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THE ESTABLISHMENT AND MAINTEN- ANCE OF PEASANT FARMS

1. HISTORY OF THE ENTERPRISES OF ESTABLISHING PEASANT FARMS

The enterprise of establishing and maintaining peasant and peasant farms was started in foreign countries many years ago. In the case of Great Britain, her first attempt was made in Ireland in 1860, when the Government was enabled to extend loans to tenant farmers for the purpose of using the money to purchase farm lands. Regulations enacted in the last years of the nineteenth century lowered the interest rate for the money which was to be paid back by the tenant farmers in annual instalments; the term of redemptions was also extended; and the farmers were enabled to maintain their farms because they had to pay annual instalments which were cheaper than the amount of ordinary rents.

Wyndham Act promulgated in 1903 ushered in a new epoch in the enterprise under consideration and made various improvements in the system of peasant proprietorship.

In Germany, the enterprise of establishing peasant farms were carried out as a work of the so-called domestic colonisation (die innere Kolonisation). This enterprise in Prussia took the form of the colonisation of German farmers in Western Prussia and Posen district, which was provided by an act adopted on April 26, 1886 (Gesetz betr. die Beförderung deutscher Ansiedlung in den Provinzen Westpreussen und Posen). After many modifications of the law, the enterprise was made nation-wide by an act which was adopted on August 11, 1919.

A similar enterprise was made in Denmark in the last half of the 19th century, and its foundations became securely

established after an act was adopted in 1899 for the purpose of establishing farm lands for the benefits of agricultural labourers. Similar enterprises can be found in other countries such as France, Belgium, Italy, Sweden and Norway.

The first step towards the establishing and maintaining peasant farms was taken in Japan in 1922 when the use of the reserve funds of the government insurance (life insurance of small amount) was legalised. This laid the foundations for the enterprise in this country. Up to 1925 the enterprise has been carried on mostly by prefectural governments, assisted by towns, villiages and co-operative societies, many of them established some facilities for the purpose of the carrying out the enterprise. A measure of success was thereby made. Nineteen prefectures made some headway. These prefectures include the following: Tochigi, Kagawa, Niigata, Nara, Aichi, Gifu, Yamaguchi, Saga, Chiba, Shiga, Tottori. The total amount of loans made for the purpose is estimated at 17,000,000 yen of which about 14,000,000 yen was out of the reserve funds of the government insurance, followed by the money of co-operative societies, the prefectural relief funds, loans from the Japan Hypothec Bank and agricultural banks. The conditions of loans in the case of the reserve funds of government insurance are: the interest rate is anywhere between three and five per cents and the term of redemption, between fifteen and twenty years; in the case of the Japan Hypothec Bank, and agricultural banks and co-operative societies, the interest rate is any where between seven and ten per cent and the term, anywhere between five and ten years. The area of land to be purchased by a tenant farmer is under one chobu (about ono ha.) and the average area is two tanbu (tanbu = $\frac{1}{10}$ chobu), and the amount of loans is between five and six hundred yen.

In the year 1926, the Government decided to extend loans out of the reserve funds of government insurance to tenant farmers towards the purchase of farm lands and their maintenance at nominal interest rates and for long periods of redemption provided the annual repayment of tenant far-

mers do not exceed the amount of their present rent. The plan is to be carried out in a period of 25 years. According to this plan, the total amount of money to be loaned out during the period of 25 years will be something like 468,500,000 yen, and that of government subsidies, 102,900,000 yen. It is estimated that the total area of lands to be turned over to tenants or maintained as peasant lands will be approximately 117,000 chobu or one twenty-third of the total area of tenant farms in Japan. Various facilities were established according to the plan in 1926 in forty three prefectures. The loans made include 8,500,000 yen from the reserve funds of the government insurance and 130,000 yen from landlords. The Government will grant subsidies for a period of 25 years beginning in 1926 for 7,000,000 yen out of the above loans, and also another period of 24 years beginning in 1927 for the remainder of the loans. It is estimated that about 3,000 chobu was established and maintained in 1926 by means of loans and the number of persons affected is more than 9,000. Loans are made either directly from prefectural governments or through city, town or villages authorities or co-operative societies. The loans are unredeemed for the first one year and then are redeemed in a period of 24 years either in annual or semi-annual instalments. The rate of interest is usually 3.5 per cent but in some prefectures it has lowered to 3 or 2.5 per cent, such prefectures themselves paying the loss accruing from the difference in interest rates.

Thus, it is only very recently that our country has undertaken the task of establishing and maintaining peasant proprietorship. Moreover, it is carried on a small scale and loans are also very small due to the scarcity of resources and its success viewed from the standpoint of the entire nation is very insignificant indeed.

2. THE NEW PLAN AND ITS REVISION

Dissatisfaction over the results of the first plan of establishing and maintaining peasant farms which has been

criticised as a patchwork, has led the Government to draft a new plan. The Government has been desirous of expanding the first plan into a national enterprise, and its first draft was made public in September, 1927. A heated public discussion took place over the new plan and when it was presented to the Ministry's budget meetings, it gave rise to conflicting views among the members of the Cabinet so that a new plan was drafted after the first one has been placed under searching criticisms. The new plan was drafted in November of the same year and shows some improvements in both contents and legal wording over the first one.

I shall now take up the vital arguments pro and con the new draft which were advanced at the Cabinet meetings.

The fundamental opposition to the new plan comes from those who believe that the present plan is sufficient and that the State does not need to assist the establishment and maintenance of peasant farms further than it is doing under the present plan. Those who put forth this argument fear that the execution of the new plan would place an unbearable financial burden on the shoulders of the State. They do not expect much from any peasant farm enterprise, are content with the existing small-scale plan, and believe that loaning of the reserve funds of government insurance is quite sufficient for the purpose under consideration.

On the other hand, those who are supporting the new plan regard the establishment and maintenance of peasant farms as necessary and effective in increasing agricultural production as well as in solving the serious tenant and other agricultural problems; they therefore are of the opinion that the present plan is not thorough-going enough to be effective. They assert that the loans out of the reserve funds of government insurance, even when they may be increased in the future, would not be sufficient; that such loans can cover the only small portion of tenant farms; and that, if the present plan be continued to be adopted, it would take several centuries before the entire area of tenant lands, namely,

2,800,000 chobu is turned into peasant farms. They refute the opponents' argument about the financial burden of the State something as follows:

When the enterprise is carried out in a period of 35 years under the new plan, the burden of the State in the first year would be 1,630,000 yen which is about the same as its present burden. True, the burden will gradually increase until it will reach the highest peak, namely, 23,000,000 yen in the 35th year, or the last year of the first period. But the amount is gradually decreased in the second period and in the 69th year, it will be only 1,480,000 yen. Although the total burden is estimated at 861,000,000 yen, it is to be spread out in 70 years; moreover such a burden should be cheerfully borne in view of the importance of the purpose for which the money is to be spent.

The officials of the Department of Agriculture and Forestry by whom the new plan was drafted, made out a plan of issuing rental certificates amounting to the grand total of 2,800,000,000 yen in a period of 35 years, the maximum annual amount being 80,000,000 yen, for the purpose of purchasing tenant farms for the establishment of peasant farms. They want to have an agricultural certificate system after the fashion of the German rental certificates (*Rentenbrief*) which are issued by the German rental banks for carrying out inner colonisation. These rental certificates are to bear a five per cent interest and the total amount of the certificates is to be limited annually to 80,000,000 yen. The certificates are intended to do away with the inconvenience of cash payments.

The opponents of the new plan have rejected this certificate plan also on the ground that it will greatly affect the government loan policy and that it will menace the money market. The drafters of the new plan have met this objection with the following counter-argument: According to the new plan, the agricultural certificates are to be issued by an organ called agricultural land cash office the duty of which is to pay out to those who sell lands and receives

annual payments from peasants. For this reason the responsibility of redeeming the certificates will fall upon the shoulders of the agricultural land cash office. The National Treasury gives subsidies within its budgetary means in case the cash office has not a sufficient fund for the redemption of the certificates. Thus, the rental certificates differ from government bonds in nature. And, since rental certificates are not to be sold to public but are only given to those landowners who sell lands, they will not absorb commercial capital that are to be invested in other enterprises. In consequence no effect on the money market will come from the issuance of these certificates.

The opponents of the new government plan also argue that, since the tenant farmers pay annual instalments to the agricultural cash office which is a government institution, when the former are unable to make payments a serious consequence would follow; the disputes which had hitherto existed between the landlords and tenants would under the new plan contested between the tenants and the Government—a change which is very unfortunate from the standpoint of politics. This argument is met by the advocates of the plan in the following manner: The tenants who have acquired the peasant farms have no fear of their lands being taken out of their hands by a landlord; nor will they be unable to make the annual payments as they will be in a position much better economically; they will work harder and will be more willing to make various improvements as the lands they till have become their own property and all the benefits of the increase in the productivity of the lands and of the management of the farm will go into their own pockets. There is then no fear for any dispute that may arise between the newly created peasant farmers and the Government.

The fear is expressed by the opponents of the plan for the numerous cases of compulsory disposal of peasant lands because of the failure of the farmers to make their annual instalments. An answer is made to this criticism something as follows: the plan provides the shifting of the ownership

of lands to the rural cash office in case the farmers fail to make annual payments, and another provision is made for the compulsory collection of money. However, there are provisions for an entire or partial exemption of annual payments and for the extension of the period of redemption, in case the lands have become desolate or the amount of crops is decreased through unavoidable causes. In consequence there will be comparatively few cases of legal enforcement.

The opponents of the plan also fear the farmers may resort to non-payment boycotts. The advocates of the plan hold the opposite view by pointing to the farmers' right to become the real owners of the lands if they continue to make annual payments for 35 years. They believe that the farmers will not abandon this right by resorting to such boycotts.

Lastly, opposition to the new plan has come from those who argued that the exemption of peasant farms from the land tax which is one of the provisions of the drafted plan would lessen the beneficial effects of the proposed transfer of the land tax from the Central to local governments, which has been one of the Seiyukai's main party planks in recent years. The refutation of this criticism has been made also from a partisan standpoint.

The foregoing arguments for and against the new proposal for establishing and maintaining peasant farms are partly theoretical and partly conjectural as to what will likely to happen. These arguments will show the nature of the proposals included in the new plan. The first plan which was made public in September, 1927, was modified as the result of the foregoing criticisms. The arguments will also reveal the attitude of political parties towards this agrarian problem.

3. THE PLAN ESTABLISHING AND MAINTAINING PEASANT FARMS

I shall now go deeper into the provisions of the modified plan for establishing and maintaining peasant farms. In the

first place, the establishment and maintenance of peasant farms are to be effected through contracts between the parties concerned. When a contract is entered upon by the parties, another contract is signed simultaneously between the agricultural land cash office on one hand and the parties on the other, the former acting as an intermediary organ for the latter. The following are the provisions of the draft measure :

“ A contract for the establishment of peasant farms shall take legal effects when the following stipulations are made : a landowner to transfer the ownership of land to one wishing to secure it for his own cultivation ; the agricultural land cash office to hand over rental certificates equivalent to the value of the land to the landowner ; and the purchaser to make annual payments equivalent to the value of the land.

“ A contract for the maintenance of peasant farms shall take legal effects when stipulations are made as follows : a mortgagee to cancel his claim over the land in favour of land-owner (maintainer) who is cultivating the land by himself or a pledger to cancel his claim over the land in favour of a land-owner (maintainer) wishing to engage in self farming ; the agricultural land cash office to transfer rural certificates equivalent to the value of the land to the mortgagee or pledger ; and the land-owner to take annual payments to the value of the land to the agricultural land cash office.”

I shall compare the foregoing provisions to the following provisions which were of the first plan.

Article 1. Those wishing to acquire land for the purpose of engaging in peasant farming through the intermediation of the agricultural land cash office, or those wishing to cancel the mortgage over their lands or cancel the claim over their lands, must make applications with the consent of either the landowner or of the mortgagee to the Minister of Agriculture and Forestry.

Article 2. The Minister of Agriculture and Forestry shall, upon the receipt of the foregoing applications, made decisions without delay regarding the establishment and

maintenance of peasant farms through the deliberation of a peasant farm committee, and should instruct the agricultural land cash office regarding the matter. The organisation, functions and other necessary matters pertaining to the peasant farm committee shall be fixed by Imperial decrees."

Thus, according to the first plan, the Minister of Agriculture and Forestry was to play the deciding role. Those wishing to secure lands for self farming must make applications to him and he decides on the matter with the advice of a peasant farm commission. The Minister takes the responsibility of establishing and maintaining peasant farms, although his decisions are preceded by the deliberation of the commission. At any rate, the Minister was to hold the key to the carrying out of the whole plan. The peasant farm commission is to be created by an Imperial decree and its organisation and rights are to be fixed similarly. This organ therefore also is a government or state organ. Thus, the first plan regarded the enterprise of establishing and maintaining peasant farms as a sort of state enterprise and was based upon the idea that the state should take responsibility for the enterprise.

A precedent for making such enterprises a state work may be found in the case of Prussia's domestic colonisation in Western Prussia and Posen. This enterprise, which was decided by a law passed on April 26, 1886, was actuated by Germany's political desire to have people settle permanently in the district bordering on the Polish boundary. This is why the enterprise was government in character. The law established rental farms and was carried out by a royal commission for inner colonisation (*Königliche Ansiedlungskommission für Westpreussen und Posen*).

The law adopted on June 27, 1890 extended the enterprise throughout entire Prussia, the main purpose being to establish middle and small farms in order to enable the farmers to possess their own lands. The law was modified on the following year and the Rental Bank (*Rentenbanken*) and the General Commission (*Generalkommission*) were admitted

to participate in the enterprise. After that the colonisation scheme had varied experience. The enterprise became national in scope after the close of the World War when the law of 1919 renamed the General Commission as the Land Development Bureau (Landeskulturämter) and entitled to participate in the enterprise together with the Rental Bank. The work of domestic colonisation itself is carried on by emigration companies and unions having public character.

At first the General Commission had nothing to do with domestic emigration. The commission had existed as an agricultural legislative organ in Prussia before the policy of internal colonisation was decided upon; and the law of 1891 made the management of domestic emigration the function of the commission. However, the commission does not directly manage the enterprise of domestic emigration; it functions as government organ in extending government aids to private enterprises and also in supervising their activities. It is in this respect that the commission differs from Königliche Ansiedlungskommission which directly managed the enterprise.

Thus, the enterprise of domestic colonisation in Germany was first a purely state work but later became semi-state enterprise. The first peasant farm plan in this country may be said to have taken the German system as pattern. The plan provided, on one hand, the establishment of an agricultural land cash office corresponding in the German system to the Rental Bank and the function of which was to manage the financial business of the enterprise; and, on the other hand, the establishment of a peasant farm commission corresponding to the Land Development Bureau in the German system the function of which was to manage the enterprise. Under the German system, any one wishing to secure a rental farm may apply to the Land Development Bureau which will select the desired farm for the applicant and which is charged with the task of executing the establishment and supervision of rental farms. The main functions of the Bureau are: to decide on the suitability of lands; investiga-

tion into the personal characters and material qualifications of applicants; the survey, planning, and transaction of lands; registration and other works of agricultural economy. The Bureau has also the right to instruct the Rental Bank and the Prussian National Bank to extend loans. The contract on the sale and purchase of lands which is made between one desiring to secure land and the seller of land, is made after the pattern shown by the Bureau.

The peasant farm commission in the first peasant farm plan was to be created by an Imperial decree and there is no way of knowing what the drafters of the plan had in their mind as regards the rights and functions of this organ. However, I am inclined to believe that it was to be like the Land Development Bureau of Germany. But, inasmuch as the Minister of Agriculture and Forestry had the right to make the final decision regarding the applications on the establishment and maintenance of peasant farms, and the commission only deliberates on the matters, it may be said that our drafters wanted to place greater powers on the Minister of Agriculture and Forestry than in Germany. In other words, our plan was intended to be a state enterprise to a greater extent than in similar cases.

In Great Britain, the work of establishing small holdings in England and Wales was decided by an act passed in 1892. The whole task is to be executed by the County Council which creates a special commission for the purpose of receiving applications from those wishing to purchase small farms for their own tillage. Thus, in Great Britain the State itself does not execute the task.

The first Japanese plan for establishing and maintaining peasant farms was opposed because of its eagerness to make the state the manager of the whole enterprise. It was pointed out that if the actual management of the enterprise is placed in the hands of the state, the latter might be placed in a difficult task of solving all tenant disputes. Because of this and other objections, the authorities who drafted the plan made some modifications. The drafters specified

in the law that the contract concerning the establishment and maintenance of peasant farms takes legal effects when stipulations are made between the parties and also between the parties and the agricultural land cash office; all other provisions regarding applications, the peasant farm commission and the decisions of applications have been struck out of the draft measure. In consequence, the responsibilities of the drafters may have been greatly reduced and they may have felt much relieved. But the draft bill has become less clear as regards the points which have been purposely left out; and when it has become law supplementary regulations concerning these points will be required in order to do away with the various troubles in its enforcement. It is not clear these supplementary regulations are to be enacted by the Diet or promulgated in the form of departmental or Imperial ordinances. At any rate, it is clear that the revised plan has left some important points intolerably vague.

If no specific mention be made, as in the case of the revised measure, as to the manner of applications for the establishment and maintenance of peasant farms, as to who shall decide on those applications, and as to who shall investigate the substance of the contracts entered upon by parties concerned—then it would be impossible to adjust or supervise the enterprise; it will be carried out only through the free contract of the parties concerned and the responsibility and functions of the agricultural land cash office will become too great for it.

It is better to create, as in the case of the first plan, an organ such as the peasant farm commission, which should be charged with the execution of the technical and administrative matters of the enterprise. Such a commission should exist side by side with an agricultural land cash office with which it should co-operate, although it is also desirable that a division of function should be upheld between the two. The two organs should manage the public affairs of the enterprise. This will be consonant with the British and German precedents. It is also desirable that the commission

should be some thing more than a mere advisory board for the Minister of Agriculture and Forestry ; it should enjoy an independent status. Moreover, it is also desirable to have more than one commission—one for each district as in the case of Germany. In that country there are eight Landes-kulturämter and 143 Kulturämter, the former exercising control over the latter.

The peasant farm draft bill recognises the cases in which peasant farms are established or maintained by the funds borrowed from prefectural, city, town and village organisations or co-operative societies, besides through the intermediary actions of the agricultural land cash office. The revised measure contains the following provision :

Article 7. When one has secured lands for the purpose of cultivation or has cancelled the mortgage or pledge of the land he tills with the funds he borrowed from Hokkaido, prefecture, city, town, village, or their equivalents or from co-operative societies, his land is recognised as a peasant farm, provided permission thereof is granted by the governor.

The foregoing provision was presumably inserted in order to recognize the enterprises which have been carried on for the purpose of establishing and maintaining peasant farms. When the agricultural land cash office extends its activities, the enterprise will be carried on through this organ and local authorities will not extend loans to tenants in any great amount ; and the number of those who borrow from cooperative societies will be also greatly reduced. The foregoing provision, therefore, is only supplementary or exceptional. Its inclusion in the draft measure, of course, is necessary.

4. THE AGRICULTURAL LAND CASH OFFICE

It has been noted that both the first and revised plans for establishing and maintaining peasant farms have an agricultural land cash office through which the payment of money for the transfer of lands or cancellation of mortgages

are effected. And the payment of money as the price of land are to be made in the agricultural certificates which the agricultural land cash office is entitled to issue. The farmers who buy the land are to pay in annual instalments.

The draft measure declares that the agricultural land cash office is to be a juridical person and is to be located in Tokyo. It is evident that it is to be established as the only organ charged with the task of supervising the establishment and maintenance of peasant farms. The permission of the Minister of Agriculture and Forestry is needed for its establishment as well as for that of its branch offices. The Minister of Agriculture and Forestry can order the agricultural land cash office to establish branch offices.

The functions of the agricultural land cash office are defined as "the issuance of agricultural certificates and the collection of annual instalments." But the draft measure also provides that the office is charged with "the business of establishing and maintaining peasant farms." (Article 27 in the revised draft measure and Article 29 of the first draft measure).

The systems of the agricultural land cash office and the agricultural certificates have been included in the new peasant farm proposal because there have been no such facilities in the country's enterprise for establishing and maintaining peasant farms. The system of the agricultural land cash office is to be established after the German Rental Bank which in that country was adopted in 1891 as one of the two important organs for the internal colonisation of the country, the other being the General Commission. Some measure of success has been achieved in that country in the work of the internal colonisation because of these two facilities. The Rental Bank in particular has done a great service in carrying out the internal colonisation by acting as go-between in to payment of the lands transferred from one person to another.

Those who wished to sell their lands for rental farms were enabled by the Rental Bank to receive the value of the

lands at once in the form of rental certificates, instead of receiving it from the purchasers in instalments which system involves much trouble for them. They can capitalize their lands into valuable certificates. And, if they do not need cash, they can receive the interests of the certificates which will take the place of annual rents. But if they need cash, they can sell the certificates in the market at any time. It is because of these conveniences that greatly speed up the establishment of rental farms in Germany.

On the other hand, the purchasers of rental farms would not be able to purchase lands unless they could pay the price in instalment plans. But not all landowners would sell their property at instalments. The Rental Bank enables the purchasers to get lands at cheap annual instalments through its non-profitable business policy, thereby giving a great impetus to the establishment of rental farms.

Thus, the Rental Bank and its power of issuing rental certificates are regarded as indispensable for the execution of the domestic colonisation in Germany. England has been trying to adopt a similar system in order to carry out a domestic emigration and her failure to adopt a proper plan in this respect is said to be the main reason for the slow development of peasant farms in that country. It is fitting then that the government authorities in this country should have included in their plan of establishing peasant farms a agricultural land cash office and agricultural certificates.

The chief difference between the German system and our own is that, whereas German has many rental banks our plan has only one agricultural land cash office. Our plan, however, seems to fit the existing condition in this country. Again, whereas the functions of the German rental banks are limited to the issuance of rental certificates and the collection of the annual instalments, our new plan has extended the functions of the agricultural land cash office and defines them as "the administration of the establishment and maintenance of peasant farms." There seems to be much room for the study of this point. As the revised plan has

rejected the creation of the commission favoured by the original plan, it is possible that the functions performed in Germany by the Land Development Bureau will fall upon the shoulders of the agricultural land cash office whose work will be so complex and manifold that it will have much difficulty in executing all of its functions. Moreover, it is highly questionable that one organ should be allowed to execute such a variety of functions. There is much room for the study of this point also. I am inclined to believe it is better to have two organs a peasant farm commission and an agricultural land cash office the latter having the financial function. It is also highly desirable that the administration of all organs should be simplified and certain as far as possible in order to forestall any undue criticism or suspicion on the part of the public regarding their administration. Such a policy will also result in maintaining the credit of the agricultural certificates at a high level.

5. LIMITATIONS PLACED ON RIGHTS OF PEASANT FARMS

It is evident that the object of establishing and maintaining peasant farms would be largely lost if the farms cease to be "peasant farms." For this reason every country having peasant farms places legal limitations upon the utility and disposal of peasant farms. The new draft measure has the following provisions regarding this point:

Article 8. The owner of a peasant farm cannot fail to till the soil, or create a permanent tenancy, superficies, nor all rights which may likely to become an impediment to peasant farms nor mortgages, nor rent the farm nor transfer it to others, unless regulations to otherwise are made by Imperial decrees.

Article 9. In one of the following cases, the agricultural land cash office and those who have extended loans in accordance to Article 7 (prefectures, cities, towns, villages, and

co-operative societies) may secure the ownership of the land according to the decree :

1. When the annual payment redemption has been neglected.
2. Omitted.
3. When Section 1 of the preceding Article has been violated.
4. Omitted.

There are some strong objections expressed against these limitations. It is argued that if the owner of a peasant farm cannot sell or loan his property, he cannot be said to possess a real right of ownership and that he would not buy such a land by instalment plans. It is further contended that such limitations will greatly reduce the economic value of the lands, that it is not proper to recognise such limitations in the case of peasant lands only, and that they violate the legal conception of ownership.

These arguments are refuted by the advocates of the limitations something as follows: These limitations are necessary from the standpoint of the very nature of peasant farms. Inasmuch as the object of establishing and maintaining peasant farms can be attained only through these limitations, they must be regarded as indispensable. Moreover, these limitations are not permanent, but are to be adopted only before the payment is completed ; and for this reason no objection can be made from either legal or economic standpoint.

According to the draft measure, a land is designated as "peasant farm" only during a certain period after which it ceases to be such before law.

Article 11. In each of the following cases the peasant farm is dissolved. In the case of the first case, if its term is extended, the peasant farm is dissolved at the expiration of the extended term.

1. When the annual payment or annual redemption is expired.
2. When the farm is transferred (except the case given in Section 2, Article 8).

3. Omitted.
4. When a farm is disposed of through attachment.
5. When a total exemption is made for the annual payment or redemption for the land when the land has become desolate through natural causes.

Similar limitations are adopted in the case of the small holding system of England. The small holding law of 1892 provides that the small farm should be used for agricultural purposes by its purchaser or tenant and that it cannot be divided up, loaned or transferred without the consent of the County Council. There is another limitation against the establishment of more than one house on one small farm. The revised law of 1908 also provides that a small holding whether it has been sold or rented cannot be divided up without the consent of the County Council for a period of 20 years; that the tenant must cultivate the land; that the land cannot be used for purposes other than agricultural; and that one cannot build more than one house on his farm.

In Germany also, the division or transfer of a rental farm without the consent of the General Commission is prohibited by the law adopted on July 7, 1891. Again, the law adopted on September 20, 1899 recognises a preferential right to purchase on the part of the creator of the rental farm when its ownership is transferred or a violation of stipulations is made.

The first draft measure provided in Article 10 that no compulsory execution should be allowed against peasant farms but it was struck out when the draft was revised.

6. LAND VALUE AND COMPLUSORY PAYMENT

I have roughly described the nature of peasant farms as they are planned in this country, with reference to the practices of other nations which have already established them. These nations, however, have not made a success they had ex-

pected. Take the case Great Britain. That country made some notable success in Ireland where the land established as yeomanry during the years between 1870 and 1903 has been estimated at 2,500,000 acres only and, after the law was put into force in 1903, the land purchased for the purpose in nine years is estimated at 4,500,000 acres. In the case of England, the land purchased by counties amounted only to 140,000 acres and that of the land made peasant farms, only 969 acres. The land purchased up to May, 1922 in accordance with the law of 1919 by councils is estimated at only 128,000 acres. In the case of Prussia, 21,257 farmers' colonies were established during the years between 1886 (the year in which the enterprise of internal colonisation was undertaken by the state) and the end of 1913; and the number of peasant farms is only 40,000 which is a very small portion of the total number of 3,400,000 farms in the entire country. It was because of the necessity of enlivening the enterprise and making it a state work that the law of 1919 was adopted. The law imposed the duty upon each of sub-states of establishing peasant farms and to carry on colonisation for the purpose of maintaining the existing peasant farms. Although the results of the legislation have not become clear as it is only an event of comparatively recent occurrence. However, I do not believe that the whole situation has radically been altered thereby.

In Great Britain, as has already been pointed out, the small holding enterprise was first carried on in Ireland and after the Wyndham Law was put into force beginning in 1903, the enterprise was carried on with a considerable financial burden to the state. Because of the financial difficulty involved in the law, it was revised in 1905. The result however has not been quite satisfactory. Nor were England and Wales any better in this respect, despite the fact that the small holding law of 1892 was quite perfect. The reasons for the failure were twofold: in the first place, the law did not give the county councils the right of compulsory purchase in establishing small holdings; secondly, farmers thought it more

profitable to engage in tenant farming than independent farming because of the fact that the Tenancy Law recognized strong rights on the part of tenant farmers. The Small Holding Law was again revised in 1908 but no notable progress was made in the enterprise. The reasons thereof are manifold. Because of the high land value, tenant farmers realised that it was more economical to engage in tenant farming than to buy land as their own farm. The land would not be sold at a cheap rate because of the fact that the majority of the members of county councils are those who belonged to the class of landlords. Moreover, those members feared the decrease of farm laborers through the creation of peasant farms because they were suffering from a scarcity of such laborers on their own farms. On the other hand, tenant farmers usually did not have much savings adequate to purchase the desired lands. They also feared that they might lose the favour of landlords if their desire to become peasant farmers should be learned by the landlords.

Some of the foregoing reasons for the apparent failure of the peasant farm enterprises in Germany and Great Britain may be regarded as due to the special conditions of these country. The majority of the reasons, however may be said to have the quality of universality and their consideration would be useful in studying the past and future development of peasant farms in our own country. As I have already stated, the enterprise of establishing peasant farms was not thorough-going so that its slow progress has been only too natural. But the following reasons have been particularly responsible for the sad state of affairs in peasant farms: first the smallness of state subsidies and secondly the high price of lands which makes it more profitable to engage in tenant farming than to buy land as one's own fields.

In forecasting the future of new plans, we should refer to the past experiences of other nations as well as of our own country. If we are to make the enterprise of peasant farms a real success, we should have rules concerning the creation and maintenance of peasant farms—rules which will

be really effective in realising the object. One of such rules is to fix the price of peasant farm at cheap rates ; or a government organ may be created for this purpose. Again a law should be enacted for the purpose of expropriating the lands of those who have refused to sell their lands at the reasonable prices.

So far nations have failed to resort to state power in fixing at cheap rates the prices of lands to be made peasant farms. And this has been one of the main reasons for the slow development of the enterprise. In the case of Germany, the prices of lands to be made rental farms are in principle to be fixed by the free decision of the parties concerned. Although the appraisal of rental farms was made by the General Commission (later by the Land Development Bureau), but it only fixed the standard price of transaction. However, in case the prices agreed upon by parties exceed the price appraised by the General Commission (or the Land Development Bureau), it becomes impossible to carry out the transaction with the aid of rental certificates and annual instalment payments through the operation of a rental bank, because under such conditions the General Commission (or the Land Development Bureau) would withdraw itself from the transaction, thinking that the prices agreed upon would not enable the purchaser to carry on the enterprise with any assurance of profits. It is because of this indirect influence that the appraisal of the General Commission (or the Land Development Bureau) is held as important.

In the case of Great Britain, there was no regulation for the purchase of lands for small holdings in Ireland at cheap rates, and the Wyndham Law established the Land Purchase Aid Fund in order to encourage the sale of lands by landlords, who received certain amounts of subsidies upon selling their lands for peasant farms. But the revised law of 1909 provided that in case the Land Commission has found it unable to bring the parties to agree on a price voluntarily, it should have the right to send an ultimatum to the landlord stating the proper price of the land. If the landlord

still refuses to abide by the advice of the Commission, the latter reserves the right of compulsory purchase. Moreover, in Ireland an official investigation into the ground-rents has been made and by 1902 the investigation has been completed over one half of the entire land. This legal rent would form a sure foundation when the price of land is fixed at the time of transaction; and thus a standard price is provided for transaction. The small holding law for England and Wales enacted in 1892 was based upon the report of investigation made by a special commission created in 1889. This commission thought that the transaction of lands should be decided upon by the voluntary agreement of the parties concerned. At the time of adopting the law of 1892, there was much discussion regarding this point, but no compulsory right was recognised for expropriating the land. When the law was revised in 1908, a provision was made for the expropriation of land in case no agreement was made when a county council rents the land for the purpose of re-renting it to farmers. However, no such compulsory right was extended to the case in which the land was purchased by a county council and then re-sold to a farmer.

In the case of Japan, the Tenancy System Investigation Commission made the following recommendation in 1924:

“The purchasing price of the land to be rented out (by the agricultural land cash office) should not exceed the usual price in the same locality and should be appropriate for the maintenance of the land as a peasant farm by these who rent it.”

The recommendation spoke a right thing but only pointed out an abstract standard. Then the following provisions were contained in the supplementary rules for the establishment and maintenance of peasant farms (the Ordinance Number 10 of the Department of Agriculture and Forestry, promulgated on May 21, 1926):

Article 6.

Section 3. The purchasing price of the land should not exceed the standard price fixed according to the accompany-

ing formula and the usual price of the locality in which the land is situated, so that those who purchase the land as peasant farm or field should be able to maintain it as such.

Section 4. Where the sale of tenancy right is customary, the sum of the land value and the price of tenancy right should not exceed the foregoing standard price and the usual price of the land, if the land is to be soled together with tenancy right.

Section 5. The mortgage loan for the maintenance of the land should not exceed the standard price and usual price mentioned in Section 3, and the purchasing price should not exceed the standard price at the time of the purchase which is mentioned in Section 3.

The formula mentioned in Section 3 follows:

The standard price

= $\frac{\text{Tenant Rent} - \text{the land tax, land surtax, and similar local rates.}}{0.06227}$

0.06227

A note is attached to the formula explaining tenant rent. According to this note, the price of land to be established or maintained as peasant farm is to be decided upon by a free contract of the parties concerned, the only legal limitation being the rule that the price shall not exceed the standard price and the usual price of the district in which the land is situated. The Department of Agriculture and Forestry accepted the main part of the recommendation of the Tenant System Investigation Commission and adopted a formula for calculating the standard price in order to actualise the desire of the Commission. According to the formula adopted, the standard price is to be what is commonly known as the revenue price. The land tax, the land surtax and local rates are deducted from the rent which forms the revenue of land, and the remainder is divided by the percentage of interest. The price of the land is thus obtained by the so-called capital reduction. The interest percentage is given as 6.227 %.

Thus, the experiences of foreign nations show that the enterprise of establishing peasant farms has failed because the fixing of the prices of lands has been left either with the free contract of the parties or the standard price has been shwon. But in our own case, the first draft measure provided that "the standard price of lands to be established or maintained as peasant farms and other necessary limitations—shall be fixed by departmental ordinances"; but the new draft measure has no such a provision. I am inclined to believe that the nature of regulations regarding this will largely determine the success or failure of the plan in question. Should there be no legal regulations on this point, the prices of lands would be fixed by the contract of the parties and such prices would be too high for tenants who would rather continue to till others' soil. No success would be possible under such circumstances. Nor will the fixing of the prices according to the prevailing tenant rents (as in the plan of the Department of Agriculture and Forestry) would be regarded as just, because of the general criticism against the prevailing rates of tenant rents.

The criticism has been made on the new government draft measure to the effect that the plan has been made with a view to help the landowners to get rid of the lands they are very anxious to dispose of, and that the plan is intended to be a means to maintain the tenant rent and the value of lands. The conclusion is made that the plan has been advanced in order to relieve the landlords rather than the tenants. The critics have advised tenants not to be deceived by such a plan.

This is why due consideration must be made in fixing the prices of lands.

In order to assure the success for the work of establishing and maintaining peasant farms, it is necessary that land supply should be plentiful and, whenever necessary, land should be expropriated for the purpose to a certain extent. In this respect, Germany's law of national immigration adopted in 1919 is most advanced of the kind. According

to this law, the national lands may be purchased as peasant farm upon the expiration of the tenant contract thereon. Moreover, the immigration bodies are given a preferential right in case large and middle farms are put on sale; they are also given a legal preferential right to purchase lands whose areas are more than 25 hectares. In the districts where more than ten per cent of the entire farms are of areas which are more than 100 hectares, the owners of the lands more than 100 hectares are required to offer at least one third of their lands. For this purpose, the landlords are required to form a union called "Landlieferungsverband." Again, the National Immigration Law has a provision requiring local authorities (Landgemeinden oder Gutsbezirke) to supply lands for labourers under their jurisdictions, when so directed by the Government. And for this, local authorities are entitled to employ coercive measure in renting or expropriating the needed lands.

As has been already pointed out, the draft measures so far made in this country have no provision for the compulsory execution of lands for the purpose of establishing or maintaining peasant lands. But without such a provision, the work would not be satisfactorily effective.

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