

Letter to  
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SOLOMON ISLANDS SELECT COMMITTEE ON LANDS AND  
MINING MARCH 1976

This is a very important and valuable report. It is clearly the result of much hard work and careful thought, and its authors are to be congratulated.

With most of it I would agree, but the comments in this paper are on some points which may be worth ~~considering~~ further. No doubt government will be considering a number of points of view before making its final decisions on land policy and these are a small contribution to that end, and in response to a request for comment.

The comments follow the paragraph and page numbers of the report.

1. Introduction

Page 2 para 1.1 "There is no such thing as waste land". This is always a question of degree, for in the absolute sense that statement would apply anywhere in the world. The key questions are the extent of utilization and the nature of identification that a government is prepared to accept as a basis for granting a citizen privileges in relation to land - particularly the complex set of privileges we often called 'ownership' which is really secure only when a central government (on behalf of and at the expense of all citizens) provides laws for this and a range of other facilities to allow that person to enjoy those rights.

Para 1.2 On the question of the prices paid by the European for Solomon Islands land. What is "fairness"? I'm sure there was unfair dealing, but I assume there were also some fair dealing. In most of the Pacific, most foreigners who bought land went broke, I expect that many buyers thought they were paying a fair price as the total costs of establishing plantations at that time were unknown, and relatively few succeeded in developing them. Most of the land purchased was too expensive to develop and for that reason never was developed. I do agree, as stated in the report, that since Europeans didn't develop those lands they shouldn't have any claim to them - i.e. government should not protect or recognize a claim from too long ago that has not been reinforced by reasonably intensive use. (This principle should apply to anyone, of course, and it becomes significant in relation to 'waste land' above).

Page 3 para 1.4 The terms of reference asked the Select Committee to 'have regard for' three different and conflicting things - the views of the people, the implications for government revenue, and the implications for private investment. It is presumably inevitable that an elected committee will give much more emphasis to the first - the views of the people - which are inevitably based on their past experience and not on their future needs.

2. Customary land

Page 6 para 2.1 assumes that most land in the Solomons is 'owned' by groups. This is a question of emphasis. It is true to some extent and false to some extent. The central government also owns rights to all land and so do families and individuals. While the statement in the report is true, it would be equally true to start off by not emphasizing that aspect, but emphasizing the equally true fact that traditionally most Solomon Islanders made individual gardens, and this individualization was in many cases carried so far that if a man had two wives they had two separate gardens. The level of right holding that one emphasizes depends on the purpose one has in mind. I had a feeling, reading the report, that the authors were over-emphasizing group identification (which was indeed valid for matters of land transfer, land defence, hunting and gathering etc. and for reversion) whereas most gardens and most trees were owned by individuals or by families, not by large groups.

Para 2.2 continues on the same theme that land should be returned to and kept under the control of the group that "owns" it. But one usually finds that the power of such a group over an individual within it who is actively using the land is very limited indeed. This kind of recommendation often leads (and Fiji is a sad and extreme case of it) to groups ending up with registered rights of a strength and nature that they never had traditionally. The effect of this is to decrease productivity most unfortunately.

Individuals leave groups, they always have, but today they are doing so more than ever before. A major problem arises as to what constitutes the group? It is very difficult to define. People don't usually know how difficult it is until five or ten years after they have tried, and then the awful complex and unmanageable reality starts to emerge. By what criteria does one become a member of the group? By what criteria does one lose that membership? What period of absence has what effect on one's membership and so on? It is commonly believed that rights in such groups were equal, and that everybody had an equal say or share. This is quite untrue. The rights of males differs from those of females, the rights of older members differ from those of younger members, the rights of elders from those of commoners, the rights of absentees differ from those of resident members, the rights of those with many children differ from those with none, or with adopted children, the rights of users differ from those of non-users, and so on in a continually fluctuating, moving, interaction. Membership of groups is constantly changing, even though people in the group are often not conscious of this happening because the processes are slow and take place all the time. Membership status always was flexible, but becomes much more so with peace and motor transport.

Para 2.3 states that individuals using land can benefit from it "provided they share part of the benefits with the group". This could become a major obstacle to productivity unless that definition is made very clear. A common situation in the Pacific is that members of groups now (on the basis of legal definition of this kind) claim rights which have no traditional precedent whatever, to the produce of fellow members of their groups.

Para 2.5 says that population growth makes it important to keep land for subsistence in the future. I would think that applies to only a few areas of the Solomons, which by world standards has vast land surpluses. I have no doubt that it is necessary in some places, but it is the kind of rationale that can lead to the tying up of large areas of land which will never be used. The reality in most of the Pacific is that although population has gone up, the area of land used for subsistence has gone down. I expect this trend will continue. It is not that I recommend it, but this is the direction it is going.

I am fascinated by the wonderful technique which the report writers used in starting each section with "What the People Said". The frequently implied unanimity and universality is presumably false, but is validated as a public relations gambit which is probably politically effective. I remember that great political practitioner Sir John Guise (now Governor-General of Papua New Guinea) who, when he just thought up a new proposal that nobody else had ever heard of, and there were some doubt that it would be accepted by the Parliament or whatever group he was addressing, he would assert "my electors insist that ..." or "the people of this country have instructed me to demand ..." It is a very effective technique!

3. Alienated land

Page 7 para 3B1 (a) It is no doubt true that expatriates sometimes thought they were buying 'ownership' when Solomon Islanders thought they were selling use rights only. But I believe that this is an over-played argument. Many Solomon Islands societies were quite familiar with the sale of land and had been for generations before European times. It was a common customary practice in many Solomons societies. Indeed there were qualifications on sale, but there are in any human society. In para (b) it noted that the government did not realize that land could be owned but not used. Much depends on the meaning of the word "own". I'm sure government recognized that much of the land would be claimed, but it was not prepared to give official recognition to such a low intensity of interaction between claimants and claimed territory when it felt that it was in the national interest to use it for other purposes. This is complicated because the colonial government took it away and gave it to expatriates. Okay, get it back from the expatriates. They don't need it anyway. The important problem coming up for Solomon Islanders is to get such under-used land and hold it for all Solomon Islanders as a national asset to be used in the best national interest.

On point (c), it is probably true that many Solomon Islanders did not expect buyers to continue to claim land they had for a long time never used. But there are direct conflicts between paragraphs (b) and (c). One cannot assert in (b) that Solomon Islanders were very familiar with continuing to own land that they did not use, and in the next paragraph assert that Solomon Islanders could never possibly understand that people who owned land would continue to claim it even though they did not use it! There are other examples of this skewed logic in the report - asserting one kind of thought pattern in relation to a particular set of circumstances and asserting the opposite in relation to others.

Para 3B3 (3C1) I appreciate people's feelings about expatriates holding land and that they will want that land returned. That is fine and should be achievable. It should cause no major difficulty. What does concern me, however, is that they want government and church land returned. It is so easy to do but so costly to the national interest in the long run. People are reacting against the colonial government but punishing their own new national government for sins it never committed. One thing the new national government will desperately need is an adequate stock of land in order to look after Solomon Islanders who need the opportunity to resettle, to promote agricultural development schemes, etc. etc. I have no doubt that there is a good case to return government land in those few instances where the original owners are now seriously short of land and have a more urgent need than the national need. But I assume that that is very few. Public reaction generally runs about one generation behind historical reality and this is one of the instances where I would hope that the government will look more at the implications for the people of the independent Solomons as a whole nation, rather than at the selfish interests of small pockets of individuals. I don't blame the individuals, I'm sure if we were involved we would all do the same, but one would hope that the government will take a longer term view.

Para 3B6 suggests that the Loans Board be expanded to allow original owners to buy back improvements. I think that this is probably inevitable and has to be gone through, but there are just so many cases all around the Pacific where this has been done and where the improvements have thereupon been allowed to languish. Often there is a great flourish of effort just after the take-over, but usually, and unfortunately, the whole thing collapses within five years. There are principles that explain why this is so, but these are too complex to go into briefly. The key point is that I don't think it merits large sums of government money being allocated to these purposes unless circumstances are quite serious.

Para 3B8 I I agree in principle, and it is happening much more in practise as the old leases go out and are replaced by proportionate share leases with complex provisions. I favour them too, but share leases in the Pacific are not anything like as profitable as was assumed when they were introduced.

In para (c) at the top of page 9 one can understand the need for users of the land to respect the customs and way of life of the land owning group but unless that is defined more closely it could be a very difficult provision both to adhere to and to force compliance with.

Page 9 para 3B10 Alas, alas! So often has unused freehold been returned to original sellers of the land, but so seldom has it succeeded! Again, unless there is a serious shortage of land and a demonstrated need for it by the people claiming it, I think it would be most unfortunate in the interests of Solomon Islands people for this to happen. Nevertheless, I assume that it will happen, and that we all have to learn the hard way.

Para 3B11 claims that "returning the land registered would help stop future disputes". This is seldom true in my experience. It implies that disputes are likely because the land had not been used for a long time and therefore the "true" owners may not be known. I agree that the land should not be returned until disputes about ownership are settled, but any suggestion that there would not have been disputes otherwise does not accord with the facts of most customary land situations - Disputes were, in fact, an important and necessary adjustive mechanism.

Para 3B13 To transfer leases from government into leases from original owners would be unfortunate, and something that the Solomons people are likely to regret in the fairly short term future.

Page 10 para 3B15 I can see a good case as recommended for transferring lands held by foreign missions, to local churches. But I see no case for cancelling their freehold or reducing their rights. I am not Christian, but feel that where Christian churches were given or sold land voluntarily by the communities, and they continue to serve those communities, and the church belongs to the local communities (assuming that it is transferred from foreign missions where this has not yet been done), churches should be able to keep such land as they need.

#### 4. Land disputes

Page 12 para 4A1 says that the people made many complaints about local court justices being guilty of favouritism and accepting bribes. Court procedures are said to be frightening, and favour the better educated and those who can argue better. Decisions were not clear, the same cases were heard again and again, there were too many appeals, courts were accused of not following custom etc. I have no doubt that all these things are true, but the recommendations then go on to propose a great expansion of the same kind of system. Frankly I don't see much alternative, but the court structure that has been proposed (and which may be the most sensible available) will be subject, on a much vaster scale than has yet been seen, to the same problems as spelled out in 4A1.

The kinds of disputes in 4A3 are nothing new, and I'm sure have always had their precedents.

Page 13 para 4B6. "There will always be a few people who will not compromise, who will refuse mediation, and who will reject the decisions of respected arbitrators". True, and from evidence right across the Pacific the number of those who will not compromise and will refuse mediation and reject respected arbitrators will increase very very rapidly and become almost indigestible volume beyond the capacity of the system to handle. This is the situation already in much of the Pacific. Part of the problem is that there is an implied assumption that in pre-contact times disputes were settled amicably with everybody being in agreement. This, of course, was not so. The reason many disputes were settled (and very many were never settled, and carried on from generation to generation) was the power of the sanctions including fines, banishment, physical beating, burning of houses, and warfare. If the new mediation procedure is to be at all effective, the people administering it will need some effective sanctions to apply.

4B8 The structure of mediation procedures in this and the next paragraph are going to either be carried out as planned and be extremely expensive of both money and skilled man power (they will later insist on, and probably eventually get, central government finance for this, despite short term assurances to the contrary), or they are not going to function as planned. Probably a little of each is the most likely reality. The provision in 4B10 for training of land court clerks and provisions for recording evidence etc. are undoubtedly important but also expensive and need a full and detailed costing and plan of implementation.

Page 14 4B13 The question of what constitutes custom is always difficult, particularly when the most basic factor in the Solomon's tenure system was that warfare was the ultimate determinant. All other customs were subsidiary to the question of who had the most fighting power when the **crunch** came. And if the high court follows British custom (usually spoken of respectfully as 'law') then British courts claiming to follow 'custom' never consider what would really have happened in a disputed customary situation - i.e. which of the two groups had the major fighting power. If the court is not prepared to **act** on that criterion (and I'm sure it is not) then it is ridiculous to say that the court should act in accordance with custom - i.e. totally rejecting the big custom and but forcing acceptance of the little ones. British-type courts usually did this in the colonies.

##### 5. Registration

Page 17, para 5A3. It is noted that people agree with the idea of having trustees, but don't trust the trustees! How right they are! I just left Niue which uses a trustee system in the form of "Leveki Mangafaoa" who are chosen by the family concerned. They have had much much more problem with them than they ever expected when they set the system up - even though Niue is just a tiny place of 3,900 people with expensive surveying, registration, dispute-settling and other facilities all paid for by large overseas subsidies.

Para 5A4 brings out the strong objection to registration of individuals and shows the strength of jealousy, of fear of being 'beaten' by others. This is the process of forced under-development whereby people take very strong action to ensure that they hold each other firmly in poverty. It is a very widespread human phenomenon in small-scale subsistence societies.

Perhaps the easiest technique for covering this problem, is to register two levels of right - group rights to the larger areas and Occupational Rights to smaller areas for intensive utilization by individuals. Tahiti and the Cooks both use this technique.

The principle on the top of page 18 for recording the rights of members of the group to use different parts of the land is likely to be impossibly complex and unworkable because of the constantly changing nature of it.

Page 18 para 5B4. We are all aware of the difficulties of maps being drawn by the people themselves unless a solid training course could be provided for selected individuals who specialize in this work.

Para 5B5 (and recommendation 5C3) using customary rights as security for loans is unrealistic. What use as security is land on an island, held by customary title, in the midst of people who would not welcome or permit another person coming in to take over the land if the security was called up? It would almost be impossible for such land to be effectively used as security. Plenty places have tried, but none that I know of have succeeded. There are ways in which the use of land can be used as a security, but banks are increasingly going away from land as security anyway and finding other techniques, as the Papua New Guinea Bank and Western Samoa banks have done increasingly in recent years.

Para 5B8 recommends more use of group ownership and registration and para 5C7 recommends easier registration of groups to run development projects. Before too much is done on that line one should closely examine the many hundreds of experiments in group development projects that have been tried in all parts of the Pacific. The survival rate is fantastically low and the probability of failure and disillusionment close to 100% in any period beyond 10 years. I am not arguing in principle against such projects - until I did research on the actual record in a variety of countries I thought they were the ideal and natural thing to aim for in the Pacific. But I was being unrealistic and basing my assumptions on a total misunderstanding of the nature of the social systems concerned. Many people, both islanders and expatriates, share my misunderstandings.

#### 6. Development : agriculture

Page 20, para 6B1 expresses the fear that cash crops and cattle projects will take all the land and the few members of the group which own them will become rich while the rest will become poor. This fear is not well grounded as the Solomons have large land surpluses and this are ways of limiting individual expansion. In other words, as expressed also elsewhere in the report, there is strong discouragement of using the highly motivated, energetic, skilled farmer as a higher producer, model, and source of stimulus.

On the other hand, para 6B2 claims that "group ownership of land is a good and well understood way of controlling the balance between cash and subsistence farming". This is a guaranteed formula for poverty. There are very sound psychological and sociological reasons why it is almost impossible to achieve the income Solomon Islanders aspire to in this way.

Perhaps people think that the system of modified traditional tenure that is recommended will lead to productivity through one of the socialist models, various kinds of which operate in China, Tanzania, Cuba and parts of Israel. But these are based on entirely different principles, with much more central organization, much more vigorous control and much longer working hours. The success of some of them has been considerable, of others disappointing. If the Solomons people wanted to live in their rural environments, producing their own food, making their own houses and living in a largely self-sufficient balance with their environment, then this would be excellent. But all the evidence available suggests that this is not so and that Solomon islanders want a lot of imported goods, equipment and services

as well as expensive infra-structure in the form of schools, roads hospitals, radio programmes and so on. The very few Solomon islanders I have ever heard strongly recommending a subsistence life in a village not dependent on external funds, resources or ideas, have been those that do not live that life at all, but live as dependents on the fringe of foreign aid. As it is probably safe to assume that Solomon islanders will continue to want more roads, hospitals, schools etc. etc., they are either going to have to generate more income (and exports of cash crops, timber minerals etc. are one source of such income) or they are going to become more and more heavily dependent on foreign aid. That is the very opposite of the concept of self reliance which is being recommended.

Page 21 para 6B6. Again the occupation right system may be worth examining in this connection.

Para 6B7 It is agreed that the older leases should be revised to bring rents up to a sensible level today. Incidentally, the Kingdom of Tonga is now just undertaking a major exercise along the same lines.

#### 7. Development : Mining

7A1 mentions that landowners should get a direct share of benefits from mining. The problem, of course, is one of proportions, and of how much should go to those who by accident of birth happen to be living on a resource that they did not know existed, and how much of the benefit should be used for the people of the Solomons as a whole for the various development projects they have expressed strong desire for. Personally I think there is a strong case to keep the share which goes direct to former landowners as small as possible, though in the Solomons situation it is probably essential that some such money be paid to the landowners.

It is noted (para 7A2) that people are concerned about the effects of mining on their subsistence farming, natural environment and way of life. It is good that they are, but the tendency in most islands (and other parts of the world) is that although the concern is expressed, the people very willingly participate in the mining etc., and they themselves abandon subsistence farming, and rapidly adjust their way of life. I am not suggesting that it is good - in fact quite often it is bad, but often the people themselves take the initiative in making these changes as soon as the opportunity offers.

7B1 (III) points out that a continuing share of income should go to the owners and not just compensation which is quickly spent. I would suggest that both payments be mainly in trust funds or investments, and not in cash, otherwise the money is spent very quickly and the people feel deprived and remain poor even though they have had a lot of money. Examples of this kind are numerous in the Pacific.

It is encouraging to see in para 7B2 the recommendations that government should continue to own minerals and should aim to distribute the benefits from the mines more fairly to all people of the Solomons.

#### 9. Land rights of non-Solomon Islanders

The provisions for persons with some Solomon Island blood and who are born and brought up in the Solomons seem to be too strict in that they are likely to leave some persons who have no citizenship and no rights anywhere else in the world, also without land in the Solomons (and possibly also without citizenship,

though this will depend on the constitutional proposals). I wonder whether the government would be prepared to give further consideration to those persons (presumably there will not be many, but their individual problems could be serious unless some provision is made for them).

#### 10. Town land

I am interested in the comment in para 10 B1 that the committee "does not think that land should be bought and sold as a commodity like a motorbike or a bag of rice". This raises very important issues to be thought through a little further. Does the committee feel that motorbikes should be bought and sold? Or that bags of rice should? And should they be sold at their market value or subsidized by government (as some foods are in several Pacific countries)? Or should they be sold at a higher price (as motorbikes probably are because government charges customs charges duty on them). If the committee is advocating traditional precedents, presumably it would have to allow some forms of sale, and also conquests.

What the report in fact insists on, by default, is that (except for town land) land should be allocated by accident of birth. Many different countries and cultures have tried many different principles for the allocation of land, but in any society aiming for higher levels of productivity and income, and for a complex infrastructure, allocating land by accident of birth will make it almost certain that these goals will not be achieved.

The recommendation (10 C1) that government should not consent to the sale or rent of land where the seller is making too much profit will need to be thought out in careful detail. The position in Australia, for example, when such provisions were introduced a few years ago, was that it led to a desperate shortage of housing in the capital city and to illegal payments because people who saved their money found it more profitable to invest in things other than housing. So the amount of houses built went down and the demand for what was built naturally went up and a black market soon developed. The experiment was abandoned. If this policy is adopted it will be necessary for the government to move in on a large scale and be the supplier of houses. Encouraging individuals to build their own home is worthwhile and achievable for some. But in no human community do we find a very high proportion of urban dwellers building their own houses - the costs are too great, the skills needed too diverse, the problems too complex. I would expect that the newly independent Solomons government will have many important problems to occupy its attention in the early years of independence, and that it will be unlikely to have sufficient money to provide much of a housing for people moving to town. Until the government is in that position, therefore, I would suggest that reasonably free provisions be made to encourage people who have the skills, money and initiative, to use at least some of it and providing houses in town.

One thing that fascinates me in the Pacific and in a number of other countries, and which I do not understand, is that people often object to others making say 10% profit from the building of houses to rent or sell, but do nothing at all about people making very much higher profits, and often monopoly profits, on the sale of imported or local drinks, foods, drugs and other manufactured goods. Nor do they seem to raise effective objection to much higher profits being made by lawyers, accountants and various other professionals. What sometimes happens in the Pacific is that governments object to people making profits from housing, but don't do anything about providing sufficient housing themselves, then end up renting houses for government use from those private citizens who have built. I do recommend further serious consideration to



this question, because the vital issue is that houses are going to be needed. If the government is in fact going to get on and provide those houses (or provide loans to individuals to build houses for themselves) in adequate number and at the appropriate time, then fine. But if not I would strongly suggest a policy which encouraged home building, for the Solomons is almost certainly going to be short of housing for some time.

#### 12. Government acquisition of land

The conflict between the self interest of the individual or group concerned, and the larger interest of Solomon Islanders as a whole, is obviously going to be difficult to reconcile. But recommendation 12 C4 "government should not acquire perpetual estates when leases would do as well" may need further consideration and clarification. I would expect that there are few occasions when leases would "do as well" for land needed for governmental purposes as permanent acquisition would do. Leases provide a very time-consuming and expensive administrative overhead at a time when the government would need all its skilled administrative staff and will not want to burden them with unnecessary tasks. Moreover, leasing government's lands means that the public will be required to pay each year, through taxation, for these lease rentals and there is a good case to get such payments over once and for all (if possible paying compensation into some form of replacement long term asset).

This is another of the conflicts that appears in the report. The above recommendation is basically that landlordism should be encouraged. Those who hold the land at this particular moment are not to transfer it, and only lease it to those other Solomon Islander individuals, groups, companies or government who need it, and so one develops a class of Solomon Islands landlords. Those who by accident of birth happen to have land which will be needed for airports, hospitals, roads, schools, etc. are to become rich landlords and are to be paid by the rest of the public who are to become relatively poor, and the government is to be the mechanism whereby this landlordism is to be encouraged. Yet in other sections of the report this kind of principle is very strongly argued against, and there is strong opposition to differences in income levels, opportunities etc.

#### 13. Local councils and land

Recommendation 13 C3 for Area Committee Land Boards is probably the most practical, but a very realistic costing of what staff, money and time will be required to carry out the work which is likely to be demanded of them would seem to be important. My fear is that for them to be effective will require more staff and time than the government may be able to spare at this moment. Almost every government I know has seriously under-estimated the time, money and staff needed to get such a programme carried out.

#### 14. Land policy and land administration

As stated in the report, the recommendations will mean much more work for the Lands Department and the Lands Registry. There is indeed a strong case for them having more staff. But in other Pacific countries where similar recommendations have been made and where there has been just as strong a case for them to have it, and where government has given a firm assurance that they will have it, they still have not got it! This is because governments are faced with a lot of competing demands for urgent, necessary and reasonable services and just do not have sufficient staff and finance to meet them all. Unfortunately, although the "negative" aspects of land are very powerful political factors, getting anything positive done about land is a long slow and boring process and not very spectacular. Therefore Lands Departments get relatively little of the money and

key staff. Exotic, high prestige, usually low pay-off services like Foreign Affairs get disproportionate quantities of the funds and top skills. I think some of these trends are inevitable in the early stages of nation building. Although I would strongly support the recommendations made for more staff and more training I assume that those responsible will also be well aware of the actual limits of numbers and money.

Again I would emphasize that these notes are merely dictated comments on a first reading of the report of the Select Committee on Lands and Mining. Their report is clearly an historic step in the development of land policy in the Solomons, and probably the most important step in land matters that has been taken in nearly hundred years. My comments, therefore, are merely minor suggestions which you may wish to consider along with others, at the time when this vitally important topic is being decided upon.

R.G. Crocombe



LEGISLATIVE ASSEMBLY

Paper No. 12 of 1976

SOLOMON ISLANDS

REPORT

SPECIAL SELECT COMMITTEE ON LANDS AND MINING

Office of the Legislative Assembly

Honiara

March 1976

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Parts 3 to 13 of the Report are each divided into 3 sections

Section A: What the people said

Section B: Principles

Section C: Recommendations

There are also 5 Appendixes attached to the Report (on yellow paper)

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## 1. Introduction

1.1. The concept of ownership of lands and seas in the Solomons is that Solomon Islanders owned lands and seas in their entirety. By this it is meant that Solomon Islanders in owning lands also own the forests, and all its products the birds and beasts which inhabit the land surface and things in the land. There is no such thing as wasteland. In the sea they own the reefs and fishes that swim there in. The fact that even today people who want to hunt or fish in lands and seas owned by some other people must get permission from the owners even when the lands and seas are not registered, goes to strengthen this argument. A practice that is dying out is that in olden days in some places Chiefs or Prominent men invite one another to open lands or reefs that had been prohibited for people to hunt or fish in.

Only applies to some lands  
→ some

1.2. When whitemen came they had their own concept of ownership of land and sea and as conquerors and lords they ignored local traditions and all that goes with them. They bought land at will costing them as little as few sticks of tobaccos or axes or even empty bottles. The land owners were pleased with the cost and felt justified but what cannot be justified is the fact that whitemen knowing full well that they were not paying anywhere near a fair price for what they were getting did not try to make provisions which was well in their means for the land owners to be paid further, with money or kind when they come to realise that they had been taken advantage of.

Most of them  
want books

1.3. When the islanders' eyes were unveiled through education and outside world contacts they began to ask questions of the elders of how lands were sold and in learning the truth were very dissatisfied. These dissatisfactions grew and grew people realise more and more the values of land and how some good lands were lost to them. They also see that some lands owned by foreigners were neither developed nor maintained and so the wish to re-acquire these lands and develop them towered higher and higher and the fact that Government in recent years by law acquires customary lands from their owners before Timber Companies enter and extract logs does not help ease matters but worsens them, so that

knowing these the Governing Council at its Eleventh Meeting in Public accepted motions:

"3 That a special select committee be formed to consider the Mining Regulations and all amendments thereto with a view to framing new and comprehensive mining Regulations to meet the requirements of the country and the just claims of landowners and so to ensure harmonious and friendly development of whatever mineral deposits these islands may possess and that such committee have power to obtain expert advice on mining law generally and on custom practices which may be affected by mining."

and

"41 That a special select committee be set up as a matter of urgency to reconsider existing land policy".

1.4. Terms of Reference

"Having regard to the views of the people of the Protectorate and to the implications for Government revenue and for private investment:-

Impact to revenue?

- (a) To examine and report on current policies relating to
- (i) land; and
  - (ii) prospecting and mining for minerals insofar as such policies affect land;

- (b) To recommend any changes in such policies necessary in the interests of the Protectorate to encourage the orderly and rapid development of its natural resources".

1.5. Membership

Members changed during the life of the Committee. The first members appointed by the Governing Council on 30.1.74 were:

Hon. B. Kinika (Chairman)  
Hon. J. Ausuta  
Hon. W. Ben  
Hon. J. Fifi'i  
Hon. Dr. F. Kikolo  
Hon. A. Kukuti  
Hon. J. Page.

Hon. M. Bonunga, Hon. Fr. L. Fugui and Hon. D. Thuguvoda replaced n. B. Kinika and Hon. J. Ausuta in September 1974, and Hon. J. Fifi'i became chairman.

From January to March 1975 the Committee split into teams to tour the Districts as follows:

Central: Hon. A. Kukuti and Hon. M. Bonunga  
 Western: Hon. J. Fifi'i and Hon. Dr. F. Kikolo  
 Eastern: Hon. Fr. L. Fugui and Hon. D. Thuguvoda who did not finish the tour and was replaced by Hon. B. Kinika  
 Malaita: Hon. W. Ben and Hon. J. Page.

Hon. P. Ghemu joined the Committee in June 1975. Hon. W. Ben resigned in August, but was reappointed in January 1975, when Hon. J. Ausuta returned to the Committee, and Hon. Dr. G. Zoleveke joined for the first time. So the final members of the Committee were:

Hon. J. Fifi'i (Chairman)  
 Hon. J. Ausuta  
 Hon. W. Ben  
 Hon. M. Bonunga  
 Hon. Fr. L. Fugui  
 Hon. P. Ghemu  
 Hon. Dr. F. Kikolo  
 Hon. A. Kukuti  
 Hon. J. Page  
 Hon. D. Thuguvoda  
 Hon. Dr. G. Zoleveke.

#### 1.6. The Work of the Committee

Continual replacement of Secretaries made the Committee's work harder. Wilson Ifunaoa was Secretary from January to September 1974, when he was replaced by Leonard Maenu'u. Edward Masika, George Hiele, Francis Waleilia and Leonard Maenu'u were Secretaries to the touring groups. Edward Masika replaced Leonard Maenu'u as Secretary for the meetings in April and May 1975. Then Augustine Manakako took over from June to September 1975, when he was replaced by Dominic Otuana. Peter Larmour was assistant to Dominic from January to March 1976.

1.7. The Committee held 21 meetings between January 1974 and March 1976, plus one joint meeting with the Forestry Policy Review Committee on 13 April 1975, and two meetings as a Working Group in August and September 1975. The Committee split itself into Sub-Committees to tour the Districts from the end of January to early March 1975. On tour the Sub-Committees used a standard questionnaire both to answer specific questions, and as a way of getting people talking about the changes they wanted in land policy.

1.8. A list of the meetings is at Appendix E, a copy of the questionnaire at Appendix A and the four tour reports at Appendix B. Places visited are listed in the tour reports.

1.9. The Committee received 19 written submissions (4 after the deadline for submissions, extended to 15 July 1975) and heard oral evidence from Tony Hughes and James Wong on 7th August 1975. The written submissions are at Appendix C, and a list of information papers prepared by government is at Appendix D.

1.10. Dr. R.B. Thompson and Mr. David Ruthven were appointed advisers for the first few meetings of the Committee. We would like to thank them for their help, and also the British Commission in Papua New Guinea who sent us copies of recent Papua New Guinea land legislation.

1.11. We are particularly grateful for the advice of Professor Rudy James, Dean of the Faculty of Law at University of Papua New Guinea who met the Committee during visits to Honiara, sent us copies of legislation and put us in touch with Dr. Alan Ward, Reader in Pacific History at La Trobe University. We are sorry that time prevented us from getting Dr. Ward's advice, but we are most grateful for his offer of help.

1.12. Finally, we would like to thank Teresa Tioti for her quick and efficient typing of the Committee's papers and report.

2. Customary Land: General Principles

These are general principles that lie behind many of the recommendations we make in our report

2.1 Most land in the Solomons is owned by groups : lines, tribes or clans. Individuals may own land that they got as rewards, compensation or by warfare from groups. But when these individuals die, their descendants will become groups that claim their rights to the land by showing how they are related to the first owner.

2.2 Land should be returned to and kept under the control of the groups that own it. By owning land, groups can control the effects of development on their way of life. *Individuals leave groups. Mobility problem.*

*Criteria* 2.3 Groups may own land, but individuals use it, working either together or by themselves. Individuals using land have the right to the benefits from the development they do to the land, provided they share part of the benefits with the group that owns the land.

2.4 Landowning groups live longer than their individual members. Each generation is responsible for making sure that enough land will be available for the next generation.

2.5 Cash crops, development projects and wages are an unreliable alternative to subsistence gardening. Population growth makes it even more important to keep land available for subsistence in the future.

2.6 Government is often one-sided about development and registration. Government should take more time to explain the alternatives and the likely effects of different choices. Then Government should let the people themselves decide what they want to do.

3. Alienated Land

3A What the people said

3A.1 People everywhere felt that sales of customary land as 'freehold' and grants of customary land as 'wasteland' were wrong. *Question of intent & utilization*

3A.2 Sales of freehold to expatriates, missions and government had been wrong because

- (1) the two sides were unequal in education and, sometimes, physical force
- (2) neither side understood how the other owned and thought about land
- (3) each side put a different value on the money or trade goods paid for the land (and the values have changed since).

3A.3 Government grants of 'wasteland' were wrong because every part of the Solomons was owned by some group, even if they did not use it at the time.

3A.4 The wrongs of 'freehold' and 'wasteland' were made worse when expatriate missions and government did not use the land and stopped other people from using it.

3A.5 So most people thought that 'wasteland' and 'freehold' land should be returned to the groups who had originally owned it. Most people agreed that the original owners should pay a fair price for developments made on the land, and that they should develop the land returned to them. *They want*

3B Principles

3B.1 We believe that much of the trouble about 'freehold' and 'wasteland' comes from a confusion between use rights and ownership. For example

- (a) In the case of freeholds, expatriates thought they were buying ownership, but Solomon Islanders thought they were selling only the right to use it *Sometimes not*
- (b) In the case of wasteland, government did not realise that land could be owned but not used *But should it be today if you want income.*
- (c) And in the case of undeveloped land, Solomon Islanders do not think that expatriates, churches and government can continue to claim to own land they are not using.

3B.2 Most of the land bought as 'freehold' or granted as 'wasteland' is now registered as perpetual estate. Some of it is now owned by Solomon Islanders, and some of it is leased to Solomon Islanders on Fixed Term Estates from government.



3B.3 We think that undeveloped rural land that was bought as 'freehold' or granted as 'wasteland', and that is now owned by expatriates, churches and government should be returned without compensation to the group who originally owned it.

*Will be done - and then they'll have the land.*

3B.4 We do not think that the original owners should have to pay anything for the land itself. But they should pay for any improvements to the land that will still be useful to them.

3B.5 So there should be no compensation for undeveloped land, and the original owners would pay less for poorly maintained plantations than they would for properly maintained ones. (Derelict or abandoned plantations should be treated as undeveloped)

3B.6 The Land Use Division of the Ministry of Agriculture and Lands already uses this principle of compensation when valuing plantations that the descendants of the original owners want to buy back. The Plantation Purchase Programme of the Land Use Division and the Loans Board should be expanded to allow the original owners to pay for improvements that will be useful to them. But no loans will be needed for undeveloped 'freeholds' and 'wasteland', as there will be no improvements to pay for.

*Advance Nine  
St. Helena  
Unfortunate but perhaps inevitable*

3B.7 Where developments on 'wasteland' or 'freehold' are too big for the descendants of the original owner to manage, or compensation for still useful improvements would be too large, the perpetual estates in 'freehold' and 'wasteland' owned by expatriates, churches or government should be converted into leases from the original owners.

3B.8 We think the following principles about ownership and use rights should be applied to the leases that would replace perpetual estates

- (a) the landowning group should get a share of the benefits that come from allowing their land to be used. The share might be rent, royalties, shares in the company, jobs, training or a new road. The share is continuing (unlike the single payment to buy off the freehold before the land is used) and should depend on how much is being produced from the land. For example, plantation rents might be low when new trees were planted and not yet bearing. Or the rent might go up and down with the price of copra, or the tons produced.
- (b) the users of the land (which includes the Solomon Island workers) should get a bigger share than the owners from the work they have done on the land. If they do not get this share, they will not want to do the work, and there will be nothing to share with the owners.

- (c) the users of the land should continue to respect the customs and way of life of the landowning group. *Definition in Part 9?*  
Respect includes respect for their natural environment.

3B.9 The land should be returned as Block Development schemes organised by the Land Use Division who would

- a) find out the development potential of the land
- b) value the land for compensation for still-useful improvements
- c) help the descendants of the original owners to set up and manage companies or cooperatives to run existing plantations so they will be able to pay back the loans needed to pay the improvements
- d) advise the owners which parts of the land are suitable for cash crops, and help to organise into companies or cooperatives to get the loans to grow and market these crops.
- e) advise the owners which parts of the land should be kept for subsistence farming.

3B.10 To encourage development we think that the undeveloped freehold, and wasteland should be returned registered to trustees or organised groups, coops or companies of descendants of the original owners. *Plus!*

3B.11 Returning the land registered would also help stop future disputes. when the land has not been used for a long time there are *Always were* likely to be disputes about who the true owners are. It is up to the Area Committee Land Board and, if necessary, the Local Land Court and the Customary Land Appeal Court, to decide who the original owners were and who their descendants are. The land should not be returned until disputes about ownership are settled.

3B.12 Some of the land bought as freehold or granted as wasteland is now owned as perpetual estate by Solomon Islanders, or by people who might become Solomon Island citizens. These people may not be related to the original owners, but we think their existing rights should be protected. Their perpetual estates should not be converted into leases from the original owners (for more on this, see Part 9).

3B.13 Other land bought as freehold or granted as wasteland is held by Solomon Islanders on leases (Fixed Term Estates) from government as part of resettlement schemes. We think that these leases should continue, but should be from the original owners rather than government. Government should return its perpetual estate to the original owners, but the leases (Fixed Term Estates) would stay.

3B.14 Most town land was bought as freehold and is now registered as government perpetual estate, but we do not think that town land should be converted into leases from the original owners. Government should own towns for all the people in the Solomons. But we think that the descendants of the original owners of town land should be compensated by giving them land for houses, <sup>free</sup> and electricity if they want it, in the towns, and services like water supplies/ on their land outside the town.

*Public services  
perpetual lease  
at government owned*

3B.15 We have treated churches owning land bought as freehold or granted as wasteland in the same way as expatriates and government. This is because they got the land in the same way, and should return the parts they are not using, and lease the parts they want to continue to use. We also think that the new leases should be in the name of local churches, not overseas missions. *Agree, then they need*

3B.16 Finally, in this Part of the Report we are only concerned with land bought as 'freehold' or granted as 'wasteland'. This means land bought or taken before 1963, when registration and proper negotiations were brought in. Changing the law so that we can convert perpetual estates in land bought as freehold or granted as wasteland to leases, and can return the undeveloped parts to the original owners is likely to be difficult and take time. In the meantime, government should take immediate action to prevent any further sales of those perpetual estates to non-Solomon Islanders.

3C Recommendations

3C.1 Undeveloped <sup>abandoned or derelict</sup> rural land bought as 'freehold' or granted as 'wasteland' and now owned by expatriates, churches and <sup>(public land)</sup> government should be returned without compensation to the groups who originally owned it.

3C.2 Where the land is fully or partly developed, the descendants of the original owners should pay for improvements to the land that will still be of use to them, but not for the land itself.

3C.3 The Plantation Purchase Programme of the Land Use Division and the Loans Board should be expanded to allow the original owners to get loans to pay compensation for improvements.

3C.4 Where existing developments on the land are too big to manage, or compensation for improvements would be too large, the perpetual estates in land bought as freehold or granted as wasteland, and owned by expatriates, churches or government, should be converted into leases from the original owners.

3C.5 The Land should be returned as Block Development Schemes organised by the Land Use Division of the Ministry of Agriculture and Lands.

3C.6 Land should be returned registered to trustees or organised groups, co-ops or companies of the descendants of the original owners.

3C.7 The Area Committee Lands Boards and if necessary the Local Land Courts and Customary Land Appeal Courts should decide who were the original owners and who their descendants are.

3C.8 Land should not be returned until disputes about ownership are settled.

3C.9 Solomon Islanders and Solomon Island citizens who now own the perpetual estate in land bought as 'freehold' or granted as 'wasteland' should not have their perpetual estates converted into leases, but if they need more land, it should be on lease.

3C.10 Fixed Term Estates granted by government over land bought as freehold or granted as wasteland should be converted on the same terms into leases from the original owners.

3C.11 The perpetual estate in town land bought as freehold should not be converted into leases from the original owners, but they should be compensated by being offered housing land in town <sup>free</sup> or services outside the town.

3C.12 Churches should not be exempted from returning land they are not using and leasing the rest, and their leases should be in the names of local churches, not overseas missions.

3C.13 Government should take immediate steps to prevent the further sale of existing perpetual estates to non-Solomon Islanders,

4. Land Disputes

4A. What the people said

4A.1 We heard many complaints about courts and land. Local Court justices were accused of favouring relatives and accepting bribes. Court procedures were frightening and favoured people who were better educated or could argue better. Decisions were not clear and the same cases were heard again and again. There were too many appeals, and all courts were accused of not following custom.

4A.2 Some people criticised the whole idea of using the law to settle land disputes. They suggested that Area Committees should replace the Local Courts. Others suggested ways the Local Courts should be changed.

4A.3 People told us to new kinds of disputes that happened when (a) government came to buy or lease customary land (b) users of land claimed that they now owned it (c) educated people wanted to get more power for themselves (d) people became greedy and jealous about development.

4A.4 Everyone agreed that lawyers should not be allowed into land disputes, but people disagreed about how high or how low court fees should be.

4B Principles

4B.1 We believe that most land disputes are settled by the people themselves by discussion and compromise. Sometimes people who are not involved try to help (mediation). Some disputes are settled by the authority of chiefs, elders or Church leaders (arbitration). These are all ways of settling disputes outside the law.

4B.2 We think that the Area Committees should take responsibility for settling land disputes by the traditional ways of discussion, mediation and arbitration by respected leaders. They should keep records of the customary evidence (traditional names, boundary makers, tambulaces, histories) and their decisions. (The Buma Ward Land Negotiation Committee's decision on Anokazole land, copied on page 85 shows how this could be done).

4B.3 Each Area Committee should set up a Land Board, chosen or elected according to the wishes of the people in the area. The Land Board might be the Area Committee itself, some members of it, or other people who are not members of the Committee.

A gambit. This is part of a report of the recommendations made by the way as to legitimate them. The implied unanimity is probably false but a P.R. gambit that is probably effective eg. the clerics insist on it.

4B.4 Some land disputes are not really about land at all, and the Land Boards should try and find out why the dispute has happened before they look for winners and losers. They should be concerned with use rights as much as ownership, and should discourage disputes that stop development. They should take time to find the true story and not reach hurried decisions.

4B.5 The Area Committee Land Boards should always be consulted first when government wants to buy or lease land, or return it to the groups who originally owned it.

4B.6 We considered whether the Local Courts should be abolished and replaced by the Area Committee's Land Boards. But we recognise that there will always be a few people who will not compromise, who will refuse mediation, and who will reject the decisions of respected arbitrators. Those people who will not follow customary ways of settling disputes will have to be dealt with by the law.

And the few who will not compromise all the time. Some have essential work and custom is not work.

4B.7 But we think it is important to keep separate (a) trying to settle a dispute by mediation and arbitration, according to custom; (b) deciding who wins and who loses, according to law.

4B.8 So we decided that Local Courts should continue to hear land cases. But they would not be allowed to hear cases until after the Area Committee had tried to settle the dispute in other ways.

Expensive.

4B.9 We also think that the lands work of the Local Court should be kept separate from its criminal work. In the same way as the Area Committee has its Land Board, the Local Court should have its Local Land Court. The Local Land Court would consist of the Court President and two justices who should also be members of the Area Committee Land Board that had first tried to settle the dispute. (if the President was related to either side in the dispute, the Vice-President would take over).

Expensive + see 4A.1 above.

4B.10 The Area Committee Land Boards and the Local Land courts will need help in recording their evidence and decisions, and a safe place to keep their records. Local Court Clerks should be trained in recording cases, and should be available to help the Area Committee Lands Boards. The Local Councils should provide office space and secure places to keep the records of the Area Committee Lands Boards as part of the customary Land Records described in Part 5.

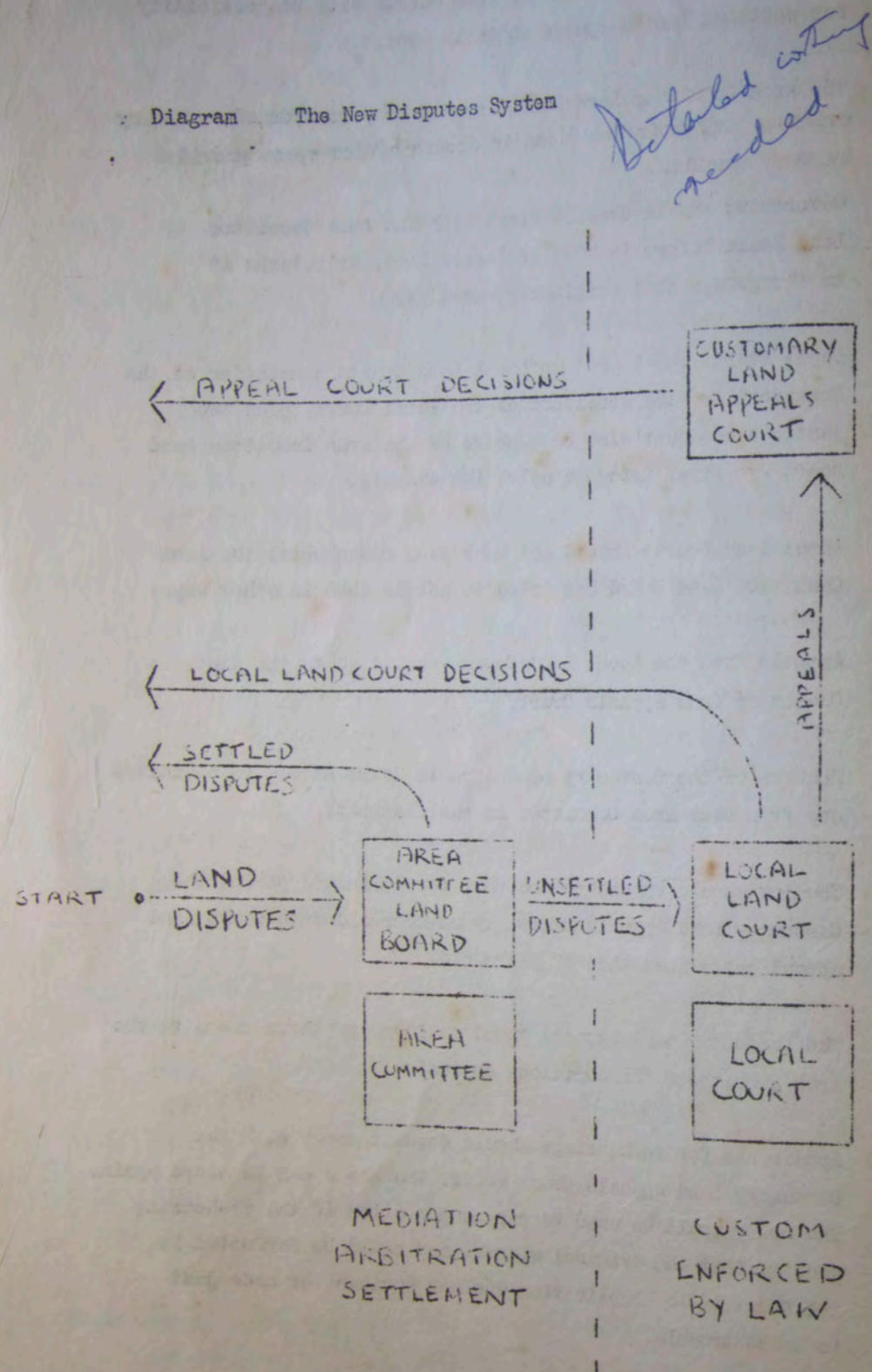
Needs a final copy of the implementation.

- 4B.11 We are happy that the Customary Land Appeals Court has replaced the High Court in hearing appeals on land cases. But we think that the members of the Customary Land Appeals Court should come from the Area Committees, one member from each Area Committee Land Board.
- 4B.12 The new set-up is shown on the diagram on Page 16.
- 4B.13 We also think that some of the High Court's decisions on land appeals may not have followed custom and should be heard again by the Customary Land Appeals Court and by the Area Committee Land Boards. *What custom? All changed, should have happened in court?*
- 4B.14 We realise that re-opening old cases might only
- wake up old disputes, where the losers would have accepted the results if a review had not tempted them to try again;
  - be unfair on the people who had won the cases in the High Court and had then gone ahead and developed the land. If the review decided against them, they would lose the work they had done on the land, thinking it was theirs. Even if the review finally decided that the land was theirs, there would be a time of insecurity while the review was going on.
- 4B.15 We think that there should be a short time during which people may apply to the Customary Land Appeals Court to re-hear High Court land appeal cases less than 10 years old.
- 4B.16 The Customary Land Appeals Court would examine the evidence and records of the High Court case, and would refer it to the Area Committee to decide on custom.
- 4B.17 While the cases are being re-heard the rights of the winners of cases must be protected, and they must be compensated if the re-hearing goes against them. (the compensation might be a lease from the true owner or payment by the true owner for the crops on the land).
- 4B.18 To make sure that applications to the Customary Land Appeals Court are serious, applicants should deposit a sum of money with the court before the case can be re-heard. If the court decides against the original winner some of this money could be used to compensate him for any work he has done. Otherwise the money would be returned to the applicants at the end of the case. But the Court could keep the money if it decided that the application was made only to cause trouble. The court should decide how much deposit the applicant should deposit in each case.

## 4C Recommendations

- 4C.1 Area Committees should set up Land Boards with responsibility for settling land disputes in their area.
- 4C.2 The Area Committee Land Boards should keep records of customary evidence and their decisions in secure office space provided by the Councils.
- 4C.3 Government should consult first with the Area Committee Land Board before it buys or leases land, or returns it to the groups that originally owned it.
- 4C.4 Local Courts should set up Local Land Courts consisting of the President or Vice President of the Local Court, plus two justices who must also be members of the Area Committee Land Board who first tried to solve the dispute.
- 4C.5 Local Land Courts should not hear land cases until the Area Committee Land Board has tried to settle them in other ways.
- 4C.6 Appeals from the Local Land Courts should go to the district Customary Land Appeals Court.
- 4C.7 Members of the Customary Land Appeals Court should be nominated one from each Area Committee in the district.
- 4C.8 The law should be changed so that for a limited period the Customary Land Appeals Court may re-hear old High Court land appeal cases less than 10 years old.
- 4C.9 The Customary Land Appeals Court would refer these cases to the Area Committees for decisions on custom.
- 4C.10 Applicants for re-hearings should deposit money with the Customary Land Appeals Court before the cases can be heard again. The money could be used to pay compensation if the re-hearing goes against the original winner, and could be forfeited by the Court if the application was not serious, or made just to cause trouble.

Diagram The New Disputes System



5. Registration

5A. What the people said

5A.1 People felt that the paperwork and surveys needed for registration were too complicated, but that the rights, groups and boundaries that could be registered were too simple. Customary rights to hunt and fish, or collect water, firewood and house materials were hard to record. Sometimes groups formed to run development projects found it hard to register themselves. And customary boundaries often did not follow the straight lines used by surveyors.

5A.2 But people liked the way that registration gave them security from disputes and for loans. Some people suggested that there should be a simpler way of recording the different rights people had over customary land. This way would involve the people themselves recording rights and marking boundaries.

5A.3 People agreed with the idea of having trustees to look after the group's land, though there were complaints about particular trustees.

5A.4 The main and strongest objection was not to registration itself, but to registration of individuals as owners of land. Individual ownership, people said, encouraged selfishness. They were concerned that once a man was registered as the individual owner of a piece of land he could then sell it to someone outside his group, or decide that someone outside his group could get it when he died. In this way land could be lost from the group forever.

*By problem  
as. lasaki in  
Nume. Group  
- Fiji*

*Paalony and  
Bear I think  
better to have  
forced  
under develop-  
ment.*

5B. Principles

5B.1 We do not think that individual ownership of land is necessary for development. What matters is that individuals or groups of individuals should be able to get secure rights to use land for the time of the crop or project.

5B.2 We do not think that registration by government is right for all the land in the Solomons. There should be another simpler and cheaper way of recording customary rights and boundaries that the people can do for themselves.

5B.3 The first jobs of this other system would be to  
(a) record the outside boundaries of the group's land;

*How*

(b) record the rights of members of the group to use different parts of the land (this would help stop jealousies and disputes between members of the group).

*Need a training course!*

5B.4 Customary Land Records would be based on maps drawn by the people themselves, not government surveyors. The Records would be kept in secure office space provided by the Councils.

*Do they mean this with the graph?*

5B.5 Customary rights recorded by the Area Committee should be able to be used like registered rights as security for loans.

5B.6 So we think the two systems should run side by side  
(a) registration of land (done by government);  
(b) Customary Land Records (made by the people, and kept by their Area Committees).

5B.7 Registration of land by government should continue if and when people want it, in towns and rural areas where there is a lot of development. It should continue to be free and voluntary.

*Compensation*

5B.8 But if land is registered, more use should be made of group ownership. The group can then lease their land to individual members of the group who need security to develop it. After the lease finishes the land would return to the group.

5B.9 The Customary Land Records kept by the Area Committee could be used if people later decided they wanted their land registered. At the same time District Land Registries should be set up to make the registered land system easier to use.

5C Recommendations

5C.1 Area Committee should begin recording customary land rights and boundaries.

5C.2 The Area Committees' Customary Land Records should show  
(a) the outside boundaries of the group's land  
(b) details of group members' rights to use the land (for example: which part of the group's land he can use; for how long; if it can be renewed; what he is allowed to do on it; whether he can give his right to anyone else, what happens if he dies).

*No one to train*

5C.3 Banks and the Loans Board should recognise customary land rights recorded by the Area Committee as security for loans.

5C.4 Government should help and encourage the Area Committees to set up Customary Land Records just as much as it now encourages registration. Government should treat both systems as equally important.

5C.5 If people want to register their land, more use should be made of group ownership.

5C.6 It should be easier to register customary rights to hunt and fish, and to collect water, firewood, canoe trees and house materials.

5C.7 It should be easier to register groups set up to run development projects.

*Need mechanism of training of workers*

5C.8 The Area Committees' Customary Land Records should be used if and when people want to register their land.

5C.9 District Land Registries should be set up.

## 6 Development : Agriculture

6A What the people said

6A.1 People were worried that cash crops and cattle projects were eating up land needed for subsistence. Many people felt that government was one-sided about new crops, and should give more help to subsistence farming. Changing prices and transport problems made cash cropping an unreliable way of life.

6A.2 People saw cattle, mining and forestry projects in the same way. These projects should not take land that would be needed for a growing population.

6B Principles

6B.1 We believe that there should be a balance between cash and subsistence farming. If cash crops and projects take all the land belonging to a group, then most of the members of the group will end up poorer while only a few get richer.

6B.2 Group ownership of land is a good and well-understood way of controlling the balance between cash and subsistence farming, and the balance between the present and future needs of the group.

6B.3 Leases of land from the group for cash crops and development projects should not normally last longer than the lives of the people who make the lease. Landowning groups live longer than their individual members, and the next generation should have the chance to get the land back if it is needed.

6B.4 One generation replaces another about every 30 years (people of course live longer, but for part of their lives they are too young or too old to use the land) so 30 year leases would give the next generation the chance to get the land back if they needed it.

6B.5 But the life of some crops or projects is longer than 30 years, so some leases may have to be longer. If the landowners do not want to lease their land for longer than 30 years they should  
(a) allow the lease to be renewed or  
(b) pay compensation for the unfinished development or crops left behind on the land.

6B.6 Leases need not only be over registered land. Leases are very like customary rights to use land. Customary landowners may decide they want to allow members of the group, or other Solomon Islanders' to use part of their land for a certain time. The agreement between the owners of the land and the people who wanted to use it could be written down and kept by the Area Committee Land Board as part of their Customary Land Records (see Recommendation 5 C2). The agreement would be a kind of lease.

*As per  
Occupation  
Rights*

6B.7 Finally, we are concerned that different companies pay different rents for leases of similar land: for example landowners on the Guadalcanal Plains get 22¢ per acre from Brewer Solomons Associates, but a little over \$2 from Solomon Islands Plantations Ltd.. We think that the rents paid on older leases should be brought up to the level of new agreements like Solomon Islands Plantations Ltd..

*As in Village  
now*

#### 6C Recommendations

6C.1 Government officers should explain the risks as well as the advantages of cash cropping and cattle projects.

6C.2 Government should give more help to subsistence farming.

6C.3 Development projects should only go ahead if there is sufficient land available for present and future subsistence needs.

6C.4 Leases should not normally be longer than 30 years, but should allow for renewal or compensation for unfinished development or crops left when the land is taken back.

6C.5 Landowners should be able to lease customary land to other Solomon Islanders by written agreements kept by the Area Committee Land Board.

6C.6 All rural rents should be reviewed and rents paid on old leases brought up to the level of modern agreements.

#### 7 Development : Mining

##### 7A What the people said

7A.1 Most people thought that the landowning group also owned any minerals found under its land. They felt that the landowning group should get a direct share of the benefits that came from the mine, and should directly join in negotiations with mining companies. People did not like the way companies spoke to government, then Government spoke to them).

*What about the  
negotiations  
have no  
minerals? This  
is the way of those who  
don't benefit.*

7A.2 People were concerned about the effects of mining on their subsistence farming, natural environment and way of life.

*They'll buy it  
also!*

7A.3 Some people thought that mining projects were going ahead too quickly. They thought we should wait until after Independence, or until the mining jobs could be done by trained Solomon Islanders. Minerals could only be mined once, and so should be kept in reserve.

7A.4 The Rennellese have already experienced the beginnings of a mining project. They had many detailed criticisms of unfair treatment.

##### 7B Principles

7B.1 We think that the owners of land on top of minerals want

- (i) more control over the mine and its effects;
- (ii) to join with government in negotiations with mining companies;
- (iii) a bigger and continuing share of the money (not just compensation which is quickly spent).

7B.2 But we think they can get these things without saying that they own the minerals themselves. We think that government should continue to own the minerals themselves so that it can

- (a) distribute the benefits from the mines more fairly to all the people of the Solomons. We are concerned that if the landowners own the minerals, some people will get very rich, while the rest get poorer.
- (b) protect people from sweet-talking companies that do not keep their promises. If people can sell minerals direct to foreign companies, we are afraid they may be exploited in the same way as they were when Solomon Island landowners (or people who said they were landowners) could sell land direct to expatriates.



- 7B.3 We think that the owners of land on top of minerals can get control, join in negotiations, and get a bigger continuing share of the money by continuing to own the land used by the mine. Land used to get the minerals out should be leased to government or the company, and returned restored when the mine is finished.
- 7B.4 In negotiating the lease, the landowners would join with government and the company in deciding what the company was allowed to do. And the lease would say what compensation and continuing benefits the landowners should get.
- 7B.5 By leasing the land, the owners can also
- (a) make sure they get proper compensation for losses of crops and villages;
  - (b) continue to control the effects of the mine on their way of life and natural environment;
  - (c) insist that the company restores the land when the mine is finished.
- 7B.6 So that they can join in negotiations the owners of the land need to have much more information about the mine and its effects on their environment. Government should tell the owners of the results of surveys and prospecting as soon as the company has told government. And government or the company must also find out about and tell the people of the effects the mine might have on their rivers, forests, rainfall and sea. Only if they have all this information can they decide properly if the mine should go ahead on their land.
- 7B.7 We do not think we should specify exactly what shares the landowners, government and companies should have of the benefits from the mine, or what form (rent, royalties, shares etc) those benefits should take. But we believe that no company should have more than 50%, and that government should distribute some of its share directly to the Local Council in whose area the mine is. Our main principle is that the landowners should be involved in the negotiations by leasing the land needed to get the minerals out.

7C Recommendations

- 7C.1 Government should continue to own the minerals found under the land.

- 7C.2 Landowners should lease the land needed for the mine to government or the company. The lease would specify compensation, controls over side effects and the share of the benefits that the landowners would get when the mine was working.
- 7C.3 Landowners should join in negotiations with the company and government in deciding how their land should be used to get the minerals out.
- 7C.4 So that they can join equally in negotiations, landowners should be told of the results of surveys and prospecting, and of the environmental effects of the mine.
- 7C.5 No company should get more than 50% of the benefits from the mine, and government should distribute part of its share directly to the Local Council in whose area the mine is.

8. Development : Forestry

Note: Our terms of reference do not include forestry, but trees grow on land. We held a joint meeting with the Forestry Policy Review Committee on 13 April 1975, and this meeting made recommendations that were written into the Forestry Committee's report of 14 July 1975. The recommendations were

- (a) government should deal with landowning groups about land needed for forestry
- (b) disputes about ownership should only go to court after the Area Committee had tried to resolve them
- (c) the landowning group should decide if it wants replanting on customary land
- (d) clean water supplies should be conserved
- (e) parts of existing forest should be left undisturbed.

8A What the people said

8A.1 People felt the same about forestry as they did about other big development projects. They were afraid of its effect on subsistence agriculture, hunting and gathering, tambu places and social life. They wanted government to explain these effects before they agreed to timber projects. And they wanted control and a bigger share of the benefits if the projects did go ahead.

*The crunch!*

8A.2 People were confused and unhappy about the registration of land for timber projects. They did not like the way that

*Best was probably*

- (a) land wrongly acquired as 'wasteland' was now being registered as public land for timber planting
- (b) Government tried to register customary land when all it wanted to do was buy the trees on the land
- (c) in order to register land, Government first had to take the land itself and then give it back to the owners
- (d) registration caused disputes that the decisions of the Acquisition Officer and the courts then made worse.

8B Principles

8B.1 We think that the principles set out in other parts of this report should also be applied to forestry, particularly

- (a) Public land bought as freehold or granted as wasteland should be returned to the landowning group
- (b) Government should explain the side effects of big projects as well as the money they might bring

- (c) Landowning groups should only lease land they will not need for themselves
- (d) Leases should give the owners control over the effects of development and a direct share of the benefits that come when the land is developed
- (e) Disputes about ownership should be settled by the Area Committee before the courts.
- SB.2 But there are also special problems caused by the way Government has used registration to get timber rights. So we think it is important to make a difference between
- (a) short term rights to cut existing trees
- (b) long term rights to use land to plant new trees.
- SB.3 Cutting existing trees makes more land available for agriculture, but planting new trees means the land cannot be used until they have grown.
- SB.4 Short term rights to cut existing trees should be given directly by the owners to the Company. Ownership of trees would be decided by the Area Committee Land Board. If there were disputes about ownership, the Area Committee Land Board would try and settle them before they went to the Local Land Court. Decisions of the Local Land Court could be appealed to the Customary Land Appeals Court.
- SB.5 Disputes between the owners and the Company would be treated differently. Each side could take the other to the Magistrate's Court for breaking the agreement. Appeal would be from the Magistrate's Court to the High Court.
- SB.6 Section 221 of the Land and Title Ordinance, which prevents non-Solomon Islanders such as Timber Companies having any interest over customary land will need to be changed to allow Companies to sign timber agreements with customary landowners.
- SB.7 Government would not join in agreements between the Companies and Landowners, but the agreements would have to be approved by Government before they could be legally enforced by the Magistrates Court. Government's job would be to
- (a) licence the Company to operate in the area
- (b) help in negotiations between the owners and the Company
- (c) approve the agreement as fair to both sides.

- SB.8 Timber agreements would not stop the owners using the uncut forest for hunting and gathering, or using the cleared land for gardening. But to replant trees government needs long term rights to use the land itself, and landowners need to be sure they will not want to use the land themselves until the trees are grown. Government can get these long term rights to use the land by registered leases from the owners.
- SB.9 Payments to the owners for leases whether rent or royalties, should be related to
- (a) the value of existing trees
- (b) the value of replanted trees when they have grown and are sold
- (c) the owners' loss of the use of the land while the trees are growing.
- SB.10 Most of the area planned for timber replanting is covered by our recommendations about land acquired as 'freehold' or 'wasteland': undeveloped land to be returned to the owners, developed land held under perpetual estate to be converted to lease (see recommendations 3C1 and 3C4). Government will now have to negotiate leases with the owners of land required for timber replanting.
- SB.11 But our recommendations 3C1 and 3C4 do not apply to land bought by negotiation since 1963, for example on Santa Cruz. We think that the people selling this land may not have realized they were selling the land itself, and may not have realised the value of the timber they were selling. We think that these timber purchases made since 1963 should be reviewed to ensure that the owners got as good a deal as if they
- (a) had sold only the timber rights direct to the Company
- (b) had only leased the land to government for replanting in return for rent and royalties.
- If the owners got less than they would have done, they should be compensated.
- SB.12 Finally, government should also join in and encourage replanting of trees by joint agreements with landowners on customary land.
- 8C Recommendations
- 8C.1 Public land acquired as 'freehold' or 'wasteland' and planned for replanting timber should be returned to the landowning group and leased by government.
- 8C.2 Owners of customary land should be able to sign agreements directly with Timber Companies to cut existing trees.

- 8C.3 Section 221 (1) of the Land and Titles Ordinance should be amended to allow timber cutting agreements between companies and customary landowners.
- 8C.4 Ownership would be decided by the Area Committee Land Board.
- 8C.5 Disputes about ownership should be settled by the Area Committee Land Board, but if the dispute cannot be settled it should go to the Local Land court with appeal to the Customary Land Appeals Court.
- 8C.6 Disputes between the owners and the Timber Company should be heard by the Magistrate's Court, with appeal to the High Court.
- 8C.7 Timber agreements will not be enforceable by the Magistrate's Court or High Court unless they have been approved by government.
- 8C.8 Timber Companies cannot sign agreements until they have been licensed by government.
- 8C.9 Land required for replanting timber should be leased by government for rent and for royalties.
- 8C.10 Rent and or royalties should be related to the value of existing trees, the value of the replanted trees when sold and the owners' loss of the use of the land while the trees are growing.
- 8C.11 Sales of land to government since 1963 either for timber cutting or replanting should be reviewed to ensure that the price paid was as good as if
- the owners had sold only timber rights direct to the Company;
  - the owners had only leased the land for replanting.
- 8C.12 Government should encourage joint venture replanting on customary land with customary landowners.

## 9 Land Rights of non-Solomon Islanders

## 9A What the people said

9A.1 People had strong but different views about the customary land right expatriates who married Solomon Islanders. Most people agreed that marrying a Solomon Islander should not give an expatriate rights. People disagreed about the rights of children of mixed marriages, but agreed that the children's children should have rights.

9A.2 People agreed that Solomon Islanders living abroad as a result of the Labour trade (Black birding) should be able to get rights if they showed they were ready to fit back in to the customary way of life. *And the descendants - 10,000 - Fiji*

## 9B Principles

9B.1 Customs about marriage, inheritance, strangers and people who leave the land are different in different parts of the Solomons. The present law does not try and say what those customs are. The law

- defines a Solomon Islander as a person "one of whose parents is or was a member of a group, line or tribe indigenous to the Protectorate" (s 2)
- says that Gilbertese people born in the Solomons and living here for a long time are also Solomon Islanders (s 2)
- says that people who are not Solomon Islanders cannot have rights over customary land (s 221(1)), except that
- a non-Solomon Islander who marries a Solomon Islander, or who inherits from a Solomon Islander, can have land rights if the local custom allows (s 221(2) (a) and (b)).

9B.2 The law counts co-ops and small businesses as non-Solomon Islanders, even if they are entirely owned and run by Solomon Islanders.

9B.3 The law does not restrict ownership of registered land.

9B.4 We think that the law should be changed to fit these principles:

- expatriates who marry Solomon Islanders should not have customary land rights
- the children of marriages between expatriates and Solomon Islanders should have land rights if they are willing to join in and respect the customs of the landowning group.

- (c) the grandchildren of marriages between expatriates and Solomon Islanders should have land rights automatically
- (d) Gilbertese / <sup>citizens of the Solomon Islands</sup> should be able to get land rights if they are willing to join in and respect the customs of the landowning group. <sup>and become citizens</sup>
- (e) Solomon Islanders who have been living abroad/should be able to get land rights if they also are willing to join in and respect the customs of the landowning group
- (f) The Area Committee is the proper place to decide whether the children of mixed marriages, Solomon Islanders from abroad or Gilbertese settlers should have land rights
- (g) Groups, stores and coops entirely owned and run by Solomon Islanders and local councils should be allowed to own and use customary land
- (h) Only Solomon Islanders and Government should be able to become owners of the perpetual estate in land.

9B.5 Our definition of a Solomon Islander does not include some of the people who may apply to become citizens (it is up to the Constitutional Committee to say who these people are and what they should do to apply). We think that only Solomon Islanders should be able to own and use customary land, and that only Solomon Islanders should in future be able to become owners of the perpetual estate in registered land. But we also think that the existing rights if all people who become citizens (not just Solomon Islanders) should be protected.

9B.6 So we think that citizens who already have or have been promised perpetual estates over alienated land should not have their perpetual estates taken away and replaced by leases from the original owners. But if these citizens are not also Solomon Islanders, the only way they will be able to get more land is by leases from Solomon Islanders.

9B.7 This means, for example, that Gilbertese settlers who become citizens will not have the perpetual estates granted by government taken away from them. But if they want any more land in the future they will have to lease it from Solomon Islanders.

#### 9C Recommendations

9C.1 The definition of a Solomon Islander in Part 1 of the Lands and Titles Ordinance should be changed to  
 "a person both of whose parents or three of whose grandparents are or were members of a group, line of tribe indigenous to the Solomon Islands <sup>or</sup> Bougainville, and who has been living in the Solomon Islands for any period of eight years during which he or she has not been absent for more than eighteen months".

9C.2 Section 221 of the Ordinance should be changed to

"no person other than a Solomon Islander, or a group, company, co-operative or local council all of whose members or shareholders are Solomon Islanders, may hold or enjoy any interest of whatsoever nature in over or affecting customary land, except that -

- (a) a citizen only one of whose parents is or was a member of a group, line or tribe indigenous to the Solomons, and
- (b) a citizen <sup>two</sup> of whose grandparents are or were a member of a group, line or tribe indigenous to the Solomon Islands and who has not lived in the Solomon Islands for any period of eight years, and
- (c) a citizen <sup>two</sup> of whose grandparents are or were members of a group, line or tribe indigenous to the Gilbert Islands or Tuvalu and who has lived in the Solomon Islands for any period of eight years,

may be treated as Solomon Islanders on application to and with the consent of the Area Committee in the area in which they wish to hold the interest, and

- (d) nothing in this section shall prevent non-Solomon Islanders making agreements with Solomon Islanders to cut timber on customary land.

9C.3 Section 221(2)(a) and (b) should be abolished.

9C.4 Perpetual estates over land acquired as "freehold" or "wasteland" and now owned by <sup>or promised to</sup> Solomon Island citizens should not be converted into leases from the original owners, but citizens who are not also Solomon Islanders should not get any more perpetual estates.

9C.5 Only Solomon Islanders or Government may in future become the owners of the perpetual estate in land.

10 Town Land

10A What the people said

10A.1 Very few people came to our meetings in Honiara, and the questions we asked were about rural land. We received one submission about town land.

10A.2 However, while we were sitting we heard stories about speculation in housing land, and we became worried about the squatters living behind Honiara, and other towns.

10B Principles

10B.1 By 'speculation' we mean making big profits out of selling or renting land. We do not think land should be bought and sold as a commodity, like a motor bike or a bag of rice.

*Do they think motor bikes should be bags of rice?*

10B.2 Land in town is nearly all owned by government and leased to people on Fixed Term Estates. If a man wants to sell or rent his land, he must first get the consent or permission of government. Once the land has been built on, government usually consents (the law says that the consent "shall not unreasonably be withheld").

10B.3 We think that government should not consent to the selling or renting of town land if  
(a) the seller is making too much profit;  
(b) the sale would result in one man owning too many houses;  
(c) the rent is too high.

10B.4 Some of the squatters living behind Honiara are on government land, and some are on customary land, but many people are not clear where the boundary is. We think that government should help the Area Committee of the customary landowners to control squatting on their land. We also think that government should have better control of squatting on its land.

10B.5 We think that government's Temporary Housing Areas for squatters should be truly temporary. We are concerned that some people may be using them to settle in Honiara without paying the true cost in rents and rates that others have to pay. So we think that people should not be able to stay in Temporary Housing Areas for more than 5 years.

10B.6 We also believe that the tender system should be reviewed. The present system where non Solomon Islanders may not tender, but can get land directly from government looks unfair, and might be abused.

10B.7 Finally, government should use its power to take back land from people who are noisy and cause a nuisance to their neighbours.

10C Recommendations

10C.1 Government should not consent to the sale or rental of land where the seller is making too big a profit, the rent is too high, or the sale would result in one man owning too many houses.

10C.2 Government should help the Area Committee of the customary land owners behind town to control squatting on their land.

10C.3 People should not be able to live in Temporary Housing Areas for more than 5 years.

10C.4 The tender system should be reviewed.

10C.5 Government should enforce its right of forfeiture against people who cause a nuisance on their land.

11. Resettlement

11A What the people said

11A.1 We did not get a lot of information about resettlement, but people agreed that it should always be voluntary. The different customs and way of life of settlers sometimes caused social problems. Some people pointed out that a lot of resettlement takes place naturally by individual migration rather than government action.

11B Principles

11B.1 Resettlement should be voluntary and planned in advance.

11B.2 Only Solomon Islanders should be resettled in the Solomon Islands.

11C Recommendations

11C.1 People should not be resettled against their wishes, or against the wishes of the people in the area they will be moved to.

11C.2 Development projects that displace people should not go ahead if the people do not want to move.

11C.3 Government should help Local Councils and their Area Committees to plan voluntary resettlement schemes where the landowners agree to allow people from other parts of the Solomons to come and live on their land.

## 12 Government Acquisition of Land

12A What the people said

12A.1 People felt very strongly against compulsory acquisition. Public purposes were not defined, so compulsory acquisition had sometimes been used to get land for companies, or because it was more convenient for government than negotiation.

12A.2 Some people thought that compulsory acquisition should be abolished. Others thought it should only be used for true public purposes like roads, schools and clinics, or to return alienated land to Solomon Islanders.

12A.3 Most people said that when government negotiates to acquire customary land the Area Committee and Local Court should decide who the owners were, not the Government's Acquisition Officer. Government should get only leases.

12B Principles

12B.1 When government is negotiating to lease or buy customary land, the Area Committee Land Board and, if necessary, the Local Land Court should decide who are the owners of the land, not the government's acquisition officer.

12B.2 We think that government needs to keep some power to get land for public purposes, even if the landowners do not agree. But government should always seriously try and negotiate with the owners first, and government should not compulsorily acquire perpetual estates if a lease would do as well.

12B.3 Public purposes are things that benefit everyone like roads, schools, clinics, airfields and water supplies. But resettlement should also be included as a public purpose if Solomon Islanders have to leave where they live, but no one else will allow them land. Public purposes should be carefully defined so everyone know, the limits of government power.

12C Recommendations

12C.1 When government is negotiating to buy or lease land the Area Committee Land Board, not the Acquisition Officer, should decide who are the true owners of the land.

12C.2 Compulsory acquisition should be restricted to public purposes, and negotiation should always be tried first.

12C.3 Public purposes should be clearly defined.

12C.4 Government should not acquire perpetual estates when leases would do as well.

*Meaning  
practice*

## 13 Local Councils and Land

13A What the people said

13A.1 Few people said that Local Councils should have more power over land in their areas. If they had power, it should be over alienated but not customary land.

13A.2 But most people thought that Local Councils should be able to own and use customary land without the land first being acquired and registered by Government.

13A.3 Most people thought that the Local Councils' Area Committees should have much more to do with land use and development, settling disputes, registration and recording of customary land rights.

13B Principles with some reservations

13B.1 We think that Local Councils should be able to own and use customary land, but that the Area Committee is the proper level to decide questions of land ownership and use. We suggest new functions for the Area Committees in other parts of this report. These are summarised in our recommendations below.

13C Recommendations

13C.1 Local Councils should be treated as 'Solomon Islanders' for the purposes of owning and using customary land. It would be up to the owners to agree if they could.

13C.2 The Area Committee Land Boards' jobs should be

- (a) settling disputes before they get to the Local Land Court
- (b) providing 2 justices to sit on the Local Land Court, and one member each of the Customary Land Appeals Court
- (c) advising the Customary Land Appeals Court on custom when it re-hears old High Court cases, or new appeals from the Local Land Courts.
- (d) deciding who owns customary land when
  - (i) government is negotiating to buy or lease it as registered land, or Councils are negotiating to buy or lease it as customary land
  - (ii) alienated land is being returned to its original owners
  - (iii) timber cutting agreements are made with Companies
  - (iv) groups want to register their land



- (e) keeping Customary Land Records showing the boundaries of a groups land, and agreements to use it.
- (f) deciding if the children of marriages between Solomon Islanders and non-Solomon Islanders, Solomon Islanders who have been living abroad and Gilbertese settlers should be allowed to own or use customary land
- (g) advising government and landowners on problems of land use on their areas, particularly the conflict between development and subsistence agriculture.

13 C3

*Customary*

Area Committee land Boards should be recognised in law and government policy, and should have the clerical and administrative support they need to become effective.

Land Policy and Land Administration

- 14.1 We believe that the importance of land in the life of the people should be reflected in the importance government gives its land policy, and the way its policy is administered.
- 14.2 In this Report we have recommended how to set right the worst features of colonial land policy : the sales of 'freehold' and grants of 'wasteland'. To register the remaining unregistered freeholds and wastelands, and then return them under Block Development Schemes to the descendants of the original owners, will mean more work for the Land Registry and the Land Use Division. *would get the staff + finance*
- 14.3 By recommending that public land acquired as 'freehold' or granted as 'wasteland' should be returned to its original owners, and that government should lease land it wants, we have deliberately made sure that government must explain, persuade and negotiate with landowners before national projects go ahead. This will mean more work for the Lands Division.
- 14.4 We have also recommended that government should recognise that the customary land tenure system and subsistence agriculture are as important as the registered system and the cash economy. Area Committees will need government help and encouragement to set up Customary Land Records, and find ways of mediating and arbitrating disputes outside the law.
- 14.5 So to put into practice and then administer this new land policy we recommend strongly that the Lands Division should be strengthened by more continuity in postings and more training. We think that Solomon Islanders interested in lands work should be sent to the courses in Land Administration (both practical and policy) being set up by the Administrative College of Papua New Guinea to implement PNG's newland policy. On their return, these people would form a permanent core of technically trained staff, like valuers, cartographers, surveyors and land registry staff. Other general administrative or clerical staff would be posted in and out, but their postings should not be less than two years.

14C Recommendations

- 14C.1 The Lands Division must get more staff to implement and then administer the new land policy.
- 14C.2 Solomon Islander should be sent to the courses in land administration being set up in Papua New Guinea, and on their return form a permanent core of trained staff at all levels of Lands Division.
- 14C.3 Other staff postings to the Lands Division should be no shorter than two years.

15. Summary of Recommendations3C Recommendations

- 3C.1 Undeveloped abandoned or derelict rural land bought as 'freehold' or granted as 'wasteland' and now owned by expatriates, churches and government (public land) should be returned without compensation to the groups who originally owned it.
- 3C.2 Where the land is fully or partly developed, the descendants of the original owners should pay for improvements to the land that will still be of use to them, but not for the land itself.
- 3C.3 The Plantation Purchase Programme of the Land Use Division and the Loans Board should be expanded to allow the original owners to get loans to pay compensation for improvements.
- 3C.4 Where existing developments on the land are too big to manage, or compensation for improvements would be too large, the perpetual estates in land bought as freehold or granted as wasteland, and owned by expatriates, churches or government, should be converted into leases from the original owners.
- 3C.5 The land should be returned as Block Development Schemes organised by the Land Use Division of the Ministry of Agriculture and Lands.
- 3C.6 Land should be returned registered to trustees or organised groups, co-ops or companies of the descendants of the original owners.
- 3C.7 The Area Committee Lands Boards and if necessary the Local Land Courts and Customary Land Appeal Courts should decide who were the original owners and who their descendants are.
- 3C.8 Land should not be returned until disputes about ownership are settled.
- 3C.9 Solomon Islanders and Solomon Island citizens who now own the perpetual estate in land bought as 'freehold' or granted as 'wasteland' should not have their perpetual estates converted into leases, but if they need more land, it should be on lease.
- 3C.10 Fixed Term Estates granted by government over land bought as freehold or granted as wasteland should be converted on the same terms into leases from the original owners.
- 3C.11 The perpetual estate in town land bought as freehold should not be converted into leases from the original owners, but they should be compensated by being offered housing land in town or free services outside the town.
- 3C.12 Churches should not be exempted from returning land they are not using and leasing the rest, and their leases should be in the names of local churches, not overseas missions.
- 3C.13 Government should take immediate steps to prevent the further sale of existing perpetual estates to non-Solomon Islanders,

4C Recommendations

- 4C.1 Area Committees should set up Land Boards with responsibility for settling land disputes in their area.
- 4C.2 The Area Committee Land Boards should keep records of customary evidence and their decisions in secure office space provided by the Councils.

- 4C.3 Government should consult first with the Area Committee Land Board before it buys or leases land, or returns it to the groups that originally owned it.
- 4C.4 Local Courts should set up Local Land Courts consisting of the President or Vice President of the Local Court, plus two justices who must also be members of the Area Committee Land Board who first tried to solve the dispute.
- 4C.5 Local Land Courts should not hear land cases until the Area Committee Land Board has tried to settle them in other ways.
- 4C.6 Appeals from the Local Land Courts should go to the district Customary Land Appeals Court.
- 4C.7 Members of the Customary Land Appeals Court should be nominated one from each Area Committee in the district.
- 4C.8 The law should be changed so that for a limited period the Customary Land Appeals Court may re-hear old High Court land appeal cases less than 10 years old.
- 4C.9 The Customary Land Appeals Court would refer these cases to the Area Committees for decisions on custom.
- 4C.10 Applicants for re-hearings should deposit money with the Customary Land Appeals Court before the cases can be heard again. The money could be used to pay compensation if the re-hearing goes against the original winner, and could be forfeited by the Court if the application was not serious, or made just to cause trouble.

5C Recommendations

- 5C.1 Area Committee should begin recording customary land rights and boundaries.
- 5C.2 The Area Committees' Customary Land Records should now
- the outside boundaries of the group's land
  - details of group members' rights to use the land (for example: which part of the group's land he can use; for how long; if it can be renewed; what he is allowed to do on it; whether he can give his right to anyone else, what happens if he dies).
- 5C.3 Banks and the Loans Board should recognise customary land rights recorded by the Area Committee as security for loans.
- 5C.4 Government should help and encourage the Area Committees to set up Customary Land Records just as much as it now encourages registration. Government should treat both systems as equally important.
- 5C.5 If people want to register their land, more use should be made of group ownership.
- 5C.6 It should be easier to register customary rights to hunt and fish, and to collect water, firewood, canoe trees and house materials.
- 5C.7 It should be easier to register groups set up to run development projects.
- 5C.8 The Area Committees' Customary Land Records should be used if and when people want to register their land.

- 5C.9 District Land Registeries should be set up.

6C Recommendations

- 6C.1 Government officers should explain the risks as well as the advantages of cash cropping and cattle projects.
- 6C.2 Government should give more help to subsistence farming.
- 6C.3 Development projects should only go ahead if there is sufficient land available for present and future subsistence needs.
- 6C.4 Leases should not normally be longer than 30 years, but should allow for renewal or compensation for unfinished development or crops left when the land is taken back.
- 6C.5 Landowners should be able to lease customary land to other Solomon Islanders by written agreements kept by the Area Committee Land Board.
- 6C.6 All rural rents should be reviewed and rents paid on old leases brought up to the level of modern agreements.

7C Recommendations

- 7C.1 Government should continue to own the minerals found under the land.
- 7C.2 Landowners should lease the land needed for the mine to government or the company. The lease would specify compensation, controls over side effects and the share of the benefits that the landowners would get when the mine was working.
- 7C.3 Landowners should join in negotiations with the company and government in deciding how their land should be used to get the minerals out.
- 7C.4 So that they can join equally in negotiations, landowners should be told of the results of surveys and prospecting, and of the environmental effects of the mine.
- 7C.5 No company should get more than 50% of the benefits from the mine, and government should distribute part of its share directly to the Local Council in whose area the mine is.

8C Recommendations

- 8C.1 Public land acquired as 'freehold' or 'wasteland' and planned for replanting timber should be returned to the landowning group and leased by government.
- 8C.2 Owners of customary land should be able to sign agreements directly with Timber Companies to cut existing trees.
- 8C.3 Section 221 (1) of the Land and Titles Ordinance should be amended to allow timber cutting agreements between companies and customary landowners.
- 8C.4 Ownership would be decided by the Area Committee Land Board.
- 8C.5 Disputes about ownership should be settled by the Area Committee Land Board, but if the dispute cannot be settled it should go to the Local Land Court with appeal to the Customary Land Appeals Court.

- 8C.6 Disputes between the owners and the Timber Company should be heard by the Magistrate's Court, with appeal to the High Court.
- 8C.7 Timber agreements will not be enforceable by the Magistrate's Court or High Court unless they have been approved by Government.
- 8C.8 Timber Companies cannot sign agreements until they have been licensed by government.
- 8C.9 Land required for replanting timber should be leased by government for rent and for royalties.
- 8C.10 Rent and or royalties should be related to the value of existing trees, the value of the replanted trees when sold and the owners' loss of the use of the land while the trees are growing.
- 8C.11 Sales of land to government since 1963 either for timber cutting or replanting should be reviewed to ensure that the price paid was as good as if
- the owners had sold only timber rights direct to the Company;
  - the owners had only leased the land for replanting.
- 8C.12 Government should encourage joint venture replanting on customary land with customary landowners.

#### 9C Recommendations

- 9C.1 The definition of a Solomon Islander in Part 1 of the Lands and Titles Ordinance should be changed to
- "A person both of whose parents or three of whose grandparents are or were members of a group, line of tribe indigenous to the Solomon Islands or Bougainville, and who has been living in the Solomon Islands for any period of eight years during which he or she has not been absent for more than eighteen months".
- 9C.2 Section 221 of the Ordinance should be changed to
- "no person other than a Solomon Islander, or a group, company, co-operative or local council all of whose members or shareholders are Solomon Islanders, may hold or enjoy any interest of whatsoever nature in over or affecting customary land, except that -
- a citizen only one of whose parents is or was a member of a group, line or tribe indigenous to the Solomon Islands, and
  - a citizen two of whose grandparents are or were a member of a group, line or tribe indigenous to the Solomon Islands and who has not lived in the Solomon Islands for any period of eight years, and
  - a citizen two of whose grandparents are or were members of a group, line or tribe indigenous to the Gilbert Islands or Tuvalu and who has lived in the Solomon Islands for any period of eight years,
- may be treated as Solomon Islanders on application to and with the consent of the Area Committee in the area in which they wish to hold the interest, and
- nothing in this section shall prevent non-Solomon Islanders making agreements with Solomon Islanders to cut timber on customary land".

- 9C.3 Section 221(2)(a) and (b) should be abolished.
- 9C.4 Perpetual estates over land acquired as "freehold" or "wasteland" and now owned by or promised to Solomon Island citizens should not be converted into leases from the original owners, but citizens who are not also Solomon Islanders should not get any more perpetual estates.
- 9C.5 Only Solomon Islanders or Government may in future become the owners of the perpetual estate in land.

#### 10C Recommendations

- 10C.1 Government should not consent to the sale or rental of land where the seller is making too big a profit, the rent is too high, or the sale would result in one man owning too many houses.
- 10C.2 Government should help the Area Committee of the customary land owners behind towns to control squatting on their land.
- 10C.3 People should not be able to live in Temporary Housing Areas for more than 5 years.
- 10C.4 The tender system should be reviewed.
- 10C.5 Government should enforce its right of forfeiture against people who cause a nuisance on their land.

#### 11C Recommendations

- 11C.1 People should not be resettled against their wishes, or against the wishes of the people in the area they will be moved to.
- 11C.2 Development projects that displace people should not go ahead if the people do not want to move.
- 11C.3 Government should help Local Councils and their Area Committees to plan voluntary resettlement schemes where the landowners agree to allow people from other parts of the Solomons to come and live on their land.

#### 12C Recommendations

- 12C.1 When government is negotiating to buy or lease land the Area Committee Land Board, not the Acquisition Officer, should decide who are the true owners of the land.
- 12C.2 Compulsory acquisition should be restricted to public purposes, and negotiation should always be tried first.
- 12C.3 Public purposes should be clearly defined.
- 12C.4 Government should not acquire perpetual estates when leases would do as well.

#### 13C Recommendations

- 13C.1 Local Councils should be treated as 'Solomon Islanders' for the purposes of owning and using customary land. It would be up to the owners to agree if they could.

13C.2 The Area Committee Land Boards' jobs should be

- (a) settling disputes before they get to the Local Land Court
- (b) providing 2 justices to sit on the Local Land Court, and one member each of the Customary Land Appeals Court
- (c) advising the Customary Land Appeals Court on custom when it re-hears old High Court cases, or new appeals from the Local Land Courts.
- (d) deciding who owns customary land when
  - (i) government is negotiating to buy or lease it as registered land, or Councils are negotiating to buy or lease it as customary land
  - (ii) alienated land is being returned to its original owners
  - (iii) timber cutting agreements are made with Companies
  - (iv) groups want to register their land.
- (e) keeping Customary Land Records showing the boundaries of a groups land, and agreements to use it.
- (f) deciding if the children of marriages between Solomon Islanders and non-Solomon Islanders, Solomon Islanders who have been living abroad and Gilbertese settlers should be allowed to own or use customary land
- (g) advising government and landowners on problems of land use on their areas, particularly the conflict between development and subsistence agriculture.

13C.3 Area Committee Land Boards should be recognised in law and government policy and should have the Clerical and administrative support they need to become effective.

#### 14C Recommendations

14C.1 The Lands Division must get more staff to implement and then administer the new land policy.

14C.2 Solomon Islander should be sent to the courses in land administration being set up in Papua New Guinea, and on their return form a permanent core of trained staff at all levels of Land Division.

14C.3 Other staff postings to the Lands Division should be no shorter than two years.

#### Appendix A Questionnaire

#### SUBJECT COMMITTEE ON LANDS AND MINES -

1. In our present set up, people are very confuse about land dealings, particularly with the operation of our Land Laws. Do you think some changes are need, if so what changes?
2. At the moment, there are two main types of land; these are:
  - (a) Customary Land
  - and (b) Registered Land.
 Do you think that it is a good thing to bring all lands under registration or leave them as customary land?

#### Customary Land

3. A large area of the whole lands in the Solomons is still customary land, the bulk of which is hilly and rugged and not so easy for development;
  - (a) Do you think that areas which could be develop should be brought under development?
  - (b) If so by who?
    - (i) the land owner themselves
    - (ii) the land owner to lease it to people who want to develop them,
    - (iii) the council,
    - (iv) the government
  - or (v) leave it in reserve for future generations?
4. Throughout the Solomons today, people from different clans or lines live together as a result of Christianity:
  - (a) Do you think it is a good thing to allow these people to continue work on the land which they have, for the past 10 or 20 years been farming; or do you think there are going to some danger in it in the future?
  - (b) Do you think that people who have been using land for a long time, but who do not own the land, should be given some right to that land?
    - If yes what rights,
    - (i) a lease or fix-term rights,
    - or (ii) perpetuity?

5. Under our present laws, land may be purchase according to current customary usage but not to non-Solomon islanders. Do you think this is good, or do you feel that people should be allowed to do as they please with their land?

6. People nowadays are leaving their villages or islands to take up employment in other parts of the Country, sometimes some of these people can stay away for very long periods without returning to their villages:
  - (a) Do you think these people should still be absorbed in the society if they finally returned home and still regain their full rights to land?
  - or (b) Do you think they should hold lesser rights to land? If so what rights?

#### Development

7. Development of land means the use of land in such way that the user receives some benefits from it. These can be in two forms:
  - (a) subsistence cropping
  - and (b) Cash cropping.
 Subsistence cropping is where the farmer grows things for his own family use, and cash cropping is where the farmer grows things for sale for money:
  - (a) Do you think that there is little need for subsistence cropping in the future?
  - (b) Do you think you can depend upon cashing cropping for your living?

8. Some cash crops can have a bad effect in soil and also have a long life period, such as coconuts, cocoa and cattle pastures:
- (a) Do you think that more land should be given away to cash cropping,  
or (b) that some land must be held for subsistence cropping?
9. Some development projects such as Mining, Forestry or even Cattle, can be very harmful and destructive to many of our native animals. Some of these animals are used as food in some parts of the Country:
- (a) In areas where some of these developments have already gone under way; do you think that people are receiving more benefits as a result; or are they losing some of their benefits?  
(b) If they are losing benefits, what benefits?  
(i) benefits to hung and fish,  
(ii) benefits to garden,  
(iii) benefits to collect fire-wood,  
or (iv) benefits to collect water, either because the water is polluted or people are not allowed to enter the land?
10. (a) Do you find it difficult to obtain land for (a) subsistence cropping  
(b) cash cropping  
under the present customary land tenure?  
(b) If so what is the problem?  
(i) not enough land available,  
or (ii) land owners are unwilling to allow their land?
11. (a) Do you feel that where the land owners give permission for other people to use their land; that this is secure enough (i.e. other members of their line respect such permission).  
(b) If not what other improvements do you suggest are necessary?

Alienated Land

12. Any land in the Solomons that is not Customary Land is known as "Alienated Land". Some of these are held by:
- (a) Government  
(b) Expatriates  
and (c) Solomon Islanders.
- (a) Do you think that expatriates should be permitted to continue expansion of development of their present holdings?  
(b) Do you think expatriate owners should be required to train Solomon islanders and localise as soon as possible?  
(c) Do you think that Government should help Solomon islanders to buy these lands from expatriate owners?
13. What do you think should be done with land which is held by expatriate but which is poorly maintained?
- (a) should expatriates be required to improve them?  
(b) should the Government purchase them for Solomon islanders to improve?  
(c) if purchase by government for Solomon islanders to improve, should such Solomon islanders pay back to government the land price?
14. What about land which is held by expatriates but which is not being develop, do you think that these should be returned by purchase to
- (a) The government  
(b) The Local Councils  
(c) The original owners  
(d) those who have no land or are very short of land?
15. (a) If the alienated undeveloped are to be returned to government, what should government do with them?  
(b) If to Local Councils, what should the councils do with them?  
(c) If to original land owners, what should they do with them?

16. What do you think should be done with alienated land held by the government, do you think that:
- (a) they should remain as they are?  
(b) they should be given over to Local Councils?  
or (c) they should be given over to the original land owners?
17. Some europeans who married to Solomon Islanders also bought some land before. These are passed on to their children (who for the purpose of our law are legally Solomon Islanders), such land are also alienated. Do you think that children born of Solomon island/expatriate marriages should be legally regarded as Solomon Islanders in our laws?
18. In the past the Government gave away some land under the "Wast Land Ordinance". These are also alienated land. Some lands acquired in this way are still held be the government of lease away to some expatriate companies. What do you think should be done about these?
- Mining
19. Under our present mining law, all minerals belong to the Central Government:
- (a) Do you think that this is acceptable?  
(b) Do you think that the land owners also own whatever mineral there is found in their land?
20. What would you think the most satisfactory way to do with any money received from mining?
- (a) give all of it to the government,  
(b) give all of it to Local Councils,  
(c) give all of it to land owners,  
(d) share it out between any of the above alternative, or  
(e) share it out among all the above three alternatives?
21. When money is paid to land owners whether in royalty for timber or mining:
- (a) do you think government should assist land owners to invest it for them in some worthwhile business,  
or (b) let the land owners do what they like with it?

Registration

22. Registration provides good security under our land law:
- (a) Do you think that it should be encouraged on customary land, or is it helping to spoil customary practices?  
(b) If it is to be encouraged, what do you consider to be the best approach?  
(i) individual registration, i.e. registration in the name of one man only.  
(ii) communal line registration under trusteeship. (The work of trustees is to care for land for their line as has always been done under custom chiefs).  
(c) If it is helping to spoil customary practices; which practices?

Land Disputes

23. In many of our land courts decision given is based on how well you present your arguments. The man who argues logically or sensibly and strongly, but who may not necessary be the customary land owner, wins ownership of land. Even native courts, which are presumed to give judgement based on customary ownership also fall in the same trap of making decisions which are largely weighed on arguments presented before them.
- (a) Do you think that our present Native Land Courts are satisfactory?  
(b) Do you think that they are observing customary implications in all respects, or do you feel there is an alien mechanism controlling the whole operation?

24. If in the event that you feel improvements are required in our present set up, how would you like to see such changes done:
- the people themselves to choose or elect court members, instead of having them "nominated" as they are now?
  - increase the number of court members?
  - bring in a "Jury" or "Arbitration" system in which court members (who have to give the decisions) are acceptable to both sides of the disputes? (This is in the hope that the disputants would be more likely to accept a decision from a mutually agreed upon body).
  - should court members from other areas, who do not have an interest in the land be brought in?
25. Do you think that people should be encouraged to work out solutions to their own land problems themselves at the local level?
26. Do you think that land Appeals should be allowed to go to the High Court on Custom Land?
27. Do you think that professional lawyers should be allowed in land court ceased dealing with custom land?
28. If even after all courts have given their decision, the disputes become worse, is there any other way you think would be done to settle the disputes?
29. Do you think that a separate body should handle land matters at the local level?
30. Do you think that court fees should be high or low?

#### Local Councils

31. Do you think that Local Councils should have some control over land as well?

#### Appendix B Tour Reports

#### Report on the Tour of the sub-group of the Special Select Committee on Lands and Mines which toured Honiara District from 27th January 1975 to 1st March 1975

The Members of the team were: Hon. A. Kukuti  
Hon. M. Boumaga  
with Mr. E. Masika (as Secretary)

The islands visited included Nggle, Isabel, Russells, Guadalcanal and Rennell.

Out of the 32 villages allocated to hold meetings two of them were missed out. Maravovo on Guadalcanal was supposed to be visited on the 25th of February 1975, but due to bad weather which caused rivers to flood their banks made crossing difficult and thus holding a meeting there impossible. The meeting scheduled for Vura area, Honiara was simply called off as a result of apathy shown at both Kukum and Bokonavera areas on the night of 24th and 25th of February respectively.

Nobody turned up for the meeting at Kukum area, and after an hour's waiting team members went home disappointed. At Bokonavera only 15 people attended, but at the close of the meeting at 10.30 p.m. only 7 souls left in the Hall.

Probably some "golden" formula should be framed and introduced by someone to activate the people of Honiara to loose their apathy.

Out in the rural areas the average number of people who turned up for the meetings was approximately 40, except for Roroni where roughly 200 people attended the meeting, the biggest crowd of the whole tour.

On the whole the rural people actively participated at the meetings. As a matter of fact the general feeling among the people was that this tour should have been undertaken a long time ago. The people were happy that they had a chance to speak themselves out.

Since it is only an ideal to record all that an individual has to say at the course of the meeting, it is suggested that a more realistic way is to record suggestions and opinions at each village at large.

This was done by team members asking the people a question at a time from the questionnaire. After discussing the question among themselves, one of them would stand up and express the general opinion or opinions of the whole crowd.

The Secretary would take down the people's opinions and read them out to the people for their approval.

In this report the numbered questions as they appeared on the original questionnaire will not be strictly followed. Instead the numbered questions will be re-arranged to fall under their appropriate sections. In this way each section will be effectively dealt with in a more systematic and coherent manner.

The Sections are as follows:-

- A Customary Land
- B Alienated Land
- (i) Freehold Land
- (ii) Public Land
- C Land Registration
- D Land Disputes
- E Local Councils
- F Mining
- G Development
- H Government of Towns.

A. Customary Land:

Through-out the tour the people kept on asking members of the touring team as to what was wrong with customary land ownership. The people insisted that they should maintain the customary land ownership, since it is the system that they understand and that it suits the Melanesian mentality, and local situations.

The people argued that the customary land ownership was often interpreted as a hindrance to development and that it did not suit the modern times, was not absolutely true.

The people argued that due to western impact on the society as a whole, the old society was breaking up socially, politically and economically, and thus whenever a land dispute crops the customary land ownership was the obvious target for ridicules and criticisms.

The general argument put forward to explain the whole situation is that since the orders of the old society are going out, selfseeking and greedy people do come up as a result. It is this kind of people that often try to override rules governing customary land, and with their greed try to take the land that supposed not to be theirs. This kind of people often try to bring land appeals on customary land to the High Court with the hope that they would win the land.

The traditional ways of owning land, the people argued was clear enough. But some money hungry people pretend not to be aware of how customary land is owned.

Customary Land the people argued was owned tribally and that there was no two ways about that. Each tribe has its own chiefs or elders to look after the land of that particular tribe. Each tribe works, lives and hunts on their land. The individuals of that particular tribe move freely about within the boundary of their land.

In the event of buying land the chiefs or the elders of a particular tribe have to consult members of the whole tribe for approval. If there is disagreement among the tribe as to whether their land or part of their land should be bought or not, the whole idea of letting the land or part of the land to be sold must be dropped. To buy a piece of land from a tribe all members of the tribe must agree to it, and more.

The people said that according to custom land was not supposed to be bought at one once. If a person wants to buy a piece of land he must prove his worth. First of all he has to be friendly and at the same time fulfilling his obligations within the society. He must observe the norms of the society. The usual procedure for buying land goes something like this. At the first instance the person who wants to buy a piece of land, buys the right to use the land. After working on the land for sometime he would be judged by the landowners as to whether he is fulfilling his social norms and obligations. If he does not the landowners would tell him that his rights to use the land ceases as soon as he harvests his first crops. On the other hand if he is a good person he would be advised to buy off the land to be his own.

So essentially, according to traditional practices buying of land is done on friendly basis along with observing and fulfilling the norms of the society. Because buying of land is based on friendly and cultural phenomenon there is no standard price of land. One simply buys land according to what one can afford in material terms, but with an overtone of friendship and cultural values, playing a major in the whole transaction.

Land too, the people said could be given as a gift or as a reward. In the pre-colonial era when tribal wars were the orders of the day, a tribe which has defended another tribe, often gave land as a gift or reward for their deeds. As a result of this particular tribe may own a piece of land quite far off their locality; a phenomenon that surprises outsiders or any

person who does not understand the history of the pre-colonial era. A piece of land owned through this means does not have to be occupied by the rightful owners, but it is theirs. Sometimes such a piece of land is left empty basically because there are not enough people of that particular tribe to live on all their land. Very often too people of different tribe do buy the rights to use the land and sojourn there on a friendly basis.

At the turn of the last century and the beginning of this century Europeans come into the Solomons seeking fortunes. They did not take the trouble of finding out who really owned the land they were interested in. Almost in all cases the Europeans simply bought land from the nearest person they could find, let alone who the rightful owners were. Today this is one of the causes of ill feelings among the people.

The people also said that the buying of land transactions between the Europeans and the Solomon Islanders had two interpretations between the parties. The Solomon Islanders who received bottles, tobacco and other worthless piece of mental for their land thought this was the beginning of friendship. On the other hand the Europeans were convinced that they had bought the land. The Europeans' point of view was simply contradictory to the Solomon Island way of thinking. At a later date when the Solomon Islanders entered the land the white men chased them out from what they (white men) believed to be their property.

The people said that their lands were taken away from them in most unfair way. They were striped of their land so to speak. To day the people are not happy about this.

The government too the people said should not go un-noticed. The government, the people said that it preached it should not touch customary land, but in many cases it did the opposite of what it preached. If the government stands by its words then why is it that there are so many customary lands been acquired and declares crown or public land? In many cases the government does not bother to ask the landowners' permission to take a piece of land, it simply takes it.

The people said that very often they heard about the government has taken such and such a piece of land under the Waste Land Ordinance or under the Compulsory Acquisition law.

The people argued that there is no such a thing as waste land in the Solomons. Land they said is part of them and it is what holds a tribe together, economically, socially and politically. True a piece of land may be undeveloped but it should not be regarded as waste land as it has ancestral places of worship that link their spiritual world with the human world. Further more people of small scale societies are mobile and they depend very largely on what is available on their land for their lively hood.

The people said that their land provided them food, edible plants and trees, hunting grounds, rivers for fish materials for house making and so on. The people also said that the compulsory acquisition law is very inhuman, harsh and very contradictory to the Solomon Island way of thinking, and lively-hood. The people suggested that the law be amended to be a little more human in its applications and approach.

The people too, told team members that in their context of owning land according to custom, covered every aspect of the land. This means the landowners own everything that grows on the land and whatever there may be under the land to an unknown depth.

B. Alienated Land:

## (i) Freehold:

Throughout the whole tour the people told team members over and over again that the people at large were not happy about how their lands were taken away from them. Their unhappiness about the way their land have been taken away have already been mentioned under Section A paragraph 11 and 12.



In principle all freehold land whether undeveloped, poorly maintained or fully developed should be returned to the original landowners, the people argued, without any payment. The reasons why the original landowners should not buy back the freehold land are as follows:-

- (1) The land was originally bought very badly with things like tobacco, bottles and other worthless piece of mental.
- (2) In most cases the people who received payments for land were the nearest lot that the Europeans contacted, but that did not necessarily mean they own the land.
- (3) The freehold land should be returned free because the expatriates bought them virtually with nothing, and by now they must have made large profits many times over the money they put into the land for developing.

Another alternative the people put forward that freehold lands that are undeveloped and poorly maintained should without question be returned to the original land owners free, and since fully developed ones would be difficult to return, because of their costs expatriates should now train Solomon Islanders and localize as soon as possible. And since the properties will still be in the hands of the expatriates, the people suggested to government make some form of policy whereby the profits from such land be channelled and invested within the country for the general development of the Solomons as a whole.

(ii) Public Land:

The general opinion of the people was that land taken by the government and still lying undeveloped should be returned to the original landowners without any string attach to it.

If on the other hand the government has leased some of these land to private expatriate companies, the land should be returned to the original landowners in the first place and a new lease (fixed-term lease) should be renegotiated between the landowners and the foreign companies. This would mean the landowners benefitting from the lease rather than the government.

C. Land Registration:

On the whole the people often very cautions when it comes to the subject of land registration. Opinions differ on this subject, but the majority of the village would like to see their customary land remain as they have always been.

Their reasons for maintaining customary land are as follows:-

- (1) Land registration encourages individualism, selfishness and friction among people. Greedy men will always want to grab land from their tribe and brought under registration so as to safe guard their selfish and mean aims and purposes.
- (2) Land registration is a foreign concept and that it will not suit customary land ownership system; as customary land ownership is a complex thing.
- (3) Land registration does not suit the matrilineal system of owning land on Nggela, Isabel, Russells and Guadalcanal. For instance a father who registers a piece of land will not be able to pass the property onto his sons according to custom as the property by custom should go to his sisters' children.
- (4) Land registration also demands a lot of paper work between the landowners and the Government, and therefore the people feel that their land would be taken away from them if they do not or fail to fullfil the necessary paper work.

But on the other hand if land registration were to be compulsory then the people feel that tribal land registration is the best. This means the whole tribal land be registered under some trustees to look after the land for the whole tribe. And whatever is done or developed within the land is the business of the people of the tribe to decide, with of course the trustees (chiefs and Elder men) playing a major role in the decision making.

The people also suggested land registration be made free, rather than paying survey fees, stamp duty and registration fees. The people argued that to register a tribal land would be expensive under the present rate of pay. So where would the people get the money to afford all these payments? The people reasoned that if the government really wanted to help, then it should do things free for the people especially land registration.

But one thing that on the whole people kept hanging on was that land registration as it is done often cause a lot of problems among people. The people generally accepted land registration, but asked for remodification of the present system so as to suit the local customary practices.

D. Land Disputes:

The general feeling of the people was that land disputes were on the increase as a result of economic development. But they argued that these disputes should not be attributed to the weakness of the traditional way of land ownership. The reasons for these disputes stem out from the whole concept of economic development. Western currency the people said that it "speaks louder" and knew no boundaries, tribes or relatives.

The people said that the self seeking and money hungry people often did not want to bother about who the real owners of land, were, they simply worked the land. As a result there were a lot of ill-feelings and frictions between the people, culminating in nasty disputes.

The people said that in this new society the customary way of settling land disputes was often overlooked and even ignored by the land hungry people. Probably this kind of people simply wanted to steal the land that does not really belong to them or they simply wanted to get what they like, lot alone finding out more about who really own the land.

The Native Land courts that are supposed to handle land disputes according to custom evidences are not satisfactory in a number of ways.

- (1) Very often court judges sway along side with the parties that argue strongly and more coherently.
- (2) Favouritisms and nepotisms are common diseases of the court judges.
- (3) Very often because parties in dispute are familiar to the court judges, the latter often drop the case without passing any judgment, which leads to more and more nasty arguments.

The Native Land Courts:

The people said that if the Native Land Courts were to be officient, some form of training be given to court judges so that they can do their work officiently. The should be trained to understand and be able to differentiate between being personal and impersonal in carrying out their duty.

The people also suggested that an Arbitration system be introduced into the Native Land Courts. The Arbitration system should consist of people of both parties in dispute at any given time. This means that the Arbitrators would not be permanently chosen on fixed terms, but new ones for each case. The people also suggested that the parties in disputes should choose the people who would be arbitrators but with the consent of the court judges.

Area Committees:

At the grass-root level the area Committees should deal with land disputes before going to the Native Land Court if the disputes remain unsolved.

Through this way, the people felt that they would be able to deal with land disputes according to custom and their cultural way of making compromise and passing judgements.

In this way too the people felt that chiefs and elder men of tribes would participate in decision making among their own people.

The native land court should be the last body to appeal to. As a result of this line of thought the people feel that the native land court be given more legal power to pass final judgements on customary land cases.

The general feeling of the people too did not favour customary land appeals going to the High Court. The reasons for the argument is as follows:-

- (1) High Court judges do not understand anything about our customary way of landownership and therefore they should not pass judgements over what they do not know.
- (2) The use of interpreters at the High Court is not an effective means of communication.
- (3) The High Court building with its foreign environment and situation does not provide natural atmosphere for traditional old people to argue their points out.

#### Professional Lawyers and the Chief Justice:

The general feeling of the people was that professional lawyers and the Chief Justice should not handle land cases dealing with customary land, since they are not very well versed on customary ways of owning land, and more the law logical arguments they play on that level do not always make sense according to the custom and cultural way of reasoning.

#### E. Local Councils:

The people suggested that the local Councils should have a little control over land in the sense that they should recognize and protect landowners from intruders. But they should not control land in the sense of having a free hand to land, allocating and distributing.

#### F. Mining:

The people felt that if there was any worth while mineral discovered in their land, they would not stop companies mining it. But they disagree strongly with the way the government has been searching their land without telling them clearly what the government's intentions are.

The people felt that whether government officers or private companies prospecting in their land the latter should ask the landowners' permission. The way that the Government has given permissions to foreign companies to enter customary land without the landowners' permissions insults the local people. The people felt that this procedure be stopped immediately.

In the event of mining the people suggested that the landowners be made aware of this before mining and at a good time.

They also felt that mining negotiations should not be done between the government and the company concerned separately. The way the government negotiates with the local people separately, and then government with the company is distasteful and unfair. The people felt that all three parties should negotiate at the same table.

The people also thought that money received for compensation was too small. They suggested that their economic trees and so on should be priced by themselves and not the government.

The people also felt that money received in the form of royalty was not satisfactory. The people suggested the satisfactory arrangement was to share the worth of the mined mineral with the government, and the company. They also suggested the total amount of money received from the overall mining be brought to the notice of the land owners annually. The people added that the landowners were not all that selfish to grab all the money from the government, but what they would like to see done is for the land owners to have a fair share of the money received from minerals in the land. The amount of money the landowners would receive should be negotiated between the government and the landowners.

On the general question of how money received from mining should be shared, the people felt that the money should be shared between the Government, Local Councils and Landowners, with the landowners having some say as how the money should be shared.

The people said that by and large it was the landowners that suffer most when mining takes place on their land. The people said that what they would loose as a result of mining or forestry meant a lot them than the money that would be obtained from such activities. For instance the people would be removed from the affected areas, the land would be damaged permanently, economic trees lost for good, taboo places spoiled and rivers and the sea polluted. Because of all these the people felt that they should receive high compensation.

The people also felt that landowners should have a say as how their land should be worked in the event of mining or forestry. This would mean avoiding unnecessary damages to taboo places and economic trees.

The people also requested the government that in the event of mining or forestry the government should do its best to minimize pollution.

#### G. Development:

The people readily agreed that land which suited development should be developed, and as a matter of fact the people said that this new trend was on the way already.

In the event of developing the land the people felt that the landowners should develop their land themselves, and according to their wishes.

The people did not favour leasing their lands to day as they were now becoming aware of the population growth in the Solomons as a whole. The people felt that leasing their land has two disadvantages.

- (1) Leasing of lands means using the fertility of the land and when the land is returned to the original landowners, land has already lost its fertility.
- (2) Leasing of lands means giving land away, from the rightful owners of the land that they are either young or are at school. When the leases do expire the goodness of the land has gone, leaving barren land for the young landowners that are either still growing or have just left school.

The general opinion too did not favour releasing land for either the Councils or the government to develop as this would mean land shortage for the growing population. On the other hand if either the Councils or the government wanted land for things like schools and hospitals they should lease the land, rather than using the compulsory Acquisition law.

The people said that if customary lands could not be developed quickly for some unknown reasons they should remain as they were. Further still if the landowners cannot develop all of their land all at one go, other part of the land should be reserved for future generations.

People living and working on customary land but the land is not theirs as a result of christianity:

The general view expressed was that such people should not be permitted to continue expanding their present holdings if it meant cash cropping. On the other hand if such people are only using the land for subsistence cropping they should continue work as long as they like.

If on the process, the people who do not own the land want to raise cash cropping then they have to ask permission from the landowners and buy the land according to the custom way described under section A paragraph 11 and 12.

On the other hand if the people who do not own the land have already developed cash cropping, and are not willing to buy off the land, they should not be given any rights to the crops they have developed. The landowners should pay their hand work off and the people who do not own the land should work on the land only for hand to mouth purposes.

People left their Homes as a result of Employment:

The general feeling was that people who have left their homes seeking employment elsewhere irrespective of how long they have been away should still be absorbed into their society and still regain full rights to the land of their tribe. But they should not have a free hand to anything they have never helped to develop. On the other hand if they want to, they should ask permission to use what they have never help to develop from their relatives. But if they wanted to open up a virgin land of their tribe they could do so, without any difficulty.

Side Effect on Land Development:

By and large developing of lands for economic purposes has its side effect too, the people reasoned. For instance things like coconuts, cocoa and mining put a lot of strain on the fertility of the soil. Cash crops such as coconuts and cocoa once planted, are there for a long period of time, during which time nothing else will be planted under them.

Because of this, although cash cropping is good the people felt that some land be deliberately reserved for subsistence agriculture. Even to day the people said that it would not be long now and the population pressure on land would become increasingly marked.

The general opinion was that subsistence cropping is the life blood of the people and as such its importance extends into the future. In another word subsistence cropping will still be important to the people of the Solomons in the future.

The people said that cash cropping should go on, but the fallacy of depending on cash crop for our lively-hood in the future should be corrected. Cash crop the people reasoned was not reliable enough as agricultural produce depend entirely on the mercy of accessibility to markets and more market prices too often fluctuating.

The people felt that in this world of inflation and high standard of living one could not afford to depend entirely on cash cropping.

Because of these factors the people felt that they should bring their land under development, but with a good portion of the land reserved for subsistence cropping.

The people said that even to day there were some people who very soon would be running short of land for even subsistence cropping. To this, the people requested the government to give them wise direction and decisions as how they should allocate their land for both subsistence and cash croppings. It is no good to lean entirely upon one system of cropping, for this would mean putting all your eggs in one basket, the people said.

But the general trend, the people said was that the government is putting a lot of emphasis on introduced cash crops, such as cocoa, chilly, cattle farming and so on without encouraging traditional crops that people know something about them already.

H. Glosory of Terms:

(a) Landowners:

As it is used in this context it means the people who look after land for their group, and they do not own the land privately or do whatever they like with the land.

Anything important in connection with the land the "landowners" would discuss with members of the whole line.

(b) Tribe:

People who regard themselves as one group with elder men playing significant role in decision making.

Miscellaneous:

(1) Native Court Land Fees:

The people on the whole said that the present land court fees of \$10.00 was too high for a lot of people. They said that this \$10.00 was a hinderance to some people who could win their land if they were to go to court, but they could not, as they cannot afford the fees in the first place.

(2) The law preventing Non-Solomon Islanders to obtain land through the Customary way of buying land:

The general feeling supports the law, and the people think it should be maintained.

The people said that customary land could not be owned individually, but in tribal basis. Because of this the law, although in no way stops individuals to do whatever they like with the land, does not offend individuals according to customary way of ownership.

The people argued that this was one of the reasons why they were against individual land registration on customary land since once a piece of land is registered the person who owns it has all the right in the world to develop it or sell it to anyone. This may mean or result in shortage of land for the local people.

(3) Children of mixed (Expatriates/Solomon Islanders)

Marriages:

The general opinion was that children of such marriages should be legally regarded as Solomon Islanders in our laws only if the expatriate parents were willing to nationalized themselves as Solomon Islanders in the first place; if not the children should not be legally regarded as Solomon Islanders.

If their expatriates parents are nationality of our country and willing to die in the Solomons then their children should not only be legally Solomon Islanders, but the latter should inherit the Land their fathers have bought.

(E. Masika)  
Secretary

SPECIAL REQUEST BY THE PEOPLE OF RENNELL

The people of Rennell said that whether they like the bauxisite mining on their island to go on or not, it would go on anyway. To stop it the people said would be like trying to stop force of nature. They expressed the feeling that they would be now the first victims to mining in the Solomons.

The people felt with some certainty that in the event of discovering minerals in other parts of the country, the same procedure that the government has been using to obtain land on Rennell, and with its vague negotiations with the local people would be used again.

The people of Rennell believed that they have been most unfairly treated by the government and they did not want to see this treatment happen again in other places in the Solomons.

The 16 points that the Rennellese wanted the Government to pay particular attention to are as follows:-

- (1) The Compulsory Acquisition law should be done away with. According to their way of thinking this law is very harsh and inhumane. The people think and feel that the government should take land from landowners by consensus agreement. This is to say that the landowners should let their land on voluntary basis.
- (2) Anybody, irrespective of Government Officers, or whoever entering Customary land for the purpose of prospecting must first of all get the consent of the landowners.
- (3) Before the Government invites a foreign company to come in for the purpose of mining or forestry the Government should consult the Council of Chief (as the case is in Rennell) or the landowners' consent before the Government makes its final agreement with the foreign company.
- (4) The people said that according to their custom and custom practices landowners own everything on and under their land to an unknown depth. To them the Government should not have any right to claim anything on or under customary land.
- (5) When mining takes place in a particular piece of land, the land should not be bought off as a freehold, but it should be leased on fixed term. The same goes for things like forestry.

Payments of Various Kinds

- (6) The people felt that landowners should have a 10% of the 25% Company Tax from any company dealing with mining, forestry etc. rather than the Government taking all of it.
- (7) The royalty of 5% agreed upon in 1970 for mining on Rennell is not adequate. The people would like to get a pay of \$10.00 per ton on raw ground removed instead of getting a 5% royalty.
- (8) The Rennellese felt that individuals should price their own economic trees for compensation rather than the government doing it.
- (9) The Rennellese felt too that economic trees should be paid in compensation individually rather than the government doing it.
- (10) The people felt that each bury ground should be paid in compensation individually to individual rightful families rather than paying the cemetery as a whole.
- (11) The people felt that after digging out any mineral, the holes should be filled up. The Rennellese requested the Government if it could guarantee them this.

Licence:

(12) The Rennellese felt that if two minerals being discovered in one area two separate licences should be imposed on the company doing the mining and further more two different negotiations and two different prices be negotiated.

Resettlement:

(13) The Rennellese felt strongly that the idea of resettlement should not be forced on them, or any people for that matter. Resettlement they argued should be done on voluntary basis.

(14) The Rennellese felt that whether individuals choose to stay on the island or resettled elsewhere the government should still build houses for all the people, irrespective of where they choose to live.

Miscellaneous:

(15) The Rennellese felt that whatever comes ashore or found within the limit of their island should be theirs. For instance if a foreign ship runs around within the island limit, the wreckage should be theirs and should not be taken by the Government.

(16) The Rennellese also felt that reefs submerged or imerged should be belong to the nearest island to them.

MINUTES  
OF  
SELECT COMMITTEE ON LANDS AND MINES TOUR  
OF SAN CRISTOBAL, UGI AND EASTERN OUTER ISLANDS

## Introduction:

TO: Honourable Members  
Select Committee on Lands & Mines

The minutes set out hereon are an accumulation of opinions from the people of the thirty-three villages, in which the select committee on Lands and Mines, held meetings.

2. These minutes are original and have not in anyway been modified. They are brief but comprehensible.
3. In nearly all cases, the questions have several answers, and where a number is placed on the end of a particular answer, this indicates the general trend of opinions on this particular question. This should enable you to understand the general trend of opinions of the people. No cognisance is taken of opinions not in favour as this is negligible - this exercise seeks opinions within the compounds of each respective question.
4. I am of the firm opinion that these minutes should assist you to attain conclusive judgement and decisions on land and land matters; at your forthcoming deliberations. The lives of our people and the destiny of our country rest on your sound judgement and wise decisions - for we cannot live but by the land.

(George Hiele)  
SECRETARY

C/- Customs & Excise Branch  
Ministry of Finance & Development

## ANSWERS TO 1.

This is a difficult question with very rarely any answers during the meetings. The following answers are relevant:-

(A) FREEHOLD LANDS:

- 1 The term "Freehold" should be struck off the land laws and all freehold lands should be converted to leasehold lands. Wherever possible, the original owner of the Freehold land, should be the lessor (20).
- 2 A Freehold lands should be returned to the original land owner without payment (5).
- 3 Freehold lands at present under church or charitable institutions should be converted to Leasehold Lands (1).
- 4 Freehold lands now being held by expatriate companies should be returned without purchase, to original land owners (1).

(B) LEASEHOLD LANDS:

- 1 Leases of 99 or 999 years are too long (20).
- 2 The maximum term of lease should not exceed 50 years. The land should be returned to the original land owner after the first 50 years have expired (5).
- 3 All leases should have a maximum of 50 years and a minimum of 25 years. The land should be returned to the original land owners after the first 50 years have expired (7).
- 4 All leases should have a maximum of 200 years. The land should be returned to the original land owner after the first 200 years have expired (1).
- 5 All leases should have a maximum of 60 years. The land should be returned to the original land owner after the first 60 years have expired (1).
- 6 Leases on existing Alienated Lands should go on for a further period of 20 years and then the lands should be returned to the original land owners (2).
- 7 All leases should have a maximum of 40 years and then the land should be returned to the original land owners (1).
- 8 All leases should have a maximum of 45 years and a minimum of 25 years and the land should be returned to the original land owners after the first 45 years have expired (1).
- 9 All leases should have a maximum of 50 years and a minimum of 30 years. The lands should be returned to the original land owners when the first 50 years have expired (1).
- 10 Leases should be renewed only when the Lessee and the Lessor agree (1).

(C) COMPULSORY ACQUISITION:

- 1 The land law on compulsory acquisition should be abolished (19).
- 2 Compulsory acquisition should be applied only to Public or other alienated lands (19).
- 3 All lands which have become alienated under the compulsory acquisition laws, should be returned to the original land owners (1).