



The Baganda Land Holding Question.

**PREPARED BY THE BATAKA
COMMUNITY.**

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APPEAL TO THE LEADERS.

The question in dispute ought to be one of greatest importance to everybody taking to heart the welfare of the average Muganda, as well as the future development of the country. Like any other social or civic question it requires intelligence, and impartial consideration, and given a true application of common sense, and justice, in so far as the Native Law and Customs are concerned, it would no longer be hopeless or difficult to decide. Though this question looks a comparatively small, sectional one, in view of the circumstances leading up to it, it is very disturbing and great, and we venture to say that, if it is not properly settled now as time goes on it will become more difficult and we maintain that it would be more advantageous if the decision and the practical settlement was not finally left in the purview of local Government only.

We would beg that to this subject everyone should give the best Christian attention and should suggest a wise course of action, help in creating a wise public opinion, and in every way help us to get a sympathetic hearing whereby some way may be found to settle this question for the welfare of Baganda. It must be borne in mind, too, that we Africans in all parts of the continent are rigorously loyal to our British King, and His local representatives wherever they may be. That we are confronted with many problems which are almost unbearable but of which we do not loudly complain however, the greatest of our present troubles, in Uganda the outline of which we endeavour to place before you in the following pages is not one of which it can be said that "Time and Patience will work a remedy" Questions of this nature unless remedied generally end by turning otherwise loyal and devoted subjects into bitter malcontents and agitators and subsequently forcing the Government to take strong and violent measures in an attempt to smother such discontent.

There is only one possible means of really and truly satisfying the present feeling of discontent and that is an immediate return to our old traditional methods of land tenure which have been handed down to us from time immemorial, as outlined in this pamphlet.

The Baganda Land Question

FOREWORD

Before approaching the main points in dispute and which we would like His Britannic Majesty's Government, to decide, for us, we have taken it as most necessary and desirable to give in brief the historic aspect of the question and the nature of the constitution under which we lived. Such a course will we think tend to a more clear conception of the matters which it is proposed to discuss and settle.

After the Uganda Agreement of 1900 was made between Sir Harry H. Johnston, (then the special Commissioner to Uganda) and the Native chiefs, the Buganda Kingdom came under the protection of the British Empire, as a first step towards the proper settlement of the country and future development, the British Government being then unable to undertake the work of redistribution of our lands, deputed the three native regents and the Lukiko, (the Native Government,) in the Kingdom of Buganda to divide the land so as to evolve a system of land tenure which embodied all the old tribal traditions which would be a basis of internal peace.

But during the rearrangement of the land as set down in Para 15 of the Uganda Agreement, the chiefs then in power secured more than their just share of land and a number of persons many of whom according to the words of the treaty were the private landowners in possession of estates from time ever immemorial were dispossessed and virtually became peasants.

The fact is that, during the time of reallocation of the land under 1900 Agreement, it was not expected to the average native to know anything about the new arrangement of the land settlement and the permanentness of the character of the machinery it sought to put up. And being at that time entirely conservative and with no conception that any land system that entitles a man having absolute possession for all time against all comers, save that of theirs was ever possible, only know that individual enjoyed fixity of tenure and the benefit of his improvement subject to the performance of his social and political obligations. And that at the death of the holder the land reverted to the community, that the holder could be expelled from his holding by the heads of the community for grave misdemeanour and that buying and selling of land was not recognized under any native custom and law. And that all the unoccupied land was allotted

by the Kings or heads of the clan communities as the needs of the latter extended with the increase of population and cultivation. In fact knew that the land belonged to the tribe and chiefs in council merely holding the land in trust for the people and that trusteeship was the foundation stone of their authorities, therefore even in this new arrangement, they paid no attention whatever to details but were content to leave everything to be arranged by their chiefs as was their custom because, the chiefs were at that time the tribe, the personal embodiment of all.

Unfortunately, as we have explained above, the leading men in whose hands was the distribution have without any doubt treacherously used their positions to further their own ends without reference either to the wording of the agreement or to the ancient system of land tenure. It must be remembered however, that, when the average native was still perplexed as to the new arrangement of the land, some of the leading chiefs went to England, two years after the treaty was made, and they availed themselves with that opportunity of studying the exact meaning of Freehold land tenure.

One of these was Sir Appolo Kagwa, K. C. M. G. M. B. E. then and now Prime Minister of Buganda. When they came back they explained to all their friends in authority as such, and all jumped from their real shares of lands. Consider the above said minister whose share of lands as was shewn in the agreement, he was now entitled to only 16. square miles of land, and now he possesses approximately over 100, besides those he allotted to his well known wide family.

Those who were thus illegally dispossessed of their lands many a time tried to get them back through the courts, but failed after strenuous endeavor, being lost in connection with their unsuccessful attempt against the Native Government which had ever since by some dexterous manoeuvre, made itself its own final court of appeal.

The facts about the chiefs having more lands than they were allowed, is further stated and proved in the Report of the Uganda Development Commission of 1920 on page 27 Section 177:-

"That we believe moreover, that much of the land in Buganda is gradually passing into the hands of the bigger chiefs, under the Agreement of 1900, certain areas were allotted to the chiefs and, though we have no actual proof that these areas have been exceeded, there is no doubt that by judicious dummyming the land in fact held by certain individuals is far greater than is allowed by law. Moreover, cases have been quoted to us where a native of means has lent money to another on the security of his land

and has foreclosed immediately the repayment become due. In one instance the amount was Rs. 2,400. and the area forfeited was two square miles.

The two indigenous Baganda Land Tenure.

The evidence used in the following, is used not because the Bataka themselves do not know the history of their own land settlement, but because this memorandum was prepared first of all over ten years ago, and by one of the prominent Government officials, Sir Morris Carter, The late Chief Justice of Uganda Protectorate and printed as an appendix to vol. 1. of the Uganda Law Reports 1904—1910. And ever since it has been the most comprehensive document in exposition of land history from the official point of view.

LAND TENURE AND SUCCESSION TO LAND.

The subject of Succession is so intimately connected with that of Land Tenure, that it is difficult to grasp one topic without the other. I therefore propose, while considering the land tenures of Uganda, to deal with succession so far as it relates to land, leaving the consideration of succession to movable property till later.

In Uganda, as in feudal countries in Europe, the whole of the land was considered ultimately to belong to the Kabaka, and no holding of land was recognized unless it had originated in a gift from him or had been definitely acquiesced in by him. As a consequence of this idea, mere possession, for however long a period, was not deemed to give any title to the land.

Prior to the establishment of British government in Uganda there were two recognised methods of holding land, which may be named respectively 'Butaka' and 'Butongole' of the two there seems to be little doubt that the more ancient was the Butaka.

The word 'butaka' is apparently derived from 'taka' (earth) and the word 'mutaka' signifies the 'man of' or 'the owner of' the land; the plural of the word is 'bataka.

The word 'butongole' is derived from the word 'kwetongola,' which is used of a person who formed one of a number of people working together, and who goes off to work alone; a 'mutongole' was a person who went off to work by himself for the Kabaka.

The following may be regarded as the origin of the two tenures. Although there is a tradition that 'Kintu' was the ancestor of all the Baganda, the more general opinion would appear to be, that when he came to the country as the first Kabaka of the Baganda he found certain persons in possession of the land, and that they were the predecessors of the present bataka, whether or not they were called by that name at first.

Each mutaka was the holder of the land surrounding his village or group of villages, and he administered law to, and governed, the persons on his land after the manner of the patriarchs of old. On his death he was buried upon his property, and the butaka land is now regarded as the land where one's ancestors are buried. His successor then took his place as the head of the clan.

At this early date the country was not divided into ten sazas or counties, as was the case immediately prior to the advent of European government, but the divisions consisted of the various butaka, possessed by the chiefs of the clans. These were fewer in number and of larger extent than the butaka of the present day.

The Kabakas appear at first to have left the bataka in possession of their land; but it gradually became the custom for the Kabaka to send his own men into the country to see how things were being managed by the bataka, and perhaps mainly to see to the collection of taxes. These men of the Kabaka were called batongole, and the Kabaka took from the bataka to whom they were sent pieces of the butaka land, and gave them to the batongole to live upon. Thus the batongole tenure arose, and it is also thought that where the batongole were especial favourites of the Kabaka, and consequently persons who gradually grew to be of great importance, they sometimes became more important persons than the bataka, and ultimately developed into saza chiefs. From an administrative point of view the country then came to be considered to be divided into sazas, each governed by the owesaza, a glorified mutongole and an official of the Kabaka. In one or two cases it would appear that the mutaka became a favourite of the Kabaka and was made an owesaza, and as the office of mutaka was hereditary, the office of the owesaza in such a case also became hereditary in his family or clan.

We thus see the origin of the two tenures—that of butaka, held originally by the chiefs of the old inhabitants of the land, and that of batongole, held by officials or personal favourites of the Kabaka as a reward for services to him. The most important distinction between the two tenures is, **that the butaka land is hereditary, whereas the batongole tenure is not, but is practically a life estate subject to the Kabaka's power to eject the holder.**

Before describing these two tenures more particularly. I desire to mention the comparison which has been frequently drawn between Uganda and feudal monarchies in Europe, and to observe that the resemblance so far as the land is concerned does not appear to me to be so close as might at first sight be supposed. Although the Kabaka is the overlord and ultimate owner of the land, there is in Uganda no system of tenure with regard to the land resembling the chain of tenants which is the characteristic feature of the feudal system.

It is true that there were great chiefs holding office, with lesser chiefs under them, and still smaller chiefs under the lesser chiefs, and that all these persons held land; but the chain, **so far as it existed, was a chain of office rather than of tenancy.** The greater chief held his office and land from the Kabaka, but all the chiefs of great and small similarly held their office and either direct from the Kabaka, or had to be approved by him before they could enter into possession of either.

THE BUTAKA TENURE.

There seems to be no tradition as to how the original butaka came to be in possession of their land, but it would appear that from the earliest known times the land was held in individual ownership by the kitawe of the clan and the heads of the masiga. So far as I am aware there is no recollection of a time when the land was held in common by the community or tribe.

Butaka land is therefore held by the successors of the original heads of the clan and of the masiga, and in addition it is held by the successors of such persons as have been granted land by various Kabakas to be held by such tenure. For whatever was the origin of the tenure, it would appear that since the arrival of the Kabaka in Uganda, the permission or gift of the Kabaka was necessary for the creation of new butaka land, and it has been regarded as within the power of a Kabaka to make such grants.

In some cases the Kabaka after or when giving a piece of land to a mutongole, whether such land were part of an original butaka or not, told him that he might have the land as his butaka. It would then appear that the donee obtained a title to the land, but while he lived he was liable to be ejected from it by the Kabaka, and in such an event the land would cease to be the butaka of donee or his family; but if the donee were buried there, although his successor (elected from

his family or clan) could be turned out from the bulk of the land yet he would be allowed to retain a small piece round his predecessor's grave as his butaka.

If the second in succession from the original donee were turned out, he would be left with a small piece in the same way; but if he waited a year or two, and then went with a present of a cow or some women, the Kabaka would probably give him back the whole estate.

If the third in succession were turned out after three of his ancestors had been buried there, he would be allowed to retain a larger portion round their graves and presumably if he went to the Kabaka with a present he would be more certain to get back the whole estate than his immediate predecessor would have been.

It would thus appear that land given as butaka was not very securely held by the donee or his immediate successor, but that as time went on the title of the family or clan became more and more secure, and that, when three or four generations had been buried on the land, the title was practically safe, and the owner if turned out would necessarily be succeeded by a member of his clan, as was the case with ancient butaka.

There would seem to be an impression among some of the Baganda that if a person without any prior gift could succeed in getting two or three of his family buried on a piece of ground, he could go to the Kabaka and claim the land as butaka; this idea would appear to be erroneous, and probably arose from the greater certainty of tenure coming to those who had been in possession of butaka for three or four generations, and from the fact that people were careful to prevent others from burying their dead on their land, lest the person who had done so might become a favourite of the Kabaka and go to him with the statement that he had a parent buried on the land, and so get the Kabaka more easily to give it to him as his butaka.

There can be little doubt that even in the case of the oldest butaka a strong Kabaka would cut large slices off the original estate and give it to his favourite, but a descendant of the old butaka holder, if he could curry favour with the reigning Kabaka, **could go to him and represent his case, and would in all probability get the whole of it back.**

A mutaka was the owner of the land, and no one could deal with it without his consent; no other person had more than

a usufruct of the land. The mutaka himself could not give **any part of the land away to a member of another tribe, nor could he sell it, as such a transaction was unknown in the old days.** The peasants, or bakopi, on his land were tenants at will of his, who had to perform various duties, in return for which they were permitted to build their huts on the estate and cultivate a piece of the surrounding land as their 'samba' (garden).

As a larger population on a man's land meant an increased amount of taxes for him, an increased number of persons upon whom he could call for work, and generally an increase of importance, the bataka were not anxious to drive peasants off their land, consequently on the death of a mukopi his son would generally be allowed to remain in the shamba; nevertheless their bakopi had no hereditary interest in the land, and the mutaka could turn them off whenever he pleased and could send them away from his butaka if he wished to do so.

The owner of a butaka could give small pieces ('lusuku') of it to his sons, and if he died his successor could not drive them out unless they behaved badly. They would, however, be under the successor, and the land they possessed would not form separate butaka, although their sons might succeed. Those to whom land was so given were called 'balangira bo mutaka' (princes of the mutaka). There were peasants on such pieces of land, and when taxes were paid by them they were received by the owner of the butaka, who gave a portion to the mulangira.

The mutaka was in the position of a feudal lord with power of life and death over the people on his land, the collector of the taxes, and the owner of the soil, with peasants under him, often of a different clan to his own, whom he could eject at his pleasure from his estates.

Succession to butaka land held by the kitawe of the clan depended upon the election to the chieftainship, as the person elected to succeed the deceased as kitawe of the clan by virtue of that position succeeded to the parent butaka of the clan.

When the head of a clan dies the elders assemble together and a successor is chosen, who is taken before the Kabaka, and, if approved by him, becomes the new kitawe of the kika. If he is not approved, a new candidate would be elected and submitted for approval.

Although all the elders of the clan assemble for the election, the successor to the chieftainship, and consequently to the butaka land, must be a member of the same siga (stock) as the deceased, and is usually his son or brother.

The election depended upon the supposed merits of the person chosen, and upon his suitability for the post of chief.

If there were no member of the siga left fit for the position, a person from another siga would be chosen, but he would be, as it were, adopted into the old siga, and would cease to be eligible for election to a butaka in his original siga.

Until the reign of Mutesa, the grandfather of the present Kabaka it appears that although it was more usual for a son to be elected, brothers and other relatives were eligible; but he decreed that the son, if there were one, must be elected, unless he were notoriously unfit for the position.

A mutaka was entitled to nominate his successor, a privilege which he very usually exercised. If he did so the elders would almost invariably choose that person; if they did not do so, the person nominated could complain to the Kabaka, who would probably give him the chieftainship.

The chiefs of the masiga and other bataka were elected in the same way as the kitawe of the clan, except that the kitawe took a leading part in the election or would approve the candidate before taking him to the Kabaka. also in the event of the electors being divided in opinion as to the successor, the kitawe would decide the matter.

Originally the successor to a butaka had to pay a certain proportion of the women and cattle of the deceased to the Kabaka.

A mutaka could be ejected by the Kabaka if he governed his people badly, but another member of the siga had to be elected in his place, and the Kabaka could not put in a member of another clan.

If a mutaka accepted the office of mukungu or mutongole his place became vacated, and the clan assembled and chose a new mutaka, who had to be approved by the Kabaka.

Although, as we have seen above, the Kabaka could take away a piece of a mutaka's land and give it to a mutongole, and might in this way by successive gifts take away the larger part of the butaka, he always left to the mutaka part of it round the 'malalo' (tombs) of the ancestors, except possibly when he took the land for the site of his own 'kibuga' (capital), but even then it was practically unknown for the Kabaka to do this without giving compensation.

Closely allied with, if not merely a variation of, the butaka tenure is the tenure by which the 'balangira' (princes) held their land.

These balangira are divided into two classes, those who are closely related to the reigning Kabaka, and whose affairs are looked after by an officer named Kasuju, and those who are not closely related to the Kabaka, but are descendants of Kabakas of some generations back. This class of balangira have as their head the 'Sabalangira, or' chief of the princes.

Every son of a Kabaka is given an estate either out of the unoccupied land, or one carved out of a butaka: on his death one of his sons, or less frequently his brother, succeeds in a similar manner to that in which succession takes place among the bataka: the electors, however, are not members of the clan of the deceased, but are the other balangira, who are bound to elect a successor from the same stock as that to which the deceased belonged. For example, the successor to a descendant of Mutembe must be a descendant of his, a descendant of another Kabaka, *e.g.* Mutesa not being eligible for election.

On the death of a mulangira the estate is not divided among his sons; one son alone gets the estate, and his brothers (unless they are given land by the Kabaka) have no land, and become what are termed 'balangira bakopi' (peasant princes.) They are still, however, considered to be balangira, and do not become bakopi, as is the case with the portionless sons of a mutaka, mukungu, or mutongole, whose sons are bakopi unless and until they are given an estate by the Kabaka. It is no uncommon thing for a man whose brother is an important chief to be an ordinary labourer.

Another difference between the ordinary butaka and that of persons descended from Kabakas is that a woman never holds or succeeds to land among the commoners (although a chief may give his daughter a piece of land, of which she is a tenant so long as she is unmarried), whereas all the daughters of a Kabaka, the 'bambeja' (princesses) are given land as their own, and on their death it passes to another female descendant of their father elected by the balangira and bambeja.

The balangila join in the election of a mumbeja, but the bambeja have no voice in the election of a mulangira.

Even among the princesses a woman does not succeed to an estate which has been held by a man, nor does a man succeed to an estate held by a woman.

In addition to the bambeja the Namasole' (Queen-mother) and the Lubaga' (Kabaka's sister), and one or two other female relatives of the Kabaka held land as butaka.

Every kabaka on his accession and throughout his reign had a 'mother' and 'sister' and if his real mother or sister were dead before his accession some other persons were chosen in their place,

similarly if they or their substitutes died after the accession other persons were chosen in their stead. To each Namasole and Lubuga estates were given, on their death they were buried on one of these estates, and this estate descended in turn to a female descendant of their brothers. The Namasole and Lubuga were not allowed to have husbands after their election.

On the death of a Kabaka, his Namasole and Lubuga lost the estates which they had held, which went to the new Kabaka's Namasole and Lubuga; but they were each either allowed to retain one of the estates or were given another elsewhere; it was this estate upon which they were buried, and which descended to their brothers' female descendants.

The Namasole, like the Kabaka, had a right to create batongole and to give them land upon her estates.

THE BUTONGOLE TENURE.

Several of the official chiefs were called 'bakungu, and no 'batongole' but inasmuch as the incidents of the tenure were the same in both cases, I have not thought it necessary to give two names to the tenure, and as the batongole are so much more numerous I have named it after them.

The batongole were favourites or officials of the Kabaka, with duties to perform for him, for the performance of which they received from him estates.

Each office was called a 'bitongole' and had an estate or estates attached to it, which belonged to each holder of the office in succession. These estates were sometimes carved out of the old butaka estates, and sometimes were uncultivated land allotted by the Kabaka to a new office, and brought under cultivation by the mutongole and his men.

The batongole varied greatly in importance, from the Katikiro possessed of great wealth and large tracts of land, with thousands of people under him, down to very petty chiefs with a small shamba (garden) and only two or three men subject to them.

While in possession of the estate the rights over it in the case of a mutongole seem to have been similar to those which a mutaka enjoyed over his land. In both cases the holder could turn out bakopi on his land if he chose to do so, and both had a right to call upon men on their land to fight and work for them, and they both had a right to receive a percentage of the taxes which were levied upon them, and both were entrusted with the general governance of the estate, and administered justice to all upon it.

The mutongole seems to have been in an enviable position, and to have been able to encroach upon the land of neighbouring bataka with a feeling of some security that if a complaint were brought against him he had a very good chance of coming out as a victor in the case.

As I mentioned above when dealing with the bataka, a mutaka who received the office of a mutongole from the Kabaka would lose his butaka, and one of his relatives would be elected to fill the vacant post. I understand that a mutaka could, if he chose, refuse such an office, and sometimes did so, but that as a rule a man was more proud of the office of mutongole to which he was appointed by the Kabaka than of his hereditary butaka holding. No doubt this was only the case if the official estate exceeded the butaka in size and population.

On the death of a mutongole his chieftainship and estates would be given by the Kabaka to any person he liked to choose, and the person elected by the deceased's fellow-tribesmen to be his successor would of right succeed only to the movable property. As a matter of fact, although it was not usual for the successor to be appointed to his father's office and emoluments it was very usual for him to be appointed to another chieftainship and, as a mutongole of the Kabaka, to be given an estate. Again, on his death his son was often appointed in a similar way. But although the Kabaka almost always gave at least some small bitongole to the son of a mutongole, there was, as I understand, no custom compelling him to do so. Moreover, if for any reason the Kabaka chose to turn out a mutongole from his office, the Kabaka could put in any one else, and was not limited in his choice to the siga or clan of the person ejected, as was the case with disgraced mutaka.

The same custom, giving a portion of the movable property to the Kabaka on the death of a mutaka, prevailed upon the death of a mutongole.

The conclusions arrived at with regard to the customary land law of Uganda may be summed up as follows :—

The Kabaka was regarded as the ultimate owner of all land, and no holding was valid without his gift or sanction.

Consequently possession alone gave no right to land

Land was held in two ways; firstly, by butaka tenure; and secondly, by butongole tenure.

Butaka land owed its origin to a period before the arrival of the Kabakas in Uganda.

After their arrival it could be created only by the Kabaka.

It was held by individuals, and not collectively.

On the death of a holder the estate was not divided, but one person alone succeeded.

Succession was hereditary; the successor always being chosen not merely from the clan, but from the particular siga or branch of the clan to which the deceased belonged, and generally even in the old times from the sons of the deceased holder, and from the time of Mutesa practically always from among the sons.

A mutaka could nominate his successor, who would almost always be elected.

The eldest son never or rarely succeeded until recent time.

Women were not allowed to hold land or succeed to it, except in the case of the bambeja, Namasole Lubuga and one or two other relatives of the Kabaka.

The certainty of succession to the whole estate was, however, limited by the power of the Kabaka to give part of the estate either as butaka or butongole to his favourites.

This prerogative was practically never exercised so as to deprive the mutaka of the land round the tombs of his ancestors.

The mutaka had powers of life and death over the people on his land, was the collector of the taxes, and could eject at his pleasure any one on his land.

Butongole land owed its origin to gifts by the Kabaka to favourite servants and officials.

It was held for life or a shorter period.

The successor of the last holder was usually appointed to another office with an estate, and even if not regarded with favour by the Kabaka was almost always given a small estate

Such gifts, however, depended upon the will of Kabaka, and if a mutongole were ejected the Kabaka could give the land and office to any one, of any tribe, and was not limited to the tribe of the last holder, as was the case with butaka land.

A mutaka appointed a mutongole gave up his butaka estate to another member of his siga elected by the clan.

A mutongole, while in possession of his estate, had similar rights to those enjoyed by a mutaka.

Butaka Land.

High Court Decision.

(In the matter of *Fazaldin Miranbux Vs: Simoni Laure and 2 Chirakidin and Sons.*)

His Honour Judge Guthrie Smith delivered the following important Judgment.

In this case certain land has been attached in execution of the decree and an objection to this attachment has been lodged on the ground that the land is Butaka and therefore not saleable. I therefore referred to the Lukiko to certify what is the meaning of Butaka as understood by the natives. Their answer agrees as far as it goes, with a memorandum prepared by Chief Justice Carter printed as an appendix to Vol. 1. of the Ugand Law Reports.

It appears that before the Agreement of 1900 land here was not regarded as saleable. The whole country belonged to the Kabaka who could put in and turn out tenants at his will and if an occupant died his heir had no absolute right to succeed but depended on the Kabaka's pleasure. There were however exceptions to this. There have been from time immemorial certain areas called Butaka and associated with one of the clans in which every member of the clan and where the holder of it for the time being died the members of the clan had the right to select his successor from among his next of kin. The person so selected had to be presented to the Kabaka who would admit him as Mutaka if satisfied that he was a proper heir. That was the universally understood custom (although it was sometimes departed from if any Kabaka felt himself strong enough to take away part of a Butaka and give it to his friends.) Such a custom being certain and reasonable and for the benefit of a section of the public namely the clan and having been enjoyed since time beyond the memory of man has the binding effect of law. Beside these ancient Butaka lands there are others created by grant of individual Kabakas in favour of particular families. These do not fulfil the conditions of a custom and are therefore not binding as laws. In what follows I will there use Butaka as meaning ancient clan Butakas only.

The Uganda Agreement 1900 is silent as to Butaka. It provides for so many miles being allotted to natives and the allotment was to be made by the Lukiko having regard to existing claims

which would include claims of clans to Butaka. Therefore if the Lukiko have recognised a claim to Butaka by allotting that land to a representative of the clan then the land remains subject to the customary law of Butaka and cannot legally be sold out of the clan. It has happened in the past, that Butaka land has been sold and in such cases the Lukiko adopted the reasonable course of allowing the Clan to redeem it by providing an equal area elsewhere. This however is only correct if the purchaser was innocent and did not know that land was Butaka. It is established that Gingo is Butaka of the Ngeye clan. It is unsaleable and therefore cannot be taken in attachment. I must accordingly allow the objection.

Below is the petition on the Butaka Land question, which we submitted to His Highness, Kabaka Daudi Chwa, etc.

Lugala, Mengo,
Kampala, Uganda.
February 1922.

To His Highness Daudi Chwa,
Kabaka of Buganda.
MENGO.

Copies to:-

His Excellency the Governor Entebbe
His Lordship Chief Justice "
Attorney General "
Land Officer "
Provincial Commissioner, Buganda, Kampala
Bishop of Uganda, Namirembe
Bishop of M. H. Mission, Nsambya
Bishop of W F, Rubaga
Major Scutt, C/O Secretariat, Entebbe.

Your Highness,

We, your Bataka, the natives of Buganda and the natural heads or elders of all the people of this our country who hold the inherent rights to represent all Baganda people pray you most humbly to kindly consent to hear mercifully to the following our complaints which we are representing before you.

1. When the Europeans first came to this our country we were in a great fearful state thinking that they would take all our land, spoil our clans and customs, make us their slaves and consequently make us live on our own land as tenants. But eventually our grievances were heard in, or, reached England, and subsequently Her late Majesty Queen Victoria sent a

special Commission headed by Sir Harry H. Johnston, in the year 1899 to inquire into all our affairs and ultimately give us our lands. The said Commission finished their work in 1900.

2. Before we go into all the details of the work they did, we request Your Highness to kindly hear and thoroughly understand how we used to live on our lands in the former days. Our land was divided into two sections. The first section used to be the Official lands controlled by the Kabaka, and his political chiefs. The second section used to be those lands known as Butaka lands which were under the control of the Kabaka as the supreme Mutaka and the heads and subheads of the different clan communities as well as those Bataka known as Mituba. These lands mentioned in the latter section used to be kept for the benefit of all the members of the clans and kept in perpetuity for the good use of all the members of the clans concerned.

3 We humbly beg to inform Your Highness, that the dealings of the said Commission and the Buganda Agreement itself were highly appreciated by us in so far as it is laid down principally that "Every person holding lands at the time were to be left in possession of same" In the Uganda Agreement of 1900, in paragraph 15 where 8000 square miles are mentioned, it is clearly explicit that the Bataka were ordered to be given their estates. Besides the Forest Agreement of 1907, supported the same principle. It must be remembered however, that when the Mailo distribution took place the Lukiko knew, of course, that the late religious civil wars, had mixed all the peoples' Butaka lands, and when the Government gave the chiefs and the Bataka the share of 8000 square Miles he ordered the Lukiko to go very carefully into its allotment relying upon the fact that the distributors being Baganda would know better to whom belonged the real Butaka, and would not fail to settle every body's claims satisfactorily. But unfortunately on account of the Regents misusing this Agreement through their mere intention of getting land to which they were not entitled to, they upset everything and as the results of that mistake caused the present ill feeling which exists amongst our people as a whole, shattering also our country from its former foundation and destroying all our good customs of helping and loving each other, thus putting us under a form of Government which we cannot understand. We feel as if we were under the hybrid customs.

4. All the Official lands as well as our Butaka lands were confiscated by the Regents themselves in the first instance when they broke the whole Agreement which had ordered them to allot the land properly, and turned it all in their own private ownership, allotting some to their *friends*. The Commission had however, done nicely, when they ordered to allot the land according the following principle "Chiefs and private land owners shall be given the estates which they have already in their possession" But the said regents turned themselves the allotters and allottees and confiscated practically all our hereditary (Butaka) estates through there being no effective opposition whatever against them as at that time you our Kabaka, the Supreme head of Bataka, who would have defended our interest was in your minority. What resulted from this self allotment was that it spoiled all the land settlement, dispersed the whole country and led to the confiscation of all our Butaka lands, absolutely destroying some clan communities by forfeiting their hereditary estates which even our Kabaka, who even ruled us would never have done. We the losers duly submitted our claims which reached His Majesty's Government of this country but still through influence of the Regents our grievances were not heard at all and by the time Your Highness reached your majority all our Butaka land had been wrongly confirmed to illegitimate owners who had deceived His Majesty's Government. Under these circumstances we humbly beg leave to appeal to Your Highness because our opponents in many cases pretend to be authorised by His Majesty's Government to possess the different Butaka lands of all the various communities on account of their high standing. While on the other hand we find in paragraph 15, of the Buganda Agreement 1900 a ruling term to the effect that every one should be left in possession of the estates he owned then.

5. What resulted further from the said misdistribution of land is the Mailos which should have been given to us the legitimate owners of Butaka were refused and reserved for our opponents children who were then still to be born. To-day one finds that young children who were not yet born at the time when the Mailo distribution took place, are in possession of from six square miles and upwards. This will further make it clear to Your Highness, that the principles laid down in the above mentioned were not adhered to. Or these children would not have managed to possess lands as



they do now, except by the forfeiture of our lands which were subsequently given to them by our opponents. The said Regents responsible for all these illegal actions own now hundreds of square miles in which are included our Butaka lands which they have misappropriated from us, and are prepared to sell to foreigners at any time.

6. Our graves are being removed from their places where they were laid for generations in case the present owner of the land feels inclined to exercise his power which is just like that of a tyrannous conquerer exercises against those whom he has conquered. All our children for whom from time ever immemorial we used to keep our Butaka lands and live happy, are now suffering through this bad attitude which is spoiling all our customs and power on our hereditary lands. Our children are now being sold along with the land as part of it. Whereas we in accordance with our Butaka lands being held communally, possessed our own share of the land in our respective clan and each head of a clan used to treat all his relatives as his children and likewise they in turn called him their father, and nothing of the present landless class ever existed.

7. Your Highness, may be surprised to see that we are complaining considering that those who alienated our estates are our fellow country-men Baganda. We humbly beg to state that, we the Baganda, according to our natural customs though speaking one language, greatly differ in the sense of our clans. Whenever a member of a clan dared to take an estate of an opponent it always meant a quarrel which resulted in fighting and up to the present one finds any amount of traces of these quarrels such as people who used to be killed in such fighting. Each clan used to have direct communication with the Kabaka and he alone had power over all the clans and settled their disputes. To day when we see those who alienated our Butaka estates going so easily without any punishment we cannot help keeping evil thoughts and at the same time feel sure that should Your Highness, not find any means of settling up this question, our ill feelings shall never come to an end, although we shall feel as if we had committed an offence against Your Highness. But we are confident Your Highness, will not condemn us to remain slaves of those who took our lands. What makes us more afraid is the Mailo system which we find being confirmed on who ever holds it permanently unlike

what used to be the case in the former days. In our ancient time when the Kabaka happened to discharge some one from his Butaka estates for some reason or other, the offender used to come and plead his cause before the Lukiko comprising of the Kabaka, the Bataka and chiefs. And after trial of the case the offender would always get his Butaka estates back. We beg therefore to suggest that in these Europeanised days every body should be confirmed in his real Butaka land.

In his book called "*Ebika bya Baganda*" (the clan communities of Baganda) the Katikiro shows all the Clan Butaka estates of each Clan Community as they used to be in Buganda together with their importance, and what we are requesting Your Highness is the restoration of all the said Clan Community in their former positions.

8. In many instances when we have referred to the settlement of our Butaka more especially requesting to act upon the terms of our Agreement of 1900, which set out the distribution of our estates in accordance with paragraph 15 of the said Agreement our opponents have always referred us to the European who authorised the Mailo allotment; we naturally fail to understand their meaning, probably our opponents could explain themselves more fully in the matter.

9. We are quite aware that His Majesty's Government was fully sympathising with us and seeing that our Butaka had been disorganised and taken by those who were not their owners; issued in 1918 a letter from the Land Office, Entebbe bearing No. 4760/793. and dated the 18th of November of the same year, instructing every body to arrange and make lists of his Butaka lands which he forfeited, and subsequently suggested some arrangements by means of exchange or purchase from those who alienated them. We met with great difficulty in this proposition and failed to do anything satisfactory. Many of the poor people whose Butaka lands had been alienated from them did not get any other land that they could manage to exchange or afford to buy.

10. In the letter referred to above there is a paragraph which reads as follows :-

"If we allow this opportunity to pass, it will be difficult to claim later and complain that clan Butaka lands are being disposed of, and that we cannot prevent it." It is true that they are really being sold up to now but because the so called leaders of the country are the people who are interested

in selling and buying all the land on account of their wealth which is derived from us through their salaries and so forth. At the same time the aforesaid leaders being those who alienated our Butaka lands do not want even to hear a single word appertaining on the subject. They merely trample on it. It is for this and other reasons that we are obliged to refer this matter to Your Highness whose high feeling and impartiality has never failed to rich and poor alike and we sincerely trust that Your Highness shall not fail to settle this problem by putting into force our Agreement as it provides for the distribution. Furthermore we beg to remind Your Highness, of our letter dated 18th November 1919 in connection with this Butaka question and which was signed by the following Butaka who then assembled.

Joswa K. Mugema	A. Ndugwa
Y. Walusimbi	L. Namwama
T. Kinkumu	J.M. Kabazi
N. Kyambalango for Kaira	G. Kabamba for Namuguzi
Y. Kweba for Gabunga	S. Nankere
P. Kajubi	A. Kasuja
Lwomwa	S. Kigye
W. Mukasa for Mwanje	Y. Mukasa
S. Sempala	Mbazira
Namuimba	Sewaya
Y. Bude for Kiyaga	S. Kalibala
K. Kintu for Muganga	S. Kaungu
Batulumayo for Sebugwawo	T. Namaba
E. Kasule	T. Nyago for Wampona
S. Mugambe for Kibale	B Nampagi for Kawoya
E. Katwere	A. Baiseneboja for Kayonga
A. Nagaya	T. Lububi
M. Musaja'kawa for Kyemwa.	S. Kagenda
E. Walukaga	E. Masanso Lubyai
D. Luvule	N. Nsazi
N. Walakira	Kaiwa
T. Bwagu	D. Kiza

Fesito Manyangenda.

11. In the above paragraph where it was suggested for us to buy or exchange our Butaka lands, some of us who were fortunate enough in getting some pieces of lands, in other regions which were not their proper clan Butaka lands, tried to exchange or buy them from those who possessed them, but on account of their asking for say three square miles in

exchange for one of our Butaka lands or pay thousands of Rupees, they practically failed to come to a successful business end, wondering evidently why such exorbitant prices were asked for lands on which not a single cent had been spent on further developments or tribally concern them (the sellers) It proves merely cases of profiteering.

12. We humbly beg to assure Your Highness that we are not in any way partisans of dislodging our compatriots from their real lands if they have got any and ultimately acquire them. But every body has his own place of birth whether he be a chief or a common man. Therefore what we request is to put each and every individual back within his old boundaries known up to the present day. This question which we are now representing to Your Highness, has been in existence ever since the coming of Mailos in 1900. There has been no rest in this our country in so far as the land question in concerned. It has besides been the causes of the big cases which are always heard in the Courts of both the Baganda and Europeans and this friction may remain for generations unless Your Highness hears and settle this friction by putting every one within the limits of his boundaries in accordance with the directions of 1900 Agreement.

13. We pray that should this matter receive Your Highness's consideration we would submit that among those who might be appointed to sit and settle up this matter, should include a member from each clan to represent its respective claims but not to appoint only chiefs as those who have abused of their powers and caused so much trouble to Your Highness to put right. in our opinion the present Lukoko composed of the three ministers is doing almost nothing to the interests of the people as a whole, and they are only exercising their power for their personal benefit such as what they did in these instances.

14. Your Highness, may rest assured that in bringing all the foregoing points we do not mean that we are desirous of breaking the Buganda Agreement of 1900 or do away with the Mailo allotment in Buganda, but our request now is the right use of the terms of above Agreement which lays down that we should be given our estates as we had them formerly. Further to that, we beg to request that a research be made through the Land Office, when you will observe how the allotment of our 8000 square miles were distributed, the quantity each individual obtained. Through this suggested method will also allow Your Highness to further understand

how the attitude of self allotment was followed by the said Regents, as well as the allotment to others who had no right whatsoever. We the Bataka to whom the status of the Agreement applies and who should have been given Mailos, on our former estates did not get anything and those who succeeded to get any, just got them in halves. And the sons and daughters of the alltters who did not do any thing for the State, possess lands in greater portion than us whose shares of allotment appeared in the Agreement, and who fought the Battles of Butaleba.

15. Your Highness, the reason which mainly turned all the scheme of land allotment into chaos, is the attitude of the said Regents arrogating to themselves the power of distribution which had been put in the hands of the full Lukiko and allotting the lands as they individually liked contrary to their proper duty as defenders of the status of the said Agreement. But they have failed and have acquired all the best portion of Butaka lands which up to date astonishes each and every one in the whole country. On all these land certificates you will only find three signatures whereas there should have appeared more signatures as those which appeared on the Agreement itself; and we feel confident that had this allotment been passed through all the members of the Lukiko, the numerous members would not have failed to investigate thoroughly into these matters and would never have allowed the Katikiro to individually possess our Kingship market place: Mugwanya to possess Buganga and again Katikiro to own Bussi, and some other places which they illegally own now, spoiling thus some other clans by giving away their tribal lands to other people, and alienate all Kabaka's ancestral estates, which they knew very well that from time ever immemorial had never been alienated by any body else, also to alienate all the ancestral estates of princes and the princesses. This further makes it clear that the three Regents meant to disperse all the clan Butaka lands all over the country, because the estates which were under their control were quite enough or more than enough to cover all their Mailo allotments, besides the method of grading our Butaka estates.

We are certain that had this most unreasonable state of affairs passed through the main Lukiko, it would have never been allowed to exist at all.

We are, Your Highness, the assembled Bataka from all clan communities and who have authorised our names to be attached on this petition as signators of some

Joswa K. Mugema	A. Ndugwa
J. M. Kabazi	S. Kinkumu Kisolo
Z. Semakade for Mukalo	B. Mutasa for Sebukyu
S. Nankere	B. Mutasa
E. Sembuya	Y. Walusimbi
A. Kasuja	A. Kironde for Nsamba
S. W. Mbazira	A. Sebanja
	Y. Mutasingwa
A. Kiwalaga for Mbagwa	D. Muganda for Mukalazi
A. Musawa for Sira Kigye	A. Maseta
L. Namugwanga	M. Musaja'kawa for Kyemwa
Sepiria Mutaka of Bulugu	S. Magangi
K. Mbuga	A. Musisi
Princess Agri Nalinya Teyegala for all Princesses.	
Over 450 names were appended	

Kabaka's Decision.

Kabaka's Office,
Mengo,
15th May, 1922.

To: Jemusi Miti Kabaka'zi, (Chairman Bataka Community)
and Bataka,
Lugala.

After reading and considering your letter addressed to me and dated the 6th February, 1922, in which you set forth your causes of complaint with reference to the distribution of estates, made by the Regents, based upon the Agreement of 1900; and further, after reading the two letters of the Regents dated 18th March, 1922, and 30th March, 1922; in replying on the question of distribution of estates I find as follows:—

2. From the three letters to which I have referred and as a result of the examination of both parties conducted by myself, and from the questions put by each side to the other during the course of a whole week, I find that the main point of the Bataka's complaint and of their appeal to refers to the Regents on the ground, as the Bataka say, that the Regents did not fulfil correctly the provisions of the chief Agreement as set forth in paragraph 15:— (And private landowners will receive the estates of which they are already in possession) and also the provisions of the opening paragraph of the Forest Agreement

1907 which provide as follows:— And whereas it was further agreed that certain chiefs and private landowners should receive the estates of which they were already in possession and the Lukiko should decide the validity of claims).

3. After careful consideration of the above I find that there is truth in what you have placed before me. And the Regents themselves in their letter and in my examination of them admitted that some estates and some Butaka lands were allotted to and were acquired by those who were not in actual possession of them at that time, and also that they themselves left certain of the estates which were in their hands and which were attached to their ranks and took others that were not theirs. And on the other hand if you refer to paragraph 15 of the Agreement reference to which the Regents make in their paragraph 8, which reads— (The Lukiko will be empowered to decide as to the validity of claims) though it is without doubt true that by the Chief Agreement the Lukiko was given the right to distribute, and though the above quoted paragraph gives the Lukiko the right to decide as to the validity of claims yet this does not prevail over the earlier passage which grants to chiefs and other persons the estates in possession of which they then were, and further does not give the Lukiko power to dispossess people of estates then in their possession.

4. With reference to paragraph 6 of the Bataka's letter which speaks of the disinterment of bodies long buried, after consideration of this matter I find that it is true that bodies were disinterred and on this point there is a difference of opinion between the two remaining Regents. It is well known in Buganda custom that the disinterment of bodies constitutes an offence against which remedy is sought by persons interested in the bodies.

5. In Buganda, as is known to you Bataka, there are many kinds of Butaka. There is that known as "Obwobusilya" which constitutes of each clan the source from which the clan originated and which holds the high position. As you will remember in my interogation of the 25th April, 1922. I questioned all the Bataka brought forward by you who represented all the 35 clans that are in existence, and in my interogation it became clear that in the case of the majority of the Butaka *Bwebusolya* the rightful owners were in possession and had received estates by taking land, but that the butaka land was not all occupied up to the extent of its ancient boundaries, for the reason that the allotment granted to the Mutaka concerned was already satisfied. And it was clear that the amount of Butaka land of this sort that was confiscated was very small indeed. The second kind of Butaka land was

that of the Masiga and of this it appears a large portion was confiscated while a portion remained with the clans of its owners.

With reference to the third kind of Butaka it appears that it was swallowed up i.e. that which is called *Obwobwesengeze* for the reason that it was generally in the name of a single individual; also in some cases it was in the hands of the Pagan Deities at their places of worship and those that were in the hands of the Pagan Deities were taken by the Religious bodies. As I have explained above it appears that the most important Butaka, that of Busolya was found in the possession of its owners and they marked out their estates thereon.

6. Further dealing with the question raised by the Bataka in para: 16 of their letter and which the Regents deal with in para: 19 of their earlier letter, i.e. the question of the Kibuga, I have given the most careful attention to this question and have inquired of chiefs and of the Regents themselves, and all assert that it was always in the past under the direct rule of the Kabaka together with the whole of his country. Also that there was never in the Kibuga (capital) a plot held in private ownership by a chief, but that all plots were held officially by Officials (Bitongole). And the Regents told me that the institution of plots held in private ownership in the Kibuga was introduced recently when mailo was introduced. When I understood this I saw that the Kibuga is in need of being put on a proper footing, by being placed in hands of the Kabaka and the Lukiko to consult as to the means necessary to place it on a proper footing.

7. As to the proposal in para: 14 of your letter that a n investigation should be made in the Land Office. I consider that if I wait this there will be endless delay in investigating the allotment to each single individual and also in comparing the records of the Government Land Office and the Lukiko Land Office. And I therefore shall first settle this point of the main ground of your appeal to me, and later send delegates to the Lukiko Land Office to investigate and examine every thing and in this the point will also be investigated of the keeping back of estates for small children, a point which is denied by the Regents as untrue as set forth in para:7 of their second letter.

The request made by the Bataka in para:16 of their letter where they ask for the return of all land into the Kabaka's hands with a view to a fresh distribution by him, I find to be impossible and I am not in favour of its being done, as I consider that it is most calculated to throw into confusion the existing position of Land and of Mailo in the whole Kingdom. (But it is actual Bataka mailo that is to be put right) And since you are all Baganda on either side and since every pure blooded Muganda feels the

significance; of the word "Butaka" and knows its great importance, and further since you are all aware that this is not the first occasion on which the question of Butaka has been urged before the Kabakas of Buganda, and since it is the rule that all Kabakas are bound to give you a hearing:-

It is therefore now decided that it is true that certain Butaka land was confiscated and I therefore order that a Law shall be passed by the Kabaka, the father of the Bataka, together with the Lukiko of Buganda, if approved by His Excellency the Governor, shall be called (The Law to provide for the exchange of Butaka Land in the Kingdom of Buganda). It shall be proved that any land is Butaka land, without question, and the Mutaka who owned it was deprived of it without reason at the time of the Mailo distribution, then the Lukiko shall give him mailo to redeem or in exchange for his Butaka. And in this Law every case and every detail shall be provided for which shall be followed in the case of Butaka Land which is to be exchanged.

9. I have not entered into every point of every letter with a view to explaining each in detail, for though all the letters were long and contained many points they were reduced owing to the results of my interrogation and also by my not considering the reigns of Kabakas, my Predecessors, I have concerned myself only with the period since the introduction of Mailo tenure.

10. Again on the matter referred to me by the Bataka which deals with the Katikiro alone, I have given the matter no attention in this letter, as I find that it has no connexion with the question of Butaka Land. But as it appears in para: 14 of the Regents letter where they ask me to go into this matter separately, I have passed it over.

(SGD) DAUDI CHWA.
Kabaka of Buganda.

No 6902

CHIEF SECRETARY'S OFFICE, ENTEBBE, UGANDA.

11th. July, 1922.

Gentlemen,

I am directed by His Excellency the Governor to inform you that he has received your letter dated 30th. May, 1922.

2. His Excellency has read with interest all the documents in the case which have reached him from time to time, but the statements contained in these documents do not constitute sufficient evidence to enable His Excellency to express any opinion on the points in dispute. His Excellency considers that

the dispute is one which should be settled by the Baganda amongst themselves, under the leadership and guidance of their Kabaka, and does not propose to take any action with a view to obtaining further evidence in the matter until it has been shewn that the Baganda are incapable of settling it among themselves.

3. His Highness the Kabaka has expressed an opinion not unfavourable to your claims, and is now, in consultation with the Lukiko, engaged in drafting a law which he considers will enable your complaints to be satisfactorily adjusted.

4. His Excellency will carefully examine the provisions of the draft law with a view to ascertaining whether it is calculated to have the desired effect.

I have the honour to be,
Gentlemen,
Your obedient servant

The Bataka, Luganda,
Mengo.

ACTING CHIEF SECRETARY.

u.f.s. The Provincial Commissioner,
Buganda, Kampala.

Kabaka's Office
Mengo,
October 26th, 1922.

To Joswa Mugema
Copy to Lukiko Mengo.

In reply to your letter dated 25th October, 1922. As you are aware as everything was set in the Uganda Agreement of 1900. And that every kind of legislation is to be first of all passed through the Lukiko, Native Council, for sanction by the majority of members, and in this case when I placed the drafted law before the Lukiko 91 members rejected it and only 31 accepted it. Therefore I have nothing further to do for you in this matter.

Signed Daudi Chwa
King of Buganda.

The above letter proves further that under the 1900 Treaty our Kabaka's (King) time honoured and immemorial prerogative of being himself an adjudicator in disputes and allotter of unoccupied land has been destroyed, further because our native

kingdoms and its land policy and social economy were inseparably connected with the preservation of our native system of land tenure, and since all these were changed and since the Government failure to comprehend our indigenous social views on the land question, we find the consequences to have led to much misunderstanding and our Native Government, is now falling into pieces, as it was also quoted and proved in the first session of the Legislative Council, which was presided over by Sir, Robert Coryndon, K.C.M.G. the late Governor of Uganda, the extracts of which read as follows.

"The Hon. E. Levis, pointed out that the Lukiko was not more representative of the average native than the Legislative Council itself. This was eminently a case where the natives should be protected from their friends. The Lukiko was a council of large Landowners. Legislation by landowners was generally for landowners."

It should be remembered that, we do not oppose individual tenure, because, to some extent it is to abide, but at the same time we are greatly concerned with the attitude of its general compulsory measure led by subdivision of land to individuals which was taken up without any protective provisions being made accordingly under well defined condition of its holding. Whereas we find that in some other parts where the individual tenure was forced on the native Africans, this was not done without any conditions. As it is set up in *Evans Black and White in South East Africa*, page 141. "The Government with unusual foresight, saw a time rapidly approaching when an increasing number of the natives would be dissatisfied with the old communal occupation (From Basutoland that it is possible to have a people contented, prospering and advancing in material matters under the old customs and tribal rule, page 277) and desire a firm hold on the land they cultivated and occupied, a title more in keeping with new ideas and growing individualism. They therefore made provision by proclamation, that any districts, so desiring could be brought under, and the inhabitants secured in their holding by having them beacons and marked off, and given an individual title on certain conditions, the principal of which were and are.

That the allotment cannot be transferred without the Government's consent.

That land shall not be executable for debt.

If the holder be sentenced for a crime entailing imprisonment for over twelve months the allotment is liable to forfeiture.

No allotment can be sublet, Etc., Etc."

But in Buganda the question is a distant one. People who are totally demoralized through crimes and drunkenness, who under native law and customs, could never be tolerated to lead the des-

tinies of the people on the land, in the present case they are left as they are, because they hold personal titles on the land according to Sir H. H. Johnston's benevolent agreement. To an inestimable degree, a great deal of land is lost to us through legal attachment, and here is the unkindest cut of all for the people to be penalized i. e. losing lands by one man's misdemeanour. The following will illustrate how the land in Buganda is bartered away, and this extract has been culled out of one of the many agreements made by the Indians and their native friends. This in particular, was made by Messrs. Naivji Rula, an Indian merchant of Bujongolo in Singo District. Paragraph 4 of the said agreement read as follows:-

"The money which will be advanced to me for buying cotton, I shall not use them for another work but for the cotton purposes only, and when I use them for other work the firm will sell my Estate" (here Estate means village with some native dwellers)

The attitude followed by the authorities to force this high principle of civilization i. e. to live under individual land tenure is described by General Sir Lugard K.C.M.G. when speaking on Uganda in his book *THE RISE OF OUR EAST AFRICAN EMPIRE*. Mr. H. H. Johnston, I have heard has energetically set himself to promote in Nyasaland the Protectorate under his charge, a system of individual land tenure among the Native. Such personal acquisition of land is unknown among the savage tribes of Africa where the tenure of land is merely tribal. The innovation of which I speak is the promotion of acquisition of land by the individual or family among purely savage tribes. Such a departure is of immense importance; it is impossible to over estimate this value as a factor in the development of the tribes and if Mr. Johnston has to any smallest degree succeeded in inaugurating it in British Central Africa, to him must the credit be due of being the first so far as I know to introduce this great fundamental principle of civilization into savage Africa."

We need not go on explaining these many disabilities connected with the land question in Buganda, but the fact remains that Imperial attention is courted once more to put these things right.

Mr. C. J. Graham one of the oldest residents in Uganda expressed his views in the article to the *East African Leader* dated 26. 6. 21.

"Native peasant has to pay to the native landlord on whose land he resides, as according to the Sir Harry H. Johnston's "benevolent" agreement all the land in the Kingdom of Uganda was vested in a few of the native aristocrats and

thus the native peasant became a mere serf. This agreement needless to say is one of the greatest injustices ever imposed on a native community in Africa."

As a means of establishing a permanent peaceful settlement we would suggest the following conditions:

(1) Natives desiring to cut off themselves from the communal lands should exhibit sufficient means to develop the land in accordance with the laws which may be in force.

(2) Holding should be only sufficient for the reasonable support of a man and his family.

(3) All the tribal lands should be held by the heads of clan communities and in trust for respective clan members.

(4) All the lands which were known as belonging to or were the property of the Office, should be returned to that Office.

(5) Grants out of the Native Crown lands must be a lease in perpetuity, carrying certain obligations on the holder.

6. Only natives should be the legal holders of lands.

7. Restoration of the power of our Kabaka of allotting the unoccupied lands.

8. Native laws and customs on the land to be maintained and recognized by the over ruling power.

(9) The rights of the Bataka both in receiving percentage of the taxes and that of being equally entrusted with the general governance of the country, should be restored to them.