ALIENATED LAND AND INDEPENDENCE IN SOLOMON ISLANDS

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I. INTRODUCTION

Solomon Islands became a British Protectorate in 1893, independent in 1978. Land alienation was an issue in colonisation and decolonisation and for three special land commissions: the Phillips Commission in the 1920s; the Commission in the 1950s; and a parliamentary Special Committee on Lands and Mining in the 1970s. This paper outlines the background to the issue, and the recommendations of Select Committee which reported in 1976: how the government responded to them; how they related to wider debates negotiations about Independence; and how they were implemented afterwards.

II. ALIENATED LAND

Solomon Islanders' criticisms of land alienation tended to be historical: the land was bought or taken for inadequate compensation (axes, sticks of tobacco etc); under threats of violence; on the basis of misunderstanding; or from the wrong people (see eg. Solomon Islands 1976a:2). Hence it should be returned to the descendants to its original customary owners. Criticisms also tended to distinguish sharply between ownership, which was inalienable, and use rights, which were negotiable.

What currently counted as alienated land was itself an issue. The narrowest definition referred to foreign ownership, but excluded land only leased to foreign individuals or companies. Foreign ownership amounted in 1976 to about 60,000 ha. A

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single company, Levers Pacific Plantations Proprietary Limited (Levers), owned over half of it. The widest definition referred to all land no longer held under customary tenure, including land owned by the government, and registered land owned by Solomon Islanders as lessors, or for their own use. This amounted to 360,000 ha. The government owned two thirds of it. Depending on the definition, the areas involved ranged between two per cent and thirteen per cent of the total land area of Solomon Islands, but the use of percentages itself was contentious: basing figures on total land area underestimates the extent to which the most fertile coastal land had been alienated, or some islands were affected more than others.

III. THE PHILLIP'S COMMISSION: WASTELAND

The issue was further complicated by the colonial government's assertion of, and then retreat from, the principle 'wasteland' - the idea that there was some land in Solomon Islands not owned by any Solomon Islanders. In 1896 the government had passed a regulation to restrict the alienation of land in the British Solomon Islands', but four years later government made the first of a series of grants of what called 'vacant, unowned or unoccupied' land to the Pacific Islands Company, which was replaced in 1905 by Levers. little of the land granted as wasteland was ever developed, if and when Levers began to clear it, they were often challenged by local people. From 1919-1925 a special land commission heard their claims. The Commissioner, Judge Phillips, found about half of the area granted had not been 'vacant, unowned unoccupied' at all, but Levers rights to the rest were confirmed by law in 1931 (Heath 1979: 209-210).

IV. THE ALLAN COMMISSION

The principle of wasteland survived the Phillips Commission, even though its extent was halved. It was reaffirmed by the next land commission which reported in 1957. The Commissioner, Colin Allan (who later returned to Solomon Islands as its last colonial governor) agreed with Phillips that 'wasteland' did in principle exist, and it could be discovered by fieldwork and adjudication. He recommended that a Land Trust Board be set up to identify and manage it. Land acquired under wasteland declarations confirmed by Phillips should be transferred to the Board, distancing the government from its management.

Although the Land Trust Board was set up and held its first meeting in 1962, the land already held under wasteland declarations was never transferred to it as Allan had recommended (see Solomon Islands 1963). The Board met for three years before being wound up without finding any more. It included a penal of Solomon Islanders chosen to represent their districts. Among

them was the war hero, Jacob Vouz, whom Allan had quoted in 1957: 'I want to make it clear there is no waste land here. Every bit of land belongs to someone. If someone wants to lease land let him find out the true owner, and make everything straight' (Allan 1975: 287).

Allan's recommendations for the registration of titles land alienated under earlier legislation were implemented. Titles were surveyed, often for the first time. The legality of their acquisition was adjudicated against Solomon Islander Once titles had been adjudicated, surveyed claims. registered, they were for the first time guaranteed by government under a Torrens title system. Freeholds were registered as 'perpetual estates' and crown leases as 'fixed-term' estates. Surprisingly, some of the land Levers had been granted as wasteland, and that Allan had intended Land Trust Board, was also registered as perpetual estate.

The registration of alienated land did not lead land being returned to Solomon Islanders - and that was hardly its purpose. The grounds allowed for Solomon Islander against registration were narrow, while the procedure tended favour documentary evidence over oral accounts of events fifty to eighty years before. Meanwhile there was reference to 'vacant land' in the current Land and Titles Act, whose first version was introduced in 1959 (S.58). However. administration of the Act increasingly assumed that all that had not been alienated must have its customary owners. least, field-work would usually uncover a claimant.

V. THE SIXTH DEVELOPMENT PLAN 1971-74

Between the Allan Commission and its successor, the Special Committee on Lands and Mining, there was a considerable change in the extent and pattern of land alienation. Much of this for new natural resource projects associated with the Development Plan 1971-74. The Plan aimed to reorganise the cash economy away from its dependence on copra and the government from its dependence on British aid. In 1968 a Unilever company had begun logging the land on Kolombangara that had acquired as wasteland in 1905. In the late 1960s negotiations were also begun to acquire timber cutting rights customary land on Kolombangara, North New Georgia and Isabel Islands. The government aimed to acquire the rights, and negotiate with foreign companies to exploit them (See Larmour 1979 and 1981). In 1971, agreements were signed with Mitsui for the trial mining of bauxite on Rennell, and with Commonwealth Development Corporation (CDC) for an oil project on the Guadalcanal Plains.

Apart from the increase in the total amount of alienated land there were important changes in ownership of land already alienated at the time of the Allan Commission. Overall, there was a redistribution of alienated land from foreigners government, and from both to Solomon Islanders. The changing pattern of ownership between 1956, just before the Allan Commission reported and 1974, when the Select Committee was appointed, is indicated in the Table 1 which shows comparable figures for 1980, two years after Independence. The table shows the small but politically sensitive areas $\circ f$ land came to be owned by several thousand settlers from the Gilbert Islands (now part of Kiribati). Gilbertese settlement began 1955 and formally ended in 1971, and the land rights of settlers were to become a critical issue the in Independence negotiations with Britain (see Bobai 1979 and Ghai forthcoming).

Table 1

Ownership of Alienated Land in Selected Years (1)

(areas in sq. km)

1956 (2) 1974 (3) 1980 (4) Government 496(5) 2,378(6) 2,460 Non-Solomon Islanders 1.240(7)596(8) Nil Solomon Islanders Ni1(9) 683(10) 1,167 Gilbertese Settlers Nil Nil (11) Nil (12) 1.736 3.698 3,668

Notes to Table 1

- (1) Includes urban land, and unregistered land. No alienated land was registered in 1956; about 90% in 1974; and 97% in 1980. The areas for unregistered land are very approximate.
- (2) Source: Allan 1957: 60.
- (3) Source: Solomon Islands 1975(a): 31. Table 5.6 (which only deals with blocks over 40 ha).
- (4) Source: Solomon Islands 1980(b): 155-156. Table 5.6.
- (5) 'Public Land' and Waste Land occupied by Crown' & 'Public leases' in Allan 1957: 60.

- (6) 'Government Registered and Unregistered' plus 40 sq. km for urban land in Solomon Islands 1975: 32. The figures for this period are inflated by land temporarily held by the government of transfer back to its custom owners, as part of timber rights acquisitions of Isable.
- (7) 'Non Natives' holding 'private land' and 'occupation licences' in Allan 1957: 60.
- (8) Source: Lands Division in a background paper for Working Party on Lands & mining in 1976. This figure, based on study of all the Divisions files, and including parcels of less than 40 ha, is probably more reliable than the National Development Plan's '499' for 'non-Solomon Islanders' and 'churches'.
- (9) The only Solomon Islanders with non-customary tenure in 1956 were holders of 13 occupation permits, and 2 public leases (Allan 1957: 60).
- (10) Probably excludes, being in parcels under 40 ha, the 28 sq.km of customary land registered by tenure conversion between 1966-74 (Solomon Islands 1975(a): 30).
- (11) Source: Larmour (ed) 1979: 249 (which gives very different figures for Solomon Islander ownership).
- (12) Solomon Islands 1980(b): 153-7 does not distinguish the Gilbertese settlers from Solomon Islander title holders.

VI. PLANTATION PURCHASES

An experimental plantation purchase programme was setup in 1971 as part of the Sixth Development Plan. Groups of descedants of the original land owners were helped to buy back expatriate plantations, with money borrowed from the Agriculture and Industrial Loans Board, and management assistance from the Agriculture Department. Grants were given for equipment needed to rehabilitate and redevelop the plantations. By the time the Select Committee reported in 1976, twelve groups with an average size of one hundred people were being assisted. Another eleven communal farms on alienated land were proposed to be set up by 1979.

The project was called 'communal farms' and was administered by the Agriculture rather than the Lands Division. This tended to disguise its political importance. British officials had consistently discouraged submission of requests from Honiara to buy out expatriate landowners (arguing weakly that plantation ownership was largely Australian. But the effect of the plantation purchase programme was the same: ownership was transferred. Arricultural production was

restored, maintained and sometimes increased. The programme was restricted to descendants of the original customary the land, meeting the political pressure that land 'returned' rather than redistributed on the basis of need ability. It had been prudently started, along with revenue raising resource projects, well before Independence. the indirectness of the programme meant that many of indirect costs were met by Solomon Islands. A disproportionate amount of high quality agriculture staff were devoted assisting the relatively small number of original owners qualified for the programme, which perpetuated a geographical pattern of plantation development established in the colonial period. Loan funds that might otherwise have been available to farmers on customary land went to pay off expatriate planters. Valuation was a critical part of the process. There was or no market in alienated land. As the purchase price had to be borrowed, it had to reflect the capacity of the group and plantation to produce enough with managerial assistance - to pay To this extent the government kept alienated back the loan. land values up, and thus smoothed the exit of the smaller expatriate planters.

VII. RESETTLEMENT SCHEMES

Apart from the plantation purchase programme, alienated land was marginally but steadily being returned in two other ways: unofficially, by squatters, and officially in a series of 'resettlement' schemes on government land. Sometimes both together as squatting on government land was subsequently formalised by the grant of title. Both raised a difficult question of entitlement: should land simply be returned to descendants of its original owners, or should it be redistributed to Solomon Islanders on the basis of needs or ability to develop In some cases there was no apparent conflict: descendants of the original owners were short of land, and keen Sometimes any conflict over principles was avoided by practical difficulties: original ownership could not be identified (or disputes about it resolved); or the decision was of the government's hands, by squatters whom it was practically impossible to remove. Roughly 10,000 ha of government land of the total) had been surveyed and subdivided for 'resettlement' schemes (Solomon Islands 1980(a): 70, see also Solomon Islands 1975(a): 32). Applicants for the blocks were granted a licence, which was converted into a registered fixedterm estate if they developed the land.

VIII. LEVERS

Unilever had been in Solomon Islands almost as long as the Protectorate. They were encouraged with concessions under the wasteland regulations (Heath 1979: 107-122). Unilever's initial interest was in planting copra, as a raw material in the

production of soap, but much later they diversified into cattle. logging and cocoa. The government's interest was (and still is) to encourage export-oriented 'development' which would revenue to fund its own activities. By 1914 Levers had acquired about 93,000 ha as 'wasteland' (ibid: 112) and another 14,000 ha as 'freehold' (ibid: 114) (the figures are very approximate, the land was not surveyed and most of it never used). wasteland concessions were halved by the Phillips sion in the 1920s (ibid: 209), and later sales and surrenders of land to the government reduced the area owned by Levers to about 31,000 ha in the mid 1970s. Levers only used about a third this land, but nevertheless produced a quarter of the Protectorate's copra, and owned thirty per cent of the national herd cattle (Solomon Islands 1980: 57). It was the country's largest employer. By the mid 1970s, however, Levers was losing its predominance in the colonial political economy. Unilever's expanding logging operations were being run by a separate pany, Levers Pacific Timbers (LPT). Solomon Islands' were diversifying away from copra and the government was into 'joint ventures' with other multinationals: Taiyo (fish), the Commonwealth Development Corporation (oil palm) and Brewers (rice).

IX. SELECT COMMITTEE ON LANDS AND MINING

The Select Committee on Lands and Mining was the third last land commission of the colonial period, but the first carried out by Solomon Islanders. It was appointed in January 1974 (the last year of the Sixth Development Plan) as a result of two private members' motions in the Governing Council. The Committee consisted only of elected members, and was very distrustful of any Lands Division advice offered to it. Early in 1975 Committee toured the country holding village meetings people what changes they wanted in land policy. In the of the year they issued interim recommendations calling halt in registration and dealings in alienated land until reported, but these were discounted by the government breach of parliamentary privilege until the Assembly considered the full report. By April 1976, when the Select Committee finally reported, the legislature had become Legislative Assembly, and Solomon Islands had become internally self governing on January 2 1976. The Committee's report tabled in the April meeting of the Assembly only two months before the June general elections. The Chief Minister Solomon Mamaloni, MLA) moved simply that the Assembly note' of the Report, and this motion was passed after two days of debate on 27 April 1976. Most of the debate was about alienated land.

The Select Committee recommended that 'undeveloped, abandoned or derelict' alienated land 'should be returned without compensation to the groups who originally owned it'

(Recommendation 3.C.1). As in the plantation purchase programme, to which the committee was sympathetic. government should help the original owners with loans to pay for improvements (3.C.3). Where 'existing developments are too big' the original owners to manage, or 'compensation improvements would be too large' the present occupants should continue on lease from the original owners (3.C.4) (this recommendation was directed particularly as Levers). The Select Committee's recommendation included alienated land owned by government and the missions. In its text, rather recommendations, the Select Committee defined 'alienated land' historically, as land 'bought as freehold or granted wasteland' but excluding land bought or taken after 1963, when an amended Land and Titles Ordinance was introduced. 'registration and proper negotiations were brought in' (3.B.16). However, its other recommendations to review forestry and mining acquisitions were to affect much of the land alienated during the late 1960s and early 1970s. The Report rejected the increasingly attenuated principle of wasteland: 'Government grants wasteland were wrong because every part of the Solomons was owned by some group, even if they did not use it at that time! (3.A.3).

In August 1976, the new Council of Ministers led by Hon. Peter Kenilorea, MLA, considered its policies towards the Report rather than debate it as a whole or point by point. The 'course of action' consisted of 'commitment to the principles' that government 'must continue to play a major part as a landowner', and welcomed foreign investment. The government would establish a working party, reporting to the Minister, 'to study each recommendation in the light of these principles, to identify which recommendations can be enacted', and meanwhile would introduce legislation to set a final date for applications to register old documentary titles to alienated land (an interest of officials for several years).

The government's motion was moved by the new Minister for Agriculture and Lands, Hon. Sethuel Kelly MLA (who had been a junior lands officer before the election), and was debated for three days. The government won the first division to go into committee, but was defeated at the third reading, 12 to 20 on 24 September. The Minister resigned a week later.

X. LAND AND MINING WORKING PARTY

In spite of its parliamentary defeat, and the minister's resignation, the Council of Ministers decided to go ahead and appoint a working party to make recommendations to it about the Report. The Lands Division had proposed a membership that would include itself and representatives of the private sector and the churches. Rather than these bureaucratic and private interests, Ministers chose individual Solomon Islander officials. The

Working Party was chaired by the Minister of Natural Resources, Hon. P. Tovua, MLA (the valuer in the Lands Department before his election). Tovua had become concerned because the failure to agree on land policy was preventing reform of forestry legislation. Because of the deadlock on land policy, the Assembly had forced him to withdraw his Forest and Timber Amendment Bill in November, even though it was based on principles endorsed by the Select Committee itself (Larmour 1979: 110-111).

The Working Party began work in late December, visited Levers headquarters in Yandina, held a public meeting on Rennel Island about mining, and reported to the Council of Ministers on 10 February 1977. Its report differed from the Select Committee's mainly over the issue of alienated land. It found practical difficulties in returning title to land to its original owners as the Select Committee had recommended. It argued from the experience of five places where government had returned alienated land to descendants of its original owners, that:

- '(a) there are very often disputes about who the original owners were, and who their true descendants are;
- (b) these disputes are complicated by migrations from neighbouring tribes and islands and by religious differences since the land was first alienated;
- (c) the boundaries of the alienated land often do not fall in line with the original customary boundaries, or the boundaries required for the best agricultural use of the land;
- (d) the groups of descendants of the original owners are sometimes too large for the land to sustain them, or too small to develop it effectively;
- (e) people have different motives for wanting their land back: to use it for cash; to use it for subsistence; to share in the development on it; or just to set right an early injustice.' (B.5).

The Working Party also foound problems with the existing plantation purchase programme, and its use of 'communal farms':

- (i) groups of descendants of the original owners are not necessarily the people who want to, or are best able to run the plantations they buy in a commercial way:
- (ii) often the only right that holds the group together when working on repurchased alienated land is the need to pay off the loan to get the land back. So once the loan is repaid, the plantation is likely to be subdivided into uneconomic units, or run down;

- (iii) the insecurity of the previous expatriate owners usually means that they have invested little in maintaining or replanting. So when the group buys, they have to spend a lot of time and effort in rehabilitation before they can start developing;
- (iv) management of the schemes is difficult if the people working it are restricted to original owners. Traditional leaders are not necessarily good managers, and you cannot sack owners who do not want to work;
- (v) land returned to the original owners may not be good security for an Agricultural and Industrial Loans Board loan. If the owners default, the board would find it politically hard to sell the land or get some other group in to work it to pay off the debt.' (B.7)

The Working Party argued that as alienated land was 'national asset' it should only be taken over by Solomon Islanders 'who can and want to develop it in their own and national interest' (B.8). The implication was that these people would not necessarily be related to the original owners. Working Party also proposed an 'interim' Land Development Authority that would repurchase, own, manage, rehabilitate redevelop the plantations while disputes about ownership were being resolved, and local people trained to take over (B.9-16). Finally they argued for continuing government ownership of land for towns, Solomon Islander resettlement cash cropping, 'joint venture' projects with foreign capital, timber replanting, and where custom ownership was in dispute (B.18). This list just about exhausted the government's current landholdings.

XI. NEW LAND POLICY: WHITE PAPER

The Working Party's report to the Council of Ministers formed the basis of a White Paper called the New Land Policy, which was distributed to Legislative Assembly members a week later. The new Minister of Agriculture and Lands moved that the House go into committee to consider the White Paper. Following two days debate, his motion was defeated 15 to 7 on 5 March. Members were particularly suspicious of the Land Development Authority, both as a concentration of power over land outside parliamentary control, and as a means to frustrate the return of land. The Opposition also felt that the White Paper was premature, and by accepting it, Parliament might limit or undermine its negotiating position with the British over Independence.

The deadlock between the executive and the legislature over land policy had already prevented changes in forestry legislation. Its effects now spread more widely into other areas of policy: development planning, and the negotiations with Britain about Independence.

XII. REVIEW OF THE NATIONAL DEVELOPMENT PLAN

A month after the defeat of the New Land Policy White Paper the Assembly was to review the progress of the Development Plan 1975-79 (the Sixth Development successor). The Plan, published in April 1975, had noted its section dealing with land would be 'subject to review government had studied the report of the special committee' then still sitting (Solomon Islands 1975(b): 1977 was half way through the Plan period, and in the Review the National Development Plan that government submitted to Assembly, the Central Planning Office noted that 'the main issue remains land tenure policy, and on its outcome depends the pace country's economic progress' (para. ix). Division's contribution to the Review indicated a approach (Annex 6 p.3). The September 'course of action', the February White Paper were comprehensive responses to Select Committee, and had comprehensively failed. approach was narrower and more direct. It proposed legislation in the area where there appeared to be a consensus Assembly, and particularly to draw on the agreement that being reached among members in preparation for the coming constitutional conference with Britain.

XIII. INDEPENDENCE: CONSTITUTION

In January and May 1975 talks had been held between the British Minister, Joan Lestor, and the Mamaloni government, a timetable for Independence had been agreed (see Saemala 1979: 3-4). A committee was appointed in August 1975 to make recommendations on the type of constitution the Solomon Islands should have on Independence. It reported in March 1976, later in the year the Kenilorea government referred its report to local councils for their views. It was finally debated by the Assembly in February 1977, mostly in 'informal session' with the Solomon Islands constitutional adviser, Professor Yash Ghai (see Ghai 1983). The result of these informal sessions Principles, paper called Constitutional Conference 1977 published in March 1977, and described as a 'negotiating for the coming Constitutional Conference in London, expected to take place in June. Chapter VII of the Principles dealt with land, and provided that:

- 'l. All land in the Solomon Island belongs to the citizens of Solomon Islands and rights in that land may only be acquired or dealt in whether by citizens or other persons in accordance with the provisions of the Constitution or laws made under it.
- The Constitution shall provide that further ownership of land can be acquired only by those citizens who become citizens automatically on independence or by their descendants.
- 3. All land owned by non-citizens in freehold or in perpetuity shall revert to government or a section of the people of the Solomon Islands in accordance with the laws passed by Parliament provided that any such land which has not been acquired by the government or a citizen of the Solomon Islands shall automatically pass to the government on the third anniversary of Independence. Nothing in the section on the protection of property shall be deemed to prevent the compulsory acquisition of land held in perpetuity or freehold by non-citizens, and in particular nothing in that section shall be deemed to require the payment of compensation for the acquisition of undeveloped, derelict or abandoned land.
- 4. When the government or other public authorities intend to compulsorily acquire customary land for a public purpose, it shall first negotiate with the owners of land, who shall have access to independent legal advice. Whenever it is practicable, the government shall acquire such land on leasehold.'

XIV. PARLIAMENTARY PROBLEMS

'home grown', the Although meant to be Independence Constitution would also have to be passed by the Parliament as a schedule to the order making Solomon independent. Throughout the negotiations, each side used own parliamentary difficulties in its arguments with the For Britain the problem was said to be the embarrassment backbenchers might cause the minority Labour government the independence order through Parliament: the conservative opposition was sensitive to property rights, and the case had brought colonial policy in the Pacific to public attention! One well connected planter, Commander Elliot, did manage to get his concerns expressed in the House of Lords and Unilever presumably still carried the kind of weight in Whitehall and Westminster that it had at the start of the Protectorate.

For Solomon Islands the parliamentary problem was achieving and holding a mandate to negotiate. While the Chief Minister had been elected by a majority of members, the Council of Ministers had no party to rely on and could easily find themselves in a permanent minority of nine out of thirty-eight. In any case many members, including the Chief Minister, felt that party politics were inappropriate to Solomon Islands (though the current constitution had been amended to provide for recognition of opposition and independent 'groups' and their leaders within parliament).

Parliamentary procedure itself often seemed to frustrate The clearest discussion and agreement. case had been February 1977 when procedure was abandoned to consider the final 15 of the 26 sections of the Constitutional Committee's in 'informal session'. And in the land debates, procedural questions had also contributed to governments defeats -September 1976 there had been confusion about the form of motion, and in February 1977 about the possibilities amendment.

XV. THE CONSTITUTION: LAND, CITIZENSHIP

There had been some coordination of the recommendations the Select Committee on Lands and Mining, and the Constitutional Committee, which reported within a month of each other. Select Committee's Report had a section on 'land rights of Solomon Islanders', and the Report of the Constitutional Committee discussed land in terms of 'fundamental rights and freedoms' with reference to citizenship. Differences between the and Solomons governments about land and citizenship in the constitution became sharpest in discussions about the future Gilbertese settlers in the Solomons. Most of the several sand Gilbertese had come on resettlement schemes organised the colonial government between 1955 and 1971. They had been promised perpetual estates as individuals or families 400 small blocks in resettlement schemes in the Western ince. A few had also privately bought small blocks of alienated land. Under the current Land Titles Ordinance, Gilbertese settlers counted as Solomon Islanders, and so were not restricted from also acquiring rights to customary land (s.2(1)),

The Select Committee on Lands and Mining had recommended that 'only Solomon Islanders should in future be able to owners of the perpetual estate in registered land. But existing rights of all people who become citizens (not Solomon Islanders) should be protected' (B.15). The Party had disagreed with making 'different classes of citizen according to land rights' and had recommended 'Decide who become a citizen in the constitution but allow all citizens equal rights to own perpetual estates and customary land' (L.23).

New Land Policy White Paper said However the automatic citizens will be able to own perpetual customary land', and Constitutional Conference the Principles (debated and agreed just before the White Paper presented) restricted automatic citizenship to Solomon Islanders. The Principles set out a procedure others to apply for citizenship, but no guarantees they would get it. So by March 1977 the future of the Gilbertese settlers looked uncertain: they would not get citizenship automatically, but might apply. Even if they got it, their future and their existing land rights might be diminished. Settlers made representations to both governments, but were not drawn into the negotiations.

XVI. THE FINANCIAL SETTLEMENT

Negotiations between Britain and Solomons were not about the constitution. During May 1977 a delegation officials, Assembly members, and Ministers went to for preliminary negotiations about the 'financial settlement': form and amount of aid that Britain would continue to provide after independence. British aid was already involved plantation purchase programme, in the form of loan funds repurchase, and grants of equipment for redevelopment. was also a general grant-in-aid to the government's recurrent budget which Britain was anxious to 'taper off' and replace with 'development aid', tied to particular projects procurement in Britain.

Britain eventually agreed to make available a total twenty-six million pounds over the first four years of independence. One element in the financial settlement had important consequences for Levers. Five million pounds would be in form of 'special projects grants ... to be used towards the creation of a new development institution' (United Kingdom 1977: 25 Annex C). This was the 'Productive Resources Development Fund 'proposed by the Solomon Islands Ministry of Finance to enable it to go into 'joint ventures' with foreign capital, both expand the economy and to raise government revenue. One of proposed objects of government investment was a restructured. revitalised and locally incorporated Levers. In terms of policy Levers were being offered both a stick and a carrot. They would lose their perpetual estates, in exchange for government leases with development conditions and government finance fulfil them. In effect, Levers to was to be nationalised.

Land policy and the financial negotiations touched each other over the question of 'compensation'. The words had different meanings for each side. For many compensation: a once-and-for-all setting right of years of colonial abuse and neglect

(they were particularly conscious of the burden of the costs of government on a weakly developed economy). For British officials in London and Honiara, compensation had a narrower and opposite meaning: namely the possible claims against either the British or Solomons governments from people disposessed by the return of alienated land.

The plantation purchase programme had avoided the question. Sales were voluntary. In effect compensation was paid by original owners, on valuations made by Agriculture Department officials that included an element for 'the land itself'. Select Committee, and the Constitutional Conference had explicitly excluded compensation for 'undeveloped, or abandoned land', but the former had conceded that compensation should be payable for 'improvements to the land that still be useful' to the original owners (3.B.4). (The valuation the Agriculture Department remained of the throughout the 1970s in spite of these declarations). constitution, under which Solomon Islands became internally self governing in 1976, contained standard provisions for protection against deprivation of property, and the 'prompt 'payments adequate compensation' (s.6(1)(c)(i)).

XVII. THE LAND AND TITLES AMENDMENT ACT

Distrust within the Assembly of the financial terms negotiated in May 1977, combined during June 1977 with the continuing differences over land and citizenship to make both governments reconsider the July target for the conference itself. Late in June, Professor Ghai, the Solomons Constitutional Adviser, and Dick Posnett a Foreign Office official described as the British Minister's 'personal representative', arrived in Honiara to see if sufficient agreement could be reached for the Conference to go ahead as planned in July 1977.

The Conference was postponed, but it seemed to be agreed in Honiara that Solomon Islands could and should start dealing with alienated land - and hence, indirectly, Gilbertese land rights - by legislation in advance of independence, and under the existing internal self government constitution.

The British appeared eager to see movement on the alienated land question. Yash Ghai argues that the <u>Land and Titles Amendment Act</u> served British and bureaucratic interests, by preempting more radical changes foreshadowed in the constitutional negotiations:

"It would appear that by now Britain was anxious to get some land reform legislation on the statute books, so as to take the heat out of the land issue, before the Constitutional conference, in order to facilitate the resolution

of land issues in a manner favourable British. British officers serving the Solomon Island Government, who had raised constitutional and practical objections to their policies, were in effect told to get on with them. British approach suited the Assembly the government who were keen to see some progress; the latter, however, may not have realised the effect that pre-independence legislation might have on more radical options in the future, for although I have no hard evidence, it seems to me that the British government and officials in Honiara regarded the pre-independence legislation as establishing the legal framework for future land policy. The tutional Proposals had thus the effect paradoxically of both stimulating and speeding up land reform legislation and pre-empting its more radical options." (Ghai 1983: 40)

The question of compensation would be avoided by the device of 'substitute leasing'. Substitute leasing involved something of a sleight of hand: non-Solomon Islanders would lose perpetual estates over alienated land but immediately be granted leases over most of it. (A similar approach was adopted in PNG, 'automaticity' in substitute leasing was rejected Vanuatu: see Larmour 1984). In the imperfect land Solomon Islands, the values of land on lease and as were practically indistinguishable, and hence the questions deprivation and compensation need not arise. Non-Solomon Islanders would lose ownership, but in practical and political a lease might be a securer (and still negotiable) form of title. And if the non-Solomon Islanders defaulted on development conditions land could be forfeited from them.

During July 1977 a Land and Titles Amendment Bill was drafted with technical assistance form Jim Fingleton, a lawyer was lent by the Papua New Guinea government (which had considering similar legislation). It included a final date applications for registration of old documentary titles to alienated land, the end of sales of perpetual estates, to non-Solomon Islanders, and the conversion of perpetual estates owned non-Solomon Islanders into seventy-five year leases ('fixed-term estates') from the government. A major concern in the drafting of the Bill was to limit grounds for claims for compensation. The seventy-five year period was borrowed from the leases tiated in the early 1970s for Solomon Islands Plantations ted (SIPL), 'joint venture' with the Commonwealth Development Corporation (CDC). The Bill also redefined a 'Solomon Islander' to exclude the Gilbertese settlers. But it was not to come into effect until the 31st December 1977, well after the Constitutional Conference, now scheduled for September. The tactical

nature of the exclusion of the Gilbertese was explained in introductory speech made on 10 August by the Minister for Agriculture and Lands, Hon. Dr. Zoleveke, MLA: Gideon 'the reason for this is because we have not yet completed our negotiations with the UK government over the constitution and citizenship'. The Act passed its third reading unamended 16 to 14 on 15 August, and the Constitutional Conference began in London on 6 September.

XVIII. THE CONSTITUTIONAL CONFERENCE

The Report of the Conference set out the constitutional principles agreed by the two governments, while the detailed drafting of the Constitution came later. The section dealing with land would allow Parliament to legislate to convert perpetual estates owned by non-Solomon Islanders into fixed-term estates (as of course it had already done), to compulsorily acquire that land when necessary, and to lay down criteria for assessment and payment of compensation. Compulsory acquisition of customary land was made more difficult: there would have to be prior negotiations with customary landowners, who would have the right to independent (in practice, at that time overseas) legal advice, and 'as far as possible' only leases should be compulsorily acquired (United Kingdom 1977: 9, 5.40).

The citizenship issue was resolved by the Solomon delegation proposing that citizenship would be granted automatically on application to people who were not indigenous Solomon Islanders, but who belonged in various ways to Solomon Islands including the Gilbertese. A citizenship committee would begin handling applications before Independence. In addition the Chief Minister announced on the last day of the conference, that in spite of the Land and titles Amendment Act the freehold titles of Gilbertese settlers 'would be respected' (United Kingdom 1977: 29). After discussions with the Western Provincial cil by the new Minister, Hon. Waita Ben, MLA (who had moved of the original motions to establish the Select Committee), Act was amended again in April 1978 to carry out this exemption. At the same time the government announced a changed policy on grants of government land in resettlement schemes Solomon Islanders. Previously it had only granted 'fixed term estates' - leases with rental and development conditions. if people had both developed the land, and could show they 'true original owners' of it they would be entitled to granted the land in perpetual estates. This change in policy removed the anomaly that allowed Gilbertese settlers to keep their perpetual estates, while Solomon Islanders resettling on their forefathers' land got an inferior form of title.

Chapter XI of the constitution that came into effect on Independence Day, July 7 1978, provided that:

- 100. The right to hold or acquire a perpetual interest in land shall vest in any person who is a Solomon Islander and only in such other person or persons as may be prescribed by Parliament.
- 111. Parliament may, in regard to land which has
 ceased to be customary land:-
- (a) provide for the conversion into a fixed-term of any perpetual interest in such land held by a person who is not entitled under the preceding section to hold such a perpetual interest;
- (b) provide for the compulsory acquisition where necessary of such land or any right over or interest in such land;
- (c) prescribe the criteria to be adopted in regard to the assessment and payment of compensation for such conversion or compulsory acquisition (which may take account of, but need not be limited to, the following factors: the purchase price, the value of improvements made between the date of purchase and the date of acquisition, the current use value of the land, and the fact of its abandonment or dereliction).
- 112. Parliament shall provide, in relation to any compulsory acquisition of customary land or any right over or interest in it, that:-
- (a) before such land is compulsorily acquired, there shall be prior negotiations with the owner of the land, right or interest;
- (b) the owner shall have a right of access to independent legal advice; and
- (c) so far as practicable the interest so acquired shall be limited to a fixed-term interest.
- 113. (1) Nothing in this Chapter shall be construed as enabling Parliament to make any provision which is inconsistent with the provisions of section 8(1)(c) of this Constitution.
- (2) In this Chapter "Solomon Islander" has the same meaning as in the Land and Titles Ordinance.

XVIII. IMPLEMENTATION

Implementation returned the initiative to the Lands Division. By vesting the underlying title to substitute the government, rather than the original owners, the Act increased the area of land under the Division's control The executive rather than the roughly a quarter. legislature would decide if and when this land would be returned, what terms. It could be transferred as registered perpetual estate to trustees acting on behalf of the original owners (such transfers could also be made subject to the continuation leases already made over the land). or the land could de-registered and declared to be customary again, provided as for in section 221A 1977 Act.

Apart from a separate Act passed in 1979 to control the advertisement of land for sale overseas, no further legislation was proposed to Parliament: section lll(a) of the Constitution had already been legislated for, but no legislation was ever drafted to bring into effect (b) (providing for compulsory acquisition of alienated land) and (c) (providing for bases of compensation).

The conversion of non-Solomon Islander perpetual estates into leases was carried out case-by-case, by negotiation. All the holders of converted titles were asked to produce development plans that would form the basis of the conditions of their substitute lease. In a way they were being given a last chance: failure to perform the agreed conditions would have been grounds for the government to forfeit the substitute lease. The plausibility of the plans was assessed by Agriculture Department officials. Part of titles not covered by agreed development plans were excluded from the substitute lease and reverted to the government, which would then either declare them to be customary land again, or transfer title over them to particular Solomon Islander claimants.

The procedure was protracted. It also required acquiescence and participation from non-Solomon Islander title while original owners were not drawn in to the process. Fortunately there was no legal challenge to the procedure, but it did run up against the recalcitrance of the owner of a number of pieces of alienated land on Isabel who for several years failed to produce the required plans. The only sanction available to the Lands Department was the tenure limbo that non-Solomon Islanders found themselves in, and that only the Lands partment could end by the grant of a fixed term estate. At same time the process of registration of documentary titles, begun as a result of the Allan Commission, was practically completed: by 1980 only three per cent of the area remained unregistered (Solomon Islands 1980b: 144).

AN OVERVIEW OF THE INTERESTS AT PLAY

The implementation of the Land and Titles Amendment Act amounted to a kind of shakeout of foreign ownership, and a tidying up of titles. In many ways it was a culmination of the late colonial system of land tenure, rather than a break with it.

Several conflicts overlapped in the process of policy-making: between Solomon Islanders and expatriates; between officials and ministers; between the executive and the legislature; and between Britain and Solomon Islands. Behind these was a more diffuse debate about the role of the state, in relation to popular demands and foreign capital.

Solomon Islanders and Expatriates

The Select Committee on Lands and Mining (SCLM) had unwilling to listen to official - then largely expatriate-advice, and the Lands and Mining Working Party (LMWP) was carefully chosen by cabinet to consist only of Solomon Islander officials (though the secretary to both committees was an expatriate. the present writer). Expatriates continued to hold a number of senior positions in the mid 1970s. It was often said that expatriates thought and felt differently about land and hence unsympathetic to the reforms proposed by Solomon Islanders. Critics such as Solomon Mamaloni, the first Chief Minister, found expatriates wedded to inappropriate African colonial Senior expatriates were typically older than politicians they had to deal with, so the conflict took generational overtones. They were sometimes suspected of having different interests, as well as ideologies: on contract the Solomons government, their future careers might depend the British government, or big companies like Levers.

Officials and Ministers

While the SCLM was sitting, Solomon Islands adopted a ministerial system of government, with its inherent tensions between ministers and permanent heads of department. Ministers in the 1976-1980 Kenilorea government were generally compliant towards official advice, many of them having been public servants themselves (see Kenilorea 1983:58-59). In 1976 they accepted their officials' proposed 'course of action' to the SCLM, and early in 1977 made only minor amendments to the LMWP report to turn it into a White Paper, differing with the officials over citizenship. However after the failure of the White Paper, the Minister for Agriculture and Lands, Gideon Zoleveke took a more independent line insisting on bringing in an outsider as his Special Adviser. By then the Ministry officials had lost control of the process that led to the passage of the Land and Titles Amendment Act, though they regained control of its implementation.

Executive and Legislature

The SCLM was set up by the Governing Council, in which legislature and the executive were combined: all members sat on one or another executive committee, and the council sat in private as the executive, and in public as a legislature. before the SCLM had reported, the Governing Council was tituted as a conventional Westminster-style legislative A minority of its members formed the executive Council Ministers, other members became backbenchers, without an tive role, and eventually a permanent opposition emerged (Saemala 1983). The constitutional change raised a question the status of Select Committees and the fate of their In the event, the SCLM report as such was never debated but land policy became the subject of intense conflict between the executive (ministers and officials) and the legislature.

Unsympathetic to the fundamentalist approach of the Committee, nervous about 'investor confidence' and particularly concerned at the proposed return of government land to customary ownership, the executive adopted a series of stratagems to avoid committing itself to the SCLM's recommendations: the Mamaloni government simply moved that the Assembly 'take of the report; the Kenilorea government tried to hold it at arms length by proposing a 'course of action' that would reinstate the bureaucracy, private and church interests in the process policy making. When that was rejected by the Assembly Minister, Sethuel Kelly, dutifully resigned, (ostensibly other reasons, but in effect an early expression of the Westminster principle of individual ministerial responsibility legislature). Undeterred, the cabinet went ahead with a modified, more nationalist, version of its 'course of action', countered the SCLM with a comprehensive White Paper of its (again roundly defeated). By then the executive had learned its lesson: it proposed action only on issues over which it with the Assembly, ignoring the rest. The Land and Titles Amendment Act went at least some way towards the goals of the and it did not exclude further change, hence it was hard even the more fundamentalist members to oppose. Behind conflict was a constitutional issue about the role of parliamentary committees and the extent to which the executive was bound by their recommendations. The answer that emerged from the land policy conflicts was that Parliament could set the agenda policy and, while the executive could not bypass or propose a counter-agenda, it nevertheless remained free to select which items to adopt and when to implement them.

Britain and Solomon Islands

Solomon Islands independence in 1978 was the negotiations that began in earnest in 1975, while the SCLM still sitting (Saemala 1979 and Ghai 1983). Though the negotiations were highly unequal, Britain did not hold all the urgency came from Britain, anxious to rid itself of colonial embarrassment, even at the cost of continuing aid commitments (Larmour 1983a). Solomon Islands, preferring matters settled properly, and facing no strong domestic pressure immediate independence (indeed, some reluctance), could delay to extract concessions. And. since the issues were finally more serious and salient for Solomon Islands were for Britain, careful preparation and persistence often paid The independence negotiations intersected with the debates about land policy at several points.

British interests in Solomon Islands land policy limited, but firmly pursued. Though there were few British citizens likely to be affected by the return of land. British officials were concerned at the embarrassment they might in parliament and concerned also that the Gilbertese settlers should. not become British citizens by default. British commercial interests were more substantial. The Commonwealth Development Corporation, a British para-statal, was alreadv modernised land tenure arrangements: a joint venture leasehold land, with the customary landowners holding 4% of the equity, and government 26%. Levers, however was unreconstructed, and part οf Solomon Islands 'financial settlement' with Britain went into recapitalising Levers joint venture partner with the Solomon Islands government. overwhelming British government interest seems to have been reduce general budgetary support to Solomon Islands: an interest lay behind the accelerated exploitation of resources to government revenue begun boost under policies Development Plan. Hence land that required unproductive payments οf compensation or reduced government's ability to raise revenue were not encouraged by Britain.

The British position, however, was not monolithic. At times, for example, the Foreign and Commonwealth Office would promote or acquiesce in expenditure felt to be politically necessary, even if hard to justify according to the 'developmental' criteria used by the Ministry of Overseas Development (which tended to want to judge Solomon Islands needs against the claims of poorer or more populous countries). The Plantation Purchase Programme, for example, was a compromise that packaged a 'political' land transfer programme as a 'developmental' agricultural scheme.

Solomon Islands interests in land policy were of course much broader and longer term. At the same time they were less clear and the subject of genuine disagreement, expressed particularly in the opposed reports of the SCLM and the LMWP.

Role of the State

Many of the disagreements about land policy turned on role of the state. The LMWP resisted the SCLM's idea that government should return its land. Parliament rejected the Land Policy White Paper partly from suspicion of the proposal for a Land Development Authority as an extension of state The independence constitution erected new barriers the compulsory acquisition of customary land for public purposes (though recognising that it might become necessary as resort). Hostility to state intervention in land matters was also expressed in other areas of land policy during the 1970s, particularly the double rejection of physical planning controls over customary land, and in amendments to the forestry legislation to allow direct dealings with timber companies (Larmour 1979). The hostility has survived independence.

The SCLM and the LMWP differed over two aspects of its relationship to popular demands, relationship to foreign capital. The impulse behind the was populist. It put its arguments in terms of historical justice, indigenous values and popular opinion. The touchstones for policy set out in its report were 'what the people It noticed no great differences between groups or classes people: 'Solomon Islanders' spoke with one, aggregated voice about land. The LMWP put its arguments in more self-consciously 'nationalist' terms: it found alienated land, for example, to be a 'national asset' rather than - as the SCLM might have put it a national scandal. In responding to popular demands the LMWP was more conscious of the distributional issues: only some might benefit from the return of land to its original customary owners, while others more needy or deserving might be denied opportunities for access to it. 'The people' did not speak with one voice in the LMWP and the role of the state was to reconcile different interests. The LMWP did not see these interests terms of antagonistic classes: it did not, for recommend returning land to the working class plantation labourers who had developed it.

Both reports, populist and statist, shared many assumptions about the national economy, plantation forms of production for export, and the need for foreign investment. Both sought to renegotiate Solomon Islanders' links with the world economy, not sever or transform them. Yet there are important differences of emphasis. The SCLM saw the role of foreign capital as residual: it envisaged leases of land where projects were too large for Solomon Islanders to capitalise or manage. There was no special

role for the state in this process, though the SCLM did envisage the continuation of state help to Solomon Islanders taking over plantations. In some ways the SCLM was arguing for a return to the pattern of land dealings between Solomon Islanders and expatriates in the late nineteenth century, before the colonial state intervened in these direct deals, partly as paternalist, partly to introduce bigger capital, such as Levers.

Foreign capital played a much more central role in the LMWP report and it was the job of the state to provide the conditions that would attract and sustain it. But the LMWP was not just a foreign investors' charter. Its style is interventionist: left alone, it implies, foreign capital is not necessarily developmental. It has to be encouraged and directed by the state.

A Ministry of Finance paper on Levers' plantation company, LPPPL, was influential on the LMWP, which visited LPPPL's head-quarters in Yandina. The paper argued that Levers must be pushed and encouraged into expanding production. It criticised the company for having

prided itself on 'not needing' Unilever Finance, and operating a tightly managed operation on internally-generated funds (while) the benefits that the continued presence of LPPPL can offer to Solomon Islands relate to planning, financing and management of new and expanded operations, not just keeping the existing outfit going (Solomon Islands 1976b: 6).

In its conception of the role of the state in the reorganisation and revitalisation of capital, the LMWP echoed some of the views of the British labour government with which Solomon Islands was negotiating about independence: the British Minister, Joan Lestor, was said to have been sympathetic to Solomon Islands proposal for an investment fund to buy equity in big companies like Levers because of its similarities with Labour's National Enterprise Board (Ghai 1983: 22-23).

If it was to play such an active and interventionist role the state needed access not only to finance, but to land, so that it could attract and locate investment, and set conditions on it through leasehold covenants. Land could also be transformed into equity, by capitalisation of rental payments: the government had acquired some of its shares in the joint venture with the Commonwealth Development Corporation in this way.

There was little parliamentary or public enthusiasm for such an interventionist policy for the state in collaboration with foreign capital. Bart Ulufa'alu, as Leader of the Opposition (and later Minister of Finance), criticised the 'joint private and public sector push into the rural areas' as providing 'a smokescreen for the development of our rural areas

by foreign interests' (quoted in Potterton, 1979: 30). The strategy was rejected in principle, but largely continued in practice, by the Mamaloni government that came to power between 1981-4. Mamaloni expressed a populist distrust of big companies in alliance with the bureaucracy, and saw state enterprises squeezing out national businessmen (Larmour 1983b: 268-9). The big projects sponsored by the government also sometimes ran into determined local rebellions, most dramatically when one faction of landowners burned down a Levers timber base on New Georgia in April 1982, but more routinely in arguments about land boundaries and migrant workers on the Guadalcanal Plains.

END NOTE

1. Ralph Pettman (1977) has written a careful analysis of Solomon Islands development policies, and particularly its relationship with Levers, in terms of theories of dependence. He summarises, without fully endorsing, a dependentist position that characterises

the relationship between Pacific Islanders and capitalist states and corporations as a fundamentally antagonistic one... "independence" remains nominal (ibid: 277).

While commending a strategy of 'enlightened opportunism' rather than total disengagement from the world system, he nevertheless concludes that

centrally resident Solomon Islanders ... tend to exaggerate their capacity to manipulate their immediate environment, and they tend to over-estimate the ability of the state apparatus to transfer political rule to a domestic ruling class in the face of a parallel commitment to the world capitalist system (ibid: 280).

From a similar perspective Howard et al are critical of Solomon Islands government's 'subservient and supportive role' towards Levers (1983: 203), though they conclude generally that

the political leadership of the Solomon Islands has demonstrated a critical and cautious approach to international capital that is rare in the South Pacific (ibid 207).

More classical marxist critiques of dependency approaches might take a more positive view of the expansion and diversification of the colonial economy since the early 19870s, and of the real opportunities provide by political independence (see eg. Warren 1980: 170-185).

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