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TAXATION - TAX DELINQUENT LANDS - THE MICHIGAN LAND BOARD ACT AS A SOLUTION TO THE DELINQUENCY PROBLEM

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TAXATION — TAX DELINQUENT LANDS — THE MICHIGAN LAND BOARD ACT AS A SOLUTION TO THE DELINQUENCY PROBLEM — Nearly all states have been faced with the increasingly difficult problem of what to do with the growing volume of tax delinquent land which has been thrown upon their hands. As a typical example of the financial aspects of this problem, Michigan in 1928 had over \$25,000,000 worth of delinquent taxes on 8,757,000 acres of property.¹ In 1932 this acreage was estimated at 15,660,000. By 1937 the unpaid taxes in some of Michigan's counties exceeded five times the assessed value of the delinquent properties.² Much of the property could not be sold for the amount of taxes owed, and the increase in the number of delinquencies meant a corresponding decrease in the property producing tax returns. The more unpaid taxes accumulated on any particular parcel, the more difficult it became to sell that property for back taxes. Finally the legislature in 1937 adopted the State Land Board Act,³ a unique statutory plan for administering tax delinquent property and hastening its return to private ownership. In 1939 over 600,000 parcels of land became the state's in fee simple absolute and the act commenced to function.⁴

This comment will discuss (1) the mechanics of the act's operation; (2) the constitutional issues involved; (3) the legal problems presented; and (4) the probable effectiveness of the act.

I.

The operation of the act can be divided into two distinct chronological phases. The state first acquires an absolute title in the property, a title free from all liens for state or local taxes. Secondly, the state attempts to return the property to private ownership, in the hope that future taxes can thereby be collected from the land.

¹ Simpson, "Tax Delinquency—Economic Aspects," 28 *ILL. L. REV.* 147 (1933).

² See *Baker v. State Land Office Board*, 294 Mich. 587 at 593, 293 N. W. 763 (1940).

³ Mich. Pub. Acts (1937), No. 155; Stat. Ann. (1940 Supp.), §§ 7.951-7.964.

⁴ Mustard, "The Land Board Act," 18 *MICH. S. B. J.* 396 (1939).

The method by which the state acquires its title is not unusual. The lands are first reported as delinquent for one year or more.⁵ If land is returned as delinquent one year and no taxes are paid in the following year, the property is subjected to a lien in favor of the state.⁶ This lien may then be enforced by the usual tax sale. A sale to a private buyer must yield at least the total of the taxes, interest and charges on the property. This sale is not a foreclosure, but a sale of the state's lien. The price is determined by the taxes and charges owing, and the property goes, not to the highest bidder, but to the person who will pay the stated price for the smallest portion of the property.⁷ No more of the land will be sold than is necessary to recover this amount. If there are no acceptable bids on the first offer, the property is reoffered later in the same sale. If not sold at that time, the property is bid in by the state. The state's lien may be purchased during the redemption period by any person paying the accrued taxes and charges.⁸ The state formerly allowed a five-year redemption period,⁹ but has now shortened it to one year or eighteen months, depending on when the sale takes place.¹⁰ At the end of this redemption period, title vests absolutely in the state and this title is free from all liens, assessments and encumbrances.¹¹

Only after the title vests in the state does the Michigan statute begin to differ from the usual delinquent tax statute. The state's newly acquired property is divided into two distinct groups. The properties lying in the upper peninsula and in the northern half of the lower peninsula form one group and are administered by the department of conservation as part of its conservation program.¹² The former owners may force the department to hold a public sale of these lands by applying for such a sale within thirty days after the title vests in the state. The sale must return at least twenty-five per cent of the land's last assessed valuation. Either cash must be paid at the sale or arrangements must be made for installment payments not to extend beyond ten years. The owner can outbid others and thus get the title immediately, or he can meet the highest bid within thirty days after the sale and acquire title in that manner. If a stranger acquires the property through the

⁵ Mich. General Property Tax Law, § 55, Comp. Stat. (1929), § 3446, as amended by Pub. Acts (1937), No. 149, and Pub. Acts (1939), No. 37.

⁶ Mich. Stat. Ann. (1940 Supp.), §§ 7.104, 7.105.

⁷ Id., § 7.115.

⁸ Id., § 7.138.

⁹ Mich. General Property Tax Law, § 127, Comp. Stat. (1929), § 3520, Stat. Ann. (1936), § 7.181.

¹⁰ Mich. Stat. Ann. (1940 Supp.), § 7.120.

¹¹ Id., § 7.112.

¹² Id., § 7.953. The counties of Oceana, Newaygo, Mecosta, Isabella, Midland and Arenac form the dividing line and are included in the northern section.

sale, he receives a deed which reserves the oil, gas, coal and mineral rights in the property to the state.¹³

The lands in the southern, industrialized and more highly cultivated areas of the state form the other group and meet an entirely different fate. Lands in these counties are placed under the jurisdiction of the Land Office Board. The auditor general at this time has his final opportunity to ascertain whether any of the taxes for which the land was sold were paid. If they have, the property is returned to the owner.¹⁴ If not, two possible procedures may now be taken. A municipality may request that the property be withheld for a year¹⁵ or the land may be offered for sale.¹⁶ The municipality may want the property withheld so it can acquire the same for public purposes by paying the taxes owing. Or the municipality may ask to have the property withheld at the request of the owner in order to give him an opportunity to redeem the property by paying his delinquent taxes.¹⁷ The former owner cannot object to the city's withholding on the ground that it is not for a public purpose, nor can he complain that the city has filed its application too late, as these are matters entirely between the board and the municipality.¹⁸ If the taxes are not paid by the municipality or the owner within this year, the property is offered at the next of the Land Board's auction sales.¹⁹ The purchase price at this auction or "scavenger" sale must at least equal twenty-five per cent of the assessed value at the time the title vested in the state.²⁰ It should be emphasized that at this auction sale the state conveys its property and not merely a tax lien. The minimum price is set according to a proportion of the assessed value and not in relationship to taxes formerly due the state and its subdivisions.

A stranger to the former title must pay cash within twenty-four

¹³ *Id.*, § 7.956. The reservation of mineral rights was held a proper exercise of legislative power in *Krench v. State*, 277 Mich. 168, 269 N. W. 131 (1936).

¹⁴ Mich. Stat. Ann. (1940 Supp.), § 7.953.

¹⁵ *Id.*, § 7.955.

¹⁶ *Id.*, § 7.957. For the purposes of the act, a municipality is any county, village, city, township or school district. See *id.*, § 7.955.

¹⁷ The right to withhold and redeem belongs solely to the municipality, but the redemption can be for a former owner who receives his deed directly from the state. *Oakland County Treasurer v. Auditor General*, 292 Mich. 58, 290 N. W. 327 (1940). Under some special city charters, the city can withhold and redeem for other than public purposes. *Slutz v. State Land Office Board*, 295 Mich. 185, 294 N. W. 147 (1940).

¹⁸ *James A. Welch Co. v. State Land Office Board*, 295 Mich. 85, 294 N. W. 377 (1940).

¹⁹ Mich. Stat. Ann. (1940 Supp.), § 7.955. The sale occurs on the second Tuesday of the February following the date when title vests in the state. *Id.*, § 7.957.

²⁰ *Id.*, § 7.957.

hours of the sale to acquire the land. A party with an interest in the title²¹ has twenty-four hours in which to arrange for installment payments if he does not choose to pay cash.²² He may also have thirty days after the sale to match the highest bidder with cash or an agreed installment arrangement which is not to extend more than ten years. Any taxing unit can also purchase the property. The unit need only pay cash equal to the sale expenses plus the proportionate part of the taxes due other units not bidding which were cancelled at the time title vested in the state. That part of the municipality's taxes which were cancelled is considered as the balance of the cash payment. The unit can also meet the highest bidder within fifteen days after the former owner's thirty-day period. If various taxing units compete, priority is given to the one which had the greatest amount of taxes cancelled by the vesting of the title in the state. In no case can the taxing unit bid property in except for public purposes and never for resale. The quit-claim deeds which the purchasing units receive have a provision for reversion of the property to the state if it is not used for public purposes, but this limitation lasts only ten years.

If the property is not sold, it is classified, appraised and rehabilitated by the board for immediate sale at any time for cash equal to the newly assessed value.²³ This value may be changed by the board as conditions warrant.²⁴ The special sale may be for cash or on a ten-year or less instalment plan. The local taxing unit at this time may request that the property be transferred to it, but the acquisition must again be only for a public purpose. The new owner, be it a former owner, a state subdivision, or a stranger, receives a title at the auction or special sale stemming directly from the state's fee absolute. Unless a municipality acquires title, the property is immediately placed on the local tax rolls when the bid is accepted, although the certificate and deed may not be sent until months later.²⁵ The section of the act relating to the powers of the Land Office Board expires on May 1, 1944, at which time any property remaining within its jurisdiction is to be transferred to the control of the Department of Conservation.²⁶

²¹ *Id.* The act defines a person with an interest as being one who is "owner in fee, mortgagee, land contract vendee, or one having a substantial interest by way of actual investment in the property, priority to be given the one having the largest financial investment in the property." *Id.*, § 7.955.

²² *Id.*, § 7.957. This section contains all the sale provisions discussed.

²³ *Id.*, § 7.958.

²⁴ In practice, the board sells at further auctions. Mustard, "The Land Board Act and Its Administration," 19 *MICH. S. B. J.* 575 at 582 (1940).

²⁵ *Mich. Stat. Ann.* (1940 Supp.), § 7.957; *Wilson v. City of Pontiac*, 294 *Mich.* 79, 292 *N. W.* 565 (1940).

²⁶ *Mich. Stat. Ann.* (1940 Supp.), §§ 7.958, 7.964.

2.

Most of the constitutional arguments directed against the Land Board Act were resolved in its favor in *Baker v. State Land Office Board*.²⁷ The first objection raised was that the former statute had permitted a five-year redemption period while the present statute allows but twelve to eighteen months, thereby breaching contractual rights and depriving persons of property without due process of law by an unconstitutional retroactive statute. Michigan's Supreme Court had already ruled: (a) that a decrease in redemption period did not deprive any one of property without due process;²⁸ (b) that the interest rate on past delinquent taxes could be raised;²⁹ (c) that in any case the right to redeem was a purely statutory privilege and not a property right;³⁰ and (d) that a state can free lands of delinquent tax liens.³¹ Aided by these precedents, the court had little difficulty in reaching the conclusion that the shortened redemption period unconstitutionally deprived no one of his property and destroyed no contract rights.

The Michigan Constitution does require uniformity of taxation, and some states have held that such a requirement renders unconstitutional statutes which permit deductions from delinquent taxes.³² If the former owner is preferred at the auction sale, and if the sale brings less than the accrued delinquent taxes, the former owner in effect has certain taxes deducted from the amount he owed. Minnesota had two statutes, and the two cases arising thereunder illustrate the difference between an unconstitutional deduction from past taxes and a valid sale of property to the former owner at a price less than the delinquent taxes. The first statute permitted the owner to redeem his land by paying a fraction of his taxes and exempted him from the remainder. The court in *State ex rel. Matteson v. Luecke*³³ held that such a statute violated the uniform tax clause of the state constitution. The same court in *State ex rel. Coates v. Butler*³⁴ permitted a former owner to meet a \$100 bid on property which had been sold to the state for \$600 in delinquent

²⁷ 294 Mich. 587, 293 N. W. 763 (1940).

²⁸ *Muirhead v. Sands*, 111 Mich. 487, 69 N. W. 826 (1897).

²⁹ *Webster v. Auditor General*, 121 Mich. 668, 80 N. W. 705 (1899).

³⁰ *Keely v. Sanders*, 99 U. S. 441 (1878); *Dumpey v. Hilton*, 121 Mich. 315, 80 N. W. 1 (1899).

³¹ *Hoffman v. Otto*, 277 Mich. 437, 269 N. W. 225 (1936).

³² Mich. Const., art. X, § 3. 33 MICH. L. REV. 1280 (1935) has a good discussion of this phase of the delinquency problem. See also 38 MICH. L. REV. 427 (1940).

³³ 194 Minn. 246, 260 N. W. 206 (1935).

³⁴ 89 Minn. 220, 94 N. W. 688 (1903).

taxes. The statute in the second case was based on the same theory that the present Michigan Land Board Act uses, namely, the state first acquires title to the property and then disposes of it at a price which will permit private owners to purchase it, prior rights being given the former owners.

Since any classification is constitutional if reasonable and not arbitrary, it would appear that the state legislature had made a valid distinction between the northern properties, which probably should be objects of a constructive conservation program, and the southern parcels, which might more easily be returned to the tax rolls.³⁵

The court was faced by the further plea that the Land Office Act permitted an unreasonable preference, first in favor of the former owner, and secondly in favor of the local taxing units. Again the court found that the law was safely within constitutional limitations. The policy of the statute is to aid those who could not pay taxes because of optimistic overassessment and overcapitalization in the pre-depression era. The state, having forced him to lose his property, now offers the former owner a prior right to recover the land. Surely if the state will receive as much from the former title holder as from any stranger, it is not unreasonable in offering him an opportunity to match the highest bidder. The judgment of the legislature also appears noncapricious in giving taxing units preference over strangers. If the property is going to be used for public purposes, it seems wise to permit the municipality to match the highest bidder and thereby acquire title directly rather than having a stranger first acquire title and then forcing the municipality to divest it later in expensive eminent domain proceedings. A consideration of the reasons for granting the priority of the former owner over the municipalities shows a defensible position on both sides of this issue, and the legislature cannot be said to have acted arbitrarily in choosing one of two reasonable positions. This is especially true when one considers that the state is vitally interested in returning these properties to the tax rolls.

Most of the constitutional arguments can be answered with the argument that, the title having vested absolutely in the state, the state can convey the property at any terms it desires to any purchasers it desires as long as no completely capricious discrimination is made. Although the legislative selections of priorities may seem unwise to some, it must be conceded that there is no element of unconstitutional arbitrariness in the statute.

³⁵ The chart in FORD, REALTY TAX DELINQUENCY IN MICHIGAN 20 (1937) (Univ. Mich. Bureau of Government, Bul. No. 8, N. S.) illustrates the extremely reasonable result the legislature reached.

3.

Although many of the constitutional arguments concerning the Land Board Act were easily settled in the *Baker* case, a heterogeneous collection of intricate legal issues remained. These can best be considered through the medium of a question and answer analysis.³⁶

(1) Can a former owner alienate his right to meet the highest bidder? To answer this question regard must be given to the four steps of the act: First the tax sale of the state's tax lien, secondly the vesting of title eighteen months later in the state, followed by the scavenger sale and concluded with the owner's matching the highest bidder. Clearly between the first two steps the former owner still has title to the land, as the lien is not automatically foreclosed until the redemption period is gone. Until this occurs, he could sell his whole title to whoever would care to buy it. The title would probably have little value, as the purchaser would take subject to the rights of a possible prior mortgagee having a larger financial investment in the property and therefore priority in the right to meet the highest bidder. But even a land contract vendee is a party interested in the title³⁷ under the act, so undoubtedly a transfer before title vested in the state would give the vendee a right to meet the bid. If the vendee did not purchase until title vested in the state, could he contend he had a right to meet the highest bidder? A purchaser from the former holder in fee who made his contract after title vested in the state could hardly obtain an interest in the title, as the former owner had no title to pass. Remembering that the theory underlying the owner's priority is to be lenient to those whom the state deprived of property through taxes levied during an unfortunate economic period, the legislature cannot be said to intend that its preference be an aid to someone now buying in. The vendee, if he purchased by warranty deed, might claim that he would receive title by estoppel if the former owner exercised his right, and therefore he, the vendee, should be able to exercise that right. This logic appears too technical to be effective against the legislative policy. Surely after title vests there can be no "investment" in the property, as it is solely in the state's hands. The right to redeem from the tax sale is not property;³⁸ therefore, the right to meet the highest bidder could not be property. Even if it were, it can hardly be considered *the* property to which the statute refers. The arguments applying to a vendee after title vests and before the scavenger sale would apply

³⁶ Many of the questions discussed in this section are pending in actual cases mentioned in Mustard, "The Land Board Act and Its Administration," 19 MICH. S. B. J. 575 at 584-585 (1940).

³⁷ *Supra*, note 21.

³⁸ *Baker v. State Land Office Board*, 294 Mich. 587, 293 N. W. 763 (1940).

equally well to a contract made after the scavenger sale and within the thirty-day period. It would be much easier at this time for the purchaser to contract with the former owner to buy the property, with the former owner promising to exercise his option and transfer afterwards. Suppose the former owner transfers his right to meet the highest bid? The purchaser would be met with the statute requiring that he be an owner in fee, a mortgagee, a land contract vendee or one who has made an investment in the property. Technically he can meet none of these tests, nor does the policy of the statute favor him here.

(2) Can the board rent properties in its possession? The act places title to the property in the state but puts administration of the land in the hands of the board and thus apparently gives it the power to lease.³⁹ Another section of the statute, however, specifically states that the board has no power to enter into any lease with any person for private purposes.⁴⁰ This would permit the board to collect rentals from leases existing when title vested, but would prohibit it from giving new leases or extending old ones. The board has decided that renting will give the taxing units a little return and that occupancy of the property is the best insurance against deterioration. Confronted with the necessity either of obeying the letter of the law or of accomplishing the purposes of the act, the board has chosen to collect rents and distribute the earnings to taxing units.⁴¹ The statute itself apparently gives the board no such powers except over rentals from leases existing when the board was given title. While the Supreme Court of Michigan may not be able to permit the board to continue to function as a landlord, the legislature can and should authorize such procedure.

(3) Can the board improve property it does rent? The act places on the board the duty to pay over to the taxing units all the moneys received in proportion to the taxes cancelled.⁴² The state has made no appropriations for improvements. Practically, then, the board has no funds with which to make improvements, although the power to do so can be implied from the power to rehabilitate.⁴³ As has been suggested, the legislature might wisely permit the board to rent properties until

³⁹ Mich. Stat. Ann. (1940 Supp.), § 7.954; Opinion of the Attorney General, April 12, 1940, C. C. H. CORPORATION TAX SERVICE, STATE AND LOCAL (MICHIGAN), ¶ 24-045.

⁴⁰ "No power, either specific or implied, is hereby given to said board to enter into any lease or leases with any person, copartnership, association or corporation to be used for any private purposes." Mich. Stat. Ann. (1940 Supp.), § 7.959.

⁴¹ The board has collected over \$350,000 in rents. Mustard, "The Land Board Act and Its Administration," 19 MICH. S. B. J. 575 at 586 (1940).

⁴² Mich. Stat. Ann. (1940 Supp.), § 7.960.

⁴³ Id., § 7.958: "All other lands under the jurisdiction and control of the board shall be classified with the end in view of rehabilitating such lands as rapidly and speedily as possible and returning said lands to the tax rolls."

an advantageous sale could be made. The board, in its discretion, should be able to disburse the rental proceeds to the taxing units or improve properties. It might be unreasonable to permit the board to use rentals from land in one municipality to improve properties in another, but it would be highly beneficial to permit the board to use rentals, which would otherwise go directly to certain taxing units, to improve properties so the parcels could be sold and thus give greater benefit to the same taxing units.

(4) Who would have priority as between an owner and a mortgagee if both attempted to meet the highest bidder at the auction sale? The statute provides that "priority [is] to be given the one having the largest financial investment in the property."⁴⁴ The highest court of the state will have to interpret the meaning of "largest financial investment" as it pertains to individual cases which may come before it. If, as suggested in the following paragraph, the mortgagee can reattach his lien to the property when a former owner repurchases his land, the courts will seldom be burdened with litigation concerning the relative priority of the mortgagee and mortgagor, as the mortgagee will merely wait until the mortgagor has regained title at the scavenger sale and then reassert his lien.

(5) Suppose the former owner exercised his right to meet the highest bidder and regained his title, could a former mortgagee then sue to reestablish his lien? The mortgagee's suit would be based on the theory of estoppel analogous to the theory whereby a vendee under a warranty deed obtains title to property which the vendor acquires after the contract is made. The obstacle to replacing the mortgage is that under the statute the state has an absolute title free from all former liens and encumbrances. The Supreme Court itself has ruled that the title purchased at the auction sale is a new title, one springing directly from the state, and not coming from the former owner, directly or indirectly. If this is true, the former owner can claim that the state has foreclosed a senior lien and thereby removed all junior lienors' rights as against the land.⁴⁵ Equitably, it is hard to compare the state's process of freeing tax delinquent properties from their encumbrances with an ordinary private sale for the benefit of mortgagees. The state when it takes title has generously permitted the former owner a chance to regain his property by paying as much as the highest bidder is willing to pay at the auction sale. Given such a preference, it seems a harsh rule to say that the former owner can take advantage of the state's benevolence to remove private liens as well as tax liens and still retain the property

⁴⁴ *Id.*, § 7.955.

⁴⁵ *Robbins v. Barron*, 32 Mich. 36 (1875); *Krench v. State*, 277 Mich. 168, 269 N. W. 131 (1936).

by payment of perhaps an extremely small portion of the total of private and public encumbrances.

(6) Does the Land Office Board have the power to exchange land in its possession for other properties? If the board has the south half of block *A* and one-half of block *B*, it might be extremely advantageous to a city to have the board exchange the portion of block *B* for the north half of block *A* and thereby control all of block *A*. The city would then be willing to bid in the whole block for a playground or other public use, whereas if it had to bid in just half the parcel, it might discover that the private owners in the north half, knowing that the city could not have a playground without the whole of the block, would boost the prices of their vacant lots. The act does not seem to provide for such an exchange. It directs the steps to be taken in disposition of the land, and the board is given no discretion in its disposal until after there have been no acceptable bids at the scavenger sale. At this time, the board can dispose of the property in any suitable manner and might easily exchange property to aid the city, which can acquire title at this stage by merely requesting it. If the land could be exchanged before the sale, it is difficult to see just where the former owner's right to meet the highest bidder would lodge. He is not a former owner of the newly acquired property, and his former property would not be offered at the auction, as it would be in other hands. This step may be a wise one, but it can only be permitted by legislative fiat, and such permission does not seem to have been given.

(7) Are there any objections to the favorable preferences given former owners? The constitutional obstacles to such preferences, which the *Baker* case properly dismissed, have already been discussed. The legislative policy in allowing such preferences, however, may be questioned. The permission to match the highest bidder at the auction sale has caused a loss of competitive bidding at those sales. The former owner does not want to bid and thus force up the price, and no stranger cares too much to bid when he knows that a bid can be met by the former owner.⁴⁶ Unless there is some combination of strangers or municipalities bidding at the sale there will be no competition. The right to meet the highest bidder and pay only a portion of the price in cash has allowed the former owners to make small down payments and then pay instalments only if sales of property can be made to meet the payments.⁴⁷ Under this system, large real estate dealers can meet many

⁴⁶ From partial returns, 34% of the highest bids are met. In the areas where the largest amount of land is delinquent because of speculation, the former owners bid in a larger percentage. Wayne county owners met 50.4% of the highest bids. 13 MICH. MUN. REV. 52 at 55 (1940).

⁴⁷ The board's policy has been to require down payments of 10%, not less than \$25; balance in monthly installments of \$1.12 or more per \$100 of balance. 13 MICH. MUN. REV. 15 (1940).

bids and, with a small capital, make down payments and wait to see if they can sell any of the property. If a sale can be made, the property will be paid for; if no sale is forthcoming, the former owner can simply let the property return to the state by failure to keep up the instalment payments on the land contract. If down payments are relatively small, the former owners can afford to gamble on many lots in the residential development areas around the larger cities with slight financial risk.⁴⁸

The preference of the former owner over the municipality also tends to hinder the taxing units in their attempt to acquire property for public purposes. The former owner often needs to pay but a small portion of what the municipality was owed in taxes and force the municipality to pay a much higher price in eminent domain proceedings if the property is really desired for public purposes. The legislature's intention was to place the property on tax rolls so the municipalities might gain more from new taxes. If the municipalities would rather own the property for public purposes than look forward to the remote possibility of future taxes being paid on the land, the legislature has effectively blocked the accomplishment of that purpose.

4.

As the results of the scavenger sales of the first year have not yet been compiled, it is too early to determine how successful the act has been. From scattered reports several favorable factors can be noted. The passing of the act has caused many property owners to realize that the state does intend to enforce the land taxes, and consequently many taxes have been collected which were not paid previously on the assumption that no effort would be made to collect them. Larger cities, like Detroit and Flint, have withheld considerable areas of property, but nearly forty per cent of the land actually offered at the first auction sale seems to have been taken.⁴⁹ Further special sales have placed still more taxable property in private hands.⁵⁰ Unfortunately, the preference given former owners has slowed down permanent return to private ownership through cash sales. Approximately two-thirds of the property has gone to former owners who have had to pay but ten per cent of the sale price in cash.⁵¹ Although no figures are as yet available to sub-

⁴⁸ Wayne county illustrates the truth of this, as there early reports show 87.7% of the sales were on installments to the former owners; 2.6% were cash to owners; 9.7% cash to others. 13 MICH. MUN. REV. 52 at 55 (1940).

⁴⁹ By Sept. 1, 1940, about 40% of the property offered had been sold. Mustard, "The Land Board Act and Its Administration," 19 MICH. S. B. J. 575 at 589 (1940). The act had raised Wayne county's collection of land taxes from \$60,000 in October, 1938, to \$831,000 in the same month in 1939.

⁵⁰ 13 MICH. MUN. REV. 132 (1940).

⁵¹ Id. 52. By Sept. 1, 1940, of the \$9,657,640 worth of land sold, only \$3,770,990 was received in cash, the remainder being owed by former owners under

stantiate the theory, it is quite possible that many of these former owners are large real estate companies in urban areas who are making the small down payments on the chance that the property can be sold at a profit. If no profit is realized, the state may discover that much of this property will again return to state ownership.

Actual administration of the Land Board Act has revealed certain defects which need study and possible amendments. It is suggested that the Land Board be given additional powers to lease to private individuals, to collect rents and to rehabilitate properties with the rentals collected. Admittedly, this power could be unwisely used by allowing favoritism in the leasing of properties, but an honest administration of this power would do much to further the policy of the act by making the properties more salable to private individuals. The board should also be given the authority to exchange lands it controls for privately held properties at the request of municipalities. This would necessitate the removal of the preferences of the former owners concerned. The general policy of granting preferences to former owners needs serious reconsideration. Perhaps it may have been carried so far as to impair the policy of returning lands permanently to private ownership. A modification of the preference, such as a restriction of the right to meet the highest bidder to those former owners who could meet the bid in cash within twenty-four hours, might result in more genuine bidding and still not treat the former owner too harshly.

Rex B. Martin

installment contracts. Mustard, "The Land Board Act and Its Administration," 19 MICH. S. B. J. 575 (1940).