

Memo

To: Dr. John Bruce; Counselor Boakai Kanneh
From: Caleb Stevens, Esq.
CC: Dr. Jeanette Carter
Date: 1/20/2011
Re: Pricing Public Land as a Percentage of the Market Price for Land

I. Questions

- a. When were the current prices for public land first enacted into law?
- b. What was the market price for land at the time the current prices for public land were first enacted into law?

II. Short Answers

- a. The current prices for public land were first enacted in the Liberian Code of Laws of 1956. Prior to that year, the same price values were included in predecessor public lands laws, but they were listed as *minimum* prices for public land not sold at public auction.
- b. In 1956, when the current prices were first changed from minimum values to mandatory ones, the warranty deeds reviewed indicate that the average market price of land was US\$45.57 per acre. This figure is based on only four warranty deeds from 1956, two of which are for parcels in Monrovia and all of which are for Montserrado County. A comprehensive review of warranty deeds held in the Ministry of Foreign Affairs Archive will require a formal request from Chairman Brandy to the Minister of Foreign Affairs.

III. Analysis

The end goal of this research was to determine the feasibility of making the price of public land a percentage of the current market price for land. It was hoped that the price of

public land, as a percentage of the market price, that was originally intended could be discerned by finding the year when the current public land prices were first enacted and then examining warranty deeds from that year. For the reasons given below this seems to be an unfruitful approach.

a. Public Land Prices: From Minimum to Mandatory

The current public land prices have remained unchanged since 1956. Section 31 of the 1956 Public Lands Law, which is identical to the same section in the current Public Lands Law,¹ provides:

Except marshy, rocky, or barren land, which may be sold to the highest bidder, public land shall be sold at the following prices:

Land lying on the margin of a river. One dollar per acre
Land lying in the interior Fifty cents per acre
Town lots Thirty dollars per lot²

The law preceding the 1956 Public Lands that stipulated public land prices was the 1904 Public Lands Law, enacted in 1929. Between 1929 and 1956 no additional laws stipulating public land prices were enacted. As will be shown below, the price values in the 1904 Public Lands Law are identical to those found in the 1956 Public Lands Law. However, in the latter they are stated as mandatory prices and in the former they are listed as minimum prices for public land not sold at public auction.

It is important to note that within Section 31 there is a prior legislation notation, which reads: “OBB 133, Public Domain, art. VI, sec. 3.”³ One would suppose that this notation references the most recent prior law stipulating public land prices. It does not.

There were four compilations of Liberian statutory law prior to 1973. These were: (1) the Statute Laws of the Republic of Liberia, printed in 1857 (“Statute Laws of 1857”); (2) the Statute Laws of the Republic of Liberia, printed in 1879 (“Statute Laws of 1879”); (3) the Revised Statutes of the Republic of Liberia, compiled in 1911 and enacted in 1929 (“Revised Statutes”); and (4) the Liberian Code of Laws of 1956.⁴ The Statute Laws of 1857 and 1879 are referred to

¹ Section 31 of the current Public Lands Law provides, “Except marshy, rocky, or barren land, which may be sold to the highest bidder, public land shall be sold at the following prices: Land lying on the margin of a river...One dollar per acre; Land lying in the interior...Fifty cents per acre; Town lots....Thirty dollars per lot.” Public Lands Law, Title 34, Section 31 (Liberian Codes Revised).

² Public Lands Law, Title 32, Section 31 (Liberian Code of Laws of 1956).

³ *Id.*

⁴ Robert H. Culp, *Sources of Liberian Law*, 2 Liberian Law Journal 130, 134 (1966) (“Prior to 1956, there had been two compilations of Liberian laws: the Statute Laws printed in 1856 and 1879 (known as the Old Blue Book) and the Revised Statutes compiled in 1911 and adopted in 1929.”). Culp writes that the first Statute Laws was printed in 1856 but this is inconsistent with the digitized copy on Cornell University Library’s website, which plainly states on the cover page: “Liberian Statutes 1847 – 1857.”

collectively as the Old Blue Book, abbreviated OBB.⁵ It is this compilation to which the prior legislation notation refers. The problem is that the notation appears to be a mistake.

The only Public Domain Law I have found thus far begins on page 133 of the Statute Laws of 1857.⁶ It thus would appear consistent with the “OBB 133” part of the notation because it is found within the Old Blue Book and begins on page 133. However, this law is referenced as Article I, not VI, there is no Section 3, and it does not even mention public lands let alone the prices of public lands.⁷ The long title is, “An Act Establishing the Boundaries of the Republic of Counties, and Regulating Towns and Villages.”⁸ The law is concerned with demarcating Liberia’s territorial boundaries.⁹

So what explains the discrepancy? Perhaps the drafters of the 1956 Public Lands Law confused An Act Regulating the Sale of Public Lands of 1850 (“1850 Act”) with the Public Domain Law of 1847. The 1850 Act is found in the Statute Laws of 1857, otherwise known as the OBB, it is referenced as Article VI, and Section 3 concerns the price of public land.¹⁰ However, the 1850 Act begins on page 139, not 133. It would thus appear to match the above prior legislation notation except for the page number and title. The drafters of the 1956 Public Lands Law may have simply erred in citing the Public Domains Law rather than the 1850 Act.

With respect to the price of public land, the 1850 Act provided for an auction system.¹¹ The procedure for the purchase of public land was as follows: A citizen wanting to buy public land would notify the Land Commissioner; the Land Commissioner would order a survey of the sought after parcel at the expense of the government; the parcel would then be offered at public auction, where presumably the citizen who initiated this process risked entering a losing bid; the purchaser, presumably the person who bid the highest price at the public auction, would receive a certificate and upon payment of the purchase price to the government receive a deed.¹² If the parcel was not sold at public auction the Land Commissioner was permitted to effect a private sale so long as the parcel was not sold below the specified minimum prices for public land.¹³ The provision on the minimum public land prices states:

The *minimum* prices of land lying on the margin of rivers, shall be one acre, and those lying in the interior of the lands on the rivers Fifty cents. Town lots each shall be Thirty

⁵ *Id.*

⁶ Public Domain Law 1847-1857, art. 1, p. 133 (Statute Laws of the Republic of Liberia 1857). This is almost certainly the Public Domain Law of 1847 referenced by Liz Wily on page 106 of her study, *So Who Owns the Forest*.

⁷ Public Domain Law 1847-1857, art. 1, p. 133 (Statute Laws of the Republic of Liberia 1857).

⁸ *Id.*

⁹ *Id.* at 133-34.

¹⁰ An Act Regulating the Sale of Public Lands, art. VI, p. 139 (Statute Laws of the Republic of Liberia 1857).

¹¹ *Id.* at Sections 1-3.

¹² *Id.*

¹³ *Id.* at Section 3.

dollars, except marshy, rocky and barren lots and plots of land which may be sold to the highest bidder.¹⁴

As one can see, the price values in the 1850 Act are the same as those in the 1956 Public Lands Law and the current Public Lands Law. The crucial difference is that the price values are minimums for land not sold at public auction and not mandatory prices for all public land sales.

Another possibility is that the prior legislation notation in Section 31 of the 1956 Public Lands Law references the Statute Laws of 1879, which, as previously mentioned, is also referred to as the OBB. I have not yet been able to locate a copy of the Statute Laws of 1879, so I do not know for sure if this is the case. Regardless, the next question is why the prior legislation notation referenced the OBB at all when there was a more recent public lands law enacted in 1929.

The 1904 Public Lands Law was included in the Revised Statutes compiled in 1911 and enacted in 1929. Section 1285 of the 1904 Public Lands Law repeats the same minimum prices for public land not sold at public auction:

[T]he *minimum* price of land lying on the margin of rivers shall be one dollar an acre, and those lying in the interior of the lands on the rivers shall be fifty cents per acre, and town lots shall be thirty dollars each, except marshy, rocky, and barren lots, which may be sold to the highest bidder.¹⁵

It would seem that the prior legislation notation in Section 31 of the 1956 Public Lands Law should have referenced the 1904 Public Lands Law. Indeed, other sections of the 1956 Public Lands Law referenced the Revised Statutes in prior legislation notations.¹⁶ Moreover, Section 1285 of the Revised Statutes is included in the list of repealed prior laws provided in the last chapter.¹⁷

Finally, it is interesting to note that in the Liberian Supreme Court case of *Harmon v. Taylor* (1944), Justice Grimes in his dissenting opinion relied on this, now familiar, statutory language:

All lands surveyed and offered at auction and not sold may be sold by the Land Commissioner at private sale, payment to be made the same as land sold at auction, provided it is not sold below the minimum prices of land. The minimum prices [sic] of land lying on the margin of rivers, shall be one dollar an acre, and those lying in the interior of the lands on the rivers Fifty cents. Town lots each shall be Thirty dollars,

¹⁴ *Id.* at Section 3 (emphasis added).

¹⁵ Public lands, Chapter LXI, p. 155, Section 1285 (Revised Statutes of the Republic of Liberia 1848-1911, 1929).

¹⁶ See for example the prior legislation notations for Sections 1, 3, 5, 11, 13, 14, 30, 32, 50, 51, 52, 53, and 110 of the 1956 Public Lands Law.

¹⁷ Public Lands Law, Title 32, ch. 8, p. 1195 (Liberian Code of Laws of 1956).

except marshy, rocky and barren lots and plots of land which may be sold to the highest bidder.¹⁸

The citation in support of this quotation is “Article VI of the Public Domain Act, Old Blue Book, 140, §§ 3, 4.”¹⁹ Curiously, Justice Grimes’ 1944 dissent treats this citation as if it is current law, ignoring the 1904 Public Lands Law enacted in 1929.²⁰ In neither the majority opinion nor Justice Grimes’ dissent is the 1904 Public Lands Law cited.²¹ Thus, the *Harmon* opinion is another piece of evidence, in addition to the prior legislation notation in Section 31 of the 1956 Public Lands Law, which I cannot explain until I obtain access to the Statute Laws of 1879. However, it does not change the fact that from 1929 to 1956 the public land prices were amended to make minimum prices mandatory ones.

Having established that the public land prices were altered from minimum prices in the 1904 Public Lands Law, enacted in 1929, to the current mandatory prices in the 1956 Public Lands Law, the next section will address the market price of land in 1956.

b. The Market Price of Land in 1956

The below table shows the results of my review of warranty deeds from 1956. Based on a review of four warranty deeds, the average price of land in 1956 was \$45.57 per acre. I found only four warranty deeds because the review was stopped after a short time by the Director of the Ministry of Foreign Affairs Archives, which currently has the largest collection of warranty deeds. He informed me that if I want to continue my review Chairman Brandy must send a letter to the Minister of Foreign Affairs.

This does not seem worthwhile because as the below table suggests, it is likely that most, if not all, of the warranty deeds in the Archive will be for parcels in Montserrado County. This would not provide an accurate picture of the market for land throughout Liberia. Indeed, it seems there has not really ever been a market for land outside the littoral counties. Moreover, even if more warranty deeds are found each transaction is unique with enough variables that no meaningful aggregate data could be derived from them.

IV. Conclusion

The current prices for public land were first enacted in the Liberian Code of Laws of 1956. Prior to that year, the same price values were included in the 1904 Public Lands Law, enacted in 1929, but they were listed as *minimum* prices for public land not sold at public auction. In 1956, when the current prices were first changed from minimum values to mandatory

¹⁸ *Harmon v. Taylor*, 8 Liberia Law Reports 416, 434 (1944) (Grimes, J., dissenting) (original emphasis omitted) (quoting Public Domain Act, Art. VI, p. 140, §§ 3, 4).

¹⁹ *Id.* at 435.

²⁰ *Id.* at 434.

²¹ *Id.* at 416-43.

ones, the evidence reviewed indicates that the average market price of land was US\$45.57 per acre. This is based on only four warranty deeds from 1956, all of which were for parcels in Montserrado County. A review of more warranty deeds held in the Ministry of Foreign Affairs Archive will require a letter from Chairman Brandy to the Minister of Foreign Affairs.

Warranty Deeds from 1956 (all prices in US dollars)					
	Date	County	Acreage/No. of Lots	Purchase Price ²²	Price Per Acre/Price Per Lot
	Feb. 20, 1956	Montserrado	10 acres	\$230	\$23 per acre
	Sept. 6, 1956	Monrovia, Montserrado	1/8 acre or 1/2 lot	\$400	\$3200 per acre or \$800 per lot
	Aug. 15, 1956	Monrovia, Montserrado	1/4 acre	\$600	\$2400 per acre
	1956	Montserrado	100 acres	\$3,800	\$38 per acre
Average Purchase Price				\$1,258	
Average Price Per Acre					\$45.57 per acre

²² The warranty deeds do not expressly state that the purchase price shall be in US dollars, but US dollars were the “recognized local currency” in 1956. *See National Port Authority v. Massaquoi*, 38 Liberian Law Reports 195, 197 (1995) (holding that in the absence of agreement to the contrary, payment under a contract shall be in “the recognized local currency then prevailing.”).