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# **COLLECTORS OF LAND REVENUE:**

**A comparative study of their powers and duties  
in the states of Selangor, Melaka and Johor.**

First and foremost, I am greatly indebted to my former colleagues and staff in the Kuala Selangor Land Office who have, beyond their call of duty, given every assistance in my research. My thanks are also due to the District Officers of Kuala Selangor, Kuala and Johor Bahru, for having kindly given the permission to attach myself, unofficially, to their Land Offices, inspect their files and records and interview their Senior Assistant District Officers.

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**Khalid bin Husin  
B.A (Malaya), 1969**

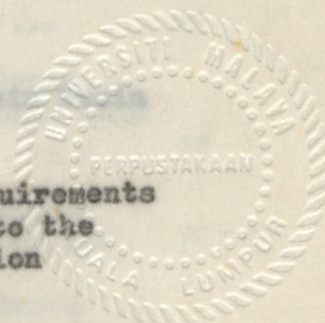
Last but not least, is my utmost gratitude to Rache Win A. Nephid of the Faculty of Economics and Administration, University of Malaya, for his valuable comments, criticism and guidance towards the completion of this Project Paper.

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Jabatan Pendaftaran Tanah,  
Kuala Lumpur.

Khalid bin Husin

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1. A.C.L.R. 'G' : Typical Example of Director of Lands and Mines' Circular, Johor. \*\*\*

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2. A.D.G. Bibliography Assistant District Officer 80

3. C.L.N. - Commissioner of Lands and Mines (now renamed Director of Lands and Mines; in Bahasa Malaysia the equivalent initial is P.T.G.)

4. D.O. - District Officer

5. Exco - State Executive Council

6. G.N. - Gazette Notification

7. T.O.L. - Temporary Occupation Licence



## Abbreviations

1. A.C.L.R. = Assistant Collector of Land Revenue
2. A.D.O. = Assistant District Officer
3. C.L.M. = Commissioner of Lands and Mines (now renamed Director of Lands and Mines; in Bahasa Malaysia the equivalent initial is P.T.G.)
4. D.O. = District Officer
5. Exco. = State Executive Council
6. G.N. = Gazette Notification
7. T.O.L. = Temporary Occupation Licence

The Collector of Land Revenue in each district, is the same person as the District Officer. However due to the pressure of work, much of his function is delegated to the senior A.D.O. who is designated as Assistant Collector of Land Revenue<sup>1</sup>. The former only determines broad policy and procedure. It is only logical for

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1. Other A.D.O.s are also designated as Assistant Collector of Land Revenue but only for the purpose of signing documents and dealings on land.



## CHAPTER I

### OBJECTIVE, SCOPE AND METHODOLOGY OF RESEARCH

The term "Collector of Land Revenue" does not invoke any definite impression to the public at large. To the man in the street and in the kampong, he is simply the A.D.O. (Assistant District Officer). Only in official circles and those in professional contacts with him that the term "Collector" means the land administrator running the Land Office in each district of a state. To them only is known that the Collector of Land Revenue does not mean the A.D.O. of the popular fallacy but the District Officer himself.

#### Problem Identification:

The Collector of Land Revenue in most districts, is the same person as the District Officer. However due to the pressure of work, much of his function is delegated to the senior A.D.O. who is designated as Assistant Collector of Land Revenue<sup>1</sup>. The former only determine broad policy and procedure. It is only logical for

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1. Other A.D.Os are also designated as Assistant Collector of Land Revenue but only for the purpose of signing documents and dealings on land.



the District Officer to do it this way. Being the operative on the ground administering the district on behalf of the state government, the extent of his duties is proverbial.<sup>2</sup>

On the other hand, such rationalization does not seem to prevail in the State Authority in whose jurisdiction land, among other things, is vested in. While there has been delegation of power from the State Authority to the Collector of Land Revenue from time to time, it seemed to have been done in an ad hoc manner rather than a formal planned delegation.

The State Authority, which in effect means the State Executive Council (the Ruler/Governor being only constitutional figure-head) is in a very powerful position. Exercising all executive authority of the state in the name of the Ruler/Governor, and being the top leaders of the party in power in the state, the Executive Council is in fact the State Authority. But because the members of the Executive Council are local politicians who have had very little experience in administration, and that there is a tendency to politicize the decision-making function of the

- 
2. The District Officer is Chairman of the Town Board, District Rural Development Committee and head of over a dozen formal Committees, as well as social and religious organizations.



government<sup>3</sup>, they have been blinded to the necessity for a rational downward allocation of the decision-making power in their hands.

Although section 13 of the National Land Code, 1965, does provide the legal basis for the State Authority to delegate its power to the "State Commissioner.... the Registrar, or to any Collector or other officer....."<sup>4</sup> it has been taken in an entirely different spirit. Instead of using it to withdraw any delegated authority or power from any officer suspected of abusing or incapable of exercising such power properly, as the provision intended, and to develop a greater feeling of responsibility on the part of the Executive Council, it has been taken as the opportunity not to delegate such powers. The result has been the over-concentration of authority in land administration in the State Authority rather than its deconcentration to the operating units on the ground in the interest of effectiveness and inefficiency.

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3. As suggested by Lucian W. Pye in "The Political Context of National Administration" article in Development Administration: Concepts and Problems edited by Irving Swordlow, Syracuse University Press 1963; and Fred W. Riggs in Administration in Developing Countries : The Theory of Prismatic Society, Houghton Mifflin Co., 1964. Quoted by Kamaruddin A. Rani "Land Administration in West Malaysia", Graduate School of Public and International Affairs, University of Pittsburgh, unpublished MPA thesis, 1969, pp.70-71.

4. Malaysia, National Land Code, 1965, section 13. Johor, 1969 : Johor Bahru, 1969.



It is for this reason that a congestion of decision-making and considerable delay in land administration resulted in almost every Land Office in the country.

Objective of the paper:

The objective of this paper, therefore, is to make a comparative study of the extent and the rationale of the delegation of power by the State Authority to the Collector of Land Revenue in the states of Selangor, Melaka and Johor. It seeks to answer the question of whether such delegation of power to the Collector in each state has been adequate or otherwise to meet his operating needs. This will be the hypothesis of this project paper.

Scope of research:

The duties and powers of the Collector of Land Revenue to be analysed in this paper is limited to only three states, namely Selangor, Melaka and Johor. The choice is not without significance. The state of Johor with its large tract of state land<sup>5</sup>, is one extreme example of land administration which should have considerable delegation of power entrusted to the Collector of Land Revenue. On the opposite end is the state of Melaka which,

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5. 12,000 acres approximately as quoted in Kemajuan Johor, 1969 : Jawatankuasa Pembangunan Luar Bandar, Government Printer, Johor Bahru, 1969.



with no more suitable land to be alienated, should have no difficulty in executing the day-to-day land administration with the existing powers conferred to the Collector of Land Revenue by the National Land Code, 1965, and the Melaka Land Rules 1966. The state of Selangor is chosen because it is representative of the medium-size states in between the two extremes of Johor and Melaka.

Collection of data:

The data necessary for an analysis of the topic has been collected from various sources, published and unpublished. The single greatest source of published authority regarding the powers of the Collector of Land Revenue is the National Land Code, 1965. The Land Rules, 1966, of each state is an extension of the Code in that it stipulates in detail the procedures and regulations which the parent legislation has neglected. The Land Acquisition Act, 1960, Small Estates (Distribution) Ordinance, 1955 and the Mining Enactment Cap.147, are further sources from which the Collector's powers are researched.

The unpublished data are gathered from the various State Director of Lands and Mines Offices in the state capitals of Kuala Lumpur, Melaka and Johor Bahru. In this category, is included the State Director of Lands and Mines' circulars over the years. These are supplemented in some cases by the presumably secret (to the



public at large) Executive Council Papers and minutes of meetings of Collectors of Land Revenue in the three states. of responsibility

ties are concerned the actual working relationships involve short cuts and informality that reduce the face value of the formal structure. For the duties of the Collector, material for the paper is gathered from the writer's own experience as an Assistant

Collector of Land Revenue in the Kuala Selangor Land Office (May 1969 - April 1971) and from observations and interviews with the Collectors and Assistant Collectors at work while unofficially attached to the Land Offices of Johor Bahru and Jasin in Melaka during the University's three weeks terminal holidays in August 1971. The writer was also able to examine the Land Office files in Kuala Selangor, Jasin and Johor Bahru to ascertain the various procedures followed and style of work in practice. in Temporary Occupation

licenses and revenue-collection.

Informal interviews with the Deputy Director of Lands and Mines in Selangor and the Registrar of Titles in Johor, as well as with the various Assistant State Secretaries dealing with the Executive Council were made to confirm facts and gain further insight into the role of the State Authority in land administration as a whole.

#### Limitations of study:

Like other organizations, the Land Office does not actually practise what is printed on the charts and diagrams. Likewise the statistics compiled, being the effort of clerks who have



## CHAPTER II

other urgent duties to perform, do not reflect the real state of affairs. As far as lines of authority and division of responsibilities are concerned the actual working relationships involve short cuts and informality that reduce the face value of the formal structure.

Furthermore in comparing one Land Office with another, an equal point-by-point analysis is not possible, for each Land Office concentrates on certain powers and duties of the Collector reflecting the particular nature and predominant problems of land in the district. Hence Johor Bahru Land Office has an equal share of land

alienation and acquisition, while Jasin Land Office seems to be taken up with petitions for small estates distribution. Whereas

Kuala Selangor Land Office specialises in Temporary Occupation Licenses and revenue-collection.

However, generally these graphical and statistical representation of the Land Office remains true. It is only in terms of a perfect model, as a basis of comparison, that they are much to be desired.

(f) "Eminent domain; treasure trove excluding antiquities."

### 2. Subject to the following:

- (a) Article 76(4) (uniformity of law and policy)
- (b) Article 83 (land acquisition for federal purpose)
- (c) Article 91 (National Land Council)
- (d) Article 92 (National Development Plan)



## CHAPTER II

### MACHINERY OF LAND ADMINISTRATION IN WEST MALAYSIA

In West Malaysia, the responsibility for land administration is the prerogative of each of the states. The Federal Constitution, 1957, in its Ninth Schedule, places it in the State List<sup>1</sup>. Indeed land is the only substantial matter apart from those of purely local and religious concern, in which the state is supreme. Even then its jurisdiction, in certain respects, is not in toto<sup>2</sup>.

#### 1. "Land, including -

- (a) Land tenant; relation of landlord and tenant; registration of titles and deeds relating to land; colonization, land improvement and soil conservation; rent restriction.
- (b) Malay reservation or, in the Borneo States, native reservations;
- (c) Permits and licenses for prospecting for mines; mining leases and certificates;
- (d) Compulsory acquisition of land;
- (e) Transfer of land, mortgages, leases and charges in respect of land; easements; and
- (f) Escheat; treasure trove excluding antiquities."

#### 2. Subject to : Part No. 6 (Kedah)

- (a) Article 76(4) (uniformity of law and policy)
- (b) Article 83 (land acquisition for federal purpose)
- (c) Article 91 (National Land Council)
- (d) Article 92 (National Development Plan)



Nevertheless the system of land administration adopted by each state is common to all. The National Land Code, 1965, which is based on the Torrens system of land conveyance, unformized all the land laws previously in operation in the various states<sup>3</sup>.

With respect to the machinery of land administration it would appear that land administration in West Malaysia operates in both direct and indirect line of authority, with the pre-eminence of the State Authority at the state level and the National Land Council at the federal level<sup>4</sup>. Federal and State governments.

Formally, such decisions are communicated directly to each of the National Land Council : State Executive Councils through the State Director of Lands and

Mines with This is the highest policy-making body regarding land matters. It exists by virtue of article 91 of the Federal Constitu-

Ministry of Agriculture and Lands:

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3. F.M.S. Land Code Cap.138 (Selangor, N. Sembilan, Perak and Pahang.)

Land Ordinance Cap.113 (Straits Settlements of Melaka and Penang)

Land Enactment No.1 (Johor)

Land Enactment No.6 (Kedah)

5. Land Enactment No.26 of 1938 (Kelantan)

Land Enactment No.3 of 1357 (Trengganu)

4. See Appendix 'A'



tion with the express function of formulating national policy for the promotion and control of land utilization throughout the Federation. Being an august body, the National Land Council has by in practice, been chaired by the Deputy Prime Minister with his cabinet colleagues as the federal representatives and the Mentri Besar/Chief Ministers of each of the eleven Malayan states<sup>5</sup>, as the state representatives.

Its statutory powers make any decisions adopted by the Council as binding on both the Federal and State governments.

Formally, such decisions are communicated directly to each of the State Executive Councils through the State Director of Lands and directly assist the ministry in securing a common policy and a uniform system of land administration as determined by the Secretary.

National Land Council. But really, he has no executive power. In

Ministry of Agriculture and Lands: and a consultant dispensing

advice to the Federal and State governments on matters of land.

In general, this ministry does not play a major role in land administration except coordinating the National Land Council Government under the authority of the Federal Lands Commissioner's and the State Executive Councils.

Ordinance, 1957.

---

Other than these, the functions of the Federal Director-

5. The Council also includes Sabah and Sarawak representatives who have the option of voting and consequently bounded by its decisions, or otherwise. In the event of the former the number of federal representatives, by virtue of article 95E (5), is to be increased by another two.



The Deputy Secretary, Lands Division, of the ministry

acts as the secretary of the National Land Council. He ensures

Annual Conference of State Directors of Lands & Mines:

that all land policies formulated by the Council are carried out by

the state governments. Since the National Land Council is not

equipped with formal executive authority to ensure satisfactory

compliance with its policies, he could only do it by way of the

suggestion and advice. Revisions of the National Land Code are

discussed and resolved. Besides being a forum, such conferences

Federal Director-General of Lands:

provide the machinery to ensure the implementation of land laws,

government. A subordinate office to the Ministry of Agriculture and

Lands, the Federal Director-General of Lands is expected to

State Authority and State Executive Council:

directly assist the ministry in securing a common policy and a

uniform system of land administration as determined by the concerned

National Land Council. But really, he has no executive power. In

effect, he is merely a coordinator and a consultant dispensing

advice to the Federal and State governments on matters of land.

The only power he has is to hold land, on behalf of the Federal

Government under the authority of the Federal Lands Commissioner's

Ordinance, 1957. Decisions, however, are made in his name.

Other than these, the functions of the Federal Director-

6. In its composition the Executive Council normally consists  
General of Lands are limited to the establishment and maintenance

leadership of the majority ruling party in the state, and  
of a communication system with the State Director of Lands and

State Financial Officer and State Legal Adviser. Except  
Mines, such as requiring them to furnish him with returns and oil

have voting rights.



reports and inspecting the records of Land Offices and Registries.

Authority is vested in the State Executive Council, all decisions in  
Annual Conference of State Directors of Lands & Mines:

making powers are thus centralized in one body. Although the  
Delegative Annual conferences convened by the Federal Director- the  
General of Lands are chaired by the Minister of Agriculture and  
Lands. At these conferences, numerous problems arising out of the  
Committee of Lands and Mines:  
implementation of the provisions of the National Land Code are  
discussed and resolved. Besides being a forum, such conferences also  
provide the machinery to ensure the implementation of land laws, and  
government policies and departmental procedures. They are  
considered by the Council. It does not give the final approval,  
State Authority and State Executive Council:

which is the prerogative of the Executive Council, but it weighs and  
expurgates. In contrast to the National Land Council which is concerned  
with policy-making in the national interest, the State Authority has  
proprietary rights over land. But the dominance of the State  
Authority, which means the Ruler or the Governor of the State,  
is only on paper. In practice the State Executive Council<sup>6</sup> makes all  
executive decisions on land matters quite independent of the Ruler/  
Governor. All decisions, however, are made in his name.

- 
6. In its composition the Executive Council normally consists  
of the Menteri Besar/Chief Minister and eight other top  
leadership of the majority ruling party in the state, and  
three ex-officio members comprising the State Secretary,  
State Financial Officer and State Legal Adviser. Except  
for the last three, all the members of the Executive Council  
have voting rights.



Selanger Since the overall responsibility of state land administration is vested in the State Executive Council, all decision-making powers are thus centralized in one body. Although the delegation of such powers are permissible under section 13 of the National Land Code, 1965, the tendency has been to ignore it<sup>7</sup>.

there is no such Standing Committee at all.

Committee of Lands and Mines:

State Director of Lands and Mines:

As a Standing Committee of the Executive Council the role of the Committee of Lands and Mines in the state land administration is to review all decisions in land matters before they are considered by the Council. It does not give the final approval, which is the prerogative of the Executive Council, but it weighs and expurgates all recommendations, decisions and suggestions by the State Director of Lands and Mines whose function it is to explain the content of each Land Office brief.

With respect to the three states under study, while the Committee exists by a different name (called "Committee of National Resources" in Johor) its membership too differs slightly. In

Organised and chaired by the Director of Lands and Mines,

the conference is an informal gathering of Collectors of Land

Revenue and their Assistants to thrash out problems of Land

7. For fuller explanation of the facts contributing towards such an over-centralization of power in the State Executive Council see Kamaruddin A. Rani, op.cit, Chapter III.

The result of such a conference often led to a more effective co-ordination in land administration in the different districts, and



Selangor it is chaired by a senior Executive Councillor, and the ex-officio, apart from the State Financial Officer, are included in its membership. Whereas in Johor the Menteri Besar himself presides and all the three ex-officio members of the Executive Council are present. In Melaka, due to the small number of State Assemblymen there is no such Standing Committee at all.

State Director of Lands and Mines:

Being the head of state land administration he is responsible for its effectiveness and efficiency. Assisted by one or more deputies, the director receives and collates all Land Office briefs before they are presented to the Standing Committee or lands and mines of the Executive Council. His Registrar of Title is responsible for the registration and maintenance of all town and village land titles as well as country land titles exceeding ten acres.

Conference of Collectors of Land Revenue:

Organised and chaired by the Director of Lands and Mines, the conference is an informal gathering of Collectors of Land Revenue and their Assistants to thrash out problems of Land administration and interpretation of the National Land Code, 1965. The result of such a conference often led to a more effective co-ordination in land administration in the different districts, and



to the issue of Director of Lands and Mines circulars to standardize procedures and policies. It is the Collector on the ground that processes application regarding land for the Executive Collector of Land Revenue:

Heading the district Land Office, the Collector of Land Revenue receives all application regarding land. He is responsible for scrutinising and forwarding them to the State Executive Council with his recommendation. In addition, the Collector is also responsible for collecting the annual rent and other dues relating to land, as well as for the registration and maintainance of the Mukim Register for all country land less than ten acres.

In discharging these duties, the Collector has certain statutory powers under the law such as the right to inspect any land and any document of title, to call upon persons infringing conditions of title to show cause, to conduct enquiries, and to order the falling of trees likely to cause damage to, or on the roads and the like. He also enjoys certain degrees of delegated power regarding land administration from the State Authority.

It would appear, therefore, that the Collector of Land Revenue is the key to the whole machinery of land administration in West Malaysia. He implements the policies decided from above and actually advise on policies to be adopted, while at the same time



### CHAPTER III

administering revenue collection out of which a sizeable part of the state income derives from. It is the Collector on the ground that processes application regarding land for the Executive Council's attention, fills in inquiries and surveys from government departments and ministries, feeds in data and statistics, tests proposed rules and ordinances, and plans the use of land in the district. Indeed it is often the case that the Collector's given recommendations are accepted by his superiors. Whatever amendments or even total rejection made on those recommendations, by the State Authority or the Director of Lands and Mines, are often on mere points of law or procedure.

land, namely the National Land Code, 1953, the respective Land Rules, and the Mining Enactments. The State Director of Lands and Mines and the Federal Director-General of Lands are nothing but link-men between the Collector and the State Executive Councils and the National Land Council respectively.

The discussion of the powers conferred on the Collector

of Land Revenue will follow in Chapter III.

Malaka, Land Rules, 1956

Johor, Land Rules, 1956

2. Mining Enactment Cap. 147 in respect of Selangor (Negri Sembilan, Perak and Pahang.)

Mining Enactment Cap. 147 (Extended Application to Malaka)  
Enactment No. 5/1956 in respect of Malaka (and Penang.)

Mining Enactment No. 63/1922 in respect of Johor.



### CHAPTER III

#### POWERS CONFERRED ON THE COLLECTOR OF LAND REVENUE

The Collector of Land Revenue, who is the operating unit on the ground in the system of land administration in West Malaysia, needs to have some powers in order to fulfil his functions effectively. This is the rationale for the statutory powers given to the Collector. Although control of land is vested in the State Authority, it does not follow that those statutory powers enjoyed by the Collector emanated from such a body. On the contrary those powers are conferred upon him by the various legislation concerning land, namely the National Land Code, 1965, the respective Land Rules<sup>1</sup>, and the Mining Enactments<sup>2</sup>.

#### A. National Land Code, 1965:

##### 1) General Powers:

The National Land Code conferred on the Collector by virtue

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#### 1. Selangor, Land Rules, 1966

Melaka, Land Rules, 1966

Johor, Land Rules, 1966

#### 2. Mining Enactment Cap.147 in respect of Selangor (Negri Sembilan, Perak and Pahang.)

Mining Enactment Cap.147 (Extended Application to Melaka)  
Enactment No.6/1966 in respect of Melaka (and Penang.)

Mining Enactment No.69/1922 in respect of Johor.



of section 15, the powers to : or powers conferred on him

- a) have free access to and enter upon, any land in the state, at all reasonable times.
- b) conduct enquiries (in accordance with the provisions of Chapter Four).

- c) administer oaths and affirmations, summon

any person before him, take and record the evidence of any such person, and award costs to any person appearing and giving evidence before him.

- d) inspect and take copies of any documents

available in any public office in the state or it is already in existence prior to the construction of the road. (with the approval of the State Secretary).

- e) require any person or body, by way of notice

to produce for inspection any document of title or other documents relating to land in

his possession or control, to give information

to its whereabouts and take copies or extracts

from such a document.

- f) require any application made to him

pursuant to the provisions of the National

Land Code to be supported by affidavit or

statutory declaration to his own satisfaction.



g) exercise all other powers conferred on him by the National Land Code, and all such powers ancillary or incidental thereto as may be reasonably necessary to carry out the purposes of the Code.

It is in pursuance of this last paragraph that additional general statutory power under section 17 is provided for. It gave the Collector the power "to trim, fell or remove any tree upon the land"<sup>3</sup> after payment of compensation unless such a tree is within seventy-five feet of the centre line of any road maintained by the Federal Government, state government or any public authority, or it is already in existence prior to the construction of the road. Likewise, section 404 empowered the Collector to approve the removal or alteration of boundary marks on a land, and section 425, removal of illegal settlers and their belongings from state land.

One must note, however, that such statutory powers are limited in scope being merely routine and basic to the performance of the Collector's day-to-day duties.

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3. Malaysia, op.cit., section 17.



ii) Licences and Permits:

Although the intention of section 66 of the National Land Code is to confer the Collector with the power to issue Temporary Occupation Licenses with respect to State land, mining land<sup>4</sup> and reserved land<sup>5</sup>, the phrase "subject to any contrary direction by the State Authority and the provision of any rules under section 14", serves to reduce and, in fact, abolish it, altogether<sup>6</sup>. The same applies to the Collector's power to issue permits to extract and remove rock material.

4. "With the approval of :

- i) the Senior Inspector of Mines, or such other officer as may for the time being be charged with the administration within the state of any written law relating to mining, and with the approval also of the lessee thereof;
- ii) the person or body for the time being entitled to the benefit of the mining lease or certificate in question"

5. "Subject to :

- i) .....the approval of the officer for the time being having control thereof; or
- ii) by that officer, whenever and to such extent as he may be authorised in that behalf by the State Authority."

6. See Chapter IV for details.



Only the issue of permits allowing animals to graze on state land or reserved land, is still intact as one of the Collector's powers. This is due to the fact that section 427 of the National Land Code does not include the restrictive phrase Registration of instruments of dealings: implanted in sections 66 and 71.

iii) Subdivision, Partition and amalgamation of land: Land Code.

Here again, although the attention of sections 136, 140 and 146 are clearly to invest the power of approval of such applications in the hands of the Collector, the same restrictive phrase - "in the absence of any direction to the contrary" - although worded differently, might lead to their dilution.

vi) Cancellation of registration:

iv) Surrender of title:

This ever-present qualifying proviso is evident also in the wordings of section 195 which grants the Collector the power to approve the surrender of land held under Land Office title or in the form of Qualified Title corresponding to the Land Office title, for any religious, educational, charitable or public purpose.

Nevertheless, while the Collector's power under section 195 is tempered by the shadow of the State Authority, so to speak, his power to approve the "surrender of any two or more contiguous lots held by the same proprietor under Land Office to be on the terms that the land comprised therein be immediately realienated to the proprietor in different units, each of less than ten acres and



each under the form of qualified title corresponding to Land Office title<sup>8</sup> is free from it. But, of course, it is only exercisable under special circumstances as provided by section 203 (2).

v) Registration of instruments of dealings:

In the determination of fitness for registration the Collector is empowered, by section 302 of the National Land Code, to make enquiries and to require the oral or documentary production of evidence from the persons involved.

However, such powers are limited in their application to situations enumerated by section 303.

vi) Cancellation of registration:

The Collector's power to cancel the memorial of registration is divided into five groups of cases:

a) with respect to dealings which have ceased to be effective by reason of the registration of some subsequent instrument. This is provided for by section 305(1)(c).

b) with respect to any lease or sub-lease whose terms have expired, or which have been given notice

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8. Malaysia, op.cit., section 203(1)

9. Malaysia, op.cit., section 313(1)(c).



viii) Power to be terminated, or the "happening of any

The event upon which it is expressed to determine"<sup>9</sup>, the power to revert or which has been forfeited.

c) with respect to any easement on any of the original proprietor's grounds stipulated by section 315

d) with respect to obsolete entries of conditions or restriction in interest contained in any document of title specifically, and to outdated documents of title generally. This is

ix) Memorial provided by section 381 of the National Land Title The Code.

vii) Registrar's and Trust Caveats:

The Collector is empowered, by section 319 of the National Land Code, to enter (on his own decision rather than acting automatically on the application of a proprietor) a restriction in dealings over a piece of land under his own name, if he is satisfied that the conditions as stipulated in section 320 are met by the applicant.

Likewise, he is empowered by section 332 to enter a similar restriction with respect to any land or interest held upon it by any person or bodies as trustees.

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9. Malaysia, op.cit, section 313(1)(c).



viii) Reversion of land to State Authority:

The Collector is conferred, under section 351, with the power to revert the proprietorship of a piece of land to the custody of the State Authority in the event of the death of the original proprietor without any successor.

Similarly under section 352, he is also empowered to do the same over Land Office titles which have been abandoned by the proprietor.

ix) Memorial of change in Register and Issue Documents of Title:

The Collector's power in this respect is divided into three groups of cases :

- a) change of name - if the Collector is satisfied with the evidence (whether in the form of deed poll, official certificate, statutory declaration or otherwise) to support the change of name or body having interest on the land, he may make a memorial of the change in the relevant register and issue documents of title, as well as other instruments of dealings relating to the land or interest upon it.
- b) change of address - the Collector could make an appropriate change of such address upon notification by the proprietor or any person or



body having interest on the land.

- c) correction of error - the Collector is empowered, if the State Authority has not directed otherwise by section

380(1) of the National Land Code, to

- 1) Summary rejection of application regarding land:

make correction on the documents of title if it is issued in the wrong name,

containing misdescription regarding the

land itself or its boundaries and other

similar errors and omissions, or if its

memorial and other entry has been

erroneously made.

Although the intention of section 380 is to give the

power to the Collector, the conferment is with the proviso that the

State Director of Lands and Mines may himself exercise it if he so

directed. As with the Collector's power regarding the issue of

licenses and permits, the application for subdivision, partition

and amalgamation of land, as well as the surrender of title, the

tendency has been for the higher authorities to activate, in their

favour, the restrictive phrase which is supposed to be invoked

only out of necessity.

- x) Collector's Right of Way:

The Collector is empowered by section 388 of the National

as a precaution, its misinterpretation by an ignorant or power -



Land Code, to create right of way over alienated country land for the benefit of the public or the State Authority or the proprietor himself or the occupier of the land. As it is, the Collector never

B. Land Rules, 1966:

i) Summary rejection of application regarding land:

The Collector, by rule 3 of the Selangor, Melaka and Johor Land Rules, 1966, has the power to summarily reject any application which is irregular in not being on the prescribed form, unaccompanied by relevant fees, or not disclosing sufficient particulars to enable the land applied to be identified.

C. Mining Enactments:

The Mining Enactment Cap.147 (which, besides Selangor, applies also to the states of Perak, Negeri Sembilan and Pahang), Mining Enactment Cap.147 (Extended Application to Melaka) No.16/1966, and the Johor Mining Enactment No.69/1922, empower the Collector to issue licences for individual mining. However the Collector's power exist only for so long the gazette notification, declaring an area is open for such a purpose, remains in force.

Thus, one can safely say that the Collector of Land Revenue has statutory powers conferred to him indeed, although they are often qualified by the phrase "subject to any contrary direction by the State Authority". While such a restriction is legally necessary as a precaution, its misinterpretation by an ignorant or power -



hungary State Executive Council would seriously undermine the only statutory powers that he enjoys. The key, therefore, lies with an enlightened State Executive Council. As it is, the Collector never wins. His inability to be efficient, owing to the over-centralization of power at the Executive Council, leads to public wrath. His use of discretion invite suspicion from the politicians.

the State Authority to the Collector, is taken to be the answer to the over-centralization at the centre, there has been, in addition, delegation of power to persons other than the Collector. The State Authority in the three states under study, has, over different matters of land, delegated its power to the Menteri Besar/Chief Minister and the State Director of lands and mines.

#### A. Delegation of Power to Collector:

##### a) Temporary Occupation Licences:

The nature of section 65 of the National Land Code, while recognizing that the power of disposal lies with the State Authority, gives the issuing of such Temporary Occupation Licences to the Collector subject to any contrary direction by the State Authority. Thus in the three states of Selangor, Malaka and Johor the limitation on the Collector's power in this respect varies.

It would appear comparatively that the Selangor Collector's power to issue T.O.L. has been curtailed the least. For in application for country land for the purpose of agricultural cultivation



CHAPTER IV

DELEGATION OF POWER BY THE  
STATE AUTHORITY

While delegating more of the decision-making powers of the Director of Lands and Mines who has been delegated with the power to approve the renewal of T.O.L. in town and villages areas, the over-centralization at the centre, there has been, in addition, the delegation of power to persons other than the Collector. The State Authority in the three states under study, has, over different matters of land, delegated its power to the Menteri Besar/Chief Minister and the State Director of Lands and Mines.

A. Delegation of Power to Collector:

a) Temporary Occupation Licence:

The nature of section 66 of the National Land Code, while recognising that the power of disposal lies with the State Authority, gives the issuing of such Temporary Occupation Licences to the Collector subject to any contrary direction by the State Authority. Thus in the three states of Selangor, Melaka and Johor the limitation on the Collector's power in this respect varies.

It would appear comparatively that the Selangor Collector's power to issue T.O.L. has been curtailed the least. For in application for country land for the purpose of agricultural cultivation



the maximum acreage he could grant is fifty acres<sup>1</sup>. Compared to the Melaka Collector who only has the power to approve the renewal of T.O.L (and even this power is limited to country land only)<sup>2</sup> and to reject T.O.L. applications in the backlanes<sup>3</sup>, the Collector in Selangor seems all powerful. Indeed he is, for in Melaka it is the Director of Lands and Mines who has been delegated with the power to approve the renewal of T.O.Ls in town and villages areas<sup>4</sup>, and that apart from the power of approval of sites for public entertainment<sup>5</sup> granted to him, all other powers to issue T.O.L. are exercised by the State Authority itself.

Perhaps, if one takes into consideration the size of Melaka state and the relatively short distance between the district capitals of Alor Gajah and Jasin to Melaka town, the gravity of the situation vis-a-vis Selangor, is not so apparent.

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1. See Selangor C.L.M. circular No.3/67.

2. These are rubber trees which have grown wildly in state land all holdings.

3. See Johor C.L.M. Circular No.2/69 in PFG 544/32 - V

4. See Melaka Exco Paper 13/7/1967.

5. See Johor C.L.M. Circular No.2/70 in PFG 1183/69.

4. Ibid. Johor C.L.M. 263 18/6/1970.

11. See Johor C.L.M. Circular No.2/70 in PFG 1183/69.

5. See Melaka Exco Paper 15/7/1967 in PFG (M) 2066/14.



In the case of Johor, the maximum that the Collector could approve a T.O.L. is five acres, and even then its purpose must be for padi and cash-crop cultivation only<sup>6</sup>. The State Authority's control over the Collector is absolute in the case of T.O.Ls for tapping "wild rubber"<sup>7</sup> collecting coconuts and other fruits. For the Collector has no discretionary power at all but to tender them to the highest bidder<sup>8</sup>. In the case of T.O.L. for the disposal of tin-wastes, this too is still the sole responsibility of the State Authority<sup>9</sup>. Whatever power the Collector has is limited to T.O.Ls for public entertainment use<sup>10</sup>, and for temporary buildings other than housing<sup>11</sup>.

The rationale for such limitation to the Collector's power in Johor is to control the proliferation of T.O.L, and avoid it from becoming into an easy and least bothersome means of application

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6. See Johor G.N. 863 18/6/1970.

7. These are rubber trees which have grown wildly in state land bordering rubber estates and small holdings.

8. See Johor C.L.M. Circular No.2/69 in PTG 544/52 - V

9. See Johor C.L.M. Circular No.5/71 in PTG 1183/69B.

10. See Johor G.N. 863 18/6/1970.

11. See Johor C.L.M. Circular No.9/70 in PTG 1183/69.



for land. Also it is wasteful of the potential revenue that could be collected from the same land if it is alienated under full title. Such precautionary measure is necessary and very sound in its applicability, and one should be surprised at the lack of such appreciation on the part of the Selangor State Authority.

b) Permit to extract and remove rock material:

As in the issue of T.O.L. the Selangor Collector does not seem to be restricted whatsoever in the issue of such a permit. Neither does the Johor Collector except for the ban on the issue of permits for exporting the rock material<sup>12</sup>, and the requirement of a deposit, the sum of which is up to his discretion to determine<sup>13</sup>. The same seems to apply to the Melaka Collector except for the extraction and removal of sand. In such a case the Collector cannot exercise his discretion but to tender the land area containing sand to the highest bidder and then issuing a permit to him<sup>14</sup>.

c) Alienation of Land:

The relative primacy of Collector's power in this case,

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12. See Johor G.N. 5, 15/1/1970 in C.L.M. 131/38 (q); LAJ 333

13. See Johor G.N. 863, 18/6/1970.

14. Ibid

15. See Melaka C.L.M. Circular No.1/69 in PTG (M) 2424/14.



falls to Johor state. For the Collector has the power to alienate country land not exceeding ten-acres to each individual applicant for the sole purpose of agriculture<sup>15</sup>. His power, in respect of group application for land in areas which are over thirty acres, is curtailed only in the sense that he is assisted in its exercise by a District Selection Committee<sup>16</sup>, comprising the Collector as Chairman and all the State Assemblymen for the district as members.

The states of Selangor and Melaka do not have an equivalent provision for such delegation of power to their Collectors.

The rationale behind this far-sighted move, however, is not so much a commitment to the principle of delegation of power for effective and efficient land administration per se, but more to the desire for immediate use of the revenue accruable from land<sup>17</sup>.

d) Summary rejection of applications:

Apart from the common-sense rejection of late applications after the closing date and the provision of rule 3 of the Johor,

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13. "Except where an application has been rejected under rule 3, the Collector shall cause full particulars of the application to be entered in the Register of Applications for Land. ... and shall note therein whether the application has been approved

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15. See Johor G.N. 3, 15/1/1970 in C.L.M. 131/58 (Q); LAJ 333

16. See Johor C.L.M. Circular No.3/68 from the Collector of Land Revenue, Johor Bahru, in that if, for example, a land applied for has already been allocated, or reserved for

17. Ibid argument use, such applications are to be summarily rejected without reference to the State Authority.



Melaka and Selangor Land Rules, 1966, for the rejection of applications which are irregular, rule 4(1)<sup>18</sup> of the same Rules obliged the Collector to process all applications regarding land for submission to the State Authority.

While in Johor, there is no definite delegation of power in this respect other than the common-sense judgement of the Collector himself<sup>19</sup>, in Selangor and Melaka, the Collector is explicitly delegated with the power to reject summarily any application of the following types :

- Selangor: i) application from non-Malays for state land in Malay Reservation areas.
- ii) application from non-Orang Asli for state land in Orang Asli Reservation areas.
- iii) applications for state land which has been

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18. "Except where on application has been rejected under rule 3, the Collector shall cause full particulars of the application to be entered in a 'Record of Applications for Land' ....and shall note therein whether the application has been approved or refused and shall sign and date such note"

19. The impression the writer obtained from the Collector of Land Revenue, Johor Bahru, is that if, for example, a land applied for has already been alienated, or earmarked for government use, such application are to be summarily rejected without reference to the State Authority.

21. See Melaka Race Paper, 35/19/66 in C.L.N. (N) 1462/3.



designated for government projects.

- iv) application for state land which has been alienated by the State Authority to individuals and bodies listed under section 43, or reserved land under section 62(1)<sup>20</sup>.

Melaka: 1) application for land which is designated for existing and future government projects.

- ii) application for land situated in any gazetted town area owing to the fact that the value of such land is too high to be alienated (such land to be alienated by way of tender only)

- iii) application for land situated alongside any highway.

- iv) application for land which may be of public use<sup>21</sup>.

The rationale for summary rejection of these applications is to reduce unnecessary work load connected with the preparation of briefs which would ultimately be rejected by the State Authority.

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20. See Johor C.L.M. Circular No.2/69 in P.T.G. Sel. 675.

21. See Melaka Exco Paper, 35/19/66 in C.L.M. (M) 1462/9.



e) Variation of express conditions, restriction and categories:

Only the State Authority's power under section 124(1)(b) of the National Land Code, that is, rescission of express conditions, is delegated to the Collector in Selangor<sup>22</sup>. Its applicability, however, is only to country land which are less than ten acres in area to permit the planting of other agricultural crop than previously cultivated.

The reason behind this delegation is to enable farmers to make full use of the services and assistance of the Rubber Replanting Board which provides subsidies to the replanting of land with rubber or other crops. In the past, while the Board is ever-ready to dispense its allocated subsidies to as many farmers as possible, it is handicapped by the length of time taken for an application by the farmer to get the State Authority's approval to change the express conditions of the land.

In Melaka, on the other hand, while the Collector's power acquire no additional gains, the Director of Lands and Mines, instead, is empowered, not only to rescind and amend the express conditions but also to alter the category of land use attached to the

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22. See Selangor G.N. No.11/24.9.1970 in PTG Sel.675.

23. See Selangor G.N. 13/22.10.1970 in PTG Sel.673.



land<sup>23</sup>. Considering that Melaka has only three districts, each within easy reach of the office of the Director of Lands and Mines, such delegation, comparatively is of far more significance in its impact than the one in Selangor or Johor.

In the case of Johor, too, the Director of Lands and Mines is empowered to approve any application for the revocation of conditions, restriction, or category of land use whether from Registry<sup>24</sup> or Land Office<sup>25</sup> titles. But while being a small state with only three districts, Melaka could handle such applications fairly efficiently, Johor, with eight districts, might not follow suit. There is, therefore, case for this power to be delegated to the Collector instead.

f) Remission of rent:

Again, in Selangor, this power has been delegated right down to the operative on the ground, that is, the Collector. However, this is limited to house lots whose express conditions should include restriction against transfer, change or lease except with the consent of the Ruler-in-Council<sup>26</sup>. The remission allowable

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23. See Melaka G.N. No.131/22.6.1970.

24. See Johor G.N. 56/1965 in PTG 5/68-24.

25. See Johor G.N. 47/22.9.1966 in PTG 33/66, LAJ.244(128).

26. See Selangor G.N. 15/22.10.1970 in PTG Sel.O.132.



is only half of the rent imposed on the land. Land and Mines

Apart from those which have been compared with the powers  
The rationale for the Selangor State Authority's specific  
delegated to the Collectors, among the Directors of Land and Mines  
singling out land for "dwelling house" purpose rather than  
in the three states under study, that of Johor seems to enjoy a  
agriculture is to offset the steep effect of the revision of rent  
which measure than the others. For instance, he has the additional  
undertaken recently.

power to reserve State land for any public purpose, and to revoke

it as well. <sup>26</sup> Nevertheless, the Directors of Land and Mines in all the

three states under study, by virtue of rule 15 of their respective

Land Rules, 1966, may be delegated in writing by the State within

Authority to grant rebate of rent for country land, less than ten acres,

and, replanted with approved replanting materials, to \$2.00

Further, he is delegated with the authority to approve the  
(\$3.00 in the case of Melaka) per acre per annum for a period of  
renewal of Prospecting Permit for an additional six months and to  
six years. However, only in Johor has such a delegation been  
cancel then thereafter with the concurrence of the State Director of  
actually made <sup>27</sup>. Further, the Collector is empowered to approve

the renewal of remission of rent each year if he is satisfied that

the land has indeed been replanted <sup>28</sup>. The practicality of such a

policy is obvious. It would eliminate the time-consuming ritual

of preparing briefs for the State Authority's consideration and cut

short the waiting period to be endured by the farmer.

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26. See Johor C.L.M. 97/22.3.1966 in C.L.M. 144/123.

27. See No. (49) in file "Johor P.T.G. (P) 116/50".

30. See Johor C.L.M. Circular No. 17/69 in C.L.M. 1301/69.

28. See Johor C.L.M. Circular No. 1/68.

31. See Johor Exco Precis No. 16.9.1959 in C.L.M. 1010/28.



B. Delegation of power to State Director of Lands and Mines:

Apart from those which have been compared with the powers delegated to the Collectors, among the Directors of Lands and Mines in the three states under study, that of Johor seems to enjoy a wider measure than the others. For instance, he has the additional power to reserve state land for any public purpose, and to revoke it as well<sup>29</sup>. Also the Johor Director of Lands and Mines has the power to reallocate land which has been forfeited for non-payment of rents, provided that the original proprietor applies for it within six months from the date of the notice to pay the arrears.<sup>30</sup>

Further, he is delegated with the authority to approve the renewal of Prospecting Permits for an additional six months and to cancel them thereafter with the concurrence of the State Warden of Mines<sup>31</sup>.

It is perhaps appropriate that the above three powers are entrusted to the Director of Lands and Mines rather than to the Collector. While the need to be efficient dictates such powers to

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29. See Johor G.N. 47/22.9.1966 in PTG 33/66, LAJ. 144(128).

30. See Johor C.L.M. Circular No.17/69 in PTG 1301/69.

31. See Johor Exco Precis No.16.9.1959 in C.L.M. 1010/28.



be in the latter's hands, it is best to adopt preventive measures in considering the necessity for security. For such a delegation, especially the powers to reallocate forfeited land and to renew Prospecting Permits, would be a boon to the dishones. Placed in the jurisdiction of the Director of Lands and Mines, the powers would strike a balance between the need to delegate and the requirement for integrity. In this context, the delegation of power to officers other than the Collector, is permissible and indeed welcomed. After all, it reduces the burden of over-centralization of power in the State Authority, even if it is only to small degree. Similarly, in the case of Johor, the Menteri Besar has been delegated with the power to refund deposit money in the case of Prospecting Permits for minerals which to all intent and purposes could easily be done by the Collector or the Director of Lands and Mines, as with the renewal of Prospecting Permits. Likewise he is

C. Delegation of power to the Menteri Besar/Chief Minister:

Delegation of power to the Menteri Besar/Chief Minister would, in effect, means that the State Chief Executive has the sole decision-making function entrusted to himself without having to go into the ritual of calling the entire Executive Council into session. Authority having such power all by itself. While it does not help in lightening the burden of the Collector, on the ground, who has to prepare the full briefs for the perusal of the Menteri Besar/Chief Minister who, in most cases, follow his recommendations anyway.

32. In this respect, the Menteri Besar of Selangor still has to expect briefs from the Collector in order to exercise the delegated power entrusted to him, namely, the rejection of applications for Prospecting Permits or Licences and Mining Leases on the ground that the land is earmarked for government projects or for



public purpose, or already approved for mining or has been previously rejected, or which is already under consideration by the Executive Council, or advised against by the Senior Inspector of Mines, or that the application is in conflict with others which have been received earlier.<sup>32</sup>

Similarly, in the case of Johor, the Menteri Besar has been delegated with the power to refund deposit money in the case of Prospecting Permits for minerals<sup>33</sup> which to all intent and purposes could easily be done by the Collector or the Director of Lands and Mines, as with the renewal of Prospecting Permits. Likewise he is delegated with the power to annul the forfeiture of land for non-payment of rent.<sup>34</sup>

Indeed, one could say that such a delegation of power to the Menteri Besar/Chief Minister is no different than the State Authority having such power all by itself. While it does not help in lightening the burden of the Collector, on the ground, who has to

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32. See Selangor C.L.M. Circular No.1/69 in PTG Sel.675

33. See Johor G.N. 5/4.2.1971 in PTG 1183/69-A; PTG.334/68; LAJ.192.

34. See Johor G.N. 46/22.9.1966 in PTG 33/66; LAJ 144(128).

36. See Johor G.N. 53/20.10.1966 in C.L.M. 480/67; LAJ 192.



prepare the brief just as he would, had there been no delegation of power to the Menteri Besar/Chief Minister, it is perhaps necessary for the power to be exercised by the Menteri Besar/Chief Minister. For it is entirely possible for the Collector or the Director of Lands and Mines, for that matter, to misuse it for his own ends if he is delegated with those powers. Seen in this context, this is one area the Collector's power can do without.

Equally necessary, but for a different reason, is the delegated power of the Menteri Besar of Johor to grant preliminary notice that a land is likely to be acquired by the government, to declare it required for public purpose and to withdraw from such intention (under sections 4<sup>35</sup>, 8 and 35 of the Land Acquisition Act, 1960) for rural development projects<sup>36</sup>.

While the Collector still has to prepare his briefs to inform the Menteri Besar of the relevant facts, the time taken for the entire procedure, on the whole, is indeed lessened. Therein lies the usefulness of such a delegation of power to the Menteri Besar/Chief Minister since the attention of one clears a load of work much faster than the attention of many, albeit the requirement

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37. See Johor G.N. 2/13.1.1970 in C.L.M. 480/51; LAJ 192.

35. See Johor G.N. 1193/10.9.1970 in C.L.M. 480/61; LAJ 192.

38. See Malacca G.L.M. Circular No.2/69 in PMS (M) 1004/30.

36. See Johor G.N. 53/20.10.1966 in C.L.M. 480/61; LAJ 192.



of democratic process in meetings. The same rationale applies to the delegated power exercisable by the Johor Menteri Besar to alienate land of not more than twenty acres each for school sites and other buildings connected with rural development schemes<sup>37</sup>.

In the case of Melaka, the Chief Minister is empowered to permit dealings to be made on land which is restricted in interest, to be transferred, charged or leased<sup>38</sup>. Again, the reason behind such delegation of power is to cut the time involved in the whole procedure since the Chief Minister himself, not the full Executive Council is the grantor. With regards to the Collector, while he has to perform the onerous task of preparing the brief, he actually absolves himself, at the same time, from any possibility of misusing his authority by not being delegated with the power.

It would appear, therefore, that the delegation of power to the Collector varies in its extent and differs in its rationale from one state to another. But in all three, the delegation of power is never made out of commitment to the principle. Rather it is out of convenience arising out of the demand of a particular

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37. See Johor G.N. 2/15.1.1970 in C.L.N. 480/61; LAJ 192.

38. See Melaka C.L.N. Circular No.2/69 in PTG (M) 1604/30.



situation. Further, there seems to be a common distrust of the Collector's integrity, and to some extent, the Director's of Lands and Mines. Given the weakness of human nature, perhaps it is a necessity to limit the delegation of power to the Collector.

The powers of the Collector, apart from those conferred by the National Land Code, the various Land Rules and other laws relating to land have been comparatively examined among the three states under study in the last chapter. It is seen that in each, the Collector does not necessarily enjoy the same power as his counterparts in the other two states. Even in cases where it is similar, the degree of laxity and the width of its scope are different from each other. However, the duties of the Collector in all the three states are the same, with perhaps differences in the style of approach. For this purpose a random sampling of one Land Office in each of the three states under study has been taken. It is not representative of the Land Offices in each state, although it reflects the style of approach in land administration adopted.

#### A. Collector's duties:

It would be easy to determine, by virtue of the Collector's title that revenue-collection is the foremost, if not his only duty. While this may be true under British colonial administration, the present-day Collector of Land Revenue, being development-oriented, is more than what his name suggests. Accordingly, inasmuch



CHAPTER V

COLLECTOR'S DUTIES - A RANDOM SAMPLING

The powers of the Collector, apart from those conferred by the National Land Code, the various Land Rules and other laws relating to land have been comparatively examined among the three states under study in the last chapter. It is seen that in each, the Collector does not necessarily enjoy the same power as his counterparts in the other two states. Even in cases where it is similar, the degree of laxity and the width of its scope are different from each other. However, the duties of the Collector in all the three states are the same, with perhaps differences in the style of approach. For this purpose a random sampling of one Land Office in each of the three states under study has been taken. It is not representative of the Land Offices in each state, although it reflects the style of approach in land administration adopted.

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as collection of revenue is important, equally important, if not more, is land-use administration. In addition to the two major functions of the Collector is the day-to-day routine administration.

1) Land-use administration:

a) Processing land applications:

The Collector is responsible for the investigation of the land applied for, and analysis of the facts. The actual ground work is done by the Settlement Officer, but in arriving at a judgement the Collector is aided, if necessary, by the technical and professional opinion of other government departments and by the Penghulu's knowledge of the applicant's character. In recommending the approval or rejection of the application to the State Authority through the Director of Lands and Mines, the Collector plays a vital role in land-use development of his district. For in advising the State Authority on the category of land use, express conditions and restriction in interest as well as the rates of premium, the Collector exercises control over the alienation of land in the district.

Included in this particular duty of the Collector to process land applications for industry, agriculture or building, is the application for licenses, permits and leases for the purpose of mining, temporary occupation of land and extraction and removal of rock material.



b) Group-alienation schemes:

In cases where application for land is the result of government policy to settle the landless, it is the Collector's duty to exercise control over the detailed preparation of land sites in terms of marking the boundaries, the emplacement of the settlers, and co-ordination of government departments involved in the schemes. At a later stage the Collector is also charged with the collection of installments payable by the settlers for the provision of land and the infrastructure for the settlement by the government.

But in certain states, some of these group-alienation schemes are managed directly by the office of the Director of Lands and Mines. Increasingly, however, due to the general failure of management, these schemes have been taken over the Federal Land Consolidation and Rehabilitation Authority.

c) Acquisition of alienated land:

The Collector's authority in this type of duty is the Land Acquisition Act, 1960. It empowered the Collector to institute proceedings or hearings to determine compensation to be paid for the compulsory acquisition of land for public purpose.

The role of the Collector in land-use development, here, is influential. Notwithstanding the fact that the Collector is guided in making his decision by the technical departments, it is



nevertheless significant that the government declares its intention to acquire sites as recommended by him. Through his choice of sites, for instance, the social and economic development of the district could be promoted.

d) Subdivision, partition and amalgamation of land:

The Collector's duty in this matter is restricted to

Land Office titles only. It is his responsibility to approve applications for subdivision, partition and amalgamation of land in accordance with the conditions stipulated by the National Land Code. A strict adherence to the framework laid down by the legislation would ensure the proper use of land in the district.

2) Collection of revenue:

It is the responsibility of the Collector to raise as much as possible the estimated land revenue for his district. For his contribution adds a long way to the overall State revenue necessary for expenditure in the current year. While a hundred per cent collection of revenue is well nigh impossible due to a score of inevitable delays and obstacles, the Collector is expected to achieve as closely as possible to the target listed in the yearly State Estimates.

Towards this end, an efficient system of collecting and accounting has to be established in the Land Office. Because a great majority of land proprietors come forward voluntarily to pay



of the Collector to enforce relevant sections of the National Land Code to realize the objective. their annual rent owing to legal compulsion to do so before June each year, it is the Collector's duty to receive the public taxpayer as smoothly as possible. In the not-so-easily-accessible interiors of the district, it becomes necessary for the Collector to go to the public rather than the public coming to the Land Office. system, cannot exist without registration of land titles. It

is, accordingly, one of the principal duties of the Collector. The importance of this annual collection is emphasized by the responsibility of the Collector, as regards Land Office the fact that the Collector is also responsible, besides his own title only, to maintain an up-to-date Mukim Register reflecting the land rents, premium and survey fees, for the collection of Drainage legal state of affairs on the ground. Consequently, all dealings and Irrigation rates and Education rates on behalf of other government on land have to be transacted in front of the Collector so that departments.

Other sources of land revenue, like fees for T.O.Ls, rubber licences, permits of various sorts, registration of titles, Collector's order in Small Estates distribution, inspection of the Mukim Register, and fees from sundry sales of plans are not expected of the Collector to maximize. For these are according to the number of approval granted or services rendered.

But as regards the arrears of revenue, it is incumbent upon the Collector to update them. In this way the shortage of past years could be balanced and the collection of the current year increased more than estimated. Towards this end, it is the duty and transaction. The Collector's duty is to ascertain that the prescribed forms are correctly filled and the signatures the real persons and the transaction or deal is fully realized and of their own accord.



of the Collector to enforce relevant sections of the National Land Code to realise the objective.

3) Routine day-to-day administration:

a) Registration of titles:

Land administration in West Malaysia being based on the Torrens system, cannot exist without registration of Land titles. It is, accordingly, one of the principal duties of the Collector. It is the responsibility of the Collector, as regards Land Office title only, to maintain an up-to-date Mukim Register reflecting the legal state of affairs on the ground. Consequently, all dealings on land<sup>1</sup> have to be transacted in front of the Collector so that appropriate entries in the Mukim Register could be made. Likewise transmissions of land arising out of Small Estates distribution cases are also entered in the Register.

This prime duty of the Collector is especially more prominent in the state of Melaka (and Penang too). For the Collector is charged with the duty to convert all existing titles based on the Portugese, Dutch and English law of property into the Torrens system.

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1. These include transfers of ownership, charges, liens, leases and tenancies. The Collector's duty is to ascertain that the prescribed forms are correctly filled and the signatories the real persons and the transaction or deal is fully realized and of their own accord.



b) Processing applications regarding land:

The same procedure of investigation and scrutiny as in the applications for land, is repeated here. This duty of the Collector could be grouped into four types:

1) Qualified and Final Title & Replacement of Issue Document of Title :

Land is either alienated under T.O.L or final title.

In the case of T.O.L. it could be converted, on application, into final title after several years of occupation. However, in the interim period while the land is being surveyed, to enable the successful applicant to carry on with his plans for the land he is issued with a Qualified Title which is a temporary document having all the legal advantages of the Final Title. After the land is surveyed the Qualified Title could be converted, on application, into a Final Title.

The Collector's duty is to process these successive applications.

The Collector has also to investigate and ascertain the genuineness of an application for a replacement of Issue Documents of Titles on the ground of loss or damage.

should be granted the document he applied for, or the market value of a piece



ii) Change in express conditions and restriction in interest:

Every piece of land alienated carries in its title express conditions and restrictions in interest imposed by the State Authority. Where permission is necessary from the State Authority to change them, the Collector's duty is to

investigate and scrutinize the facts of the case before making his recommendations. Where, apart from that the permission is in the Collector's hands or the Small Estates (where the power has been delegated to him, it is up to the Collector to decide. Such enquiries take

iii) Restraints on dealings:

The Collector's duty is to establish beyond doubt the applicant's rightful basis to lodge caveats on land and to request for prohibitory orders restraining dealings on such land.

iv) Miscellaneous:

In addition the Collector is invested with the power of investigating and scrutinizing to determine, for example, whether an applicant deserves remission of rent on his land or whether he should be granted the easement he applied for, or the market value of a piece



land that he requested.

It is also the duty of the Collector to grant requests for alteration or removal of boundary stones, investigate and report on complaints over land matters, and checking on illegal squatters and unlawful occupation of state land.

c) Enquiries:

The duties of a Collector also include enquiries, apart from that required by the Land Acquisition Act, 1960, and the Small Estates (Distribution) Ordinance, 1955, on any matter of land if he so desires or if applied for by a proprietor. Such enquiries take on the character of a judicial proceeding and the Collector's order shall be as enforceable as that made by a Magistrate's court.

As far as application for order of sale (of charged land) or breach of conditions (of title) the Collector is authorised by the National Land Code to decide on such matters.

d) Small Estates (Distribution) Ordinance, 1955:

One of the Collector's principal duties is the distribution of property of a deceased to his beneficiaries. The Collector's jurisdiction only cover property, both personal and real, of less than \$10,000 in value. The idea is to spare proprietors of land from the bothersome procedure of securing a High Court order.



B. Collector's performance:

In performing these duties, varying styles of work could be gleaned from the three states under study. This is due to several factors.

1. Number of Collectors:

The greater the number of assistants a Collector has the more the division of responsibilities could be made. In the case of Johor, the Johor Bahru Land Office has three Assistant Collectors each in charge of alienation, revenue and registration broadly<sup>2</sup>. The Collector could therefore devote more of his time to other duties, namely that of the District Officer's.

In Selangor, because the Collector is also the District Officer as well as the Chairman of the Town Board/Council, the tendency has been to leave most of the Land Office's work to the senior A.D.O. In the Kuala Selangor Land Office the lone Assistant Collector in charge of land administration is helped by a Colonisation Officer<sup>3</sup> insofar as processing land applications are concerned. The major decisions are made by the former<sup>4</sup>. The

3. See Appendix 'B'

2. See Appendix 'B'

3. A special officer responsible for the emplacement of settlers in "bendang" land. This post will be abolished in 1972 with the retirement of the present holder.

4. See Appendix 'C'.



same structure, without the Colonisation Officer, is at work in the Jasin Land Office in Melaka<sup>5</sup>.

It is not surprising, therefore, that in the Kuala Selangor Land Office, a duty officer system on a rotation basis<sup>6</sup> is established. In fact it has to be set up if the Assistant Collector in charge of the Land Office is to get any file work done at all, in view of the daily throng of people waiting to see the Collector. In the Jasin Land Office, however there is no such system since the volume of work is considerably less, there being virtually no land to alienate. As far as Johor Bahru Land Office is concerned each of the "specialist" Assistant Collector attends to the different kinds of problems posed by individual members of the public. This division of responsibilities also means each Assistant Collector is able to cover a lot of ground in their own speciality, an advantage lost to the Kuala Selangor or Jasin Assistant Collector because of his sole responsibility for land administration.

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5. See Appendix 'D'

6. All the three A.D.Os and the Colonisation Officer who are all gazetted on Assistant Collectors of Land Revenue take their turn. The District Officer, for obvious reasons, is exempted.



2) Nature of Director of Lands and Mines Circulars:

To interpret the law (i.e. the National Land Code and the various enactments relating to land) on their own, each Collector would come up with different ways of understanding them. In this respect a "procedural" circular from the Director of Lands and Mines, is a great help.

The Johor Collector is fortunate to be guided by such lengthy, detailed circulars<sup>7</sup> outlining the step-by-step action to be taken in a particular case. Not only would these standardized procedures cover the whole state, but also save the Collector a lot of guess-work in applying the land laws. In fact the faster the rate of problem-solving is done the more efficient the land administration becomes.

In Selangor and Melaka, while the number of circulars issued by the Director of Lands and Mines are equally voluminous, the percentage of "procedural" circulars is lesser than in Johor. Since the majority of these circulars are decisions on land policy and general administration directives<sup>8</sup>, the Collector in both states are left very much on their own to implement the state land policies

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7. For an example see Appendix 'E'.

8. For examples see Appendix 'F' and 'G'.



and to interpret the land laws.

### 3) Collectors' Conference:

Regular Collectors' conference is also a necessity for efficient land administration. For in such conferences uncertainties and doubts could be dispelled, and any problems ironed out. Not only would such meetings of Collectors promote closer relationship among practitioners of the same profession, but also act as an informal contact points for exchanging ideas and tips.

These advantages are fully exploited in Johor where Collectors' conferences are systematically organised and precisely scheduled. Collectors and Assistant Collectors meet together in these conferences which are also attended by top officials of the state government. In contrast, Selangor Collectors and Assistant Collectors meet in different conferences and at different level of importance. The Collectors' conferences are essentially District Officers' conference, being presided by the Menteri Besar and attended by the State Secretary. Whereas the Assistant Collectors' conference dealt purely with land administration and only graced by the presence of the Director of Lands and Mines.

While the Selangor style permits frank and open discussion regarding land administration and its problems, the merit of having the State Chief Executive in such conferences to give his backing



and to appreciate land problems, seen from the administrative point of view, should not be forgotten. A meeting chaired by the Director of Lands and Mines would perhaps ease problems administratively, but his subordinate position to the State Secretary would not carry weight to whatever innovative ideas the Assistant Collectors may bring forth. In addition, the Selangor Assistant Collectors' conference has been irregularly organised.

In Melaka, the small number of land administrators including the staff of the Director of Lands and Mines' Office, does not necessitate an elaborate organisation. What is surprising is that the senior A.D.Os in charge of land administration do not attend the informal Collectors' conference which is meant only for the District Officers in their capacity as Collectors<sup>9</sup>. The Assistant Collector, who has the operating knowledge of the Land Office, is expected to carry out the policies adopted and decisions agreed upon by Collectors who are more of a District Officer in their attitude and behaviour than a land administrator.

Note:  
It is a pity that Melaka does not appreciate the fact that the more such conferences are held for both Collectors and Assistant Collectors, as in Johor, the better their style of work would be. For the experience and the knowledge gained during these conferences would go a long way in increasing their confidence and



	Johor Bahru		Jasin		Kuala Selangor	
Area of district	446,720 acres		167,072 acres		364,800 acres	
Population	203,622 approx.		85,630 approx.		179,697 approx.	
Available area of state land	12,000 approx.		Nil		183,626 acres	
No. of fringe alienation schemes	22		-		11	
Total area under scheme	13,976 acres		-		13,760 acres	
Collector of Land Revenue	$\frac{1}{2}$ *		$\frac{1}{2}$ *		$\frac{1}{2}$ *	
Assistant Collectors	3		1		1	
Settlement Officers	8		5		6	
Clerks	10		10		8	
	Outstand. 30.4.'70	No. Dealt 1969	Outstand. 30.4.'70	No. Dealt 1969	Outstand. 30.4.'70	No. Dealt 1969
Application for land	834	2,862	428	293	79	12
Application for prospecting	-	-	2	8	-	-
Application for mining titles	-	-	-	-	35	1
Application for subdivision	51	24	11	15	-	-
Application for partition	1	-	-	-	-	-
Application for amalgamation	-	-	-	-	1,833	352
Application for T.O.L. licences	2,891	1,150	-	-	-	-
Application for change in condition	5	14	35	-	-	-
Application for reissue of title	10	5	34	32	72	13
Land acquisition proposals	11	17	-	-	2	6
Petitions for distribution	30	80	181	134	34	38
Request for valuation	-	-	2	-	-	-
Request for search	-	55	-	-	-	20
Instruments of dealings	-	407	-	-	-	645
Instruments of other transactions	-	182	-	-	-	245
New documents of title registered (up to 30.4.1970)	1,977		930		1,202	
Revenue collection:						
Estimates for 1971	\$1,767,722.00		\$1,502,700.00		\$1,469,050.00	
Arrears on 1.1.1971	108,974.00		90,404.97		500,000.00 approx.	
Total	1,876,696.00		1,593,104.97		1,969,050.00 approx.	
June 1971's collection	92,934.00		38,845.87		614,096.60	

Source: Compiled from 'Data for Assessment of Workload' submitted to the Federal Director-General of Lands viz. P.T.K.S 2/7/69 (Kuala Selangor), P.H.T.J.B 1/6/69 (Johor Bahru) and P.H.T Jasin 1252/69.

Note: \* Collector of Land Revenue is also the District Officer



decisiveness when applying the land laws in their respective districts.

superior supporting staff supposed to be enjoyed by the Johor Bahru

C. Comparative Statistics:

Assistant Collectors are, then, at advantage at all.

A look at the statistics shown overleaf, would illustrate the interplay of these three factors in influencing the Collector's style of work and ratio of performance in fulfilling their duties.

alienate land, for example, not enjoyed by their Jasin or Kuala

The statistics show that the Johor Bahru Land Office kept ahead of the Jasin and Kuala Selangor Land Offices. Specifically, limited delegation of power they managed to perform their duties in terms of applications for land, for T.O.L. and licences, better than the other two. For instance, with regard to T.O.L. and subdivision of land and petition of distribution, clearly a superior licence in which the Selangor Collector has the greatest latitude number of Assistant Collectors at the disposal of the Johor Bahru of power, yet it is the Johor Bahru Land Office which managed to Land Office does help in clearing off a major portion of the backlog achieve a higher percentage of clearance - approximately 40% in 1969.

Kuala Selangor's 15% - in 1969.

The effect of the "procedural" circulars and the regular Collectors' conferences could not, of course, be quantified.

The duties of the Collector, therefore, by virtue of the same land laws, are exactly the same everywhere. But in the performance of these duties, each Collector differs according to the

Johor Bahru trio of Assistant Collectors. No doubt the number of condition of work he is subject to. However, both the duties and Settlement Officers and clerks supporting the Assistant Collectors their performances by the Collector could be made the most. For the in Johor Bahru is correspondingly superior in number than either in factors influencing the Collector's style of work, being man-made Jasin or Kuala Selangor. But one must bear in mind the area of Johor rather than intrinsic in the inbuilt constraints of the environment Bahru district, which is larger than the other two districts. Nor or human behaviour itself, could be developed. It is in this context must one forget the population figures. Comparatively, therefore,



in terms of size and population they serve, the number of Settlement Officers and clerks are in proportion... The advantage of superior supporting staff supposed to be enjoyed by the Johor Bahru Assistant Collectors are, thus, no advantage at all.

One may also argue that the Johor Bahru Assistant Collectors have superior advantage in terms of delegated power to alienate land, for example, not enjoyed by their Jasin or Kuala Selangor counterparts. But even in areas where they had very limited delegation of power they managed to perform their duties better than the other two. For instance, with regards to T.O.L. and licences in which the Selangor Collector has the greatest latitude of power, yet it is the Johor Bahru Land Office which managed to achieve a higher percentage of clearance - approximately 40% to Kuala Selangor's 15% - in 1969.

The duties of the Collector, therefore, by virtue of the same land laws, are exactly the same everywhere. But in the performance of these duties, each Collector differs according to the condition of work he is subject to. However, both the duties and their performance by the Collector could be made the same. For the factors influencing the Collector's style of work, being man-made rather than intrinsic in the inbuilt constraints of the environment or human behaviour itself, could be developed. It is in this context



## CHAPTER VI

that learning from each other's experience should be encouraged among the states in the system of land administration in West Malaysia.

### Review of analysis

Delegation of power is an administrative principle that is widely applied in large organizations. It is used as an instrument to extend the ability of the principal executive body beyond what is physically capable of. In the context of this paper it has been established that the delegation of power by the State Authority to the Collector of Land Revenue in the three states under study, has been made in an ad hoc manner. In most cases it has been prompted by the necessity of the situation rather than occasioned by deliberate planning. In other words it exists by accident than by design. Indeed there has been a variety of reasons for the delegation of power but unfortunately, never on the commitment to the principle involved.

On the question of whether such delegation of power, as presently enjoyed by the Collector, has been adequate to meet his operating needs, the answer is clearly in the negative. The very fact that whatever delegation there has been, is unplanned suggests that there are many more areas in which the Collector should be given a freer hand. Furthermore, the idea of delegating the State Authority's powers to the Menteri Besar/Chief Minister rather than



CHAPTER VI

CONCLUSION

A. Review of analysis:

Delegation of power is an administrative principle that is widely applied in large organisations. It is used as an instrument to extend the ability of the principal executive body beyond what is physically capable of. In the context of this paper it has been established that the delegation of power by the State Authority to the Collector of Land Revenue in the three states under study, has been made in an ad hoc manner. In most cases it has been prompted by the necessity of the situation rather than occasioned by deliberate planning. In other words it exists by accident than by design. Indeed there has been a variety of reasons for the delegation of power but unfortunately, never on the commitment to the principle involved.

On the question of whether such delegation of power, as presently enjoyed by the Collector, has been adequate to meet his operating needs, the answer is clearly in the negative. The very fact that whatever delegation there has been, is unplanned suggests that there are many more areas in which the Collector should be given a freer hand. Furthermore, the idea of delegating the State Authority's powers to the Menteri Besar/Chief Minister rather than



direct to the Collector, in order to safeguard the latter's integrity and honesty, is itself preposterous. The sacrosanct position the Menteri Besar/Chief Minister holds, allegedly, puts him above petty human weakness. But being human himself and a politician with limited tenure of office, the enormous powers in his possession frequently tempt him to misuse for his own gains. In the final analysis the position of the Menteri Besar/Chief Minister is, comparatively, no different than the mortal Collector. The solution, therefore, should lie elsewhere.

In the case of the delegation of power to the Director of Lands and Mines, the Collector's immediate superior, it is, perhaps, tolerable. He being a specialist on land administration, and

unhampered in doing his job, the delegation of power to the Director of Lands and Mines rather than to the the Menteri Besar/Chief

Minister, would be better understood. The inadequacy of the delegation of power to the

Collector is aggravated by the State Authority's frequent interference<sup>1</sup> with the statutory powers conferred to him.

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1. By activating the restrictive phrase "in the absence of any direction to the contrary by the State Authority" found in certain sections of the National Land Code, 1965. See to the Chapter III for details.



One finds, therefore, the whole question of delegation of power to be in an anomalous position. On the one hand, delegation of power to the Collector is seen as a pancea to the clearance of the notorious backlog of applications regarding land in the Land Offices throughout the country. On the other hand given the immaturity of the present politicians in power who tend to politicize all executive decisions of the government the Collector would be happier in not being delegated with such powers. In this way, he would not be held accountable by the public for the delay in their applications, the blame being made to fall on the State Authority composed of, as it is, politicians who are, after all, the elected representatives of the public.

But obviously, such an escape from responsibility, even in the face of too much political interference, is not to be encouraged. If every Collector is to do the same, then a whole array of unimaginative, rigid and static land administrators would be the end result. This would not augur well during a period when an all-out effort in land development is needed to fulfil the targets of the Second Malaysian Plan.

B. Suggested Recommendations:

The crux of the problem, as manifested in the reluctance of the politicians in the State Authority to delegate power to the



Collector, is the distrust in the Collector's capability and susceptibility. This being the case, the only recourse, short of actually turning out the ideal Collector, lies in three possible series of remedy.

1) Development of the Collector's administrative skills:

It is assumed that future Collectors, in view of the increase in the recruitment of graduates into the civil service, are basically highly educated. Further, they would probably be well-grounded in the technicalities of management in the public sector<sup>2</sup>. In such a case, there is not so much the need to train the novice Collector further as to provide him with the supporting tools to use his management skills by.

a) Improved Director of Lands and Mines' circulars:

It is submitted that in the three states under study, with the exception of Johor, the circulars of the Director of Lands and Mines should be revised and revamped. From mere statements on broad guideline of policy as in the case of Selangor, these circulars should be detailed and explanatory in their content as the Johor Director of Lands and Mines' circulars are. This would dispel

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2. See Training for Development in West Malaysia, Government Printer, Kuala Lumpur, 1969, chapter IV.



doubts among the Collectors in the state and avoid mistakes from being repeated by the different Collectors interpreting the same issue. seminar of State Directors of Lands and Mines, and individual writers. In this way, it is hoped that the Collectors would be kept

It would also be a great help if the numerous circulars up-to-date and development-oriented, could be catalogued and bounded together. For an easily accessible volume of Director of Lands and Mines' circulars would prevent the Collector from being ignorant of their powers under the various civil (administrative) service, is often approached lightly by legislation on land, and the procedures involved. In this way, too, the "sitting down" of files and passing the buck from one officer to another - responsible, among other factors, for the delay in applications regarding land - could be prevented.

b) Regular Collector's conference:

The idea, in having frequent conference among Collectors, is for these officers dealing with the same job to be in constant contact with one another. During these sessions, both in the formal conference and informal social get-togethers, ideas

concerning land administration could be proposed, tested and adopted, if necessary. In time these conferences being attended by Collectors who are basically highly qualified, could develop into

a kind of academic seminar. The result, it is hoped, would be a flow of dynamic, innovative and practical ideas rather than mere formal ratification of ideas already decided upon, as is presently the case.



Such conferences would be the ideal ground for discussing of seminar papers, pamphlets and publications turned out by the annual seminar of State Directors of Lands and Mines, and individual writers. In this way, it is hoped that the Collectors would be kept up-to-date and development-oriented.

c) Handbook for Collectors of Land Revenue:

Land administration, being one of the branches of the civil (administrative) service, is often approached lightly by junior officials in the M.H.F.S. (Malaysian Home and Foreign Service) and M.A.S. (Malay Administrative Service). It is mistakenly likened to the routine and comparatively straight-forward Assistant Secretary's duties in the ministries and the state secretariats. A Handbook for Collectors of Land Revenue, introducing the new Collector to his job and containing all the relevant information as to the scope of his powers and duties, and citing the important requirements of decision making in land administration rather than legislation connected with his work, is therefore a necessity.

The above measures are calculated to improve the standing of the Collector in the eyes of the State Authority as to merit its trust.

2) Development of a Review Procedure:

This remedy entails direct delegation of power to the Collector by the State Authority in all matters which would enable improved land administration, increased land revenue and better



him to meet his commitments swiftly and efficiently. At the same time he is to be subjected to an independent and mobile Commission

of Inquiry whose chairmanship is drawn from the State Executive Council and with representatives from the Office of the Director of Lands and Mines and the State Secretariat as members. In addition, the Collector is required to inform the State Authority of every alienation of land for reference purpose and to act as a deterrent to any back dealings. In this way the principle of the delegation of power could be met while at the same time the State Authority's basic distrust of the Collector is accommodated too.

It is envisaged that such a pattern of organization would inculcate a feeling of involvement in the Collector as to the Collector's conference as both a formal as well as an informal encourage initiative and innovation from him. It would be a rational means of interaction among the Collectors and their Assistants, an arrangement, for it is the Collector who meets the technical requirements of decision making in land administration rather than perhaps lead to a better understanding and appreciation of each the part-time State Authority. The Commission of Inquiry, in acting as a kind of court of appeal for rejected applications regarding land, would serve to check any abuse of the delegated power by the Collector.

While its impact on the Republic's administration is debatable (as to whether it would lead to the complete political subjugation of the civil service by the politicians instead of paving a common ground of understanding between the two), the original principle improved land administration, increased land revenue and better

institution in the Political Study Centre of Singapore.



image of the government of the day in the eyes of the electorate, are worthwhile returns for such a disproportionately small investment.

This remedy is meant to reduce, if not completely abolish, the susceptibility of the Collector to the State Authority. Only then would the latter be persuaded to delegate its powers in land administration to the former.

3) Encouragement of politician - administrator interaction:

Being the political masters of the administrative organization in the state, the politicians need to understand the administrators in order to control them. It is for this reason that the politicians too, in turn, have to be oriented. Like the function of the Collector's conference as both a formal as well as an informal means of interaction among the Collectors and their Assistants, an institutionalised gathering of politicians and administrators would, perhaps lead to a better understanding and appreciation of each other's role in the context of land administration as a whole.

One would, of course, draw attention to the existence of such an institution in the Political Study Centre of Singapore. While its impact on the Republic's administration is debatable (as to whether it would lead to the complete political subjugation of the civil service by the politicians instead of paving a common ground of understanding between the two), the original principle



No. (2) dlm. PTG. SEL. 1002

ARAHAN PESUROHJAYA TANAH DAN GALIAN SELANGOR BIL. 3/1967

Kelulusan T.O.L pada kawasan yang luas di-daerah2

Di-bawah ini saya perturunkan satu keputusan yang di-buat oleh Persidangan Pegawai2 Daerah pada 9hb September 1967 untuk malumat Pemungut Hasil Tanah :

"Meskuarat bersetuju supaya Pegawai Daerah di-beri kuasa mengeluarkan sa-hingga 50 ekar bagi sa-suatu T.O.L, tetapi tidak boleh mengeluarkan P.O.L yang berhampiran dengan T.O.L yang lain. Kegunaan T.O.L hanya di-hadkan kepada pertanian."

t.t.

( JOHAN BIN MOHD YASIN )

Pesurohjaya Tanah dan Galian,  
Selangor.

Pejabat Pesurohjaya Tanah dan Galian,  
Selangor,  
KUALA LUMPUR  
16hb Disember 1967.

( ABUL KARIK BIN ISM MOHD YASIN )  
Pesurohjaya Tanah dan Galian,  
Selangor.

180 PEJABAT TANAH,  
KUALA LUMPUR.  
TARICAH: 1968.



PEKELILING P.T.G. BIL. 2/68.

P.T.G. (N) 1604/30

Pejabat

Pesuruhjaya Tanah dan Galian,  
Johor.PEKELILING TANAH MELAKA BIL. 2/1969.

12hb. Jan, 1968.

Tanah2 yang di-kenakan Sekatan Hakmilk  
(Restriction in Interest).

Sema Pemungut

Sema Pan. Pemungut

Mengikut Peratoran yang di-jalankan pada masa ini, semua

permintaan bagi mendapat kebenaran untuk menjalankan suatu urusan

di-atas tanah2 yang di-kenakan sekatan hakmilk menukar nama, tersebut

menggadai atau memajukan hendak-lah terlebih dahulu mendapat

persetujuan bertulis daripada Gabnor dalam Mesnuarat (Governor in

Council). Oleh sebab itu tiap2 permohonan saupama itu hendak-lah

di-kemukakan kepada Majlis Mesnuarat Kerajaan untuk di-luluskan

oleh Tuan Yang Terutama Gabnor.

2. Majlis Mesnuarat Kerajaan telah menimbangkan perkara ini

dan pada mesnuarat yang di-adakan baharu2 ini telah bersetuju yaitu

permintaan2 untuk mendapat kebenaran bagi menukar nama, menggadai

atau memajukan tanah di-atas tanah2 yang ada sekatan hakmilk,

kuasa meluluskan di-beri kepada Yang Amat Berhormat Ketua Menteri.

Haka dengan persetujuan Tuan Yang Terutama Gabnor dalam Mesnuarat

semua permintaan serta dengan sokongan2 Pemungut Hasil Tanah

hendak-lah di-masa hadapan di-kemukakan untuk pertimbangan Yang Amat

Berhormat Ketua Menteri.

( ABDUL KARIM BIN HJ MOHD HANSOR )  
Pesuruhjaya Tanah dan Galian,  
Melaka.

IBU PEJABAT TANAH,  
MELAKA.

TANGGAL: 7HB MACH, 1969.



PEKELILING PTG.Bil.3/68.

Pejabat

Pesuruhjaya Tanah dan Galian,  
Johor.

Johor Bahru: 12hb. Jun, 1968.

Semua Pemungut Hasil Tanah,  
Semua Pen. Pemungut Hasil Tanah.

Permohonan Tanah Kerajaan Yang Belum  
Selesai dan lain2 yang kuasa pengurniaan-nya  
telah di-beri kepada Pemungut Hasil Tanah.

Majlis Mesuarat Kerajaan telah memberi keputusan yang tersebut di-atas. Mengikut keputusan itu, Pemungut Hasil Tanah telah di-beri kuasa mengurniakan tanah tidak lebih daripada 10 ekar kepada sa-sorang pemohon dengan di-bantu oleh satu Jawatankuasa Pilehan Daerah.

Keputusan yang tersebut telah di-sampaikan kepada Pemungut Hasil Tanah di-dalam Kertas (10) dlm.PTG.131/58(0) bertarikh 28hb. April, 1968.

2. Tujuan jumlahkata (i) dan (ii) kertas keputusan itu ialah untuk melayan permohonan yang di-timbulkan oleh Gerakan Lichin ia-itu permohonan2 tanah yang ada di-Pejabat Tanah sebelum 1.5.67 (tarikh Gerakan Lichin di-lancarkan). Pemungut Hasil Tanah hendak-lah menitik-beratkan permohonan2 yang di-terima sebelum 1.5.67 ini supaya dapat di-selesaikan dengan segera. Pemungut Hasil Tanah boleh-lah memanggil Jawatankuasa untuk menemuduga pemohon2 mengikut 'point system'. Tindakan awal kerana hendak mengumumkan tanah2 ini boleh-lah di-buat dengan serentak dengan menghantarkan kepada Pesuruhjaya Tanah dan Galian pelan kawasan itu bersama2 dengan nama2 pemohon yang berjaya. Di-dalam mengambil tindakan itu, Pemungut Hasil Tanah hendak-lah juga mengisi Borang Arahan II (Butiran 1 Borang itu) dengan mengisi angka2 pungutan hasil dan lain2 butir yang di-kehendaki dan di-hantarkan kepada Pesuruhjaya Tanah dan Galian tiap2 bulan.



3. Jumlahkata (i) dan (ii) keputusan itu bukan-lah mementingkan sahaja permohonan2 Gerakan Lichin bahkan, jika ada permohonan yang di-terima selepas 1.5.67, Pemungut2 Hasil Tanah boleh juga mendaftarkan permohonan itu tetapi dengan syarat ia telah sangat2 berpuas hati bahawa ada tanah2 yang jelas Ra'ayat berhajatkan tanah dan bilangan pemohon2 bagi tanah2 itu ramai dan tanah itu tidak terlibat di-dalam apa2 rancangan Kerajaan. Dalam hal ini boleh-lah Pemungut Hasil Tanah mengambil tindakan melaporkan kepada Pengerah Tanah dan Galian chukop dengan pelan dan butir2 untuk di-majukan kepada Kerajaan. Temuduga hanya boleh di-buat selepas Kerajaan telah mempersetujuan-nya dan pengumuman telah di-jalankan. Dua minggu ada-lah sa-chukup2-nya masa yang di-kehendaki untuk menjalankan pengumuman ini. Borang Arahan II TIDAK di-kehendaki kerana pengurniaan yang semacam ini.

4. Berkenaan dengan jumlahkata 1(iii) keputusan yang tersebut, permohonan tanah kocek boleh di-terima bila2 masa sahaja dan tindakan memproseskan-nya sama juga dengan yang tersebut di-jumlahkata 2 di-atas. Tanah kocek ini tidak di-kehendaki di-umumkan. Permohonan persaorangan atas tanah yang bukan kocek hendak-lah di-tolak dan wang \$2.00 hendak-lah di-kembalikan dengan memberitahu sebab-nya. Borang Arahan II (di-Butiran I) hanya di-kehendaki di-isi di-atas permohonan2 tanah kocek yang di-majukan sebelum 1.5.67 dan telah di-persetujuan. Walau bagaimana pun Kerajaan hendak-lah tahu tempat2 tanah kocek ini dan perlu di-beritahu Kerajaan atas ini.

5. Untuk menjalankan kurniaan yang tersebut, Pemungut Hasil Tanah hendak-lah menerangkan kepada pemohon2 bahawa mereka hendak-lah :-

- (a) Mengisikan Surat Sumpah mengikut Undang2-nya menyatakan mereka tiada memiliki tanah. Tetapi jika mereka mempunyai tanah, pemohon hendak-lah mengisi keterangan ini dalam Surat Sumpah-nya.



- (b) Faham bahawa mereka tidak boleh mendapat lebih daripada 10 ekar tanah, dan jika sekira-nya mereka telah ada mempunyai tanah jumlah tanah yang akan di-perolehi-nya tidak akan lebih daripada 10 ekar.
- (c) Faham bahawa jika mereka tidak memberi keterangan yang betul mereka boleh di-da'awa di-Mahkamah di-bawah Undang2 Surat Sumpah 1960, dan
- i) Sedar bahawa kebenaran yang di-beri kepada mereka untuk memileki tanah itu boleh di-tarek balek oleh Kerajaan di-bawah Kanun Tanah Negara, dan
  - ii) Sedar segala bayaran tidak boleh di-kembalikan.

6. Bagi menimbangkan permohonan2 tanah, Pengerusi (Pemungut Hasil Tanah) hendak-lah memberitahu Ahli2 Jawatankuasa sekurang2-nya sa-minggu terlebih dahulu dan menghantarkan kepada mereka senarai nama2 pemohon dan sedikit sebanyak butir2 kedudukan tanah, tarikh2 perjumpaan dan lain2 butir yang perlu.

7. Pemungut2 Hasil Tanah hendak-lah mengadakan perjumpaan Jawatankuasa beberapa kali pada tiap2 bulan mengikut keizinan masa. Sayugia di-tegaskan segala permohonan tanah hendak-lah di-timbangkan dengan segera melainkan atas tanah2 yang berkehendakkan persetujuan Kerajaan terlebih dahulu. Tindakan segera yang di-tegaskan di-sini ia-lah di-sebabkan Kerajaan berkehendakkan hasil dalam tahun ini juga.

8. Berkenaan dengan tanah2 pencherobohan tindakan pengurniaan-nya tidak-lah serupa dengan tindakan2 yang di-sebut di-atas. Kerana meluluskan terpulang kepada Kerajaan. Laporan, shor2 serta pelan hendak-lah di-majukan kepada Pesuruhjaya Tanah dan Galian seperti biasa. Setelah di-persetujukan oleh Kerajaan, Pemungut2 Hasil Tanah hendak-lah juga menghantar Borang Arahan II (Butiran 3 dalam Borang itu)



dengan mengisi segala butir2 yang di-kehendaki oleh Pesuruhjaya Tanah dan Galian itu.

9. (1) Surat Pekeliling ini tidak melibatkan permohonan2 tanah tapak rumah di-mana2 pun.

10. (2) Pekeliling ini membatalkan Pekeliling P.T.G.6/66.

(3) Malacca Land Rules, 1966, Government Printer, Johor Bahru, 1966

( MOHD. YOB BIN BUSU )

Pesuruhjaya Tanah dan Galian,  
Johor.

(4) Johor Land Rules, 1966, Government Printer, Johor Bahru, 1966

(5) National Land Code (Penang and Malacca Titles) Act, 1963, Government Printer, Kuala Lumpur, 1963

s.k. (6) Mining Enactment of the Federated Malay States, Cap.147

Jura Odit Kanan.

(7) Mining Enactment of the Federated Malay States, Cap.147  
(Extended Application to Malacca) (Act 16 of 1963)

(8) Mining Enactment (No.69 of 1922)

(9) Selangor Mining Rules, 1966, Government Printer, Kuala Lumpur, 1966

(10) Malacca Mining Rules, 1966, Government Printer, Johor Bahru, 1966

(11) Johor Mining Rules, 1966, Government Printer, Johor Bahru, 1966

(12) Land Acquisition Act (No.34 of 1950)



(13) Bibliography Ordinance (No. 34 of 1955)

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- (13) Small Estates (Distribution) Ordinance (No. 34 of 1955)
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- (2) Director of Lands and Mines circulars, Selangor (in Kuala Selangor Land Office file T.T.K.S. 2/10/64 SJ.I)
- (3) Director of Lands and Mines circulars, Melaka (in Director of Lands and Mines' Office file P.T.G.(M) SULIT 1061/65)
- (4) State Executive Council Papers, Melaka (in P.T.G.(M) SULIT 1061/65)
- (5) Development Administration Unit, Land Administration in West Malaysia : A Structural Modification for Development Administration, Kuala Lumpur, 1970.
- (6) Development Administration Unit, Land Administration : A Study on Some Critical Areas, Kuala Lumpur, 1968
- (7) Kamaruddin A. Rani, Land Administration in West Malaysia, an M.P.A thesis submitted to Graduate School of Public and International Affairs, University of Pittsburgh, 1969.