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PUBLIC RECORD OFFICE

CONTINUED FROM FILM PREVIOUS

is wrong in his belief that it is unusual to best the determination of water rights in an individual. As will be observed from Chapter 11 of the enclosed pamphlet on "Modern Water Regulation".

- (1) In British Columbia the duty is entrusted to the Comptroller of Water Rights with right of appeal to the Minister of Lands.
- (2) In Alberta and other Prairie Provinces of Canada the duty rests with the Minister of Public Works.
- (3) In New South Wales, Victoria, Queensland and Italy with the Minister of Public Works.
- (4) In Western Australia with the Minister of Water Supply, Sewerage and Drainage and in certain cases with the Governor.
- (5) In New Zealand with the Minister of Public Works in some cases.
- (6) In Spain with the Governor of the Province with right of appeal to the Minister of Public Works.

10. I wish to emphasize here that I do not contend that it is best that the right to issue water licenses should be left to rest in such an unrestricted manner with an individual. In fact provision for the establishment of a Water Board (as advocated by Mr. Lewis) is embodied in the Draft Water Bill, 1922 which I have referred to above. What I do contend is that the procedure which was inaugurated in 1922 and has since been the best under the

financial circumstances which prevailed during the last few years. It has enabled development to proceed rapidly; there has been no litigation; and in very few cases has any marked dissatisfaction been expressed; while the record of water rights has been adequate though not by any means the best. The only alternatives which presented themselves after the reduction of staff in 1922 were either the entire abolition of State Control or the adoption of a system of local control which would have been most unsatisfactory. The abolition of State Control would have necessitated the repeal of certain sections of Crown Land Ordinance 1915. It would have retarded development and caused many landholders to divert water at the expense of their neighbours. It would have created enmities between neighbours for there is no single matter which gives rise to so much unfriendliness between farmers as uncontrolled water disputes. After these preliminary observations in defence of the action taken in 1922, I will now proceed to make some general observations on the more important points in Chapter 11 other than those which I have just dealt with.

Chapter XIV Part I

11. Mr. Lewis devotes 20 pages to an explanation of English Common Law in relation to

Suitable procedure is afforded for the taking of such lands as may be necessary for the construction of works. The applicant is held down to a definite time within which he must commence construction and bring the works to completion. The time given for the completion of works is usually liberal but can only be extended if the applicant satisfies the Comptroller by statutory declaration that he has done so and has actually continued the work in good faith and has been prevented by forces beyond his control from completing it and making beneficial use of the water. When the applicant makes his declaration of completion of the works supported by the declaration of at least one credible witness, the Comptroller either in person or through one of his engineering staff makes an inspection and if he finds everything satisfactory a final licence or water patent is issued, giving a right to the amount to which beneficial use has been made of the water and no more.

In the other jurisdiction, I think is the same amount of publicity required of intending applicants for water rights as in British Columbia. This may in some cases and for the time being work slight hardship upon certain applicants; but it satisfies the public and works for good administration and in consequence there is no such thing as getting away with a water licence in the dark in British Columbia. As already shown, the tendency of recent acts has been to lessen somewhat the amount of advertising required of the intending applicants.

Suitable procedure is afforded for the taking of such lands as may be necessary for the construction of works. The applicant is held down to a definite time within which he must commence construction and bring the works to completion. The time for the completion of works is usually liberal but can only be extended if the applicant satisfies the Comptroller by statutory declaration that he has begun and diligently continued the work in good faith and has been prevented by causes beyond his control from completing and making beneficial use of the water. When the applicant makes his declaration of completion of the works (supported by the declaration of at least one credible witness) the Comptroller either in person or through one of his assistants makes an inspection and if he finds everything satisfactory a final license or water patent is issued, giving a right to the extent to which beneficial use has been made of the water and no more.

In no other jurisdiction, I think, is the same amount of publicity required of intending applicants for water rights as in British Columbia. This may in some cases and for the time being work slight hardship upon certain applicants; but it satisfies the public and makes for good administration and in consequence there is no such thing as getting away with a water licence in the Dominion of British Columbia. As already shown, the tendency resulting from the best to lessen somewhat the amount of advertising required of the smaller applicants." (4)

1926

E. AFRICA
W. AFRICA
DOMINIONS

818

X. 6450

13 AUG 1926

DATE

17th August, 1926.

FROM SAVILE,
London E.

POPULATION OF AFRICA.

Requests information as to

From U.S. of S.

From U.S. of S.

Secretary of State

Presidential Paper

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Room 1

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Subsequent Paper

See 111 787 726 E

(a)

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~~C. P. Jeff~~
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W. D. Stone, H. Allen, 26/8/11

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27

P. 10

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GOODMAN,

KILMARNOCK, N. B.

Sept. 5^E 1926.

Dear Sir,

I beg to thank you
most cordially for all
the trouble that you ^{have}
taken in order to furnish
me with the information
about the White and Black

820

GOODHAM,

KILMARNOCK, N. B.

Sept. 5th 1926

Dear Sir,

I beg to thank you for
most cordially for all
the trouble that you have
taken in order to furnish
me with the information
about the White and Black

820

water rights and arrives at the conclusion that it is unsuitable for the conditions which prevail in Kenya. I agree entirely with his conclusion and have already embodied my opinion of the unsuitability of the Common Law in the pamphlet which I enclose. Mr Lewis then proceeds to discuss on the following page the provisions of Crown Land Ordinance 1902 regarding water and of the Rules of 1903 and 1909. Probably quite correctly he arrives at the opinion that both Sets of Rules were ultra vires on account of their not having been based on legislative authority, covering them. As I have already stated I do not agree with his interpretation of Section 3 of Crown Land Ordinance 1902, namely that it is merely declaratory of Common Law. I do not propose in these general comments to enter into the reasons for agreement with the interpretation given in Judge Barth's judgment in the Case *Bonker v. Secretary of State*, which accords with the views of the late Attorney General (Mr Lyall Grant) and Solicitor General (Mr Forster) and my disagreement with the interpretation by Judge Pickering in the Case *Washam Jamal v. Pantaf Singh*. I may say however that I think it possible that Mr Lewis' argument may be to some extent influenced by his association with Roman-Dutch Law which was the basic law of much of South Africa, on which

the Act of 1912 was founded (vide Modern Water Legislation page 66). I do not, of course, contend that the ordinary right of Common Law were modified materially by Crown Land Ordinance 1902 and in respect of freehold land (including that in the coastal belt) the Common Law was probably in no way altered.

12. Mr Lewis' interpretation of the Sections of Crown Land Ordinance 1905 relating to water and of the Water Permit Rules 1919 as given on pages 132 to 136 of his report are, I think, substantially correct. I have already made some general comment on the administration of existing law and will therefore make no further reference to the details of pages 137 to 144 where Mr Lewis deal with that subject. If all the details were to be commented on, his letter would become most voluminous.

Chapter VII Part II

14. The first 12 paragraphs of this part are devoted to an explanation of certain principles of water law and of the difficulty of framing a law to embody them as to Peene Water Factory administration. He refers especially to the unsuitability of such rigid and detailed establishment of principles (or "formulae") that the quantitative determination of water rights could properly rest with a court. In other words he regards water courts on the lines of the Water Act of 1912

X.6450/26.

Sir,

In reply to your letter of the 17th of August I am directed by Mr. Secretary Amery to enclose the accompanying tables showing the total population of the Continent of Africa according to the latest census or estimates. The statistics relating to the British Dominions, Colonies, etc., have been obtained from official sources while those in respect of non-British territory have been taken from various unofficial publications. In the latter case it has not been found possible to supply complete figures as to the white population.

2. It will be seen that the total population of Africa, according to these tables, is 127,715,530, although the estimate given in the current issue of Whitaker's Almanac amounts to 143,000,000. As, however, this latter total, includes the population of

Madagascar

THE REV. S. GORDON SAVILE.

populations of Africa

Being a very good house correct in our statements

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a request 7 over 812 of order to thank you

very truly yours S. Gordon Savile

very truly yours S. Gordon Savile

September 1928

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Sir,

In reply to your letter of the 17th of August I am directed by Mr. Secretary Amery to enclose the accompanying tables showing the total population of the Continent of Africa according to the latest census or estimates. The statistics relating to the British Dominions, Colonies, etc., have been obtained from official sources while those in respect of non-British territory have been taken from various unofficial publications. In the latter case it has not been possible to supply complete figures as to the white population.

2. It will be seen that the total population of Africa, according to these tables, is 127,715,500, although the estimate given in the current issue of Whitaker's Almanac amounts to 143,000,000. As, however, this latter total, includes the population of Madagascar

THE REV. E. GORDON SAVILE.

populations of Africa.

As our likes to be

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 Yours truly,
 E. Gordon Savile

today year, amounting to 3,153,500 the discrepancy
between the figures in respect of the mainland
given in the accompanying tables and Whitaker's
Almanac is 12,130,990.

I am,

Sir,

Your obedient servant,

(Signed) W. C. BOTTOMLEY.

agascar, amounts to 3,153,500 the discrepancy
between the figures in respect of the mainland
in the accompanying tables and Whitaker's
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I am,

Sir,

Your obedient servant,

(Signed) W. C. BOTTOMLEY.

Mr. Allen 2/9
29/9

X 6450

C.A.
W.A.
Cons.

Mr. E. J. Harding.

Mr. Strachey.

Sir J. Shackburgh.

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Mr. of Harcourt.

Mr. Amery.

C. D.
R 3 SEP
D 2nd Ser.

3 Series, 1926.

DRAFT.

Rev. G.

Garden Square.

In reply to your ltr. of the 17th. of Aug. I am etc.

to enclose the acc. tables showing the total population of the Continent of Africa according to the latest census or estimates. The statistics relating to the British Colonies, etc. have been obtained from official sources while those in respect of non-British territory have been taken from various unofficial publications. In the latter

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It ~~has~~ ^{has} been ~~found to point out~~ that ~~the~~ ^{white} population

the total population of Africa, according to these tables, is

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Wheeler's Almanac amounts to 143,000,000. ^{these} ^{figures} ~~this~~ total

~~however~~, includes the population of Madagascar, amounting to 3,153,500

the discrepancy between the figures ^{in respect of the mainland} given in the accompanying tables and ~~Wheeler's~~ ^{Wheeler's} estimate is ~~about~~ 12,130,980.

9 and etc.

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figures as to the whole
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The total population of Africa,
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^{Altho' the} 127,913,820, of estimate given
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Whitaker's Almanac amounts
to 143,000,000 ^{less 600,000} this total,

~~however~~, includes the
population of Madagascar,
amounting to 3,153,500 ~~more~~

The discrepancy between the
figures given in the accompanying
tables and ^{in respect of the mainland} ~~Whitaker's~~ ~~Almanac~~ ^{the total given in} ~~Whitaker's~~ ~~Almanac~~
is ~~that~~ 12,130,980.

I am etc.

LIBRARY,

25th. August, 1926.

Mr. Seel,

The accompanying tables give the total population of Africa according to the latest census or estimate.

The statistics relating to Dominions, Colonies etc. have been obtained from official sources; those for foreign possessions etc. from various publications.

It will be seen that the total population of Africa as ascertained by Library is ^{117,783,370} ~~117,783,370~~, but an estimate given in the current issue of Whitaker's Almanac amounts to 143,000,000, this total however, includes the population of Madagascar, amounting to 3,163,500. The discrepancy between the accompanying figures and Whitaker's estimate is thus ^{25,216,630} ~~25,216,630~~.

It will also be noted that it has been found impossible to supply figures of the white population of certain parts of Africa under foreign control.

C. Mitchell
25.8.26

POPULATION OF BRITISH TERRITORY

IN AFRICA.

	Coloured & Natives.	Whites.	Total.
Union of South Africa:- Transvaal Orange Free State Cape of Good Hope Natal	5,653,453	1,610,774	7,264,227
South Africa:- Basutoland	497,178	1,603	498,781.
Bechuanaland	151,240	1,743	152,983.
Swaziland	116,746	2,205	118,951.
Southern Rhodesia	865,567	33,620	899,187.
South-West Africa	288,307	19,432	307,739.
Kenya Colony & Protectorate	2,595,507	11,002	2,606,509.
Northern Rhodesia	1,100,000	4,132	1,104,132.
Nyasaland Protectorate	1,211,013	1,462	1,212,475.
Somaliland Protectorate	346,982	46	346,998.
Tanganyika Territory	4,319,000	2,447	4,321,447.
Zanzibar Protectorate	3,143,998	1,451	3,145,449.
Gambia	216,475	314	216,789.
Gambia	211,642	218	211,860.
Gold Coast:- Northern Territories Ashanti Togoland	2,297,557	2,404	2,299,961.
Nigeria:- Cameroons Southern and North- ern Provinces.	18,900,391	4,000	18,904,391.
Sierra Leone	1,540,150	1,161	1,541,311.
Sudan	5,987,500	3,500	5,991,000.
Egypt	13,651,529	148,471	13,799,999.

POPULATION OF FOREIGN TERRITORIES

IN AFRICA.

Algeria (French)	5,014,657	791,433	5,806,090.
Tunis "	1,889,589	204,551	2,093,940.
Morocco "	5,317,745	162,255	5,480,000.
West Africa "	12,273,566	9,650	12,283,216.
Equatorial Africa "	2,847,936	1,932	2,849,868.
Cameroons "	2,767,230	2,770	2,770,000.
Somaliland "	64,458	336	64,794.
Congo (Belgian)	6,558,374	10,037	6,568,411.

Total, Carried Forward

~~14,946,161~~ ~~3,037,499~~ ~~18,000,000~~
 14,946,161 3,037,499 18,000,000

POPULATION OF FOREIGN TERRITORIES

IN AFRICA.

Continued.

	Coloured & Natives.	Whites.	Total.
	99,986,161	3,035,499	103,021,660
<u>Brought Forward</u>	99,986,161	3,035,499	103,021,660

Libya (Italian)	Only estimated figures available; no details as to race.		960,000.
Eritrea "			392,180.
Somaland "			450,000.
Guinea (Portuguese) "			290,000.
Angola "			5,000,000.
Mozambique "			3,500,000.
North Africa (Spanish) "			182,536.
Morocco "			774,600.
Guinea "			165,144.
Abyssinia "			11,000,000.
Liberia "			2,000,000.

GRAND TOTAL

	99,986,161	3,035,499	103,021,660
	99,986,161	3,035,499	103,021,660

of South Africa or unsuitable for Kenya. I do not think there is any country whose Courts determine water rights except South Africa and Southern Rhodesia I fear that the method would be unsuitable for Kenya.

14 In paragraph 197 he reiterates the defects of common law and refers in the ensuing paragraph to "American practice". Although his remarks may convey a correct impression regarding the procedure in some of the States American States for water law varies greatly in the different States, they are in my opinion liable to give a false opinion of American practice in general, especially in the Western States. I have given a summary of the water law of Wyoming in pages 44 to 51 of the pamphlet which I enclose and will not refer further to the subject here as it has no great bearing on the recommendations of Mr Lewis' report.

15 In the last ten pages of the Report we find some definite recommendations of a general character and it is necessary in consequence to examine these pages more closely. I note with surprise that Mr Lewis has not even referred to the Draft Water Bill of 1922, a copy of which was handed to him and which might have been regarded as representing in detail the considered policy of Government technical advisers. (When

- 8
- 1. black & coloured folk including Asiatics throughout the whole continent
 - 2. white folk.

I realise how difficult it is to appreciate the dim millions of the interior, but I'd be obliged if you wd let me have even a conjectural

ratio between

black & white

Yours faithfully

J. Gordon Savile

Canon

- 8
1. black & colored folk including creoles throughout the whole continent
 2. white folk.

I realize how difficult it is to appreciate the diverse millions of the interior, but I can be obliged if you will let me have even a conjectural

no between

black & white

Yours faithfully

F Gordon Swiler

Canon

Aug. 17th 1926

X. 6450

18 AUG 1926

Dear Sir

I have to write

paper upon the Problems of
 Africa and should be
 grateful if you would tell
 me the approximate number

Aug 17th 1926

X. 6450

18 AUG 1926

Dear Sir,

I have

paper upon the Problems of
 Africa and should be
 grateful if you would let
 me the approximate number