

**Sinaka Goava, Chairman. *Report of the
Commission of Inquiry into Land Matters, Port
Moresby.***

Oct 1973

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REPORT OF THE
COMMISSION OF INQUIRY INTO
LAND MATTERS

Appointed 16th February, 1973
under the "Commission of Inquiry Ordinance 1951-1970"

PORT MORESBY

OCTOBER 1973

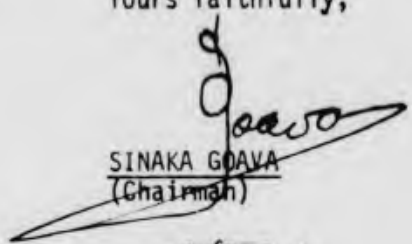
26th October, 1973.

His Honour,
Leslie Wilson Johnson,
Administrator of Papua New Guinea.

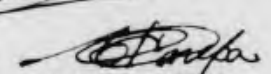
Your Honour,

We your Commissioners appointed under the Commissions of Inquiry Ordinance 1951-1970 to inquire and report into land matters in Papua New Guinea have the honour to submit our report.

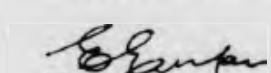
Yours faithfully,



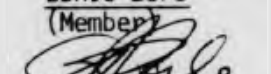
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(Chairman)



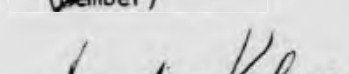
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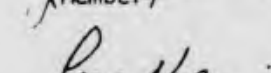
EDRIC EUPU
(Member)



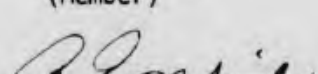
POKWARI KALE
(Member)




IGNATIUS KILAGE
(Member)



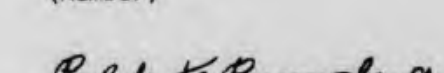
POSA KILORI
(Member)



BOANA ROSSI
(Member)



BONIGI SAMIEL
(Member)



PHILIP TO BONGOLUA
(Member)

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SUMMARY OF RECOMMENDATIONS

	Paragraphs
<u>Chapter 1</u> Proceedings of the Commission	1.1 - 1.27
<u>Chapter 2</u> Basic Principles	2.1 - 2.13
<u>RECOMMENDATION 1</u>	
Basic Principles	
(A) Land policy must be concerned with increasing production but even more concerned with the kind of society Papua New Guinea should become.	
(B) It follows from the Eight Point Programme that land policy should be an evolution from a customary base not a sweeping agrarian revolution; collective and individualistic extremes should be avoided.	
(C) Very unequal distribution of land rights must be avoided.	
(D) Private landlordism must be checked.	
(E) The law should favour those who need land most and use it well.	
(F) Most land transfer should be through Government but some direct dealing in small lots allowed.	
<u>RECOMMENDATION 2</u>	2.1 - 2.13
The basic choice of the Government and House of Assembly will be how much to open land to direct trading. It could help development in some ways, but have the disadvantages of pushing up prices and widening social division. More Government control could give more equal distribution of land and wealth, but may slow transfer too much because Government does not have enough skilled staff to handle all transactions. We have thought very deeply about this and believe we have recommended the best possible balance in the circumstances.	
<u>Chapter 3</u>	3.1 - 3.55
<u>Part I</u> Basic Needs	3.1 - 3.5
<u>RECOMMENDATION 3</u>	3.2 - 3.5
There should be cautious alteration of some features of the customary system to assist commercial farming and some transfer of land according to need.	
<u>Part II</u> Registration of some customary land is required	3.6 - 3.11
<u>RECOMMENDATION 4</u>	3.6
Legislation and administrative machinery for the registration of customary land should be immediately prepared and introduced.	
<u>RECOMMENDATION 5</u>	3.7
Provision should be made for the registration of various kinds of title.	

Paragraphs

3.8 - 3.11

RECOMMENDATION 6

- (A) Registration should be used only where there is a clear demand and need for it and clear understanding of it among people concerned.
- (B) Authority to declare an area for registration and to cancel such a declaration should be vested in the Minister for Lands, acting on the advice of the Area Authority or District Government.

Part III The Machinery for Determining and Registering Land Title

3.12 - 3.18

A. Systematic Registration

3.12 - 3.18

B. Sporadic Registration

3.19 - 3.21

RECOMMENDATION 7

3.12 - 3.17

Machinery for systematic registration should be introduced as soon as possible.

- (A) A team of specialists should assist registration committees of local rightholders to divide, mark and register the land;
- (B) The registration committee should have power to mediate;
- (C) Land about which the rightholders cannot agree should be referred to the local Land Court.
- (D) A short period should be allowed for objection to the registration of an interest. Any objection should be referred to the local Land Court.

RECOMMENDATION 8

3.18

Portions of land in a registration area which are not cultivated or needed by the villagers might be declared national land.

RECOMMENDATION 9

3.19 - 3.20

Sporadic registration should be provided for, but used sparingly with the following safeguard:

Sporadic registration should be refused unless the District Commissioner certifies to the Registrar that, on the advice of his officers, the person or group registering includes or has the consent of those persons who have customary rights in the land.

RECOMMENDATION 10

3.21

- (A) Decisions of Land Courts should be recorded in a clear and convenient form and copies held in the Central Land Registry Office and the appropriate District Land Registry Office, where they can be readily consulted by the public.
- (B) If all parties to a dispute agree that the result of the judgment should be registered they may apply to the nearest Land Registry Office for this to be done. The Registrar of Lands for the District should have a

discretionary power to order further enquiry by the registration team before registration.

- (C) A District Land Court Magistrate may order registration of the result of a decision in the interests of public order.

Part IV Kinds of title to be registered 3.22 - 3.50

- A. Group Titles 3.25 - 3.38
- B. Occupation Rights 3.39 - 3.41
- C. Leases 3.42 - 3.46
- D. Subsidiary Rights 3.47
- E. Conditional Freeholds 3.48 - 3.50

RECOMMENDATION 11 3.22 - 3.31

- (A) Customary land should not be registered as full freeholds. The basic pattern of registration should be to register group titles, and make provision for the registered group to be able to grant rights of use in the form of registered occupation rights, leases and other subsidiary rights to individuals or sub-groups wishing to use the land.
- (B) In the special circumstance that the traditional rightholding group is already very small (or perhaps even one individual) a conditional freehold could be registered. This is intended to recognise a situation where no large group exists. It is not to be used as a means of dividing large groups. The holder of a conditional freehold should also be able to grant the registered rights of use set out in Clause A of this recommendation.
- (C) Rights of use should only be registered where the title of the group or person granting the rights is registered.

RECOMMENDATION 12 3.32 - 3.34

- (A) A group should be registered as a body corporate under a traditional lineage name or locality name.
- (B) The group has the right either to use the land or grant rights to citizens of Papua New Guinea to use the land.
- (C) Full membership of the group need not be listed but the names of the resident adult members at point of registration should be listed. A 'resident' for these purposes would be one who has spent 6 months of the previous 12 months on or near the land. ('Near' would be in the District where the land is situated.)

- (D) At any one time the group would include:
- (i) Those listed as resident adult members at the time of registration except for those who have died or who are no longer resident.
 - (ii) Persons who were absent at the time of registration but have since become resident again and have been accepted as full members of the group by the custom of the day.
 - (iii) The children and grandchildren of present or former members who are resident and who are accepted as members of the group by the customs of the day.
 - (iv) Short-term absentees, absentees on public service, study courses, etc. and absentees who kept up a continual claim to membership of the group by performing social obligations, visiting, providing money, etc. should be entitled to return and claim rights in one line only at any one time.
- (E) Descent therefore qualifies a person to apply for rights to use the land, but does not automatically confer such rights, which depend on residence and other criteria as well.

RECOMMENDATION 13

3.35 - 3.38

The General Purpose Corporation Bill should provide the legal basis for corporations working parts of the registered group land, or working on land belonging to a number of groups.

RECOMMENDATION 14

3.42 - 3.45

- (A) We are against large scale direct leasing, but recommend that a citizen of Papua New Guinea should be able to grant or take land on direct lease subject to certain strict controls. The controls are set out in Section V of this chapter.
- (B) A person who is not a citizen of Papua New Guinea can not take land on direct lease.
- (C) A person should not be able to grant a direct lease for a purpose which involves an investment in excess of \$10,000.
- (D) This recommendation has no application to national land.

RECOMMENDATION 15

3.46

The system of direct leasing mentioned above should be studied carefully as it develops and either extended or restricted as need be.

Part V Control

3.51 - 3.54

RECOMMENDATION 16

- (A) The main control on alienation should be through restrictions on the titles themselves. The titles which we have recommended are not absolute or fully negotiable.

- (B) Another control should be strict limits on the number of pieces of registered land, or the size of land, which a person can hold, or lease or sell to others. We recommend such controls below.
- (C) A further level of control should be through checks by Land Control Boards (see Chapter 11 'Land Administration').

RECOMMENDATION 17

3.53

- (A) An individual should not be allowed to register title either as occupation rightholder, conditional freeholder or lessee to more than one agricultural holding and one house site. Any person who registers a conditional freehold in excess of these amounts should forfeit the land to the Government. Any person who registers an occupational right or lease in excess of these amounts should have the right or lease cancelled. In addition, to register title in excess of the amounts specified should be an offence. The range of penalties should be wide enough to cover the circumstances of individual cases.
- (B) For the purpose of this recommendation, where a person registers several pieces of his own or his group's land over a period of time either as occupation rights or as conditional freeholds, the several pieces shall be regarded as one holding.
- (C) Forfeiture of land under Clause A of this recommendation should not take place without the approval of the District Land Control Board, which should have the power to cancel the registration instead of forfeiting the land, if it is of the opinion that forfeiture of the land would be oppressive in the circumstances.

RECOMMENDATION 18

3.54

- (A) No person should be able to grant on lease more than one plot of rural land and one plot of urban land. The plot of rural land should not exceed 5 hectares and the plot of urban land should not exceed 0.10 hectares. Any person who grants a lease in excess of these amounts should forfeit the land to the Government. Such forfeiture should not affect the lease so far as the lessee is concerned, who would become a lessee of national land.
- (B) No person should be able to take on lease more than one plot of rural land and one plot of urban land. The plot of rural land should not exceed 5 hectares and the plot of urban land should not exceed 0.10 hectares. Any person who takes a lease in excess of these amounts should have his lease cancelled.
- (C) Forfeiture of land under Clause A of this recommendation should not take place without the approval of the District Land Control Board, which should have the power to cancel the lease instead of forfeiting the land, if it is of the opinion that forfeiture of the land would be oppressive in the circumstances.

- (D) In addition to the measures set out above, it should be an offence for a person to take or grant leases of land in excess of the amounts specified. The range of penalties should be wide enough to cover the circumstances of individual cases.

Part VI The Effect of Registration

3.55

RECOMMENDATION 19

3.55

- (A) That the register be treated as conclusive proof of a set of land rights at the time of entry unless a claimant can subsequently prove:
- (i) That he was prevented by circumstances beyond his control from having his right registered at the time of registration;
 - (ii) That he had a registerable right.
- (B) The register should be regarded as substantial proof of the history of titles since registration unless a subsequent, lawful dealing can be proved.
- (C) Registered titles should be indefeasible in respect of third parties. For example, if A becomes the registered rightholder and sells or leases to B then C comes along and says he was a rightholder and did not agree to the land going to B, C would only have a claim for compensation against A. B as an innocent party would have his rights protected.

Chapter 4 Alienated Lands

4.1 - 4.55

Part I Introduction

4.1 - 4.11

Part II Increasing Urgency

4.12 - 4.17

RECOMMENDATION 20

4.12 - 4.17

- (A) An amendment to the Lands Ordinance should be immediately introduced to extend the public purposes for which land may be compulsorily acquired to include the purpose of resettlement of Papua New Guineans.

- (B) A new approach should be made to the Australian Government for a grant or low-interest loan of \$2 million in the first instances, to commence an orderly and systematic repurchase programme.

Part III Rural Lands Alienated by Purchase

4.18 - 4.39

A. Undeveloped Land

4.18 - 4.32

B. Developed Land

4.33 - 4.39

RECOMMENDATION 21

4.18 - 4.20

A new approach should be taken to give effect to the intention of the improvement conditions of leases and the Land (Underdeveloped Freeholds) Ordinance 1969.

- (A) All freehold and leasehold titles should be statutorily converted into Government guaranteed leaseholds, as from a specified date.
- (B) The same statute should declare that all Government leases are confirmed until the end of the current term or for forty years whichever is the shorter, subject to meeting new conditions setting out the proportion of development expected on the undeveloped parts of the lease. Consideration should be given to setting out the main pattern of improvement conditions in the statute. It should normally envisage that development of undeveloped areas should commence within a year and be completed within 5 years.
- (C) Inspection teams of the Department of Lands should visit the land and report on whether there is clear evidence of improvements being made according to the conditions. If not the undeveloped land should be reallocated by the District Land Control Boards with priority to land-short Papua New Guineans living on or near the land.
- (D) The inspection teams should also locate the most urgent cases of land shortage among Papua New Guineans and recommend where the undeveloped land should be reallocated through compulsory acquisition for the public purpose of resettlement.
- (E) All rural leaseholders should be required to submit to the District Office, within six months of a date specified in the statute, a plan showing (i) whether they do intend to develop their undeveloped land or to relinquish it (ii) whether they do intend to involve Papua New Guineans in ownership and management and thus qualify for a sixty year lease. (See terms and conditions of leases, Recommendation 21.) (iii) whether they can make a case for being granted a longer term to complete improvement on the undeveloped land, than the five year limit suggested in (B).
- (F) The Lands Department inspection teams should examine these plans and recommend to the District Land Control Boards any variation on the improvement conditions set out in the statute.
- (G) The leases as approved by the District Land Control Boards, new allocations of unused land, and land still held by the Boards for allocation should all be registered and the titles made secure by statute.

RECOMMENDATION 22

4.21 - 4.24

- (A) No compensation should be paid to the present freeholders for the change in title and the statute should protect the Government from compensation claims.
- (B) There should be a 'holiday' period of five years before rents are charged.

- (C) A titleholder who has borrowed on the security of unimproved land and loses that land under the suggested reallocation should be entitled to appeal to the Minister of Lands for special consideration. The Government might consider taking over the mortgage or issuing the titleholder with a lease over other land which could be used as security.

4.25 - 4.27

RECOMMENDATION 23

- (A) Freeholds held by Papua New Guineans should be converted into the group titles or conditional freeholds used for registering customary land, or into Government leases.
- (B) Unused land allocated by District Land Control Boards may also in some circumstances be held as registered customary land.

4.28 - 4.29

RECOMMENDATION 24

- (A) Government leases should be for a maximum of sixty years for citizens with right of renewal.
- (B) Government leases to non-citizens should be for a maximum of forty years, or sixty years if they involve citizens in substantial ownership and management of the business on the land. Non-citizens should have no automatic right of renewal but should be able to apply for renewal within 7 years of expiry of the lease.
- (C) A Government lease should be the only form of title which a non-citizen can acquire in Papua New Guinea.
- (D) Present leases which now have less than 40 years to run (or 60 years where appropriate) should continue to expiry. Present leases which have more than 40 or 60 years to run should be reduced to the appropriate term.
- (E) Leaseholds should be subject to improvement conditions enforced through periodic inspection from the District Land Offices.

4.30

RECOMMENDATION 25

Government should set the proportions of ownership and management which non-citizens leasing land should grant to Papua New Guinean citizens in a sixty year lease. The Government should also have the power to grant exemption from this general requirement in appropriate cases. There may be some cases where taxation provisions, Central Government ownership or royalty provisions will be properly regarded by Government as providing sufficient benefit without requiring direct shareholding by Papua New Guineans.

4.31

RECOMMENDATION 26

Unless it is required for another public purpose unused rural alienated land held by the Government should be leased by the District Land Control Boards with priority to Papua New Guineans living on or near it. In special circumstances it could be granted under one of the other forms of registered title recommended in Chapter 3 'Customary Land'.

RECOMMENDATION 27

4.32

All 'native reserves' which have not already been relinquished by the Government should be vested in the District Land Control Boards for distribution by lease or registered customary title, amongst the people who live on or near them.

RECOMMENDATION 28

4.33 - 4.39

(A) In areas where most of the rural land has been

alienated and people are seriously short of land, where the return of undeveloped alienated land does not sufficiently relieve the shortage of land for cash cropping as well as subsistence purposes, the Government should take steps to recover developed land nearby, by compulsory process if necessary, and return it to the land-short people.

- (B) Compensation paid to the holders of the former developed land should be limited to the unexhausted improvements on the land. (See Chapter 10, Part III for valuation of unexhausted improvements.)

Part IV "Waste and Vacant" Lands

4.40 - 4.45

A. Undeveloped Rural "Waste and Vacant" Land

4.40 - 4.43

B. Developed Rural "Waste and Vacant" Land

4.44 - 4.45

RECOMMENDATION 29

4.40 - 4.43

Undeveloped rural "waste and vacant" land should be returned under registered customary or leasehold title, to people living on or near it according to need: any left over should be used for wider leasing by the District Land Control Boards with compensation to traditional rightholders.

RECOMMENDATION 30

4.44

Where traditional rightholders are short of land for cash cropping or subsistence purposes, developed rural "waste and vacant" land should be returned to them and the present freeholders and leaseholders compensated.

RECOMMENDATION 31

4.45

Where traditional rightholders are not short of land developed rural "waste and vacant" land should not be returned but the traditional rightholders should be compensated.

Part V Urban Alienated Land

4.46 - 4.55

RECOMMENDATION 32

4.46 - 4.48

- (A) All freehold and leasehold titles should be converted into Government leaseholds from a specified date.

- (B) The statute should confirm developed leases until the end of the current term or for forty years whichever is the shorter, subject to meeting improvement conditions. Undeveloped leases should be treated as provisional. Holders of undeveloped leases should submit to the District Office, within 6 months of the specified date, plans showing (i) whether

they intend to develop their lease or relinquish it, (ii) whether they intend to involve Papua New Guineans substantially in ownership and management of enterprises on the land and thus qualify for a sixty-year lease.

- (C) The plans should be inspected by a team of Department of Lands officers who would recommend to District Land Control Boards as to the appropriate terms and conditions of the lease. The District Land Control Boards should confirm or refuse the lease or modify the terms. Leases by non-citizens above a certain area or value should also be referred to the National Land Control Board for approval.
- (D) The basic terms and conditions of leases should be as set out in Recommendations 24 and 25.

4.46 - 4.48

RECOMMENDATION 33

The Government's title to urban alienated land should be made absolutely secure and not subject to challenge in the courts.

4.49 - 4.53

RECOMMENDATION 34

A permanent Commission of Inquiry consisting of one Commissioner should be set up to investigate claims to urban alienated land and to recommend compensation in deserving cases.

4.54 - 4.55

RECOMMENDATION 35

The controls which should be applied to customary land should also apply to alienated land except that

- (A) Subject to the other recommendations of this Chapter transition provisions should be made for the present holders of title to alienated land.
- (B) The restrictions on numbers of holdings and on mortgaging could be relaxed in certain circumstances, as suggested in paragraphs 4.54 and 4.55 of this report.

5.1 - 5.22

Chapter 5 Urban Land

5.1 - 5.11

RECOMMENDATION 36

- (A) Much more land will be required for town growth, especially for low-cost housing.
- (B) The main aim of policy should be to bring all urban land under public ownership. The timing, manner and extent of Government assertion of control is a political matter and must proceed at the Government's discretion.

5.1 - 5.11

RECOMMENDATION 37

Government should avoid paying high prices for unimproved land near towns but could offer to customary rightholders, as inducements to sell:

- (A) A number of blocks in the new development on conditional freehold.
- (B) Shares in commercial enterprises developed on the land. (There should be some small businesses in or near most residential areas.) A guaranteed share of the growing prosperity of the town should be held out as a greater attraction than a high initial purchase price.

RECOMMENDATION 38

5.1 - 5.11

The joint corporation concept should be explored further, but we doubt that Government has enough skilled staff available at present to attempt it on anything but an experimental scale.

RECOMMENDATION 39

5.1 - 5.11

For this reason, and because compulsory acquisition may not be politically possible, we recommend that limited direct leasing be allowed and that the matter be investigated again after 5 years in the light of that experience.

RECOMMENDATION 40

5.1 - 5.11

The following conditions should apply to direct leasing:

- (A) Government must have over-riding control of rental arrangements and ensure that development conforms with town planning. It could consider collecting the rents for the owners using the Housing Commission as an agent.
- (B) The land should be registered under group title or conditional freehold before leasing.
- (C) No individual customary rightholder should let more than one residential building site of maximum size 0.10 hectare: registered customary groups should be permitted to let no more sites than there are members of the group.
- (D) Direct leasing should not apply to any business or industrial sites which involve overseas investment but could apply to business or industry by Papua New Guineans to a maximum of \$10,000. This figure was selected because we want small Papua New Guinean businessmen to be able to work without unnecessary restrictions (which could cripple them); but the figure should not be too high because it will let the wealthier men get the best sites very easily. However, we assume that the poorer men can get Development Bank loans for a business on a registered direct lease. These matters will have to be watched closely in the next 5 years.

RECOMMENDATION 41

5.12

If the Government rents the land for low covenant housing the customary owners should be paid a modest, but not exploitative, percentage of rentals collected from the sub-tenants. As far as possible payment should be in the form of housing or trust funds or shares in commercial enterprises for the customary rightholders to operate, rather than in cash payments which are easily spent.

RECOMMENDATION 42

Once land is acquired, the actual settlement of migrants upon it should be as simple and inexpensive as possible.

5.12

RECOMMENDATION 43

Provided that suitable alternative building sites are available where migrants can obtain a secure individual title and access to basic services and public transport, the laws against unauthorised building on customary or Government land should be strictly enforced.

5.13

RECOMMENDATION 44

- (A) The rights of long-established migrants should be recognised.
- (B) Long-established settlements should not be suddenly destroyed. Discussion among migrants, Government representatives and customary rightholders should first establish the proper number of migrant dwellings which should be permitted. The excess population should be helped to move to the planned areas.
- (C) If experience in the next five years proves that satisfactory arrangements for long-established migrants cannot be made by agreement with customary rightholders, we recommend they be given title by adverse possession. The period of residence required to qualify under such a law should be ten years.

5.14 - 5.15

RECOMMENDATION 45

Town planning standards should be designed for Papua New Guineans to develop land as they wish. Basic rules on services and sanitation are clearly needed but Australian rules should have no necessary place in this country.

5.16

RECOMMENDATION 46

Self-help housing schemes on a co-operative basis should be fostered as an alternative to individual home building.

5.17

RECOMMENDATION 47

The advantages and disadvantages of low-cost high density housing should be studied.

5.18 - 5.19

RECOMMENDATION 48

The system of authorities running towns will need to be re-examined with a view to simplification. A conference of the bodies listed in paragraph 5.19 should be held to discuss the suggestions made in the paragraph.

5.19

RECOMMENDATION 49

In order to deal with customary rightholders, registration of group titles and the constitution of the rightholding group as a legal entity is urgently needed.

5.20

	Paragraphs
<u>RECOMMENDATION 50</u>	5.21
The question of charges from rates, rents, services and land tax requires further consideration.	
 <u>Chapter 6 National Land</u>	 6.1 - 6.17
<u>Part I Introduction</u>	6.1 - 6.2
<u>RECOMMENDATION 51</u>	6.1 - 6.2
(A) Land held by the Central Government should be registered and called "national land". It should be used as the Government sees fit for the benefit of Papua New Guineans.	
(B) Government should have power to acquire more land in order to meet public needs.	
<u>Part II Future Needs for More National Land</u>	6.3 - 6.5
<u>Part III Future Purchases of National Land</u>	6.6
<u>RECOMMENDATION 52</u>	6.6
Government should only buy land if it is reasonably satisfied, after full investigation, that the customary rightholders are willing to sell and that after the land is sold there will still be enough land left for the future needs of the present population of rightholders for subsistence and cash-cropping purposes; the future needs should be worked out as equal to twice the present needs of the present population. If the Government is not satisfied that this is the case, then it should only lease the land until it is needed by the growing population.	
<u>Part IV Compulsory Acquisitions</u>	6.7 - 6.12
<u>RECOMMENDATION 53</u>	6.7
(A) Government's power of compulsory acquisition should be extended to cover new public purposes. A declaration of a new public purpose should only be made by the House of Assembly.	
(B) All notices of compulsory acquisitions should be tabled in the House of Assembly. A short period should be fixed during which the House of Assembly can cancel a compulsory acquisition if it sees fit.	
(C) Compensation for a compulsory purchase of customary land should be the same as the valuation for a normal purchase of customary land (see Chapter 10).	
 <u>RECOMMENDATION 54</u>	 6.8 - 6.12
If land, other than urban land, which is compulsorily acquired for a public purpose is not being used for a public purpose at the end of ten years from the date of purchase, then the land should revert to the original rightholders without any obligation on them to return the purchase price.	

	Paragraphs
<u>Part V Declarations of National Land</u>	6.13 - 6.17
<u>RECOMMENDATION 55</u>	6.13 - 6.17
For the better use of the land, particularly where there are big areas of virgin forest and only a small population, the Government should have power to declare some parts of the land which it believes, after investigation, has not been used for agricultural purposes within the last 20 years to be national land.	
<u>Chapter 7 Succession to Land</u>	7.1 - 7.36
<u>Part I Introduction</u>	7.1 - 7.2
<u>Part II Present Law</u>	7.3 - 7.5
<u>Part III Problems with Present Law</u>	7.7 - 7.9
<u>Part IV Policy Considerations about Succession in Future</u>	7.10 - 7.26
<u>Part V General Law Providing for Wills in Relation to Land</u>	7.27
<u>RECOMMENDATION 56</u>	
(A) There should be one law of succession to interests in land which applies to Papua New Guinea as a whole and to all persons in Papua New Guinea.	
(B) Succession to unregistered customary rights in land, if the rightholder has not made a will, should be decided according to the customs of the area where the land is situated.	
(C) Government should inform the people of their right to make a will and how it can be made.	
(D) Simple forms of will in English, Pidgin and Hiri Motu (and advice on how to use them) should be available at all Government and Local Government centres.	
(E) The local Land Court should have the power, on the application of any person who depended on the deceased person for his or her living, to change the terms of a will, or the rules for succession where a will has not been made, so as to make proper provision for that person.	
(F) A person holding an interest in land may pass on that interest by written will only if the will is written in a way approved by the Central Government.	
<u>RECOMMENDATION 57</u>	
(A) A spoken will should, where possible, be made before a person authorised to record spoken wills. If a spoken will is not made before such a person, then two witnesses to the spoken will should be able to record it before a person authorised to record spoken wills. The degree of proof when the spoken will is not made before an authorised person should be greater than where the will is made before an authorised person.	

- (B) After the will-maker's death a record of the will should be sent to the District Registry Office responsible for the area in which the land is situated.
- (C) The Central Government should make a list of persons authorised to record spoken wills. Such a list could include Lands Officers, Village Court Magistrates, Division of District Administration Officers, Local Government Council Officers, Ministers of Religion, Medical Officers and other senior persons of recognised status.

Part VI Unregistered Customary Land

RECOMMENDATION 58

A person holding rights in unregistered customary land should have power to make a will passing on those rights only if -

- (A) It is in writing or done in a way that is accepted by the people of that place at that time; and
- (B) It disposes of his right to a person or persons to whom he was entitled to pass the right during his lifetime.

Part VII Registered Customary Land

7.28 - 7.32

1. Heritable Occupation Rights

7.28 - 7.31

RECOMMENDATION 59

- (A) A person holding a heritable occupation right should have power to make a will passing on that right only if -
 - a) It is in writing or done in a way that is accepted by the people of that place at that time; and
 - b) It disposes of his right to a person or persons to whom he was entitled to pass the right during his lifetime.
- (B) If the chosen successor is not living on or near the land and using it he must either return to it and begin to use it, or make arrangements for its use within 12 months of the will-maker's death, otherwise the right should pass as if the rightholder had died without making a will.
- (C) Rules for succession to the heritable occupation right of a person who dies without making a will should be adopted by the proposed District Government for each District from model rules provided by the Central Government.

2. Unregistered Customary Subsidiary RightsRECOMMENDATION 60

7.28 - 7.31

A person holding unregistered customary rights in registered customary land should have power to make a will passing on those rights only if -

- (A) He was living on or near the land at the time of his death;
- (B) It is in writing or done in a way that is accepted by the people of that place at that time.
- (C) It disposes of his rights to a person or persons to whom he was entitled to pass the rights during his lifetime.

3. Registered LeasesRECOMMENDATION 61

7.32

- (A) A person holding a registered lease over registered customary land should have power to make a will passing on that lease only if -

- a) It is in writing or done in a way that is accepted by the people of that place at that time; and
- b) It disposes of the lease to a person or persons to whom he was entitled to pass the lease during his lifetime.

- (B) If the chosen successor is not living on or near the land and using it he must either return to it and begin to use it, or make arrangements for its use within 12 months of the will-maker's death, otherwise the lease should pass as if the lease-holder had died without making a will.

- (C) Rules for succession to the lease of a person who dies without making a will should be adopted by the proposed District Government for each District from model rules provided by the Central Government.

4. Conditional FreeholdsRECOMMENDATION 62

- (A) A person holding a conditional freehold should have power to make a will passing on that right only if -

- a) It is in writing or done in a way that is accepted by the people of that place at that time; and
- b) It disposes of the conditional freehold to a person or persons to whom he was entitled to pass it during his lifetime.

- (B) If the chosen successor is not living on or near the land and using it he must either return to it and begin to use it, or make arrangements for its use within 12 months of the will-maker's death, otherwise the

conditional freehold should pass as if the freeholder had died without making a will.

- (C) Rules for succession to the conditional freehold of a person who dies without making a will should be adopted by the proposed District Government for each District from model rules provided by the Central Government.

Part VIII National Land

7.33

RECOMMENDATION 63

7.33

- (A) A person holding a registered lease over national land should have power to make a will passing on that lease only if he makes a will either in writing or in a way approved by the National Government.
- (B) If the chosen successor is not living on or near the land and using it he must either return to it and begin to use it, or make arrangements for its use within 12 months of the will-maker's death, otherwise the lease should pass as if the lease-holder had died without making a will.
- (C) Rules for succession to the lease of a person who dies without making a will should be made by the Central Government. The draft rule in paragraph 17 above is recommended for consideration.

Part IX Administration

7.34

RECOMMENDATION 64

7.34

- (A) All wills relating to registered interests in land should be proved before the Local Land Court by the District Registry Office. Any dispute over a will, or any application by a person to change a will or rule of succession where no will is made, or any application to succeed to land which the chosen successor has not begun to use or made arrangements for its use within 12 months of the will-maker's death, should be dealt with by the Local Land Court.
- (B) If the registration of successors under the will would lead to the registration of a single rural holding of less than one hectare or a house site of less than one-twentieth of a hectare, then the will should be referred to the Local Land Court which should have the power to alter the will so that registration of an acceptable size holding shall result and order compensation to be paid where necessary, or confirm the will. An appeal should lie from the decision of the Local Land Court in the normal manner.
- (C) Where a person inherits a registered interest in land, but by reason of that inheritance he would hold a registered interest in land in excess of one agricultural holding and one house site, then he should make a choice within

12 months as to which interests he wants to keep so as to stay within these limits. If he rejects the inherited interest, then it should pass to the person who would have inherited it had he not inherited it. If he rejects the interest which he already holds, then the registration of that interest should be cancelled.

- (D) For the purpose of paragraph C of this recommendation, if the inherited interest in an interest in the land of that person's group, then it may be regarded together with any other registered interest which he has in his group's land as one holding. (More detailed recommendations appear in Chapter 11 on Land Administration.)

Part X Joint Owners

7.35

RECOMMENDATION 65

7.35

Where an interest in registered land is held by two or more persons together, it should be presumed to be held by them in common. Upon the death of one of the owners, his part of the interest should pass to his successor according to the rules set out in this chapter.

Part XI Persons Under Age

7.36

RECOMMENDATION 66

7.36

Where a person who succeeds to an interest in land is below the age of 16 years, he should inherit the interest in his own name, but should have no power to deal with the interest until he reaches the age of 16 years, except with the approval of the District Land Control Board.

Chapter 8 Land Disputes

8.1 - 8.21

A. Introduction

8.1 - 8.7

B. Recommended Dispute Settlement Structure for Customary Land

8.8 - 8.21

RECOMMENDATION 67

8.8 - 8.11

- (A) That the present dispute settlement structure for customary land be abolished and replaced by a three stage system of mediation, arbitration and appeal.
- (B) The new structure should include local leaders for their knowledge of land matters in the area, together with impartial chairmanship.
- (C) It should be part of the national judiciary, but should be decentralised to District level and aim at settling almost all disputes within the District.

RECOMMENDATION 68

8.8 - 8.9

Mediation

There should be a first level of compulsory mediation before a panel of local men of standing in each council area. Formally appointed and paid as mediators.

RECOMMENDATION 69

8.10

Arbitration

- (A) If mediation fails the next level of dispute settlement should be a local land court consisting of a Local Court Magistrate sitting with four assistants chosen from the panels of mediators. The Local Land Court should attempt further mediation and if this fails, arbitrate or decide the dispute. A majority of the Court would suffice if it cannot be unanimous.
- (B) The Court should have a wide range of powers to distribute rights in the land, not just decide 'ownership' for one part or the other.
- (C) It should have power to make decisions and award compensation on disputes associated with the land dispute if these are essential to arriving at a workable decision in relation to the land.

RECOMMENDATION 70

8.11

Appeal

- (A) There should be provision for appeal to a District Land Court consisting of a single magistrate located in each District.
- (B) Grounds for appeal from the Local Land Court should be strictly limited and subject to a substantial fee.
- (C) The Supreme Court should exercise 'watchdog' powers over the lower courts but have very little jurisdiction in relation to customary land questions as such.

RECOMMENDATION 71

8.12

Lawyers should be excluded from the mediation and arbitration stages and admitted to the District Land Courts only in special circumstances.

RECOMMENDATION 72

8.14

The decision of Local Land Courts and District Land Courts should be firmly enforced. Special summary offences should be provided to deal with people who do not obey Court Orders. The Police should be allowed considerable discretion about how the enforcement proceeds. Confrontation with defiant parties should not be encouraged.

RECOMMENDATION 73

8.15

The District Land Courts should have power to award damages against those who interfere with people whose rights to use the land have been recognised either in the Local Land Court or the District Land Court.

RECOMMENDATION 74

8.16

Disputes about rights in registered customary land should also be settled through the system of mediation, arbitration and appeal.

RECOMMENDATION 75

8.17

The title which Government now holds to urban and rural land should be confirmed by legislation in the House of Assembly, but administrative steps should commence to return land to land-short Papua New Guineans (see recommendations on alienated land).

RECOMMENDATION 76

8.18

Disputes about future leases of national land should go to the District Land Court with a single appeal to a single judge of the Supreme Court.

RECOMMENDATION 77

8.19

The Minister for Justice should confer with the Minister for Lands with a view to withdrawing remaining Administration claims under the New Guinea Land Titles Restoration Ordinance. Any remaining claims should be heard by a Supreme Court judge on circuit.

RECOMMENDATION 78

8.20

The records and technical services of the present Land Titles Commission should be preserved as a Headquarters of the new land court and registration system.

RECOMMENDATION 79

8.21

A training programme for Land Court magistrates should be immediately introduced and some of the present Land Titles Commissioners should be asked to assist in the training programme.

RECOMMENDATION 80

8.14

When fighting occurs over land the Police should be used to establish areas of peace where parties can come in safety and begin the process of mediation and arbitration.

Chapter 9 Resettlement and the Problem of Land Shortage

9.1 - 9.36

A. Land Settlement

9.6 - 9.27

B. Industry

9.28

C. Encouraging the "Informal Sector"

9.29

D. Developing New Towns in Rural Areas

9.30

E. Improving Subsistence Farming

9.31

F. Improving Intensive Rather than Extensive Farming on Good Arable Land

9.32 - 9.33

G. Population Control

9.34 - 9.36

RECOMMENDATION 81

9.19 - 9.27

- (A) The migrations of people from the more populated areas to the less populated areas of their own Districts, or to adjacent Districts, should be encouraged. Government has not got enough money for many high cost resettlements and small low-cost ones will be necessary in many places to help people in isolated mountain areas to come closer to roads, markets, etc. Government should watch for the beginnings of these and help them with services and secure land titles as they show signs of becoming permanent and settling down.
- (B) Medium schemes based on the experience gained in the Gavien and Popondetta rehabilitation schemes should be undertaken using only settlers from land-short areas.
- (C) The Government should continue to review and develop plans to rehabilitate existing land settlement schemes as resources permit.
- (D) Further high cost schemes based on a nucleus estate like the Cape Hoskins Oil Palm Scheme may be undertaken for economic purposes but because of their cost and other factors they are not very suitable for relieving population pressure.

RECOMMENDATION 82

9.28

The Government should continue to extend its policy of requiring as many jobs as possible to be given to Papua New Guineans in all industries, and its policy of spreading industrial development evenly through the country.

RECOMMENDATION 83

9.29

The Government should continue to encourage the growth of the informal sector of the economy.

RECOMMENDATION 84

9.30

The Government should encourage the development of new towns in the rural areas.

RECOMMENDATION 85

9.31

More Government resources should be put into trying to improve subsistence farming methods (for example, use of waste recycling units).

RECOMMENDATION 86

9.32 - 9.33

- (A) Care should be taken in land-short areas to see that land is used for close cropping rather than extended farming.
- (B) Collecting and marketing arrangements should be improved to meet increased production and should be given at least equal priority with land tenure changes.

RECOMMENDATION 87

9.34 - 9.36

Government should consider adopting a policy of population control.

	Paragraphs
<u>Chapter 10 Valuation and Compensation</u>	10.1 - 10.13
<u>Part 1 Value in Land</u>	10.1 - 10.4
<u>Part 2 Increased Value Should go to the Community Which Creates It</u>	10.5
<u>Part 3 Unexhausted Improvements</u>	10.6 - 10.13
<u>RECOMMENDATION 88</u>	10.1 - 10.3
Customary owners should be compensated for use made of and improvements added to land; as far as possible the increased value of land due to demand should pass to the Government on behalf of the community, not to private individuals.	
<u>RECOMMENDATION 89</u>	10.4
Payment for customary land should include:	
(A) A payment of not more than \$50 per hectare for the land itself. This is intended to be a maximum rate; it is expected that lower prices will be offered and accepted for poorer land. But the figure should be reviewed in the light of inflationary trends not later than five years from now.	
(B) The value of the unexhausted improvements on the land (e.g. crops, trees, houses, sheds and fences).	
(C) Compensation for the loss of gardening, hunting, fishing and important gathering rights actually being exercised over the land.	
(D) Compensation for loss or disturbance of village life-style.	
(E) <u>In Addition:</u> Where a commercial enterprise is to be built on the land, Government may require that shares in the enterprise or an option to purchase shares in the enterprise be given to the previous land owners. (This should apply in appropriate cases to the Government purchase of customary land and to the compensation payment for any developed 'waste and vacant' land retained by Government.)	
<u>RECOMMENDATION 90</u>	10.5
Once Government has acquired land, it should try to make sure that as far as possible any increase in price or value as a result of increasing population and demand, should be recovered by the Government on behalf of the national community, not by private individuals trading in leases.	
<u>RECOMMENDATION 91</u>	10.6 - 10.13
(A) Compensation for developed leasehold or freehold land should be on the basis of unexhausted improvements.	
(B) Unexhausted improvements could be valued according to their usefulness or productivity.	

- (C) The concept of a 'free market' price is not appropriate.

Chapter 11 Land Administration

11.1 - 11.41

Introduction

11.1

Part I Legal Problems

11.2 - 11.6

Part II Land Administration in the Future

11.7 - 11.11

Part III Distribution of Functions and Powers

11.12 - 11.32

A. Policy Making

11.12

B. Law Making

11.13

C. Land Administration

11.14 - 11.24

D. Land Registration

11.25 - 11.30

E. Permanent Commission of Inquiry

11.31

F. Research and Review

11.32

Part IV Training

11.33 - 11.41

RECOMMENDATION 92

11.2 - 11.4

That all the land laws now in force in Papua New Guinea be repealed and replaced by new legislation enacted by the House of Assembly.

RECOMMENDATION 93

11.9 - 11.11

The present National Land Board should become the National Land Control Board. The District Land Control Boards should be appointed by the proposed District Government except for one representative of the Central Government, who could be a member of the National Land Control Board or a Central Government official in the District. National and District Land Control Boards should be statutory bodies, and should meet regularly and frequently.

RECOMMENDATION 94

11.12

Future national land policy and land use planning should be worked out after regular consultation between Central Government and District Governments. The results of these consultations should be circulated to the District Land Control Boards. Central Government should ensure that all Government Departments concerned with land policy are consulted and their own policies co-ordinated, possibly through a body such as the proposed Natural Resources Board.

RECOMMENDATION 95

11.13

Central Government should be responsible for making the national land law for the whole country. It should consult with District Governments before changing the national land law.

RECOMMENDATION 96

11.14

The National Land Control Board should have the power to set down the range of terms which apply to registered interests in national land. District Land Control Boards should be able to make and vary the

terms which apply to registered interests in each District, within the range set down by the National Land Control Board.

11.15

RECOMMENDATION 97

- (A) The District Land Control Board should have the power to approve applications by Papua New Guineans for leases and renewals of leases involving land up to a certain area, or investment up to a certain value to be fixed by the National Land Control Board. Applications for leases or renewals involving land which is of greater area or investment which is of greater value should require the approval of the National Land Control Board. (See paragraph 6 of our Interim Report.)
- (B) The National Land Control Board should only be able to withhold its approval after consultation with the District Land Control Board.
- (C) The District Land Control Board should have the power to approve applications by persons who are not nationals of Papua New Guinea for leases and renewals of leases involving land up to a certain area, or investment up to a certain value to be fixed by the National Land Control Board. Applications by persons who are not nationals of Papua New Guinea for leases and renewals of leases involving land of greater area or investment of greater value should require the approval of the National Land Control Board. The National Land Control Board should not grant or withhold its approval except after consultation with the District Land Control Board concerned. Only in exceptional circumstances should the National Land Control Board grant or withhold approval where such action is strongly opposed by the District Land Control Board.
- (D) The National Land Control Board could set guidelines for District Land Control Boards to follow in the interests of national development.

11.16 - 11.17

RECOMMENDATION 98

Purchases or leases of customary land should be carried out by Lands Officers from the District on behalf of the Central Government. Officers of the Department of the Chief Minister and Development Administration should conduct investigations before the purchase or lease, and for all purposes act in the transaction in the interests of the persons selling or leasing.

RECOMMENDATION 99

11.18

All purchases or leases of customary land should be the subject of consultation with the District Land Control Board before completion. Only in exceptional circumstances should Central Government proceed with a purchase or lease which is strongly opposed by the District Land Control Board.

RECOMMENDATION 100

11.19

The National Land Control Boards should set the conditions on acquisitions of land which provide for return of the land to the persons selling or leasing it, in the event of failure to use it after a fixed time for the purpose for which it was acquired.

RECOMMENDATION 101

The District Land Control Board should be able to restrict the class of applicants for special leases (such as to persons from a particular area) or grant special leases without advertisement, subject in all cases to approval by the National Land Control Board. The National Land Control Board should set guidelines to be followed by District Land Control Boards in granting special leases.

RECOMMENDATION 102

11.20

When a lease expires and the lessee does not wish to renew, he should be compensated by the District Land Control Board (on behalf of the Government) for the unexhausted improvements on the land and the new lessee should pay for these improvements, either in a lump sum or through an adjustment of rent to cover them as the District Land Control Board thinks fit. When a lessee wishes to dispose of or surrender his lease he should be required to offer it to the District Land Control Board. The Board should, within two months either:

- (A) Recommend that Central Government repurchase the lease, on paying the retiring lessee for the unexhausted improvements. Central Government should normally exercise this right when it requires the land for resettlement, town growth or other public purposes.
- (B) Reallocate the lease and compensate the retiring lessee for unexhausted improvements. It should normally do this for the larger and more valuable blocks in order to keep control of the land market and keep prices down.
- (C) Relinquish its option and allow the lessee to sell his lease directly, subject to a check by the Board that the terms and conditions of the sale are equitable. If the Board does not exercise its option within two months the lessee should be able to sell his lease directly in any case, subject to a check by the Board.

RECOMMENDATION 103

11.21

- (A) Strict laws should be enacted against bribery and under-cover payments. The Land Registry should be open to public and judicial inspection. The hearings of District and Central Land Control Boards should be open to the public. The records of their proceedings should be tabled annually in the District and Central legislation.
- (B) An officer in the Justice Department should be authorised to take proceedings in Court against any person who commits offences against provisions of the land legislation.

RECOMMENDATION 104

11.25 - 11.26

There should be a National Land Registry Office in Port Moresby and a District Land Registry Office set up eventually in all District capitals. The District Land Registry Office should be under the supervision of the General District Registry Office. The National Land Registry should be under the supervision of the Registrar-General and should be part of the Justice Department.

RECOMMENDATION 105

11.26 - 11.29

As a part of Australian or other overseas aid, up to 12 trained registry officials should be engaged on contract to put the land registry on the soundest possible basis and cope with the initial rush of new work. Part of their function should be the training of Papua New Guinean registry staff.

RECOMMENDATION 106

11.30

A person or group registered as the holder of an interest in land should be issued with a Memorandum of Title. This document should have no legal effect of itself.

RECOMMENDATION 107

11.32

The working of the new land policies should be kept under constant study by qualified research officers. The University of Papua New Guinea and the Papua New Guinea University of Technology should be involved in land studies as much as possible.

RECOMMENDATION 108

11.33 - 11.41

- (A) Consideration should be given to establishing a Lands Service, of high status and sound training to carry into effect the new policies we have recommended.
- (B) Diploma and degree courses in Land Management should be introduced.
- (C) Overseas staff should be recruited to assist in the training programme.

Chapter 12 Land and Crop Loans

12.1 - 12.10

RECOMMENDATION 109

12.1 - 12.3

Clan land agreements should be made legally binding for the purpose of securing loans from authorised lending agencies.

RECOMMENDATION 110

12.4 - 12.6

Legislation should be passed to allow for the use of tree crops and other crops as security for loans. Crop loans should be repayable over a number of years.

RECOMMENDATION 111

12.7

The laws for using livestock as security for loans should be simplified so as to be more suitable to Papua New Guinean conditions.

RECOMMENDATION 112

12.8 - 12.10

- (A) Loans over registered customary land or on clan land agreements, should only be from Government lending agencies such as the Development Bank and the Papua New Guinea Banking Corporation. (Savings and Loans Societies and Development Corporations owned by Papua New Guineans could lend to their own members.)
- (B) If loans for the development of leases on national land are extended to trading banks and other private lending agencies, they must require the approval of the District Land Control Board, unless the borrower has capital and assets worth, say, \$25,000.

Chapter 13 Survey

13.1 - 13.10

RECOMMENDATION 113

13.8

More survey staff and facilities should be available to meet the needs of land registration. Necessary land registration should not be held up for want of survey facilities, but neither should land registration be pursued at a pace that over-strains reasonable supply of survey staff and facilities.

RECOMMENDATION 114

13.2

- (A) Papua New Guinean villagers should be involved as much as possible in the actual work on their own land, including cutting of lines and ground marking preparatory to aerial photography.
- (B) Training of surveyors and survey technicians should include training in how to involve village people in the work.

RECOMMENDATION 115

13.3

Pilot projects of systematic survey of rural land by photogrammetry should be carried out in order that a full evaluation of the method can be made.

RECOMMENDATION 116

13.6 - 13.7

Efforts to train Papua New Guinean Government survey staff should be intensified to relieve the present heavy reliance on private contract surveyors. A course of in-service training is suggested as an alternative to full-time courses at the University of Technology.

RECOMMENDATION 117

13.4

All local field staff engaged in land work, a number of school leavers, and some of the official mediators of land disputes in each District should be trained in simple survey methods, in order to help in cases of sudden need when survey technicians are not available.

RECOMMENDATION 118

A variety of survey techniques should be made available and the degree of expense and accuracy employed be related to the benefit expected to come from a survey.

RECOMMENDATION 119

- (A) Villagers should be expected to pay a share of the cost or perform a sufficient amount of the ground work for surveys connected with the registration of their land.
- (B) A person given registered title should be required to plant his boundaries within one year. (Failure to do so could weaken his claim in a dispute.) The planting could be followed by survey by photogrammetry, especially after systematic registration of an area.

	Paragraphs
<u>Chapter 14 Forestry</u>	14.1 - 14.11
<u>RECOMMENDATION 120</u>	14.1 - 14.2
Government should try to ensure that timber rights purchases do not tie up land in such a way as to stop local rightholders indefinitely from making economic use of their land.	
<u>RECOMMENDATION 121</u>	14.3
In order to carry out reafforestation and other long term development, Government should lease land from customary rightholders on terms which involve them more fully in the developments on the land, including employment and training in forest management if they wish it.	
<u>RECOMMENDATION 122</u>	14.4
(A) Contracts with timber extracting companies should normally include provision for reafforestation, or other development, either by arrangement with the company or any other authority or in appropriate cases through Government. The development should be based on sound land use principles and must take into account the views of the people in the area.	
(B) Forestry Department should involve representatives of local landholders as far as possible in their dealings with timber companies and try to ensure that they are satisfied with both the short term and long term benefits they may expect from the negotiations. District Government should also be involved.	
<u>RECOMMENDATION 123</u>	14.5
The Forestry (Private Dealings) Ordinance 1971, should be confined to dealings in respect of small areas where the total accessible forest is not more than 20 million superfeet.	
<u>RECOMMENDATION 124</u>	14.6
Opportunity and encouragement to start small businesses in a forestry lease area should, wherever possible, be given to the customary rightholders as a matter of priority. Much greater co-ordination between Forests Department and business development officers is required.	
<u>RECOMMENDATION 125</u>	14.7
Customary owners should be dealt with where possible as corporate groups (under the proposed General Purpose Corporations legislation, for example) rather than as a series of individual land holders.	
<u>RECOMMENDATION 126</u>	14.8
Section 4 of the Forestry Ordinance should be amended to permit payment of royalties for gravel in exceptional cases, either in the original timber agreement or in a subsequent agreement.	
<u>RECOMMENDATION 127</u>	14.9
That forest negotiations be co-ordinated with district land use plans.	

Paragraphs

RECOMMENDATION 128

14.10

That timber agreements always provide for compensation for food trees and other scarce useful plants destroyed in milling: or that the level of royalties paid take this specifically into account: or that sufficient area of forest reserve be left round villages.

RECOMMENDATION 129

14.11

Forestry legislation, land use planning and timber agreements must take account of the need to set aside national park or other reserved areas in which the natural environment and plant and animal life will be preserved in any district subject to extensive milling.

Chapter 15 Australian Finance for adjustment of Land Problems

15.1 - 15.5

RECOMMENDATION 130

15.1 - 15.5

The Australian Government should be approached to provide funds additional to the annual grant in aid for the adjustment of outstanding land problems.

Chapter 16 Conclusion

16.1 - 16.3

RECOMMENDATION 131

16.1 - 16.2

That in addition to tabling the report in the House of Assembly the Government circulate it widely for comment as soon as possible.

RECOMMENDATION 132

16.3

That before implementing any new registration provisions, tenures, transfer provisions, controls, land courts, etc. that may be adopted, the Government conduct a nation-wide education programme about them, in order to secure as clear an understanding and acceptance of them as possible.

Chapter 1

PROCEEDINGS OF THE COMMISSION

Background of Inquiry

- 1.1 In 1971 the Administration introduced in the House of Assembly four land bills on which it had worked for several years. The four bills were designed to solve some of the problems regarding land.
- 1.2 When the bills came before the House of Assembly many people, both in the House and the general community, were not sure of what they meant or what they would lead to. Others did not think the Administration had understood the problems properly. Others again thought the answers they had given were wrong or that they would disrupt village life or cause the loss of land. As a result the bills were withdrawn. Moves began to set up a parliamentary inquiry into land problems to recommend solutions.

Statement of Case

- 1.3 The statement of the case upon which the Inquiry was ordered was as follows:

It is clear that a number of the economic, social and political problems of Papua New Guinea have their foundation in difficulties with land. Many people have expressed concern at the trouble caused by land disputes. Over-alienation of customary lands has caused hardship in some parts of the country, whilst population pressures have caused difficulties in others. It is apparent that the present land laws cannot cope with these and the other land problems.

- 1.4 On 27th June 1972 the House of Assembly resolved:-

- 1) "That this House considers that His Honour the Administrator should appoint, as soon as possible, a Commission of Inquiry to investigate fully and to report on the major land questions with which Papua New Guinea is faced today.
- 2) That the terms of reference of the Commission should be wide and flexible, but one of its main tasks should be to enable this House to debate any land legislation which may be introduced with a full appreciation of the problems and of alternative solutions.
- 3) That the Commission should give particular attention to the problem of finding effective means of resolving the numerous land disputes involving the indigenous people of Papua New Guinea.

- 4) That the Chairman of the Commission should be a Papua New Guinean.
- 5) That the Commission should hold public meetings in different parts of Papua New Guinea and carefully consider the views of Papua New Guineans on the issues involved.
- 6) That the Commission should seek the assistance and opinions of outside experts.
- 7) That all evidence before the Commission and all interim reports or recommendations by the Commission should be made available to this House as soon as is practicable."

Appointment of the Commission

1.5 On 16th February 1973 His Honour Leslie Wilson JOHNSON, Administrator of Papua New Guinea, by virtue of the powers conferred by the Commissions of Inquiry Ordinance 1951-1970 appointed the following Commissioners under that Ordinance to inquire into and report on a matter in which an inquiry would be, in his opinion, for the public benefit, that is to say land matters in Papua New Guinea:

Mr. SINAKA GOAVA,
Mr. BENNY BOANA, (Boana Rossi)
Mr. CLETUS HAREPA,
Mr. DONIGI SAMIEL,
Mr. EDRIC EUPU,
Father IGNATIUS KILAGE,
Mr. PHILIP TO BONGOLUA,
Mr. POSA KILORI,
Mr. HORATIUS IGUA,
Mr. JOHN KUP.

- 1.6 His Honour directed that Mr. SINAKA GOAVA be Chairman. The Commissioners elected Mr. CLETUS HAREPA to be Deputy Chairman.
- 1.7 His Honour appointed Mr. WILLIAM EDWARD WELBOURNE, B.A., (Qld.) to be Secretary to the Commission. He is a Projects Officer in the Department of Lands, Surveys and Mines.
- 1.8 On 30th May 1973, His Honour appointed Mr. POKWARI KALE, as a Commissioner, together with the other above named.
- 1.9 His Honour revoked the Commission of Mr. John Kup to take effect as from the 5th day of July, 1973, and of Mr. Horatius Igua to take effect as from the 17th day of July, 1973.

Terms of Reference

1.10 His Honour made the following direction when appointing the Commission:

"You are to investigate fully and report to Cabinet and myself on the major land questions with which Papua New Guinea is faced today. You should consider and evaluate alternative solutions to the problems you identify in order -

to provide a sound basis for the formulation of Government policies in relation to these questions; and

to enable Members of the House of Assembly to debate any land legislation introduced by the Government following reports by the Commission, with a full appreciation of the problems involved and of alternative solutions.

Without limiting your power to make any investigation which you consider relevant to these objectives, you should particularly investigate and report on -

- 1) The nature and extent of disputes over land rights involving Papua New Guineans and the methods of resolving them giving particular consideration to -
 - a) the effectiveness of the Land Titles Commission and the Supreme Court in dealing with these disputes, and possible ways of improving the functioning of the present system of resolving disputes by judicial means;
 - b) whether land disputes could be more satisfactorily dealt with through another system under which the Land Titles Commission might be replaced by a different type of national land-dispute settling institution, using non-judicial procedure, or by small local bodies or by other means of resolving these disputes.
- 2) The problems associated with alienated land, especially in areas where there is a shortage of land available for use by Papua New Guineans, or acute social tension. You should put forward detailed proposals, which identify the areas where these problems are most acute, indicate the nature and extent of the problems, and specify ways of resolving them, giving particular attention to -

- a) possible legislation changes designed to facilitate the acquisition of alienated land for the benefit of Papua New Guineans;
 - b) the approximate cost of carrying out a programme of acquiring, for the benefit of Papua New Guineans in land short areas, alienated land in those areas, and possible bases for determining responsibility for meeting this cost;
 - c) what encouragement might be given by way of advice, loans, intermediary services and other assistance to enable villagers to enter in to direct negotiations with owners of alienated land, for the purchase of such land;
 - d) the best means of apportioning alienated land reacquired or held by the Administration or the Government, for the benefit of villagers;
 - e) appropriate legislation to enable villagers to acquire land and crops as communal entities and to operate plantations and other agricultural enterprises on a communal basis; and
 - f) the principles of customary laws of succession as they apply to registered land.
- 3) The ways in which customary land tenure systems affect the utilization of land, giving full consideration to land acquired by right of conquest, and to the effects of movement of people onto land not traditionally owned by them -
- a) the extent to which traditional systems of land tenure are being modified to meet changing circumstances;
 - b) sale, inheritance and others forms of transmission of customary land rights;
 - c) i) whether customary interests in land can be recorded or otherwise formalised satisfactorily;

- ii) whether such interests should be recorded or otherwise formalised;
 - iii) ways of recording or otherwise formalising those interests and the advantages and disadvantages of the various procedures which might be used.
- d) ways of making customary land available for commercial development by corporations both public and private and for Governmental purposes, while ensuring significant participation by customary owners in the benefits of such development;
- e) promoting the more effective utilization of customary interests in land and interests in crops and fixtures as security for development finance;
- f) the extent to which dealings in customarily owned land should and could be effectively controlled;
- g) where customary land is or has been permanently alienated, ways of ensuring that the purchase price or any compensation payments, as the case may be, is used to give maximum benefit to the customary owners and their heirs.
- 4) The major obstacles to improved land utilization in both urban and rural areas, and ways of overcoming them.
- 5) Ways of -
- a) maximizing the range and spread of benefits from land development to all members of local communities;
 - b) minimizing social dislocation arising from land development; while actively promoting better utilization of Papua New Guinea's land resources.
- 6) The advantages and disadvantages of land re-settlement and the extent to which further resettlement schemes should be undertaken.
- 7) The legal and administrative problems arising out of the present laws relating to alienated land.

8) Generally the attitude of the people towards -

- a) the functioning of the present legislative, administrative, and judicial structure in relation to land matters;
- b) alternative ways to those used at present of bringing about greater use of Papua New Guinea's land resources, such as by making security of non-customary tenure depend upon land use rather than upon registration of title, by encouraging the leasing or granting of occupancy rights of or over customarily owned land rather than the outright sale of such land, promoting group enterprises, and imposing land tax."

Period of Inquiry

- 1.11 His Honour further directed that the inquiry be held at such places in Papua New Guinea and elsewhere as it may appear necessary or expedient.
- 1.12 His Honour further directed that the inquiry commence with as little delay as possible and proceed therein with all dispatch and render to Cabinet and to himself the report in the month of September, 1973. On 20th September, 1973, he directed the Commission to render the report as soon as possible and convenient after the 30th day of September, 1973.

Counsel Assisting

- 1.13 Mr. Nicholas O'Neill, LL.B (Melbourne), assisted the Commission throughout its inquiries. He is Principal Legal Officer (Law Reform) in the Papua New Guinea Department of Law.

Permanent Consultant

- 1.14 Dr. Alan Ward, Ph.D., was appointed by Cabinet to be the Commission's full-time Permanent Consultant and he commenced work with the Commission on 15th January, 1973. He is a Senior Lecturer in History at La Trobe University in Melbourne, Australia.

Visiting Consultants

- 1.15 Professor Rudolph James, Ph.D, was Visiting Consultant to the Commission from 18th May, 1973 until 6th June, 1973. He is Professor of Law at the University of Dar es Salaam in Tanzania, and will shortly take up an appointment at the University of Papua New Guinea.

8) Generally the attitude of the people towards -

- a) the functioning of the present legislative, administrative, and judicial structure in relation to land matters;
- b) alternative ways to those used at present of bringing about greater use of Papua New Guinea's land resources, such as by making security of non-customary tenure depend upon land use rather than upon registration of title, by encouraging the leasing or granting of occupancy rights of or over customarily owned land rather than the outright sale of such land, promoting group enterprises, and imposing land tax."

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- 1.16 Professor Ronald Crocombe, Ph.D, was visiting Consultant to the Commission from 22nd June, 1973 until 15th July, 1973 and from the 7th September, 1973 until mid October, 1973. He is Professor of Pacific Studies at the University of the South Pacific, Suva, Fiji.

Research Officer

- 1.17 Mr. Jim Fingleton, LL.B. (A.N.U.), joined the Commission in May to assist with research into specific projects on which the Commission needed further information. He is a Senior Legal Officer in the Papua New Guinea Public Solicitor's Office.

Conduct of Inquiry

1.18 Publicity

Approximately \$10,000 was spent on publicity of the Commission. This included the printing of special English, Pidgin and Motu posters and copies of the Commission's terms of reference and membership for distribution to all Districts through the Department of the Chief Minister and Development Administration, all Local Government Councils and the Government Liaison Branch. Each Local Government Council was asked to discuss the Commission's terms of reference before the Commission's visit and the Government Liaison Branch held discussion groups in Highland Districts. Each member of the House of Assembly was asked to publicise the Commission in his own electorate. Some Commissioners visited their own and other Districts a few days before the Commission's arrival to explain its work. Private individuals in the community were also asked to help. The Administration Radio Stations and the ABC were used to explain the Commission's work in English, Pidgin and local dialects. In more remote places funds were made available to Local Government Councils to publicise the Commission. Approximately 65,000 posters and information leaflets were distributed throughout Papua New Guinea including a Pidgin, Motu and English questionnaire based on the Commission's terms of reference. The Commission depended greatly upon how this material was used by District staff and local leaders. We are grateful for the efforts made in many Districts to use this material.

1.19 Submissions

To 31st August, 258 written submissions were received. These totalled 1452 pages or approximately $\frac{1}{2}$ million words. These were mostly sent to the Commission by mail although about 10% were collected while the Commission was on tour. (See Appendix (A) for list.)

1.20 Public Hearings

The Commission began formal sittings on 19th February, 1973 and visited 135 centres in all Districts. 141 public hearings were conducted. (See Appendix (B) for list.) Approximately 22,500 people attended these hearings. (See Appendix (C) for witnesses.) A total of 1322 pages of transcript was collected at the Commission's public hearings. The transcripts contain approximately 793,000 words. The Commission travelled 12,704 miles by air, sea and foot during a period of 112 days between 12th March and 25th August, this year. (See Appendix (D) for details of Public Hearings.)

1.21 Private or Restricted Hearings

The Commission met with 55 witnesses in private hearings either in Port Moresby or while on tour. 319 pages of transcript were recorded containing 191,400 words. (See Appendix (E) for people who appeared as witnesses at these meetings.)

1.22 Other Consultations

In addition to the above hearings the Commissioners and supporting staff had many informal discussions with M.H.A.s., village leaders, councillors and other citizens.

1.23 Interim Report

On 20th June, 1973, the Commission presented an Interim Report on Alienated Lands to the Government and asked that it be made public so that it could be widely discussed. These discussions were taken into account in reassessing the recommendations on alienated land. (See Chapter 4.)

1.24 Acknowledgements

The Commission would like to express its appreciation for the assistance received through the inquiry from many people in all Districts visited. This assistance ranged from simple but essential matters, such as the arrangement of transport, to the considerable contribution of views and ideas, all of which has helped the Commission to make use of a wide variety of material in preparing its Report.

- 1.25 The Commission thanks the Reporters for their efficient work.
From the House of Assembly:

Miss V. West,
Mrs. M. Mathew,
Mrs. K. Herbert,
Miss M. Davies,
Miss N. O'Connor,
Mr. J. Eggleton,
Mrs. G. Hedges, from the Department of Labour,
Mrs. F. Charlton, Department of Labour,
Mrs. E. Pynt, from Sydney,
Mrs. J. Theobald, from Port Moresby.

- 1.26 The Stenographer-Secretaries accepted the very heavy demands put on them during the preparation of this Report, and their valuable assistance is acknowledged.

To: Miss A. Kosick,
Mrs. F. Zahara,
Mrs. S. Fingland,
Miss A. Wright,
Miss L. Behena.

- 1.27 Thanks are also due to Mr. P. Fitzpatrick, Publications Officer with the Department of Lands, Surveys and Mines, for his help with publications and itinerary arrangements.

Chapter 2

BASIC PRINCIPLES

2.1 Our approach to the problem

This Report is the product of the continuous effort of ten Commissioners assisted by three full-time advisory staff and two visiting consultants, over a period of nine months. It is equivalent to the work of one man for eight years. Every District has been visited and indeed every Sub-District but three.

Thousands of miles have been travelled; millions of words have been heard and read. The work has been intensive and continuous but unhurried. Each chapter has been drafted and discussed at least three times before the final draft has been approved.

Where appropriate the draft chapters have been shown to people

experienced in the subject of the chapter and their comments have been taken into account. None of the opinions or recommendations presented is presented lightly.

2.2 Alternatives Considered

The first paragraph of our terms of reference required us to investigate fully and report to Cabinet and to the Administrator on the major land questions facing Papua New Guinea today. The paragraph then continues:-

"You should consider and evaluate alternative solutions to the problems you identify in order to provide a sound basis for the formulation of Government policies in relation to these questions; and to enable Members of the House of Assembly to debate any land legislation introduced by the Government following reports by the Commission, with a full appreciation of the problems involved and of alternative solutions."

In our Report we have tried to meet these requirements. We have set out the land problems of Papua New Guinea. We have recommended solutions to these problems and we have discussed alternative ways of solving the problems whenever there have been real alternatives to our recommendations.

2.3 Land is a basis of social relations

We have been conscious throughout our work that land is the basis of economic and social relations for most of Papua New Guinea. We are unable to regard land as simply a commodity or a tool. Our Report is affected not only by such questions as how to increase production, although this is a most important consideration; it is deeply concerned about what changes in society will result from

changes in land tenure and the laws on land transfer. We assume that Government and the House of Assembly will also consider our Report according to what kind of society they want in this country.

2.4 We have concentrated on setting out principles of policy

After Government and the House of Assembly have considered the Report, the fine details must be worked out to implement the recommendations that are adopted. However, we have worked our recommendations out in enough detail, with due appreciation of the realities of the situation in which they would operate, to demonstrate that they are workable. We have also looked at land policy as a whole, and tried to make the recommendations of the various sections consistent with one another. We believe we are offering for consideration the basis of a new national land policy. We trust that Cabinet and the House of Assembly will give it early consideration, as we believe the country is in urgent need of a clear land policy.

2.5 Follow-up work required

We are happy to learn that Cabinet has directed that a special Section be set up in the Department of Lands, Surveys and Mines to draft legislation and work out detailed administrative proposals on our Report insofar as it is adopted by the Government and House of Assembly. We understand that this Section will also be responsible for research into the effects of policy as it begins to work, and will recommend adjustments where necessary.

2.6 Urgent Matter

There is an urgent need for better provision to recover more alienated land promptly, but in an orderly way, in some places where Papua New Guineans are genuinely short of land. We draw particular attention to Recommendations 20 to 28 in Chapter 4 'Alienated Land'.

Basic principles

2.7 Land Policy is closely connected to economic, social and political relations

Land policy will deeply affect the whole social, political and economic relations of the Papua New Guinea people. Registration, tenure change and transfer are not merely technical questions. Where a choice of policies is still open, the choice will have to be made by the elected representatives of the people, according to the kind of society they want. In theory this could range from a system of individual small farms as in Kenya or Taiwan to a system of co-operative or communal farms as in Israel or Tanzania. In practice the choice is more limited.

2.8 The Government has indicated the kind of society it wants

The Eight Point Programme includes "decentralization of economic activity ... with an emphasis on agricultural development", "more equal distribution of economic benefits, including movement towards equalisation of incomes among people" and reliance, where possible, on typical Papua New Guinean forms of organisation. It refers to Government control and involvement in those sectors of the economy where control is necessary to assure the desired kind of development. In addition, Item 5 of our Terms of Reference asks us to consider -

- " a) ways of maximising the range and spread of benefits from land development to all members of local communities;
- b) minimising social dislocation arising from land development, while actively promoting better utilisation of Papua New Guinea land resources."

2.9 Building on a customary base

The balance between community and individual rights differs between various Papua New Guinea societies but is always complex and delicate. Within limits individual members of kinship groups can compete and do business on their own. The individual must accept restraints from his group but in return he is given its support and is entitled to basic rights, including land rights as a member of the group. Although this system has its limitations it also has many great strengths. We recognise the need to alter some customary practices to promote greater productivity from the land. But we do not think that the basic social structure of the people has to be destroyed to do this. We do not recommend a sweeping agrarian revolution and a total transformation of Papua New Guinean society. We do not recommend either collective or individualistic extremes. Our approach is rather to encourage evolution of certain existing features of our society in order to strengthen opportunities for commercial farming and permit freer transfer of rights to those who most need land. We believe our recommendations meet the request of the Eight Point Programme for reliance, where possible, on Papua New Guinean forms of organisation.

2.10 Policies leading to great inequality must be avoided

This Eight Point Programme must rule out a policy which aims at a few people becoming rich from renting land while others become landless labourers. This kind of policy is often introduced with the justification that the people who are able and strong will get control of the land and use it wisely, while the others will become labourers in agriculture or industry. This is supposed to lead to general development and prosperity.

But, in much of Asia and Latin America it has led to misery and poverty. Land is concentrated in fewer and fewer hands - not necessarily the hands of able and creative people, but of rich absentee landlords and speculators. A large class of landless people emerges who find only low-paid work or remain unemployed and prone to malnutrition, illness and crime. Political conflict emerges between the landowning and the tenant and labouring classes.

2.11 Private Landlordism must be checked

There is a strong desire throughout the country to assert traditional clan rights against the holders of alienated land. This is a natural element of tribal feeling and we have had great regard to it, particularly where it leads to the recovery of land for land-short Papua New Guineans. But care must be taken that it does not lead to too much private ownership, based on ancient claims, against the Papua New Guinea Government - an assertion of private interests against the interests of the people of the new Papua New Guinean national community as a whole. For this reason we have recommended that the Government retain or acquire title to land for public purposes for town growth and for leasing to those who have greater need of it. The alternative is that many Papua New Guinean individuals and small groups will become landlords and that colonial exploitation will be replaced by exploitation of one class of Papua New Guineans by another. Direct leasing, which creates landlord and tenant classes, must be used sparingly. It should be introduced only in special circumstances and under careful control.

2.12 The law should favour those who need land most and will use it

In many situations there will be several claimants to land. We feel that, all else being equal, preference should be given to those who have little land and are in need of it, and those who will live on it and use it rather than leave it idle. We believe that the law should assist customary claimants to get secure title and develop their land. But we feel that people who get registered titles have an obligation to use the land well, or it should be transferred to someone who will use it well.

2.13 Most land transfer should be through Government but some direct dealing in small lots allowed

- a) Some land transfer is needed to ensure that those who want to use land can get a reasonable amount with as little difficulty as possible. We do not think that a completely free trade in land should be allowed, however, because that would soon lead to some people having a lot of land and some people having no land.

When land is to be transferred it is best if Government can buy or lease the land in the first instance because it can then distribute the land fairly. It can also keep the value down at the time of the first lease or purchase and the increased value after registration and improvement can go to the community as a whole through the Government collecting the rents and periodically revaluing them. There have been objections in the colonial period to the Government buying land cheaply and making a profit on the rent or resale. This was mainly rented to foreign settlers. We feel that this objection is much less valid when a Papua New Guinean Government is in control, and where the purpose is not to grant the land to settlers from overseas but to make it available at low cost to Papua New Guineans.

- b) It is indeed arguable that all land transfers should be through the Government. Land gets its monetary value (as apart from any other value) mainly according to the amount buyers are prepared to pay. If Government is the only buyer the cost of acquiring land can be kept down. A very free market in land, especially with overseas companies buying land, pushes prices up, with the result that only the wealthiest Papua New Guineans, if any, will be able to buy land. It will also make it very difficult for the Government to get land cheaply to distribute at low cost to other Papua New Guineans. This is the sort of difficulty which could arise, for example, if Japanese buyers were allowed freely into the Gazelle Peninsula at a time when the Government wants to buy back alienated land for Papua New Guineans. The problem may not be generally serious at first, but over time, free market trading in land opens up an increasing gap between the fortunate ones who can afford land (and go on profiting from it) and those who cannot.
- c) For these reasons we have recommended throughout the Report that Government remain the main buyer or lessee of land, and that all major transfers have to be through Government. Where registration of title is recommended, restrictions on its transfer are usually made part of the title.
- d) However, we are very worried about the ability of Government in the near future to transfer enough land quickly and easily enough to satisfy the needs of Papua New Guineans who want it and can develop it. This is largely because swift land registration and transfer needs good machinery and skilled staff to run it.

The past record of Government in this regard is very poor and though we have stressed the need for a programme of land management training, we are not confident that the Government's ability to transfer land smoothly will improve rapidly enough to meet local demand. For this reason we have recommended direct dealings between Papua New Guinean citizens over small lots of 5 hectares in rural areas and 0.10 hectares in urban areas, provided that a person can hold only one registered house site and one registered farm or business site. We have also recommended direct trading in Government leaseholds provided the first option is given to the Government. Even this amount of direct dealing will push up land values, but we feel this is a disadvantage that must be accepted in case the Government cannot supply land quickly enough to meet the needs of Papua New Guineans who want house sites and small business or farm sites.

- e) We recommend a close study of the effects of the policy and a review of it after five years.

RECOMMENDATION 1

BASIC PRINCIPLES

- (A) LAND POLICY MUST BE CONCERNED WITH INCREASING PRODUCTION BUT EVEN MORE CONCERNED WITH THE KIND OF SOCIETY PAPUA NEW GUINEA SHOULD BECOME.
- (B) IT FOLLOWS FROM THE EIGHT POINT PROGRAMME THAT LAND POLICY SHOULD BE AN EVOLUTION FROM A CUSTOMARY BASE, NOT A SWEEPING AGRARIAN REVOLUTION; COLLECTIVE AND INDIVIDUALISTIC EXTREMES SHOULD BE AVOIDED.
- (C) VERY UNEQUAL DISTRIBUTION OF LAND RIGHTS MUST BE AVOIDED.
- (D) PRIVATE LANDLORDISM MUST BE CHECKED.
- (E) THE LAW SHOULD FAVOUR THOSE WHO NEED LAND MOST AND USE IT WELL.
- (F) MOST LAND TRANSFER SHOULD BE THROUGH GOVERNMENT BUT SOME DIRECT DEALING IN SMALL LOTS ALLOWED.

RECOMMENDATION 2

THE BASIC CHOICE OF THE GOVERNMENT AND HOUSE OF ASSEMBLY WILL

BE HOW MUCH TO OPEN LAND TO DIRECT TRADING. IT COULD HELP DEVELOPMENT IN SOME WAYS, BUT HAVE THE DISADVANTAGES OF PUSHING UP PRICES AND WIDENING SOCIAL DIVISION. MORE GOVERNMENT CONTROL COULD GIVE MORE EQUAL DISTRIBUTION OF LAND AND WEALTH, BUT MAY SLOW TRANSFER TOO MUCH BECAUSE GOVERNMENT DOES NOT HAVE ENOUGH SKILLED STAFF TO HANDLE ALL TRANSACTIONS. WE HAVE THOUGHT VERY DEEPLY ABOUT THIS AND BELIEVE WE HAVE RECOMMENDED THE BEST POSSIBLE BALANCE IN THE CIRCUMSTANCES.

Chapter 3

CUSTOMARY LAND

I BASIC NEEDS

- 3.1 Term of reference 3 asks us to examine various problems about customary land.

RECOMMENDATION 3

THERE SHOULD BE CAUTIOUS ALTERATION OF SOME FEATURES OF THE CUSTOMARY SYSTEM TO ASSIST COMMERCIAL FARMING AND SOME TRANSFER OF LAND ACCORDING TO NEED.

- 3.2 "Individualisation" should be approached cautiously

About 97% of the land in Papua New Guinea is held under customary tenure. To change this into individual freeholds should not be a general goal. Where individual titles are created, the kinds of rights attaching to them must be carefully considered.

Individual freeholds are not necessary to secure credit, nor do they necessarily lead to increased production. Recent submissions to the Commission into Land Tenure in Australia show that in urban areas freehold tenure frustrates town-planning and forces up prices. There is evidence from Kenya that despite attempts at control, wealthy towns-people are now buying land supposed to be held by peasant farmers, and that absentee landlordism is increasing. In other areas of Kenya kinsmen do not accept that individualisation has legally occurred; the customary pattern tends to persist anyway.

- 3.3 Careful increases in individual rights can be useful

There is a tendency for individual rights of use and transfer to become stronger where population density is greater and land use more intense. This increases with cash cropping. Where permanent cash crops are widespread, individual rights should be more clearly provided for in law and administration. In some places too, individuals or families have traditionally held almost all the rights to the land they work; the clan provided mainly defence and other services which are now provided by the Government. This does not mean, however, that all community interests in the land should or could be cut in all cases. On the Gazelle Peninsula for example, the practice of

unofficially buying individual holdings from the clan suggests that the clan rights should be ended. However, the individual buyer has usually bought rights for his lifetime and for his son or other near relative to succeed to. In most cases neither he nor the clan would consider that he has a right to sell the land to unrelated strangers. Most holders of tenure-converted titles in the Northern District do not think they should sell or lease the land to outsiders, or even to an absent or lazy son. Some group interest in the succession is common. An absolute freehold or "fee simple" is not generally wanted.

- 3.4 But customary groups are not very successful commercially
Evidence both here and overseas shows this. Over-emphasis on traditional groups would therefore be as unsatisfactory for present policy aims as an over-emphasis on individualisation. We recommend intermediate forms of tenure in which appropriate group rights are retained but sufficient rights are granted to individuals or sections of the group to enable them to use land to the best commercial advantage. For example an individual could be given a lifetime's tenure on a portion of his own clan's land with a right in his next of kin to succeed and a right to mortgage improvements, but not necessarily a right to sell, lease or mortgage the land, or misuse it or leave it idle.

- 3.5 Some transfer of land is necessary
As some groups are very short of land and others have vast areas which they do not use, the Government's aim of even distribution of economic benefits requires some transfer of land use rights. We believe that traditional groups should not necessarily be granted full proprietary or possessory rights over vast areas which they regard as "their" land. In the traditional system of warfare, migration and banishment, a clan often held some land only temporarily or insecurely. On the margins of a clan's area of activity, rights may have been limited to a little hunting or gathering, perhaps shared with others. With the arrival of central Government control and commercial agriculture and European concepts of land rights, there has been a tendency for customary groups to claim that they "own" all the land on which they had any kind of rights at all, even though they may hardly have set foot on it. Land Titles Commission practice has tended to encourage this, but several recent decisions by the Land Titles Commission have stated that none of the parties to disputes have proved that they had full proprietary or possessory rights in the

land at issue. "Owning" implies European freehold and the exclusion of others from rights in the land. It does not accurately reflect the various levels of rights which apply in Papua New Guinea and leaves little room for any adjustment according to need. Accordingly we recommend that any programme of registering customary lands should aim at registering various kinds of rights on limited title, rather than full ownership of land. This should give more flexibility, fuller use of land according to need, and continued sharing of rights with others in some situations. In some places rights may be so slight that the owner of the rights could be compensated for them and title to the land vested in the Government as "national land".

II REGISTRATION OF SOME CUSTOMARY LAND IS REQUIRED

RECOMMENDATION 4

LEGISLATION AND ADMINISTRATIVE MACHINERY FOR THE REGISTRATION OF CUSTOMARY LAND SHOULD BE IMMEDIATELY PREPARED AND INTRODUCED.

3.6 There are a number of reasons why registration is useful

- a) In our tour we found considerable interest in land registration. The main reason given was the social one - to prevent disputes, though it was often linked with the economic one - the desire to get secure tenure for cash cropping.
- b) Traditional rights to land, always complex and shifting, have been made more complex by new influences - population increase, movement and intermingling of people due to peace and modern communications, urbanisation and commercial agriculture. The restriction of some of the traditional methods of adjusting rights (such as conquest and migration) and the introduction of new methods (such as Law Courts) have added to the complexity. People are also dealing in land unofficially through extensions of traditional ways that are not always accepted by others claiming rights in the land. For example, in the Gazelle Peninsula and New Ireland men are buying small portions of land from the mother's line so that their sons can inherit them. Hundreds of these dealings are being recorded in the offices of the Land Titles Commissioner but the practice is not sanctioned by law. Disputes are common as a result of these transactions, if not among the original parties, then at the time of succession.

c) Shortage of land in some areas is also increasing the tendency for earlier transactions to be challenged. Sons whose fathers have bought land from the mother's line often find their inheritance disputed through claims, true or false, that the father had not made the proper payments. In the towns, relations between migrants and customary rightholders are often confused. It is an unhappy situation for both sides. Registration of the land would be a useful step towards sorting out the relations between people in these situations and properly recording their rights.

d) In several areas land registration is already occurring. In the Northern District several clans or villages have divided some of their land into individual blocks. In the Aronis-Baranis sub-division of Madang District land holding has been individualised. In the same District, Kaut's people have made a sub-division into formal holdings with one brother and his dependents as principal landholders of a block and other brothers as subsidiary rightholders. Some of these sub-divisions are being given title under the Land (Tenure Conversion) Ordinance; others remain unofficial.

3.8

e) So far registered titles have been used much more by Europeans than Papua New Guineans. This has been resented in some areas as discriminatory and has weakened the respect of local people towards registered titles and the law which supports them. Once local people themselves become the beneficiaries of registered title the system of land law and land courts should gain increasing respect - provided always it is done in situations where registration commands general public support and can be supported adequately by the law.

RECOMMENDATION 5

PROVISION SHOULD BE MADE FOR THE REGISTRATION OF VARIOUS KINDS OF TITLE.

3.7 Several kinds of title are needed

While there is an increasing interest in registration there is a great variation in the kind of rights people want registered - much greater than provided in the Land (Tenure Conversion) Ordinance.

These include individual occupation rights in which the clan or village retains a basic right over the succession of the

land, and group titles in the family or clan or village. We feel that the system of land registration proposed in the 1971 Land Bills was an attempt to meet a real need, but the kinds of title proposed to be registered were too limited and placed too much emphasis on individual "absolute title".

RECOMMENDATION 6

- (A) REGISTRATION SHOULD BE USED ONLY WHERE THERE IS A CLEAR DEMAND AND NEED FOR IT AND CLEAR UNDERSTANDING OF IT AMONG PEOPLE CONCERNED.
- (B) AUTHORITY TO DECLARE AN AREA FOR REGISTRATION AND TO CANCEL SUCH A DECLARATION SHOULD BE VESTED IN THE MINISTER FOR LANDS, ACTING ON THE ADVICE OF THE AREA AUTHORITY OR DISTRICT GOVERNMENT.

3.8 Registration should be used cautiously

- a) Land registration should not be seen as an automatic guarantee of increased productivity. Registration is often claimed to make land rights more secure, stop disputes, provide securities for loans, promote economic development and permit easier transfer of land. However, it is now recognised that the economic benefits of land registration can be greatly overstated. By itself it works no economic miracles.
- b) Villagers who show an interest in land registration, and even those who have tenure converted titles are not usually clear on the possible implications of registration - either of its costs to themselves or to the state, or the effect registration may have on succession or the rights of relatives. If not generally understood and supported by the community where it occurs, a situation will arise where what is recorded in the register has little relation to the situation on the ground itself. This is an increasing problem in Kenya. Examples can be found of the same problem in Papua New Guinea. A number of Tolais who have title to their land converted in order to remove it from the matrilineal system, have faced exactly the same problem as expatriate titleholders, namely "squatting" and legal ownership that is not enforceable. On some of the tenure conversion schemes of the Northern District many clan rights are still exercised on blocks registered in individual tenure; there would be confusion and conflict if the titleholder sought to over-ride them.

- c) Registration is an expensive process involving numbers of officials and considerable survey costs. Shortage of money and trained men will put serious limits on the work.

3.9 In many areas registration is not needed

For the above reasons we agree with the view of the British adviser, Mr. Rowton Simpson, that the policy of making whole-sale declarations throughout Papua New Guinea for adjudication and registration is unwise, and that power must be taken to cancel adjudication areas as well as declare them. We also quote from Mr. Theo Bredmeyer's submission:

"The greater part of Papua New Guinea needs no registration at all because there is plenty of land per head of population, few dealings, few (serious) disputes, land use is adequate, or if inadequate can be remedied by the work of agricultural officers, the introduction of new crops and the construction of roads or ports.

3.10 In most places customary rules are adequate

"No adjudication of existing rights is required in most areas where subsistence farming is practised and dealings are few. Customary tenure is perfectly able, and perhaps best able, to govern the constantly changing relationships of people to land. Similarly, vast areas of virgin land do not need to be adjudicated except where it is proposed to sell or lease the land or timber rights to the Government, in which case adjudication is necessary to give the purchaser good title and to ensure that disputes over the division of the purchase moneys are minimized. Then too, virgin land needs to be adjudicated if trespass is common in order that the trespassers can either be prosecuted or establish title by adverse possession.

3.11 Government and the people should agree before registration is introduced

"No adjudication and registration scheme should be introduced unless two criteria are met. The first is that the Government, which bears a large part of the cost of any scheme, should consider that the anticipated economic or social benefits justify the cost of the scheme. Otherwise, the popular demand for registration produced by one or two successful schemes will lead to its unthinking application to areas which are not suitable. The second is that no scheme should be commenced in any area unless the people - preferably through their Local Government Council - have requested the process after discussion

3.12

3.13

of its likely effects and have expressed their willingness to carry out all the tasks required of them". (Quote ends).

III THE MACHINERY FOR DETERMINING AND REGISTERING LAND TITLE

A. Systematic Registration

RECOMMENDATION 7

MACHINERY FOR SYSTEMATIC REGISTRATION SHOULD BE INTRODUCED AS SOON AS POSSIBLE.

- (A) A TEAM OF SPECIALISTS SHOULD ASSIST REGISTRATION COMMITTEES OF LOCAL RIGHTHOLDERS TO DIVIDE, MARK AND REGISTER THE LAND;
- (B) THE REGISTRATION COMMITTEE SHOULD HAVE POWER TO MEDIATE;
- (C) LAND ABOUT WHICH THE RIGHTHOLDERS CANNOT AGREE SHOULD BE REFERRED TO THE LOCAL LAND COURT;
- (D) A SHORT PERIOD SHOULD BE ALLOWED FOR OBJECTION TO THE REGISTRATION OF AN INTEREST. ANY OBJECTION SHOULD BE REFERRED TO THE LOCAL LAND COURT.

3.12 The registration procedure proposed in 1971

The 1971 Land Bills proposed that when an "adjudication area" had been declared, an "Adjudication Officer" of the Lands Department would be appointed, together with a trained team of Demarcation Officers, Recording Officers, Survey Officers and Executive Officers who would work with an "Adjudication Committee" of local leaders, and systematically determine the "ownership" of land in the area. Disputes would be decided by the local Adjudication Committee. After time for survey and hearing of objections the land would be entered as a series of individual or group titles in the National Register.

3.13 The power to settle disputes is needed

The men who wrote the Bills realised that the Demarcation Committees set up under the Land Ordinance, 1962, had run into difficulty. They were supposed to mark only undisputed boundaries and refer disputes to the Land Titles Commission; but the work of marking boundaries brings to the surface disputes among the various claimants, and Demarcation Committees had to try to settle them or be almost useless. The 1971 Bills tried to overcome the problem by absorbing the Demarcation Committees into Adjudication Committees and giving them power to settle disputes as well as assist in marking undisputed boundaries.

Appeals were to the Adjudication Officer and then to the Land Titles Commission. Although it involved dispute settlement the approach was regarded as administrative rather than judicial.

3.14 We agree with an administrative rather than judicial approach

Although village people often say "we know our boundaries" this is true only in a general sense; one person or group is rarely the "sole" owner with others having no rights. There is almost always a series of competing claims, many of them partly justified. This does not need a Court deciding between 'right' and 'wrong' but long and patient talks among the rightholders to see if they can come to some agreement about who should use what land.

3.15 We agree that trained specialists should work with local committees

A registration team of officials should assist the local leaders to divide and mark the land. They should include, where necessary, officers of the District Commissioner's staff. We do not think the local committee should be involved in making too many decisions where owners cannot agree. We think that registration should not begin unless the majority of resident rightholders agree beforehand that they want to mark the land. While working out the divisions for registration, the local committee will have to sort out many disputed claims; but we think they should try to resolve them by private discussions and mediation. To require them to make decisions where owners cannot agree would put them in a double role. Moreover, the local leaders will inevitably be parties to the disputes they are supposed to decide. We therefore suggest that the area being marked be called the "Registration Area" and the local committee be called the "Registration Committee". This should show clearly what its work is. Land in the registration area which cannot be decided by agreement should be referred to the Local Land Court of the area. (See Chapter 8).

We expect that as a Registration Committee deals with a registration area it will prepare maps and descriptions of the agreed divisions, isolate the disputed areas, and invite the local Land Courts to settle them.

3.16 There should be one appeal

This should be to the District Land Court (see Chapter 8) and subject to the normal appeal conditions.

3.17 Not all land needs to be registered

We approve the principles of the 1971 Land Bills that individuals or groups within a registration area should be permitted to withhold their land from systematic registration if they wish. But if a District Court Magistrate or District Government considers that disputes on the land are likely to disturb the peace, it can direct that it be registered.

RECOMMENDATION 8

PORTIONS OF LAND IN A REGISTRATION AREA WHICH ARE NOT CULTIVATED OR NEEDED BY THE VILLAGERS MIGHT BE DECLARED NATIONAL LAND.

3.18 Some land may be registered as National Land

Local owners should not have to be found and registered for all land. Where the people are few and they have not used the land for gardening or cash cropping the Registration Committee could refuse to register the land. In such cases it should report to the Central Government, which could take steps to declare the land "National Land". (See Chapter 6).

B. Sporadic Registration

RECOMMENDATION 9

SPORADIC REGISTRATION SHOULD BE PROVIDED FOR, BUT USED SPARINGLY WITH THE FOLLOWING SAFEGUARD:

SPORADIC REGISTRATION SHOULD BE REFUSED UNLESS THE DISTRICT COMMISSIONER CERTIFIES TO THE REGISTRAR THAT, ON THE ADVICE OF HIS OFFICERS, THE PERSON OR GROUP REGISTERING INCLUDES OR HAS THE CONSENT OF THOSE PERSONS WHO HAVE CUSTOMARY RIGHTS IN THE LAND.

3.19 Sporadic registration has disadvantages

We share the fears of Mr. Rowtown Simpson and the Committee preparing the 1971 Bills about sporadic registration (that is, adjudication and registration of individual pieces of land in isolation from surrounding areas.)

- a) It is expensive to treat a single piece of land, a single group of claimants, in isolation instead of dealing with the claims of neighbours at the same time;
- b) There is a danger that a single ambitious and forceful person could establish an individual holding on fully occupied land, and cut out those who might otherwise have gained rights there. There is evidence that this is already happening

through the Land (Tenure Conversion) Ordinance. The current craze for cattle projects could also cause large areas of land to be registered for pasture when it may be suitable and needed for growing food for large numbers of people. In Britain the "enclosure" of land for sheep drove thousands of people who would otherwise have inherited land rights, into the crowded cities. As the Highlands of Scotland became depopulated it was said that "sheep ate men";

- c) If applications for registration from a single individual are allowed, other people may be dragged into registration proceedings which they do not want, as the only way to stop their land rights being encroached upon.

3.20 It is useful in some cases, however

In some situations a man or a family can show an uncontested claim to a piece of land and wants to use the land for cash cropping. These people should be encouraged. Sporadic registration should therefore be permitted with the safeguard referred to in Recommendation 9.

RECOMMENDATION 10

- (A) DECISIONS OF LAND COURTS SHOULD BE RECORDED IN A CLEAR AND CONVENIENT FORM AND COPIES HELD IN THE CENTRAL LAND REGISTRY OFFICE AND THE APPROPRIATE DISTRICT LAND REGISTRY OFFICE, WHERE THEY CAN BE READILY CONSULTED BY THE PUBLIC.
- (B) IF ALL PARTIES TO A DISPUTE AGREE THAT THE RESULT OF THE JUDGEMENT SHOULD BE REGISTERED THEY MAY APPLY TO THE NEAREST LAND REGISTRY OFFICE FOR THIS TO BE DONE. THE REGISTRAR OF LANDS FOR THE DISTRICT SHOULD HAVE A DISCRETIONARY POWER TO ORDER FURTHER ENQUIRY BY THE REGISTRATION TEAM BEFORE REGISTRATION.
- (C) A DISTRICT LAND COURT MAGISTRATE MAY ORDER REGISTRATION OF THE RESULT OF A DECISION IN THE INTERESTS OF PUBLIC ORDER.

3.21 It is desirable that Land Court decisions should not be lost

These decisions are made with great work and expense. At present decisions by the Land Titles Commission under Section 15 of the Land Ordinance that a person or group is an owner of land by custom, is a decision in rem - against the world - not just against the other claimants in the case. The Court record is therefore already a kind of registration although the tenure is entirely a customary one. We do not think all Court decisions should lead to formal registration. Many of the decisions may result in only

a limited division of rights which all parties would wish to amend if they were involved in a systematic registration of the same area. However, provision should be made for registering Court decisions under the safeguards mentioned in Recommendation 10.

IV KINDS OF TITLE TO BE REGISTERED

RECOMMENDATION 11

- (A) CUSTOMARY LAND SHOULD NOT BE REGISTERED AS FULL FREEHOLDS. THE BASIC PATTERN OF REGISTRATION SHOULD BE TO REGISTER GROUP TITLES, AND MAKE PROVISION FOR THE REGISTERED GROUP TO BE ABLE TO GRANT RIGHTS OF USE IN THE FORM OF REGISTERED OCCUPATION RIGHTS, LEASES AND OTHER SUBSIDIARY RIGHTS TO INDIVIDUALS OR SUB-GROUPS WISHING TO USE THE LAND.
- (B) IN THE SPECIAL CIRCUMSTANCE THAT THE TRADITIONAL RIGHT-HOLDING GROUP IS ALREADY VERY SMALL (OR PERHAPS EVEN ONE INDIVIDUAL) A CONDITIONAL FREEHOLD COULD BE REGISTERED. THIS IS INTENDED TO RECOGNISE A SITUATION WHERE NO LARGE GROUP EXISTS. IT IS NOT TO BE USED AS A MEANS OF DIVIDING LARGE GROUPS. THE HOLDER OF A CONDITIONAL FREEHOLD SHOULD ALSO BE ABLE TO GRANT THE REGISTERED RIGHTS OF USE SET OUT IN CLAUSE A OF THIS RECOMMENDATION.
- (C) RIGHTS OF USE SHOULD ONLY BE REGISTERED WHERE THE TITLE OF THE GROUP OR PERSON GRANTING THE RIGHTS IS REGISTERED.

3.22 Groups should hold the main titles

We intend basically to provide for the registration of group titles. Where a group wants to grant titles to its members, or to non-members of the group, we provide for it to grant subsidiary titles in the form of occupation rights, leases, and subsidiary rights, all of which can be registered. These new titles are not based on foreign ideas. They are based on what are, in our opinion, typical Papua New Guinean forms of organisation, so far as land rights are concerned. This is in keeping with the Eight Point Programme.

3.23 Sometimes an individual or small family has all the rights

There are occasions, however, where group rights to land have become very weak, or the group holding the rights is very small. In these situations it would be unsatisfactory to create a large landholding group where none in fact exists. We think, therefore, that a conditional freehold should be available for individuals, or small family groups.

The holder of a conditional freehold should be able to grant occupation rights, leases and subsidiary rights as well.

3.24 Full freeholds are unsatisfactory

We do not recommend full individual freehold or 'fee simple' titles. In recent years, freehold titles in many countries have been rejected or controlled because of problems caused by unrestricted freehold. Even with control, freeholds are very easily sold. To create freeholds would increase the risk of some people becoming rich in land and others losing it. The children of individual freeholders also have to leave the land; or if they stay it becomes overcrowded.

A. Group Titles

3.25 There is an urgent need for registration of group rights

Many witnesses before the Commission asked for laws which would allow the family or the clan or the village to have its land boundaries defined and registered. There are several advantages of group registration: once established as a legal entity the group can borrow and develop land and it can grant occupation rights on the basis of a legal contract which defines the rights of all parties in the event of a dispute.

3.26 The size of group to be registered will vary

In some areas of great population density nuclear families want registered title; in other areas clans or sub-clans wanted registration. In several Highlands areas we were specifically asked to register only the main clan boundaries; the internal division of land rights was to remain unofficial. In some places we received submissions that the village, comprising three or four clans, should be the registered group. Other witnesses spoke of having outsiders join with them as members of the group, which therefore would not be a strictly clan-based group at all. We believe that all these variations and others, should be provided for.

3.27 In many cases land rights are not exclusive to one group

Several groups may hold land rights together. Land rights are in fact only one of a number of factors (others are marriage relations, ceremonial exchanges, lending and borrowing) by which social and political relations of two or more groups are conducted. To separate out land ownership and try to mark

boundaries between groups is not only difficult, but may contradict other social and political realities. The boundaries are not accepted, but become bitterly disputed. This is shown in the many requests we had in the Chimbu District to remove boundaries that had been marked by the Land Titles Commission and to avoid marking any more if possible. Group registration therefore may require that quite large areas of land, between agreed natural boundaries, are the territory of several groups. Relations between these groups may continue informally, or can be defined by exchange of occupation rights for commercial purposes, or other rights subsidiary to the main multi-group registration.

3.28 It is sometimes better to register groups by locality

This means registration by village or ward, rather than by lineage:

- a) It is sometimes very difficult to define the lineage. Land rights of several related groups are often very greatly mixed up and it is almost impossible to disentangle them. It is easier to define the locality;
- b) Claims by descent within the lineage alone are hard to refuse (even if the claimant is an absentee) and the title becomes rapidly overcrowded. Registration by locality makes it easier to preserve rights for those who live on the land;
- c) This would allow groups to include as owners outsiders who are not traditional members of the group.

3.29 Advantages and disadvantages of group constitutions

Whether it is based on locality or on lineage, there are several difficulties about defining membership of the group, its constitution, who should act for it, and what their powers should be.

- a) One approach to the question is to say as little as possible about it and rely on custom or informal arrangements. The internal relations of groups are very subtly worked out by complex and flexible principles in the customary situation and it is impossible to translate all of these into a registered legal title. Much flexibility and complexity is inevitably lost with registration. We therefore sympathise with the decision of the 1971 planners not to define the constitution of registered groups in detail;

b) However, there are disadvantages in this:

(i) Many of the things that registered owners want to do with land (for example complex commercial transactions) are not customary and traditional custom may not always be able to handle them. Internal rules defining the rights and duties of members may be necessary;

(ii) Outsiders dealing with the group may want to know exactly who has authority to act for it, and what their powers are. Big groups especially may need some defined leadership;

(iii) In the event of dispute it is often better if the group has settled rules which can guide the Court, rather than the Court having to determine custom or equity each time.

3.30 Elected committees should not be given powers as absolute owners

We do not favour the method used in the 1971 Bills of giving an elected Committee full powers to deal with the land as if they were absolute owners. We are not confident that social pressures will restrain them from abusing their powers. Experience both overseas and in Papua New Guinea suggests that they are more likely to abuse their powers freely.

3.31 It is essential to limit the rights of absentees

a) A further problem is to prevent membership becoming too big as a result of biological descent over successive generations. Traditionally a man will have descent links with two or more lines and may therefore have potential land rights in several places, but he will normally activate land rights only in the line among whom he lives and works. But with great population mobility and improved communications there is a tendency for modern Papua New Guineans to claim land rights even when away from the group for many years. They try to keep rights alive possibly in more than one line, by occasional visits or by sending gifts or money. Nowadays absentees often assume that children are able to go back and claim land rights almost automatically;

b) In parts of the Eastern Pacific absentees holding legal land rights outnumber those left at home. The law has assisted this process by giving land rights to an original group of claimants and allowing all their descendants to succeed to shares in those rights by descent alone and regardless of

whether they live with the group or near the land.
The results have been disastrous:

- (i) Shares in the land have been split up so that over no more than two generations they are so small as to be almost worthless.
 - (ii) The title is so crowded with dozens or hundreds of owners that it is almost impossible for individuals in the group who want to use it to get adequate control of the title, or for outsiders to deal with them.
 - (iii) Those who continue to live on the land become fewer than the absentee owners, but they are discouraged from developing the land because absentees refer to it as their land and may claim shares in the profits.
- c) The result of this is that the land lies idle and one of the main aims of registration is lost. This situation must be prevented from developing in Papua New Guinea and some principles established for registered land which protect the interests of those who are temporarily absent, but preserve the use of the land for those who live and work on it against the claims of permanent absentees. Biological descent is not a suitable criteria by itself.

RECOMMENDATION 12

- (A) A GROUP SHOULD BE REGISTERED AS A BODY CORPORATE UNDER A TRADITIONAL LINEAGE NAME OR LOCALITY NAME.
- (B) THE GROUP HAS THE RIGHT EITHER TO USE THE LAND OR GRANT RIGHTS TO CITIZENS OF PAPUA NEW GUINEA TO USE THE LAND.
- (C) FULL MEMBERSHIP OF THE GROUP NEED NOT BE LISTED BUT THE NAMES OF THE RESIDENT ADULT MEMBERS AT POINT OF REGISTRATION SHOULD BE LISTED. A "RESIDENT" FOR THESE PURPOSES WOULD BE ONE WHO HAS SPENT 6 MONTHS OF THE PREVIOUS 12 MONTHS ON OR NEAR THE LAND. ('NEAR' WOULD BE IN THE DISTRICT WHERE THE LAND IS SITUATED.)
- (D) AT ANY ONE TIME THE GROUP WOULD INCLUDE:
 - (i) THOSE LISTED AS RESIDENT ADULT MEMBERS AT THE TIME OF REGISTRATION EXCEPT FOR THOSE WHO HAVE DIED OR WHO ARE NO LONGER RESIDENT;
 - (ii) PERSONS WHO WERE ABSENT AT THE TIME OF REGISTRATION BUT HAVE SINCE BECOME RESIDENT AGAIN AND HAVE BEEN ACCEPTED AS FULL MEMBERS OF THE GROUP BY THE CUSTOM OF THE DAY;

- (111) THE CHILDREN AND GRANDCHILDREN OF PRESENT OR FORMER MEMBERS WHO ARE RESIDENT AND WHO ARE ACCEPTED AS MEMBERS OF THE GROUP BY THE CUSTOMS OF THE DAY;
- (iv) SHORT-TERM ABSENTEES, ABSENTEES ON PUBLIC SERVICE, STUDY COURSES ETC. AND ABSENTEES WHO KEPT UP A CONTINUAL CLAIM TO MEMBERSHIP OF THE GROUP BY PERFORMING SOCIAL OBLIGATIONS, VISITING, PROVIDING MONEY ETC. SHOULD BE ENTITLED TO RETURN AND CLAIM RIGHTS IN ONE LINE ONLY AT ANY ONE TIME.
- (E) DESCENT THEREFORE QUALIFIES A PERSON TO APPLY FOR RIGHTS TO USE THE LAND, BUT DOES NOT AUTOMATICALLY CONFER SUCH RIGHTS, WHICH DEPEND ON RESIDENCE AND OTHER CRITERIA AS WELL.

3.32 Rights and limitation of absentees

- a) An absentee should, if he wishes, be able to maintain links with one line and assist in developing the land through his capital and skills. He should not, however, be able to accumulate shares in land by tracing descent through both parents in various lines;
- b) The majority of resident owners should have a discretion in law, as in custom, as to what rights absentees should be able to revive in the land; for example they might always acknowledge the right to garden land if the absentee returned, or a share in profits from trees planted by him, but not the full profit if the trees were tended by others;
- c) A person who considers he was aggrieved by the group should be able to state his case in the Local Land Court. If he can demonstrate to the Court's satisfaction that he has been absent for good reason and tried to fulfil his obligations to the group, that he has no active land rights in another district except a town residence, that his needs and the group's needs do not conflict, then the Court may order that he should be included in the membership of the group. The Court should have some discretion as to deciding what those rights should be - whether shares in the profits of an enterprise or right to subsistence land etc.;
- d) This rule limiting the claims of absentees may seem drastic but we have had several explicit submissions from villagers that some such discretionary power in the leaders back at home should be provided. Even those who are absent still recognise an obligation to prove to the people back home that they still have a claim. But the situation is rapidly developing where claims to automatic rights by descent alone will get out of hand and the basic law on registration should provide the necessary control.

3.33 Subsequent rights to land under group registration

This could be according to custom but the group should also have power to make the following registrable agreements:

- a) Grant occupation rights on the land to some of their members or to others;
- b) Mortgage the land (giving the mortgagee the right to enter and work it for not more than 10 years);
- c) Sell or lease to the Government (surplus to subsistence requirements);
- d) Sell or lease directly to other citizens 5 hectare blocks or 0.10 hectare house sites to the extent of one for each member of the group;
- e) Grant lease or occupation rights for up to 20 years with right of renewal for some or all members of the group who wish to form a General Purpose Corporation to work the land. (An indefinite right could leave the Corporation in greater control of the land than the original group);
- f) The rules for succession to rights under group registration are contained in Chapter 7.

3.34 Majority of owners should make agreements

The agreements which the group can make under paragraph 3.45 would have to be signed by a majority of group members as set out in Recommendation 12 (D). If the group is very large or the membership uncertain, the District Registrar should have power to require either:

- (i) the list of members to be brought up to date; or
- (ii) the group to select delegates by a process of public election or nomination after due notice. We prefer that registered groups make agreements by a majority of members rather than by a committee of delegates,

largely to ensure that the rights of use that are granted are solidly supported. Where a committee is constituted it should be a temporary one elected specially for the purpose required, rather than a standing committee.

RECOMMENDATION 13

THE GENERAL PURPOSE CORPORATION BILL SHOULD PROVIDE THE LEGAL BASIS FOR CORPORATIONS WORKING PARTS OF THE REGISTERED GROUP LAND, OR WORKING ON LAND BELONGING TO A NUMBER OF GROUPS.

3.35 Use of General Purpose Corporations Bill

We consider that the proposed General Purpose Corporation should not be used for the purpose of defining groups for the registration of customary land - but we do recommend its use for the subsidiary purpose of working the land after registration, by all or some members of the registered group, and others they may wish to join with them. It has several advantages:

- a) It provides for the appointment of management committees and the keeping of lists of members, but has a minimum of formal requirement about internal relations. Custom is allowed to apply, but provision is also made for formal rules to be stated in writing and the rights of members in relation to the Committee defined;
- b) Legal remedies are available to aggrieved members against Committee men who abuse their powers;
- c) It gives the Committee of Management powers to deal with outsiders so that the external relations of the corporation can be clear.

3.36 Rules for the holding of interests in General Purpose Corporations can be fairly free

Interests in the General Purpose Corporation may be transferred by different rules from those rules which govern membership of the group. The restrictions on absenteeism for example, need not apply and interests can be transferred fairly freely. But certain limitations would have to be observed, e.g.

- a) To prevent fragmentation of interests, a member may will his interest in the Corporation only to one person. If he dies intestate, his interest should pass to his eldest son. (Widows should have a general right of appeal to the Local Land Court for rights of maintenance - see Chapter 7.);
- b) To prevent loss of control of the land by Papua New Guinean owners, only a minority of interests in the Corporation may be transferred to non-citizens.

3.37 Widening the membership of Corporations using group land

A General Purpose Corporation formed to carry on a business on group land should be able to bring in outsiders as members of the corporation. They will not thereby become members of the group which owns the land. It is desirable that customary groups who want to bring in outsiders for their capital or skills or labour power, should be able to include them in the corporation as

shareholders, rather than as employees. The Government could also be included on this basis. Individuals leaving the corporation should be compensated for the value of improvements on the land according to their shareholding.

3.38 Use of corporations can widen the choice

Where a number of groups wish to put their land together for the purpose of a business, each group could register its land in its own name, then grant rights to a General Purpose Corporation made up of the members of all the groups. We think that if the body which is registered to use the land is separate from the body or bodies registered as owners of the land, then a number of different arrangements between the two bodies will be possible, and so a variety of choices will be open to groups wanting to combine to use their land.

B. Occupation Rights

3.39 These are based on customary rights

An occupation right is an exclusive right to occupy and use an area of land by agreement from the group, to whom the land reverts when the rightholder's term has expired. It is an extension of the customary principle by which individuals hold rights to the garden land they cultivate, and their nearest relatives normally have first claim to it. An extension of this principle already exists in the clan land agreements which the Development Bank makes before giving loans. Under this system a number of clan leaders declare that a named member of the clan has sole rights in any given piece of land for commercial farming for a given time; they also declare that they have authority to make such an agreement. The agreement is also witnessed by Local Government Councillors or other prominent men in the area. Although the clan land agreements have doubtful standing in law they have commanded widespread social support and have proved good security for loans. They are similar to customary procedures. It may be preferable, but does not seem to be necessary, to define the group or its leadership or its land boundaries in

order to make these agreements.

3.40 Terms of occupation rights

- a) The occupation right would be granted to the rightholder for either a fixed term or indefinitely;
- b) The right would be heritable, that is, a relative of the rightholder would inherit the right, either until the end of the fixed term or indefinitely in the case of an indefinite term;

- c) The rightholder would normally be required to use the land or make arrangements for its use. If it is unused for 2 years the group should be able to apply to the Local Land Court for the land to revert to them;
- d) The rightholder could not sell or lease the land;
- e) He could mortgage it, allowing the mortgagee to enter and use the land for not more than 10 years in default of repayment;
- f) Succession - see Chapter 7;
- g) An occupation right is not a lease, and rents can not be charged. Where rents are being charged, the occupation right will in fact be a lease, and should be treated as one for all purposes. This rule would not apply to payments of a customary nature, such as a man buying out some of his clan's rights to his land so that his children can succeed to it, or a person accepting the obligation to contribute food for particular ceremonies, for such payments are not rents at all. It would be a question for the court to decide whether a payment was so regular as to be, in fact, a rent;
- h) We also believe that the occupation right system should permit mobility of population in that a man could be given a registered occupation right by another customary group. It might also help the relations between migrants to the towns and customary owners.

3.41 Exchange, sub-division and consolidation of occupation rights should be possible

We have found many cases where persons holding titles registered under the Land (Tenure Conversion) Ordinance wish to modify their boundaries, join plots together, or sub-divide. At present the procedures to do this are extremely complicated. Under the occupation rights system the holders of occupation rights should be able to exchange and alter their rights quite simply. If the change is approved by the District Land Control Board, new registration can be applied for.

C. Leases

RECOMMENDATION 14

- (A) WE ARE AGAINST LARGE SCALE DIRECT LEASING, BUT RECOMMEND THAT A CITIZEN OF PAPUA NEW GUINEA SHOULD BE ABLE TO GRANT OR TAKE LAND ON DIRECT LEASE SUBJECT TO CERTAIN STRICT CONTROLS. THE CONTROLS ARE SET OUT IN SECTION V. OF THIS CHAPTER.

- (B) A PERSON WHO IS NOT A CITIZEN OF PAPUA NEW GUINEA CAN NOT TAKE LAND ON DIRECT LEASE.
- (C) A PERSON SHOULD NOT BE ABLE TO GRANT A DIRECT LEASE FOR A PURPOSE WHICH INVOLVES AN INVESTMENT IN EXCESS OF \$10,000.
- (D) THIS RECOMMENDATION HAS NO APPLICATION TO NATIONAL LAND.

3.42 We are not generally in favour of direct leasing

The popular demand for direct leasing at the moment makes this a most serious subject for Government consideration. We object to it because -

- (i) The village people can be exploited; overseas companies, for example, could rent large areas of desirable land for long periods at low rental;
- (ii) Tenants are open to exploitation by landlords who can live off the unearned income from rents. The Eight Point Programme seems to be against this on principle. In many developing regions landlordism has produced very serious social evils and political problems;
- (iii) Direct leasing favours the wealthy and pushes up prices.

3.43 Control of landlords is difficult

It may be thought that Government could control the leasing arrangements so that terms fair to both parties can be enforced, but overseas experience suggests that the landlord class can quickly dominate Government or the district control authority. In any case it is a difficult and expensive task for a Government to involve itself in, without getting any direct benefit. Even when it tries to cover costs by levying charges for collection of rent, etc., these charges are often regarded as excessive and resented by both parties.

3.44 Some direct leasing of small lots is acceptable

Many small direct leases are made anyway, particularly by urban migrants, and it is probably better to regularise the practice to protect both parties. In addition, small dealings for sites for aid posts, trade stores, teachers' houses etc. do not need to go through the bureaucratic machinery. To permit occupation of these small areas without any undue delay or difficulty or expense we recommend that a limited power to lease direct should be provided.

3.45 Conditions of direct leases

- a) Direct leases should be for a fixed term, but the lessee or his heir should have a right of renewal up to 7 years before the first term expires;
- b) The lessee would use the land or make arrangements for its use. If the land remains unused for 2 years, the lessor should be able to apply to the Local Land Court for the termination of the lease;
- c) The lessee, or his heir, should be entitled to compensation for unexhausted improvements;
- d) The lessee cannot transfer his lease, but can sub-let one house without the lessor's approval, and any other land for up to 5 years. Any further sub-letting would require the lessor's approval;
- e) Succession - see Chapter 7;
- f) The rent and other conditions should be within limits prescribed by statute. The lessee should be able to apply to the Local Land Court for relief against exploitation.

3.47

RECOMMENDATION 15

THE SYSTEM OF DIRECT LEASING MENTIONED ABOVE SHOULD BE STUDIED CAREFULLY AS IT DEVELOPS AND EITHER EXTENDED OR RESTRICTED AS NEED BE.

3.46 Direct leasing should be kept under careful study

If this amount of direct leasing appears, after careful study, to be leading to abuse, further direct leasing should be discontinued or restricted. If, however, it is working well and land transfer needs to be loosened still further we recommend consideration of -

3.48

- (i) direct leases of areas larger than 5 hectares but on nominal (very low) rentals. These would in effect be occupation rights;
- (ii) leases on the Maryland system by which the lessee has a statutory right to buy the land after about 15 years. This system is used in the U.S.A. and other places, and is a useful check on too much landlordism. These methods should be held in reserve in case dealings through the Government are not freeing up enough land, or direct leasing is leading to exploitation of tenants.

We suggest that the position be reviewed after 5 years. Basically, however, we prefer that people become farmers or householders on their own land or on land rented from the Government. It is important that Government try to acquire enough land to lease on good terms, to people who need it. This problem is discussed in Chapter 6.

D. Subsidiary Rights

3.47 Some subsidiary rights could be registered

Customary law recognises a number of subsidiary rights which individuals (or groups) may hold in land even over which another group has the main rights. These subsidiary rights include the right to gather fruit or building materials, or rights of way. It may not be necessary to register all of these. We think that it is desirable, however, for the more substantial subsidiary rights to be recorded on the title. Central Government could specify what kinds of subsidiary rights should be recorded. Registration committees should investigate whether such specified rights exist, and where they do exist they should be recorded on the title at the time of registration. If they are granted after registration, they should be registered. Any such specified rights should only affect the title if they are registered. Any other subsidiary rights, which should be only those of a minor nature, could affect the title even though they are not registered.

E. Conditional Freeholds

3.48 They are suitable for individuals or small families

Where a family registers a conditional freehold, the members of the family should hold in common. This kind of title is not intended to be available as a means of splitting up group land. It is meant to apply only to individuals or groups which are already very small (such as a family) and which have almost complete rights over the land. Government should review this title after 5 years, to see whether it is being used for the wrong purposes as set out above. The title is not intended for use by corporations at this stage. Corporations should register land under the group title provisions of this Part. The question of extending conditional freeholds to corporate groups should also be reviewed after 5 years.

3.49 Conditions of the title

The titleholder -

- a) must use the land or make arrangements for its use during his absence; if it remains substantially unused for ten years, application may be made to the Local Land Court to have it declared national land and leased to people who need it, with priority to people of that area. (The term "use" will need definition);
- b) can transfer it by sale, lease or gift only to a relative with a common great grand-parent (doubtful cases may be referred by the Registrar to the District Land Control Board), or to the Government;
- c) can grant occupation rights on it;
- d) can mortgage the land, surplus to subsistence requirements. The mortgagee should, in default of repayment, have the right to enter and work the land for up to 10 years or until the amount of the loan is repaid, whichever is the shorter; after which it reverts to the owner;
- e) can lease or sell direct to a Papua New Guinean citizen one 5 hectare lot in rural areas, or one 0.10 hectare lot in urban areas (provided he can prove to the Registrar that he still holds registered title to sufficient subsistence land for his family and the next generation;
- f) Succession - see Chapter 7.

3.50 Conditional freeholds should normally be confined to systematic registration

Conditional freeholds should normally be registered only as a result of systematic, not sporadic registration, unless the registering authorities are satisfied that a person or family group registering as a result of sporadic registration includes or has the consent of all those who had customary rights in the land.

V CONTROL

RECOMMENDATION 16

- (A) THE MAIN CONTROL ON ALIENATION SHOULD BE THROUGH RESTRICTIONS ON THE TITLES THEMSELVES. THE TITLES WHICH WE HAVE RECOMMENDED ARE NOT ABSOLUTE OR FULLY NEGOTIABLE.
- (B) ANOTHER CONTROL SHOULD BE STRICT LIMITS ON THE NUMBER OF PIECES OF REGISTERED LAND, OR THE SIZE OF LAND, WHICH A PERSON CAN HOLD, OR LEASE OR SELL TO OTHERS. WE RECOMMEND SUCH CONTROLS BELOW.

(C) A FURTHER LEVEL OF CONTROL SHOULD BE THROUGH CHECKS BY LAND CONTROL BOARDS (SEE CHAPTER 11 'LAND ADMINISTRATION').

3.51 The 1971 Land Bills proposals

These were intended to create only one kind of registered title - an "absolute" title. This was to be a fully negotiable title with no restrictions on alienation in the title itself. But control was to be exercised by a series of Control Boards - Local, District, Urban and Central - and approval from the appropriate Board was required for most dealings in the land. Some transactions did not have to go before Control Boards - notably dealings with the Administration and mortgages to the Development Bank and approved Trading Banks. Most had to satisfy the requirement that the rightholder was not "injuring his interests" by dealing in the land.

3.52 Limits on transfer should be in the title

We are not happy with this concept of giving highly negotiable rights and then requiring that most dealings in them to be subject to control:-

- a) There is much evidence from Kenya, where this method has been adopted, that a great many dealings are taking place without the required approval of the Control Boards;
- b) We have serious doubts that the Control Boards will always be able to act with the wisdom and judgement necessary. They will be subject to considerable pressure; some will be corrupt. Whether a rightholder was "injuring his interests" by dealing with the land is open to interpretation. The phrase could be interpreted very loosely by a Control Board dominated by big men anxious to get control of land rights in the District. It is well known from the history of New Zealand, Hawaii and other Pacific countries that one of the quickest ways of parting Pacific Islanders from their land is to give them negotiable titles to it. Many Papua New Guineans may in fact benefit from selling their land and taking other employment; but we want them to be able to do so freely and with the fullest possible understanding, not to be caught in traps;
- c) We have suggested the major restrictions in Part IV ('Kinds of Title') in this Chapter and in Chapter 7 ('Succession').

RECOMMENDATION 17

(A) AN INDIVIDUAL SHOULD NOT BE ALLOWED TO REGISTER TITLE EITHER AS OCCUPATION RIGHTHOLDER, CONDITIONAL FREEHOLDER OR LESSEE TO MORE THAN ONE AGRICULTURAL HOLDING AND ONE HOUSE SITE.

ANY PERSON WHO REGISTERS A CONDITIONAL FREEHOLD IN EXCESS OF THESE AMOUNTS SHOULD FORFEIT THE LAND TO THE GOVERNMENT. ANY PERSON WHO REGISTERS AN OCCUPATIONAL RIGHT OR LEASE IN EXCESS OF THESE AMOUNTS SHOULD HAVE THE RIGHT OR LEASE CANCELLED. IN ADDITION, TO REGISTER TITLE IN EXCESS OF THE AMOUNTS SPECIFIED SHOULD BE AN OFFENCE. THE RANGE OF PENALTIES SHOULD BE WIDE ENOUGH TO COVER THE CIRCUMSTANCES OF INDIVIDUAL CASES.

(B) FOR THE PURPOSE OF THIS RECOMMENDATION, WHERE A PERSON REGISTERS SEVERAL PIECES OF HIS OWN OR HIS GROUP'S LAND OVER A PERIOD OF TIME EITHER AS OCCUPATION RIGHTS OR AS CONDITIONAL FREEHOLDS, THE SEVERAL PIECES SHALL BE REGARDED AS ONE HOLDING.

(C) FORFEITURE OF LAND UNDER CLAUSE A OF THIS RECOMMENDATION SHOULD NOT TAKE PLACE WITHOUT THE APPROVAL OF THE DISTRICT LAND CONTROL BOARD, WHICH SHOULD HAVE THE POWER TO CANCEL THE REGISTRATION INSTEAD OF FORFEITING THE LAND, IF IT IS OF THE OPINION THAT FORFEITURE OF THE LAND WOULD BE OPPRESSIVE IN THE CIRCUMSTANCES.

3.53 Allowing a person to register both an agricultural holding and a house site will permit public servants and other urban workers to hold rural land for their retirement.

RECOMMENDATION 18

(A) NO PERSON SHOULD BE ABLE TO GRANT ON LEASE MORE THAN ONE PLOT OF RURAL LAND AND ONE PLOT OF URBAN LAND. THE PLOT OF RURAL LAND SHOULD NOT EXCEED 5 HECTARES AND THE PLOT OF URBAN LAND SHOULD NOT EXCEED 0.10 HECTARES. ANY PERSON WHO GRANTS A LEASE IN EXCESS OF THESE AMOUNTS SHOULD FORFEIT THE LAND TO THE GOVERNMENT. SUCH FORFEITURE SHOULD NOT AFFECT THE LEASE SO FAR AS THE LESSEE IS CONCERNED, WHO WOULD BECOME A LESSEE OF NATIONAL LAND.

(B) NO PERSON SHOULD BE ABLE TO TAKE ON LEASE MORE THAN ONE PLOT OF RURAL LAND AND ONE PLOT OF URBAN LAND. THE PLOT OF RURAL LAND SHOULD NOT EXCEED 5 HECTARES AND THE PLOT OF URBAN LAND SHOULD NOT EXCEED 0.10 HECTARES. ANY PERSON WHO TAKES A LEASE IN EXCESS OF THESE AMOUNTS SHOULD HAVE HIS LEASE CANCELLED.

(C) FORFEITURE OF LAND UNDER CLAUSE A OF THIS RECOMMENDATION SHOULD NOT TAKE PLACE WITHOUT THE APPROVAL OF THE DISTRICT LAND CONTROL BOARD, WHICH SHOULD HAVE THE POWER TO CANCEL THE LEASE INSTEAD OF FORFEITING THE LAND, IF IT IS OF THE OPINION THAT FORFEITURE OF THE LAND WOULD BE OPPRESSIVE IN THE CIRCUMSTANCES.

- (D) IN ADDITION TO THE MEASURES SET OUT ABOVE, IT SHOULD BE AN OFFENCE FOR A PERSON TO TAKE OR GRANT LEASES OF LAND IN EXCESS OF THE AMOUNTS SPECIFIED. THE RANGE OF PENALTIES SHOULD BE WIDE ENOUGH TO COVER THE CIRCUMSTANCES OF INDIVIDUAL CASES.

3.54 Additional Controls

- a) In the first instance mortgages should only be with the Development Bank, Government instrumentalities, including the Papua New Guinea Banking Corporation, The Federation of Savings and Loan Societies and Papua New Guinea development corporations which should be able to lend to their own members. If this proves too restrictive it could be extended to approved Trading Banks, but not in the first instance;
- b) All sales, gifts, and grants of indefinite occupation rights should require the certificate of the District Land Control Board, acting on the advice of an officer of the District Government, that the transaction is fair and reasonable. In considering whether a transfer is reasonable, the District Land Control Board should have regard to the effect of the transfer on the livelihood and welfare of the person or group transferring. Fixed-term leases and occupation rights would not require certification in order to be registered;
- c) Where large sums of purchase money are paid out for land, a considerable portion of it should be invested for the benefit of the land sellers, or paid in the form of revenue-producing enterprises so that the former rightholders can keep pace with commercial growth in the area;
- d)
 - (i) A corporation should not be allowed to register all the land of the registered group; it must leave enough for subsistence gardening;
 - (ii) A corporation could hold an occupation right from a group for up to 20 years, with right of renewal, (in order to allow the group to reconsider its needs after population changes etc.);
 - (iii) A corporation should not hold registered title over more than 5 hectares of rural land or 0.10 hectares of urban land per adult member of the corporation.

VI THE EFFECT OF REGISTRATION

RECOMMENDATION 19

- (A) THAT THE REGISTER BE TREATED AS CONCLUSIVE PROOF OF A SET OF LAND RIGHTS AT THE TIME OF ENTRY UNLESS A CLAIMANT CAN SUBSEQUENTLY PROVE:

(1) THAT HE WAS PREVENTED BY CIRCUMSTANCES BEYOND HIS CONTROL FROM HAVING HIS RIGHT REGISTERED AT THE TIME OF REGISTRATION;

(11) THAT HE HAD A REGISTERABLE RIGHT.

(B) THE REGISTER SHOULD BE REGARDED AS SUBSTANTIAL PROOF OF THE HISTORY OF TITLES SINCE REGISTRATION UNLESS A SUBSEQUENT, LAWFUL DEALING CAN BE PROVED.

(C) REGISTERED TITLES SHOULD BE INDEFEASIBLE IN RESPECT OF THIRD PARTIES. FOR EXAMPLE, IF A BECOMES THE REGISTERED RIGHTHOLDER AND SELLS OR LEASES TO B THEN C COMES ALONG AND SAYS HE WAS

A RIGHTHOLDER AND DID NOT AGREE TO THE LAND GOING TO B, C WOULD ONLY HAVE A CLAIM FOR COMPENSATION AGAINST A. B AS AN INNOCENT PARTY WOULD HAVE HIS RIGHTS PROTECTED.

3.55 Dealings should be registered if possible

It would be highly desirable to insist that all dealings be entered in the Register or otherwise they would have no force in law, however, we believe this cannot be strictly applied because it will be a long time before all Papua New Guineans grow accustomed to relying upon the Land Register. In Kenya many unregistered dealings are taking place; customary succession in particular is taking place on supposedly individualised titles and is not being entered on the Register. In Indonesia it was frankly recognised that not all transactions would be entered and the law did not therefore strictly require it. However, as much as possible should be done to ensure that the Register is given high status and unregistered dealings discouraged.

Chapter 4

ALIENATED LANDS

(This is a revision of our Interim Report on Alienated Land; we have taken notice of all comments made on the Interim Report and amended some of the sections where we thought it necessary.)

I INTRODUCTION

4.1 What is 'alienated land'?

This chapter is concerned with the 1.4 million hectares that have been alienated from the customary rightholders by Government purchase, compulsory acquisition, confiscation, and "waste and vacant" or "ownerless" declaration. It is not concerned with customary land that has been the subject of land tenure conversion orders; nor is it concerned with forestry leases.

4.2 Many people complain about alienation

Approximately 160,000 hectares of the alienated land has passed in freehold and approximately 340,000 hectares in leasehold to private interests - mostly missions, individual planters and plantation companies. The remaining 0.9 million hectares are still held by the Administration, most of it undeveloped. In all Districts we received a great many requests that alienated land be restored to the descendants of the clans who originally held rights in them.

The reasons given are:

- a) Because these clans are short of land for subsistence or commercial agriculture.
- b) Because the "waste and vacant" or "ownerless" declarations were improper.
- c) Because the clan leaders were tricked into selling the land for small amounts of trade goods or money at a value far below the economic value of the land.
- d) Because in many cases the land has never been developed.

We did not accept these claims automatically, since the demand for return of land is clearly a popular outcry at the moment, which many are taking the opportunity of joining. Nevertheless, we believe that real and sometimes long-standing grievances exist.

4.3 Shortage of land due to alienation should not be exaggerated but is real in some places.

Alienated land comprises only 2.8% of the total land area of Papua New Guinea, and some of it is used by Government and missions for roads, schools, hospitals and other public facilities. But in some Districts land alienation has been particularly serious. In the Gazelle Peninsula, one of the most heavily populated areas of the country, 43% of the land north of a line from the mouth of Warongoi River to the Warongoi Resettlement Area and then round the northern boundary of UAL 82 to the western boundary of Vunapaladig on Ataliklikun Bay has been alienated. On the Duke of York Islands approximately 2,642 hectares out of 6,452 have been alienated. In these examples the alienated land includes much more good arable land than the unalienated does; and although some clans in such areas are not short of land, others have lost nearly all their land, and now hold only limited land rights from neighbouring islands. For example, on Eruk Island off Kavieng, all 800 hectares of the Eruk villagers' traditional land has been alienated with only 18 hectares set aside as reserves.

In all Districts we have visited Papua New Guineans have expressed a keen interest in commercial agriculture, and in some areas, though not generally, they have been frustrated by land shortage.

Whether alienation really has caused land shortage depends upon many factors. We would not examine every case, but we are satisfied from several cases we did examine that in a number of places people are short of land even for subsistence purposes.

The rapid increase in population is worsening the situation. Many witnesses who are not land-short now are afraid their communities will be land-short in ten or twenty years time. We believe these fears are often justified.

4.4 "Waste and vacant" or "ownerless" declarations

In these the original investigations were often very limited. In some cases there were villages on the land. In other cases it was hunting and gathering land or contained "ples masalai". Areas such as the Bulolo and Yodda Valleys were fought over and, although none of the fighting clans were able to keep permanent settlements on the land, all of them make overlapping

claims to it. We consider that it was improper of the colonial powers to have taken these lands without compensating customary rightholders for the loss of rights there.

4.5 The question of early purchases for trade goods or small payments is more complicated.

In some cases considerable amounts of trade goods were paid, which may have had as much real value as the three cents an acre paid in the 1930s or one dollar an acre paid in the 1950s. We accept that in many of these cases payment was inadequate and that owing to inflation and the rising price of land all of these payments now seem small. However we feel that a complete revision of titles on all these cases, because of inadequacy of consideration, is impracticable. It would saddle the country with a huge burden of litigation and throw all titles into uncertainty. Nor is an error in boundary marking, or the fact that one section of the traditional rightholders missed out on the payment, a sufficient reason for upsetting the title, paying huge compensation or engaging in expensive legal actions. The real need is for a simple machinery to find where land selling has really made people short of land and assist them. This should be an administrative, not a judicial process. We believe that our recommendations on this question offer substantial justice to the people who are aggrieved.

4.6 The return of some land is urgently needed.

Particularly where it has not been developed, alienated land is causing considerable ill-feeling. Although complaints are in many cases exaggerated they are also in many cases very real. There are poor villages on the edge of prosperous towns that have grown up on the villagers' traditional land; there are densely populated islands of subsistence villagers amidst vast plantations holding very few people; stock or bulldozers suddenly appear on villagers' hunting and gathering land which had been purchased up to 60 years ago but never before developed. Past attempts by officials such as Governor Hahl or Judge Phillips to create reserves for land-short people have been completely overtaken by the population explosion and the interest in commercial agriculture. Furthermore laws like the New Guinea Land Titles Restoration Ordinance have prevented the people from recovering more land. We feel that law and administration must be made more flexible so that complaints can be promptly dealt with. Above all it must ensure that, where necessary, land is restored to land-short people. This is our first main aim.

4.7 Adjustment of the problem will promote good relations between communities.

Land problems hinder good relations between sections of the Papua New Guinea people and between the people and their government. Frustration from the lack of response to repeated requests by local people for the return of land has in some

areas produced an ugly situation of tension and distrust and led

to direct action in the form of squatting movements on land claimed, occasional harrassment of plantation management and quarrelling between groups of local claimants. Furthermore, in the absence of a clear-cut policy, expatriates are uncertain of their future. In this situation, with its potential for violence, continued delay would be irresponsible. Most complainants hold the colonial powers responsible for the situation but some criticise the Papua New Guinea Government for slowness in finding a remedy and greater concern for overseas investors than for land-short Papua New Guineans. We do not believe that it is necessary to recover all alienated land from expatriate hands. But we do believe that Papua New Guinean land needs must be properly met, and an end put to the system that has allowed a small number of expatriates to acquire title to large areas of the best land and leave much of it undeveloped. We have recommended policies to achieve this and provide for a system which will permit people of any race to take land rights while preserving good relations between them and the local people. This is our second main purpose.

4.8 Land should be distributed to those who need it and will use it

We believe that policy towards alienated land must do more than remedy grievances caused by European colonialisation. The needs of the new nation and problems about relations between sections and classes of Papua New Guinean people are already much more important than the problem of tidying up relations with Europeans. For this reason we believe Government should not lose sight of the value of the alienated lands as a national asset. Alienated lands can be used to increase production and national income. Some Districts are short of land and need to find room for their growing population. We need to permit mobility among our enterprising people who can find outlets for their creative energies on alienated lands if these are made available to them. Inter-clan mixing and a sense of belonging to the wider national community can be fostered if people from various Districts are able to take up

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rights in empty areas of alienated land. For these reasons we believe that the concept of using land must therefore be stressed - that the holders of title to alienated land must make good use of it or give way to those with greater need and ability to use it. These reasons of public interest modify a simple policy of returning alienated land to the descendents of traditional rightholders.

4.9 Land should not be speculated in.

We also wish to limit in Papua New Guinea the western concept of land as a marketable commodity to be bought and sold or speculated like manufactured goods. In and near urban areas of Australia the practice of speculating in land has greatly inflated the value of land and enabled people to profit not from productive industry, but by trading on public need for land. We prefer to maintain the traditional concept of land as a community heritage, available for use by those of the community (by which we mean the wider national community) who need it. It should not be taken into absolute possession by individuals. Most rents charged for the use of alienated land should go to the government, on behalf of the community, not to private individuals.

4.10 We have four main aims.

In summary the four main aims which underly our recommendations on alienated lands are:

- a) To return land to land-short Papua New Guineans.
- b) To provide a system of land-holding which will promote good relationship between different people.
- c) To treat land as a national resource and emphasize the need to use it properly so as to ensure a more equal spread of economic benefits.
- d) To discourage speculation in land.

4.11 The eight-point programme is also relevant.

In our recommendations we have also taken into account the aims of the Government's 8 point Improvement Programme, especially aims 1, 2, 3 and 8 which are:

A rapid increase in the proportion of the economy under the control of Papua New Guinean individuals and groups and in the proportion of personal and property income that goes to Papua New Guineans;

more equal distribution of economic benefits, including movement toward equalisation of incomes among people and toward equalisation of services among different areas of the country;

decentralisation of economic activity, planning, and government spending, with an emphasis on agricultural development, village industry, better internal trade, and more spending channelled through local and area bodies;

government control and involvement in those sectors of the economy where control is necessary to assure the desired kind of development.

II INCREASING URGENCY:

4.12 Land-short people's patience is running out.

We want to stress again the urgent need to introduce a programme of systematic buying back of plantations where necessary, especially on the Gazelle Peninsula. It is apparent that many groups are short of land and/or deeply aggrieved at the way land was alienated in the first place. In many areas they have been complaining through official and legal channels for a very long time. In some places their patience is exhausted and direct action, by occupying the plantation, is taking place.

4.13 More "squatting" movements have occurred.

Since June we have learnt that local people have moved on to several more plantations in New Britain and neighbouring islands including the Enuk Islands where villagers have been arrested for gathering coconuts on their traditional land.

Government is faced with the choice of:

a) using police action against the people who feel aggrieved (which, for political and other reasons is not a real alternative in most cases),

b) buying the land from the owners, or

- c) leaving the Papua New Guinea claimants in possession without compensation to the owners.

4.14 A buying-back policy will help make "squatting" unnecessary.

Our Interim Report on Alienated Land recommended that Government secure the return of undeveloped land and begin a programme of buying back developed land, where necessary, to demonstrate to the people that direct action is not necessary. We submitted the Interim Report suggesting this in June, largely because of the urgency of the situation.

4.15 People are often willing to repay Government for purchase of improvements.

We found evidence that where the Government could assist with a loan to buy the improvements, the people were often willing to raise a deposit and repay the loan, so that the transfer of the land could take place in an orderly way. They are

much less willing to do so after they have occupied the land.

The best way for the Government to avoid possible embarrassment and expense as a result of direct action is to be able to buy plantations from the expatriate occupiers before the direct action takes place, and ask Papua New Guinean claimants to repay the money over a period of years.

4.16 A fund for the repurchase programme should be sought from Australia.

We understand that an approach by the Minister of Lands to the Australian Minister for External Territories for a grant for the repurchase programme has been received unsympathetically. This is most unfortunate. Unless funds are made available from Australia the repurchase programme will be a direct cost to the Papua New Guinean Government. Nevertheless, the buying-back programme should not depend entirely on Australian assistance; we welcome the provision in this year's Budget of funds to repurchase some plantations. A new approach for a grant or loan should be made to the Australian Government.

4.17 Compulsory acquisition may be necessary.

If owners demand an unreasonably high price the Government may not be able to buy back the plantations quickly enough to forestall squatting movements. A compulsory power of acquisition is needed for such cases.

RECOMMENDATION 20

- (A) AN AMENDMENT TO THE LANDS ORDINANCE SHOULD BE IMMEDIATELY INTRODUCED TO EXTEND THE PUBLIC PURPOSES FOR WHICH LAND MAY BE COMPULSORILY ACQUIRED TO INCLUDE THE PURPOSE OF RESETTLEMENT OF PAPUA NEW GUINEANS.
- (B) A NEW APPROACH SHOULD BE MADE TO THE AUSTRALIAN GOVERNMENT FOR A GRANT OR A LOW-INTEREST LOAN OF \$2 MILLION IN THE FIRST INSTANCE, TO COMMENCE AN ORDERLY AND SYSTEMATIC REPURCHASE PROGRAMME.

III RURAL LANDS ALIENATED BY PURCHASE

(In this section we deal with rural land alienated from the customary rightholders by purchase and either held by the Government or given in freehold or leasehold title to private individuals, companies or societies. We deal with rural land alienated by "waste and vacant" or "ownerless" declarations, by confiscation or by compulsory acquisition without compensation in Section IV of this Chapter.)

A. Undeveloped Land

4.18 Much alienated rural land is unused.

For example, about one quarter to one third of the Kairuku Sub-District is Crown land purchased by the Administration at the turn of the century. Only a tiny fraction of this land has ever been used by the Administration. Only small portions of Kambubu and Toriu plantations in East New Britain have been developed by the Mission. The Rempi block near Alexishafen is an example from the Madang District; Raua and Rugen Plantations are examples from the Bougainville District. There are many other examples.

4.19 Existing law is not effective to enforce use or redistribution.

We consider that the Land (Underdeveloped Freeholds) Ordinance 1969 is too complicated to achieve a return of significant amounts of alienated freehold lands to Papua New Guineans. Also as far as we can ascertain the Department of Lands, Surveys and Mines has not carried out inspection of freehold land in order to work out how much of such land is undeveloped. Inspections of leases are also inadequate and the improvement conditions of leases are too easily evaded.

RECOMMENDATION 21

A NEW APPROACH SHOULD BE TAKEN TO GIVE EFFECT TO THE INTENTION OF THE IMPROVEMENT CONDITIONS OF LEASES AND THE LAND (UNDERDEVELOPED FREEHOLDS) ORDINANCE 1969

- (A) ALL FREEHOLD AND LEASEHOLD TITLES SHOULD BE STATUTORILY CONVERTED INTO GOVERNMENT GUARANTEED LEASEHOLDS, AS FROM A SPECIFIED DATE.
- (B) THE SAME STATUTE SHOULD DECLARE THAT ALL GOVERNMENT LEASES ARE CONFIRMED UNTIL THE END OF THE CURRENT TERM OR FOR FORTY YEARS WHICHEVER IS THE SHORTER, SUBJECT TO MEETING NEW CONDITIONS SETTING OUT THE PROPORTION OF DEVELOPMENT EXPECTED ON THE UNDEVELOPED PARTS OF THE LEASE. CONSIDERATION SHOULD BE GIVEN TO SETTING OUT THE MAIN PATTERN OF IMPROVEMENT CONDITIONS IN THE STATUTE. IT SHOULD NORMALLY ENVISAGE THAT DEVELOPMENT OF UNDEVELOPED AREAS SHOULD COMMENCE WITHIN A YEAR AND BE COMPLETED WITHIN 5 YEARS.
- (C) INSPECTION TEAMS OF THE DEPARTMENT OF LANDS SHOULD VISIT THE LAND AND REPORT ON WHETHER THERE IS CLEAR EVIDENCE OF IMPROVEMENTS BEING MADE ACCORDING TO THE CONDITIONS. IF NOT THE UNDEVELOPED LAND SHOULD BE REALLOCATED BY THE DISTRICT LAND CONTROL BOARDS WITH PRIORITY TO LAND-SHORT PAPUA NEW GUINEANS LIVING ON OR NEAR THE LAND.
- (D) THE INSPECTION TEAMS SHOULD ALSO LOCATE THE MOST URGENT CASES OF LAND SHORTAGE AMONG PAPUA NEW GUINEANS AND RECOMMEND WHERE THE UNDEVELOPED LAND SHOULD BE REALLOCATED THROUGH COMPULSORY ACQUISITION FOR THE PUBLIC PURPOSE OF RESETTLEMENT.
- (E) ALL RURAL LEASEHOLDERS SHOULD BE REQUIRED TO SUBMIT TO THE DISTRICT OFFICE, WITHIN SIX MONTHS OF A DATE SPECIFIED IN THE STATUTE, A PLAN SHOWING (i) WHETHER THEY DO INTEND TO DEVELOP THEIR UNDEVELOPED LAND OR TO RELINQUISH IT (ii) WHETHER THEY DO INTEND TO INVOLVE PAPUA NEW GUINEANS IN OWNERSHIP AND MANAGEMENT AND THUS QUALIFY FOR A SIXTY YEAR LEASE. (SEE TERMS AND CONDITIONS OF LEASES, RECOMMENDATION 21.) (iii) WHETHER THEY CAN MAKE A CASE FOR BEING GRANTED A LONGER TERM TO COMPLETE IMPROVEMENT ON THE UNDEVELOPED LAND, THAN THE FIVE YEAR LIMIT SUGGESTED IN (B).

(F) THE LANDS DEPARTMENT INSPECTION TEAMS SHOULD EXAMINE THESE PLANS AND RECOMMEND TO THE DISTRICT LAND CONTROL BOARDS ANY VARIATION ON THE IMPROVEMENT CONDITIONS SET OUT IN THE STATUTE.

(G) THE LEASES AS APPROVED BY THE DISTRICT LAND CONTROL BOARDS, NEW ALLOCATIONS OF UNUSED LAND, AND LAND STILL HELD BY THE BOARDS FOR ALLOCATION SHOULD ALL BE REGISTERED AND THE TITLES MADE SECURE BY STATUTE.

4.20 Freeholds should be converted to leaseholds in the Public Interest.

a) The reasons for converting freehold into leasehold title have been mentioned in Chapter 2 'Basic Principles' and in the Introduction, to this chapter. The purpose is to restore a public interest in and public control over the land. By the conversion to leasehold we expect that the community, through the District Land Control Boards, will be able to insist upon effective use of the land by those residing upon it. Those who fail to develop their land should lose their titles and be replaced by those who will develop the land.

b) We note that already some freeholders have become landlords, in some cases absentee landlords, sub-dividing and renting their properties and living off the profits of essentially speculative ventures. This speculation must be checked.

4.21 Conditions of the change in title

RECOMMENDATION 22

(A) NO COMPENSATION SHOULD BE PAID TO THE PRESENT FREEHOLDERS FOR THE CHANGE IN TITLE AND THE STATUTE SHOULD PROTECT THE GOVERNMENT FROM COMPENSATION CLAIMS.

(B) THERE SHOULD BE A 'HOLIDAY' PERIOD OF FIVE YEARS BEFORE RENTS ARE CHARGED.

(C) A TITLEHOLDER WHO HAS BORROWED ON THE SECURITY OF UNIMPROVED LAND AND LOSES THAT LAND UNDER THE SUGGESTED REALLOCATION SHOULD BE ENTITLED TO APPEAL TO THE MINISTER OF LANDS FOR SPECIAL CONSIDERATION. THE GOVERNMENT MIGHT CONSIDER TAKING OVER THE MORTGAGE OR ISSUING THE TITLEHOLDER WITH A LEASE OVER OTHER LAND WHICH COULD BE USED AS SECURITY.

4.22 The conversion implies no real deprivation.

In time of rapid political change a holder of a government guaranteed leasehold has a more secure title than the holder of a freehold title. Although it may be suggested that our recommendation is in conflict with Section 14 (1) of the Human Rights Ordinance which provides: "No person shall be deprived compulsorily of his property except in accordance with law and on just terms", we do not consider that this change in title amounts to any real deprivation. However, if it is thought to be so, we believe that the other goals to be achieved by our recommendation are so important that they should be legislated for notwithstanding Section 14 (1).

4.23 Suggested procedure after the conversion of title.

- a) The holders of rural leasehold land should be required within six months of the specified date to lodge plans with the District Office for the development of the land. If they did not lodge a plan or said they did not want the undeveloped land it would pass without compensation to the District Land Control Board for allocation. New boundaries should be surveyed at Government expense, and a lease over the new smaller developed area issued.
- b) Where a landholder did lodge a plan to develop his land, it should not be approved if it was not really a plan to improve the productive potential of the land, like a plan to take timber. A definition of what constituted development would need to be made. (Models are available from Tanzania and other overseas countries.)
- c) Once his plan was approved the landholder should have a further six months to make a real start on his development plan. If no start was made then he would lose the land without compensation. When he did start but did not complete the plan within the approved maximum (normally 5 years) then he would retain his title to the part he developed and lose it over the rest.

- d) A team of Department of Lands men should go into an area, say the Gazelle Peninsula, to administer the legislation. They should examine all proposals for improvement in that area. Where people either did not submit development plans or said they wished to give up their undeveloped land, the team could then survey out (possibly by aerial survey) the undeveloped parts of their land and do the administrative work so that the landholder could be issued with a new lease over the new area. When the unimproved portion of the lease was small and the land not in great demand the lease could be approved without much formality.
- e) The Lands Department team should have power to inspect to see how planned developments were going and to survey out undeveloped land where development plans were not being followed.
- f) These proposals are intended to give those wanting to develop their land a chance to do so with security, and would put the other people to the test. They also take into account the likely shortage of people available to carry out the inspections and issuing of new leases, since the inspection work can spread over some time, covering the most land-short areas first.

4.24 District Land Control Boards should allocate new leases.

Where undeveloped land has been recovered as a result of the above provisions it should be allocated by the District Land Control Boards. If there are people living on or near the land who either need it for subsistence purposes or put forward reasonable proposals for developing it (either in individual blocks or by corporation) they should be given priority for the leaseholds.

Papua New Guinean Titleholders

RECOMMENDATION 23

- (A) FREEHOLDS HELD BY PAPUA NEW GUINEANS SHOULD BE CONVERTED INTO THE GROUP TITLES OR CONDITIONAL FREEHOLDS USED FOR REGISTERING CUSTOMARY LAND, OR INTO GOVERNMENT LEASES.

- (B) UNUSED LAND ALLOCATED BY DISTRICT LAND CONTROL BOARDS MAY ALSO IN SOME CIRCUMSTANCES BE HELD AS REGISTERED CUSTOMARY LAND.

4.25 In special circumstances the land may be given under registered customary title.

- a) We realise that some individual Papua New Guineans and Papua New Guinean organisations like the New Guinea Development Corporation and the Palatoi Co-operative Society, have purchased freehold property. Nevertheless we consider that their titles too should be subject to conversion to leasehold or, where it is held by the descendants of customary rightholders, as registered customary land.
- b) Undeveloped land allocated to Papua New Guineans should normally be allocated on Government leasehold title with improvement conditions, but in some cases where it is returned to the descendants of customary rightholders it could be returned as registered customary land under one of the titles recommended in Chapter 3 "Customary Land".
- c) In cases where leases are given to people who are clearly customary rightholders the rent should be nominal and the collection of it waived.

4.26 The Land Courts should settle disputes.

Where several groups of local people claim the land the dispute should be settled by the processes of mediation, arbitration and appeal recommended in Chapter 8 "Dispute Settlement".

4.27 Leases could be given to non-citizens and citizens from further afield.

Where land is not taken up by people living on or near the land it should be available for lease to citizens of Papua New Guinea from further afield and in some cases, to non-citizens. We feel that in the interests of national unity and to meet the needs of the most land-short people, leases should be granted to people from any District. Moreover, if the leaders of various settler communities are required to co-operate actively from the beginning in promoting social integration, we are optimistic that beneficial results will follow. On the other hand careless population mixing can cause social tensions which

might hinder rather than promote national unity. For these reasons the District Land Control Boards should exercise care and discretion in the selection of lessees.

Terms and conditions of Government Leases

RECOMMENDATION 24

- (A) GOVERNMENT LEASES SHOULD BE FOR A MAXIMUM OF SIXTY YEARS FOR CITIZENS WITH RIGHT OF RENEWAL.
- (B) GOVERNMENT LEASES TO NON-CITIZENS SHOULD BE FOR A MAXIMUM OF FORTY YEARS, OR SIXTY YEARS IF THEY INVOLVE CITIZENS IN SUBSTANTIAL OWNERSHIP AND MANAGEMENT OF THE BUSINESS ON THE LAND. NON-CITIZENS SHOULD HAVE NO AUTOMATIC RIGHT OF RENEWAL BUT SHOULD BE ABLE TO APPLY FOR RENEWAL WITHIN 7 YEARS OF EXPIRY OF THE LEASE.
- (C) A GOVERNMENT LEASE SHOULD BE THE ONLY FORM OF TITLE WHICH A NON-CITIZEN CAN ACQUIRE IN PAPUA NEW GUINEA.
- (D) PRESENT LEASES WHICH NOW HAVE LESS THAN 40 YEARS TO RUN (OR 60 YEARS WHERE APPROPRIATE) SHOULD CONTINUE TO EXPIRY. PRESENT LEASES WHICH HAVE MORE THAN 40 OR 60 YEARS TO RUN SHOULD BE REDUCED TO THE APPROPRIATE TERM.
- (E) LEASEHOLDS SHOULD BE SUBJECT TO IMPROVEMENT CONDITIONS ENFORCED THROUGH PERIODIC INSPECTION FROM THE DISTRICT LAND OFFICES.

4.28 Employees should have preference for shares.

Preference for shares in the ownership of enterprises on leases by non-citizens should be given to permanent employees and to local councils, savings and loan societies and other local groups rather than sold on the open market to already rich Papua New Guineans. We consider this to be in line with the intention of the 8 Point Programme to distribute economic benefits as equally as possible, and with the Government's policy for sale of shares in unit trusts in Investment Corporation holdings to local councils and other groups rather than to individuals.

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4.29 The Central Government should define the conditions of leases and grant exemptions.

In order that all parties should know where they stand, the Government, through the National Land Control Board, should specify the proportion of ownership and management positions to be held by Papua New Guineans. The proportion should not be a mere token; we suggest that it increase on a regular scale over the period of the lease.

RECOMMENDATION 25

GOVERNMENT SHOULD SET THE PROPORTIONS OF OWNERSHIP AND MANAGEMENT WHICH NON-CITIZENS LEASING LAND SHOULD GRANT TO PAPUA NEW GUINEAN CITIZENS IN A SIXTY YEAR LEASE. THE GOVERNMENT SHOULD ALSO HAVE THE POWER TO GRANT EXEMPTION FROM THIS GENERAL REQUIREMENT IN APPROPRIATE CASES. THERE MAY BE SOME CASES WHERE TAXATION PROVISIONS, CENTRAL GOVERNMENT OWNERSHIP OR ROYALTY PROVISIONS WILL BE PROPERLY REGARDED BY GOVERNMENT AS PROVIDING SUFFICIENT BENEFIT WITHOUT REQUIRING DIRECT SHAREHOLDING BY PAPUA NEW GUINEANS.

4.30 Rent revision and transfer of leases.

Rentals should be at least sufficient to cover the administrative costs of District Land Boards. For rent revision see Chapter 10, for transfer of leases see Chapter 11.

Unused Government Land

RECOMMENDATION 26

UNLESS IT IS REQUIRED FOR ANOTHER PUBLIC PURPOSE UNUSED RURAL ALIENATED LAND HELD BY THE GOVERNMENT SHOULD BE LEASED BY THE DISTRICT LAND CONTROL BOARDS WITH PRIORITY TO PAPUA NEW GUINEANS LIVING ON OR NEAR IT. IN SPECIAL CIRCUMSTANCES IT COULD BE GRANTED UNDER ONE OF THE OTHER FORMS OF REGISTERED TITLE RECOMMENDED IN CHAPTER 3 'CUSTOMARY LAND'.

4.31 Unused Government land should be made available for use.

The large areas of alienated land held by the Government and not used, often for 50 years or more are a source of grievance to local people who wish to use them. Often traditional hunting and gathering has continued on the land all the time and sometimes people have built villages

and gardens on it. These people are aggrieved when the Government or a lessee suddenly starts to develop the land. The rights of long-standing Papua New Guinean users of Government land should be recognised as far as is reasonable and title given over parts they have used for two years or more. The remainder should be made available on lease through the District Land Control Boards to those who want to develop it, with priority to people living on or near the land.

RECOMMENDATION 27

ALL 'NATIVE RESERVES' WHICH HAVE NOT ALREADY BEEN RELINQUISHED BY THE GOVERNMENT SHOULD BE VESTED IN THE DISTRICT LAND CONTROL BOARDS FOR DISTRIBUTION BY LEASE OR REGISTERED CUSTOMARY TITLE, AMONGST THE PEOPLE WHO LIVE ON OR NEAR THEM.

4.32 Present policy revives conflicting claims.

Government policy towards 'native reserves' at present is to declare them to be 'native land' under Section 84 of The Land Ordinance. This is provided for under the

Land (Determination of Trusts) Ordinance 1971 and results in reviving traditional rights in the land. This is an unsatisfactory way to deal with land which already has a form of title. It is also unfair to people who cannot show a traditional claim. We are aware that near Madang and at other places, people without traditional rights in the reserved land have settled on it. We consider that their interest should be protected and that the District Land Control Boards should issue leases to those persons who have lived for two or more years on or near such land, whether or not they have traditional rights in the land.

B. Developed Land

RECOMMENDATION 28

(A) IN AREAS WHERE MOST OF THE RURAL LAND HAS BEEN ALIENATED AND PEOPLE ARE SERIOUSLY SHORT OF LAND, WHERE THE RETURN OF UNDEVELOPED ALIENATED LAND DOES NOT SUFFICIENTLY RELIEVE THE SHORTAGE OF LAND FOR CASH CROPPING AS WELL AS SUBSISTENCE PURPOSES, THE

THE GOVERNMENT SHOULD TAKE STEPS TO RECOVER DEVELOPED LAND NEARBY, BY COMPULSORY PROCESS IF NECESSARY, AND RETURN IT TO THE LAND-SHORT PEOPLE.

- (B) COMPENSATION PAID TO THE HOLDERS OF THE FORMER DEVELOPED LAND SHOULD BE LIMITED TO THE UNEXHAUSTED IMPROVEMENTS ON THE LAND. (SEE CHAPTER 10, PART III FOR VALUATION OF UNEXHAUSTED IMPROVEMENTS.)

4.33 This step should normally follow the conversion of freeholds to leaseholds.

The recovery of developed land should usually follow the statutory conversion of all freeholds into Government leaseholds.

4.34 Australian finance should assist in the purchase of improvements.

We have received many submissions to the effect that the cost of buying back improved properties should be borne by the Australian Government. People say it was through the "fault" of the Australian Government that they lost their land, so it should be up to the Australian Government to pay for its return. They also feel that the Australian Government did little to adjust the improper acquisitions made in German times in New Guinea and in British times in Papua. We understand that an approach has been made to the Australian Federal Government for a special grant of funds for this purpose and hope that it will accept the responsibility as a matter of urgency. This would provide the fund from which compensation for unexhausted improvements could be paid. If a grant is not forthcoming a long-term low-interest loan should be sought.

4.35 Improved land should not be given back to the people free of charge.

We do not, however, envisage that Government should simply pay the whole cost of improvements and return the land free to Papua New Guinea claimants. This would

very soon exhaust the funds likely to be available. In addition it would undermine the vigorous and commendable efforts already made by many villagers, particularly on the Gazelle Peninsula, to raise deposits themselves for the re-purchase of plantations and finance the

balance by loan. We believe that this movement should be encouraged. Funds secured from Australia should be made available by way of long-term low-interest loans to corporations of villagers who wish to re-purchase plantations. As the money is repaid it would become available for more re-purchases. A reasonable deposit should be required from the purchasers themselves. The effort required to raise this would largely demonstrate which groups are in serious need of land and therefore have first claim upon loan funds. On the other hand it should be appreciated that those who are most short of land, such as the small community on Eruk Island, will often have the greatest difficulty in raising a deposit. They should still be asked to do what they can but should receive special consideration.

4.36 Development Bank assistance can also be used.

We also consider that there is much value in the proposal being considered by the Development Bank to build up villagers' deposits by way of loans with the remaining proportion of the purchase price being met by the planter and the purchasers sharing the revenue from the plantation over about three to five years. This joint venture concept would enable village purchasers to have the benefit of plantation management skills in the initial stages of the operation and would guard against a fall in production.

4.37 Subsistence needs should be met first.

We feel that the priorities for loan funds should be as follows:

- a) Where people are genuinely short of land for subsistence farming.
- b) Where people are short of land for cash cropping.

4.38 Prompt and efficient machinery is needed to handle the repurchase programme

The re-purchase programme should be administered by the Lands Department with control of the necessary

finance and able to deal directly with the buyers and sellers of the land. Unnecessary reference between Departments and delays in carrying the programme through will ruin it. The programme should commence within six months. In the meantime, existing negotiations on the Gazelle Peninsula regarding some plantations for the purchase of which villagers have already raised deposits should be completed as a matter of urgency, if necessary by compulsory acquisition.

4.39 Leases should be guaranteed by Government.

Once the initial period of readjustment is over, legislation should make it clear that, provided a lessee pays his rents and complies with his development conditions, his leasehold title is guaranteed and will be supported against illegal expropriation.

IV "WASTE AND VACANT" LANDS:

(In this chapter we deal with rural land alienated by "waste and vacant" or "ownerless" declaration, by confiscation, or by compulsory acquisition without compensation.)

A. Undeveloped Rural "Waste and Vacant" Land

RECOMMENDATION 29

UNDEVELOPED RURAL "WASTE AND VACANT" LAND SHOULD BE

RETURNED UNDER REGISTERED CUSTOMARY OR LEASEHOLD TITLE,

TO PEOPLE LIVING ON OR NEAR IT ACCORDING TO NEED:

ANY LEFT OVER SHOULD BE USED FOR WIDER LEASING BY THE DISTRICT LAND CONTROL BOARDS WITH COMPENSATION TO TRADITIONAL RIGHTHOLDERS.

4.40 'Waste and vacant' or 'ownerless' declarations are a source of grievance.

The colonial governments of Papua New Guinea have acquired a total of 308,000 hectares of land by declaring it "waste and vacant" or "ownerless". Most of it is undeveloped but freehold and leasehold titles

paid for the first 10 years, or in one of the registered titles which the Commission has recommended in Chapter 3.

- c) Where the District Land Control Board considers the needs of the nearby villagers are fully met it should retain some of the land for leasing to settlers from other adjacent Districts. In this case rights of access to sacred places should be reserved and compensation should be paid to former claimants of not more than \$50 per hectare for the land itself with additional compensation for the loss of hunting, gardening, fishing and important gathering rights.

B. Developed rural "waste and vacant" land.

RECOMMENDATION 30

WHERE TRADITIONAL RIGHTHOLDERS ARE SHORT OF LAND FOR CASH CROPPING OR SUBSISTENCE PURPOSES, DEVELOPED RURAL "WASTE AND VACANT" LAND SHOULD BE RETURNED TO THEM AND THE PRESENT FREEHOLDERS AND LEASEHOLDERS COMPENSATED.

4.44 Developed land should be recovered in cases of real shortage.

Where freeholds and leaseholds have been granted and the land developed but the traditional rightholders are acutely short of land, the Government should recover the land, and return it to them and pay compensation to the present titleholders. Compensation should be paid for unexhausted improvements only. It is envisaged that part of any funds made available by Australian Government grant should be used for this purpose.

Recovery of developed land should normally follow the statutory conversion of freeholds into leaseholds.

RECOMMENDATION 31

WHERE TRADITIONAL RIGHTHOLDERS ARE NOT SHORT OF LAND DEVELOPED RURAL "WASTE AND VACANT" LAND SHOULD NOT BE RETURNED BUT THE TRADITIONAL RIGHTHOLDERS SHOULD BE COMPENSATED.

4.45 Compensation should be paid where "waste and vacant" land is not returned.

Where "waste and vacant" land has been developed and traditional rightholders are not acutely short of land we do not consider that it should be returned. If government has developed the land, by afforestation for example, it should retain title to the land and to the development, which are national assets. Private leases and freeholds should be converted into leases from the District Land Control Boards in accordance with the recommendations in Section III of this Chapter. The traditional rightholders should be compensated with a payment of not more than \$50 a hectare for the land itself with additional compensation for the loss of hunting, gardening, fishing and important gathering rights. Compensation should, where possible, be in the form of shares, management training and guaranteed employment in enterprises developed on the land. We feel that this policy should apply to the National Forests planted by the Forestry Department in "waste and vacant" areas of Bulolo Valley and the Brown River area, with a proportion of royalties being paid instead of shares in such cases.

V URBAN ALIENATED LAND:

(In this chapter we deal with all urban alienated land whether it was alienated by purchase, by "waste and vacant" or "ownerless" declaration, by confiscation or by compulsory acquisition. We do not however include those pockets of customary land which have been enclosed by the expanding towns.)

RECOMMENDATION 32

- (A) ALL FREEHOLD AND LEASEHOLD TITLES SHOULD BE CONVERTED INTO GOVERNMENT LEASEHOLDS FROM A SPECIFIED DATE.
- (B) THE STATUTE SHOULD CONFIRM DEVELOPED LEASES UNTIL THE END OF THE CURRENT TERM OR FOR FORTY

YEARS WHICHEVER IS THE SHORTER, SUBJECT TO MEETING IMPROVEMENT CONDITIONS. UNDEVELOPED LEASES SHOULD BE TREATED AS PROVISIONAL. HOLDERS OF UNDEVELOPED LEASES SHOULD SUBMIT TO THE DISTRICT OFFICE, WITHIN 6 MONTHS OF THE SPECIFIED DATE, PLANS SHOWING (i) WHETHER THEY INTEND TO DEVELOP THEIR LEASE OR RELINQUISH IT, (ii) WHETHER THEY INTEND TO INVOLVE PAPUA NEW GUINEANS SUBSTANTIALLY IN OWNERSHIP AND MANAGEMENT OF ENTERPRISES ON THE LAND AND THUS QUALIFY FOR A SIXTY-YEAR LEASE.

(C) THE PLANS SHOULD BE INSPECTED BY A TEAM OF DEPARTMENT OF LANDS OFFICERS WHO WOULD RECOMMEND TO DISTRICT LAND CONTROL BOARDS AS TO THE APPROPRIATE TERMS AND CONDITIONS OF THE LEASE. THE DISTRICT LAND CONTROL BOARDS SHOULD CONFIRM OR REFUSE THE LEASE OR MODIFY THE TERMS. LEASES BY NON-CITIZENS ABOVE A CERTAIN AREA OR VALUE SHOULD ALSO BE REFERRED TO THE NATIONAL LAND CONTROL BOARD FOR APPROVAL.

(D) THE BASIC TERMS AND CONDITIONS OF LEASES SHOULD BE AS SET OUT IN RECOMMENDATIONS 24 AND 25.

(For rent revision see Chapter 10, Part II; for transfer of leases see Chapter 11, Part D.)

Security of Government title to alienated urban land.

RECOMMENDATION 33

THE GOVERNMENT'S TITLE TO URBAN ALIENATED LAND SHOULD BE MADE ABSOLUTELY SECURE AND NOT SUBJECT TO CHALLENGE IN THE COURTS.

4.46 Urban land should be put beyond dispute.

We consider that the cities and towns of Papua New Guinea are for the benefit of all Papua New Guineans and we consider it absurd that land required for commercial, industrial and housing areas, for roads, hospitals, schools, etc. should be under dispute.

4.47 Cases like the Newtown case waste time and effort.

We are appalled at the waste of energies and resources caused by the Newtown (Era Taora) and Town of Lae cases. We wish to quote the views of Mr. Justice Clarkson in the Supreme Court of Papua New Guinea on the 21st of November 1969 regarding the Newtown land case:

"No case could better illustrate the confusion, uncertainty and discontent which flows from repeated litigation of substantially the same issue as this case does. Since 1953 when the first formal step to obtain an adjudication was taken the present issues have been litigated before three different tribunals, each established under a different Ordinance and each having somewhat different powers and terms of reference, and each arriving at a different conclusion. The whole matter has been canvassed again before me on this appeal by five Counsel for almost a fortnight, and I have no reason to think that my decision will bring any finality after sixteen years of sporadic litigation."

Since Mr. Justice Clarkson's prediction there have been two further expensive law suits over Newtown. They are still inconclusive and some leaders of the Tubumaga clan claim that if they lose the verdict in the High Court of Australia they will try to appeal to the Privy Council. The Town of Lae case has been argued twice in the Supreme Court and might be further appealed to the High Court of Australia. Title to the township of Kerema has been upset because of the absence of a tiny percentage of the rightholders at the time of payment. Development has halted while the case is appealed.

4.48 Remedy of genuine grievances must be by administrative action.

This uncertainty and waste must be stopped by legislation and the adjustment of outstanding grievances undertaken by administrative action.

RECOMMENDATION 34

A PERMANENT COMMISSION OF INQUIRY CONSISTING OF ONE COMMISSIONER SHOULD BE SET UP TO INVESTIGATE CLAIMS TO URBAN ALIENATED LAND AND TO RECOMMEND COMPENSATION IN DESERVING CASES.

- 4.49 The Permanent Commission of Inquiry's powers should be limited by statute.

Claims which have already been dealt with should not be re-opened. If the Government's title is based on a purchase from all or some of the traditional rightholders and there is evidence proving this, then the claims should be dismissed.

- 4.50 Compensation should be paid in certain cases.

If the Government's title is based on a "waste and vacant" or "ownerless" declaration, on a confiscation, a compulsory acquisition upon which no compensation was paid or a purchase from people who were not the rightholders, then compensation to the claimants should be recommended provided they can prove that they are the descendants of the original rightholders.

- 4.51 Compensation should not be excessive.

The recommended compensation should not be based on concepts such as market value of unimproved capital value of the land. Present value in the land has been created by the people who have built the town, not the descendants of the traditional rightholders. The compensation must be to a certain extent arbitrary but it should include consideration of the points listed in Chapter 10 for the purchase of customary land and other additional assistance to enable the present population to establish enterprises and share in the general prosperity of the town. The House of Assembly should confirm guidelines of this kind for the guidance of the Permanent Commission and the Government. The Permanent Commission should recommend to Government which should have final decision on the amount to be paid. Regard must also be had to the finance available, the expected number of claims and other factors.

- 4.52 Compensation should be in a lasting form.

The compensation money should be paid in the form of capital to help set up development corporations or enterprises which will provide permanent income for the people. Some finance for this purpose might be

provided from the Australian grant referred to in Paragraphs 4.14-16, 4.34 and Chapter 15 below. The powers and procedures of the Permanent Commission of Inquiry will be dealt with in Chapter 11 "Land Administration".

4.53 Poor villages on the edge of towns should be assisted.

In or beside some of the big towns such as Port Moresby, there are villagers most of whose land was sold many years ago. The purchase money has long been spent and the villagers often feel resentful that they are not sharing the prosperity of the town that has grown on their former land. As with early rural purchases we do not believe that this constitutes a case for additional payments, nor should the land be returned. But we do recommend that Government should consider offering loans to the villagers, either;

- a) through the town councils to upgrade services to the urban villages, or
- b) directly to the villagers themselves to establish enterprises and share in the general level of prosperity in the town.

Control on alienated land.

RECOMMENDATION 35

THE CONTROLS WHICH SHOULD BE APPLIED TO CUSTOMARY LAND SHOULD ALSO APPLY TO ALIENATED LAND EXCEPT THAT

- (A) SUBJECT TO THE OTHER RECOMMENDATIONS OF THIS CHAPTER TRANSITION PROVISIONS SHOULD BE MADE FOR THE PRESENT HOLDERS OF TITLE TO ALIENATED LAND
- (B) THE RESTRICTIONS ON NUMBERS OF HOLDINGS AND ON MORTGAGING COULD BE RELAXED IN CERTAIN CIRCUMSTANCES, AS SUGGESTED IN PARAGRAPH 4.54 AND 4.55 OF THIS REPORT.

4.54 Mortgages

- a) We have recommended that mortgages of customary land should be to the Development Bank, The Papua New Guinea Banking Corporation and Government agencies and only later to approved trading banks. On alienated

land existing loans from trading banks and other private lenders should be protected. Whether loans for developments on alienated land should be permitted from trading banks and other private lenders in future is basically a matter of finance and business policy not land policy, but we have strong reservations about it because it tends to give increasing advantage to the money lending class and to the wealthier borrowers who are always able to get most credit (although this last weakness is not necessarily absent from official lending institutions either). We would prefer that, as far as funds permit (and these should not be exhausted in large loans to few borrowers) the holders of Government leases, like the holders of title to registered customary land, should borrow from the Development Bank, the Papua Guinea Banking Corporation and Government instrumentalities; or that individuals borrow from their own Savings and Loans Societies and Development Corporations. If it is considered necessary to permit future mortgages to trading banks and private lending authorities, some provision must be made that inexperienced borrowers or those with few capital reserves, do not over-extend themselves. We therefore suggest that mortgages of land to trading banks and private lending authorities by individuals or groups holding capital and land of less than say \$25,000 value, should require the approval of the District Land Control Board.

- b) We have recommended that the rights of a mortgagee over registered customary land should be limited to a power to enter and work the land for not more than 10 years.

- c) In the case of mortgages on government leases the mortgagee, in default of repayment of a loan should be empowered to sell the lease (and its improvements) provided the first option is given to the Government to purchase.

4.55 Number of registered holdings.

We have recommended in the Customary Land chapter that a person could have registered title to only one lot of farm land and one household site (in addition to un-registered customary land). A corporation should hold no more lots in multiples of 5 hectares of rural land or 0.10 hectares of urban land than there are members of the corporation. These limitations should include government leases also except that

a) Where existing persons, corporations or companies hold more than the recommended maximum they may continue to do so.

b) In regard to existing leases as they expire or to the issue of new leases the Land Control Boards should normally observe the following order of priorities (modified by some consideration of the capacity of the applicants to run the enterprise established or intended to be established on the land).

(i) A Papua New Guinean citizen or group who has not yet obtained his maximum recommended entitlement of registered holdings.

(ii) A Papua New Guinean citizen or group who has obtained his maximum recommended entitlement.

(iii) A non-citizen applicant. (A non-citizen renewing a lease should normally be required to involve Papua New Guinean citizens to a substantial extent in ownership and management.)

Chapter 5

URBAN LAND

5.1 Urban land problems are getting worse.

The towns are growing very quickly. Many migrants live on Government land or customary land in or near every town. Sometimes relations between customary rightholders and migrants are satisfactory, but they are often troubled. Some customary owners collect fair rents from the migrants; some exploit them. Some migrants (who may have come with the agreement of the customary rightholders) are joined by many relatives and friends, so that the customary rightholders are outnumbered and lose control of the land. A fair system of regulating the land rights of both groups is urgently needed.

5.2 A satisfactory system must take account of the following points:

- a) Many migrants have lived in the towns most of their lives and many children have been born in the migrant settlements. For these people the towns are home.
- b) We welcome the Government's intention to make villages and small towns more attractive and urge them to act decisively to carry out their intention to ease pressure on the big centres. But, however attractive rural areas become, or however severe the restrictions on migration to towns, the movement to towns will continue. In any case the small rural towns must themselves be developed in an orderly way.
- c) Towns will grow rapidly from natural increase of the existing population.
- d) The rights and needs of migrants, customary rightholders and the public generally must be met in urban land policy.
- e) The basic need is for Government to control enough land to house the present population and settle new migrants in an orderly way. Most of this should be on low covenant or no-covenant housing settlements.

5.3 Advantages of Government control.

- a) Town planning is very difficult where Government does not hold title to the land. Town planning overseas has often been frustrated where a lot of private individuals own different portions of the land.

- b) Government finance will be available to develop the land,
- c) Speculation in the land should be greatly reduced,
- d) Government could control and improve the migrant settlements which have got too large for customary rightholders to manage. (This is an important reason why several customary groups have entered into negotiations to lease to the Government.)

5.4 Disadvantages of Government control.

- a) It will need more trained, skilled staff,
- b) It will need money for town development,
- c) Problem of wasteful administration will have to be avoided.

5.5 Difficult to get enough land.

Town growth has occurred mainly through Government buying the land and leasing it to residents, but buying land from customary rightholders is no longer easy or cheap. Local people are aware of the difference between the prices originally paid for land and the value it gains through improvements and increasing demand. Most do not want to sell at all to the Government and certainly not at low prices; they want to capture more of the profit of land development.

5.6 How then is the land to be made available for town growth?

If an agreed purchase is not possible the main alternatives are:-

- a) Government to acquire the land compulsorily, paying rightholders either a fixed sum (compulsory purchase) or periodic rental (compulsory lease).
- b) Government to lease the land from customary rightholders on a voluntary basis.
- c) Allowing customary rightholders to lease direct to land users.
- d) Customary rightholders and Government and possibly private developers to develop the land as joint owners.

We make the following comments on each of these.

5.7 Compulsory acquisition.

- a) The simplest method is for the Government to extend the town boundaries, declare the land inside them to be 'national land' and compensate the traditional rightholders.
- b) Compulsory acquisition will be resented by many people and there will be some opposition as there is in any country. The Government of Papua New Guinea, like the Governments of other countries, will have to think of the needs of the nation and the majority of the people, rather than the minority who own land beside growing towns. Compulsory acquisition will depend upon the degree to which Government power can be exercised or accepted.

5.8 Government to lease from customary rightholders and sub-lease to land users.

This has already been done in a few cases. There are some disadvantages however. It is still difficult to get enough land in continuous areas quickly enough. Government often has to deal with many customary claimants over fragmented pieces of land. The customary rightholders can be excluded from any active role in the town development. They may be content to be passive receivers of rent, concerned only to press for rent revision and a greater share of the revenue.

5.9 Customary rightholders to lease direct to land users.

- a) Some customary rightholders would like to do this and in some areas are already doing so with the knowledge or encouragement of Government officials.

b) Advantages:

- (i) Some land will be released for town development voluntarily.
- (ii) Transfers can take place quickly and easily without putting an additional load on the Government machinery.

c) Disadvantages:

- (i) It creates a basic division of society between landlords and tenants. This may not be a serious problem in the early stages, but in Asia, Latin

American and parts of Europe it has led to social and political disaster. We do not accept the assumption of many Australians and members of other capitalist societies that it is a natural

and normal relationship which every society must undergo. The present Australian Government has set up a Commission of Inquiry to find ways in which Government can take over more urban land and cut down direct leasing and land speculation in the towns.

- (ii) Local rightholders will lack capital for development and will have to borrow or lease the land to investors who can develop it. This may often open the way for overseas investors to exploit local rightholders or get too much control of the growing towns.
- (iii) Exploitation of Papua New Guinean land users by Papua New Guinean land owners is also possible.
- (iv) For these reasons Government control of rent arrangements would be necessary. Orderly town planning also requires controls. But control is difficult to enforce where the land is owned by many owners. It is necessary to bring urban land into the hands of a few individuals or corporations, either private or Government. If so much planning and regulation is necessary, and Government is so heavily involved anyway, it might be preferable that Government acquire the main rights in the first place.

5.10 Government and customary rightholders to develop the land in joint ownership.

- a) If Government lends money or skills to help customary rightholders to develop land it should get its money back. We see no justice in spending public money to help a few people to become rich landlords. Government might get its money back through repayment of instalments, plus interest, but inflation will reduce the value of this money. Alternatively the Government can form a joint corporation (possibly together with development companies) to develop the land; Government would then recover its investment through profits from its shareholding.
- b) This is obviously not suitable for low covenant housing areas, which is the greatest immediate need. (There would be no profit.) It may be useful for high covenant housing and industrial development.

5.11 RECOMMENDATIONS

We have tried to balance all the above factors, particularly (a) the need to get a good deal of land quickly, (b) the reluctance of people to sell and the uncertain strength of Government to acquire land by compulsory process, (c) disadvantages of extending private landlordism. We make the following recommendations:

RECOMMENDATION 36

- (A) MUCH MORE LAND WILL BE REQUIRED FOR TOWN GROWTH, ESPECIALLY FOR LOW-COST HOUSING.
- (B) THE MAIN AIM OF POLICY SHOULD BE TO BRING ALL URBAN LAND UNDER PUBLIC OWNERSHIP. THE TIMING, MANNER AND EXTENT OF GOVERNMENT ASSERTION OF CONTROL IS A POLITICAL MATTER AND MUST PROCEED AT THE GOVERNMENT'S DISCRETION.

RECOMMENDATION 37

GOVERNMENT SHOULD AVOID PAYING HIGH PRICES FOR UNIMPROVED LAND NEAR TOWNS BUT COULD OFFER TO CUSTOMARY RIGHTHOLDERS, AS INDUCEMENTS TO SELL:

- (A) A NUMBER OF BLOCKS IN THE NEW DEVELOPMENT ON CONDITIONAL FREEHOLD.
- (B) SHARES IN COMMERCIAL ENTERPRISES DEVELOPED ON THE LAND. (THERE SHOULD BE SOME SMALL BUSINESSES IN OR NEAR MOST RESIDENTIAL AREAS.) A GUARANTEED SHARE OF THE GROWING PROSPERITY OF THE TOWN SHOULD BE HELD OUT AS A GREATER ATTRACTION THAN A HIGH INITIAL PURCHASE PRICE.

RECOMMENDATION 38

THE JOINT CORPORATION CONCEPT SHOULD BE EXPLORED FURTHER, BUT WE DOUBT THAT GOVERNMENT HAS ENOUGH SKILLED STAFF AVAILABLE AT PRESENT TO ATTEMPT IT ON ANYTHING BUT AN EXPERIMENTAL SCALE.

RECOMMENDATION 39

FOR THIS REASON, AND BECAUSE COMPULSORY ACQUISITION MAY NOT BE POLITICALLY POSSIBLE, WE RECOMMEND THAT LIMITED DIRECT LEASING BE ALLOWED AND THAT THE MATTER BE INVESTIGATED AGAIN AFTER 5 YEARS IN THE LIGHT OF THAT EXPERIENCE.

RECOMMENDATION 40

THE FOLLOWING CONDITIONS SHOULD APPLY TO DIRECT LEASING:

- (A) GOVERNMENT MUST HAVE OVER-RIDING CONTROL OF RENTAL ARRANGEMENTS AND ENSURE THAT DEVELOPMENT CONFORMS WITH TOWN PLANNING. IT COULD CONSIDER COLLECTING THE RENTS FOR THE OWNERS USING THE HOUSING COMMISSION AS AN AGENT.
- (B) THE LAND SHOULD BE REGISTERED UNDER GROUP TITLE OR CONDITIONAL FREEHOLD BEFORE LEASING.
- (C) NO INDIVIDUAL CUSTOMARY RIGHTHOLDER SHOULD LET MORE THAN ONE RESIDENTIAL BUILDING SITE OF MAXIMUM SIZE 0.10 HECTARE: REGISTERED CUSTOMARY GROUPS SHOULD BE PERMITTED TO LET NO MORE SITES THAN THERE ARE MEMBERS OF THE GROUP.
- (D) DIRECT LEASING SHOULD NOT APPLY TO ANY BUSINESS OR INDUSTRIAL SITES WHICH INVOLVE OVERSEAS INVESTMENT BUT COULD APPLY TO BUSINESS OR INDUSTRY BY PAPUA NEW GUINEANS TO A MAXIMUM OF \$10,000. THIS FIGURE WAS SELECTED BECAUSE WE WANT SMALL PAPUA NEW GUINEAN BUSINESSMEN TO BE ABLE TO WORK WITHOUT UNNECESSARY RESTRICTIONS (WHICH COULD CRIPPLE THEM); BUT THE FIGURE SHOULD NOT BE TOO HIGH BECAUSE IT WILL LET THE WEALTHIER MEN GET THE BEST SITES VERY EASILY. HOWEVER, WE ASSUME THAT THE POORER MEN CAN GET DEVELOPMENT BANK LOANS FOR A BUSINESS ON A REGISTERED DIRECT LEASE. THESE MATTERS WILL HAVE TO BE WATCHED CLOSELY IN THE NEXT 5 YEARS.

5.12 Fair rent, payment or compensation.

- a) Land has value according to the actual use made of it, the improvements put on it by work and money, and a reasonable rate for the value that people give to the possession of land. We do not believe that the added value which arises from the historical accident of a town growing on or near the land, should be paid to the few customary rightholders who happen to live on it. It is the public who have built the town, who have given the land that added value. We do not believe that the public, through the Government, should have to pay customary owners that added value; we object to paying unearned income to make a few rich at the expense of the majority.
- b) But we also do not wish to see customary rightholders left in a situation of relative poverty because of the historical accident that a prosperous town has grown up on and around their land. They should be entitled to share in the develop-

ment of the town. At the present time, if they are to release their land voluntarily for urban development, periodic revaluation of rent according to improvements may be necessary. But we would prefer that the rightholders receive their return as active workers in the development of the town, not as passive receivers of increasing rent out of other people's labour. We have therefore recommended that initial cash payments (whether for purchase or lease) should be low, but that customary rightholders should be granted a number of building sites on registered title and be included when convenient in the shareholding and in the management and employment opportunities in the business enterprises developing on their land. They should be encouraged to become responsible for good development as well as receiving the profits from it.

RECOMMENDATION 41

IF THE GOVERNMENT RENTS THE LAND FOR LOW COVENANT HOUSING THE CUSTOMARY OWNERS SHOULD BE PAID A MODEST, BUT NOT EXPLOITATIVE, PERCENTAGE OF RENTALS COLLECTED FROM THE SUB-TENANTS. AS FAR AS POSSIBLE PAYMENT SHOULD BE IN THE FORM OF HOUSING OR TRUST FUNDS OR SHARES IN COMMERCIAL ENTERPRISES FOR THE CUSTOMARY RIGHTHOLDERS TO OPERATE, RATHER THAN IN CASH PAYMENTS WHICH ARE EASILY SPENT.

RECOMMENDATION 42

ONCE LAND IS ACQUIRED, THE ACTUAL SETTLEMENT OF MIGRANTS UPON IT SHOULD BE AS SIMPLE AND INEXPENSIVE AS POSSIBLE.

5.13 The needs for low-cost housing.

We welcome the move towards creation of low covenant or no covenant housing areas with basic services such as water and refuse disposal supplied. We are impressed by the great energy and high standards shown by the people of the Hicoast settlement at Lae where the migrants dug their own drains, made their own roads, and built their own houses and community facilities of very high standard. The important factors contributing to this were security of title to each householder, ample time to make the improvements, a minimum of formal demands about standard of building structure and a sensitive effort on the part of the Local Community Officer to release the energies of the people through their committees. We also note that the Hicoast settlement shows that people of many different regions of the country can live and work together in harmony. This is an example of what could be achieved on Government owned land.

RECOMMENDATION 43

PROVIDED THAT SUITABLE ALTERNATIVE BUILDING SITES ARE AVAILABLE WHERE MIGRANTS CAN OBTAIN A SECURE INDIVIDUAL TITLE AND ACCESS TO BASIC SERVICES AND PUBLIC TRANSPORT, THE LAWS AGAINST UNAUTHORISED BUILDING ON CUSTOMARY OR GOVERNMENT LAND SHOULD BE STRICTLY ENFORCED.

5.14 'Squatting' (as distinct from 'migration') should be stopped where possible.

Enforcement without the provision of satisfactory alternative building sites should not be attempted. New unauthorised dwellings should be pulled down and their builders offered sites on planned areas. The law on eviction appears to be adequate except that responsibility for giving the order for enforcement is not clear. We suggest it be vested in the Housing Commission, but exercised through the ward committees and committees of residents. (We note that committees of the Hicoast settlement have occasionally evicted residents who have failed to carry out requirement improvements or who proved very anti-social.) Recent suggestions that 'owners' should be defined as the builder of the house, not the owner of the land, appear to be necessary.

RECOMMENDATION 44

- (A) THE RIGHTS OF LONG-ESTABLISHED MIGRANTS SHOULD BE RECOGNISED.
- (B) LONG-ESTABLISHED SETTLEMENTS SHOULD NOT BE SUDDENLY DESTROYED. DISCUSSION AMONG MIGRANTS, GOVERNMENT REPRESENTATIVES AND CUSTOMARY RIGHTHOLDERS SHOULD FIRST ESTABLISH THE PROPER NUMBER OF MIGRANT DWELLINGS WHICH SHOULD BE PERMITTED. THE EXCESS POPULATION SHOULD BE HELPED TO MOVE TO THE PLANNED AREAS.
- (C) IF EXPERIENCE IN THE NEXT FIVE YEARS PROVES THAT SATISFACTORY ARRANGEMENTS FOR LONG-ESTABLISHED MIGRANTS CANNOT BE MADE BY AGREEMENT WITH CUSTOMARY RIGHTHOLDERS, WE RECOMMEND THEY BE GIVEN TITLE BY ADVERSE POSSESSION. THE PERIOD OF RESIDENCE REQUIRED TO QUALIFY UNDER SUCH A LAW SHOULD BE TEN YEARS.

5.15 Long-established migrants need protection.

In Newak, for example, some of the early migrants who came by invitation or at least with consent of the customary right-holders, are very willing to join in discussions with them to reach agreement on a desirable number of migrants. These early migrants have paid money and gifts to the customary right-holders and improved the land, but they have been joined by a number of relatives.

The customary rightholders are now inclined to evict them all. This seems unfair and unnecessary. The migrants have acquired rights by long residence. They have certainly earned the right to be offered good alternative sites and compensation for their improvements.

RECOMMENDATION 45

TOWN PLANNING STANDARDS SHOULD BE DESIGNED FOR PAPUA NEW GUINEANS TO DEVELOP LAND AS THEY WISH. BASIC RULES ON SERVICES AND SANITATION ARE CLEARLY NEEDED BUT AUSTRALIAN RULES SHOULD HAVE NO NECESSARY PLACE IN THIS COUNTRY.

5.16 Present town planning is too foreign.

An overall plan and basic layout of boundary roads and main water lines and basic sanitation are clearly necessary to safeguard the public interest and reduce costs. But what happens inside individual housing areas should be left as much as possible to the discretion of Local Committees of land users with minimum control by town planners. Town planning decisions should be designed to town level as far as possible, the Central Government offering expert services and imposing guidelines only in so far as national interest is concerned.

RECOMMENDATION 46

SELF-HELP HOUSING SCHEMES ON A CO-OPERATIVE BASIS SHOULD BE FOSTERED AS AN ALTERNATIVE TO INDIVIDUAL HOME BUILDING.

5.17 Co-operative housing should be encouraged.

Some schemes are already partly co-operative, involving individual effort under the guidance of a general management committee. Several models of co-operative housing schemes

involving joint borrowing, joint house-building, building blocks of flats, etc. are available from Tanzania and should be studied further.

RECOMMENDATION 47

THE ADVANTAGES AND DISADVANTAGES OF LOW-COST HIGH DENSITY HOUSING SHOULD BE STUDIED.

5.18 Some high-density housing may be needed.

High density housing is found in most big cities. The buildings can be 2 or 3 storeys high and divided into apartments. High density uses very little land, needs few roads, water pipes and sewers, and is the cheapest way to provide electricity, and other services. For the bigger towns the need for it needs more study. (Essential feature of good high density housing would be porches for children to play indoors as well as ample playground areas outside.)

5.19 Administration of urban land and housing.

At the moment there is confusion and sometimes conflict between Local Councils, the Housing Commission, Lands Department, Department of Social Development and Home Affairs and sometimes other bodies as well. We think this confusion may be eased by the following:-

a) Town boundaries should be extended (as in Port Moresby but not in Lae, Rabaul, etc.) to include the migrant settlements and customary villages outside the main town area. This will bring the settlements within the control of the town authorities and proper planning, as well as offering them the services of the town.

b) Overall planning both for existing settlements and for new settlement may be better if vested in a statutory Urban Commissioner within the Department of the Chief Minister and Development Administration. If a Commissioner was found to be the best method, he should have responsibility for

co-ordinating the work of the various Departments and agencies involved, including District Governments and the various town authorities.

- c) Dealing with customary rightholders for land should be the responsibility of the District Office of Lands Department, in accordance with plans developed by the District and town authorities. Town planning services should be made available to the local boards by Lands Department.
- d) The development of residential land (sub-division, supply of services), should be the responsibility of the Housing Commission.
- e) Administration of the residential leases (including charges of tenancies, evictions and collection of rents) after services are established and houses occupied should also, for the time being, remain with the Housing Commission. Eventually it may pass to the town authorities, but we feel that a Central Government agency like the Housing Commission is usually more efficient because it can attract and retain better staff. Town authorities are everywhere more prone to corruption and we do not expect that the town authorities of Papua New Guinea can always escape it.
- f) The administration of industrial leases should be the responsibility of the District Lands Officer, under direction from the District Land Control Boards.
- g) The day to day administration of services, including the collection of charges from the land users, should be the responsibility of the local town authority working through ward committees and residents' committees.
- h) Welfare assistance including assistance with urban resettlement should be given by Community Development Officers of the Department of Social development and Home Affairs as at present.

RECOMMENDATION 48

THE SYSTEM OF AUTHORITIES RUNNING TOWNS WILL NEED TO BE RE-EXAMINED WITH A VIEW TO SIMPLIFICATION. A CONFERENCE OF THE BODIES LISTED IN PARAGRAPH 5.19 SHOULD BE HELD TO DISCUSS THE SUGGESTIONS MADE IN THE PARAGRAPH.

RECOMMENDATION 49

IN ORDER TO DEAL WITH CUSTOMARY RIGHTHOLDERS, REGISTRATION OF GROUP TITLES AND THE CONSTITUTION OF THE RIGHTHOLDING GROUP AS A LEGAL ENTITY IS URGENTLY NEEDED.

5.20 Some Urban Land-Holding Groups need registration.

- a) We have dealt with kinds of group title and the powers of representative committees of owners in the Section on Customary Land. Once a group has been registered it could sell or lease to Government, or develop its land subject to Government controls.
- b) Once group titles are registered, groups could give individual fixed-term or heritable occupation rights, particularly for house sites for members of the group itself.
- c) Where the traditional group is small - no more than one nuclear family - conditional freehold titles could be issued.

RECOMMENDATION 50

THE QUESTION OF CHARGES FROM RATES, RENTS, SERVICES AND LAND TAX REQUIRES FURTHER CONSIDERATION.

5.21 Collecting the costs.

For ease of collection, and for ease of payment by the people, the following division of cost and charges is suggested:-

- a) Costs to Government of registering and surveying the land should be paid by the customary rightholders partly as a fee at the time of registration, or partly by direct deduction from rents and dividends produced by the land which should be collected by the Housing Commission.
- b) Costs of providing and maintaining services should be collected from the tenants as rates by the town authorities.
- c) Cost of providing land and housing to be collected by Housing Commission as rent.
- d) Land Tax as a way of raising revenue and as an incentive to develop unused land should be paid by registered rightholders where possible. However, collection is likely to be difficult, and decisions on when and where land tax should be levied should be at the discretion of Government.

5.22 Other urban land questions

The problems of title to urban alienated land are discussed in Chapter 4, Part V, paragraphs 4.47 to 4.54.

Chapter 6

NATIONAL LAND

I INTRODUCTION

6.1 Government should hold enough land to meet public needs

So that the Government can distribute land according to people's needs, provide land for development of towns and for rural land settlements, and control the rents which people have to pay for land, we believe that all land now held by the Administration and all land bought by the Central Government in the future should be treated as "National Land". The Central Government should hold all National Land for the benefit of the people of Papua New Guinea as a whole.

RECOMMENDATION 51

- (A) LAND HELD BY THE CENTRAL GOVERNMENT SHOULD BE REGISTERED AND CALLED "NATIONAL LAND". IT SHOULD BE USED AS THE GOVERNMENT SEES FIT FOR THE BENEFIT OF PAPUA NEW GUINEANS.
- (B) GOVERNMENT SHOULD HAVE POWER TO ACQUIRE MORE LAND IN ORDER TO MEET PUBLIC NEEDS.

6.2 What land is National Land?

National Land should include -

- a) Land already owned by the Government, whether leased to private persons or companies or not,
- b) All freehold land converted into Government leases,
- c) Future Government purchases from Papua New Guineans,
- d) Future compulsory acquisitions by the Government,
- e) Future declarations of national land by the Government.

All national land should be registered.

II FUTURE NEEDS FOR MORE NATIONAL LAND

6.3 Government will need to get more land in the future

We expect that the Government will need to get more land in the future, in particular for the following purposes -

- a) for public purposes, such as roads, schools, hospitals, airfields and other Government services;

- b) for new land settlement schemes;
- c) to set up new businesses for Papua New Guineans;
- d) to set up joint enterprises between foreign investors and Papua New Guineans;
- e) to provide land for town-dwellers and others who have little or no customary land.

6.4 People may want to hold Government leases

In future it is likely that many Papua New Guineans will want to lease land from the Government in order to get a clear title. We recommend that the Government should consider buying more land to lease to Papua New Guineans. By giving people many different ways of obtaining rights to land, the Government can find out which land holding systems are most wanted by Papua New Guineans.

6.5 Government should control the growth of landlords

In countries where landlords are not controlled some people are able to get hold of large areas in towns and in farming areas and make big profits by leasing blocks to others. As the people who lease the land put improvements on it, the owners of the land raise the rent. When the lease finishes the owner gets back the land with valuable improvements on it, which he gets the benefit from, even though he did not put any work or money into creating those improvements. We think that this is unjust, and one way to limit it is for the Government to buy land which it can make available to people at reasonable rents and on fair conditions. If the Government is able to do this, people are less likely to pay high rents to other landowners.

III FUTURE PURCHASES OF NATIONAL LAND

RECOMMENDATION 52

GOVERNMENT SHOULD ONLY BUY LAND IF IT IS REASONABLY SATISFIED, AFTER FULL INVESTIGATION, THAT THE CUSTOMARY RIGHTHOLDERS ARE WILLING TO SELL AND THAT AFTER THE LAND IS SOLD THERE WILL STILL BE ENOUGH LAND LEFT FOR THE FUTURE NEEDS OF THE PRESENT POPULATION OF RIGHTHOLDERS FOR SUBSISTENCE AND CASH-CROPPING PURPOSES; THE FUTURE NEEDS SHOULD BE WORKED OUT AS EQUAL TO TWICE THE PRESENT NEEDS OF THE PRESENT POPULATION. IF THE GOVERNMENT IS NOT SATISFIED THAT THIS IS THE CASE, THEN IT SHOULD ONLY LEASE THE LAND UNTIL IT IS NEEDED BY THE GROWING POPULATION.

6.6 Government will need the power to buy land for the purposes mentioned

We have recommended in Chapter 11 on Land Administration that officers at present employed in the Division of District Administration should be responsible for carrying out investigations, and should act in the transaction in the interests of the persons selling or leasing. These officers should work out the present needs of the present population involved in the purchase for subsistence and cash-cropping purposes, and then report to the Central Government so that it can decide whether the people can afford to be without the land required by the Government. We think that this recommendation will make the work of the officers involved in the purchase easier than the present requirements under Section 16 of the Land Ordinance, and will at the same time protect the interests of the many Papua New Guineans who still need assistance in negotiations for the purchase of land by the Government. Recommendations on the purchase price are contained in Chapter 10 on Valuation.

IV COMPULSORY ACQUISITIONS

RECOMMENDATION 53

- (A) GOVERNMENT'S POWER OF COMPULSORY ACQUISITION SHOULD BE EXTENDED TO COVER NEW PUBLIC PURPOSES. A DECLARATION OF A NEW PUBLIC PURPOSE SHOULD ONLY BE MADE BY THE HOUSE OF ASSEMBLY.
- (B) ALL NOTICES OF COMPULSORY ACQUISITIONS SHOULD BE TABLED IN THE HOUSE OF ASSEMBLY. A SHORT PERIOD SHOULD BE FIXED DURING WHICH THE HOUSE OF ASSEMBLY CAN CANCEL A COMPULSORY ACQUISITION IF IT SEES FIT.
- (C) COMPENSATION FOR A COMPULSORY PURCHASE OF CUSTOMARY LAND SHOULD BE THE SAME AS THE VALUATION FOR A NORMAL PURCHASE OF CUSTOMARY LAND (SEE CHAPTER 10).

6.7 Government's power of compulsory purchase should be extended

Any Government must have power to buy land compulsorily for public purposes. We think that the present list of public purposes in Section 6 of the Land Ordinance (1962-1972) should be extended to give the Government power to:-

- a) Buy developed land in order to reallocate it to Papua New Guineans in the area who are short of land for cash cropping or subsistence purposes.

- b) Buy land for land settlement schemes for land-short Papua New Guineans.
- c) Buy land for essential town growth.

The Government should not be afraid to use these powers when rightholders refuse to make land available that the Government urgently needs for public purposes; but it should always try to negotiate a purchase before it exercises these powers.

RECOMMENDATION 54

IF LAND, OTHER THAN URBAN LAND, WHICH IS COMPULSORILY ACQUIRED FOR A PUBLIC PURPOSE IS NOT BEING USED FOR A PUBLIC PURPOSE AT THE END OF TEN YEARS FROM THE DATE OF PURCHASE, THEN THE LAND SHOULD REVERT TO THE ORIGINAL RIGHTHOLDERS WITHOUT ANY OBLIGATION ON THEM TO RETURN THE PURCHASE PRICE.

6.8 Acquired land must be used for a public purpose

The Government should not use its power to buy land compulsorily in rural areas until it has a clear use in mind for the land. What amounts to "use" of the land should be defined in legislation and disputes on the question should be dealt with by the District Land Court with an appeal to the Supreme Court.

6.9 Urban land should be an exception

We believe that the Government should have the power to acquire compulsorily large areas of land around the cities and towns of Papua New Guinea and areas for the new towns or "growth centres" in the rural areas. The Government ought to be able to hold these pieces of land unused for long periods and there should be no reversion of the title. We think this exception in relation to urban land is justified because we believe that the movement of people into the towns will continue no matter what policies the Government adopts to try to stop it. Thus the Government will have to have available to it large areas of urban land to provide cheap housing for these people.

If this land is left in the hands of the customary owners they will want more money for it than the new settlers could afford and there would be great trouble. The Government's title to this land should be clear, but it could allow temporary occupation by customary rightholders until it needs the land.

6.10 Government's power will not be completely unlimited

As to the methods of compulsory acquisition, we do not agree with the provision of the proposed Land (Definition of Public

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Purposes) Bill, 1973 which would have allowed the Administrator in Council by notice in the Gazette to declare any purpose to be a public purpose and in the national or public interest. We consider that this power, which appears to be unexaminable, either by the Courts or the Legislature, is too wide and could lead the Government to compulsorily acquire land for things which were not really public purposes.

6.11 Only the House of Assembly should declare a public purpose

We believe that the argument, that you cannot foresee all public purposes and thus should give the Government all the power to decide whether a need is a public purpose or not, is not valid. If a new need emerges then the Government could ask the House of Assembly to add it to the list of public purposes in the Land Ordinance. The House of Assembly could reject it if it was not a true public purpose. This would provide a valuable check on the Government's executive power.

6.12 Supreme Court should be able to examine the acquisition

At present it is unclear whether at law the Supreme Court can check on a compulsory purchase to see if the Government has acted in good faith. We think it should be made clear in the legislation that the Supreme Court has the power to check the facts surrounding a compulsory purchase to see if the Government is in good faith buying the land for a genuine public purpose. Another

check on the Government's power would be to require it by law to

table in the House of Assembly all notices of compulsory purchases and allow the House a short period to examine them and cancel a notice if it sees fit.

V DECLARATIONS OF NATIONAL LAND

RECOMMENDATION 55

FOR THE BETTER USE OF THE LAND, PARTICULARLY WHERE THERE ARE BIG AREAS OF VIRGIN FOREST AND ONLY A SMALL POPULATION, THE GOVERNMENT SHOULD HAVE POWER TO DECLARE SOME PARTS OF THE LAND WHICH IT BELIEVES, AFTER INVESTIGATION, HAS NOT BEEN USED FOR AGRICULTURAL PURPOSES WITHIN THE LAST 20 YEARS TO BE NATIONAL LAND.

6.13 Present power is very wide

Section 83 (1) of the Land Ordinance (1962-1972) provides:-

"The Administrator may by notice in the Gazette declare that land which appears to him not to be native land shall, unless good cause is shown to the contrary, be conclusively

deemed for all purposes, at the expiration of three months from the date of the publication of the notice not to be native land."

This replaces the power to make waste and vacant declarations in the earlier law.

6.14 Government should only exercise this power where the land is presently needed

We believe that the Government should have the power to declare land to be National Land but subject to greater limitations. We consider that the Government should not exercise this power unless

it has a present need for the land. It should be obliged by the legislation to make a thorough investigation of the land and advise the people in the area when a declaration of National Land is made. The test should be whether the land has been used for any form of agriculture in the last 20 years. If it has not been so used and the Government requires it for purposes it thinks will benefit the nation, then it should declare the land National Land. We expect that the power will be used mainly in sparsely populated rural areas where the Government wish to take rights in land in order to declare the area a Territory forest (we suggest the term "national forest" be used) or a water catchment area.

6.15 Certain rights should be preserved

If people have been exercising non-agricultural rights such as hunting and gathering rights on the land, these rights should be preserved and marked as encumbrances on the Government's title. If it becomes necessary to stop these rights, the rightholders should then be paid for the loss of the rights they are then using.

6.16 Disputes should be dealt with by the Courts

If disputes arise as to whether a person or persons were exercising agricultural rights over the land, these could be referred within a year of making of the declaration of National Land to the District Land Court for decision, with an appeal to the Supreme Court. There should be power in the District Land Court to extend the period if good reasons are shown. Disputes about non-agricultural rights could be dealt with in the same way. Only those rights which were being exercised at the time of the declaration should be preserved and should qualify for compensation.

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6.17 Courts may refer the Government to unused land for its consideration

As we mention in Chapter 8.10 (f) the Land Courts should have the discretionary power to refer to the Government for further investigation any land in which they believe people have either no rights or very few rights so that the Government can consider whether it wants to declare such land National Land.

Chapter 7

SUCCESSION TO LAND

I INTRODUCTION

7.1 Terms of Reference

Paragraph 2 of the terms of reference asked us to give attention to -

"(f) the principles of customary laws of succession as they apply to registered land";

and in paragraph 3 to look at and report on -

"(b) sale, inheritance and other forms of transmission of customary rights."

To do this fully would take much more time than we have to make our Report. But we think we have collected enough evidence on which to make recommendations.

7.2 All Papua New Guinea customs allowed some wills

We think that under the custom of all groups in Papua New Guinea, old men could state what would happen to their property after their death. All societies put limits on this (e.g. a person could not pass land to an outsider), and customs varied a lot. But it seems that each man had some right of disposal over his own property.

II PRESENT LAW

7.3 At present succession to customary land is only by custom

The present law in both Papua and New Guinea is that customary land can be handed on at death only according to custom. In Papua a person cannot dispose of customary land by will (Reg. 172 Native Regulations). In New Guinea a person can make a will to dispose of customary land, but only if the will is in accordance with custom and disposes of property in a way allowed by custom. (Reg. 76 Administration Regulations). It is not clear whether in Regulation 76 "will" means an oral will or a written will of the kind recognized by the introduced law.

7.4 Tenure converted land can be willed

The holder of land which has been tenure converted under the Land (Tenure Conversion) Ordinance may dispose of that land by will. This is a generally held view, but it may have been opened to doubt by the decision of Mr. Acting Justice Robson in the case

called In the Land & Goods of Doa Minch (judgement 758). This case shows the difficulties of applying the present laws to the new interests in land which Papua New Guineans are obtaining today. It shows the urgency for making new laws to deal with the new circumstances. Where the landholder dies without making a will, then rights in the land are handed on according to the custom. The Doa Minch Case is authority for that law.

7.5 Freehold and leasehold land can be willed

At present Papua New Guineans can hold registered interests only in freehold and leasehold land. A Papua New Guinean who holds such rights may dispose of those rights by will to whoever he likes. However, if he does not make proper arrangements for the support of his wife and children then they can apply to the Supreme Court to have the will changed. If he dies without making a will then the practice has been for the Director of District Administration to give a certificate to the Registrar General stating who has become the successor to the dead man's rights in the freehold or leasehold, and the Registrar General then makes the necessary changes to the title papers.

III PROBLEMS WITH PRESENT LAW

7.6 Many different succession laws now exist in Papua New Guinea

There is the Wills, Probate and Administration Ordinance 1967, which is largely based on the ideas and needs of Australians. It does not apply to customary land. Succession to customary land is provided for by the Native Regulations 1939 in Papua and the Native Administration Regulations 1924 in New Guinea. These two sets of Regulations are different, so that the law which applies in Papua is different from the law which applies in New Guinea. In addition, both sets of Regulations have existed largely unchanged from the early days of the Australian administration. They were not designed to deal with the new interests in land which are emerging. Finally, there are all the different customary rules of succession, which vary from one area to another. To discover the right custom to apply is very difficult.

7.7 Succession to customary land now causes many problems

The main problem arises when people try to change the customary rules of succession, for example, by a man buying rights in land from his mother's line so that he can will those rights to his son. Upon the man's death, pressure is often put on the son by the mother's line to leave his father's land so that it returns

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to the mother's line. The Commission expects that the new interests in land which it recommends (e.g. the heritable occupation right) will allow a father to make such provision for his children, and that their rights will be protected after his death.

7.8 Disputes about unregistered customary land

The Commission, accordingly, does not wish to make detailed recommendations about succession to customary interests in land which have not been registered. Any disagreements over succession to unregistered customary interests in land can be dealt with by the dispute settlement machinery. Provision has been made in Chapter 8.10 (f) on Dispute Settlement for a "dispute" to include a disagreement over succession, so that it can be handled by mediation, arbitration and appeal.

7.9 Problems of succession to alienated land

In the last year or so the problems with succession of Papua New Guineans to rights in alienated land have increased. Custom never had to face the problem of succession to large areas of land with valuable assets on them and it cannot cope at present. There are arguments between the possible successors both arguing a custom that favours their interest. There is no satisfactory way to solve these disputes and so the assets are left in the hands of managers who are not trained, and who have many other duties to carry out. Furthermore the present law on succession, some of which was enacted before World War II when no Papua New Guineans had assets of great value, is difficult to apply. It was not designed to cope with such problems. The decision in the Doa Minch Case shows these difficulties.

IV POLICY CONSIDERATIONS ABOUT SUCCESSION IN FUTURE

7.10 Rules of succession should be simple and clear

New rules should not be introduced where there is no need for them, because they would cause confusion, and could have results which cannot be foreseen.

7.11 The same succession law should apply to everyone

The Commission strongly recommends the introduction of one law of succession to apply to Papua New Guinea as a whole, and to all persons in Papua New Guinea. While we do not see any good reason to distinguish between interests in land and other types of property,

our terms of reference ask us to deal with interests in land. In our opinion there should be one general law to apply to all

property. The law of succession to interests in land, particularly any new interests set up by legislation, cannot wait for a general law of succession, so interests in land will have to be treated separately at this stage, and a law of succession to such interests should be introduced as soon as possible. This one law of succession to interests in land would have to allow for exceptions (for example, for unregistered customary rights in land where no will has been made), but we think that the law which applies to a person from Papua should be the same as the law which applies to a person from New Guinea. The law which applies to nationals from another country who die leaving interests in land in Papua New Guinea should be the same as the law which applies to nationals of Papua New Guinea.

7.12 Wills disposing of land interests should be encouraged

At least where custom allows this, and elsewhere if people want it, wills should be allowed, to avoid many of the problems which arise on a person's death if he has not stated his wishes about how his interests in land should be distributed. We feel that it is good to give any person the chance to dispose of his property in the way he likes, if custom allows it.

7.13 Rules needed where no will was made

To avoid confusion and dispute, the law should make rules about which of the near relatives of the dead man should succeed to his interests in land, if he dies without making a will relating to his interests in land. We feel that it would not be desirable at this time to apply such rules to unregistered customary land, but it would be desirable to apply such rules to the new interests in land which are being registered.

7.14 Ideas about wills and succession are changing

Even if the making of wills is encouraged, in many cases persons holding registered interests in land will die without stating their wishes about who is to succeed to those interests. Thinking will vary from one place to another about who should be the dead person's successor in such circumstances. Such thinking in each area may change with time. We have noticed in some areas a change of emphasis from the rights of a person's clan to the rights of a person's close family to such property.

This shift of emphasis has meant the growth of children's rights and widow's rights to a dead man's property, and the weakening of brothers' rights.

7.15 Model rules could help

For these reasons we think that the rules which set out who should succeed to a dead man's registered interests in land where he does not make a will should be able to be varied from one area to another. The best way of doing this may be by the Central Government providing a number of model rules for succession where a person dies without making a will, and allowing the local area to adopt one of the models with or without variation. In this way we feel that the new rules of succession can recognize the customary rules where appropriate, at the same time allowing for changes in the customary rules which come about with new circumstances.

7.16 Central Government review every five years

In order that local rules on succession should adjust to changing custom we suggest that they be reviewed at five year intervals. The differences in people's thinking about succession are likely to narrow over the years. In some areas sons' rights may become more important than brothers' rights, and the rights of women to succeed to land may increase in the future. We do

not want to see unnecessary differences between areas imposed

on people by the succession rules.

7.17 Example of a model rule for succession where no will is made

A model of the sort of rule which might be adopted is as follows -

"If the rightholder does not make a will, then the right shall pass to one of the following persons in the following order -

- a) the eldest son living on or near the land;
- b) the eldest daughter living on or near the land;
- c) the widow of the dead man.

If the right passes to the dead man's widow, then the land goes back to the group which granted the occupation right upon -

- (i) the death of the widow; or
- (ii) the remarriage of the widow."

7.18 Each District should be able to select its own rules

The best area to be covered by the rules for succession where a person dies without making a will is the District, and the body to adopt such succession rules should be the proposed District Government. The District Government should be able to vary the rules for different areas in the District after discussion with Local Government Councils, to allow for differences and changes of custom within the District. To give such powers to the District Government is in keeping with the Eight Point Development Programme.

7.19 The danger of fragmentation by inheritance

A risk with registered rights to rural land is that, upon a person's death, his interests in land may be divided into units which are too small for economic production. This can lead to overcrowding and a drop in production from the land. For this reason we think that no house-site less than one-twentieth of a hectare and no other land less than one hectare should be registered as a single holding. These sizes can be reviewed after 5 years. In the meantime, smaller sizes of land can be held as customary land. A person refused registration because his land is smaller than these sizes should be able to apply to the Local Land Court to examine the circumstances, and mediate or arbitrate a settlement either -

- a) to allow a holding of acceptable size to be registered, (for example, by directing that certain succession rights be extinguished in return for compensation by the person directed to be registered); or
- b) to allow registration of a smaller holding if special circumstances exist (for example, if a trade store or other business is situated on the land); or
- c) confirm the refusal to register.

7.20 Those who occupy and work the land should have priority

Many countries with registered rights to land have the problem of people keeping rights to land, even though they are living far away and do not in fact return to it. We think that a person who inherits rights to land should either return to that land and begin to use it, or make arrangements for others to use it. If he does not return to the land or make arrangements for its use within 12 months, then some other near relative should be entitled to succeed to the land in his place.

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7.21 Registered owners should be encouraged to name their successors

If a person was obliged to nominate a successor at the time he registered land, this would avoid uncertainty on the owner's death. Therefore it should be provided for and encouraged (for example, in the case of heritable occupation rights) but it should not be made compulsory. The reasons are that the successor might die before the rightholder, or the rightholder might change his mind. Also by nominating his successor the rightholder loses a considerable power which he has over his children to command their respect, and their support during his old age.

7.22 The Courts should protect dependants

The Commission considered whether a person's power to will land should be limited so that he could only leave it to those who depended upon him for their living (e.g. wives and young children). Or should a person have wide powers to will his interests in land but giving those depending upon him for their living the right to apply to a court to change the will so as to look after them if the will does not look after them properly? We think that the second way is better, because it is difficult to put restrictions on a person's power to will his property which give him some freedom of choice, and at the same time protect any person who might be depending upon him during his life (e.g. a mother, or an adopted son.) If a man's will does not properly provide for someone who depended upon him, then a court is the best authority to decide this, and to change the will in the proper way, (e.g. by providing for the dependent to make a subsistence garden on the dead man's land.)

7.23 Court protection is needed even if there is no will

The same thinking applies to someone who is depending on a person who dies without making a will, and the rules which say who gets his property do not make provision for that person's support. Once again, we feel that such a person should be able to apply to a court to have the rules changed so that he or she is properly provided for. The appropriate court for such applications is the Local Land Court.

7.24 Women should be able to will land

We recommend that a woman should have the same rights as a man to will land. Today women are getting more and more interests in land in their own right. To recognise their power to will these rights is in keeping with the Eight Point Programme.

7.25 Rights of widows may increase

At present the general feeling is that sons should inherit their father's rights in land. This thinking may change, and widows may be given rights to some share of their dead husband's land rights (unless they marry again). This has happened in some African countries, e.g. Kenya. If this change occurs in Papua New Guinea, we think that our recommendations have provided for it, both in allowing Districts to alter their succession rules to adapt to changed thinking, and in giving the Local Land Courts the power to change a will to provide for a widow as the community feels she should be provided for.

7.26 The need for different kinds of wills

The power to make a spoken will in accordance with custom should apply to all interests in land, whether registered or unregistered. We expect, however, that some people will see the value of written wills. We do not expect many written wills to be made about unregistered customary land, but we think they should be available. Where they are used they will often involve big men and valuable land. We expect there will be some demand for written wills for heritable occupation rights, conditional freeholds and leaseholds. In the absence of any general law of succession, provision should be made for written wills which are suitable for people whose way of life is not regulated by custom, as well as for people whose way of life is still regulated by custom.

V GENERAL LAW PROVIDING FOR WILLS IN RELATION TO LAND

RECOMMENDATION 56

- (A) THERE SHOULD BE ONE LAW OF SUCCESSION TO INTERESTS IN LAND WHICH APPLIES TO PAPUA NEW GUINEA AS A WHOLE AND TO ALL PERSONS IN PAPUA NEW GUINEA.
- (B) SUCCESSION TO UNREGISTERED CUSTOMARY RIGHTS IN LAND, IF THE RIGHTHOLDER HAS NOT MADE A WILL, SHOULD BE DECIDED ACCORDING TO THE CUSTOMS OF THE AREA WHERE THE LAND IS SITUATED.
- (C) GOVERNMENT SHOULD INFORM THE PEOPLE OF THEIR RIGHT TO MAKE A WILL AND HOW IT CAN BE MADE.
- (D) SIMPLE FORMS OF WILL IN ENGLISH, PIDGIN AND HIRI MOTU (AND ADVICE ON HOW TO USE THEM) SHOULD BE AVAILABLE AT ALL GOVERNMENT AND LOCAL GOVERNMENT CENTRES.

- (E) THE LOCAL LAND COURT SHOULD HAVE THE POWER, ON THE APPLICATION OF ANY PERSON WHO DEPENDED ON THE DECEASED PERSON FOR HIS OR HER LIVING, TO CHANGE THE TERMS OF A WILL, OR THE RULES FOR SUCCESSION WHERE A WILL HAS NOT BEEN MADE, SO AS TO MAKE PROPER PROVISION FOR THAT PERSON.
- (F) A PERSON HOLDING AN INTEREST IN LAND MAY PASS ON THAT INTEREST BY WRITTEN WILL ONLY IF THE WILL IS WRITTEN IN A WAY APPROVED BY THE CENTRAL GOVERNMENT.

7.27 The Central Government could make a law as follows -

"A written will shall be valid in relation to any interest in land if -

- a) it is signed or marked at the end by the person making it or by someone else in his presence and by his direction;
- b) the signature or mark is made or acknowledged by the person making the will in the presence of at least two witnesses present at the same time; and
- c) the witnesses sign or mark the will in the presence of the person making it.

A written will shall be valid in relation to any unregistered interest in land if it is made and written down at the same time in the presence of at least two witnesses."

RECOMMENDATION 57

- (A) A SPOKEN WILL SHOULD, WHERE POSSIBLE, BE MADE BEFORE A PERSON AUTHORISED TO RECORD SPOKEN WILLS. IF A SPOKEN WILL IS NOT MADE BEFORE SUCH A PERSON, THEN TWO WITNESSES TO THE SPOKEN WILL SHOULD BE ABLE TO RECORD IT BEFORE A PERSON AUTHORISED TO RECORD SPOKEN WILLS. THE DEGREE OF PROOF WHEN THE SPOKEN WILL IS NOT MADE BEFORE AN AUTHORISED PERSON SHOULD BE GREATER THAN WHERE THE WILL IS MADE BEFORE AN AUTHORISED PERSON.
- (B) AFTER THE WILL-MAKER'S DEATH A RECORD OF THE WILL SHOULD BE SENT TO THE DISTRICT REGISTRY OFFICE RESPONSIBLE FOR THE AREA IN WHICH THE LAND IS SITUATED.
- (C) THE CENTRAL GOVERNMENT SHOULD MAKE A LIST OF PERSONS AUTHORISED TO RECORD SPOKEN WILLS. SUCH A LIST COULD INCLUDE LANDS OFFICERS, VILLAGE COURT MAGISTRATES, DIVISION OF DISTRICT ADMINISTRATION OFFICERS, LOCAL GOVERNMENT COUNCIL OFFICERS, MINISTERS OF RELIGION, MEDICAL OFFICERS AND OTHER SENIOR PERSONS OF RECOGNISED STATUS.

VI UNREGISTERED CUSTOMARY LAND

RECOMMENDATION 58

A PERSON HOLDING RIGHTS IN UNREGISTERED CUSTOMARY LAND SHOULD HAVE POWER TO MAKE A WILL PASSING ON THOSE RIGHTS ONLY IF -

- a) IT IS IN WRITING OR DONE IN A WAY THAT IS ACCEPTED BY THE PEOPLE OF THAT PLACE AT THAT TIME; and
- b) IT DISPOSES OF HIS RIGHT TO A PERSON OR PERSONS TO WHOM HE WAS ENTITLED TO PASS THE RIGHT DURING HIS LIFETIME.

VII REGISTERED CUSTOMARY LAND

1. Heritable Occupation Rights

RECOMMENDATION 59

(A) A PERSON HOLDING A HERITABLE OCCUPATION RIGHT SHOULD HAVE POWER TO MAKE A WILL PASSING ON THAT RIGHT ONLY IF -

- a) IT IS IN WRITING OR DONE IN A WAY THAT IS ACCEPTED BY THE PEOPLE OF THAT PLACE AT THAT TIME; and
- b) IT DISPOSES OF HIS RIGHT TO A PERSON OR PERSONS TO WHOM HE WAS ENTITLED TO PASS THE RIGHT DURING HIS LIFETIME.

(B) IF THE CHOSEN SUCCESSOR IS NOT LIVING ON OR NEAR THE LAND AND USING IT HE MUST EITHER RETURN TO IT AND BEGIN TO USE IT, OR MAKE ARRANGEMENTS FOR ITS USE WITHIN 12 MONTHS OF THE WILL-MAKER'S DEATH, OTHERWISE THE RIGHT SHOULD PASS AS IF THE RIGHTHOLDER HAD DIED WITHOUT MAKING A WILL.

(C) RULES FOR SUCCESSION TO THE HERITABLE OCCUPATION RIGHT OF A PERSON WHO DIES WITHOUT MAKING A WILL SHOULD BE ADOPTED BY THE PROPOSED DISTRICT GOVERNMENT FOR EACH DISTRICT FROM MODEL RULES PROVIDED BY THE CENTRAL GOVERNMENT.

2. Unregistered Customary Subsidiary Rights

RECOMMENDATION 60

A PERSON HOLDING UNREGISTERED CUSTOMARY RIGHTS IN REGISTERED CUSTOMARY LAND SHOULD HAVE POWER TO MAKE A WILL PASSING ON THOSE RIGHTS ONLY IF -

- a) HE WAS LIVING ON OR NEAR THE LAND AT THE TIME OF HIS DEATH;
- b) IT IS IN WRITING OR DONE IN A WAY THAT IS ACCEPTED BY THE PEOPLE OF THAT PLACE AT THAT TIME; and

- c) IT DISPOSES OF HIS RIGHTS TO A PERSON OR PERSONS TO WHOM HE WAS ENTITLED TO PASS THE RIGHTS DURING HIS LIFETIME.

7.28 Many rights in registered customary land will remain unregistered

It is expected that once a group has registered its customary land, it will see the advantage of marking out heritable occupation rights for its members which they can register. However, this may take some time, and most groups will not want to mark out all their registered land in this way. Therefore, we feel that some provision should be made for will-making in respect of those unregistered customary rights, if the customs of the area allow for wills to be made.

7.29 Those who occupy and use land should have preference

We have the strong opinion that only those persons who were living on the land at the time of death should have power to make wills over unregistered customary rights in registered customary land. This is to prevent people who have not lived on the land from trying to pass on rights which they have not been using. Our opinion throughout this report is that persons who occupy and use the land should have first rights to it.

7.30 An outsider cannot join a group by a will

A person's membership of the customary group that has registered rights over the land cannot be passed on by will. It can be seen from Chapter 3 on Customary Land that membership of the registered group will depend on the general rules setting up groups. A man cannot make an outsider a member of the group by his will, (although he may be able to give him rights in the group land if the group allows this).

7.31 Succession the same for non-customary group as for customary group

We recommend that succession to rights in registered customary land be the same whether the group which granted the rights is a customary group or a non-customary group, (e.g. a co-operative or local corporation).

3. Registered Leases

RECOMMENDATION 61

- (A) A PERSON HOLDING A REGISTERED LEASE OVER REGISTERED CUSTOMARY LAND SHOULD HAVE POWER TO MAKE A WILL PASSING ON THAT LEASE ONLY IF -
 - a) IT IS IN WRITING OR DONE IN A WAY THAT IS ACCEPTED BY THE PEOPLE OF THAT PLACE AT THAT TIME; and
 - b) IT DISPOSES OF THE LEASE TO A PERSON OR PERSONS TO WHOM HE WAS ENTITLED TO PASS THE LEASE DURING HIS LIFETIME.
- (B) IF THE CHOSEN SUCCESSOR IS NOT LIVING ON OR NEAR THE LAND AND USING IT HE MUST EITHER RETURN TO IT AND BEGIN TO USE IT, OR MAKE ARRANGEMENTS FOR ITS USE WITHIN 12 MONTHS OF THE WILL-MAKER'S DEATH, OTHERWISE THE LEASE SHOULD PASS AS IF THE LEASE-HOLDER HAD DIED WITHOUT MAKING A WILL.
- (C) RULES FOR SUCCESSION TO THE LEASE OF A PERSON WHO DIES WITHOUT MAKING A WILL SHOULD BE ADOPTED BY THE PROPOSED DISTRICT GOVERNMENT FOR EACH DISTRICT FROM MODEL RULES PROVIDED BY THE CENTRAL GOVERNMENT.

7.32 Limits on willing leases

As the lease-holder may have put valuable improvements on the land, we think it fair that he should be able to will the lease to someone for the rest of the time that the lease has to run after his death.

4. Conditional Freeholds

RECOMMENDATION 62

- (A) A PERSON HOLDING A CONDITIONAL FREEHOLD SHOULD HAVE POWER TO MAKE A WILL PASSING ON THAT RIGHT ONLY IF -
 - a) IT IS IN WRITING OR DONE IN A WAY THAT IS ACCEPTED BY THE PEOPLE OF THAT PLACE AT THAT TIME; and
 - b) IT DISPOSES OF THE CONDITIONAL FREEHOLD TO A PERSON OR PERSONS TO WHOM HE WAS ENTITLED TO PASS IT DURING HIS LIFETIME.
- (B) IF THE CHOSEN SUCCESSOR IS NOT LIVING ON OR NEAR THE LAND AND USING IT HE MUST EITHER RETURN TO IT AND BEGIN TO USE IT, OR MAKE ARRANGEMENTS FOR ITS USE WITHIN 12 MONTHS OF

THE WILL-MAKER'S DEATH, OTHERWISE THE CONDITIONAL FREEHOLD SHOULD PASS AS IF THE FREEHOLDER HAD DIED WITHOUT MAKING A WILL.

- (C) RULES FOR SUCCESSION TO THE CONDITIONAL FREEHOLD OF A PERSON WHO DIES WITHOUT MAKING A WILL SHOULD BE ADOPTED BY THE PROPOSED DISTRICT GOVERNMENT FOR EACH DISTRICT FROM MODEL RULES PROVIDED BY THE CENTRAL GOVERNMENT.

VIII NATIONAL LAND

RECOMMENDATION 63

- (A) A PERSON HOLDING A REGISTERED LEASE OVER NATIONAL LAND SHOULD HAVE POWER TO MAKE A WILL PASSING ON THAT LEASE ONLY IF HE MAKES A WILL EITHER IN WRITING OR IN A WAY APPROVED BY THE NATIONAL GOVERNMENT.
- (B) IF THE CHOSEN SUCCESSOR IS NOT LIVING ON OR NEAR THE LAND AND USING IT HE MUST EITHER RETURN TO IT AND BEGIN TO USE IT, OR MAKE ARRANGEMENTS FOR ITS USE WITHIN 12 MONTHS OF THE WILL-MAKER'S DEATH, OTHERWISE THE LEASE SHOULD PASS AS IF THE LEASE-HOLDER HAD DIED WITHOUT MAKING A WILL.
- (C) RULES FOR SUCCESSION TO THE LEASE OF A PERSON WHO DIES WITHOUT MAKING A WILL SHOULD BE MADE BY THE CENTRAL GOVERNMENT. THE DRAFT RULE IN PARAGRAPH 17 ABOVE IS RECOMMENDED FOR CONSIDERATION.

7.33 Only registered leases over National Land

Leases are the only form of registered interest in National Land that we recommend for the present.

IX ADMINISTRATION

RECOMMENDATION 64

- (A) ALL WILLS RELATING TO REGISTERED INTERESTS IN LAND SHOULD BE PROVED BEFORE THE LOCAL LAND COURT BY THE DISTRICT REGISTRY OFFICE. ANY DISPUTE OVER A WILL, OR ANY APPLICATION BY A PERSON TO CHANGE A WILL OR RULE OF SUCCESSION WHERE NO WILL IS MADE, OR ANY APPLICATION TO SUCCEED TO LAND WHICH THE CHOSEN SUCCESSOR HAS NOT BEGUN TO USE OR MADE ARRANGEMENTS FOR ITS USE WITHIN 12 MONTHS OF THE WILL-MAKER'S DEATH, SHOULD BE DEALT WITH BY THE LOCAL LAND COURT.

- (B) IF THE REGISTRATION OF SUCCESSORS UNDER THE WILL WOULD LEAD TO THE REGISTRATION OF A SINGLE RURAL HOLDING OF

LESS THAN ONE HECTARE OR A HOUSE SITE OF LESS THAN ONE-TWENTIETH OF A HECTARE, THEN THE WILL SHOULD BE REFERRED TO THE LOCAL LAND COURT WHICH SHOULD HAVE THE POWER TO ALTER THE WILL SO THAT REGISTRATION OF AN ACCEPTABLE SIZE HOLDING SHALL RESULT AND ORDER COMPENSATION TO BE PAID WHERE NECESSARY, OR CONFIRM THE WILL. AN APPEAL SHOULD LIE FROM THE DECISION OF THE LOCAL LAND COURT IN THE NORMAL MANNER.

- (C) WHERE A PERSON INHERITS A REGISTERED INTEREST IN LAND, BUT BY REASON OF THAT INHERITANCE HE WOULD HOLD A REGISTERED INTEREST IN LAND IN EXCESS OF ONE AGRICULTURAL HOLDING AND ONE HOUSE SITE, THEN HE SHOULD MAKE A CHOICE WITHIN 12 MONTHS AS TO WHICH INTERESTS HE WANTS TO KEEP SO AS TO STAY WITHIN THESE LIMITS. IF HE REJECTS THE INHERITED INTEREST, THEN IT SHOULD PASS TO THE PERSON WHO WOULD HAVE INHERITED IT HAD HE NOT INHERITED IT. IF HE REJECTS THE INTEREST WHICH HE ALREADY HOLDS, THEN THE REGISTRATION OF THAT INTEREST SHOULD BE CANCELLED.

- (D) FOR THE PURPOSE OF PARAGRAPH C OF THIS RECOMMENDATION, IF THE INHERITED INTEREST IS AN INTEREST IN THE LAND OF THAT PERSON'S GROUP, THEN IT MAY BE REGARDED TOGETHER WITH ANY OTHER REGISTERED INTEREST WHICH HE HAS IN HIS GROUP'S LAND AS ONE HOLDING. (MORE DETAILED RECOMMENDATIONS APPEAR IN CHAPTER 11 ON LAND ADMINISTRATION).

7.34 Registered multiple holdings should be avoided

Paragraph C of the Recommendation should make sure that Recommendation 17 in Chapter 3 on Customary Land is complied with.

X JOINT OWNERS

RECOMMENDATION 65

WHERE AN INTEREST IN REGISTERED LAND IS HELD BY TWO OR MORE PERSONS TOGETHER, IT SHOULD BE PRESUMED TO BE HELD BY THEM IN COMMON. UPON THE DEATH OF ONE OF THE OWNERS, HIS PART OF THE INTEREST SHOULD PASS TO HIS SUCCESSOR ACCORDING TO THE RULES SET OUT IN THIS CHAPTER.

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7.35 Each of the joint owners has an interest to pass

It is our experience that most people today think that a person's interest in land does not cease upon his death. There is something to pass on to his successor after his death. Where the person is one of two or more persons registered together as holders of an interest (e.g. a registered occupation right), then what should pass is his part of that interest. We have recommended that this be a presumption only, which can be rebutted by evidence of a different intent.

XI PERSONS UNDER AGE

RECOMMENDATION 66

WHERE A PERSON WHO SUCCEEDS TO AN INTEREST IN LAND IS BELOW THE AGE OF 16 YEARS, HE SHOULD INHERIT THE INTEREST IN HIS OWN NAME, BUT SHOULD HAVE NO POWER TO DEAL WITH THE INTEREST UNTIL HE REACHES THE AGE OF 16 YEARS, EXCEPT WITH THE APPROVAL OF THE DISTRICT LAND CONTROL BOARD.

7.36 Children's interests must be protected

We feel that it is undesirable to register a child's guardian as holder of the interest; even if he only holds as a trustee. Persons often confuse property which they hold on trust for someone else with property which they hold for themselves. A child's guardian will, in our opinion, look after the child's interests without the necessity for registration as holder of those interests. Where some dealing with the land on the child's behalf is sought, then the dealing should require the approval of the District Land Control Board.

Chapter 8

DISPUTE SETTLEMENT

A Introduction

8.1 Causes of land disputes

At our meetings with the people we were told of many reasons for the disputes over land which are causing so much trouble in our country. Some of the main reasons were:-

- a) Before the white man came to Papua New Guinea the main ways of dealing with land disputes between groups were by warfare, by negotiation, by gift exchange or by compensation. Warfare was important for this purpose but as the Government took control this was stopped. This left some land, particularly in the Highlands, not controlled by any group. Rights to most of these "no man's lands" or "buffer lands" are now hotly contested.
- b) Before European times there were many areas where people exercised few rights. For instance they used the land very irregularly for hunting and gathering. Now, with increases in population and in commercial agriculture, disputes over this land have increased greatly.
- c) Groups who lost land by conquest are now bringing forward these claims and some large groups who are short of land are trying to get back conquered land from groups which have become smaller.
- d) Some groups are claiming back land which they had given to other groups for political and other reasons. The claimant group says the land was lent temporarily, the other group says it was given it permanently. Grandsons of original owners claim back land on which their grandfathers allowed others to settle. The settlers have often improved the land and lived on it for two generations or more and naturally are not willing to leave it.
- e) Many groups now claim exclusive ownership to all the land on which they once had some rights, whether these rights were full, limited or lost by conquest. They tend to take strong positions and refuse to give up their claims to such land.

- f) The increased mobility of people increases land disputes. People returning home after long absences, and marriage into the groups by outsiders can lead to troubles about land rights.
- g) Trespassing by hunters on other people's land is another cause of trouble.
- h) The demarcation process required old land claims to be brought forward or the land lost forever.
- i) Many old men keep land disputes alive and younger men take up such disputes either to assert leadership in the group or to show what good warriors they are.
- j) The anthropologist Mr. Robin Hide has also commented in his submission: "While people are ostensibly fighting about land, they are also fighting about a great deal else. As the exchange system crumbles under monetisation etc., land has become the central focus for internal politicking."

8.2 People will claim as much land as they can

This natural tendency is made worse by -

- a) The great increase in population due to less warfare and famine and better medical services. People want to hold enough land to guarantee their children and their children's children a livelihood from it. Population increases are very high in places like the Gazelle Peninsula and parts of the Highlands where land is shortest.
- b) The money economy. Cattle and some cash crops need much more land than families previously needed for subsistence. This has reduced the exchange of land between groups. People have become more aware of the money value of their land and in areas where much good land was sold to expatriates, the people feel deprived.

8.3 Present Land Titles Commission

- a) The Land Titles Commission was set up in 1963 as an independent judicial tribunal to decide rights to land. It replaced the Land Jurisdiction of the Court of Native Affairs in New Guinea. It was also given jurisdiction to restore titles which were lost or destroyed during World War II (See Paragraph 8.19).
- b) The Land Titles Commission decides land disputes between Papua New Guineans and between Papua New Guineans and the Government. There are many stages in the present decision

making structure. A dispute is first heard and decided by a single Commissioner. His decision can be reviewed by the Chief Commissioner, a Deputy Chief Commissioner or by three Commissioners. The decision on review can be further appealed to a single Judge of the Supreme Court, thence to the Full Court of the Supreme Court (three Judges). The next possible appeal is to the High Court of Australia, and it has not yet been tested whether a final appeal lies to the Judicial Committee of the Privy Council in England.

- c) There are ten full-time Commissioners of the Land Titles Commission, all expatriates who have served many years in Papua New Guinea, all but the Chief Commissioner as District Administration Officers. All can resign or retire within the next eighteen months. In addition there are 89 part-time Assistant Commissioners, 70 Papua New Guineans and 19 expatriates, but they have heard very few land disputes.
- d) Most hearings are conducted by the ten full-time Commissioners but they cannot keep up with the applications lodged. Land Titles Commission statistics show that by 31st December, 1972, 2528 applications under Section 15 of the Land Titles Commission Ordinance had been lodged. Of those, 1250 had been decided and 143 discontinued, leaving 1135 or just under 45% undecided. The number of disputes outstanding is much greater than these figures show because many other people who would like to go to the Commission do not bother because of the long delays.
- e) Only about one-third of all Section 15 applications are true disputes. The others are uncontested claims only. About 11% of the whole are disputes actually heard by the Land Titles Commission. About half of the decisions on these are appealed once and since few decisions are changed on the first appeal, about half of these are appealed a second time. Two cases have been appealed a third time to the Full Court of the Supreme Court and one of these a fourth time to the High Court of Australia. This appeal is still outstanding and one party has already said it will try to appeal to the Privy Council in England if it loses in the High Court.
- f) This analysis shows that most of the true land disputes remain undecided by the Land Titles Commission and of those that are decided only half of the decisions given at the first hearing are accepted.

8.4 Problems with the Land Titles Commission

- a) Many people in rural areas have spoken of the Land Titles Commission as rather legalistic. The Land Titles Commission is in fact not legalistic and is not bound by strict legal procedures or by technical rules of evidence. However, criticisms of its decisions both in this jurisdiction and in the New Guinea Land Titles Restoration Ordinance jurisdiction by the Supreme Court have made the Commissioners more careful in conducting their hearings and in seeking evidence before deciding cases. Part of the difficulty is that the Commission usually requires a survey of the land before it will hear a case. Surveys are resisted by the people and survey parties threatened because the people think that a survey is a claim to ownership of rights in the land. Waiting for survey causes frustration amongst the people and the Government staff. The Land Titles Commission complains of delays in preliminary investigations by field staff.
- b) The people see the Land Titles Commission as distant from them. The Commissioners live in Port Moresby or other larger towns where they can be contacted only by letter. They rarely hear a dispute until months or years after it has been filed and long after most people in the area have taken sides in the case and the disputants themselves have become intransigent. It is significant that when a Commissioner has been stationed in a district and worked closely with the people of that district for a considerable time, the amount of ground marked out greatly increases. Commissioner Smith's systematic adjudication in the Kokopo area in the 1950's is an example.
- c) Until April 1973, the Land Titles Commission's powers were limited. It had exclusive jurisdiction to hear and determine all disputes concerning claims to the ownership by native custom of, or the right by native custom to use, any land, water or reef, including a dispute as to whether any land is or is not native land. Emphasis was usually placed on its first power to decide claims to ownership by native custom of land rather than in relation to rights under native custom to use land. This meant that the Commission's decisions resulted in a winner and a loser. Its power to conciliate was limited. The 1973 amendments which gave the Commissioners some power to mediate between the parties and to grant compensation in certain cases should have had a beneficial effect; however, even the compensation provision itself emphasises the concept of "ownership".

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8.5 The role of the Field Officers

- a) In the formal land dispute settlement structure their authority has been limited, but recently these men have been given a new role. As Local Court Magistrates they exercise jurisdiction under Section 15A of the Land Titles Commission Ordinance to authorise the use and occupation of land, water or reef by one of the parties to a dispute and to restrain the other party from interfering with the user and occupation of the land until the Land Titles Commission gives a decision. Their order can be enforced by fines and imprisonment.
- b) Such orders are only temporary and can "keep the lid on" a land dispute until the Land Titles Commission decides it, but in some areas they are seen by the people as final decisions. The use of this power at least provides for a decision on the question pending the arrival of the Land Titles Commission and replaces a situation where the administration field officers considered they were unable to take action on land disputes until the Land Titles Commission heard the case.
- c) In many places, particularly in the Highlands, Government field officers have begun using local people informally as mediators in land disputes. Some of these mediators are full-time on the Government's payroll and some are Demarcation Committee Chairmen and still paid as such. They have no place in the formal dispute settlement structure but look as though they have because they are supported by the field officers and paid by the Government. It is not clear what effect these mediators are having, but some of them mediate settlements and stop disputes from developing into open fighting. In other places the field officers either make land decisions themselves or have Demarcation Committee Chairman or other local people make them, and enforce the decisions by laying criminal charges such as threatening behaviour against those who refuse to accept them. This unofficial and illegal form of dispute settlement is caused by the frustration of the field officers with the present distant and unsatisfactory official system.

8.6 Enforcement provisions are not suitable

The present enforcement procedures are not suitable to Papua New Guinean conditions. The Land Titles Commission has no power to enforce its decisions. Government officials have no power either. Those granted ownership rights in the land by the Land Titles

Commission can bring court actions for trespass or ejectment in the Supreme Court, but these Court actions are impossible to mount without advice and preparation by legal experts. Even when successful they still leave open the question of who will remove from the land the people illegally on it, but who refuse to leave. This lack of suitable enforcement powers is a big weakness of the present structure.

8.7 Principles for dispute settlement

- a) We think that certain principles should be used in developing a dispute settlement structure suitable for Papua New Guinea. People should be involved in the settlement of their own disputes and not able to avoid this responsibility by referring the matter to the kiaps or to the Land Titles Commission. Again and again people have said, particularly in the Highlands, "we have many land disputes, we are happy you came because we hope that you and the Government will solve our disputes for us". No dispute settling process, no matter how wisely conceived and appropriate, can succeed until the disputants themselves are prepared to take some responsibility in settling the matter, and, if they cannot settle it, are prepared to abide by a decision of a tribunal set up by the Government.
- b) But the people must be given good reason for accepting the new land dispute settlement structure and abiding by its decisions. It must give fair and just decisions after full examination of the facts and the relevant law. It must be backed up by the power of the Government when necessary.
- c) The dispute settlement process must be brought much closer to the people. It must be possible for the people to have their small disputes dealt with almost immediately, before they become bigger and develop into confrontations between clans. The dispute settlement process should be confined to the District so that delays can be kept to a minimum.
- d) In some places like the Trobriand Islands, there are traditional land courts. Attempts should be made to keep these and accommodate them in the official court structure.
- e) The hearings of disputes should not be confined to deciding who owns the land, but should involve looking at the kinds of rights the disputants were exercising in relation to the land and deciding on the basis of the relative strengths of those rights, the needs of the various disputants, and taking into account the national land policy goals, who

should exercise what rights in the land and for how long.

- f) In general, rights acquired by conquest should be recognised. They should, however, be qualified by considerations of needs and a distribution of some rights as suggested in sub-paragraph e) above and 8.10 f) below. This should be thoroughly tried before a law of prescription and limitation is considered.
- g) The Government has laid down an Eight Point Programme for Papua New Guinea. It may also wish to lay down national land policy goals. Such goals could include statements to the effect that all Papua New Guineans who wish to take part in commercial agriculture should be able to do so, that in dealing with land disputes the Courts should favour those Papua New Guineans who are actually using the land, and that those Papua New Guineans with surplus land should make it available to those who are land short. We think Land Courts should take such national policy goals into account.
- h) With these principles in mind and with the knowledge that other dispute settlement structures have not been successful, we propose the following structure to apply to customary land.

B Recommended dispute settlement structure for customary land

RECOMMENDATION 67

- (A) THAT THE PRESENT DISPUTE SETTLEMENT STRUCTURE FOR CUSTOMARY LAND BE ABOLISHED AND REPLACED BY A THREE STAGE SYSTEM OF MEDIATION, ARBITRATION AND APPEAL.
- (B) THE NEW STRUCTURE SHOULD INCLUDE LOCAL LEADERS FOR THEIR KNOWLEDGE OF LAND MATTERS IN THE AREA, TOGETHER WITH IMPARTIAL CHAIRMANSHIP.
- (C) IT SHOULD BE PART OF THE NATIONAL JUDICIARY, BUT SHOULD BE DECENTRALISED TO DISTRICT LEVEL AND AIM AT SETTLING ALMOST ALL DISPUTES WITHIN THE DISTRICT.

8.8 Mediation

- a) By mediation we mean where the parties to a dispute come together to talk about it and try to settle it under the chairmanship of a neutral person.
- b) We consider that whenever a land dispute arises compulsory mediation should be the first step towards its settlement. Field officers of the Department of the Chief Minister and Development Administration could be given power to begin

mediation in the appropriate cases, but they should keep in contact with the Justice Department officials responsible for the supervision of magistrates in the District, including the Mediators. There should be a panel of Mediators in each council area and Mediators chosen for each ward. Village Court Magistrates could be chosen but they should not be Mediators ex officio. The panel of Mediators should be chosen by a committee of senior District representatives of the Justice Department, Chief Minister's Department and Lands Department (all Papua New Guineans) after consultation with the Local Government Councils. The Mediators should be men of standing in the area.

- c) Mediators should be paid by the District Governments with contributions from the Local Government Councils either on a monthly wage or by daily sitting fees.
- d) When a dispute over rights in land arises, the parties should be required to meet and discuss the dispute under the chairmanship of one or more mediators and attempt to arrive at a satisfactory agreement. A person should not be able to bring a case forward to the Arbitration stage unless he has first made an honest attempt at mediation. Where the mediations are successful, people should be encouraged to record the agreement, but the making of records should not be compulsory. Where records are made a copy should be filed at the Local Government Council Office or Local Land Registry Office and copies given to the parties.
- e) If the settlement involves a land boundary then that boundary should be walked by the parties and the Mediator and marked with targets or other visible marks if the boundary is not made up of natural features.
- f) If the mediation is not successful then we suggest that the parties take their dispute to Arbitration. We expect that some disputes may fade away, or quickly alter their character and should not be forced into the higher levels of the court system. But if the dispute is still very strong after mediation has been tried, Magistrates, including Village Court Magistrates, should be empowered to order the parties to take it to Arbitration.

8.9 Temporary orders

Where there is to be some delay before the Arbitration can be heard we suggest that either a Village Court Magistrate or a Local Court Magistrate should have power to make a temporary order stating who can exercise what rights of use over the

land until the Arbitration decision.

8.10 Arbitration

- a) By Arbitration we mean where a Court makes a decision on a land dispute when the parties have failed to settle it themselves by Mediation.
- b) Arbitration should be done by a Local Court Magistrate supported by assistants with a knowledge of the land customs of the area. These assistants should also know the population strengths of the various groups in the area, the history of warfare in the area, and how, why and when land boundaries in the area have changed. The disputants should have the right to reject an assistant if they can show good reasons for this. But simple allegations of connection with one of the parties should not be a sufficient reason, as this is almost impossible to avoid in a local panel. The likely bias or prejudice would need to be extreme to warrant rejection.
- c) We expect that, as the Village Court system begins working, Local Court Magistrates will have less criminal work and can be more involved in land work. The land work is likely to be fairly heavy, however, and training of additional Local Court Magistrates will be immediately necessary. During the interim, some Division of District Administration Officers, if approved by the panel which chooses mediators (see paragraph 8.8 b) should be authorised to act as Chairmen of the Local Land Courts.
- d) Where possible the arbitration court, which we think should be called the Local Land Court, should work towards a settlement of the dispute and arbitrate only if this is not successful. We think the Court should be able to decide on other matters of dispute which have become mixed up with the land dispute. The Court should therefore have the power to decide disputes about pigs and other matters and grant compensation, but only if decisions on these questions are essential to gaining acceptance of the decision as to rights in the land. The Local Land Court should hear the dispute either on or near the land if that is feasible and should visit the land at least once during the hearing. If the decision reached involves marking a boundary this should be done by the parties under the supervision of a member of the Local Land Court.
- e) The Local Land Court should have power to make a much wider range of decisions about the land than the present Land Titles Commission, so that it can respond in an appropriate way to each

of the inter-related aspects of the dispute, and make a series of orders so that there will be a lasting solution to the dispute.

f) We suggest that the Local Land Court have at least the following powers:

- (i) There are a number of possible rights to land and each of the disputants may be entitled to exercise some of these rights. The Local Land Court should be entitled to say who can exercise which of these rights in the land, and in appropriate cases for how long.
- (ii) Power to award compensation where people lose the right to improvements they have put on the land or where they lose rights to use land which they have held for some time.
- (iii) Power to allow people to harvest tree crops on land in which others have greater possessory rights or to harvest annual crops already planted.
- (iv) Power to order that people have the right to use land for gardens only, subject to the payment of a traditional tribute to people with greater possessory rights in the land.
- (v) Power to make decisions and award compensation on disputes associated with the land dispute, but only if these are essential to arriving at a workable decision in relation to the land.
- (vi) Power to include in the decision of the court any settlement or agreement between the disputants on any aspect of the dispute made at any stage of the hearing.
- (vii) Power to state that neither group has any substantial claim to the land. (In some cases it could refer this finding to Government to see if it wants to declare the land National Land.)
- (viii) Power to make boundaries between the parties on the disputed land.
- (ix) Power to take into account the population of each disputing group and adjust the boundaries between them so as to help a land short group. The Court must have power to award compensation to a group which has lost land in this way.

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- (x) Power to order one group to pay compensation to, or provide a feast for another group if the Court considers this will assist in solving the land dispute.
 - (xi) Power to order that certain land be treated as "common land" with each of the disputant groups having certain defined rights in relation to the land.
 - (xii) Power to make any orders about the land run for set periods of time or to be subject to certain contingencies.
 - (xiii) Power to make any other order in relation to the land that will clearly assist in bringing a lasting solution to the particular land dispute.
 - (xiv) Power to take into account any comprehensive land policy made by the Government.
 - (xv) Power to settle questions about succession to land rights including disputes about wills, written and oral.
- g) The Local Court should try to make unanimous decisions but if it cannot, a majority decision either with or without the Local Court Magistrate in the majority would be sufficient. It also should have a discretion to delay the enforcement of its decision for up to one month in appropriate cases.
- h) A summary of the evidence given before the Local Land Court should be kept together with a full record of the decisions. Copies of the decision should be given to the parties and a copy filed in the Sub-District Office and the District Office and one should be sent to the Central Land Registry Office in Port Moresby.
- i) Decisions of the Local Land Court and the District Land Court set out below should stand against the world and should be conclusive evidence of the ownership of rights in the land as at the date of the decision.

8.11 Appeal

- a) We think that the decision of the Local Land Court should be subject to appeal. But we also think that land disputes should be finalised quickly and in the District of origin. We therefore recommend that there should be only one appeal and this should be to a special Court, the District Land Court. We consider that the Supreme Court should have only a very limited role in disputes on customary land.

In the very rare cases where the question of ownership of rights in customary land comes up as an ancillary issue in a case before the Supreme Court it should have a discretion to decide the issue and not be obliged to refer it to another Court.

- b) The Supreme Court should also have the power to set the lower Courts right when they have exceeded their jurisdiction or failed to follow the rules of natural justice. The Supreme Court should, however, use these powers very sparingly and should have no power to decide who has the rights in the land under custom in those cases.
- c) The District Land Court should consist of a Magistrate sitting alone. We envisage that eventually there should be one District Land Court Magistrate in each District engaged solely on land matters, but initially District Court Magistrates or Resident Magistrates with additional training should act in land appeal cases. The Magistrate should be a Resident Magistrate where possible, or at least one who has reached District Court standard, and should have done a short course in land law. District Land Court Magistrates should be expected to stay for long periods in the Districts to which they are posted so that they develop a deep knowledge of the land customs in those Districts, but it should be made attractive in terms of their careers to do this.
- d) We realise that a District Land Court Magistrate will be under greater pressure when he is posted to one District. He will have great difficulty in avoiding giving the appearance of having more to do with one group of people than another; he will always be open to charges of bias. However, we consider that the advantages of having Magistrates posted to each District outweigh the disadvantages.
- e) We felt that the District Land Court Magistrate could be responsible for supervising the work of the Mediators of the Local Land Courts, but this could involve him too closely in hearings from which he may later hear an appeal. This is a matter for further consideration. If, as we hope, appeals will be few, the risk may not be serious. The same point arises in connection with giving the District Land Court Magistrate a share in selecting Mediators.
- f) The time for lodging an appeal against a decision of the Local Land Court should be one month but the District Land Court should have power to extend the appeal period for good reason, including the need to hear a late appeal if it

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is necessary to keep peace and good order in the area. In order to test the sincerity of appellants we consider that fees of \$100 for an individual and \$500 for a group should be lodged with each appeal subject to a discretion in the District Land Court to reduce these sums for good reason. The fees should be returned to a successful appellant, but he should lose his fee if his appeal is not successful.

- g) Under the old system it was too easy to appeal. We think the grounds of appeal should be limited to the following:-
- (i) Where the Local Land Court has acted contrary to natural justice, for example, by not listening to the evidence of all the parties or by deciding the case on evidence which the parties have not been able to comment on.
 - (ii) Where the Local Land Court either exceeds its jurisdiction or refuses to exercise its jurisdiction. Examples of this are where a Local Land Court makes an order it has no power to make or where it refuses to hear a case it has the power to hear.
 - (iii) Where a Local Land Court has made a decision which no Court doing justice between the parties would have made. To succeed on this ground of appeal an appellant would have to persuade the District Land Court that it should change the order of the Local Land Court.
- h) The District Land Court should have the same powers to make wide-ranging decisions as the Local Land Court, together with the power to take evidence of specific matters if it needs this in order to make a final decision on an appeal. It should have power to send cases back to the Local Land Court for re-hearing but only when it is impossible on the evidence for it to make a final decision.

8.12 Lawyers excluded from customary land cases

Lawyers or representatives not connected with the parties to the dispute should have no right of audience before the Local Land Courts or at the Mediation stage. They may appear in the District Land Court only in connection with cases involving national land, or disputes in which Government or a company is involved. The District Land Court Magistrate should have power to request the parties to seek legal representation in a case of unusual difficulty.

8.13 Role of field staff

Field staff of Lands Department and the Division of District Administration should assist the Courts as required. D.D.A. staff should act at all times in the interests of the local people.

8.14 Enforcement

- a) The decisions of the Local Land Court and the District Land Court must be clearly, easily and quickly enforceable. We think that the lack of effective enforcement provisions is a major reason for the failure of the present land dispute settlement structure. A number of special summary offences should be developed to deal with people who do not obey a court order. Where a decision involves marking a boundary and someone pulls out the boundary markers, this should be a summary offence.
- b) In some cases Police will need to be present when a decision is given and to keep watch on a newly marked boundary for some time. We hope that the people will soon appreciate that the Government is determined that the decisions of its Land Courts, which will be set up under House of Assembly legislation, are to be respected, and that the use of Police powers will rarely be necessary.
- c) Whilst enforcement of decisions should be expected, the Police should not be expected to engage large groups of defiant villagers in direct conflict when more discreet methods of enforcement may be appropriate. We realise that we are asking the Police to carry out unpleasant duties, but we feel confident that they will be able to handle most situations.
- d) If the Local Land Courts and District Land Courts are to be given the wide and flexible powers that we recommend there will be a far better chance of their decisions being accepted than the present Land Titles Commission with its limited powers and tendency to declare one group "the winner" and another group "the loser".
- e) We recommend that the Supreme Court's jurisdiction in trespass and ejectment actions relating to customary land be withdrawn, as it is too expensive. Instead we think that the District Land Courts should have the power to award damages against those who interfere with the use of land by people whose rights in the land have been recognised either by the Local Land Court or the District Land Court.

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- f) Where villagers fight over land, we recommend that the Police use their power to establish a safe area, in the vicinity of the fighting, where the Mediators and Arbitrators can begin work, and where both sides feel they are able to come in safety, leaving their arms at a distance. This is a constructive rule which could provide the opportunity for a settlement to be worked out, perhaps better than the general round-up of armed men which the Police now carry out in areas of fighting.

8.15 Other Land Disputes

So far we have dealt with disputes between Papua New Guineans over rights in customary lands. Other kinds of land disputes that can arise are:-

- a) Disputes about rights in registered customary land,
- b) Claims by Papua New Guineans to customary rights in rural land to which the Government also claims title,
- c) Disputes as to non-customary rights in leasehold land.
- d) Claims to Restoration of Title.

8.16 Disputes as to rights in registered customary land

- a) In Chapter 3 we have recommended a system by which land holding groups (and individuals) can obtain registered interests in customary land. Some disputes will arise about who can use rights to such registered customary land. There may be disputes about membership of land holding groups; for example, whether a person who has long been absent but who has a claim to membership of the land-owning group, should be entitled to use the land.
- b) We think the proposed three level dispute settlement structure of Mediation, Arbitration and Appeal can deal with these disputes.

8.17 Claims by Papua New Guineans to customary rights in rural lands to which the Administration also claims title

- a) In our Interim Report on Alienated Lands and in Chapter 4 of this Report we recommend that in areas where most of the rural land has been alienated and people are seriously short of land, and where the return of undeveloped alienated land does not sufficiently relieve the shortage of land for cash cropping as well as subsistence purposes, the Government should acquire developed land nearby, by compulsory process if necessary, and return it to the land short people. We think

this is also the best way of dealing with the problem of Papua New Guineans claiming land to which the Government claims title.

- b) We recommend that the Government's title to all rural land that it now holds be confirmed by legislation of the House of Assembly. However, where Papua New Guineans can show that they once had customary rights in alienated land and that now they are genuinely short of land for subsistence or cash cropping, the Government should lease to them enough of that alienated land, whether developed or not for their needs. This should be a clear obligation of the Government which, as we point out in Chapter 6, should hold national land for the benefit of Papua New Guineans.
- c) Applications should be made not to a Court but to the Government agency responsible for returning alienated land to land short Papua New Guineans. It should be an administrative duty of the field officers of the Department of the Chief Minister and Development Administration to assist people who wish to make such applications.
- d) There are two other ways of approaching this question, but we do not recommend either of them. The first is to leave the title to Administration land open to challenge and allow those who challenge the Administration to bring their claims before the Local Land Court with an appeal to the District Land Court and a final appeal to a single Judge of the Supreme Court. We do not favour this approach as it could mean the continuation of expensive land cases with the possibility of people obtaining back from the Administration more land than they need.
- e) The second approach would be to allow people who claimed customary rights in land that the Administration also claimed to bring claims for compensation before a Permanent Commission of Inquiry in the same way as we recommended for urban alienated lands in our Interim Report and in Chapter 4 of this Report. We think this is not the best approach because it would almost certainly attract many claims for compensation which would take many years to decide, and because it could also result in people with other resources at their disposal getting income which they did not earn in the form of compensation from the Government. The urban situation is different because people have lost their land and because (due to the complexities of urban planning) it is against the country's interest for them to be given this land back. These people need compensation as a replacement. In the rural situation land-short people can be given more land.

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8.18 Disputes about non-customary rights in leasehold land

Traditionally these disputes which have been few in numbers have been dealt with by the Supreme Court. However, as it is likely that from now on Papua New Guineans will become involved in these disputes, we think such cases should go to the District Land Court where procedures and the rules of evidence will be more flexible and more suited to Papua New Guinean conditions. There should be a single final appeal to a single Judge of the Supreme Court.

8.19 Claims to Restoration of Titles

During World War II all the official land records of the mandated Territory of New Guinea were destroyed. After the War the New Guinea Land Titles Restoration Ordinance was enacted so that all those people who had freehold or leasehold titles before the War could get their titles re-registered. There were 3920 claims

lodged under the Ordinance and as at the 31st December, 1972,

111 remained of these to be finalised. The present Chief

Commissioner of the Land Titles Commission, Mr. J.P. O'Shea, has this year been trying to clear up these outstanding claims, however, it is possible that some claims will be outstanding in 1974. We recommend that the Minister for Justice confer with the Minister for Lands with a view to abandoning those Administration claims of little or no merit which are still outstanding, whether or not they have reached the stage of appeal to the Supreme Court. Remaining claims could be handled by the Supreme Court on circuit. There should be no more restoration claims lodged by the Government.

8.20 Abolition of the Land Titles Commission

- a) When the new system of courts is ready to be introduced, the Land Titles Commission as presently constructed should be abolished. The decisions of the Land Titles Commission should remain effective and continue to be conclusive evidence of ownership as at the date of the decision of the rights, titles, estates and interests in the land as set out in the decision.
- b) Cases waiting either as applications under Section 15 or Section 15A of the Land Titles Commission Ordinance (1962-1972) should be dealt with under the proposed new system.
- c) The present Land Titles Commissioners have very important and valuable experience and we think that their experience should be saved by having some of the Commissioners available to assist in the training of Magistrates who will sit in the Land Courts.

- d) The very valuable records and technical services of the Land Titles Commission should be used to the fullest extent. They could serve as the administrative head-quarters of the new Land Court system, while the records could be housed in the central land registry and used both for dispute settlement and land registration work.
- e) Some Demarcation Committee Chairmen have done their work very well and have become very experienced. We think they could be of great assistance as Mediators and as assistants in the Local Land Courts, and could be trained as Local Court Magistrates in order to qualify as Chairmen of the Local Land Courts.

8.21 Training programmes for land court magistrates will be necessary

Training programmes to supply additional magistrates to staff Local and District Land Courts, and to train existing magistrates for land work, should be prepared and commenced as quickly as possible.

RECOMMENDATION 68

Mediation

THERE SHOULD BE A FIRST LEVEL OF COMPULSORY MEDIATION BEFORE A PANEL OF LOCAL MEN OF STANDING IN EACH COUNCIL AREA, FORMALLY APPOINTED AND PAID AS MEDIATORS.

RECOMMENDATION 69

Arbitration

- (A) IF MEDIATION FAILS THE NEXT LEVEL OF DISPUTE SETTLEMENT SHOULD BE A LOCAL LAND COURT CONSISTING OF A LOCAL COURT MAGISTRATE SITTING WITH FOUR ASSISTANTS CHOSEN FROM THE PANELS OF MEDIATORS. THE LOCAL LAND COURT SHOULD ATTEMPT FURTHER MEDIATION AND IF THIS FAILS, ARBITRATE OR DECIDE THE DISPUTE. A MAJORITY OF THE COURT WOULD SUFFICE IF IT CANNOT BE UNANIMOUS.
- (B) THE COURT SHOULD HAVE A WIDE RANGE OF POWERS TO DISTRIBUTE RIGHTS IN THE LAND, NOT JUST DECIDE 'OWNERSHIP' FOR ONE PARTY OR THE OTHER.
- (C) IT SHOULD HAVE POWER TO MAKE DECISIONS AND AWARD COMPENSATION ON DISPUTES ASSOCIATED WITH THE LAND DISPUTE IF THESE ARE ESSENTIAL TO ARRIVING AT A WORKABLE DECISION IN RELATION TO THE LAND.

RECOMMENDATION 70

Appeal

- (A) THERE SHOULD BE PROVISION FOR APPEAL TO A DISTRICT LAND COURT CONSISTING OF A SINGLE MAGISTRATE LOCATED IN EACH DISTRICT.
- (B) GROUNDS FOR APPEAL FROM THE LOCAL LAND COURT SHOULD BE STRICTLY LIMITED AND SUBJECT TO A SUBSTANTIAL FEE.
- (C) THE SUPREME COURT SHOULD EXERCISE 'WATCHDOG' POWERS OVER THE LOWER COURTS BUT HAVE VERY LITTLE JURISDICTION IN RELATION TO CUSTOMARY LAND QUESTIONS AS SUCH.

RECOMMENDATION 71

LAWYERS SHOULD BE EXCLUDED FROM THE MEDIATION AND ARBITRATION STAGES AND ADMITTED TO THE DISTRICT LAND COURTS ONLY IN SPECIAL CIRCUMSTANCES.

RECOMMENDATION 72

THE DECISIONS OF LOCAL LAND COURTS AND DISTRICT LAND COURTS SHOULD BE FIRMLY ENFORCED. SPECIAL SUMMARY OFFENCES SHOULD BE PROVIDED TO DEAL WITH PEOPLE WHO DO NOT OBEY COURT ORDERS. THE POLICE SHOULD BE ALLOWED CONSIDERABLE DISCRETION ABOUT HOW THE ENFORCEMENT PROCEEDS. CONFRONTATION WITH DEFIANT PARTIES SHOULD NOT BE ENCOURAGED.

RECOMMENDATION 73

THE DISTRICT LAND COURTS SHOULD HAVE POWER TO AWARD DAMAGES AGAINST THOSE WHO INTERFERE WITH PEOPLE WHOSE RIGHTS TO USE THE LAND HAVE BEEN RECOGNISED EITHER IN THE LOCAL LAND COURT OR THE DISTRICT LAND COURT.

RECOMMENDATION 74

DISPUTES ABOUT RIGHTS IN REGISTERED CUSTOMARY LAND SHOULD ALSO BE SETTLED THROUGH THE SYSTEM OF MEDIATION, ARBITRATION AND APPEAL.

RECOMMENDATION 75

THE TITLE WHICH GOVERNMENT NOW HOLDS TO URBAN AND RURAL LAND SHOULD BE CONFIRMED BY LEGISLATION IN THE HOUSE OF ASSEMBLY, BUT ADMINISTRATIVE STEPS SHOULD COMMENCE TO RETURN LAND TO LAND-SHORT PAPUA NEW GUINEANS (SEE RECOMMENDATIONS ON ALIENATED LAND).

RECOMMENDATION 76

DISPUTES ABOUT FUTURE LEASES OF NATIONAL LAND SHOULD GO TO THE DISTRICT LAND COURT WITH A SINGLE APPEAL TO A SINGLE JUDGE OF THE SUPREME COURT.

RECOMMENDATION 77

THE MINISTER FOR JUSTICE SHOULD CONFER WITH THE MINISTER FOR LANDS WITH A VIEW TO WITHDRAWING REMAINING ADMINISTRATION CLAIMS UNDER THE NEW GUINEA LAND TITLES RESTORATION ORDINANCE. ANY REMAINING CLAIMS SHOULD BE HEARD BY A SUPREME COURT JUDGE ON CIRCUIT.

RECOMMENDATION 78

THE RECORDS AND TECHNICAL SERVICES OF THE PRESENT LAND TITLES COMMISSION SHOULD BE PRESERVED AS A HEADQUARTERS OF THE NEW LAND COURT AND REGISTRATION SYSTEM.

RECOMMENDATION 79

A TRAINING PROGRAMME FOR LAND COURT MAGISTRATES SHOULD BE IMMEDIATELY INTRODUCED AND SOME OF THE PRESENT LAND TITLES COMMISSIONERS SHOULD BE ASKED TO ASSIST IN THE TRAINING PROGRAMME.

RECOMMENDATION 80

WHEN FIGHTING OCCURS OVER LAND THE POLICE SHOULD BE USED TO ESTABLISH AREAS OF PEACE WHERE PARTIES CAN COME IN SAFETY AND BEGIN THE PROCESS OF MEDIATION AND ARBITRATION.

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Chapter 9

RESETTLEMENT AND THE PROBLEM OF LAND SHORTAGE

9.1 Settling of disputes, and registration, will help.

We feel sure that our recommendations about customary land and land dispute settlement can lead to a big increase in the amount of land available for use by the people. The settlement of disputes should mean that land which has not been used because of disputes could be used for subsistence, cash cropping and cattle. People will develop land more fully when their rights are made more certain by systematic registration of customary land. As the number of roads increases, more and more land will be used for commercial agriculture.

9.2 Where land is short because of too many people.

In many parts of Papua New Guinea, shortages of land are either now serious or will soon become serious. The Lai Valley in the Enga District, most of the Chimbu District, and the Maprik/Wosera area of the East Sepik District, are among the worst land short areas even though no land has been sold. Other less known examples are the Ialibu and Huri Basins in the Southern Highlands District, Kiriwina Island in the Milne Bay District and Manam Island in the Madang District.

9.3 Where land is short because of alienation to foreigners.

The biggest examples where Papua New Guineans are now short of land largely due to too much alienation of land are the Gazelle Peninsula, Alexishafen coastal strip and Karkar Island in the Madang District and parts of the Waghi Valley.

9.4 The return of alienated land will relieve but not solve the problem.

The recommendations in our Interim Report about the return of alienated land to land-short people, if adopted, will help those areas but the problem will continue. The biggest reasons for increasing land shortage are increases in population, and in cash cropping and cattle. Government policy on rural development, which in general we endorse, will increase the demand for land. This will cause worse problems of land shortage in some parts of the country. Therefore, we recommend to the Government policies which we believe can help reduce these problems.

9.5 The policies we recommend are about

- A Land Settlement,
- B Industry,
- C Encouraging the "Informal Sector" of the economy,
- D Developing new towns in rural areas,
- E Improving subsistence farming,
- F Improving intensive rather than extensive commercial farming on good arable land,
- G Population control.

A. Land Settlement

Term of Reference 6 requires us to report on, "The advantages and disadvantages of land resettlement and the extent to which further land resettlement schemes should be undertaken."

9.6 Land settlement schemes serve a variety of purposes.

The land settlement schemes so far in Papua New Guinea have had a mixture of aims: They have been seen as part of rural development; they have followed a policy of providing small-holder farmers with individual titles, and developing commercial agricultural and subsistence farming; they have been regarded as intensive growth points for the economy; and they have been expected to help relieve land shortage.

9.7 The four main kinds of land settlement so far have been:

a) Very low cost schemes which give land to land-short people to resettle and grow subsistence crops. The Government only bought the land, made a road or track, and told the people that they could move onto the land. Examples are Gavien near Angoram, the Wosera Scheme, the Pes Scheme near Aitape.

b) Small low cost schemes where the Government has not been greatly involved. The people have moved, often to an area close by, under strong local leaders, such as missionaries or retired police. An example is the Bakoiudu Scheme in the Central District.

c) Medium cost schemes like the Mori Bomguina and Cape Rodney schemes in the Abau Sub-District of the Central District. These were made to encourage the planting of a single crop, but not many Government services were provided.

- d) High cost, highly planned and co-ordinated schemes like the Cape Hoskins Oil Palm Project on which the Government spent very much money for roads, schools, transport, and ports and so on, and had many Government services and advice.

9.8 Some of the strengths of the low-cost Government schemes were:-

- a) They gave land for resettlement at low cost to the Government,
- b) They allowed more efficient production of cash crops than under customary tenure,
- c) They gave settlers clear individual title to their blocks,
- d) They allowed for better spread of people, although mainly from the local area,
- e) They let people from far distant areas come closer to markets, roads and other services.

9.9 Some of the weaknesses were:-

- a) Few Government services were provided. Such things as schools, hospitals, and aid posts were not made available.
- b) There was often not enough agricultural extension. People need advice to grow crops they have never grown before.
- c) Some resettlement schemes did not develop along the lines planned for them.
- d) Selection of settlers was often bad. Because of complicated rules it was very difficult to get land back from, settlers who did not come or did not work, and give it to others.
- e) There was little or no assistance in the social development of settlements.

f) In some schemes there was no control over the transfer of leaseholds. Settlers could sell out and one person could become the owner of many blocks.

9.10 Many low-cost Government settlement schemes failed.

Where no Government services were provided and the land was a long way from their home villages, most people stopped in their home villages. Even if there were too many people, and even if they were short of land, life in their village was more interesting and comfortable than the lonely and hard life in the new settlement.

9.11 The low-cost commercial agriculture schemes were not much better

Many settlers were sent to their blocks which were covered with thick bush. They were often left with an axe, no food and some hope for a loan. Those who lived nearby went home and stayed there. Those who came from a long way sometimes stayed on and worked and now have well-developed blocks. We think these schemes were not successful because there were not enough services, such as schools, aid posts, agricultural extension, planning, and because of the uncertain income to the blockholder. All these things put together made it easier for many people to stay at home rather than risk everything in the new area.

9.12 Many of the small unofficial (non-Government) schemes are more successful.

Leadership is important. These schemes have often had good leaders who gave the people strength during the very hard times of the first five years. Because the people have taken the responsibility themselves they struggle to succeed, rather than looking to Government for assistance or giving up easily.

9.13 The strengths of the high cost schemes are:-

- a) they are fully planned,
- b) Government services and agricultural extension services are good,
- c) settlers are carefully selected,
- d) they are given loans when they start,
- e) their needs are planned for and met when they arise.

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- 9.14 The weakness is that they require much money and administrative resources.

Much of this money goes in roads, bridges, hospitals, schools, clearing, labour and Government services. There is also the continuing cost in terms of lavish extension services. This money is not paid back directly, but it may come back to the Government later through increased tax. The high cost means there is less Government money for other parts of Papua New Guinea (although money for these high-cost schemes comes from international agencies on loan). In addition many of the most able and energetic men in the Government Departments have their energies partly or entirely taken up with a scheme which directly benefits only a tiny minority of people.

- 9.15 The big problems in Cape Hoskins and all resettlement schemes are social.

The settlers leave their home villages and go to a new scheme where they hope for big money. They find there is much more to it than just developing a block and enjoying the income. They come into a very different place with different people. They must develop a new community, whether they like it or not. At home they are taught to fear and distrust strangers, yet when resettled they must learn to live close to and to like people from other Districts. They must work harder, and more regularly, than in village life. They have to learn new kinds of farming. They have to adjust to this new social and work environment at the one time. Also most resettlement is from mountains to coast. For people from the mountains, resettlement on the coast means feeling hot, wet and weak. It is very hard and very different from the well known rhythm of life at home. For the first few years settlers have mainly loan income. When production starts after several years loan repayments also start. Only after many years will the settler have a life without debt.

- 9.16 The customary rightholders of the area many feel aggrieved.

A serious disadvantage of the Cape Hoskins scheme is that the local people are upset at the money and efforts spent on the migrants. They see them becoming better off while they feel neglected. Future schemes must take care to involve the local people as far as possible in the benefits of the scheme.

9.17 Resettlement must give higher income.

We think that no organized settlement scheme will succeed unless it offers the settler much more income than he could expect at home. Experience in Papua New Guinea and in other countries shows that this incentive is required to get people to give up the known comforts of home and to go to a new place to work hard and to live amongst strangers. The Cape Hoskins Oil Palm Scheme and the proposed Bialla Oil Palm Project appear to provide this incentive. On the other hand people will often move voluntarily to nearby areas of their own or adjacent Districts carrying their mixture of cash and subsistence agriculture with them.

9.18 Despite these difficulties settlement schemes can help to relieve land shortage.

Although we wish to make it clear that resettlement will by no means solve the whole problem, it will help in some places. We are concerned however, that the commitment of Government resources, both of men and money, should reach as many people as possible rather than a selected few. For this reason we suggest the following order of priorities for full consideration.

RECOMMENDATION 81

- (A) THE MIGRATIONS OF PEOPLE FROM THE MORE POPULATED AREAS TO THE LESS POPULATED AREAS OF THEIR OWN DISTRICTS, OR TO ADJACENT DISTRICTS, SHOULD BE ENCOURAGED. GOVERNMENT HAS NOT GOT ENOUGH MONEY FOR MANY HIGH COST

RESETTLEMENTS AND SMALL LOW-COST ONES WILL BE

NECESSARY IN MANY PLACES TO HELP PEOPLE IN ISOLATED MOUNTAIN AREAS TO COME CLOSER TO ROADS, MARKETS, ETC. GOVERNMENT SHOULD WATCH FOR THE BEGINNINGS OF THESE AND HELP THEM WITH SERVICES AND SECURE LAND TITLES AS THEY SHOW SIGNS OF BECOMING PERMANENT AND SETTLING DOWN.

- (B) MEDIUM SCHEMES BASED ON THE EXPERIENCE GAINED IN THE GAVIEN AND POPONDETTA REHABILITATION SCHEMES SHOULD BE UNDERTAKEN USING ONLY SETTLERS FROM LAND-SHORT AREAS.
- (C) THE GOVERNMENT SHOULD CONTINUE TO REVIEW AND DEVELOP PLANS TO REHABILITATE EXISTING LAND SETTLEMENT SCHEMES AS RESOURCES PERMIT.

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- (D) FURTHER HIGH COST SCHEMES BASED ON A NUCLEUS ESTATE LIKE THE CAPE HOSKINS OIL PALM SCHEME MAY BE UNDERTAKEN FOR ECONOMIC PURPOSES BUT BECAUSE OF THEIR COST AND OTHER FACTORS THEY ARE NOT VERY SUITABLE FOR RELIEVING POPULATION PRESSURE.

9.19 The Government should try to salvage unsuccessful settlement schemes.

Two such schemes in the advanced stages of planning are the Gavien Scheme and the Popondetta Scheme. The Gavien Scheme will involve up to 147 blocks producing rubber, around a central processing factory. The scheme will not help land shortage problems because it is only for people from either the immediate area or from the middle or upper Sepik River. In this way it is hoped to reduce the tensions between settlers. The Popondetta Rehabilitation Scheme also will be based on rubber, plus cocoa and mint. The idea is to rehabilitate the present Papua New Guinean settlers and to cut up the expatriate blocks on the old Sangara Scheme and make them available to people from all over the country.

9.20 Social services are very important.

The Government has long understood the need for services such as schools, hospitals, roads, etc. in settlement schemes, but it is only now becoming aware of the need to assist in the development of these new communities. We warmly support the efforts of the Department of Social Development and Home Affairs in this matter.

9.21 Small business should be encouraged.

In new schemes other Papua New Guineans should be attracted to start small businesses such as trade stores, bakeries, car and machinery repair shops. Only small amounts of money and cheap buildings are needed to house these businesses in the early stages. Development of all aspects of the informal sector of the economy should be encouraged on these schemes.

9.22 Plenty of land should be reserved around the schemes.

In the early years this would be used for hunting and gathering traditional foods and building materials. Later this land could be divided into blocks for use by the children and grandchildren of the original settlers.

9.23 Local people should be involved in the scheme.

To help prevent jealousy and hostility between migrants and

and former landowners of the area, the local people should be involved as far as possible in the benefits of the scheme.

9.24 Self-help should be encouraged.

Close supervision of the settlers will be needed on Government schemes in the early years as the settlers are trained to grow the new crops and learn the new regular work patterns these crops require. But the emphasis of the agricultural extension should always be on developing and encouraging self reliance in the settlers, both in the agriculture and finance.

9.25 Voluntary resettlement.

In some Districts people are moving out of heavily populated areas and resettling in the less populated areas of the same District or an adjacent District. We think the Government should help by improving and extending the roads, by providing schools and health services and by buying the land to give the settlers secure title if necessary. (Registered group titles are probably most appropriate in such a case.)

9.26 Helping voluntary resettlement.

We do not recommend that the Government rush in and set up new subsistence land settlement schemes like the Wosera and Pes. The failure of that policy is already clear. We do recommend that the Government watch carefully for the voluntary start of this process in other parts of the country suffering land shortage so that it can be encouraged and helped, although the people themselves must take the responsibility.

9.27 The schemes we recommend will cost the Government money.

Money will be needed for various services. However, improving the life of people in the rural areas is a stated aim of the Government. We believe our recommendations will help achieve this aim.

B Industrialisation

RECOMMENDATION 82

THE GOVERNMENT SHOULD CONTINUE TO EXTEND ITS POLICY OF REQUIRING AS MANY JOBS AS POSSIBLE TO BE GIVEN TO PAPUA NEW

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GUINEANS IN ALL INDUSTRIES, AND ITS POLICY OF SPREADING
INDUSTRIAL DEVELOPMENT EVENLY THROUGH THE COUNTRY.

9.28 Jobs in industry will not reduce land shortage much.

Industrialization will give some jobs for those who choose to leave the rural area, and we believe that the Government's present policy of reserving more and more jobs for Papua New Guineans can help. But Papuan New Guineans cannot expect rapid widespread industrialization as most things that could be produced here can be produced more cheaply elsewhere. Spectacular industries like the Bougainville Copper Mine with vast capital and armies of workers are few, and give large-scale employment only in the construction stage. Increasing industrial pollution problems in Japan and the vast timber, mineral, water and fishing resources in Papua New Guinea may make industrialization more rapid here than in other developing countries. But the new enterprises must observe strict pollution control, include training for Papua New Guineans in all levels including management and the highest technical skills, and be controlled by the Papua New Guinea government or statutory authorities through shareholding. Taxation and royalty provisions should be sufficient to spread the benefits of the enterprises widely through the community.

C Encouraging the "Informal Sector"

RECOMMENDATION 83

THE GOVERNMENT SHOULD CONTINUE TO ENCOURAGE THE GROWTH OF
THE INFORMAL SECTOR OF THE ECONOMY.

9.29 Increases in the 'informal sector' of the economy can help
land shortage.

We think that the Government should encourage Papua New Guineans to join the informal sector of the economy, that is to set up cottage industries, backyard car repair shops, to peddle goods and generally to undertake small commercial enterprises without substantial capital backing. This 'informal sector' or 'bazaar economy' as it is sometimes called may cause a drop in building standards, but we believe that the advantages of it, in providing many jobs for Papua New Guineans without much capital makes it worthwhile. We expect that it will have some impact on the land shortage problem.

D Development of new towns in the rural areas.

RECOMMENDATION 84

THE GOVERNMENT SHOULD ENCOURAGE THE DEVELOPMENT OF NEW TOWNS IN THE RURAL AREAS.

9.30 Small towns will improve rural life.

We believe that the Government should put more resources into developing small towns in the rural areas. These towns will provide employment for Papua New Guineans, particularly if the informal sector of the economy is encouraged there. These new towns will have another important effect, by putting Government and other services closer to the people, they will make country life more attractive to the people and help to hold them in the country areas.

E Improvement of subsistence farming techniques.

RECOMMENDATION 85

MORE GOVERNMENT RESOURCES SHOULD BE PUT INTO TRYING TO IMPROVE SUBSISTENCE FARMING METHODS (FOR EXAMPLE, USE OF WASTE RECYCLING UNITS).

9.31 The better the subsistence methods, the less land is used.

The Department of Agriculture, Stock and Fisheries has tried to improve subsistence farming. It is difficult, because one of the best ways of rapidly increasing the yields of subsistence crops is by using fertilizer which costs money, and is heavy for people to carry. However, particularly in areas where people are land short we think more attempts should be made to increase subsistence production so that the same amount of land can grow more food. In this context we recommend that Government and Local Councils strongly encourage the use of units which recycle animal and human waste to provide high quality fertilizers at almost no cost.

F Improving intensive farming on good arable land.

RECOMMENDATION 86

(A) CARE SHOULD BE TAKEN IN LAND-SHORT AREAS TO SEE THAT LAND IS USED FOR CLOSE CROPPING RATHER THAN EXTENDED FARMING.

- (B) COLLECTING AND MARKETING ARRANGEMENTS SHOULD BE IMPROVED TO MEET INCREASED PRODUCTION AND SHOULD BE GIVEN AT LEAST EQUAL PRIORITY WITH LAND TENURE CHANGES.

9.32 Cattle farming can take too much arable land.

We are concerned that the current enthusiasm for cattle farming does not lead to the enclosure of good gardening land in land-short areas. We notice with alarm, for example, the interest in cattle farming in such a crowded area as the Lai Valley in the Enga District. Cattle farming is best confined to grasslands and empty areas not needed for gardening. Even coffee has taken up a great deal of garden land, although this does not demand so much ground as cattle. Agricultural Extension Services, and collecting, pricing and marketing arrangements should try to ensure that the best arable land is intensively used, not used more extravagantly.

9.33 Collecting and marketing at least as important as tenure change.

We have been impressed by the evidence of the energy which village people can release on commercial agriculture. We have seen several efforts at self help, in which people make their own sub-divisions, plant crops, and dig roads with hand tools in order to market produce. All of this can take place without formal changes in land tenure, although some adjustment of the land tenure pattern may help. We strongly recommend that assistance in collecting, transporting and marketing of crops, and the use of extension services to assist farmers in growing new crops, should be given at least equal importance as land tenure changes. This should be taken into account before expensive land registration is

carried out. In this context we note the submission of the

former Director of the Department of Agriculture, Stock

and Fisheries, Mr. W. Conroy, that "It is important not to get the feeling that without a lot of changes in land

tenure, in the law and the administrative systems relating

to land tenure, you will not get any progress...All coffee

development has taken place on indigenous owned land, land

being exchanged by people under tribal systems. A greater

part of the Tolai cocoa development went on in the same way".

G Population Control

RECOMMENDATION 87

GOVERNMENT SHOULD CONSIDER ADOPTING A POLICY OF POPULATION CONTROL.

9.34 The main reasons for rapid population growth in Papua New Guinea are:

- a) Men spend more time with their women these days because there is much less warfare.
- b) Ritual taboos restricting the period in which a man and his wife can have sexual intercourse have begun to break down.
- c) Better health services and improved diet and the use of drugs mean that many more children survive childbirth and early infancy and grow to be adults.
- d) The aspects of the old society which contributed to birth control are being swept away and they are not being replaced by new ways. Most Papua New Guineans know nothing of the contraceptive methods used in other societies and even when both husband and wife want to stop having more children they often do not know how to.
- e) With less warfare, better medical services, better and more plentiful food, people tend to live longer.
- f) In most Papua New Guinean societies it is a matter of prestige and pride to have many children.
- g) Most Christian Missions are against birth control totally or only approve methods which are very difficult and unreliable.

9.35 Population control is a slow process.

It takes at least one to two generations before the rate of population increase slows, and longer than that before the population itself stops growing at all. Evidence from other countries shows that more effort has to be spent advising country people about population control methods than city people.

9.36 Population control will reduce land shortage.

Most of those who gave evidence to us on the subject were against population control, although some were in favour. Nevertheless, we recommend that the Government consider adopting such a policy. We believe it will help reduce the land shortage problem.

Chapter 10

VALUATION AND COMPENSATION

RECOMMENDATION 88

CUSTOMARY OWNERS SHOULD BE COMPENSATED FOR USE MADE OF AND IMPROVEMENTS ADDED TO LAND; AS FAR AS POSSIBLE THE INCREASED VALUE OF LAND DUE TO DEMAND SHOULD PASS TO THE GOVERNMENT ON BEHALF OF THE COMMUNITY, NOT TO PRIVATE INDIVIDUALS.

I VALUE IN LAND:

10.1 People value their land for various reasons.

People may value land because they have plants and trees on it which they use; houses or other improvements they have put on it; or simply because it is their territory which they hold against another group. They may also know a good deal about the potential use to which the land could be put. All of these things will affect what price they would ask if they were to sell the land.

10.2 Monetary value or price depends largely on the buyer.

The monetary value or price is fixed mainly by what the buyer is prepared to pay. This is greatly affected by how many buyers are available. Governments everywhere regulate the number or the freedom of buyers by zoning, by putting restrictions on alienability, by taking the sole right of purchase themselves and excluding private purchase, by taxes, by tariffs and by rent controls, (to name some of the main ways).

10.3 Land prices must be kept down.

We believe that the Papua New Guinea Government will want to keep land prices down, so that its own resources will not be overstrained when it requires land for public purposes (including low-cost housing) and because it will want Papua New Guineans with limited funds, not just the wealthy, to be able to buy or lease land. The resources of the country will therefore be better distributed, according to the 8 Point Programme.

10.4 The price paid for customary land.

As stated in para. 2.13, our recommendations on restriction of alienability are intended to keep most dealings in Government hands and allow it to keep prices down. There is no reason why the Government should allow itself to be overcharged either by its own people or expatriate landholders for land needed for public purposes. It does not have to pay what in Australia and some other countries is a 'market value' or 'market price' based on the concept of a free market, because there is no free market in a country where most dealings are through the Government and foreign buyers are specifically excluded. Nor does it have to include added value based on what is intended to be done with the land, or its favourable position. This is something which should accrue to the community rather than the people fortunate enough to be born there, though we have recommended grant of, or option on, shares in business enterprises on the land where this is appropriate. If owner ask more than the Government is prepared to pay in a voluntary contract, the Government can either give up the purchase or carry out a compulsory purchase. The important thing is to find ways of giving former rightholders a fair but not speculative return for what they are giving up, but without the Government, on behalf of the community, being obliged to pay extravagant prices to small groups. We believe the following recommendation will achieve this aim.

RECOMMENDATION 89

PAYMENT FOR CUSTOMARY LAND SHOULD INCLUDE:

- (A) A PAYMENT OF NOT MORE THAN \$50 PER HECTARE FOR THE LAND ITSELF. THIS IS INTENDED TO BE A MAXIMUM RATE; IT IS EXPECTED THAT LOWER PRICES WILL BE OFFERED AND ACCEPTED FOR POORER LAND. BUT THE FIGURE SHOULD BE REVIEWED IN THE LIGHT OF INFLATIONARY TRENDS NOT LATER THAN FIVE YEARS FROM NOW.
- (B) THE VALUE OF THE UNEXHAUSTED IMPROVEMENTS ON THE LAND (E.G. CROPS, TREES, HOUSES, SHEDS AND FENCES).

(C) COMPENSATION FOR THE LOSS OF GARDENING, HUNTING, FISHING AND IMPORTANT GATHERING RIGHTS ACTUALLY BEING EXERCISED OVER THE LAND.

(D) COMPENSATION FOR LOSS OR DISTURBANCE OF VILLAGE LIFE-STYLE.

(E) IN ADDITION:

WHERE A COMMERCIAL ENTERPRISE IS TO BE BUILT ON THE LAND, GOVERNMENT MAY REQUIRE THAT SHARES IN THE ENTERPRISE OR AN OPTION TO PURCHASE SHARES IN THE ENTERPRISE BE GIVEN TO THE PREVIOUS LAND OWNERS.

(THIS SHOULD APPLY IN APPROPRIATE CASES TO THE GOVERNMENT PURCHASE OF CUSTOMARY LAND AND TO THE COMPENSATION PAYMENT FOR ANY DEVELOPED 'WASTE AND VACANT' LAND RETAINED BY GOVERNMENT.)

II INCREASED VALUE SHOULD GO TO THE COMMUNITY WHICH CREATES IT

RECOMMENDATION 90

ONCE GOVERNMENT HAS ACQUIRED LAND, IT SHOULD TRY TO MAKE SURE THAT AS FAR AS POSSIBLE ANY INCREASE IN PRICE OR VALUE AS A RESULT OF INCREASING POPULATION AND DEMAND, SHOULD BE RECOVERED BY THE GOVERNMENT ON BEHALF OF THE NATIONAL COMMUNITY, NOT BY PRIVATE INDIVIDUALS TRADING IN LEASES.

10.5 Methods of drawing increased value into the public revenue.

a) Government should issue only leasehold land, not freehold.

b) Sub-leasing of Government leases should be prohibited, except that a residence may be sublet during temporary absences.

c) Strict clauses about 'use' should be put in the leases, and change of use without consent prohibited. A subdivision of an agricultural lease to put up a service station, for example, would require approval and a revision of the rent.

- d) Government should set the initial rentals according to the size, use, location and expected turnover.
- e) The rent should be revised annually in relation to the urban cash wage. We suggest that the rent be increased to the nearest 10% of increase in the urban cash wage per year. This is to avoid the shock effect of drastic rent revisions at wider intervals, and for ease of administration. Periodic inspections can still take place at say 7 to 10 year intervals to adjust the base rate. This policy may not apply to low cost self-help housing schemes.
- f) Transfer of leases should take place according to the method suggested in Recommendation 102.
- g) If these methods do not prevent an inflation of values, a capital gains tax (on the increase in value between the time a person acquires land and when he sells it) should be considered.

III UNEXHAUSTED IMPROVEMENTS

RECOMMENDATION 91

- (A) COMPENSATION FOR DEVELOPED LEASEHOLD OR FREEHOLD LAND SHOULD BE ON THE BASIS OF UNEXHAUSTED IMPROVEMENTS.
- (B) UNEXHAUSTED IMPROVEMENTS COULD BE VALUED ACCORDING TO THEIR USEFULNESS OR PRODUCTIVITY.
- (C) THE CONCEPT OF A 'FREE MARKET' PRICE IS NOT APPROPRIATE.

10.6 Value depends upon what is considered just.

As Mr. Roland Brown, the former Attorney-General of Tanzania, argued in the 1973 Waigani Seminar, value in land or improvements is not some fixed mathematical reality which can be discovered by simple calculation. It depends essentially on what are believed to be just principles upon which to base the calculation. In the case of compensation paid by Government it depends essentially on what Government considers to be just. Government could, for example, find the initial cost price of the improvements, deduct for depreciation and pay that. If it considers that excessive profits have been made from the improvements it could deduct still further. We have spent considerable time

considering what are fair or just principles of compensation and set out our conclusions in the following paragraphs.

10.7 Compensation for developed National Land should be for unexhausted improvements.

- a) We have recommended that those who lose developed land should be compensated for the unexhausted improvements on the land.
- b) We have recommended that compensation for surrendered or transferred leases be on the basis of unexhausted improvements.

10.8 Definition of unexhausted improvements.

By unexhausted improvements we mean any thing or quality on the land directly resulting from the expenditure of capital or labour by the titleholder which improves the productivity of the land, and which is still of use.

10.9 The valuation must relate to the usefulness of the improvements.

Crop trees, buildings and machinery would be valued according to their economic life. The value should be calculated on the income-earning potential and quality of the improvements. This is important because the people who are allocated the properties will usually have to repay the amount of compensation to the Government and will have to rely on the profits of the property to do so. The calculation should make allowance for the age of trees. This is more satisfactory than setting an arbitrary price per tree.

10.10 Suggested basis of valuation.

The valuation of the productive assets could be based on net annual profit related to an expected percentage of return. This would be affected by the circumstances in which the enterprise is being transferred. We have had discussions with the Valuer-General on how the expected percentage return might be fixed by the House of Assembly. Those discussions should be pursued further. They should note that present market prices are low, and that the aim is to enable Papua New Guineans to take up

property without high repayment obligations.

10.11 The concept of a 'free market' price is not appropriate.

There have been suggestions that valuation of land and improvements should be based on prices which could be expected in a free market. We reject this concept entirely because a free market does not exist in Papua New Guinea, and we recommend against it. We believe that most dealings should be through the Government and that foreign buyers should not be allowed to deal direct for land, developed or undeveloped. In these circumstances the market valuation of plantations is low and there is no need to pay compensation on the assumption that a free market exists because it does not and should not exist.

10.12 Compensation for unexhausted improvements should not cause hardship.

It may be feared that payment of compensation for improvements only will cause hardship to those who have assumed a market value in land. However we feel that, at this time, the change is not as great as may be thought. Given the uncertain market for plantations at the present time, market values of plantation land are already heavily reduced. Compensation for unexhausted improvements may therefore be better than market value. In any case we consider the principle of valuing leases on improvements only, and not treating any increase in demand for the land itself as a legitimate source of private profit, to be of fundamental importance and one which should be firmly established at this opportune time and not departed from. After the initial period of adjusting book values we do not believe that those investing in tropical agriculture in Papua New Guinea should be seriously deterred.

10.13 The high compensation principle used in Kenya should be avoided.

We are also concerned to avoid the danger that the policy of buying back developed land for land-short Papua New Guineans by means of grants or loans from public finance will place an artificially high value on that land. We want to avoid the situation that developed in Kenya where the "White Highlands" were repurchased at market prices prevailing in good years under colonial rule.

This placed an excessive drain on public funds, despite the British grant of one-third of the repurchase price, and forced up the resale price of the land so that more land went to wealthy Kenyan townspeople (rather than the poorer farmers) than was intended. We have recommended that plantations be re-purchased for land-short Papua New Guineans with the assistance of loans from a revolving fund to be provided by Australia. It is quite essential to the scheme, both to conserve funds and to enable Government to reallocate the land to Papua New Guineans at reasonable cost, that the valuation of the land be on the basis of unexhausted improvements only, not a high figure based on market prices under colonial rule.

Chapter 11

LAND ADMINISTRATION

11.1 Introduction

Term of Reference 7 asks us to report on and recommend about the legal and administrative problems with the present laws about alienated land. This chapter deals briefly with these and related problems.

I LEGAL PROBLEMS

11.2 Present legislation should be replaced.

If the recommendations in our Interim Report on Alienated Lands and elsewhere in this Report are adopted, most of the present land law would have to be repealed and replaced. Because we suggest a new approach to the country's land problems, and because of self-government and independence, we think it is now a good time to replace the present land laws with new ones.

RECOMMENDATION 92

THAT ALL THE LAND LAWS NOW IN FORCE IN PAPUA NEW GUINEA BE REPEALED AND REPLACED BY NEW LEGISLATION ENACTED BY THE HOUSE OF ASSEMBLY.

11.3 Laws which should be repealed:

We think the following laws should be repealed:

- a) All Imperial and Australian legislation which applies or has been adopted into Papua and/or New Guinea. The Imperial Statutes go back to 1540, when Henry VIII was King of England and contain very little of use in Papua New Guinea. Any useful provisions could be put into the new law.
- b) The Administration of Justice Ordinance, 1927, (Papua).
- c) The Real Property Ordinance (1913-1969) (Papua), and the Lands Registration Ordinance (1924-1969) (New Guinea), should be replaced by a single ordinance for Papua New Guinea dealing with the registration of leases on national land.

- d) Land (Corrected Titles) Ordinance, 1951. Its provisions should be put into the new ordinance dealing with registration.
- e) Land Ordinance (1962-1971), will need so much change that it will be better to replace it with a new one.
- f) Land Titles Commission Ordinance (1962-1972) will need to be replaced by a new ordinance dealing with land dispute settlement. 11.5
- g) Land (Tenure Conversion) Ordinance (1963-1970). Because we have recommended that the form of title given by this ordinance be abolished, it will no longer be necessary.
- h) Lands Registration (Communally Owned Land) Ordinance, 1962, has been in suspension since 1970. We do not recommend that it be bought back into force.
- i) New Guinea Land Titles Restoration Ordinance (1951-1968) should be amended so that no more claims can be lodged under it, and should be repealed as soon as all the present claims are finalized.
- j) Land (Underdeveloped Freeholds) Ordinance, 1969 has never been used. It is too complicated and difficult to administer to be useful. 11.6
- k) Evidence (Land Titles) Ordinance 1969. Because of our recommendations about national land this will no longer be necessary.

11.4 Other general laws may need to be changed.

- a) The effect the Statutes of Frauds and Limitations Ordinance, 1951, has on land should be carefully studied and changes should be made in the new legislation if necessary. The real relevance of the rule against perpetuities in succession to land in Papua New Guinea should also be studied and appropriate changes to the law made if necessary. 11.7

- b) Our recommendations are likely to affect provisions of the Ordinances Interpretation Ordinance, the Native Customs Recognition Ordinance, the Local Courts Ordinance and others.

Administrative Problems

11.5 There are problems today with the administration of alienated lands.

The two main problems with the administration of alienated lands are the time it takes for someone to obtain a lease from the Land Board and the difficulties in forfeiting leases where the leaseholders have not developed their land. The House of Assembly has recently passed the Land (Land Board) Act, 1973, in an attempt to overcome the first problem. It is difficult to forfeit leases because of the difficulties in serving people with forfeiture notices. We think the present procedures should be replaced. It should be sufficient notice of forfeiture to send a letter to the leaseholder to the last postal address given by him to the Department of Lands, Surveys and Mines, put a copy of the forfeiture notice on his leasehold block, and broadcast the notice over the Government radio.

11.6 Most present administrative problems are small.

Most of the administrative and legal problems in the present laws about alienated land are small but frustrating, like the examples given above. These problems could be overcome if careful attention is given to them in the drafting of the new laws. Because we have recommended the repeal of the present legislation we do not propose to analyse its defects any further.

II LAND ADMINISTRATION IN THE FUTURE

11.7 In the immediate future land administration is going to be crucial in Papua New Guinea.

If the Government adopts the recommendation in this Report and in our Interim Report, the energies of sensitive, thoughtful and active public servants will be necessary to implement them. The people wish to improve their life styles, and the Government has shown by its 8 Point Improvement Programme that it wants to help in this. But since

Papua New Guinea cannot really look forward to rapid growth of industries and a great increase in jobs in the town areas either in the formal or informal sectors of the economy, the only way most people will be able to improve their standard of living is by the greater and more efficient use of their land. The Department of Agriculture, Stock and Fisheries will be able to help here but land administrators will play a vital role.

11.8 The importance of land administration should be recognised.

We believe that for too long land administration has held too low a place in the Public Service of Papua New Guinea. Their work should be seen as an important career which is sufficiently well paid, and for which people are prepared by a mixture of teaching and practical training. In short, the status and salary levels of officers of the Department of Lands, Surveys and Mines should be increased and they should be given more thorough training in their work. For this reason, we have recommended a new programme of training for the land administration service. (See Part IV of this Chapter on 'Training'.)

11.9 There should be a national land law administered by the Districts.

The national land law should allow for as much involvement of the people from the Districts as possible, and there should be very little need for Districts to refer land administration to Port Moresby. This is in line with views given to us during our public meetings through the whole country. There is a general demand that the people be involved as far as possible in the making and carrying out of land policies. For these reasons we have recommended:-

- 1) The setting up of District Land Control Boards,
- 2) A land dispute settlement structure in each District,
- 3) District Land Registries.

We have dealt with the land dispute settlement in Chapter 8. District Land Registries is dealt with below in this Chapter.

11.10

11.11

11.10 District Land Control Boards should be set up.

In our Interim Report we recommended that in each District a District Land Control Board should be set up to administer leases on national land. The District Land Control Board will have a number of other powers and duties as set out below.

RECOMMENDATION 93

THE PRESENT NATIONAL LAND BOARD SHOULD BECOME THE NATIONAL LAND CONTROL BOARD. THE DISTRICT LAND CONTROL BOARDS SHOULD BE APPOINTED BY THE PROPOSED DISTRICT GOVERNMENT EXCEPT FOR ONE REPRESENTATIVE OF THE CENTRAL GOVERNMENT, WHO COULD BE A MEMBER OF THE NATIONAL LAND CONTROL BOARD OR A CENTRAL GOVERNMENT OFFICIAL IN THE DISTRICT. NATIONAL AND DISTRICT LAND CONTROL BOARDS SHOULD BE STATUTORY BODIES, AND SHOULD MEET REGULARLY AND FREQUENTLY.

11.11 Membership of Land Control Boards.

On each Board there should be some public servants with responsibility in land administration, agriculture and associated fields. Most of the members should not, however, be public servants, but should be persons chosen so as to bring a wide range of interests and experience into the Board. District Governments might adopt the present appointment procedures of the National Education Board, by which members are appointed from names sent in by groups which represent the community's interests. We feel that members of the House of Assembly should not be members of either the National Land Control Board or the District Land Control Boards. The relationship of District Land Control Boards to the District Governments will depend on the results of the Constitutional Planning Committee's report.

III DISTRIBUTION OF FUNCTIONS AND POWERS

A. Policy-making

RECOMMENDATION 94

FUTURE NATIONAL LAND POLICY AND LAND USE PLANNING SHOULD BE WORKED OUT AFTER REGULAR CONSULTATIONS BETWEEN CENTRAL GOVERNMENT AND DISTRICT GOVERNMENTS. THE RESULTS OF THESE CONSULTATIONS SHOULD BE CIRCULATED TO THE DISTRICT LAND

CONTROL BOARDS. CENTRAL GOVERNMENT SHOULD ENSURE THAT ALL GOVERNMENT DEPARTMENTS CONCERNED WITH LAND POLICY ARE CONSULTED AND THEIR OWN POLICIES CO-ORDINATED, POSSIBLY THROUGH A BODY SUCH AS THE PROPOSED NATURAL RESOURCES BOARD.

11.12 No detailed recommendations on land policy.

The relationship between Central Government and District Government in forming land policies depends on the result of the Constitutional Planning Committee's Report, and so we do not make detailed recommendations on this matter.

B. Law Making

RECOMMENDATION 95

CENTRAL GOVERNMENT SHOULD BE RESPONSIBLE FOR MAKING THE NATIONAL LAND LAW FOR THE WHOLE COUNTRY. IT SHOULD

CONSULT WITH DISTRICT GOVERNMENTS BEFORE CHANGING THE NATIONAL LAND LAW.

11.13 Limited rule making power to District Governments.

We have recommended in Chapter 7 on Succession to Land that District Governments should have a limited rule making power in relation to succession to registered interests in land.

C. Land Administration

RECOMMENDATION 96

THE NATIONAL LAND CONTROL BOARD SHOULD HAVE THE POWER TO SET DOWN THE RANGE OF TERMS WHICH APPLY TO REGISTERED INTERESTS IN NATIONAL LAND. DISTRICT LAND CONTROL BOARDS SHOULD BE ABLE TO MAKE AND VARY THE TERMS WHICH APPLY TO REGISTERED INTERESTS IN EACH DISTRICT, WITHIN THE RANGE SET DOWN BY THE NATIONAL LAND CONTROL BOARD.

11.14 This power will mainly relate to registered leases of national land.

As the nature of such leases is the concern of the Central Government, we feel that it should be able to set the range and limits of rentals, improvement conditions and

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terms. Enforcement of lease conditions should be the function of the District Land Control Board on behalf of the Central Government. Within the range and limits set by the Central Government, the District Governments should be able to make and vary the terms of leases, and should be able to apply to the Central Government for a widening of these limits.

RECOMMENDATION 97

- (A) THE DISTRICT LAND CONTROL BOARD SHOULD HAVE THE POWER TO APPROVE APPLICATIONS BY PAPUA NEW GUINEANS FOR LEASES AND RENEWALS OF LEASES INVOLVING LAND UP TO A CERTAIN AREA, OR INVESTMENT UP TO A CERTAIN VALUE TO BE FIXED BY THE NATIONAL LAND CONTROL BOARD. APPLICATIONS FOR LEASES OR RENEWALS INVOLVING LAND WHICH IS OF GREATER AREA OR INVESTMENT WHICH IS OF GREATER VALUE SHOULD REQUIRE THE APPROVAL OF THE NATIONAL LAND CONTROL BOARD. (SEE PARAGRAPH 69 OF OUR INTERIM REPORT.)
- (B) THE NATIONAL LAND CONTROL BOARD SHOULD ONLY BE ABLE TO WITHHOLD ITS APPROVAL AFTER CONSULTATION WITH THE DISTRICT LAND CONTROL BOARD.
- (C) THE DISTRICT LAND CONTROL BOARD SHOULD HAVE THE POWER TO APPROVE APPLICATIONS BY PERSONS WHO ARE NOT NATIONALS OF PAPUA NEW GUINEA FOR LEASES AND RENEWALS OF LEASES INVOLVING LAND UP TO A CERTAIN AREA, OR INVESTMENT UP TO A CERTAIN VALUE TO BE FIXED BY THE NATIONAL LAND CONTROL BOARD. APPLICATIONS BY PERSONS WHO ARE NOT NATIONALS OF PAPUA NEW GUINEA FOR LEASES AND RENEWALS OF LEASES INVOLVING LAND OF GREATER AREA OR INVESTMENT OF GREATER VALUE SHOULD REQUIRE THE APPROVAL OF THE NATIONAL LAND CONTROL BOARD. THE NATIONAL LAND CONTROL BOARD SHOULD NOT GRANT OR WITHHOLD ITS APPROVAL EXCEPT AFTER CONSULTATION WITH THE DISTRICT LAND CONTROL BOARD CONCERNED. ONLY IN EXCEPTIONAL CIRCUMSTANCES SHOULD THE NATIONAL LAND CONTROL BOARD GRANT OR WITHHOLD APPROVAL WHERE SUCH ACTION IS STRONGLY OPPOSED BY THE DISTRICT LAND CONTROL BOARD.

- (D) THE NATIONAL LAND CONTROL BOARD COULD SET GUIDELINES FOR DISTRICT LAND CONTROL BOARDS TO FOLLOW IN THE INTERESTS OF NATIONAL DEVELOPMENT.

11.15 Central Government better able to deal with large areas of land or foreign investors.

As the Central Government will have experts trained in development planning and investment, we think that it should have a control over medium or large-scale schemes involving foreign investment. We feel that District Government's attitudes should also be observed. These matters will involve national policy on planning and investment. Large-scale development will involve consultation and co-ordination between a number of Central Government Departments, and we support the idea that a body such as the proposed Natural Resources Board be set up among the Departments concerned.

RECOMMENDATION 98

PURCHASES OR LEASES OF CUSTOMARY LAND SHOULD BE CARRIED OUT BY LANDS OFFICERS FROM THE DISTRICT ON BEHALF OF THE CENTRAL GOVERNMENT. OFFICERS OF THE DEPARTMENT OF THE CHIEF MINISTER AND DEVELOPMENT ADMINISTRATION SHOULD CONDUCT INVESTIGATIONS BEFORE THE PURCHASE OR LEASE, AND FOR ALL PURPOSES ACT IN THE TRANSACTION IN THE INTERESTS OF THE PERSONS SELLING OR LEASING.

11.16 The duties of public servants should be clarified.

- a) We think that officers of the Department of the Chief Minister and Development Administration should not buy and lease land. We do not see how they can be buying agents for the Government and, at the same time, carry out their duty to protect the interests of Papua New Guineans in a satisfactory way. It should be made clear that their job in such transactions is to see that proper investigations are carried out before customary land is purchased or leased, and to see that the people really understand that they are selling or leasing their land, and generally that they are being fairly treated.

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- b) Department of the Chief Minister and Development Administration staff should assist the new courts as required, helping to locate and define disputed ground, mark boundaries after court decisions etc. They should normally assist the people in any dispute with the Government. They should not be heavily involved for the Government in such disputes. The Government should be represented in such matters by Lands Department Officers.

11.17 Constitutional changes may require some rearrangement of duties.

We understand that under the future constitution, the District Commissioner and public servants in the Districts may be made more directly responsible to the District Government. Some changes in District staff will take place, and the co-ordination or distribution of work of Lands Officers and Department of Chief Minister and Development Administration officers must be provided for. Above all, we feel that delays while a matter goes from one Department to another, or from a District to Port Moresby should be avoided as far as possible.

RECOMMENDATION 99

ALL PURCHASES OR LEASES OF CUSTOMARY LAND SHOULD BE THE SUBJECT OF CONSULTATION WITH THE DISTRICT LAND CONTROL BOARD BEFORE COMPLETION. ONLY IN EXCEPTIONAL CIRCUMSTANCES SHOULD CENTRAL GOVERNMENT PROCEED WITH A PURCHASE OR LEASE WHICH IS STRONGLY OPPOSED BY THE DISTRICT LAND CONTROL BOARD.

11.18 Other powers may be granted to the District Government.

It may be desirable to grant other powers to District Land Control Boards, for example the power to direct consolidations of land (so as to allow registration of an area of acceptable size). So far as possible, all matters of land administration should be conducted at the District level.

RECOMMENDATION 100

THE NATIONAL LAND CONTROL BOARDS SHOULD SET THE CONDITIONS ON ACQUISITIONS OF LAND WHICH PROVIDE FOR RETURN OF THE LAND TO THE PERSONS SELLING OR LEASING IT, IN THE EVENT OF FAILURE TO USE IT AFTER A FIXED TIME FOR THE PURPOSE FOR WHICH IT WAS ACQUIRED.

11.19 Land so acquired and not used should be returned.

We have recommended this in Chapter 6 on 'National Land'. These conditions have no application to land acquired for urban growth.

RECOMMENDATION 101

THE DISTRICT LAND CONTROL BOARD SHOULD BE ABLE TO RESTRICT THE CLASS OF APPLICANTS FOR SPECIAL LEASES (SUCH AS TO PERSONS FROM A PARTICULAR AREA) OR GRANT SPECIAL LEASES WITHOUT ADVERTISEMENT, SUBJECT IN ALL CASES TO APPROVAL BY THE NATIONAL LAND CONTROL BOARD. THE NATIONAL LAND CONTROL BOARD SHOULD SET GUIDELINES TO BE FOLLOWED BY DISTRICT LAND CONTROL BOARDS IN GRANTING SPECIAL LEASES.

11.20

Transfer of Leases

RECOMMENDATION 102

WHEN A LEASE EXPIRES AND THE LESSEE DOES NOT WISH TO RENEW, HE SHOULD BE COMPENSATED BY THE DISTRICT LAND CONTROL BOARD (ON BEHALF OF THE GOVERNMENT) FOR THE UNEXHAUSTED IMPROVEMENTS ON THE LAND AND THE NEW LESSEE SHOULD PAY FOR THESE IMPROVEMENTS, EITHER IN A LUMP SUM OR THROUGH AN ADJUSTMENT OF RENT TO COVER THEM AS THE DISTRICT LAND CONTROL BOARD THINKS FIT. WHEN A LESSEE WISHES TO DISPOSE OF OR SURRENDER HIS LEASE HE SHOULD BE REQUIRED TO OFFER IT TO THE DISTRICT LAND CONTROL BOARD. THE BOARD SHOULD, WITHIN TWO MONTHS EITHER:

(A) RECOMMEND THAT CENTRAL GOVERNMENT REPURCHASE THE LEASE, ON PAYING THE RETIRING LESSEE FOR THE UNEXHAUSTED IMPROVEMENTS. CENTRAL GOVERNMENT SHOULD NORMALLY EXERCISE THIS RIGHT WHEN IT REQUIRES THE LAND FOR RESETTLEMENT, TOWN GROWTH OR OTHER PUBLIC PURPOSES.

11.21

(B) REALLOCATE THE LEASE AND COMPENSATE THE RETIRING LESSEE FOR UNEXHAUSTED IMPROVEMENTS. IT SHOULD NORMALLY DO THIS FOR THE LARGER AND MORE VALUABLE BLOCKS IN ORDER TO KEEP CONTROL OF THE LAND MARKET AND KEEP PRICES DOWN.

- (C) RELINQUISH ITS OPTION AND ALLOW THE LESSEE TO SELL HIS LEASE DIRECTLY, SUBJECT TO A CHECK BY THE BOARD THAT THE TERMS AND CONDITIONS OF THE SALE ARE EQUITABLE. IF THE BOARD DOES NOT EXERCISE ITS OPTION WITHIN TWO MONTHS THE LESSEE SHOULD BE ABLE TO SELL HIS LEASE DIRECTLY IN ANY CASE, SUBJECT TO A CHECK BY THE BOARD.

11.20 Government should have first option.

The purpose of these provisions is to allow Government always to have the first option of recovering the land (and improvements if any) to meet public needs, to prevent the market being dominated by the wealthier section of the community, to keep prices down and to permit some redistribution of land to the less well advantaged members of the community.

RECOMMENDATION 103

- (A) STRICT LAWS SHOULD BE ENACTED AGAINST BRIBERY AND UNDER-COVER PAYMENTS. THE LAND REGISTRY SHOULD BE OPEN TO PUBLIC AND JUDICIAL INSPECTION. THE HEARINGS OF DISTRICT AND CENTRAL LAND CONTROL BOARDS SHOULD BE OPEN TO THE PUBLIC. THE RECORDS OF THEIR PROCEEDINGS SHOULD BE TABLED ANNUALLY IN THE DISTRICT AND CENTRAL LEGISLATION.
- (B) AN OFFICER IN THE JUSTICE DEPARTMENT SHOULD BE AUTHORISED TO TAKE PROCEEDINGS IN COURT AGAINST ANY PERSON WHO COMMITS OFFENCES AGAINST PROVISIONS OF THE LAND LEGISLATION.

11.21 Corruption must be guarded against.

In some parts of the world, including many of the newly independent nations, unofficial dealings in leaseholds and corruption among the leasing authorities have occurred. Papua New Guinean Government will have to guard against such dangers as much as possible. We have recommended elsewhere that unofficial dealings in registered land should be made offences, and could lead to forfeiture of the land or cancellation of the dealing. Corruption among officials administering the land laws will always be a risk, and severe penalties should be provided and imposed where it occurs. An independent officer should be authorised to take action, so that

prosecutions will be taken where appropriate without fear or favour.

- 11.22 Individual or corporate holdings on alienated or national land should be available.

Where alienated land is suitable for economic sub-division and the people want individual leasehold titles, then the District Land Control Boards should try to accommodate them. We feel that there may also be many situations in which leases could best be taken up by corporate groups rather than individual lessees. The problems of subdividing land, selecting settlers, administering individual leases, adjusting squabbles between settlers from different clans, and above all, of choosing successors to lessees on individual blocks, will add considerably to the burdens of the District Land Control Boards.

- 11.23 Many administrative functions could be carried out by corporate groups.

If a group of intending settlers undertake to lead and organise a corporate settlement on land leased from the District Land Control Board they could, subject to the provisions of the national law on group titles set out in Chapter 3, take responsibility for many of the functions listed above. They could either work land as one extensive farm, or allocate leases or occupation rights to individual members who would work as small-holders under the corporation. They could select successors or adjust the land allocation according to need. These responsibilities would provide an opportunity for the constructive energies of such groups as the Nemea Association, who could well be asked to organise settlement on some of the vast undeveloped purchases in the Cloudy Bay area.

- 11.24 General Purpose Corporations could be set up.

Our recommended law on group titles (see Chapter 3) would provide the basis for the corporate holding of alienated or national land, while the General Purpose Corporation Bill at present being considered by Government should be looked at promptly as the basis for any group enterprise set up on the corporate holding.

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D. Land Registration

RECOMMENDATION 104

THERE SHOULD BE A NATIONAL LAND REGISTRY OFFICE IN PORT MORESBY AND A DISTRICT LAND REGISTRY OFFICE SET UP EVENTUALLY IN ALL DISTRICT CAPITALS. THE DISTRICT LAND REGISTRY OFFICE SHOULD BE UNDER THE SUPERVISION OF THE GENERAL DISTRICT REGISTRY OFFICE. THE NATIONAL LAND REGISTRY SHOULD BE UNDER THE SUPERVISION OF THE REGISTRAR-GENERAL AND SHOULD BE PART OF THE JUSTICE DEPARTMENT.

11.25 Registries must be independent.

District Registry officers may be officers of the Lands Service, but the work of the District Registries should be checked and supervised by the National Land Registry Office, not the Lands Department.

11.26 District Land Registry Office should become the main place for land matters in the District.

As land registration proceeds in each District the staff of the District Land Registry Office should grow to deal with the increase of work. Some Districts may not need their own Registry Office at first, and can be served from the centre. But we want to encourage the idea of the Land Registry Office as the place people readily go to to carry out transactions in land. We hope that in the long term, local registries will be set up at Sub-district level, with a small staff assisted by the technical staff of the District Land Registry Office. This will take some time to achieve.

RECOMMENDATION 105

AS A PART OF AUSTRALIAN OR OTHER OVERSEAS AID, UP TO 12 TRAINED REGISTRY OFFICIALS SHOULD BE ENGAGED ON CONTRACT TO PUT THE LAND REGISTRY ON THE SOUNDTEST POSSIBLE BASIS AND COPE WITH THE INITIAL RUSH OF NEW WORK. PART OF THEIR FUNCTION SHOULD BE THE TRAINING OF PAPUA NEW GUINEAN REGISTRY STAFF.

11.27 Functions of Land Registry Offices.

a) Registration of existing alienated land.

The national Land Registry Office should be responsible for the registration of national land. If the recommen-

dations of our Interim Report are adopted then the National Land Registry Office will at first have considerable work as a result of conversion of freehold titles to leaseholds, and other adjustments of alienated land. Government titles, as well as leases and land returned to customary rightholders, should be registered. All this will take a great deal of work. In 1971 it was estimated that it could take 2 years, and require the help of about 12 outside experts. Yet this work badly needs to be done to provide a register which is a sound and accurate basis for the new nation.

11.30

b) Registration of customary land

Initial registrations should be conducted by a registration team from the Department of Lands, Surveys and Mines, supplied by the Central Government. (See Chapter 3 on 'Customary Land'.) They should carry out both systematic and sporadic registration, and lodge their records in the District Land Registry Office in Port Moresby. The National Land Registry Office should make up a 'Disaster Register' to be available in case a District Land Register is destroyed, for example by fire, and should hold an Index of Names of persons registered as holders of interests in land so that a check on accumulations of land can be maintained.

11.31

c) Future dealings in registered land

These should be registered at the District Land Registry Office, with copies sent to the National Land Registry Office.

11.28 Registrations after court orders.

Copies of court decisions relating to land should be held at District Land Registry Offices. Registration of land can proceed on the basis of court decisions, after proper investigation by the registration teams.

11.29 Wills involving land should be held by the District Land Registry Office.

Where the land is registered land, the District Land Registry Office should arrange for proof of the will before altering the Register. This will involve considerable work,

and it is to be hoped that a distributor of deceased estates can be appointed soon at the District level to handle the proof of wills and administration of estates. A suitable fee should be charged for this service.

RECOMMENDATION 106

A PERSON OR GROUP REGISTERED AS THE HOLDER OF AN INTEREST IN LAND SHOULD BE ISSUED WITH A MEMORANDUM OF TITLE. THIS DOCUMENT SHOULD HAVE NO LEGAL EFFECT OF ITSELF.

11.30 It is dangerous to give title documents legal effect.

While we appreciate a person's desire to possess a document showing details of his registration, there is a

danger in giving legal effect to these documents. They can easily be lost or stolen, and can get into the hands of someone who might use them to sell the land. As part of the process of encouraging people to carry out dealings in the Registry Office we feel that the document which is issued should not be capable of being used for sale of the land, but rather should be a 'key' by which people can easily get full details of their title at the nearest Land Registry Office.

E. Permanent Commission of Inquiry

11.31 Its corporation and powers.

We envisage that this body, if set up under Recommendation 34 would be in existence for 2 or 3 years enquiring into claims by Papua New Guineans that urban land was taken from them without either payment or compensation of any sort. The Commission of Inquiry should comprise only one Commissioner - a person of some standing in the community and not necessarily a lawyer - supported by a small staff. The first task of the Commission should be to mediate the dispute and try to settle it. It should be able to make its own investigations, conduct its proceedings in an informal manner and take evidence from every relevant source. It should also be obliged to hear all parties and to act in accordance with the principles of natural justice. There should be no appeals from its decisions except to Government through the Minister for Lands.

F. Research and Review

RECOMMENDATION 107

THE WORKING OF THE NEW LAND POLICIES SHOULD BE KEPT UNDER CONSTANT STUDY BY QUALIFIED RESEARCH OFFICERS. THE UNIVERSITY OF PAPUA NEW GUINEA AND THE PAPUA NEW GUINEA UNIVERSITY OF TECHNOLOGY SHOULD BE INVOLVED IN LAND STUDIES AS MUCH AS POSSIBLE.

11.32 There will be a continuing need for research into policy and administration.

We are pleased to know that Cabinet has approved the setting up of a policy planning and research committee in Lands Department to work out detailed plans for implementing the recommendations of this Report as approved by Government and the House of Assembly, and for research on them as they come into operation. We cannot too strongly stress the need for a close study by qualified research officers into the working of new land policies. In this Report we have specifically recommended a review after five years of certain matters, in particular:

- a) Direct leasing, and the extent to which limitations on direct leasing should be tightened or relaxed;
- b) Conditional freeholds, to see whether they are being used to split up what is really group land; also, to see whether conditional freeholds should be extended to corporations;
- c) Whether satisfactory arrangements are being reached by agreement between long-established migrants and customary rightholders for settlement in towns, or whether title by adverse possession should be introduced;
- d) Whether the general power to give mortgages should be extended, for example to include Trading Banks;
- e) Whether the rules which District Governments adopt on succession to land are adjusting to changing customs;

11.33

11.34

- f) The minimum area of land which can be registered upon succession might be changed depending on whether fragmentation problems are arising;
- g) The maximum rate of \$50 per hectare for the value of customary land might be raised to keep pace with inflation.

We have mentioned the need to keep the working of the new land legislation under constant scrutiny in a number of places in this Report.

IV TRAINING

RECOMMENDATION 108

- (A) CONSIDERATION SHOULD BE GIVEN TO ESTABLISHING A LANDS SERVICE, OF HIGH STATUS AND SOUND TRAINING TO CARRY INTO EFFECT THE NEW POLICIES WE HAVE RECOMMENDED.
- (B) DIPLOMA AND DEGREE COURSES IN LAND MANAGEMENT SHOULD BE INTRODUCED.
- (C) OVERSEAS STAFF SHOULD BE RECRUITED TO ASSIST IN THE TRAINING PROGRAMME.

11.33 Well trained, practical men are needed.

The Commission strongly recommends proper training for the men and women needed to staff land registries, assist Land Boards, help people with land use and land transactions and settle disputes. Some theoretical study will be important but the need is for practical men. We must not have people with book learning which they cannot apply. Young men and women with high qualifications but little experience may not understand the real problems or be able to get the best work out of experienced men and women under them. We need to help good practical people to study, and help educated people to get practical experience.

11.34 Full-time study may not be the best training method.

At this time the country cannot afford men being taken away from work for long periods of full-time study.

For this and other reasons we think that the proposed four-year degree course in Land Studies at the University of Technology may be at too high a level at this time. If it starts next year, few of the graduates will be working until 1978. They will have no experience whatever, but, having a University degree they would have to be given senior posts. We feel that shorter training given to more people, and combined with practical experience, would be of more value to the country and at lower cost.

11.38

11.35 A Diploma in Land Management should be introduced.

11.39

The Commission recommends that a Diploma in Land Management be offered, that it be a 3 or 4 year course, half in full-time study and half in practical experience in Lands Department or other suitable work. The Diploma would only be given to those who were successful in both. After at least two more years of full-time work, the best men could be selected for a further two years study for a degree in Land Management.

11.36 Further enquiry is needed into where the course should be taught.

11.40

The University of Technology may be the best place to teach the Diploma, but the Agricultural College, the Administrative College and other possibilities should be looked into before a decision is made. We suggest that the Lands Department, Agriculture Department and the Committee of Enquiry on University Development look into this, the numbers of students available and needed, level of entry, etc. with the University.

11.41

11.37 The course should be broad but practical.

All subjects taught in the diploma course should be relevant to the work situation. But they should include a knowledge of customary practices in land matters, the new tenures and systems of registration and transfer and the social effects of land management. Because land is such a sensitive subject and often leads to dispute it is important to select land officers who are good at personal relations, and human relations problems need to be studied in the course.

11.38 Lands Service staff should be men of ability and status.

Land is such an important matter in this country that we think it is very important for Lands Officers to be men of the best quality and with good qualifications. They need a high sense of duty and should be highly respected by the community they serve. Their training and responsibility should warrant good pay. The Lands Service should be regarded as having high status. Consideration should be given to distinctive dress and insignia.

11.39 A shorter course for some officers may be appropriate.

Some experienced officers who need more training do not have much English or formal education. We recommend for them a shorter course, possibly taught in Pidgin and/or Hiri Motu, say three months long, to give them a better understanding of Papua New Guinea land laws, the Government's land policies, and applied lands administration.

11.40 Training for the new court system.

A training programme for land court magistrates will also be necessary. Consideration should be given to associating it closely with the training programme for Lands Service staff, with a view to enabling some of them to become Land Court magistrates.

11.41 Expatriate staff will be needed as instructors.

We have suggested that some of the present Land Titles Commissioners might be used for training magistrates in land work, and that officers from countries like Malaysia (as well as Australia) experienced in operating land registries should assist in training registry staff. This policy should be followed firmly so that land administration in Papua New Guinea is based on the best available practical training.

LAND AND CROP LOANS

- 12.1 In Paragraph 3 (e) of our terms of reference we are asked to report on ways of "promoting the more effective utilization of customary interests in land and interests in crops and fixtures as security for development finance."

- 12.2 Rights in Unregistered Customary Land would not generally be used as security for loans

The exact rights are often hard to discover. Few rightholders can sell without the agreement of the clan and there would be few buyers. If, however, an authorised lending agency is prepared to accept a "Clan land agreement" over unregistered customary land, then we would see no objection to the granting of a short term loan.

- 12.3 The Papua New Guinea Development Bank's "Clan land agreements" have been quite successful

The clan leaders sign an undertaking stating that the clan has agreed to give a clan member exclusive use of certain clan land for a certain period. The Bank lends money to the clan member on the basis of this agreement and although these agreements may not be enforceable in the Courts, most of them have been kept. We think that the granting of occupation rights by registered customary groups, which we have recommended in Chapter 3 on "Customary Land" will eventually replace the "Clan land agreements". If the occupation rights are registered, then they will be a more valuable security. The "Clan land agreements" could continue to apply to unregistered rights in registered customary land and they should be made enforceable.

RECOMMENDATION 109

CLAN LAND AGREEMENTS SHOULD BE MADE LEGALLY BINDING FOR THE PURPOSE OF SECURING LOANS FROM AUTHORISED LENDING AGENCIES.

- 12.4 Agreements should be limited in time and area

We think these agreements should be made enforceable but subject to limitations. The agreement should run for not more than 10 years and be limited to an area, say not greater than 100 hectares.

If the clan goes back on the agreement to give the clan member exclusive rights to use the land, and because of this the clan member is unable to repay his loan, then repayment of the loan shall be the clan's responsibility. Either the Bank can sue the clan or the clan leaders for that part of the loan which has not been repaid, or the Bank can sue the clan member to whom the loan was made, and he can sue the clan or clan leaders for that part of the loan which has not been repaid. The clan member who has lost his investment by the clan going back on its agreement should also be able to sue the clan for compensation for the effort he has put into developing the assets on the land.

12.5 There will be a limited power to use registered customary land as a security

In Chapter 3 we have recommended new forms of tenure for registered customary land, namely conditional freeholds, group titles and occupation rights. Part of each of these new tenures is the power to use them as limited security for loans. The lender can use the land for up to 10 years to get his money back if the loan is not repaid. We feel that these rights of entry and user would give lenders enough incentive to lend money to people who wish to develop their land.

12.6 Crops can be used as securities for loans

The present law about using crops as security for loans is inadequate. Part III of the Instruments Ordinance 1953 provides for crop liens but it is suitable only for annual crops as the security for loan only lasts one year. We think that crops grown on unregistered customary land, registered customary land or leasehold land could all be used as security for loans. When a person grows crops on unregistered customary land, particularly tree crops it usually means that he has very strong rights in the land, rights which could not easily be taken from him. This means he is likely to repay his loan, and anyway the lender has a crop to harvest if the loan is not repaid. It is possible to give the lender the legal right to enter unregistered customary land to harvest crops when loans are not repaid. This could even more easily be done on registered customary land and leasehold land.

RECOMMENDATION 110

LEGISLATION SHOULD BE PASSED TO ALLOW FOR THE USE OF TREE CROPS AND OTHER CROPS AS SECURITY FOR LOANS. CROP LOANS SHOULD BE REPAYABLE OVER A NUMBER OF YEARS.

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12.7 Livestock can be used as security for loans

Part IV of the Instruments Ordinance 1953 sets out the law for the use of livestock as security for loans. The law is difficult to understand, and it involves difficult procedures for the registration of the loan documents (called "stock mortgages"). We think it is a good idea to use stock as security for loans, but the law needs to be simplified before it can be of much use to Papua New Guineans.

RECOMMENDATION 111

THE LAWS FOR USING LIVESTOCK AS SECURITY FOR LOANS SHOULD BE SIMPLIFIED SO AS TO BE MORE SUITABLE TO PAPUA NEW GUINEAN CONDITIONS.

12.8 Banks now give more personal loans

Banks often consider that what is important is not so much the security for any particular loan, as the attitude of the person lent the money to repaying it. Personal loans will be another way of raising finance to develop land.

12.9 Loans from Government agencies

At this stage of Papua New Guinea's development where there are so few people who have business experience, we think that the only organisations allowed to lend money on the securities we suggest in this Chapter, without any approval, should be the Papua New Guinea Development Bank and the Papua New Guinea Banking Corporation. Savings and Loans Societies and Development Corporations owned by Papua New Guineans could lend to their own members according to their constitutions. We have suggested in Chapter 3.54 (a) that the right to mortgage registered customary land (with right to enter and work the land for not more than 10 years) may be extended to trading banks but not in the first instance, as the need for this is not yet apparent.

12.10 Loans from trading banks and other private lending agencies should normally require approval

We have commented in Chapter 4 on the possible need to allow trading banks and other private lending agencies to advance money for the development of leases of national land. We have recommended that, in order to protect inexperienced borrowers, such mortgages (which could apply to stock and crop securities as well) must require the approval of the District Land Control Board, unless the borrower has capital and assets to the value of, say, \$25,000.

RECOMMENDATION 112

- (A) LOANS OVER REGISTERED CUSTOMARY LAND OR ON CLAN LAND AGREEMENTS, SHOULD ONLY BE FROM GOVERNMENT LENDING AGENCIES SUCH AS THE DEVELOPMENT BANK AND THE PAPUA NEW GUINEA BANKING CORPORATION. (SAVINGS AND LOANS SOCIETIES AND DEVELOPMENT CORPORATIONS OWNED BY PAPUA NEW GUINEANS COULD LEND TO THEIR OWN MEMBERS.)
- (B) IF LOANS FOR THE DEVELOPMENT OF LEASES ON NATIONAL LAND ARE EXTENDED TO TRADING BANKS AND OTHER PRIVATE LENDING AGENCIES, THEY MUST REQUIRE THE APPROVAL OF THE DISTRICT LAND CONTROL BOARD, UNLESS THE BORROWER HAS CAPITAL AND ASSETS WORTH, SAY, \$25,000.

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Chapter 13

SURVEY

13.1 Survey problems

- a) A number of problems about survey were raised before the Commission. Papua New Guinean witnesses complained of delays in having surveys completed, of surveyors coming on to ground without adequately notifying the rightholders, and of disputes allegedly being caused by surveyors marking straight boundaries rather than following the winding boundaries preferred by the rightholders.
- b) Surveyors themselves offered suggestions as to how the costs of survey could be minimised.
- c) Assuming that some systematic registration of customary lands will be carried out, these are matters of great importance. It is much better if adequate survey facilities and staff are available ahead of need and reasonable demand, than that registration is held up for want of survey facilities. It is also important that costs be held down. Typical survey costs for surveys through contracted professional surveyors in rural areas range from \$15 to \$82 a hectare, with an average of about \$25 a hectare. This is an actual cost, exclusive of transport and camping etc. but including all other costs and allowing for vegetation and slope of the ground. The basic cost of surveying on flat open land outside the survey office is about 1/3rd of the actual costs. Typical actual costs of survey by professional surveyors in urban areas range from \$35 to \$118 per urban block.

13.2 We feel that local people should be involved more in survey work

- a) A great part of the cost of survey arises not from professional surveyors' charges, but from the expense of field parties involved in cutting lines or other ground work. There should be a considerable saving in having villagers do this themselves where possible. Where the work is for a Government purchase or lease they would no doubt be reluctant to do the work except for pay: but where they themselves request the survey, for registration of land or the settlement of a dispute, we see no reason why they should not accept the responsibility of either doing, or paying a

deposit for the preliminary work. The work could be guided by a survey technician: he would have to have, in addition to practical survey knowledge, the ability to work well with village people.

- b) The fact that they have to cut the lines themselves might encourage villagers to accept the straightening of boundaries to reduce time and cost.
- c) Their involvement may help reduce the tendency of villagers to regard survey as an alien intrusion. This should also reduce complaints that survey parties do not give adequate notice before they appear on the ground.
- d) In land registration and dispute settlement it is desirable to encourage villagers to regard survey as something they do for themselves, rather than have done for them.

13.3 Photogrammetry should be tried more

There has been considerable discussion of photogrammetry as a method of reducing costs and speeding up survey work. It is not a miracle solution for all survey needs. Aerial photography at a sufficiently low altitude for detailed cadastral work is still very expensive and must still be done together with ground marking especially if boundary marking is required. Weather, cloud and heavy bush are serious obstacles in this country. For areas of less than 10 square kilometres it is not clear that photogrammetry is cheaper than ground survey. However, sufficient pilot studies are not yet available for a full appraisal of the technique.

We note that:

A systematic topographical mapping programme intended to cover the whole country is being undertaken through photogrammetry and that small cadastral survey projects are being undertaken by photogrammetry, particularly in urban areas. We recommend that in addition, pilot schemes on suitable rural areas of at least 10 square kilometres be attempted as soon as possible, particularly in association with a preliminary programme of ground marking by local people. Until this has been done a complete assessment of the merits of photogrammetry is not possible.

13.4 Two kinds of survey needs

- a) Those which could lead to a reinstatement of boundaries from the records if necessary. These include most registered boundaries, the fixing of boundaries by a Court etc.

- b) Those which do not necessarily lead to a permanent record which could allow for a reinstatement of boundaries, e.g. preliminary investigation of land for purchase, identification of an area under dispute for a lower court hearing etc.

For the second class of surveys, field staff trained in simple methods such as chain and compass or theodolite and compass should be able to do the work. It should be quite clear, however, that such work does not constitute a survey of registerable standard. We welcome the plans of the Division of Surveys to station trained survey technicians in all Districts as they become available and agree that where possible they should be called upon to do the work referred to in (b) but there are situations in which prompt preliminary action is needed and all field officers involved in land work should be able to do at least a chain and compass survey to serve as a stand-by in cases where a surveyor cannot be made available soon enough. A number of school leavers and some of the official Mediators of land disputes might also be trained in simple survey techniques.

13.5 The need to keep survey costs down

We think that a variety of survey methods should be available and that the standard and type of survey used be related to expected benefit of the work. Expensive methods should not be used except where a considerable increase of production is expected or where a detailed and accurate survey greatly contributes to preserving public order. Where the benefit is likely to be low we would recommend that local people do the work themselves under the guidance of survey technicians. For large areas of low population density photogrammetry could be used after ground marking of corners. If the standards of survey are not sufficient to permit reinstatement of boundaries, but registration is desired, registration may be able to proceed "subject to survey". However, this requires that the future surveyor must be able to define the intended boundaries on the ground without causing disputes. It would still require a survey technician to know when sufficient information has been recorded to permit safe "subject to survey" registration.

13.6 More local surveyors are needed

We are concerned at the continued heavy reliance on firms of private contract surveyors to carry out much Government work.

Although private surveyors will no doubt continue to give valuable services to Papua New Guinea, particularly as they localise their staff, we would like to see more Papua New Guinean surveyors trained for Government service. The present concept of two kinds of officer (a survey technician who can work to standards of one in eight thousand and a fully qualified surveyor) appears appropriate to the needs of the country. We note that survey technicians are increasingly available but fully qualified local surveyors are in very short supply. Local survey instrument technicians should also be trained.

13.7 University degrees in surveying are not essential

Attention should continue to be given to attracting students to the surveyor's courses but we also suggest the development of training programmes which involve in-service training for people actually employed in lands work. This may prove both more attractive and more appropriate to the needs of Papua New Guinea than a full-time degree course at the University of Technology, Lae, without involving a lowering of standards. Most expatriate professional surveyors in New Guinea in the past did not have University degrees.

13.8 Centralization of resources

We welcome the recent proposals for a Central Survey and Mapping Bureau. We are concerned, however, that this may lead to increased competition among various Departments which previously had their own survey staff and equipment, and we hope that sufficient survey staff will be available to meet developing needs including the anticipated increase in land registration work.

13.9 The national mapping programme

This should be developed as quickly as possible and maps, charts, surveys and aerial photographs produced by various Departments made more readily available through the Central Bureau. (It should be independent of boundary marking of customary lands, which should proceed according to our recommendations on registration in Chapter 3 "Customary Land".)

13.10 Numbering of registered land

Registered land should be indexed as numbered parcels within the existing Fourmil and Milinch series. These series are too large-scale, however, for location of small lots such as 5 hectare lots. The problem of lot numbering needs further discussion between the Registrar-General's Department and Lands Department.

RECOMMENDATION 113

MORE SURVEY STAFF AND FACILITIES SHOULD BE AVAILABLE TO MEET THE NEEDS OF LAND REGISTRATION. NECESSARY LAND REGISTRATION SHOULD NOT BE HELD UP FOR WANT OF SURVEY FACILITIES, BUT NEITHER SHOULD LAND REGISTRATION BE PURSUED AT A PACE THAT OVER-STRAINS REASONABLE SUPPLY OF SURVEY STAFF AND FACILITIES.

RECOMMENDATION 114

- (A) PAPUA NEW GUINEAN VILLAGERS SHOULD BE INVOLVED AS MUCH AS POSSIBLE IN THE ACTUAL WORK ON THEIR OWN LAND, INCLUDING CUTTING OF LINES AND GROUND MARKING PREPARATORY TO AERIAL PHOTOGRAPHY.
- (B) TRAINING OF SURVEYORS AND SURVEY TECHNICIANS SHOULD INCLUDE TRAINING IN HOW TO INVOLVE VILLAGE PEOPLE IN THE WORK.

RECOMMENDATION 115

PILOT PROJECTS OF SYSTEMATIC SURVEY OF RURAL LAND BY PHOTOGRAMMETRY SHOULD BE CARRIED OUT IN ORDER THAT A FULL EVALUATION OF THE METHOD CAN BE MADE.

RECOMMENDATION 116

EFFORTS TO TRAIN PAPUA NEW GUINEAN GOVERNMENT SURVEY STAFF SHOULD BE INTENSIFIED TO RELIEVE THE PRESENT HEAVY RELIANCE ON PRIVATE CONTRACT SURVEYORS. A COURSE OF IN-SERVICE TRAINING IS SUGGESTED AS AN ALTERNATIVE TO FULL-TIME COURSES AT THE UNIVERSITY OF TECHNOLOGY.

RECOMMENDATION 117

ALL LOCAL FIELD STAFF ENGAGED IN LAND WORK, A NUMBER OF SCHOOL LEAVERS, AND SOME OF THE OFFICIAL MEDIATORS OF LAND DISPUTES IN EACH DISTRICT SHOULD BE TRAINED IN SIMPLE SURVEY METHODS, IN ORDER TO HELP IN CASES OF SUDDEN NEED WHEN SURVEY TECHNICIANS ARE NOT AVAILABLE.

RECOMMENDATION 118

A VARIETY OF SURVEY TECHNIQUES SHOULD BE MADE AVAILABLE AND THE DEGREE OF EXPENSE AND ACCURACY EMPLOYED BE RELATED TO THE BENEFIT EXPECTED TO COME FROM A SURVEY.

RECOMMENDATION 119

- (A) VILLAGERS SHOULD BE EXPECTED TO PAY A SHARE OF THE COST OR

PERFORM A SUFFICIENT AMOUNT OF THE GROUND WORK ON SURVEYS
CONNECTED WITH THE REGISTRATION OF THEIR LAND.

- (B) A PERSON GIVEN REGISTERED TITLE SHOULD BE REQUIRED TO
PLANT HIS BOUNDARIES WITHIN ONE YEAR. (FAILURE TO DO
SO COULD WEAKEN HIS CLAIM IN A DISPUTE.) THE PLANTING
COULD BE FOLLOWED BY SURVEY BY PHOTOGRAMMETRY, ESPECIALLY
AFTER SYSTEMATIC REGISTRATION OF AN AREA.

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Chapter 14

FORESTRY

14.1 Complaints about timber agreement

A number of problems associated with forestry were brought to our notice. The present system of Timber Right Purchases has a poor reputation among the people. Many claim that they are not fair because first payments and royalties are low, and there is often little provision for participation by the local people. Timber Rights Purchases do not legally alienate the land from the customary owners, but in practice they tend to tie up the land. Where the Purchase is not quickly followed by timber milling, this is sometimes resented by local people. If timber milling is not likely within a reasonable period and the local people are otherwise inhibited from commercial farming, some relaxation of the Timber Rights Purchase over part of the area should be considered. Forestry officials should advise legal owners what land development they can do without damage to the trees that the Government has bought.

14.2 More local participation is requested

There is a general demand that the local customary rightholders be involved in the milling and follow-up enterprises, with the ultimate aim that they should be able to participate to the fullest extent possible in management and ownership.

RECOMMENDATION 120

GOVERNMENT SHOULD TRY TO ENSURE THAT TIMBER RIGHTS PURCHASES DO NOT TIE UP LAND IN SUCH A WAY AS TO STOP LOCAL RIGHTHOLDERS INDEFINITELY FROM MAKING ECONOMIC USE OF THEIR LAND.

14.3 More follow-up and reafforestation is needed

The Timber Rights Purchase is not an adequate legal basis for reafforestation and other long term follow-up work on the land after timber milling. The most suitable arrangement seems to be for the customary rightholders to register their land and lease it to Government on terms which give them a minor share of royalty payments, guaranteed employment, training in the industry, and shareholding in the whole development on the land.

A variety of flexible alternatives to this pattern are being considered in Forestry Department and should be followed up.

RECOMMENDATION 121

IN ORDER TO CARRY OUT REAFFORESTATION AND OTHER LONG TERM DEVELOPMENT, GOVERNMENT SHOULD LEASE LAND FROM CUSTOMARY RIGHT-HOLDERS ON TERMS WHICH INVOLVE THEM MORE FULLY IN THE DEVELOPMENTS ON THE LAND, INCLUDING EMPLOYMENT AND TRAINING IN FOREST MANAGEMENT IF THEY WISH IT.

14.4 Land must not be left waste after milling

Sometimes local rightholders want it left clear of timber, but often their interest and the national interest requires that reafforestation or planting of pasture should be carried out, particularly to avoid erosion. We believe this should normally be required of the milling company.

RECOMMENDATION 122

- (A) CONTRACTS WITH TIMBER EXTRACTING COMPANIES SHOULD NORMALLY INCLUDE PROVISION FOR REAFFORESTATION, OR OTHER DEVELOPMENT, EITHER BY ARRANGEMENT WITH THE COMPANY OR ANY OTHER AUTHORITY OR IN APPROPRIATE CASES THROUGH GOVERNMENT. THE DEVELOPMENT SHOULD BE BASED ON SOUND LAND USE PRINCIPLES AND MUST TAKE INTO ACCOUNT THE VIEWS OF THE PEOPLE IN THE AREA.
- (B) FORESTRY DEPARTMENT SHOULD INVOLVE REPRESENTATIVES OF LOCAL LANDHOLDERS AS FAR AS POSSIBLE IN THEIR DEALINGS WITH TIMBER COMPANIES AND TRY TO ENSURE THAT THEY ARE SATISFIED WITH BOTH THE SHORT TERM AND LONG TERM BENEFITS THEY MAY EXPECT FROM THE NEGOTIATIONS. DISTRICT GOVERNMENT SHOULD ALSO BE INVOLVED.

14.5 Doubts about the Forestry (Private Dealings) Ordinance 1971

In private dealings with customary rightholders, timber companies can offer higher cash payments than the rightholders usually receive in royalties from a timber project negotiated by the Government. But the timber companies can easily secure monopoly rights to an area from the customary rightholders and offer very little else. Royalties and extra taxation to the Government can be avoided; so can the obligation to reafforest. High cash payments made in private dealings for timber rights can be as superficially attractive as glass bottles and beads were at the

beginning of the century - and just as dis-satisfying in the long run. The requirement that timber companies deal through Government enables terms to be made which are much more favourable to the nation and in the long run to the customary rightholders. We believe that forests must be regarded as a national resource (just as underground minerals are) not simply a private resource. However, it is important that Government use its monopoly to the maximum advantage and do its best to secure attractive terms for the customary rightholders if it expects them to remain satisfied.

RECOMMENDATION 123

THE FORESTRY (PRIVATE DEALINGS) ORDINANCE 1971, SHOULD BE CONFINED TO DEALINGS IN RESPECT OF SMALL AREAS WHERE THE TOTAL ACCESSIBLE FOREST IS NOT MORE THAN 20 MILLION SUPERFEET.

14.6 Local people need priority in small businesses

Another source of complaint is that the milling company or other outsiders start trade stores and other businesses on the land, and the customary rightholders are discouraged from doing so.

RECOMMENDATION 124

OPPORTUNITY AND ENCOURAGEMENT TO START SMALL BUSINESSES IN A FORESTRY LEASE AREA SHOULD, WHEREVER POSSIBLE, BE GIVEN TO THE CUSTOMARY RIGHTHOLDERS AS A MATTER OF PRIORITY. MUCH GREATER CO-ORDINATION BETWEEN FORESTS DEPARTMENT AND BUSINESS DEVELOPMENT OFFICERS IS REQUIRED.

14.7 Equal shares arrangements have advantages

Payments of royalties to customary rightholders have frequently been based on what was thought to be the amount of land each person or family contributed to the scheme. This involved costly surveys in an effort to measure what each family customarily 'owned' before timber working began. We regard this as extravagant and artificial and often has little relation to the quality or amount of timber on the land. In any case, no-one would have gained revenue from their share but for the large scale operation involving them all. We consider it equitable and much simpler if the rightholders are treated as a body corporate and royalties divided on a per capita basis. This may not always be easy in a highly segmented society. People will want to mark clan and family boundaries first and claim shares according to their res-

pective areas, often holding up work to haggle about the division. Proper explanation of the advantages to the whole area might encourage people to think less about their competing rights, and see the advantage of coming together to get the operation under way. If they insist on internal sub-divisions they should be charged for surveys of areas below, say, 100 hectares. The approach to this problem should be flexible. If groups can agree on a per capita division of shares, then work may begin earlier and administration will be easier. Work should not normally commence until substantial agreement on shareholding is reached. The whole operation can be at risk unless any remaining disagreement is minor.

RECOMMENDATION 125

CUSTOMARY OWNERS SHOULD BE DEALT WITH WHERE POSSIBLE AS CORPORATE GROUPS (UNDER THE PROPOSED GENERAL PURPOSE CORPORATIONS LEGISLATION, FOR EXAMPLE) RATHER THAN AS A SERIES OF INDIVIDUAL LAND HOLDERS.

14.8 Road metal may have to be paid for in some cases

The taking of gravel for the construction of roads and other work under Section 4 of the Forestry Ordinance, without royalty payment, is sometimes seen as a grievance. On other occasions customary rightholders agree that road metal for essential development within the forest area should be taken free of charge. We think that wherever possible this should remain the case, but that a low royalty be paid in exceptional cases. Where it is not intended to pay a royalty for gravel etc., then a clause to this effect should be expressly included in the timber agreement.

RECOMMENDATION 126

SECTION 4 OF THE FORESTRY ORDINANCE SHOULD BE AMENDED TO PERMIT PAYMENT OF ROYALTIES FOR GRAVEL IN EXCEPTIONAL CASES, EITHER IN THE ORIGINAL TIMBER AGREEMENT OR IN A SUBSEQUENT AGREEMENT.

14.9 Forest planning needs co-ordinating

There is some evidence of lack of co-ordination in some places between Forestry Department and other District authorities.

RECOMMENDATION 127

THAT FOREST NEGOTIATIONS BE CO-ORDINATED WITH DISTRICT LAND USE PLANS.

14.10

14.11

14.10 Useful subsistence trees should be paid for

There has been complaint that certain useful trees including food trees, which are not required for milling, are destroyed during milling operations without compensation.

RECOMMENDATION 128

THAT TIMBER AGREEMENTS ALWAYS PROVIDE FOR COMPENSATION FOR FOOD TREES AND OTHER SCARCE USEFUL PLANTS DESTROYED IN MILLING: OR THAT THE LEVEL OF ROYALTIES PAID TAKE THIS SPECIFICALLY INTO ACCOUNT: OR THAT SUFFICIENT AREA OF FOREST RESERVE BE LEFT ROUND VILLAGES.

14.11 Conservation and national park requirements must be observed

With the rapid increase of timber milling the natural environment of huge areas will be devastated. It is essential and urgent that land use planning, timber rights agreements and timber harvesting contracts set aside extensive areas of national park land and conserve the natural environment, the tree species and the wild life associated with them. The Forestry Ordinance may have to be amended to permit this.

RECOMMENDATION 129

FORESTRY LEGISLATION, LAND USE PLANNING AND TIMBER AGREEMENTS MUST TAKE ACCOUNT OF THE NEED TO SET ASIDE NATIONAL PARK OR OTHER RESERVED AREAS IN WHICH THE NATURAL ENVIRONMENT AND PLANT AND ANIMAL LIFE WILL BE PRESERVED IN ANY DISTRICT SUBJECT TO EXTENSIVE MILLING.

Chapter 15

AUSTRALIAN FINANCE FOR ADJUSTMENT
OF LAND PROBLEMS

RECOMMENDATION 130

THE AUSTRALIAN GOVERNMENT SHOULD BE APPROACHED TO PROVIDE FUNDS ADDITIONAL TO THE ANNUAL GRANT IN AID FOR THE ADJUSTMENT OF OUTSTANDING LAND PROBLEMS.

- 15.1 It will be noticed that on several occasions we have indicated ways in which a special grant from Australia could be used to remedy grievances caused by land alienation during the colonial period. We wish to emphasise that a great many witnesses have expressed the view that the adjustment of these grievances is Australia's responsibility and we strongly recommend that the Papua New Guinea Government try to persuade the Australian Government that much goodwill could be won by a special allocation of funds for the settlement of land problems.
- 15.2 The uses to which the money should be put, in order of priority are:
- a) To create a fund from which long-term low-interest loans can be made to land-short people to buy back developed land which their forefathers have sold.
 - b) To compensate existing leaseholders and freeholders on developed rural alienated land where land has to be recovered compulsorily for land-short Papua New Guineans.
 - c) To compensate the existing leaseholders and freeholders on "waste and vacant" land, where land has to be recovered for land-short Papua New Guineans.
 - d) To compensate Papua New Guineans who prove their claims to rights in urban alienated lands.
 - e) To compensate traditional rightholders where lands taken under "waste and vacant" or "ownerless" declarations are still needed for public purpose, including settlement by other clans.

f) To provide loans to villagers in or near towns who have sold most of their land and are now living in poor circumstances, so that they can join the enterprises which have developed on their former land.

- 15.3 It will be noticed that where people have sold land we recommend long-term, low-interest (or no interest) loans so that they can buy back land or otherwise improve their economic circumstances. Grants, by way of compensation are intended only to deal with "waste and vacant" land, where no purchase has previously occurred. The fund should be a generous one, since we expect there would be a lot of demands upon it to assist land-short people in the early stages. But provided that compensation payments are kept within bounds, we expect that the fund should stabilize after a time, and as loan money is repaid, new loans can be issued.
- 15.4 It is impossible to estimate exactly how much would be required as a minimum until the body concerned with the administration of the policy has ascertained exactly where immediate land shortage urgently needs to be relieved. A minimum of \$5 million to launch the scheme would probably be appropriate, but we can well imagine that calls on the fund of up to \$15 million or \$20 million could be made to allay grievances and satisfy aspirations about alienated land over the whole country.
- 15.5 Failing a direct grant we have recommended (in Recommendation 20) that a long-term low-interest loan be sought from the Australian Government.

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Chapter 16

CONCLUSION

RECOMMENDATION 131

THAT IN ADDITION TO TABLING THE REPORT IN THE HOUSE OF ASSEMBLY THE GOVERNMENT CIRCULATE IT WIDELY FOR COMMENT AS SOON AS POSSIBLE.

RECOMMENDATION 132

THAT BEFORE IMPLEMENTING ANY NEW REGISTRATION PROVISIONS, TENURES, TRANSFER PROVISIONS, CONTROLS, LAND COURTS, ETC. THAT MAY BE ADOPTED, THE GOVERNMENT CONDUCT A NATION-WIDE EDUCATION PROGRAMME ABOUT THEM, IN ORDER TO SECURE AS CLEAR AN UNDERSTANDING AND ACCEPTANCE OF THEM AS POSSIBLE.

16.1 Government and House of Assembly should act on the Report.

We believe that we have provided enough information and suggestions to enable Government and the House of Assembly to act promptly. We object to suggestions occasionally made that there should be a lot more expert inquiry before the Government can make major decisions on land matters. The Commission was set up to make the necessary inquiries. We have made them and believe our Report is based firmly on the wishes of a majority of the people and in accordance with the balance of expert opinion put before us.

16.2 Additional comment should assist detailed follow-up work.

Nevertheless we believe the Report should be circulated widely, in order that the detailed comment can assist in the detailed planning and legislative drafting of our recommendations insofar as they are accepted by the Government and the House of Assembly.

16.3 Widespread education in new machinery of land administration will be necessary.

As far as possible we have tried to recommend tenures, courts and administrative methods that the people have already shown they want and in many ways already practise. We believe that when introduced they should be readily accepted. Nevertheless before new techniques and new machinery are brought into operation the people should be told clearly about them through the news media, the education system and the administrative departments.

APPENDIX A

SUBMISSIONS

Theo Bredmeyer
 Lohia Doriga
 Kawage Kega
 Alipet Kambian
 Ray Belton
 Samuel Na'aru
 Gorogore Kopara
 G. Johns
 R.J. Gunton
 Pomumu Pokaka
 G.E. Stolz
 P. Fitzpatrick
 A.O. Taviai
 D.R. Milbourne Marsh
 M.J. Cobern
 G.C. Lapthorne
 Nem Pip Aolhundpi
 W.J.S. Graham
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 Dirona Abe
 Philip Taunakaki
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 Lawrence Yakanduo
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 Tumulou Peter
 Bokobu Beri
 Garvia Borekabi
 Luia Laura Laiwanamarivah
 Terrence Naumo
 J. Ume Bog
 John Kiram
 Hubert C. Auki
 Mindi Piap
 Gial Village - Kar Kar Island
 J.M. Abaijah MHA
 Edward Iorive
 P.N. Byrne
 Pulupia Tomba
 John Anderson
 Owil Wap
 B.A. Farrelly
 G.P.M. Dabb
 A. Taera
 Peter Bayne
 Jassanggarai Egge
 Charles Lapak Jukah
 Nelson Sove
 Demas Rongnis
 Hamino
 D.P. Maroney
 H.T. Veratau
 Kuvil To Kunai
 J.S. Tohian
 Kiso Saesaria
 Kulot people N.I.
 To Ranwang SoduK
 Sala Sodo
 Lucas Butu
 Raphael from Tagi Tagi No.2 ENB
 Iowat Nairuaran

Tigak Islands people
 Taunamo Tau
 Richard Sarim
 David Ango
 John Alec
 Leo Pama's
 A. Willem
 Fr. B. Bertrand
 S. Kariup
 "Councillor" Buka L.G.C.
 SDO Hutjena
 John Dakeni
 Paul Namesi
 John E. Fowke
 Nason Tokiala
 William Tokavivi
 Dimain Tokurapa
 Komes Sibu
 Luke Matapia
 Taulil - Butum people
 Kanawi of Pak Island
 Madio Enei
 Augustine Bilas
 Pomark Popahun
 "Timothy" Mt. Hagen
 Kasario Arampa
 Pius Passe
 Nut Koleala
 Karekodobu of Kwikila
 Peter Barui Ratan
 Nokin Lausau
 Rawad Marun
 Kagl John
 Singa of Kulot
 Thom Movalem Kohai
 Thom Pominis Purereuk
 Awiang Rile
 Tubuan Kmakngo
 Hosea Kailam
 Denson Basnang
 Sety Entonia
 W.K. Kemara
 G. Liporo
 E.L. Lening
 Lumi people
 A. Kananito
 Sori 11 people
 A. Moali
 G. Balai
 G. Mana Sagoi
 O. Atumeo
 H. Ndrephana
 M. Bijo
 Gavi Council
 J. Vos Karek
 Wanti Chafan
 Ben Daugu
 O. Dent
 Kaleva Aitau
 Monke Punuping
 M. Yambunpe
 Esan Luat11 Boino
 Reuben Iniviko
 Murua area people

Yanga Prog. Assoc.
 J.A. Sandover
 H.A. Holzknecht
 Finschhafen Marketing
 Development Co-op Ltd.
 Higaturu L.G.C.
 Gona Mothers Union
 R.W. Webster
 Taumai Ima
 Stephen Tago
 Paul Lapun
 Vitiaz Assoc.
 Obles Ulu
 Kukutai Apijo
 Bobby Gaigo
 Popaka Gaora
 James Bareng
 Kisel Kanawi
 E. Woluk Matakup
 Peter Barui Ratan
 Sasa Sinimaong
 Kagia Nagua
 Borezi Gani
 Z. Lungas Bibius
 Bougainville Copper
 Gaima Gabriel
 B.C. Forster
 Dr. Margaret Mead
 John Wasi
 James Begawa
 Gabriel N. Kena
 Kanawi K. Pakop
 Lucas Raka
 Duau L.G.C.
 Pangia & Tari people
 Oro'i Village people
 Kulube, Vgama and Lambu village
 people
 Poni Boni
 Itao Inabu
 Sinoko Fagiopa
 Timothy Barousi
 Panvele Koula
 Lady Cleland
 Orias T. Tomano
 Sumu people
 Kega Wagl
 Bogo area people
 M.B. Orken
 Olon Olobai
 Galibu people
 Gena people
 Paul Mac
 Kanikani Kep
 R. Lacey
 Tony B. Kubul
 Korekura Vayuvi
 Akumaku Alebusa
 Moholi Tovia
 Anton Manga
 W. Welbourne
 S. Uroe
 Hasu Gahe
 N. Logan
 E.A. Francis

Wahgi L.G.C.
 Steven B. Taong
 B. Bunting
 Tari people
 Kagua people
 N.E.H. Watkins
 Nelson Joseph
 J. Wonongat Pomat
 John B. Poe
 Talasea L.G.C.
 J. Tomarai
 R. Muropie Jasonko
 Dr. John Guise
 J. Rumou Maloh
 Lot Punam
 Sapsi Tero
 Rev. Eckey Ramm
 Naliga Mora Mora
 Planters Assoc. of Papua
 D.J. Huffam
 R.E. Dargie
 Pongo Galibu
 Rev. Ross Rosaka
 K. Sarea
 Joseph Komba
 Hans Wetzel
 Piri M. Aipa
 N. Van Ruth
 Ovil Vap
 Angapap Lub
 Councillor Yeki
 Enenal Tial
 Auvin of Tende Village
 Jakimu of Timipa Village
 Stanis B. Toliman
 Dannis Naboli Tepa
 Peni Bori
 Reuben Morioga
 Robert Wainetti
 F.N. von Fleckenstein
 Dr. A. Ploeg
 Marilyn Strathern
 Kalou Solok
 Pokapin Pomulem
 Brian Mennis
 Askim Seiming
 F.P. Posamau
 Koroba people
 Bankin Takok
 Arthur Kali Lawes
 Songoah Abraham
 Department of Forestry
 Paul Ryan
 Levi Wadah Bogandri
 Kaman Kolau
 Sameal Ngikaioi
 L. Bragge
 P. Fitzpatrick
 L. Baxter
 Hole Aguali
 Ralf Stuttgen
 Goweli Taurega
 Leilons Meako
 Vagi Vagi
 Henry Amelia

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APPENDIX B

PLACES VISITED

Central District

1. Magarida - Amazon Bay
2. Kupiano - Marshall Lagoon
3. Cape Rodney
4. Bereina
5. Kubuna
6. Kwikila - Rigo
7. Sogeri
8. Hohola
9. Hanuabada
10. Port Moresby

(10)

East New Britain

11. Rabaul
12. Kerevat
13. Vunadidir
14. Kokopo
15. Bitanlagumgum
16. Rangoulit
17. Toma
18. Pomio
19. Duke of Yorks
20. Gaulim

(10)

New Ireland

21. Namatanai
22. Samo
23. Konos
24. Fatmilak
25. Kavieng
26. Kakuruan
27. Ngavalus
28. Panamecho
29. Taskul

(9)

Eastern Highlands

30. Goroka
31. Kainantu
32. Ukurumpa
33. Okapa
34. Lufa
35. Asaro
36. Henganofi

(7)

Chimbu

37. Chuave
38. Dumun
39. Kundiawa
40. Wandi
41. Gumine
42. Karamui
43. Gembogl
44. Kerowagi

(8)

Western Highlands

45. Mount Hagen
46. Minj
47. Banz
48. Dei Council area
49. Kindeng
50. Nebilyer Council area
51. Tambul
52. Mul Council area
53. Baiyer River
54. Tabibuga
55. Wabag
56. Kompian
57. Kandep
58. Wapenamanda
59. Laiagam

(15)

West New Britain

60. Talasea
61. Kimbe
62. Hoskins
63. Kapore

(4)

Milne Bay District

64. Gurney
65. Alotau
66. Rabaraba
67. Loani
68. Samarai
69. Bwagaofa
70. Esa ala
71. Bolobolu

(9)

Gulf

73. Kerema
74. Malalaua
75. Uaripi
76. Ihu
77. Kikori

(5)

Western

78. Daru
79. Balimo
80. Kiunga

(3)

Bougainville

81. Buka
82. Hutjena
83. Sabah
84. Tinputz
85. Wakunai

Bougainville (cont.)

86. Kieta
87. Boku
88. Buin
89. Panguna

(9)

Morobe

90. Lae
91. Morobe
92. Garaina
93. Wau
94. Menyanya
95. Kabwum
96. Indagen
97. Mumeng
98. Finschhafen
99. Kaiapit

(10)

Northern

100. Popondetta
101. Tufi
102. Afore
103. Ioma
104. Oro Bay
105. Kokoda

(6)

Southern Highlands

106. Mendi
107. Tari
108. Kagua
109. Koroba
110. Ialibu
111. Pangia

(6)

Madang

112. Madang
113. Tokain
114. Banap
115. Ambenob
116. Siar
117. Kar Kar
118. Usino
119. Almami
120. Bogia
121. Saidor
122. Bundi

(11)

Manus

124. Momote
125. Lorengau
126. Baluan

(3)

East Sepik

127. Wewak
128. Angoram
129. Ambunti
130. Maprik

(4)

West Sepik

131. Amanab
132. Aitape
133. Vanimo
134. Lumi
135. Nuku

(5)

Name12th Mar

Cr. Bua
Cr. Clif
Mr. Mara
Mr. Chiv
Mr. Tau
Mr. Maku
Mr. Seba
Mr. Tim
Mr. Ula
Mr. Bagin

12th March

Mr. Agi
Mr. Kerve
Mr. Benny
Mr. Mabur
Cr. Lagan
Mr. Pune
Mr. Johns
Mr. Lavo
Mr. Rarua
Mr. Tore
Mr. Haina
Constable
Mr. Simon
Mr. Hua P
Mr. Lauha
Mr. Japhe

13th March

Mr. Lagan
Mr. Vela
Mr. Geno
Mr. Kwalu
Mr. Rariu
Mr. Doeka
Mr. Aido
Mr. Maisa
Mr. Poia
Mr. Olo Ve
Mr. Uau Ma
Mr. Laiboi
Mr. Kove
Mr. Overe
Mr. Kove K

14th March

Mr. Kaipa
Mr. James
Mr. Alan B
Mr. Joseph
Mr. Peter
Mr. Henry
Mr. Eriko
Mr. Inape
Mr. Naime
Mr. Aisi Av
Mr. Ara Mak
Mr. Charles
Mr. Raphael

APPENDIX C

WITNESSES AT PUBLIC HEARINGS

<u>Name</u>	<u>Village</u>	<u>District</u>
<u>12th March - Magarida</u>		
Cr. Bua Libai	Amazon Bay LGC	Central
Cr. Cliff Ianamo	Amazon Bay LGC	"
Mr. Mara Vilo	Lopom	"
Mr. Chiv Tebi	Laruoro	"
Mr. Tau Agarua	Amazon Bay PTS	"
Mr. Maku Boio	Serai	"
Mr. Seba Benau	Boru	"
Mr. Tim Arisa	Derebari	"
Mr. Ulai Dunegi	Ilai	"
Mr. Baginai Wolo	Laruoro	"
<u>12th March - Kupiano, Apaeva, Ganiai</u>		
Mr. Agi Taera	Gavuone	"
Mr. Kerverupu Gathoaparu	Velerupu	"
Mr. Benny	Marshall Lagoon	"
Mr. Mabura Banuna	Marshall Lagoon	"
Cr. Lagani Doa	Maopa No. 2	"
Mr. Pune Vele	Lalaura	"
Mr. Johnson Haurama	Dom	"
Mr. Lavo Giro	Kapeupu	"
Mr. Rarua Gama		
Mr. Tore Agi	Gavamani	"
Mr. Haina Aega	Segiri	"
Constable Wila	Oio	"
Mr. Simon Bodoor	Apaeva	"
Mr. Hua Philomom	Apaeva	"
Mr. Lauhala	Ganiai	"
Mr. Japheth	Ganiai	"
<u>13th March - Maopa, Bomquina</u>		
Mr. Lagani Thoa	Maopa No. 2	"
Mr. Vela Ukeil	Gowa Kaia	"
Mr. Geno Ora	Egalauna	"
Mr. Kwailu Samini	Lalaura	"
Mr. Rariu Uvau	Lalaura	"
Mr. Doeka Bekara	Amau	"
Mr. Aido Debeni	Dom	"
Mr. Maisa Puma	Morani	"
Mr. Poia Boga	Dom	"
Mr. Olo Vele	Kapari Viriolo	"
Mr. Uau Mahero	Baramata	"
Mr. Laiboi Beni	Tutubu	"
Mr. Kove Odou	Tutubu	"
Mr. Overe Gebua	Amau	"
Mr. Kove Kamuna	Domara	"
<u>14th March - Berina, Kubuna</u>		
Mr. Kaipa Aitsi	Aipeana	"
Mr. James Eke Mopia	Ipiani	"
Mr. Alan Binababa	Yule Island	"
Mr. Joseph Oaeke	Babiko	"
Mr. Peter Hau Maune	Waima	"
Mr. Henry Aisi Ame	Inwoae	"
Mr. Eriko Lau	Iniawi	"
Mr. Inape Lui	Same	"
Mr. Naime Kaipa	Waima	"
Mr. Aisi Awa	Waima	"
Mr. Ara Makale	Waima	"
Mr. Charles Ekari Maino	Iniawi	"
Mr. Raphael Aida-Aida	Kuni	"

Name	Village	District
(11)		
<u>15th March, Kwikila</u>		
Mr. Dirona Abe	Sarua	Central
Mr. Aritau	Sarua	"
Mr. Tom Abe	Boregano	"
Mr. Philip Tavnakekei	Rigo LGC	"
Mr. Manega Agarabe	Gabagaba	"
<u>16th March - Sogeri</u>		
Mr. Sogi Uguni	Visurogo	"
Mr. Mika Maka	Milaka	"
Mr. Aia Kukila	Loilak	"
Mr. Raei	Koilaki	"
Cr. Willi Baboga	Koilaki	"
Mr. Yori Maro	Visurogo	"
Mr. Aaoia	Visurogo	"
<u>20th March - Hanuabada</u>		
Mr. Lohia Kohu	Tanubada	"
Mr. Guba Gege	Tanubada	"
Mr. Mahura Rarua-Rarua	Port Moresby City Council	"
Mr. Moi Avei	Boira	"
Mr. Gomara Udia	Baruni	"
Mr. Boge Nao	Poreporena	"
Mr. Gabe Gaigo	Tatana	"
Mr. Gomata Ahuta	Baruni	"
Mr. Rarua Tau	Poreporena	"
Mr. Hekoi Tolana	Eleva	"
Miss Georgina Thorsby	Poreporena	"
Mr. Gaveru Toua	Poreporena	"
Mr. Tanasi Oape	Poreporena	"
Mr. Kora Lohia	Poreporena	"
Mr. Keke Melahui	Poreporena	"
Mr. Bobby Gaigo	Tatana	"
Mr. Siaka Heni	Tanubada	"
Mr. Gavera Barua	Poreporena	"
Mr. Miria Gavera	Poreporena	"
Mr. Lahui Lohia	Poreporena	"
Mrs. English	Poreporena	"
Mr. Dadi Gaudi	Poreporena	"
<u>21st March - Hiri Council, Port Moresby</u>		
Mr. Madu Nou	Barakau	"
Mr. Tamarua Lhoui	Barakau	"
Mr. Weana Babaga	Sogeri	"
Rev. Aue Mahata	Tuperseraia	"
Mr. Tau Egi	Tuperseraia	"
Mr. Koia Sere	Gaira	"
Mr. Kairi	Tuberserea	"
Mr. Kwalimu	Tuberserea	"
Mr. Kedea Gamoga	Tuberserea	"
<u>22nd March - City Council, Port Moresby</u>		
Mr. Mahiro Kivovia	Mala Laua	Gulf
Mr. Madaha Resena	Tatana	Central
Mr. Aroa Geno	Marshall Lagoon	"
Mr. Edward Iorive	Vanapa	"
Miss Josephine Abaijah MHA		"
<u>23rd March - University of Papua New Guinea</u>		
Mr. Sale Homoko	Port Moresby	Central
Mr. Bernard Narakobi	Wewak	East Sepik
Mr. Richmond Tamanabae		
Mr. Iawo Dimbali	Popondetta	Northern
Mr. Nelson Ephraim		
Mr. Nakeu Opa		
Mr. Paul Bengo		
Mr. Richard Kalimba		Western

<u>Name</u>
Mr. Jerry Ra
Mr. Alfred
Mr. Sigulo
Mr. Banda
<u>23rd March -</u>
Mr. Morea Ve
Mr. Nanang A
Mr. Galum Wa
Mr. Henry Ai
Mr. Henry Ve
Mr. Nicah Bi
Mr. George Y
Mr. Pamai Ta
Mr. Andrew O
Mr. Alois Je
<u>28th March -</u>
Mr. Torupia
Mr. Boas To
<u>29th March -</u>
Mr. Tito To
Mr. Kuvin To
Mr. Joel Gita
Mr. Anton To
Mr. Peter Ura
Mr. Francis T
Mr. Damien Ke
Mr. Joseph Tu
Mr. To Tut Tar
Mr. Benon To
<u>30th March -</u>
Mr. Iosabak Ma
Mr. Ausea Kale
Mr. Joseph Vos
Mr. Kasaika Ag
<u>2nd April - Vu</u>
Mr. Patrick Ai
Mr. Michael Si
Mr. Samuna Ena
Mr. Manu Garab
Mr. Sidney Ker
Mr. Ralf Stutt
Mr. John Yama
Mr. Kuil Hank
Mr. Frank Latu
Mr. Lukas Gore
Mr. Painap
Mr. Gobek Kaili
Mr. Koki Komand
Mr. Otto Kurigi
Mr. Titus Parag
Mr. Otto Ratute
Mr. Patrick Wut
Mr. Theo Bredme
Mr. Kailam Hose
<u>3rd April - Duke</u>
Mr. Ekonika To
Mr. Graham Litur
Mr. Akun Ranguru
Mr. Anton Leslie

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<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Jerry Ravap		Central
Mr. Alfred Balu	Inland Rigo	New Ireland
Mr. Sigulo Tema Kapu	New Hanover	Chimbu
Mr. Banda		
<u>23rd March - Administrative College</u>		
Mr. Morea Vere	Lealea	Central
Mr. Nanang Ahe		
Mr. Galum Wainetti	Daru	Western
Mr. Henry Aisi		
Mr. Henry Veratau	Rigo	Central
Mr. Nicah Bitpit		
Mr. George Yala		Western Highlands
Mr. Pamai Tamei		Manus
Mr. Andrew Opu	Bereina	Central
Mr. Alois Jerewal	Wewak	East Sepik
<u>28th March - Kokopo</u>		
Mr. Torupia Tokambe		East New Britain
Mr. Boas To Kaika	Raluana	"
<u>29th March - Rabaul</u>		
Mr. Tito To Matarua	Malaguna No. 1	"
Mr. Kuvin To Kanai	Malaguna No. 1	"
Mr. Joel Gita	Matupit Island	"
Mr. Anton To Meli	Rotogor	"
Mr. Peter Urami	Matupit Island	"
Mr. Francis Tokuna	Livuan	"
Mr. Damien Kereku MHA	Matupit	"
Mr. Joseph Turupa	Ralobang	"
Mr. To Tut Tambun	Vunapaka	"
Mr. Benon To Hulu	Dovon Kokopo	"
<u>30th March - Rangulit</u>		
Mr. Iosabak Marak	Gaulim	"
Mr. Ausea Kalem	Gaulim	"
Mr. Joseph Vos	Malabunga	"
Mr. Kasaika Agan	Rangolit	"
<u>2nd April - Vudal College, Pomio, Rabaul</u>		
Mr. Patrick Aia		Central
Mr. Michael Singan		New Ireland
Mr. Samuna Ena		Morobe
Mr. Manu Garabi		East Sepik
Mr. Sidney Kerowa		Western Highlands
Mr. Ralf Stuttgen		East Sepik
Mr. John Yama		Madang
Mr. Kuil Hank		Madang
Mr. Frank Latu	Vudal	East New Britain
Mr. Lukas Gorei	Pomio	East New Britain
Mr. Painap	Malma1	East New Britain
Mr. Gobek Kailia	Sali	East New Britain
Mr. Koki Komandei	Malma1	East New Britain
Mr. Otto Kurigi	Sali	East New Britain
Mr. Titus Paragum	Meneng	East New Britain
Mr. Otto Ratute	Kaitora	East New Britain
Mr. Patrick Wut		East New Britain
Mr. Theo Bredmeyer	Rabaul	East New Britain
Mr. Kailam Hosea	Gaulim	East New Britain
<u>3rd April - Duke of York Islands</u>		
Mr. Ekonia To Koro	Duke of York Island	East New Britain
Mr. Graham Lituru	"	"
Mr. Akun Ranguru	"	"
Mr. Anton Leslie	"	"

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Name	Village	District
<u>4th April - Gazelle LGC Chamber</u>		
Mr. Francis To Kedek	Kuraip	East New Britain
Mr. Ereman To Baining	Balanatoman	"
Mr. Onias To Mano	Rabaul	"
Mr. Elias Billy	Pila Pila	"
Mr. Elias To Potoi	Toboia	"
Mr. Anton Kinakup	Taranga	"
Mr. Amos White		"
Mr. John Anderson		"
Mr. Obed Boas MHA		"
<u>5th April - Vunadidir, Raluana</u>		
Mr. Henry Matamatam	Bitakapuk	"
Mr. Joseph To Vegenge	Bitakapuk	"
Mr. Alfred Alexander Hopper	Rabaul Town	"
Mr. Elias To Rarau	Tagitagi No. 1	"
Mr. Joseph To Vilau	Tagitagi No. 2	"
Mr. Tiut Turmarum	Rakunai	"
Mr. Andrew Tilau	Wairiki	"
Mr. Lui Tavana	Vunadidir	"
Mr. Elipias Kenny	Barawang	"
Mr. Kalamedia Manda	Navunaram	"
<u>5th April - Gaulim</u>		
Mr. Anton Kadaka	Taulil	"
Mr. Alexis Maino	Bereina	Central
Mr. To Daulu Matane	Viviran	East New Britain
Miss Bonnie Tammur	Taulil	"
Mr. Levo Lae		Gulf
Miss Winnie Dovot Kaviula	Rajuana	East New Britain
Mrs. Ialidia Maramansara	Gaulim	"
<u>6th April - Namatanai, Samo</u>		
Mr. Elias Gegen	Samo	New Ireland
Mr. Herman Kepdo	Hemau	"
Mr. Paul Taman	Namatanai	"
Mr. Kare Kapsan	Loloba	"
Mr. Raphael Haman	Namatanai	"
Fr. Francis Misso		Manus
Mr. Robert Seeto	Namatanai	New Ireland
Mr. Taman Livai	Rasirik	"
Mr. Herman Taksir	Bisopu	"
Mr. Orim Tiuka	Rasese	"
Mr. Robert Galis	Namatanai	"
Mr. Kaminial Batbat	Samo	"
Mr. Emanuel Banlik	Keveng	"
Mr. Wilson Miskaram	Ipagat	"
Mr. Soalal Elenos	Ragalilik	"
Mr. Tonginan Toanit	Hetegerdam	"
<u>7th April - Panatgin, Konos</u>		
Mr. Raymond Kaparau	Panatgin	"
Mr. Nicholas Brokam	Lakon	"
Mr. Sel Gesevena	Lemaris	"
Mr. Paulo Dori	Lasigi	"
Mr. Lungas Bibius	Tandis	"
Mr. John langabau	Tandis	"
Mr. Pius Mungkodas	Mandak	"
Mr. Lukas Isali	Mandak	"
Mr. Bart Bibius	Tandis	"
Mr. Ekoniel Piwas	Losu	"
<u>9th April - Lakuramau, Kavieng</u>		
Mr. Peles Mazakmat	Munawai	"
Mr. Michael Homarick		"
Mr. Bert Momos	Laraslaba	"
Mr. William Ngisa	Kesalok	"

Name

Mr. Magilan Busma
Mr. Lautit Boino
Mr. Peter Tapura
Mr. Kias Wiligo
Mr. Lot Sapang
Mr. Sasari Sirik
Mr. Lissom Enock
Mr. Toragas Bilo
Mr. Simon Tamera
Mr. Daniel Nissa

10th April - Pan

Mr. Cornelius Ha
Mr. Lauriel Mari
Mr. Daniel Bokap
Mr. Leo Lenokoko
Mr. Anton Masap
Mr. Isaac Merili
Mr. Selam Karasi
Mr. Sakui Agis
Mr. Lingai Kanda

11th April - Tas

Mr. Tim Angele
Mr. Fero Tivisin
Mr. Nokim Lausan
Mr. Arthur Willi
Mr. Tobung Tambu

12th April - Hut

Mr. Clement Pana
Mr. Matevin Sipo
Mr. John Kungkam
Mr. Diri Gana
Mr. Bubulivate K
Mr. Chanel Pospo
Mr. Simon Pute
Mr. Michael Tulo
Mr. Samuel Kariu
Mr. Samuel Karru
Mr. Herman Halhi
Mr. John Teosim
Mr. Paul Rakei
Mr. Charles Mora
Mr. Joseph Nani
Mr. Bone Ori
Mr. John Keruka
Mr. Jeremaih Tave
Mr. Simon Kiavia
Mr. Vakotinori B
Mr. Samson Puru

16th April - Bok

Mr. Paul Lapun M
Mr. Simon Isiras
Mr. Mame Nauva
Mr. Nelson Laisi
Mr. Anthony Potu
Mr. Thomas Sipan
Mr. Paul Miake
Mr. Anthony Anga
Mr. Aloysius Noga
Mr. Paul Kono
Mr. Matias Wapi
Mr. Michael Luga
Mr. Francis Paub
Mr. Moiku Ninsip
Mr. Lea Madia

(v)

<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Magilan Busman	Kaplaman	New Ireland
Mr. Lautit Boino	Mongol	"
Mr. Peter Tapural	Kulangit	"
Mr. Kias Wiligo	Mongol	"
Mr. Lot Sapang	Enuk	"
Mr. Sasari Siriki	Mussau Island	"
Mr. Lissom Enock	Kesalok	"
Mr. Toragas Bilogo	Mongol	"
Mr. Simon Tamerang Laparbag	Upuas	"
Mr. Daniel Nissa	Kesalok	"

10th April - Panamecho & Mangai Villages

Mr. Cornelius Halapoia	Lefu	"
Mr. Lauriel Maris	Panakais	"
Mr. Daniel Bokap	Lambu	"
Mr. Leo Lenokoko	Lambu	"
Mr. Anton Masap	Nalik	"
Mr. Isaac Merilin	Kontu	"
Mr. Selam Karasibe	Tembin	"
Mr. Sakui Agis	Panaras	"
Mr. Lingai Kanda	Livitua	"

11th April - Taskul

Mr. Tim Angele	Patiagaga	"
Mr. Fero Tivisinung	Narimlava	"
Mr. Nokim Lausan	Kulibang	"
Mr. Arthur Williams	Lavengai	"
Mr. Tobung Tambu Iangamarala	Mataniu	"

12th April - Hutjena & Tinputz & Wakanai

Mr. Clement Pana	Teabas	Bougainville
Mr. Matevin Sipoto	Torokoropia	"
Mr. John Kungkam	Wakasi LGC	"
Mr. Diri Gana	Mapearo	"
Mr. Bubulivate Kaimbata	Mapearo	"
Mr. Chanel Pospoy		"
Mr. Simon Pute	Togarau	"
Mr. Michael Tulo	Lontis	"
Mr. Samuel Kariup	Soposa Island	"
Mr. Samuel Karrup	Soposa Island	"
Mr. Herman Halhin	Tolatsi	"
Mr. John Teosim	Hanahan	"
Mr. Paul Rakei	Wawuginua	"
Mr. Charles Morakea	Pusvedoro	"
Mr. Joseph Nani	Clinpats	"
Mr. Bone Ori	Pateaveave	"
Mr. John Keruka	Kukuriana	"
Mr. Jeremiah Taveokoro	Hantobin	"
Mr. Simon Kiavia	Unonovi	"
Mr. Vakotinori Binusi	Wainana	"
Mr. Samson Puru Puru	Teop	"

16th April - Boku and Buin

Mr. Paul Lapun MHA		
Mr. Simon Isiras	Nagovis	"
Mr. Mame Nauva	Bena	"
Mr. Nelson Laisi	Siwai	"
Mr. Anthony Potungai	Siwai	"
Mr. Thomas Sipana		"
Mr. Paul Miake	Murua	"
Mr. Anthony Angau		"
Mr. Aloysius Noga	Buin	"
Mr. Paul Kono		"
Mr. Matias Wapi	Luaguo	"
Mr. Michael Lugabai		"
Mr. Francis Paubake Mota	Malabita	"
Mr. Moiku Ninsip	Turigauru	"
Mr. Lea Madia	Pariro	"

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Name	Village	District
Mr. Andrew Kamoro	Mogoroi	Bougainville
Mr. Luke Kankana	Kokopo	"
Mr. Aloysius Noga		"
Mr. Posena Nano	Mogoroi	"
Mr. Sibirau Toke	Kokolagu	"
Mr. Toke Megagi	Ipilai	"
<u>17th April - Kieta and Panguna</u>		
Mr. Francis Metminin	K.H.S.	"
Mr. John Dakeni	K.L.G.C.	"
Mr. Francis Kogiau	K.H.S.	"
Mr. Andrew Duruvu	Rawa	"
Mr. Thomas Tunsio	Poma	"
Mr. Cyril Tori	K.H.S.	"
Fr. Bertrand	K.H.S.	"
Mr. Luke Umbo		Sepik
Mr. John Kione	Toborai	Bougainville
Mr. Gregory Kopa	Moroni	"
Mr. Linus Devata	Depara	"
Mrs. Cecil Gemel	Guava	"
Mr. Paul Sipewa	Paura	"
Miss Peppie Tanaku	Guava	"
Mr. Joseph Nakare	Guava	"
Mr. Henry Moses		"
Mr. Anthony Ampe	Guava	"
Mr. Bernard Brength	Guava	"
<u>7th May - Huon L.G.C. Chamber</u>		
Mr. Oswald Dent	(D.S.L.D.)	Morobe
Mr. Stephen Ahi	(P.A.A.L.)	"
Mr. Paulus Nariana	Nasoabum	"
Mr. Josia Ferea	Nasoabum	"
Mr. Kising Tikanga	Butibum	"
Mr. Leo Miria	Bereina	Central
Mr. Ogean Boafob	Nasobum	Morobe
Mr. Natia Kaman	Nasobum	"
Mr. Pius Kalsup	Pagua	Sepik
<u>8th May - Huon Gulf Council Chamber, Lae</u>		
Cr. Apilum Laku	Busama	Morobe
Mr. T. Kason	Bipi Island	Manus
Cr. Samasam Kwasu	Bukava	Morobe
Mr. Andrew Kape Aoae		Central
Mr. Bruce Willi	Finschhafen	Morobe
Mr. Topias Kalsop		Sepik
Mr. Tamae Dambin	Boana	
Cr. Tung Yangin	Wanganluhu	
Cr. Garang Po	Iaru	
Mr. Joseph Timawa	Butibum	Morobe
Mr. Geibob Masawa		"
Mr. Nagong Kwaram	Butibum	"
Mr. Amos Wasimbi	Tikering	"
Mr. Tiga Tiaga	Apo	"
Mr. Mutu Gware	Ahi Association	"
<u>8th May - University of Technology, Lae</u>		
Mr. Amo Mark	(P.S.R.C.)	Milne Bay
Mr. Sandy Kelly	Bulgimp	Western Highlands
Mr. Songae Basse	Awar	Madang
Mr. Thomas Haia	Kerema	Gulf
Mr. Rule Rema		Southern Highlands
Mr. Samiel Andrew	Alotau	Milne Bay
<u>9th May - Morobe, Garaina</u>		
Mr. Popoka Gaora	Nou	Morobe
Mr. Yawa Dzia	Zare	"
Mr. Nata Kario	Auno	"
Mr. Seregi Guguwa	Zare	"

NameMr. Kokoi R
Mr. Guriupa10th May -Mr. Mamakau
Mr. Watahi
Mr. John
Mr. Mataho
Mr. Pengetu
Mr. Portosko
Mr. Manessah
Mr. Tembol W
Mr. Ninga Ya
Mr. Yanduk K
Mr. Peter Wr
Mr. Birimalu
Mr. Mere Weg
Mr. Denis Br
Mr. Mambu Ki
Mr. Lene Iau11th May - IMr. Singeri,
Mr. Rauke Ga
Mr. Jonah Ku
Mr. Gedisa G
Mr. Umbi Dan
Mr. Ben Dang
Mr. Benny Ta
Mr. Pauling C
Mr. Mogoling
Mr. Jawing G
Mr. Aweli
Mr. Tirip Ta12th May - KaMr. Tataeng
Mr. Bawan
Mr. Anganifun
Mr. Philip Bu
Mr. Kapumi
Mr. Amu
Mr. Balip Yup
Mr. Malengu D
Mr. Hobi Ling
Mr. Linonge H
Mr. Jeebang Z
Mr. Simogi Ka
Mr. Hartmut H14th May - PoMr. Jeffrey Sa
Mr. Jeffrey B
Mr. N. Ikoire
Mr. Wesley Jo
Mr. Brian Aruh
Mr. Remedius K
Mr. Niscal Pes
Mr. Andrew Har
Mr. Kindsley I
Mr. Lancelot A
Rev. Simon Pet
Mr. Anton Kiri
Mr. Rubin Vivi
Mr. Stanford O
Mr. Alexander
Mr. Timothy Jo
Mr. MacKenzie

(vii)

<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Koko1 Ravey	Bubu	Morobe
Mr. Guriupa Botama	Iaru	"
<u>10th May - Manyamya & Wau</u>		
Mr. Mamakau	Ami	"
Mr. Watahi	Manya	"
Mr. John	Iwesi	"
Mr. Mataho	Taiho	"
Mr. Pengetu		"
Mr. Portosko		"
Mr. Manessah Voeto	(MHA Manyamya)	"
Mr. Tembol Wagadoa	Latep	"
Mr. Ninga Yamu	Kaisenik	"
Mr. Yanduk Kisabu	Wandum	"
Mr. Peter Wrakuavia	Kumun	East Sepik
Mr. Binmalu Pinaui		Morobe
Mr. Mere Wegneto	Ambe	"
Mr. Denis Brown		"
Mr. Mambu Kisebu		"
Mr. Lene Iaupu	Ambe	"
<u>11th May - Indagen, Kabwum, Mumeng</u>		
Mr. Singeri, MHA	Indagen	"
Mr. Rauke Gam	Sikam	"
Mr. Jonah Kuso	Sio	"
Mr. Gedisa Gwaju	(MHA Bulolo Open)	"
Mr. Umbi Dandas	Buana	"
Mr. Ben Dangu	Upper Buang	"
Mr. Benny Taling	Bungum	"
Mr. Pauling Goane	Palaboso	"
Mr. Mogoling Kakun	Sanbini	"
Mr. Jawing Goi		"
Mr. Aweli	Perekless	"
Mr. Tirip Tai	Manga	"
<u>12th May - Kaiapit and Finshhafen</u>		
Mr. Tataeng	Kaiapit	"
Mr. Bawan	Wantoot	"
Mr. Anganifun	Guruf	"
Mr. Philip Buseng, M.H.A.	Sangan	"
Mr. Kapumi	Amari	"
Mr. Amu	Jarus	"
Mr. Balip Yupal	Kamlola	"
Mr. Malengu Doi, M.H.A.	Warengai	"
Mr. Hobi Lingunga	Siwea	"
Mr. Linonge Hebaumu	Bonga	"
Mr. Jeebang Zurenuo		"
Mr. Simogi Kangio	Pindiu L.G.C.	"
Mr. Hartmut Holzknecht		"
<u>14th May - Popondetta</u>		
Mr. Jeffrey Saura	Soputa	Northern
Mr. Jeffrey B. Lancaster	F.S. Ass	"
Mr. N. Ikoirere	F.S. Ass	"
Mr. Wesley Joroda	F.S. Ass	"
Mr. Brian Aruha	Hizatura	"
Mr. Remedius Koa	Bakubari	"
Mr. Niscal Pesaro	Hegata	"
Mr. Andrew Handau	Ango	"
Mr. Kindsley Ida	Huhuru	"
Mr. Lancelot Ahihari	Kakadetta	"
Rev. Simon Peter Awoda	Gona	"
Mr. Anton Kiriavi		Madang
Mr. Rubin Vivini	Monge	Northern
Mr. Stanford Oresa	Dubuduru	"
Mr. Alexander Wowote	Puhemu	"
Mr. Timothy Jogipa	Ahora	"
Mr. MacKenzie Daugi, M.H.A.		"

(viii)		
Name	Village	District
Mr. Stephen Tago, M.H.A.	Soha	Northern
<u>15th May - Toma, Afore, Tufi</u>		
Mr. Daia Arimari (P.A.L.G.C.)	Afore	Northern
Mr. Gilchrist Ave	Sapia	"
Mr. Paulus Manu	Numba	"
Mr. Makai Bui	Siriba	"
Mr. Kenet Towara	Yoda No. 1	"
Mr. Etodowat Tokeavoi	Yoda No. 2	"
Mr. Sinote Kawama	Yoda No. 1	"
Mr. Oswald Panga	Kurereda	"
Mr. Sewin Onbrari	Ewore	"
Mr. Drespat Doposi	Yonda No. 1	"
Mr. Battalanea Goato	Yonda No. 1	"
Mr. Malion Bonge	Eurereda	"
Mr. Stephen Tago, M.H.A.		"
Mr. Foreman Matagia	Kubuni	"
Mr. Kewaia Kouga	Gobe	"
Mr. Phillip Undaba	Koje	"
Mr. David Yariyari	Raboda	"
Mr. Robert Kikima	Sepoa	"
<u>16th May - Oro Bay & Kokoda</u>		
Mr. Alan Tindepa	Barisari	"
Mr. Lester Buran	Pombala	"
Mr. Johnstone Desa	Embogo	"
Mr. Oswald Dandase	Pombada	"
Mr. Cuthbert Iove	Arugasusu	"
Mr. Paulus King Banumei	Dombada	"
Mr. Charles K. Yegoba	Buna	"
Mr. Cornelius Joba	Goradi	"
Mr. Roteu Suma	Angiri	"
Mr. Beston Jokoro	Botue	"
Mr. Joel Huma	Kamanda	"
Mr. Kiengle	Yodda	"
Mr. Jeff Lucas	Papake	"
Mr. Titua Ika	Papake	"
Mr. Seka Kopipe	Saulia	"
Mr. Leslie Euwa	Soko	"
Mr. Ariko	Soko	"
Mr. Moses Katoba	Kobero	"
Mr. Kiona	Omlu	"
Mr. Ukuto	Kanga	"
Mr. Sabben (ADC)		
<u>11th June - Goroka</u>		
Mr. Nagumisovo Soreafa	Bena	Eastern Highlands
Mr. Sabumei Kofikai	Okuipa	" "
Mr. Paivi Kaputa	Bena	" "
Mr. Atau Waukawau		" "
Mr. Bebe Moha	Okuiufa	" "
Mr. Ino Aivo	Okuiufa	" "
Mr. Kopi Pimero	Bena	" "
Mr. Akepa Miakwe, M.H.A.	Sigona	" "
Mr. Iyope Noruka	Bena Bena	" "
<u>12th June - Kainantu and Ukurumpa</u>		
Mr. Bauko Makui	Kainantu No. 1	" "
Mr. Gurana Bolang	Yonki	" "
Mr. Ono Aia	Kainantu No. 1	" "
Mr. Barry Holloway	(Speaker - M.H.A.)	" "
Mr. Maiuki Kanti	Kainua	" "
Mr. Aunama Tolula	Moifi	" "
Mr. Enabe Mampia	Raipinka	" "
Mr. Naraku Pao	Kanenoa	" "
Mr. Urai Pulona		" "
Mr. Manc Beheni	Timbunofi	" "

Name
Mr. Usak
Mr. Babar
Mr. Bibi
Mr. Into
Mr. Droba
Mr. Maka
Mr. Onoma
Mr. Toito
Mr. Moses
Mr. Kamar
Cr. Anis
Cr. Guder
Mr. Uwai
Mr. Kiki
13th June
Cr. Aupe
Mr. Hanen
Mr. Hallo
Mr. K. Ya
Mr. Josep
Mr. Muris
Mr. Atiae
Mr. John
Mr. James
Mr. Kerian
Mr. Namban
Mr. Awagov
Mr. Alan M
Mr. Agoara
Mr. Pose I
Mr. Alois
Mr. Usana
14th June
Mr. Haravo
Cr. Liupo
Mr. Atou W
Mr. Ekihan
Mr. Atairo
Mr. Umo Ur
Mr. Bona A
Mr. Kanget
Mr. Kutani
Mr. Sununka
Mr. Kapefa
Mr. Famuna
Mr. Kabaiiy
Mr. Kumbane
Mr. Aron Na
Mr. Atiheme
Mr. John Ka
Mr. Joseph
Mr. Dominic
Mr. Mark So
Mr. Bin Ara
Mr. John Fe
Mr. James K
Mr. Benjon
Mr. Bernard
Mr. Peter G
15th June -
Mr. Gunua U
Mr. Awano L
Mr. Teine A
Mr. Golabe
Mr. Kaupa N

(1x)

Name	Village	District
Mr. Usake Anno	Barufu	Eastern Highlands
Mr. Babanke Aburase	Kainobe	" "
Mr. Bibi Auwopiya	Kainantu	" "
Mr. Into Maino	Tenu	" "
Mr. Droba Triwa	Omaura	" "
Mr. Makai Nono	Abiara	" "
Mr. Onomata Bebe, M.H.A.		" "
Mr. Toito	Aiyura	" "
Mr. Moses Sasakila, M.H.A.		" "
Mr. Kaman	Akuna	" "
Cr. Anis	Avura	" "
Cr. Guderu Solaka	Kwikila	Central
Mr. Uwai	Kainantu	Eastern Highlands
Mr. Kiki		

13th June - Okapa, Lufa

Cr. Aupe Ogua	Idusa	Eastern Highlands
Mr. Hanenama Yangoku	Kefu	" "
Mr. Hallowai Autumu	Katebe	" "
Mr. K. Yasinamo	Anumba	" "
Mr. Joseph Wateri	Kavieng	New Ireland
Mr. Muriso Wame's	South Fore	Eastern Highlands
Mr. Atiae Takeope	Kemayu	" "
Mr. John Pokia, M.H.A.	Kasau	" "
Mr. James Yanepa	(Lufa L.G.C.)	" "
Mr. Keriami Ekemai	"	" "
Mr. Nambanamba Kurai	"	" "
Mr. Awagowa Kewai	"	" "
Mr. Alan McNeill (A.D.C.)	"	" "
Mr. Agoara Rorei	"	" "
Mr. Pose Iparnue	"	" "
Mr. Alois Valuka	Talasea	West New Britain
Mr. Usana Nompop	Waipera	

14th June - Asaro, Henganofi, Goroka Teachers College

Mr. Haravone Giregire	Gamasave	Eastern Highlands
Cr. Liupo Oi Oho	Komuneve	" "
Mr. Atou Waukve	Goroka L.G.C.	" "
Mr. Ekihanema Kia	Korepa	" "
Mr. Atairo Kanisui	Kominive	" "
Mr. Umo Urukio	Yameufa	" "
Mr. Bona Azanifa	Henganofi L.G.C.	" "
Mr. Kangeto Gabise	Henganofi L.G.C.	" "
Mr. Kutanis Dajimisu	Henganofi L.G.C.	" "
Mr. Sununka Krokia	Henganofi L.G.C.	" "
Mr. Kapefa Kangato	Henganofi L.G.C.	" "
Mr. Famuna Bainam	Henganofi L.G.C.	" "
Mr. Kabaiya Zano	Henganofi L.G.C.	" "
Mr. Kumbane Kinaino	Henganofi L.G.C.	" "
Mr. Aron Nabaiya	Henganofi L.G.C.	" "
Mr. Atiheme Kimi	Henganofi L.G.C.	" "
Mr. John Kangle	Kup	Chimbu
Mr. Joseph Koroma	Bononi	Madang
Mr. Dominique Lowton	Wabag	Eastern Highlands
Mr. Mark Solon		Manus
Mr. Bin Arabaki	Kefaman	Eastern Highlands
Mr. John Felei	Bereina	Central
Mr. James Kuyanibus	Dagua	East Sepik
Mr. Benjon Pilyo	Wabag	Western Highlands
Mr. Bernard Gale	Sudest Island	Milne Bay
Mr. Peter Gowli	Sina Sina	Chimbu

15th June - Elimbari

Mr. Gunua Uba	Kuman	Chimbu
Mr. Awano Longo	Kemare	"
Mr. Teine Agendua	Maina	"
Mr. Golabe Bulage	Yopakokol	"
Mr. Kaupa Nine	Suage	"

Highlands

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(x)		
Name	Village	District
Mr. Keapa Gola	Du	Chimbu
Mr. Dala Konka	Kakul	"
Mr. Gola Kua	Mu	"
Mr. Kelaga Kuine	Dumun	
<u>16th June - Kundiawa</u>		
Mr. Paulus Nime	Koglai	"
Mr. Ludwig Ambane	Mindam	"
Mr. Kagle Wogl	Enga	"
Mr. Gaylma Karoki	Muidima	"
<u>17th June - Wandi</u>		
Mr. Wagne Agaundao	Wandi	"
Mr. Kutne Kura	Wandi	"
Mr. Wenambu Pumai	Guo	"
Mr. Kembre Alphones		"
Mr. Alphones Gundu		"
Mr. John Kambu		"
<u>18th June - Karimui, Gumine</u>		
Mr. Tude Wake	Baisamabu	"
Mr. Geoffrey Breay	Cardomon	"
Mr. Pale Ele	Dibe	"
Mr. Yaribe Yauni	Meu	"
Mr. Statt		"
Mr. Wena Obe	Iudo	"
Mr. Amos Togia	Kundiawa	"
Mr. Maina Time	Muri	"
Mr. Baia Kia	Drima	"
Cr. Bilyal Walere	Yabai	"
Mr. John Sili		Manus
Mr. Nilkari Kaupa	Omkalai	Chimbu
Mr. Joseph Agi		"
Mr. Kobala Boi	Bulae	"
Mr. Lucas Kriwa		"
Mr. Raphael Kome	Deliba	"
Mr. Stat Kumandi	Gumine	"
<u>19th June - Kundiawa, Mt. Wilhelm</u>		
Mr. Mondon Tangigl	Andikua	"
Mr. Kountinenef Kuman	Pari	"
Mr. Ogume Amo	Kogo	"
Mr. Gerenam Bal	Sena Sena	"
Mr. Turre Nogo	Kago	"
Mr. Bainda Daguma	Kogo	"
Mr. Kar Tongia	Pari	"
Fr. Kink Waguo	Koun	"
Mr. Kunauna	Madime	"
Mr. Apo Karamar	Yambai	"
Mr. Bakar Armba	Kuglpagl	"
Mr. Yer Argi	Anganeri	"
Mr. Gende Iwagl	Gormaugl	"
Mr. Gabriel Numambo	Gere	"
Mr. Guagl Kaman	Guguglme	"
Mr. Apa Karwagle	Kanggiri	"
Mr. Mombo Wamina	Bonggugl	"
Mr. Siambugla Korai	Kurumugl	"
Mr. Pius Komba		"
Mr. Waglwo Ongokondo	Womatne	"
Mr. Paglau Noglai	Bomkane	"
Mr. Kokor Gumane	Bomkane	"
Mr. William Tombon	Gur	"
Mr. Simon Kumai	(MTW LGC)	"
<u>20th June - Kerowagi</u>		
Mr. Siwi Kurondo	Suin	"

Name
Mr. Kurum
Mr. Wine
Mr. Wena
Mr. Waim
Mr. Walgt
Mr. Werag
Mr. Nogla
Mr. Poron
Mr. Kombo
Mr. Siwi
Mr. Ande
Mr. Geril
26th June
Mr. Pukma
Mr. Nopno
Mr. Mulgar
Mr. Maki
Mr. Kunia
Mr. Mesaka
Mr. Maken
Mr. Tai Tu
Mr. Wai T
Mr. Thomas
Mr. Tony
Mr. Thomas
Mr. Kanzip
Mr. Dibier
Mr. Linus
Mr. Andrew
Mr. Kum Me
Mr. Mek Ka
Cr. Wabura
Mr. Apa Ma
Mr. Malga
Mr. Timey
Mr. Tim Ba
Mr. Kiap M
Mr. Kunjil
Constable
Mr. Kup Og
Mr. Pyakoe
Mr. Joseph
27th June
Mr. Koe Ma
Mr. Poia J
Mr. Kapa R
Mr. Raphae
Mr. Kalgka
Mr. Peter
Mr. Nori O
Mr. John R
Mr. Derbra
Mr. Alan C
Mr. Mex Ma
Mr. Nama G
Mr. Kiad K
Mr. Nabonga
Mr. Raim N
Mr. Popna M
Mr. Pup Mar
Mr. Lonis C
Mr. Harold
28th June
Mr. Lae Hag
Mr. Tiria

(x1)

Name	Village	District
Mr. Kurumbi Aglua	Kendine	Chimbu
Mr. Wine Konduegl		"
Mr. Wena Kaiglo	Cogline	"
Mr. Waim Ombo	Cogline	"
Mr. Walgl Olto	Kunamba	"
Mr. Werage Apa	Pagau	"
Mr. Nogla Kondong	Gogyl	"
Mr. Poronga Kunma	Bogoa	"
Mr. Kombongo Kaigu	Konda	"
Mr. Siwi Agai	Goyna	"
Mr. Ande Taia	Deng	"
Mr. Geril Gande	Gogime	"

26th June - Minj, Banz, Dei, Kindeng

Mr. Pukma Witolze	Tombi	Western Highlands
Mr. Nopnop Toi	Minj	" "
Mr. Mulgam Balgum	Triglim	" "
Mr. Maki Mana	Garnam	" "
Mr. Kunial Mar	Pugamil	" "
Mr. Mesaka Ranyid		" "
Mr. Makens Buken	Kudjip	" "
Mr. Tai Tukumbi	Kudjip	" "
Mr. Wai Til	Gamar	" "
Mr. Thomas Topo	Kin Nol	" "
Mr. Tony Kugul		" "
Mr. Thomas Tumbo	Keruul	" "
Mr. Kanzipgil, Mr. F. Rumba	Keruul	" "
Mr. Dibienga		" "
Mr. Linus Kulam	Mondugi	" "
Mr. Andrew Sualou	Kimil	" "
Mr. Kum Melida		" "
Mr. Mek Kaulga		" "
Cr. Wabura Pup		" "
Mr. Apa Manga		" "
Mr. Malga Kults		" "
Mr. Timey Losh	Wabag	" "
Mr. Tim Baanister	Wahgi	" "
Mr. Kiap Mani	(Hagen S.D.)	" "
Mr. Kunjil Rumge	(Hagen S.D.)	" "
Constable More Kuman	Chuave	" "
Mr. Kup Ogut		" "
Mr. Pyakoen Yaoken	Wabag	" "
Mr. Joseph Raim	Kindeng	" "

27th June - Mount Hagen

Mr. Koe Mamb	Tihing	" "
Mr. Poia Jak	Kulg	" "
Mr. Kapa Ropa	Wrup	" "
Mr. Raphael Doa	(D.I.E.S. Mt. Hagen)	" "
Mr. Kalgkarama	Pulgamb	" "
Mr. Peter Tombal	Wag	" "
Mr. Nori Ono	Koglam	" "
Mr. John Raka Kama	Urop	" "
Mr. Derbra Waia	Kufa	" "
Mr. Alan C. Ingram	Hagen	" "
Mr. Mex Maip	Kulbaku	" "
Mr. Nama Greta	Keke	" "
Mr. Kiad Kenenga	Dumakona	" "
Mr. Nabongai Mora	Papikona	" "
Mr. Raim Numdy	Kunmong	" "
Mr. Popna Mit	Kongi	" "
Mr. Pup Mamba	Punaitpup	" "
Mr. Lonis Chewg	Chinese Assn. Mt. Hagen	" "
Mr. Harold Hiah	"	" "

28th June - Giluwe, Mul

Mr. Lae Hagen	Konangi	Western Highlands
Mr. Tiria Yoke	Palhur	" "

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Name	Village	District
Mr. Tabia Wapo	Lgambi	Western Highlands
Mr. Napo Yama	Polgmone	" "
Mr. Hni Basa	Wabag	" "
Mr. Philo Mandia	Phakepane	" "
Mr. Napa Nambo	Laiagam	" "
Mr. Kiap Pal (P. Mul L.G.C.)	Tondomang	" "
Mr. Mange Bi	Bal	" "
Mr. Kopon Mama	Wara	" "
Mr. Tumunda Pak	Bogapan	" "

29th June - Tabibuga, Baiyer River

Mr. Ying Wai Dire	Kwima	" "
Mr. Enmal Tugo	Kwibun	" "
Mr. Mai Kopi	Kwiop	" "
Mr. Edward (A.D.C.)		" "
Mr. Tumun Aina	Mongom	" "
Mr. Kolye Swoi	Bubussungu	" "
Mr. Pii Nalu (P. Mul L.G.C.)		" "
Mr. Joseph Komba	Wapenamanda	" "
Mr. Ketano Pyanuwa		" "
Rev. Garth Manning		" "
Mr. Kepoa Kurup	Tare	" "
Mr. Paraka Nyi	Baiyer River	" "
Mr. Yamba Dorom	Tabibuga	" "
Mr. Kendepi Nagni	Isenga	" "
Mr. Goea Asulei	Pakaline	" "

30th June - Mount Hagen

Mr. Komp Dei		" "
Mr. Nogi Mints	Panga	" "
Mr. Reimba Kaiwalg	Kala	" "
Mr. Hans Wetzel		" "
Mr. R.E. Dargie		" "
Mr. Norrie Ou		" "
Mr. Terra Titip	Kamulg	" "
Mr. John Coleman		" "
Mr. Doa Duk	Kaminug	" "
Mr. Kolta Boi	Kindeng	" "
Mr. Keva Gewaweifa	Kuk	" "

2nd July - Wabag

Cr. David Ango	Wea	" "
Mr. Na Tau	Kundici	" "
Cr. Aungi Wanea	Lakuia	" "
Mr. Andapak Aedrok	Tolbi	" "
Mr. Ibarum Nepalum	Kamasi	" "
Mr. Pupun Tombeng	Kamasi	" "
Mr. Naipakali Nege	Kopen	" "
Mr. Kandapol Kalum	Tol	" "
Mr. Lipi Kapilak	Lupamanda	" "
Mr. Albert Ango	Kipalan	" "
Mr. Monden Elan	Londol	" "
Mr. Mark Kaegakali	Kiwi	" "
Mr. Waing Lambi	Sopas	" "
Mr. Was Kameso	Nandi	" "
Mr. Minaot Al	Kupalis	" "
Mr. Kurai Tapus	Kaeap	" "
Mr. Sam Talepakal	Tsikiro	" "
Mr. Karopen Kalum	Kupin	" "
Mr. John Tipian	Sakales	" "
Mr. Langa Kolep	Wei	" "
Mr. Yaka Ambi	Wei	" "
Mr. Terepa Pingi	Kanapiru	" "
Mr. Leme Yangalio	Wapenamanda	" "
Mr. Nita Balen	Ireva	" "
Mr. Yaru Kia	Par	" "
Mr. Kaki Pian		" "
Mr. Waki Paiala	Aipanda	" "
Mr. Piaroe Piakoe	Yambu	" "

Name

3rd July

Cr. Pone
Mr. Minok
Cr. Nge D
Cr. Napio
Mr. Lo Pu
Mr. Phill
Mr. Peter
Mr. Kaipu
Mr. Nanas
Mr. Nakip
Mr. Tambi
Mr. Mindu
Mr. Monai
Mr. Kiang
Mr. Nita
Mr. Yabok
Mr. Yanga
Mr. Kipur
Mr. Ronal

4th July

Mr. Don K
Mr. Walem
Mr. Paber
Mr. Amu
Mr. Willi
Mr. Mara
Mr. Euela
Mr. Panda
Mr. Pakli
Mr. Pongo
Mr. Andae
Mr. Kepa
Mr. Frank
Mr. Korib
Mr. Ambui
Mr. Pupu
Mr. Mana
Mr. Kanab
Mr. Kanab
Mr. Tumu
Mr. Awali
Mr. Kipog
Mr. Yanis
Mr. Pai K

5th July

Mr. Arop
Mr. Enana
Mr. Kison
Mr. Kumag
Mr. Es Pa
Mr. Posu
Mr. Kunda
Mr. Nanda
Mr. Moku
Mr. Awesa
Mr. Jefir
Mr. Pondo
Mr. Pagar
Mr. Wamu

6th July

Mr. Pokor
Mr. Andre

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<u>Name</u>	<u>Village</u>	<u>District</u>
<u>3rd July - Kompian, Kandep</u>		
Cr. Pone Lilyo	Kompian	Western Highlands
Mr. Minok Leagon	Kimberiman	" "
Cr. Nge Dondo	Wabag	" "
Cr. Napio Peau	Wapakam	" "
Mr. Lo Puru	Imap	" "
Mr. Phillip Pakio	Wapakam	" "
Mr. Peter Yako	Kompian	" "
Mr. Kaipua Waganda	Yapum	" "
Mr. Nanas Ki	Kandep	" "
Mr. Nakipan Phungaki	Iraira	" "
Mr. Tambi Maka	Aipos	" "
Mr. Minduk Tiaro	Rakamanda	" "
Mr. Monai Paipela	Amaka	" "
Mr. Kiangana Taim	Eni	" "
Mr. Nita Belan	Irile	" "
Mr. Yabok Tuldiagan	Rakiamanda	" "
Mr. Yangao Takaien	Paus	" "
Mr. Kipungi Kaldok	"	" "
Mr. Ronald Ribau	Wapenamanda	" "
<u>4th July - Laiagam, Wapenamanda</u>		
Mr. Don Kapi	Egua	" "
Mr. Walem	Laigap	" "
Mr. Paben	Tubanguits	" "
Mr. Amu	Laiagam	" "
Mr. William	Laiagam	" "
Mr. Mara	Laiagam	" "
Mr. Euela	Laiagam	" "
Mr. Pandan	Laiagam	" "
Mr. Paklin	Laiagam	" "
Mr. Pongo Yalip	Yalis	" "
Mr. Andae	Wapenamanda	" "
Mr. Kepa Pupu	Walya	" "
Mr. Frank Iki	"	" "
Mr. Koribao Kopio	Sak Laiagam	" "
Mr. Ambui Pulipila	Yaibos	" "
Mr. Pupu Lipu	Yaremanda	" "
Mr. Mana Nasigi	Yakandis	" "
Mr. Kanabio Kamujo	Wapenamanda	" "
Mr. Kanabao Yawale	Mukuramanda	" "
Mr. Tumu Awali	Modopa	" "
Mr. Awali Katia	"	" "
Mr. Kipogi Waliwali	Kumbasakam	" "
Mr. Yanis Ledatle	Paus	" "
Mr. Pai Karanke	Aikos	" "
<u>5th July - Mendi</u>		
Mr. Arop Kendok	Sol	Southern Highlands
Mr. Enanal Tial	Mendi L.G.C.	" "
Mr. Kisombo Penden	Mendi	" "
Mr. Kumaga Kuimbaga	Komig	" "
Mr. Es Paka	Kuma	" "
Mr. Posu Ank	Lai Valley L.G.C.	" "
Mr. Kundapen Tilo	Lai Valley L.G.C.	" "
Mr. Nandave Takua	Kambeyekpu	" "
Mr. Moku Mune Kambal	"	" "
Mr. Awesa Kiwa	Kiburu	" "
Mr. Jefiry Hanibial	Lai	" "
Mr. Pondol Yandom	Lai	" "
Mr. Paganu Suma	Yolibu	" "
Mr. Wamul Nauya	Kuma	" "
<u>6th July - Tari, Kagua</u>		
Mr. Pokoraga Numa	Agapo	" "
Mr. Andrew Andija	Kikita	" "

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Name	Village	District
Rev. Aya Takuma		Southern Highlands
Mr. Kunimi Teke	Aribu	" "
Mr. Togora Wapu	Apice	" "
Mr. Yaba Aruyi	Wapia	" "
Mr. Limboi Ayuea	Kumu	" "
Mr. Waisme Kone	Kundiawa	Chimbu
Mr. Mekeria Peaba	Yagoma	Southern Highlands
Mr. Angopa Angata	Kikita	" "
Cr. Omoko Aia	Kukari	" "
Mr. Hamono Kalu	Tawanda	" "
Mr. Mata Mura	Kagua	" "
Mr. Roya Ronu	Kagua	" "
Mr. Sapsi Tero		" "
Mr. Otma Tapon		" "
Mr. Ia Kale		" "
Mr. Ropo Alipina	Tumbarere	" "
Mrs. Lisa Tubina	Kagua	" "
Mr. Manu Wipai	Erave	" "
Cr. Alufia Konombo	Erave	" "
Mr. Pumbu Ia	Marili	" "
Mr. Lamali Nagupoa	Kumbianda	" "
Mr. Yano Belo, M.H.A.	Mendi Station	" "
Mr. Kauga Kua		" "
Mr. Ken Bond		" "
Mr. Des Clancy	D.C. Mendi	" "
Mr. Francis Iramu		" "
Mr. Chapman		" "
Mr. Burge		" "

7th July - Koroba, Ialibu, Mendi

Cr. Paijebe		Southern Highlands
Mr. Gerena Heru	Ondia	
Mr. Piko		
Mr. Michael Kiamo	Kairuku	Central
Cr. Henubi Pokaba	Korapo	Southern Highlands
Mr. Andrew Wabiria, M.H.A.		" "
Mr. Pairo Eno	Lake Kapiago	" "
Mr. Hole Angule	Koroba	" "
Mr. Undi Nandi	Ialibu L.G.C.	" "
Mr. Karia Wamu	Pangia L.G.C.	" "
Mr. Nigel Van Ruth (A.D.C.)		" "
Mr. Seman Pulu		" "
Mr. Koge Itau	Pangia L.G.C.	" "
Mr. Nakanol Guli	Ialibu	" "
Mr. James Waia		" "
Mr. Tegi Ebeial	Nipa	" "
Mr. Amabo Kuri		" "
Mr. Momei Pangiel, M.H.A.		" "
Mr. Mogera Kibura	Margarima	" "
Mr. Owl Wap	Mendi	" "
Mr. Kurap		" "
Mr. Pecolu	Poroma	" "

16th July - Madang

Mr. Newton Katham	Madang Town Council	Morobe
Mr. Konis	Madang Town Council	Sepik
Mr. Francis Posinou	Madang Town Council	Manus
Mr. Stanis Toliman, M.H.A.	Bogia	East New Britain
Mr. Gau Gabela	Astrolabe Bay Council	
Mr. Tomote Koris		
Mr. Sol Bubon	Madang Town Council	Madang
Mr. Taboi Babob	Kar Kar Island	"

17th July - Tokain, Banap, Ambenob, Siar

Mr. Liarup Reper	Maborop	Madang
Mr. Lakik Bantse	Mabonob	"

Name

Mr. Aks
Mr. Tig
Mr. Alp
Mr. Mot
Mr. Sum
Mr. Bia
Mr. Mur
Mr. Bug
Mr. Etu
Mr. Kau
Mr. Tine
Mr. Anis
Mr. Kal
Mr. Kud
Mr. Kak
Mr. Rawa
Mr. Mada
Mr. Bar
Mr. Kion
Mr. Kav
Mr. Don
Mr. Kaic
Mr. Rumb
Mr. Angn
Mr. Siwa
Mr. Bat
Mr. Hake
Mr. Pip
Mr. Olor
Mr. Rer
Mr. Ade
Mr. Mast
Mr. Patu
Mr. Hon
Mr. Baic
Mr. Keat
Mr. Besa
Mr. Rhi
Mr. Nabu
Mr. Alo
Mr. Daw
Mr. Yas
Mr. Maic
Mr. Mail
Mr. Bas
Mr. Kair

18th Jul

Mr. Bark
Mr. Yan
Mr. Sarc
Mr. Ber
Mr. Kari
Mr. Yong
Mr. Bise
Mr. Kare
Mr. Kulu
Mr. Kaon
Mr. Bele
Mr. Sib
Mr. Umba
Mr. Sala
Mr. Simo
Mr. Simo
Mr. Akui
Mr. Yapa
Mr. Orka
Mr. Urip
Mr. Lupa

(xv)

<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Aksim Simming	Karanket	Madang
Mr. Tigali Uriel	Mis	"
Mr. Alpa Emai	Daraget	"
Mr. Mot Isilum	Mal Mal	"
Mr. Sumeien Uram	Usumban	"
Mr. Bias Kurum	Sarang	"
Mr. Murum Nangen	Kar Kum	"
Mr. Bugul Abaue	Garup	"
Mr. Etuki Palong	Sarang	"
Mr. Kauwa Ahbe	Aronis	"
Mr. Tinoma Dekun	Bunabun	"
Mr. Anis Megiarui	Megia	"
Mr. Kalamín Sugor	Aronis	"
Mr. Kuduk Longum	Budum	"
Mr. Kaki Ange	Aronis	"
Mr. Rawad Marun	Matu Kar	"
Mr. Madako Sawai	Bomasa	"
Mr. Barui Ratan	Matukar	"
Mr. Kiom Dawad	Bomasa	"
Mr. Kav Nagir	Buna No. 2	"
Mr. Don Sabum	Bomasa	"
Mr. Kaideng Sarai	Banap	"
Mr. Rumbi Putim	Abap	"
Mr. Angmai Bilas, M.H.A.		"
Mr. Siwa Kolan	Hilu	"
Mr. Bato Bulitim	Panim	"
Mr. Hakep Falidei	Od	"
Mr. Pipoi Padau	Yabob	"
Mr. Olon Olobai	Amele	"
Mr. Reri Tomi	Bakar	"
Mr. Ade Ulem	Hudini	"
Mr. Masbud Pipai	Bilbil	"
Mr. Patuka Hangari	Balima	"
Mr. Hon Pipoi	Bilbil	"
Mr. Baio Ra	Okuru	"
Mr. Keatic Patis	Nagada	"
Mr. Besa Bes	Kiwo	"
Mr. Rhillipus Angmai	Siar	"
Mr. Nabul Sakon	Kononam	"
Mr. Alois Buka	Noponop	"
Mr. Daw Angmai	Riwa	"
Mr. Yas Len	Riwa	"
Mr. Maio Kalop	Siar	"
Mr. Mailing Kalup	Siar	"
Mr. Bas Malai	Siar	"
Mr. Kaing Dalbu	Bomasa	"

18th July - Kar Kar, Usino

Mr. Barkin Takok	Koropak	"
Mr. Yanin Baim	Keng	"
Mr. Sarowa Samna	Kaul	"
Mr. Berong Sarum	Kaul No. 2	"
Mr. Karitamo Bareng	Kaviak	"
Mr. Yongole Yongole	Tugataga	"
Mr. Bisarl Udil	Mapo	"
Mr. Kare Maor	Mon	"
Mr. Kulubob Tara	Kuburne	"
Mr. Kaor Maor	Mon	"
Mr. Belery Salom	Kar Kar	"
Mr. Sibon Suang	Kar Kar	"
Mr. Umbari Yikili	Usino	"
Mr. Sala Sina	Sakalbo	"
Mr. Simon Peter Gi	Usino L.G.C.	"
Mr. Simon Inamalu	Usino L.G.C.	"
Mr. Akui Samansisi	Kaiguring	"
Mr. Yapap Yariam	Usino L.G.C.	"
Mr. Orkap Ipitip	Usino L.G.C.	"
Mr. Urip Demenu	Usino L.G.C.	"
Mr. Lupan Karanap	Pike	"

Name	Village	District
Mr. Idi Bona	Usino	Madang
Mr. Topai Kunigia	Usino L.G.C.	"
Mr. Waunara Poromara	Perei	"
Mr. Tedma Yamgadia	Usino	"
Mr. Beimya Ayeu	Kalafilam	"
Mr. Miril Rumban		"
Mr. Bisarl Udil	Mapor	"
Mr. Kulubad Tara	Kubwue	"
Mr. Mai Askani	Usino	"

19th July - Bogia, Almani

Mr. Yamun Bingel	Awar	Madang
Mr. Tommy Yas		"
Mr. Paul Gumin	Yawar	"
Mr. John Bareng	Yawar L.G.C.	"
Mr. Dugin	Seven	"
Mr. Sambolta Aris	Sepa	"
Mr. Arnold Bongai	Bolitagi	"
Mr. Michael Savior		"
Mr. Matias Abord	Iku	"
Mr. Bariau Emanuel	Sipor	"
Mr. Anneus Rabuaki	Bari	"
Mr. Michael Sawo	Ramoru	"
Mr. Minau Awar		"
Mr. John Buraki	Boroi No. 2	"
Mr. John Bareng		"
Mr. Buang Sabub	Malala	"
Mr. Unja Salubunabu	Baban	"
Mr. Kolia Waiaki	Ambana	"
Mr. Gorogoro Koparo	Dogumor	"
Fr. Franc Deml	Banara	"

20th July - Rai Coast, Bundi

Mr. Medaing Coreno	(Rai Coast L.G.C.)	"
Mr. Mafuk Gainba	"	"
Mr. R.B. Creagh (A.D.C.)	Saidor	"
Mr. Yali Sigu		"
Mr. Joseph Moreng		"
Mr. Dui Yansai		"
Mr. Bonomane Kunda	Kurinogobo	"
Mr. Apati Titi	Taua	"
Mr. Kogoi Kunda	Kurinogobo	"
Mr. Moure Aruna	Mendi	"

21st July - Narengal, Baluan

Mr. Joel Maiah	Manus L.G.C.	Manus
Mr. Thomas Barakai	Narengul	"
Mr. John Tukah	Mokoreng	"
Mr. Leo Borokai Nawa	Bonam Island	"
Mr. Molat Aumbou	Baluan PTS	"
Pastor Micah		"
Mr. Kialop Soloh	Perelio	"
Mr. Maluan Panou	Pipan	"
Mr. Joseph Malealeng	Barion	"
Mr. Toma Popot	Pakato	"
Mr. Molian Pomoso	Mouk	"
Mr. Silikare Buai	Liba	"
Mr. Paliau Moloat	Baluan	"

22nd/23rd July - Bunai, Lorengau

Mr. Chamicou Laloan	Mt. Bunai	Manus
Mr. Malai Pokiau		"
Mr. James Kebo	Rotsu	"
Mr. Harry Samiel	Drembat	"

Name

Mr. Tini Le
Mr. Arthur
Mr. Pokapin
Mr. John Po
Mr. Peter T
Miss Mariel
Mr. John So

24th July -

Mr. Kindri K
Mr. Peter Po
Mr. Kupe Sak
Mr. Pokoro K
Mr. Samuel P
Mr. Francis
Mr. Solomon
Mr. Namon Ka
Mr. Pomark P

25th July -

Mr. Manue Ou
Mr. Simon Ial
Mr. Samoi Par
Mr. Siau Nabo
Mr. Ferdinand
Mr. Adam Apla
Mr. Waringele
Cr. Maso Apai
Mr. Hendrick
Mr. Bedbaluk
Mr. Brere Awo
Mr. Nakot Mair
Cr. Sarim Ama
Cr. C. Arina

26th July - We

Mr. Wairon Sen
Mr. Makimbi Hu
Mr. Ulisaube Sa
Mr. Sobui Niman
Mr. Ikon Kuasar
Mr. Robert Tawa
Mr. Beibe Yamba
Mr. Joseph Kant
Mrs. Woiyefu Mu
Mr. Horenang K
Mr. Moeilomo Hi
Mr. Peter Wiap
Mr. Sekenau Yui
Mr. John Pandiru
Mr. Saiha Niarub
Mr. Haien Wafina
Mr. John Hamnina
Mr. Mawia Jivian
Mr. Manang Pon
Mr. Parumbui Par
Mr. Andrew Bandi
Mr. Jikary Komak
Mr. Patrick Nehu
Mr. Nickolas Bota
Mr. Tilaum Lagia
Mr. Vincent Moihe
Mr. Bony Anea
Mr. Peter Gall (D
Mr. George Panao
Mr. Otto Mile

<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Tini Levi	Rambutso Island	Manus
Mr. Arthur Laus	Lonfu	"
Mr. Pokapin Bombulei	Rosum	"
Mr. John Popanau	Lorengau	"
Mr. Peter Tomio	Pak Island	"
Miss Mariel Sabou	Rambutso Island	"
Mr. John Sormu	Lobahan	"
<u>24th July - Lorengau</u>		
Mr. Kindri Kistai	Souh	"
Mr. Peter Pomat	Rasson	"
Mr. Kupe Sakein	Bipi Island	"
Mr. Pokoro Kakau	Korun	"
Mr. Samuel Poiel Pongur	Tingo	"
Mr. Francis Ko-ou	Turutu	"
Mr. Solomon Ngahambu	Mulikew	"
Mr. Namon Kalu	Liap	"
Mr. Pomark Popohin	Buliso	"
<u>25th July - Wapei, Nuka, Aitape</u>		
Mr. Manue Oule	Sapte	East Sepik
Mr. Simon Ialepe	Luni	"
Mr. Samoi Pansola	Minatewan	"
Mr. Siau Nabou	Wakoite	"
Mr. Ferdinand Kuam	Nuku L.G.C.	"
Mr. Adam Aplatawa	Nuku L.G.C.	"
Mr. Waringele Armon	Aitape	West Sepik
Cr. Maso Apai	Aitape	"
Mr. Hendrick Yauk	Lemien	"
Mr. Bedbaluk	Tumleo Island	"
Mr. Brere Awol, M.H.A.	Malal	"
Mr. Nakot Maina	Jakun	"
Cr. Sarim Amalot	Telos	"
Cr. C. Arina	Malal	"
<u>26th July - Wewak, Vanimo</u>		
Mr. Wairon Sengimbo	Kaiken	East Sepik
Mr. Makimbi Huasimara	Wanjo	"
Mr. UliSaube Samiel	Lowan	"
Mr. Sobui Nimarang	Meni	"
Mr. Ikon Kuasang	Kreer	"
Mr. Robert Tawai		"
Mr. Beibe Yambanda	Tuwonimbi	"
Mr. Joseph Kantuwe	Kumunim	"
Mrs. Woiyefu Muruki	Klemending	"
Mr. Horeniang Kirahan	Wurihombi	"
Mr. Moeilomo Hiembi	Sowam	"
Mr. Peter Wiap	Jaltem	"
Mr. Sekenau Yuia	Serembo	"
Mr. John Pandiruo Joroma	Saura	"
Mr. Saiha Niarubui	Wom	"
Mr. Haien Wafinauwa	Moem	"
Mr. John Hamina	Koiken	"
Mr. Mawia Jiviane	Saure	"
Mr. Manang Pon	Wom	"
Mr. Parumbui Pariwari	Nongort	"
Mr. Andrew Bandi	Rafundokum	"
Mr. Jikary Komake	Varuma	"
Mr. Patrick Nehu	Vanimo	"
Mr. Nickolas Botau	Wewak	"
Mr. Tilaum Lagial	Waruma	"
Mr. Vincent Moihe	Vanimo	"
Mr. Bony Anea	Waramo	"
Mr. Peter Gall (D.D.C.)		West Sepik
Mr. George Panao	Vanimo	East Sepik
Mr. Otto Mile	Vanimo	"

<u>Name</u>	<u>Village</u>	<u>District</u>
<u>27th July - Angoram, Ambunti, Amanab</u>		
Cr. Mopa Fair	Angoram	East Sepik
Mr. Sipire Patu	Moem	"
Mr. Aipa Masala	Kambrok	"
Cr. Yadi Sangindimi	Saparu	"
Cpl. Abu Kuruk	Mansep	"
Mr. Ali Gau	Korokopa	"
Mr. Garu Jam	Yambon	"
Mr. Marambo Kapakami	Malue	Eastern Highlands
Mr. Akila Inavigo	Kainantu	East Sepik
Mr. Papas Nepo	Ibakopa	"
Cr. Beni Ipio	Naitu	"
Mr. Busap Sari	Popiuli	"
Mr. Stephen Mai	Imonda	"
<u>28th July - Maprik</u>		
Mr. Mathias Yambumpe	Indigai	East Sepik
Mr. John Matik, M.H.A.	Wambisai	"
Mr. Waguan	Wora	"
Mr. Abel Kuso	Werman	"
Mr. Javin Melchor	Wosera Council	"
Mr. Lantei		Gulf
Mr. Abraham Gotitamba	Sargum	East Sepik
Mr. Alfonse Waliapai	Kirmuit	"
<u>30th July - Maprik, Wewak</u>		
Mr. John Jonbake	Kambagua	East Sepik
Mr. Sakarim Simogun	Dogua	"
Mr. Joseph Bali	Waraone	"
Mr. Ding Kakomule	Maprik	"
Mr. Pau Samalaone	Kanganaman	"
Mr. Wrasause Yombare	Yanguru Council	"
Mr. Pita Lus, M.H.A.	Balif	"
Mr. Miram Wilson Hasbi	But	"
Mr. Hanjuwara Sankihori	Wanjo	"
Mr. Yagakut Kunub	Dagua	"
Mr. Walaip Wasila	Mungangai	"
Mr. Herman Beri	Urip	"
Mrs. Huanjimari Friham	Menga	"
Mr. Peter Maiyau Jowo	Koiken	"
Mr. Tom Maraf	Kairiru	"
Mr. William Hawarry	Koiken	"
Mr. Luke Kindin	Chimbian	"
Mr. Wanianka Kramori	Wanjo	"
Mr. Jalapuñ Jufuliak	Karajan	"
Mr. Tani Kato	Nemultipahain	"
Mr. Kunasi Manga	Yangoru	"
Mr. John Wensu	Mushu	"
Mr. Lawrence Yakanduo	Boiken	"
Mr. Manui Puleli	Hambagura	"
Mr. Umol Sangau	Frog	"
Mr. Peter Mok	Boiken	"
Mr. Peri Marn	Pelinga	"
Mr. Sirum Siani	Yuwo	"
Mr. Maimbu Tangutam	Mandi	"
Mr. Anton Anji	Penjin	"
Mr. Martin Kiekre	Parom	"
Mr. Michael Kifagre	Ingo	"
Mr. Konin Tokulisiken		"
Mrs. Unbo Yetina		"
Mr. Emil Brigil	Kairiru Island	"
Mr. Alois Bukasu	Kairiru Island	"
Mr. Unbo Yetina		"

13th August - Talasea, Kimbe

Mr. Mango Goru

Name

Mr. Jang
Mr. Mola
Mr. Jong
Mr. Tang
Mr. Bern
Mr. Itu
Mr. Taro
Mr. Andr

14th Aug

Mr. Gari
Mr. Simo
Mr. Jose
Mr. Nipi
Mr. Bale
Mr. Maga
Mr. Lima
Mr. Gali
Mr. Kuba
Mr. Tamb
Mr. M. L

15th Aug

Mr. Isod
Mr. Leo
Cr. Orio
Mr. Kahe
Mr. Simon
Cr. Ioro
Mr. Yap
Mr. Herma
Mr. Paul
Cr. Polo
Mr. Joe
Mr. Juli
Mr. Tomi
Cr. Koko
Cr. Kukre
Cr. Palo
Mr. John

17th Aug

Mr. Micha
Mr. Kings
Mr. Mahor
Mr. Genaf
Mr. Gados
Mr. Lebas
Mrs. Baosi
Mrs. Nuku
Mr. Ceilo
Mr. Georg
Mr. Vince
Mr. Eskie
Mr. Franc
Mr. Ono S
Mr. N.B.
Mr. Juwe
Mr. Alan

18th Aug

Mr. Micha
Mr. Malar
Mr. Walla
Mr. Harol
Mr. Tosca

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<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Jangei Kavali	Balivutu	West New Britain
Mr. Molai Asapa	Cape Cloucester	" "
Mr. Jongongo Bai	Kombe	" "
Mr. Tangole Loke		" "
Mr. Bernard Taroa		" "
Mr. Itu Gari	Talasea	" "
Mr. Taroa Taratoa	Talasea	" "
Mr. Andrew Nuli	Talasea	" "

14th August - Kapore, Hoskins

Mr. Gari Raka	Talasea	West New Britain
Mr. Simogun	Talasea	" "
Mr. Joseph Tokaukau	Watam Island	East New Britain
Mr. Nipi Nul	Kundiawa	Eastern Highlands
Mr. Balele Gire	Galeole	West New Britain
Mr. Magan Ragi	Galeole	" "
Mr. Lima Rebo		" "
Mr. Galia		" "
Mr. Kuba Mota	Boluma	" "
Mr. Tambo Kovorobo	Boluma	" "
Mr. M. Linn	Boluma	" "

15th August - Kandrian

Mr. Isodore Anut	Aviklo	West New Britain
Mr. Leo Sapu	Paligmete	" "
Cr. Orio	Awirin	" "
Mr. Kahengio	Pomugu	" "
Mr. Simon Kumio	Sigilwa	" "
Cr. Ioros	Sara	" "
Mr. Yapkin Aman	Akur	" "
Mr. Herman Lungia	Wasum	" "
Mr. Paul Anot	Aviklo	" "
Cr. Polo	Akiwok	" "
Mr. Joe Gar	Magien	" "
Mr. Julius Parokio	Aviklo	" "
Mr. Tomi Kayengit	Melenglo	" "
Cr. Kokoio	Paligmete	" "
Cr. Kukre	Ablingi	" "
Cr. Palo		" "
Mr. John Pabulus	Ponlolo	" "

17th August - Rabaraba, Rabe

Mr. Michael Kaniniba	Wedau	Milne Bay
Mr. Kingsford Dibela	Weraura	"
Mr. Mahoru Mark	Rabe	"
Mr. Genaisu Rui	Naura	"
Mr. Gadosisi Siliki	Gibara	"
Mr. Lebasi Mark	Boboa	"
Mr. Baosi Panisi	Maiwara	"
Mrs. Nuku Daddow	Rave	"
Mr. Ceiloni Sipa	Gopaeay	"
Mr. George Berna	Waiwara	"
Mr. Vincent Betebegu	Cebema	"
Mr. Eskiell Taupiri	Naura	"
Mr. Francis Abela	Waema	"
Mr. Ono Sidogei	Divara	"
Mr. N.B. Liosi	Numanuma	"
Mr. Juwela Kakei	Milne Bay L.G.C.	"
Mr. Alan Iailo	Mutuwa	"

18th August - Samarai, Bwagaioia

Mr. Michael Dindalo	Samarai	"
Mr. Malari Leleibuna	Samarai	"
Mr. Wallace Andrew	Samarai	"
Mr. Harold Gideon	Samarai	"
Mr. Tosca Kivivi	Samarai	"

(xx)

Name	Village	District
Mr. Niupoga Diligen	Samarai	Milne Bay
Mr. Samial Sione	Samarai	"
Mr. Eric Igaoila	Samarai	"
Mrs. Dina Frank	Samarai	"
Mr. Vernon Kaduru	Louisiade	"
Mr. Leba Wadelei	Louisiade	"
Mr. Henry Taukuro	Bwagaoia	"
Mr. John Tubira	Menapi	"
Mr. John Fifita, M.H.A.		"

20th August - Esa'ala, Kiriwina, Bolobolu

Mr. Manumesi Livinai	Yo'o Island	"
Mr. Elekana Kapilesi	Koluweya	"
Mr. Edward Laibobo	W.H.S.	"
Mr. Francis Koladi	Si'ilugu	"
Mr. Josaiiah Yad	Misima	"
Mr. Edward Niga	Misima Island	"
Mr. Steven Elinda	Misima Island	"
Mr. Nelson Kainamale	Yo'o	"
Mr. Lepani Watson	Kiriwina L.G.C.	"
Cr. Gerald Beona	Kiriwina L.G.C.	"
Mr. John Kasaipwalova	Kiriwina L.G.C.	"
Mr. Mwaiyoyu	Kiriwina L.G.C.	"
Mr. Vanoi	Kiriwina L.G.C.	"
Mr. Lawrence Yaubihi	Bolubolu	"
Mr. Maivina	Kalokalo	"
Mr. Tomo Gabwana	Nihubu	"
Mr. Newai Kisawane	Buduna	"
Mr. Peter Hill	Foiaya	"
Mr. Tim Ward, M.H.A.	Nuatutu	"

22nd August - Kerema

Mr. Tom Karaea, M.H.A.
 Mr. Rovela Siveri
 Mr. Morobila Lala
 Mr. Yopa Kareve
 Mr. Eafare Sevese
 Mr. Pouveta

Sogeri

Gulf

Mei'i
Mai'i23rd August - Malalaua, Uaripi

Mr. Koaru Fose	Kaipi L.G.C.	"
Mr. Oavelare Ivei	Kwari	"
Mr. Maeari Loaloa	Karama No. 3	"
Mr. Siviri Tom		"
Mr. Gabriel Lala		"
Mr. Farapo Kei	Malalaua Station	"
Mr. Sevese Ivaroa	"	"
Mr. Leiloro Meakoro	"	"
Mr. Stanislaus Anhava	"	"
Mr. Ivaharea Lae	Lelelefern	"
Mr. Lae Malala	"	"
Mr. Hasu Mon	Uaripi	"
Mr. Keai Ilave	Uaripi	"
Mr. Tiamu Kora	Mei'i	"
Mr. Maea	Mei'i	"
Mr. Haraike Tape		"

24th August - Ihu, Kikori

Mr. Mesea Mesea	Ihu	Gulf
Pr. Kanana Ovehrere	Ihu	"
Mr. Meka Lereory	Ihu	"
Mr. Kareve Laovoro	Orokala	"
Mr. Andrew Tarube	Ihu	"
Mr. Peni Prou	Omatei	"
Mr. David Serea	Kerema	"

Name

Mr. Evde Koa
 Mr. John Karu
 Mr. Doumi Une
 Mr. Dodoboi A
 Mr. Bibi Kibe
 Mr. Ivia Lau
 Mr. Karu Vait
 Mr. Yaya Kuro
 Mr. Moiko Air

25th August -

Mr. Sam Winge
 Mr. Dema Kart
 Mr. Bush
 Mr. Piwin Da
 Mr. Kim Kio
 Mr. Krum
 Mr. Kerai Ka
 Mr. Wainetti
 Mr. Kila Kon
 Mr. Mina Mar
 Mr. Duba Sed
 Mr. Maenage
 Rev. Inabi
 Mr. Simoi Pa
 Mr. Dibura M
 Mr. Jack Gam
 Mr. Ula
 Mr. Kudeka D
 Mr. Dabema A

8th March,

Cr. Moses So
 Cr. Simua Na
 Cr. Dama Kar
 Cr. Anib Bur
 Cr. Kutuwak
 Cr. Simoi Pa

istrict
e Bay

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<u>Name</u>	<u>Village</u>	<u>District</u>
Mr. Evoe Koae	Karurua	Gulf
Mr. John Karukuru		"
Mr. Doumi Unabo		"
Mr. Dodoboi Antai, M.H.A.		"
Mr. Bibi Kibene	Tapeowo	"
Mr. Ivia Laulau	Gabange	"
Mr. Karu Vaii	Iare	"
Mr. Yaya Kurombe	Gabange	"
Mr. Moiko Aina	Eremaipua	"

25th August - Kiunga, Daru, Balimo

Mr. Sam Wingen	Dindamasu	Western
Mr. Dema Karipne		"
Mr. Bush	Yangwong	"
Mr. Piwin Daipuvu	Ulawu	"
Mr. Kim Kio	Gre	"
Mr. Krum	Gi	"
Mr. Kerai Kaiku	Mambuwan	"
Mr. Wainetti Anogogo	Mabuwan	"
Mr. Kila Kone		"
Mr. Mina Maru	Tureture	"
Mr. Duba Sedu	"	"
Mr. Maenage Mibu	Severvarimabu	"
Rev. Inabi	Daru	"
Mr. Simoi Paradi	Kiwai L.G.C.	"
Mr. Dibura Moiba	"	"
Mr. Jack Gamani	Kewa	"
Mr. Ula		"
Mr. Kudaka Dabema		"
Mr. Dabema Abe		"

8th March, 1973 - Konedobu

Cr. Moses Somagi	Daru	Western
Cr. Simua Naboka	Tirere Village	"
Cr. Dama Karenepna	Kiunga	"
Cr. Anib Bunai	Morehead	"
Cr. Kutuwak Het	Lake Murray	"
Cr. Simoi Paradi	Daru	"

APPENDIX D

DETAILS OF PUBLIC HEARINGS

<u>Date</u>	<u>District</u>	<u>Meeting Place</u>	<u>Attendance</u>	<u>No. Witnesses</u>
12/3	Central	Robinson River		
		Kupiano	355	9
13/3		Bomguina		
		Maopo	266	11
14/3		Kubuna		
	E.N.B.	Bereina	310	15
15/3		Kwikila	200	5
16/3		Sogeri	310	7
19/3		Hohola	-	-
20/3		Hanuabada		
		Poreporena	310	21
22/3		P.M. City Council	30	5
27/3		Kerevat		
		Vunadidir	70	10
28/3		Kokopo	48	2
29/3		Wakurai Ni Gunan Office	81	13
30/3		Rangoulit	61	3
2/4		P.S.B. Rabaul	40	15
3/4		Duke of Yorks	102	4
4/4		Gazelle (Sus) L.G.C.	30	10
5/4	N.I.	Vudal College	302	14
6/4		Samo		
		Namatanai	410	15
7/4		Panatgin		
		Konos	506	8
9/4		Lakurumao		
		Kavieng	610	13
10/4		Panamecho		
		Kulot		
		Mangai	250	8
11/4	Bougainville	Taskul	210	4
12/4		Hutjena		
		Tinputz		
		Wakanai	320	18
13/4		Kieta	100	-
16/4	Morobe	Boko		
		Buin	210	18
17/4		Kieta	150	14
7/5		Huon Gulf L.G.C.	100	5
8/5		Huon Gulf L.G.C.	100	11
		Garaina		
9/5		Morobe	210	4
		Wau		
10/5		Menyamyia	650	13
11/5		Kabwum		
	Northern	Indagen		
		Mumeng	700	12
12/5		Finischhafen		
		Kaiapit	320	14
14/5		Higaturu L.G.C.		
		Popondetta Market	600	13
15/5		Tufi		
		Afore		
		Ioma	800	16
16/5		Oro Bay L.G.C.		
	E.H.D.	Kokoda	176	21
11/6		Goroka	120	6
12/6		Kainantu		
		Ukurumpa	290	23
13/6		Okapa		
		Lufa	470	20
14/6		Goroka Teachers' College		
		Henganofi		
		Asaro	1000	25

<u>Date</u>	<u>District</u>	<u>Meeting Place</u>	<u>Attendance</u>	<u>No. Witnesses</u>
16/6	Chimbu	Kundiawa L.G.C.	100	4
19/6		Kundiawa		
		Gembogl	1900	24
18/6		Karamui Airstrip		
	E.H.D.	Gumine L.G.C.	640	22
15/6		Elimbari L.G.C.		
		Dumun P.T.S.	300	7
20/6		Kerowagi	170	13
26/6	W.H.D.	Minj		
		Banz		
		Kindeng		
		Dei L.G.C.	445	28
27/6		Mt. Hagen		
		Nebilyer L.G.C.	55	18
28/6		Tambul L.G.C.		
		Mul L.G.C.	80	11
29/6		Baiyer River		
		Tabibuga	220	16
30/6		St. Paul's Hall		
		Mt. Hagen	80	11
2/7		Laima Club, Wabag	150	28
3/7		Kompam Court House		
		Kandep L.G.C.	140	9
4/7		Wapenamanda L.G.C.		
	S.H.D.	Laigap Court House	610	23
5/7		Mendi Market	500	13
6/7		Tari		
		Mendi		
		Kagua	499	29
7/7		Koroba		
		Mendi Com. Centre	200	20
16/7		Madang	100	6
	Madang	Tokain		
		Banap		
		Siar		
		Ambenob L.G.C.	400	48
18/7		Kar Kar L.G.C.		
		Usino	494	34
19/7		Yawar (Bogia) L.G.C.		
		Almani	200	20
20/7		Rai Coast L.G.C.		
		Bundi	200	10
21-22/7		Narengal		
		Baluan		
		M'Bunai	300	10
23/7		Lorengau	200	9
25/7		Wapei L.G.C.		
		Noku L.G.C.	400	9
26/7		Wewak-But L.G.C.	235	20
		Ambunti L.G.C.		
		Amanab		
		Angoram L.G.C.	600	13
30/7		Wewak-But L.G.C.		
		Maprik	300	42
13/8		Talasea L.G.C.		
		Kimbe Com. Hall	625	9
14/8		Kapore Settlers Com. Hall		
		Cape Hoskins Com. Hall	399	12
15/8		Kandrian	80	10
17/8		Rabaraba		
	Milne Bay	Rabe	200	14
18/8		Samarai Mem. Hall		
		Bwagaia	60	10
21/8		Esa'ala		
		Bolubolu		
		Kiriwina L.G.C.	80	14

Date

22/8

23/8

24/8

25/8

No.
Witnesses

(iii)

<u>Date</u>	<u>District</u>	<u>Meeting Place</u>	<u>Attendance</u>	<u>No. Witnesses</u>
22/8	Gulf	Kerema L.G.C.	80	6
23/8		Malalaua		
		Varipi	100	15
24/8	Western	Kikori L.G.C.		
		Ihu	120	16
25/8		Kiunga L.G.C.		
		Balimo L.G.C.		
		Kiwai L.G.C.	300	16

APPENDIX E

PRIVATE HEARINGS AND DISCUSSIONS

S. Read	Senior Loans Officer, Development Bank
R. Gunton	Manager Projects, Development Bank
G. Johns	Manager Operations, Development Bank
R. Belton	Town Planner, Lands Department
N. Logan	Assistant Director, Lands
G. Stolz	Housing Commissioner
N. Oram	University of Papua New Guinea
Rev. P. Chatterton	Missionary
D. Marsh	District Commissioner
W. Conroy	Director, D.A.S.F.
D.R. Densley	Asst. Director, D.A.S.F., Economic Commodity Marketing
R. Arnison	Asst. Director, D.A.S.F., Dev. & Planning
R. Blaikie)	
C. Waite)	
B. Robins)	D.D.A. Lands
T. Downes)	
R. Brown	Former Attorney General, Tanzania
Dr. D. Sanders	Indian Law Centre, Carleton University, Canada
Dr. P. Sack	A.N.U.
O. Dent	District Surveyor, Lands
Prof. R. James	University Dar es Salaam (Part time consultant)
I. Riebe)	
Prof. A. Strathern)	U.P.N.G. Anthropologists
Dr. M. Strathern	
H. Wetzel	D.O. Lands, Mt. Hagen
J. de Large)	
J. Lukin)	Planters Association, Papua
B. McDonald)	
R. Lacey	U.P.N.G.
A. Taviai	Act. Director, Lands
C. Kimmorley)	
W. Kelly)	L.T.C.
B. Rowe	Project Manager, O.P.A.C.
R. Pfeng	Principal Land Development Officer
P. Fitzpatrick	O.C.M.A.D.A.
A. Milner	Act. Housing Commissioner
W. Ryan	A/Sec., Dept. C.M.D.A.
N. Rolfe	P.S.B.
R. Irlam	Central Planning Office
Dr. S. Zorn	Adviser, Department C.M.D.A.
J. Lintern	Finance
G. Matheson	Surveyor General
B. Audas	Chief Draftsman
J. Van As	Photogrammetry Officer, Central Mapping Bureau
K. White	Asst. Dir. Research & Dev. Dept. Forests
A. White	Chief Planning Officer, Dept. Forests

Prof. R. Crocombe	University of South Pacific (Part time consult.)
T. Newton	Community Development Officer - Dept. S.D.H.A.
Father John Momis	Deputy Chairman, C.P.C.
T. Wolfers	Consultant, C.P.C.
Mr. Justice P.L.U. Cross	Tanzania
L. Keke	Nauru
Dr. A. Ploeg	
D. McIntosh	Director of Forests
John Kaputin	M.H.A.
Raphael En	
Rick Giddings	D.O.
Brig. Nichols	R.P.N.G.C.
Noel Fowler	D.C.
Colin Campbell	D.D.C.
Colin Lammond	D.A.S.F.
J. Couch	Div. Public Works
Dr. Stanford Clarke	
Nemea Association	
J. Gemmel	Valuer General
Trevor Downes	D.O.
Planters Association of New Guinea	
Melchoir To Mot	
Damien Kereku	
Dr. John Guise	M.H.A.
A.M. Kiki	M.H.A.
Robin Hide	Anthropologist
Hartmut Holzknecht	Anthropologist

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APPENDIX F

[The following letter was sent in response to a request for the Commission's comment on a proposed bill to establish General Purpose Corporations. Comments on the possible application of the General Purpose Corporation Legislation to customary land appear in Paragraphs 3.35 to 3.38 and Recommendation 15.]

22nd March, 1973.

The Secretary,
Department of Business Development,
P.O. Box 3383,
PORT MORESBY.

Re: COMMENTS ON PROPOSED CABINET SUBMISSION
ON GENERAL PURPOSE CORPORATIONS

- A. The Commission of Inquiry into Land Matters has given consideration to the proposal to introduce legislation for the setting up of General Purpose Corporations.

The Commission of Inquiry is very much in favour of the introduction of such legislation. It considers that there will be real benefits to Papua New Guineans if such corporations can hold, develop and exploit alienated land.

It seems that the law presently in force in Papua New Guinea would preclude a General Purpose Corporation from gaining any right, title or interest in customary land. It also appears from the drafting instructions for the General Purpose Corporations Bill that the Bill will not seek to change that situation. Whilst it is possible that the Commission of Inquiry may recommend that the General Purpose Corporations be given the power to use and deal with customary land without changing the tenure of that land, the Commissioners do not wish to make any recommendations on this question at present. Subject to point B below, they therefore approve the scheme of the Bill as it is presently envisaged.

These comments are made on the assumption that an early suggestion (by the framers of the proposal) that the Bill define a General Purpose Corporation as a "native" for the purpose of the Land (Tenure Conversion) Ordinance and for other purposes will not be proceeded with.

- B. There are important principles to be considered with regard to how alienated land returned to Papua New Guineans and held by General Purpose Corporations might devolve. In particular, to what extent should corporations be permitted to alienate interests to "outsiders", especially non-citizens of Papua New Guinea? Should a corporation be permitted to mortgage its land? Should interests in a corporation holding land as its principal asset succeed according to customary principles of succession, or should they be transmitted by will, or by common law principles of inheritance? These, however, are questions which the Commission of Inquiry into Land Matters wishes to report on later in the year as matters of general land policy, rather than now, in respect of the proposal for a General Purposes Corporation Bill alone.

(ii)

In the meantime, however, the Commission wished to see included in the Bill a provision that "effective control" of any General Purpose Corporation must remain with citizens of Papua New Guinea. This is particularly intended to ensure two things - (a) that interests (shares) in a General Purpose Corporation should not be alienated to non-citizens to the extent that effective control of the corporation (and thence of the land, if land is its principal asset) is lost by the Papua New Guinean citizens making up the corporation, and (b) that land should not be used as security for mortgage to the extent that it could be foreclosed upon and sold in the event of non-payment of debt. The Commission feels that fixtures and crops only should be offered as security, with a right to the mortgagee to enter and work the land or appoint nominees to do so to recover a debt; and that the period of such occupancy be limited to 15 years.

The Commission hopes that, in addition to the legislative provision here suggested, the constitutions of General Purpose Corporations, as far as possible, also provide for the retention of "effective control" by the Papua New Guinean citizens of the corporation. This is desirable because it would enable members themselves to challenge actions by committee members which threaten to endanger "effective control", thus avoiding excessive reliance on a watchdog role by the Commissioner for General Purpose Corporations.

Provided the "effective control" clause is written into the Bill (and given the continued responsibility of the Administration under the Land Ordinance to scrutinise land transactions), the Commission of Inquiry into Land Matters would be happy to see the Bill for General Purpose Corporations proceed. Further consideration of control on alienation or succession can await the final report of the Commission and any subsequent amendments to the general land law.

(Signed)

SINAKA GOAVA,
Chairman.