of the revocation on the occupier.

(7) Where the owner of land is not also the occupier thereof and the Commission is aware of his interest in the land -

(a) an opportunity of making representations to the Commission shall be afforded under subsection (1) or (4), as the case may be, both to the owner and to the occupier;

(b) any service of a copy of an order or of a notice of the revocation of an order required by subsection (6) shall be effected both on the owner and on the occupier.

6 - Upon the coming into force of an idle land order the Commission shall cause to be served on the occupier of the agricultural land to which the order relates a notice requiring him to prepare and to submit to the Commission within such time as may be specified in the notice, not being less than two months after the notice is served on him, a development plan in respect of the farming of such agricultural land:

Provided that a notice shall not be served under this section in respect of any area of land consisting of less than 50 acres.

(2) Where a development plan is submitted to the Commission pursuant to subsection (1), the Commission may approve the plan or may reject the plan and cause a notice to be served on the occupier indicating the reasons for rejecting the plan and requiring the plan to be modified in the respects specified in the notice and, within such time as may be so specified, submitted to the Commission for approval.

(3) A development plan approved by the Commission may with the approval of the Commission be modified by the occupier of the land to which it relates.

7 - Where an idle land order is in force in respect of any land any disposition or devolution of that land, whereby some other person becomes the occupier of that land shall not affect the continued operation of the order or of any notice issued pursuant to section 6, and accordingly the order shall continue in force and the notice shall have effect in respect of such new occupier subject to such modifications as may be agreed with the Commission.

PART III - Dispossession of Owners or Occupiers

8 - (1) Subject to the provisions of this section, where the occupier of idle land being also the owner of such land -

(a) fails to comply with a notice under subsection (1) of section 6; or

(b) fails to submit any revised plan required by the Commission or to comply with any notice issued by the Commission under subsection (2) of section 6; or

(c) fails to complete to the satisfaction of the Commission either -

(i) all the work required to be done under the development plan approved by the Commission in relation to such land, development plan for the completion of such work; or

(ii) any part of the work required to be done under such development plan, within the period specified in such development plan for the completion of that part of the work,

the Commission may certify to the Minister accordingly and thereupon the Minister shall have power to acquire the land or any part thereof (not being less than 50 acres) compulsorily under the Land Acquisition Law as land needed for a public purpose.

(2) The Commission shall not give a certificate under subsection (1) until after affording to any such person as is specified in subsection (3) an opportunity of making representations to the Commission, whether in writing or on being heard by a person appointed by the Commission.

(3) The persons referred to in subsection (2) are, if the certificate relates to settled land within the meaning of the Settled Land Law, any person entered in the register kept for the purposes of this Act who is a trustee of the settlement

or who under the settlement has a vested interest in the land immediately following upon the interest of the person beneficially entitled to the land in possession or who, being an infant, is beneficially entitled to the land in possession.

9 - (1) Where the occupier of idle land not being the owner of such land -

(a) fails to comply with a notice under subsection (1) of section 6; or

(b) fails to submit any revised plan required by the Commission or to comply with any notice issued by the Commission under subsection (2) of section 6; or

(c) fails to complete to the satisfaction of the Commission either -

(i) all the work required to be done under the development plan approved by the Commission in relation to such land, within the period specified in such development plan for the completion of such work; or

(ii) any part of the work required to be done under such development plan, within the period specified in such development plan for the completion of that part of the work,

he shall, subject to subsection (2), be liable to a penalty of five pounds in respect of each day that he fails to comply with the notice or to submit a revised plan or to complete to the satisfaction of the Commission the work or any part of the work, as the case may be.

(2) Any such penalty shall be recovered by civil action at the suit of the Commission in the Resident Magistrate's Court for the parish in which the idle land or any part thereof is situated; so,however, that the Court shall if so requested by the Commission make an order for the forfeiture to the Crown of

the interest of such occupier in the land in lieu of the payment of the penalty.

(3) Where the interest of an occupier in any land is forfeited under this section and at any time after the date of such forfeiture the occupier remains in possession of the land the Minister may make complaint to a Resident Magistrate in a court of summary jurisdiction and thereupon the court shall by its warrant in the form set out in the Fifth Schedule to the Landlord and Tenants Law, subject to necessary modifications, order vacant possession of the land forthwith to the Minister.

10 - (1) Where pursuant to section 8 the Minister has the power to acquire land compulsorily he may, after affording to the person from whom the land is to be acquired an opportunity of making representations to him, by notice in writing to such person elect, in lieu of purchasing such land, to acquire compulsorily a leasehold interest in such land for such period not exceeding ten years as may be specified in such notice or for any other period exceeding ten years as may be agreed by such person.

(2) Where a leasehold interest in land is compulsorily acquired under subsection (1), the lease shall, subject to section 11 , contain such terms and conditions as may be determined by the Minister and may with the agreement of the owner of the land be renewed from time to time, and in default of such agreement the Minister shall have power to acquire the land compulsorily under the Land Acquisition Law as land needed for a public purpose, so, however, that where the land is compulsorily acquired under this subsection the compensation payable in respect thereof shall be reduced by the value of any improvements effected thereon by the Government or by any person occupying or farming such land during the period of the lease.

11 - The procedure in relation to the compulsory acquisition of a leasehold interest in land under section 10 shall be the same mutatis mutandis as the procedure under the Land Acquisition Law in respect of land needed for a public purpose, so, however, that the rent payable as compensation in respect of the land shall be such rent as would be paid by a willing tenant to a willing landlord in respect of the occupation of the land for agricultural purposes.

PART IV - Land Development and Utilisation Commission

12 - (1) There is hereby established a body to be called the Land Development and Utilisation Commission which shall be a body corporate with perpetual succession and a common seal and with power to acquire, hold and dispose of property, to enter into contracts, to sue and be sued in its said name and to do all things necessary for the purposes of this Act.

(2) The provisions of the Schedule shall have effect as to the constitution, operations and expenses of the Commission and otherwise in relation thereto.

(3) The seal of the Commission shall be authenticated in the manner prescribed in the Schedule and shall be judicially and officially noticed.

13 - The Minister may, after consultation with the chairman, give to the Commission such directions of a general character as to the policy to be followed by the Commission in the performance of its functions as appear to the Minister to be necessary in the interest of the Island, and the Commission shall give effect thereto.

14 - It shall be the duty of the Commission -

(a) to ensure that occupiers of agricultural units fulfil their responsibilities under this Act to farm the agricultural land in such units;

(b) to ensure that such agricultural land is, as far as possible, properly developed and utilised; and

(c) to perform such other functions as may be required by the Minister.

15 - For the purpose of performing its duties under this Act the Commission may require owners and occupiers to furnish such information pertaining to land owned by them or in their possession or control, as the Commission may require, and without prejudice to the generality of the foregoing, the Commission may require from owners or occupiers of land information as to -

(a) the area of the land owned or occupied, as the case may be;

(b) the area of the land in use, and the nature of use;

(c) the form of tenure under which the land is occupied;

(d) the number of tenants (if any) in occupation of the land;

(e) any encumbrances relating to the land.

16 - (1) Subject to subsection (2) any member of the Commission or any person authorised in writing by the Commission in that behalf may at any time in daylight -

(a) enter upon any land for the purpose of -

(i) inspecting the condition of the land or of any agricultural activity thereon;

(ii) ascertaining what crops are cultivated and the conditions under which such crops are so cultivated and the crops which are most suitable to be cultivated upon the land; or

(iii) ascertaining the expediency or otherwise of the doing upon the land of any agricultural activity;

(b) inspect the condition of such land or of any agricultural activity thereon; and

(c) take such angles, bearings or measurements of the land or samples of the soil upon the land as may be necessary for the purpose for which that person entered upon the land.

(2) A person shall not enter upon any land under the provisions of this section without the consent of the person in residence on the land or, if there is no such person, the occupier of the land -

(a) unless he has given to such person or to such occupier, as the case may be, not less than three days' notice of his intention to enter upon such land; or

(b) if the name or address of such person or of such occupier, as the case may be, is not known to and cannot reasonably be ascertained by him, unless a period of not less than three days has elapsed since he has posted on or near to the land a notice of his intention to enter upon the land.

PART V - General Provisions

17 - (1) Any enactment in this Act providing, in relation to the taking of any action by the Commission, for its taking the action after affording a person an opportunity to make representations to the Commission, whether in writing or on being heard by a person appointed by the Commission shall be construed as a provision that the Commission shall comply with the following requirements.

(2) The Commission shall give notice to the said person specifying the action proposed to be taken and informing him of the effect of subsections (3), (4) and (5).

(3) If within the prescribed time and in the prescribed manner the said person makes representations to the Commission in writing, the Commission shall not take the action in question until it has considered the representations.

(4) If, whether or not representations are made to the Commission in writing, the said person within the prescribed time and in the prescribed manner requires that an opportunity shall be afforded to him and, on the same occasion, to any other person to whom under the enactment referred to in sub-section (1) the Commission is required to afford such an opportunity, and the Commission shall not take the action in question until it has considered any representations made at the hearing.

(5) If for the purposes of any such hearing the person to whom the opportunity is afforded so desires, the like opportunity shall be afforded to a person chosen by him to represent his views to the Commission.

(6) This section shall apply to the Minister as it applies to the Commission.

18 - (1) Any notice or other document required or authorised by or under this Act to be given to or served on any person shall be duly given or served if it is delivered to him, or left at his proper address, or sent to him by post in a registered letter.

(2) Any such document required or authorised to be given to or served on an incorporated company or body shall be duly given or served if given to or served on the secretary or clerk of the company or body.

(3) For the purposes of this section the proper address of any person to or on whom any such document as aforesaid is to be given or served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or

principal office of the company or body, and in any other case be the last known address of the person in question.

(4) Where any document is to be given to or served on a person being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in the land (naming it), and delivering the document to some responsible person on the land or by affixing it or a copy of it to some conspicuous object on the land.

19 - The Minister may by regulation require that parties to any sale of agricultural land or to any grant, assignment or surrender of a tenancy of such land for an interest not less than that of a tenant for a year, shall within the prescribed period from the completion of the transaction furnish to the Minister, in such manner as may be prescribed, information as to the nature of the transaction, the names and addresses of the parties to the transaction and the situation and extent of the land thereby affected.

20 - An owner or occupier of, or any other person having an interest in, any land comprising or included in an agricultural unit shall not without the approval in writing of the Commission -

(a) sell, lease or let the land or any part thereof; or

(b) transfer or assign his interest therein or in any part thereof,

and any such sale, lease, letting, transfer or assignment shall not have effect unless and until it is approved by the Commission.

21 - (1) The Minister may make regulations prescribing anything which may be or is required to be prescribed under this Act and generally for the better carrying into effect of the provisions of this Act.

(2) Regulations prescribing the minimum area of agricultural land in an agricultural unit for the purposes of this Act shall be subject to affirmative resolution.

(3) Notwithstanding section 26 of the Interpretation Law, regulations made under this Act may prescribe greater penalties than those specified in the said section 26, so, however, that the maximum penalty that may be imposed by any such regulations shall be a fine of one hundred pounds or imprisonment with hard labour for a term of twelve months.

22 - Any person who -

(a) assaults or obstructs a member, servant or agent of the Commission acting in the execution of his duty under this Act; or

(b) having been required by the Commission under section 15 to furnish any information, refuses without just cause or lawful excuse to furnish such information, or knowingly furnishes false information,

shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding twelve months.

23 - The Schedule to the Land Bonds Law, 1955, is hereby amended by adding thereto the following as paragraph (f) -

" (f) Land acquired compulsorily under the Land Development and Utilisation Act, 1966".

SCHEDULE

The Land Development and Utilisation Commission

1. The Commission shall consist of five persons to be appointed by the Minister.

2. The Minister may appoint any person to act temporarily in the place of any member of the Commission in the case of the absence or inability to act of such member.

3. (1) The Minister shall appoint one of the members of the Commission to be the chairman thereof, and may in the case of the absence or inability to act of the chairman appoint any other member of the Commission to perform the functions of the chairman.

(2) In the case of the absence or inability to act, at any meeting, of the chairman the remaining members of the Commission shall elect one of their number to preside at that meeting.

4. (1) The appointment of every member of the Commission shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member which shall not exceed three years.

(2) Every member of the Commission shall be eligible for re-appointment.

(3) Notwithstanding anything to the contrary the Minister may at any time revoke the appointment of the chairman or any other member of the Commission.

5. (1) Any member of the Commission other than the chairman may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Commission.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

6. The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the Gazette.

7. (1) The seal of the Commission shall be authenticated by the signatures of the chairman or one member of the Commission authorised to act in that behalf and an officer of the Commission authorised to act by the Commission.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the chairman or any member or officer of the Commission authorised to act in that behalf.

8. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Commission shall determine.

(2) The chairman may at any time call a special meeting of the Commission and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two members of the Commission.

(3) The chairman or, in the case of the absence or inability to act of the chairman, the person elected in accordance with the provisions of sub-paragraph (2) of paragraph 3 shall preside at the meetings of the Commission, and when so presiding the chairman or the person elected as aforesaid, as the case may be, shall have an original and a casting vote.

(4) The quorum of the Commission shall be three members of the Commission including the chairman or the person elected to preside as aforesaid.

(5) Subject to the provisions of this Schedule the Commission may regulate its own proceedings.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the chairman and other members of the Commission such remuneration, if any (whether by way of salaries or travelling or other allowances) as the Minister may determine.

10. The funds of the Commission shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament, or such other moneys as may lawfully be paid to the Commission.

11. (1) The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, agents and servants as it thinks necessary for the proper carrying out of its functions:

Provided that no appointment to a post carrying a salary in excess of the rate of seven hundred and fifty pounds per annum shall be made without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of Jamaica to any office with the Commission and any public officer so appointed shall in relation to pension, gratuity or other allowance and to other rights as a public officer, be treated as continuing in the service of the Government.

12. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

THE LAND DEVELOPMENT AND UTILISATION ACT, 1966

(Act 22 of 1966)

The Land Development and Utilisation Regulations, 1967

In exercise of the powers conferred on the Minister by section 21 of the Land Development and Utilisation Act, 1966, the following Regulations are hereby made:-

1. These Regulations may be cited as the Land Development and Utilisation Regulations, 1967.

2. Every application for registration on the register mentioned in subsection (2) of section 2 of the Act shall be made to the Commission in the form set out as Form 1 of the Schedule.

3. (1) An appeal against an order made under subsection (1) of section 5 of the Act shall be commenced by notice in writing addressed to the Minister, and a copy of such notice shall be served on the Commission.

   (2) the appellant shall state in his notice the grounds of his appeal, and shall attach to such notice true copies of all documents relating to the subject matter of the appeal.

   (3) The Minister shall 14 days after the receipt of the notice of appeal inform the Commission and the appellant of the place and date fixed for the hearing of the appeal.

4. The Minister shall, after the determination of an appeal give his decision in writing and a copy of such decision shall be given to the appellant and the Commission.

5. (1) Where the Commission has given to any person a notice specifying any action proposed to be taken and informing him of his right to make representations, that person may within fourteen days from the date of the giving of such notice make representations to the Commission in writing, by serving on the Commission a statement setting forth in detail the

matters which he desires the Commission to consider before taking the action in question.

(2) Whether or not representations are made to the Commission in writing pursuant to paragraph (1), the person to whom notice as aforesaid has been given by the Commission may, within fourteen days from the date of the giving of such notice, serve on the Commission a request in writing signed by him that an opportunity be afforded to him of being heard by a person appointed by the Commission for the purpose.

(3) This regulation shall apply to the Minister as it applies to the Commission.

6. The parties to any sale of agricultural land or to any grant, assignment or surrender of a tenancy of such land for an interest not less than that of a tenancy for a year, shall within thirty days of the completion of the transaction furnish to the Minister in the form set out as Form 2 of the Schedule, information as to -

(a) the nature of the transaction;

(b) the names and addresses of the parties to the transaction; and

(c) the situation and extent of the land thereby affected.

Dated at Hope this 8th day of May, 1967.

J. P. Gyles,
Minister of Agriculture and Lands.

SCHEDULE (Regulations 2 and 6)

Form 1

Application for Entry on the Register of the Land Development and Utilisation Commission

NAME OF AGRICULTURAL UNIT (if any) .....

SITUATION (1) District .....

(2) Parish .....

ACREAGE .....

OWNER .....

ADDRESS .....

OCCUPIER .....

ADDRESS .....

SETTLED LAND

(a) Name of Trustee .....

(b) Name of Beneficiaries.....

Address .....

Person in Possession .....

FORM OF TENURE

(1) Freehold/Title .....

Acreage .....

(2) Leasehold .....

Acreage .....

(3) Duration .....

(4) Encumbrances .....

Land Use (In respect of Agricultural Unit)

Nature of Use	Acreage
Tillable Cropland used for Crops	.....
Tillable Cropland not used	.....
Cultivable Pastureland in improved Pasture	.....
Cultivable Pastureland Not in improved Pasture	.....
Other Pastureland (whether used for Pasture or not)	.....
Land in permanent Crops (Perennial Tree Crops)	.....
Woodland or Forest (i.e. land not accounted for above)	.....
Other land (include farmstead, roads, wasteland, etc.)	.....
Total acreage of Agricultural Unit	.....
TENANTED LAND (if any)	
(a) Acreage	.....
(b) No. of Tenants	.....

Dated the.....day of.....196....

.....
Applicant

FORM 2

Information as to Dealings in Agricultural Land

TO: THE MINISTER (OF AGRICULTURE AND LANDS)

ADDRESS:

Property.....

District.....Parish.....

Acreage.....Type of Title to Land.....

Nature of the Transaction:

(1) SALE:

(a) Vendor's Name.....

Vendor's Address.....

(b) Purchaser's Name.....

Purchaser's Address.....

Person in Possession.....

(c) Date of Completion of Sale.....

(d) Acreage.....

(2) GRANT:

(a) Grantor's Name.....

Grantor's Address.....

(b) Grantee's Name.....

Grantee's Address.....

(c) Nature of Interest.....

(d) Date of Grant.....

(e) Acreage.....

(3) ASSIGNMENT:

(a) Assignor's Name.....

Assignor's Address.....

(b) Assignee's Name.....

Assignee's Address.....

(c) Nature of Interest.....

FORM 2 Cont'd

(d) Duration of Assignment.....

(e) Date of Assignment.....

(f) Acreage.....

(4) SURRENDER:

By Whom.....

Address.....

To Whom.....

Address.....

Interest Surrendered.....

Date of Surrender.....

Acreage.....

TYPE OF TITLE TO THE LAND:

Registered:.....Conveyance.....

TENURE:

Fee Simple.....Lease.....

We do hereby declare that the information given above is to the best of our knowledge true and correct.

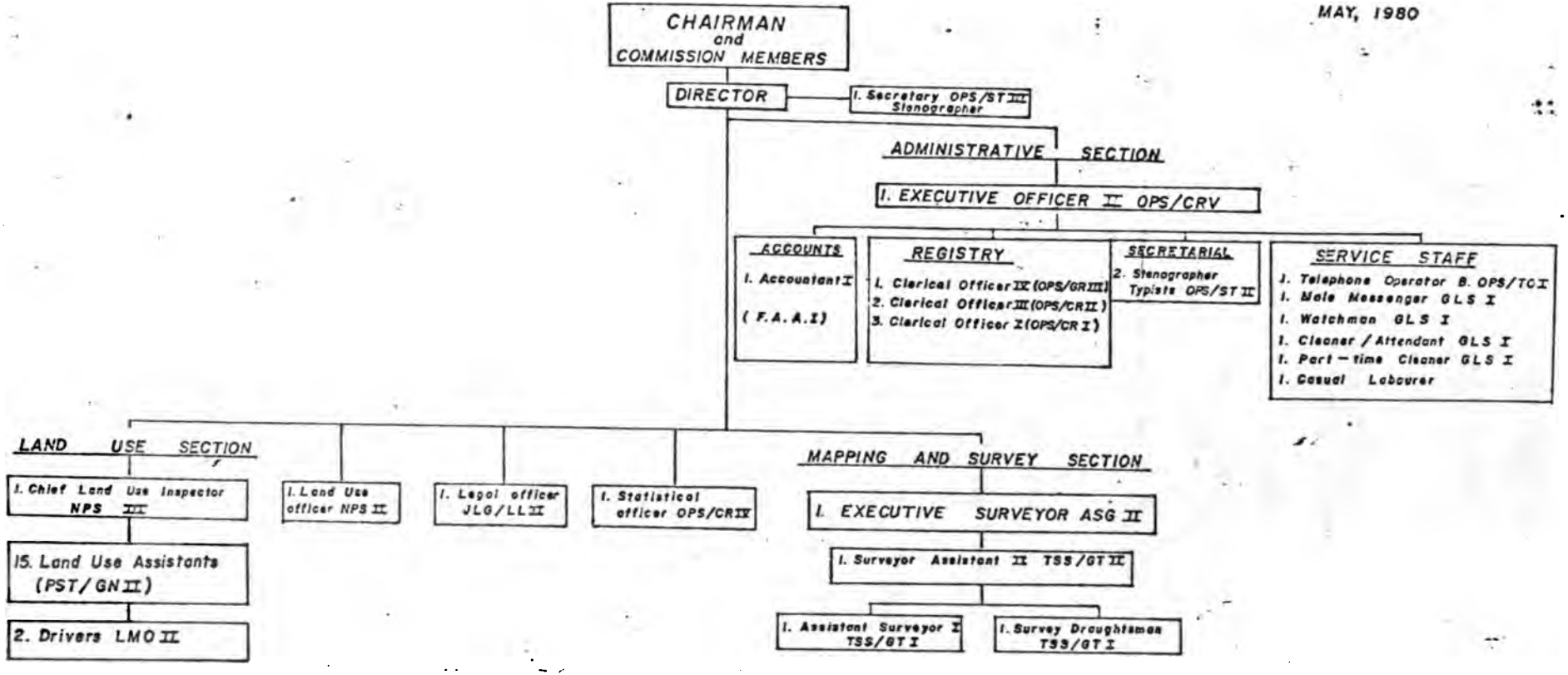
Signed:.....
Vendor, Grantor, Assignor

.....
Purchaser, Grantee, Assignee

.....
Surrender.

ORGANISATION CHART
LAND DEVELOPMENT & UTILISATION COMMISSION

MAY, 1980



AGRICULTURE IN JAMAICA

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No. IV - 1 Joseph Johnson, "Production and Marketing of Red Peas in the Hilly Areas of Jamaica", January 1980

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