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REPORT OF THE SELECT COMMITTEE
ON THE
ISSUE OF LAND OWNERSHIP ALONG
THE TEN-MILE COASTAL STRIP OF
KENYA

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**REPORT OF THE SELECT COMMITTEE
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PREFACE

MR. SPEAKER,

On the 25th November, 1976, the following Members were appointed to be the Members of the Select Committee on the Issue of Land Ownership along the 10-mile Coastal Strip:—

The Hon. M. Mathai, M.P. (Chairman).
The Hon. M. Kubo, M.P.
The Hon. C. C. Murgor, M.P.
The Hon. K. Kinyanjui, M.P.
The Hon. J. K. Yeri, M.P.
The Hon. S. M. B. Mudavadi, M.P.
The Hon. P. C. Oloo-Aringo, M.P.
The Hon. Sharrif Nassir, M.P.
The Hon. N. K. Ngala, M.P.
The Hon. P. E. M. Ivuti, M.P.

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The resolution containing the terms of reference of this Committee was passed on 15th October, 1976 and is as follows:—

THAT, since land tenure system on the 10-mile strip along the Coast Province has created a lot of problems for the indigenous people in that they are regarded as squatters who have no right to own that land, this House resolves to set up a Select Committee—

- (a) To probe the origin of these problems;
- (b) To investigate the right to own the available land since the transfer of the administration of the strip from the then Sultan of Zanzibar; and
- (c) To write recommendations to the House on how to resolve these problems permanently.

Although the Committee was constituted in 1976, it was too late during the Session for it to start functioning. Therefore, it was during the 1977 Session that the Committee was revived and it embarked on the assignment.

The Select Committee heard oral and written evidence in Nairobi and the Coast Province. It interviewed the provincial administration, local politicians, squatters, landlords and other individuals giving evidence in their personal capacity including several from the university. The Committee received generous co-operation and assistance from all quarters and especially the Provincial Commissioner for the Coast and the District Commissioners from the four affected districts of Mombasa, Kwale, Kilifi and Lamu.

The Committee appreciates the co-operation it received from the officials of the Ministry of Lands and Settlement, particularly the Permanent Secretary with his staff who appeared at length before the Committee. The Committee is grateful to all these and to all others who contributed by giving evidence and submitting memoranda.

The problem of landlessness is an emotive issue. The Committee had considerable difficulty in coming to conclusions that were reasonable and fair to the Kenya we want. The Committee has been able to make a number of specific recommendations which it feels would be of great value in resolving or minimizing the problem of landlessness and it hopes that these will be given the urgent attention they deserve.

As Chairman of this Committee, it gives me special pleasure to be able to express my gratitude and appreciation to all the honourable Members who served on the Committee, who sacrificed so much of their time to give attention to the business of the Committee. The contributions made by the Members have substantially eased the task of preparing the report.

The Committee would also like to record its appreciation for the services of Mr. H. W. O. Okoth-Ogendo of the University of Nairobi who advised on land law intricacies. Finally, the Committee is grateful for the substantial support it received from the staff of the National Assembly.

In conclusion, I would like to thank again those without whose assistance the report could not be as elaborate as it is. The Committee presents its report to the House and looks forward to the Assembly giving this report its authority and blessing so as to enable the Government to accept and implement the recommendations contained therein.

MWANGI MATHAI,
Chairman.

28th April, 1978.

INTRODUCTION

1. *The Resolution of the Assembly*

On the 15th October, 1976, the National Assembly passed the following resolution:—

That since land tenure system in the 10-mile strip along the Coast Province has created a lot of problems for the indigenous people in that they are regarded as squatters who have no right to own that land, this HOUSE resolves to set up a Select Committee:—

- (a) to probe the origin of these problem;
- (b) to investigate the right to own the available land since the transfer of the administration of the strip from the then Sultan of Zanzibar; and
- (c) to write recommendations to the HOUSE on how to resolve these problems permanently.

2. *Interpretation*

By that resolution the Committee was required to do three things:—

- (a) To identify and probe the origins of the contemporary problems of land tenure in the ten-mile Coastal strip;
- (b) To investigate changes in the structure of ownership and patterns of distribution of land rights which have occurred within the ten-mile coastal strip since Kenya's independence;
- (c) To make recommendations for the permanent resolution of problems identified in (a) in the light of the ownership pattern described in (b) above.

For reasons which will emerge later, the Committee has not found it necessary to define who for purposes of this resolution the "indigenous" people are. Rather what we have done is simply to assess the nature and magnitude of the problem, identify those who are adversely affected by it, and to write recommendations

based on the conviction that this House has the duty to assist the state in the search for appropriate solutions to these problems.

3. *General Review of the Evidence*

Much of the evidence was collected in Nairobi, Kwale, Mombasa, Kilifi, Malindi and Lamu where both oral and written submissions were taken from members of the public, private institutions, and organs of government and the national party, KANU. As will become clearer later, all those who appeared before the Committee—whether land owners, "squatters" or government and party administrators—were agreed that problems of national significance exist which need urgent attention. The majority view clearly was that those problems although grave, must not be viewed in isolation from the general question of landlessness in the country as a whole. They have arisen from exactly the same historical process that caused similar problems in up-country Kenya. The only difference was that although attempts have been made since independence to deal with landlessness up-country, no clear policy has yet emerged in respect of the Coastal situation.

As would be expected, not all witnesses were agreed on what the origins of the land tenure problems of the 10-mile strip were. The Committee's view on this issue is set out in Chapter One below. It is based on a balanced assessment not only of the evidence given to us but also of the available historical material which was at our disposal. Despite sharp differences on the question of *origin*, we found general agreement on the question of *magnitude* and *consequences* of landlessness within the 10-mile strip. These are set out in Chapter Two of this report. Finally, the Committee received much assistance from those who appeared before it on how best to permanently resolve the land tenure problems within the 10-mile strip. These are discussed and evaluated in Chapter Three of this report. The recommendations we have arrived at have drawn heavily on this assistance and past experiences in this Country.

CHAPTER I.—THE NATURE AND ORIGINS OF THE COASTAL LAND PROBLEM

A. *The Nature of the Problem*

4. *Overview*

Land has always been and remains a politically sensitive issue in Kenya. Indeed it occupied settler politics throughout the colonial period and was the fundamental issue in the independence movement. The single most important reason for this was colonial displacement of indigenous people from their ancestral lands through administrative coercion and alien land laws. No corner of this country was spared during that process. It is estimated that over 3.4 million hectares representing 75 per cent of the most fertile land in the country were expropriated by individuals either in freeholds or leaseholds during the colonial period. In consequence an estimated over half a million men, women and children were, at independence, technically landless in the sense that they could neither produce nor obtain evidence of permanent ownership to the land they were in fact cultivating, or already, residing on as labourers.

Efforts after independence have severely reduced, although not entirely eliminated, landlessness in the former "White Highlands". As of 1976, over 350,000 landless people had been settled either in government schemes or through co-operative schemes in Eastern, Central, Rift, Nyanza and Western Provinces.

5 *The Ten-Mile Strip*

Although as we indicate below *some* attempt has been made to deal specifically with the ten-mile strip, nothing of the magnitude described above has yet been undertaken in this area. As a result the strip now has probably the largest single concentration of landless people, in the whole country. Most of these people live as "squatters", licensees and unprotected tenants on private or government land in the Coastal rural and urban areas. Because of in-migration particularly since independence, these people are no longer exclusively although still predominantly of Mijikenda, Taita or Pokomo origin. In this sense, therefore we believe that landlessness within the Coastal strip is of special concern for the nation.

B. *The Origins of the Problem*

6. *Original Settlement*

Although it was forcefully argued to the contrary, we are satisfied that Mijikenda, Taita and Pokomo presence within the ten-mile strip precedes that of any other ethnic or sub-national group, in the area. Under Mijikenda land law and indeed that of other indigenous peoples, the source of all land rights was evidence of first settlement. Whoever first cleared or tamed bush-land cultivated or grazed over it, obtained permanent use rights over it for himself and his people. Ownership evidenced by a piece of paper-title was not only unknown but also irrelevant to the cultural and moral system of these people. For the soil was not the subject of ownership by the individual. It belonged to the dead, the living and the unborn.

This was the general position until about the middle of the seventh century when a steady influx of Arabs from Arabia and Persia fundamentally altered the settlement pattern in the area. Although Arabs had been trading with the inhabitants of the East African

Coast from very early times, they had made no permanent settlements until this time. Although most of the Arabs that finally settled in the East African Coast are said to have been fugitives fleeing from religious persecution and local feuds in Arabia and Persia, their migration to the East African Coast in fact enabled them to consolidate trade links with the area.

7. *Slavery*

An important aspect of trade was the traffic in slaves to other parts of the Middle East. Since the evils of slavery and the factors that led to its abolition towards the end of the 19th century are well known, this committee has not found it necessary to go into its history in any great detail. The point to stress is that the consolidation of slave trade in the East African Coast led directly to the displacement of the Mijikenda, Taita, and Pokomo and eventual Arab control of land within the ten-mile strip. For not only were they sold into slavery or used extensively as agricultural labourers on land, but also escape was only possible by fleeing from the ten-mile strip into the Nyika plains. Thenceforward the Arabs regarded themselves as the original owners of the land. When in 1840 Seyyid Said transferred his capital from Muscat to Zanzibar and extended his sovereignty over the ten-mile strip Arab Control of the area was secured. Any further doubts were set at rest when in 1886 the British and the Germans entered into a treaty which, among other things, created "the Mwambao" with all land rights being vested in the Sultan. The area involved stretched from the mouth of the Ruvuma River (in what is now Tanzania) to the mouth of the Tana River extending inland for a distance of ten nautical miles measured from the high water mark.

8 *The Imperial British East Africa Company*

This situation was accepted by the British East Africa Association (B.E.A.A.) which was formed by Mackinnon in 1887 "to open up East Africa to British commerce and civilization". As a trading concern, however, B.E.A.A.—which became the Imperial British East African Company (IBEAC) in 1888—was only interested in the acquisition of trade concessions rather than sovereign rights over the land. Besides it would have been impolitic on B.E.A.A.'s part to challenge Arab presence within the ten-mile strip since the Arabs were subjects of the Sultan of Zanzibar whose sovereign authority over the area the British government had accepted. Hence the concession agreement that was signed in 1888 by the Sultan of Zanzibar and representatives of IBEAC only ceded for an initial period of fifty years, later extended to perpetuity;

"all the powers and authority to which (the former) is entitled on the mainland, the whole administration of which is placed in the hands of IBEAC to be carried out in his name under his flag and subject to his sovereign rights."

The effect of this agreement was that all rights to any land that had already been appropriated by the Sultan himself or other individuals were reserved. IBEAC's power to deal with land was therefore restricted only to what was then considered as "unoccupied".

9. The objectives of Colonialism

IBEAC did not prosper in East Africa. It has been said that it was "poorly conceived, badly managed and grossly undercapitalized". So in 1895 it surrendered its Charter and signed an administration agreement whereby its rights under the 1888 concessions were transferred to the British government. In other words, from the point of view of colonial law, when on 15th June 1895 the British Government declared what is now Kenya a protectorate, most of the *original* inhabitants of the ten-mile coastal strip—the Mijikenda, Taita, Pokomo etc.—were already regarded as squatters. For the British Government had acceded to and only those land rights that had been acquired by IBEAC during its vague overlordship at the Coast.

The primary aims of British colonialism, however, were much wider than those of IBEAC. Essentially colonialism was concerned with the exploitation of the natural and human resources of the colony for the benefit of the "mother" country. Trade was therefore a very small part of it. Early colonialists like Lugard and Ainsworth had no doubts that East Africa was rich in these resources. The coastal belt was suitable for the much sought-after cotton, rubber and coconut produce; the adjacent lowlands was abundant in sisal fibre; and the highlands suitable for just about everything. The question was who should and how to exploit this potential.

10. The Land Titles Ordinance No. 11 of 1908

The colonial administrators had no doubts that only people of European extraction were capable of exploiting the resources of East Africa. But this required a much more secure system of land tenure than existed in virtue of the administration agreement of 1895. For

not only were the boundaries of "private" lands difficult to ascertain, no procedure existed for identifying land available for disposal to prospective settlers. In fact most settlers were unwilling to take up land before those uncertainties were removed. This was the primary purpose of the Land Titles Ordinance, 1908 i.e. to enable colonial authorities to determine accurately how much land was actually "owned privately" so that the limits of "crown" land could be defined.

The Ordinance required all persons "being or claiming to be proprietors of, or having or claiming to have any interest whatsoever in immovable property" within the ten-mile strip to lodge their claims whether of title mortgage or other interest within six months with a Land Registration Court presided over by a Recorder of Titles. Where the Recorder was satisfied that a particular claim was valid he would then issue a certificate to that effect. Such certificate was "*conclusive evidence against all persons (including the Crown) of the several matters therein contained, and a certificate of ownership shall be conclusive proof that the person to whom such certificate is granted is the owner of the coconut trees, houses, and buildings on the land*". (This was fundamental departure from the position under both customary and Muslim laws which governed African and Arab relation respectively. Under these laws a clear distinction was always made between ownership of the soil and of the products therefore, the latter of which was always vested in the cultivator.)

11. The Process of adjudication under the Ordinance

As Table I indicates by 1914 the Ordinance had been applied to the whole of the ten-mile strip—

TABLE I—APPLICATION OF THE LAND TITLES ORDINANCE 1908 TO THE COASTAL STRIP

By the Official Gazette Notices the Governor applied the Land Titles Ordinance 1908 to various parts of the Coast as follows:—

<i>Date of Gazette Notice</i>	<i>Areas to which is is applied</i>
1-3-1909.. .. .	Malindi District in Seyidie Province with effect from 15-1-1909.
15-5-1911	Mombasa Island in Seyidie Province with effect from 1-7-1911.
1-3-1913.. .. .	Part of Tana River District which lie within the ten mile Coastal Strip with effect from 15-11-1913.
15-11-1913	Part of Tana River District between the Northern boundary of Seyidie Province and Southern Bank of the Ozi River in the Tana land Province.
3-6-1914.. .. .	All the area lying within the following boundaries in Seyidie Province. Area lying between Mombasa and Malindi-Kilifi-Kombani River Mwandu and Makonde with effect from 1-7-1914.
16-9-1914	The area lying between Mombasa and Uмба River and all the area South of Uganda Railway.

The procedure for adjudicating claims was very different from what happens in trust land areas to-day. Apart from the Recorder himself, the only other statutory officers were surveyors and administrative officers. The duties of the former included boundary surveys and the preparation of maps to be attached to certificates of ownership. The latter, however only received claims. They had no power to adjudicate them. The process of adjudication was thus left to only one man, the Recorder. Although in practice two intermediate committees were created to assist the Recorder the process remained essentially judicial i.e. summonses were issued, oaths administered and parties were invited to argue their claims either in person or through advocates.

The actual proceedings before the Recorder however, bore little resemblance to statutory requirements. No proper investigations were ever carried out nor rigorous standards of proof pursued. Most claims were accepted on the basis of old Arabic documents, or allegations of possession or inheritance that were mainly false. Where, as was often the case, no objections were raised or if the objector failed to appear altogether no further proof was ever asked for. The Mazrui Arabs are known to have made claims to bushland the boundaries to which they could not ever point. As a result approximately 18,000 hectares in Central Kilifi went to this Community under a trust. Over 95 per cent of land in Malindi went to Arabs also. Since very few claims were received in Lamu, most of the land was declared crown land. Although there were fewer claims in Kwale, much of the land was subsequently sold or granted in leaseholds to Indians, Europeans and other concessionaires interested in large-scale agriculture.

The fact that all the powers of adjudication were concentrated in the Recorder made the process slow and expensive. In consequence adjudication was suspended in 1922, by which time only 5,300 claims out of over 12,700 had been adjudicated, and the government had spent over £110,000 in costs and recovered less than one third of it in fees. Even when adjudication was resumed in 1956 the process remained slow and expensive even though only claims made before 1922 many of which were undisputed were to be dealt with. It was not until 1975 when adjudication under the 1908 Ordinance was completed. In Table II we have indicated what the final territorial allocations within the strip by the time when adjudication was over.

Table II Territorial Distribution of Land in the 10-mile strip

AREAS

The total area of the Coastal Strip in Square Kilometers is 5,480 sq. Km. or 2,116 Square Miles. This is made up of:—

Trust Land	1,749.82 Sq. Km. (Approx.)
National Reserve	63.40 ..
National Monument	0.43 ..
Government Reserves	292.67 ..
Leasehold Area	505.05 ..
Freehold Area	393.68 ..

Forest Reserves	397.17 Sq. Km. (Approx.)
Mombasa Municipality	204.61 ..
Township Reserves	204.61 ..
Settlement Schemes	563.00 ..
Un-Allienated	
Government Land	1,106.00 ..
	<hr/> 5,480.44 <hr/>

12. The Consequences of Adjudication

Adjudication of claims under the 1908 Ordinance is, in our view, the *primary* cause of landlessness by indigenous people in the ten-mile strip as we know it today. For it ruled out the possibility that these people and sections of non-Mazrui Arab communities could ever acquire title or guaranteed access to land during the colonial period.

The reasons why most indigenous coastals made no claims as required by the Ordinance are not difficult to understand. First of all, the indigenous people of the strip had no knowledge of the existence of the Ordinance. Even if they did they never understood its provisions. Secondly, as we have said earlier the Ordinance had no relevance to indigenous conceptions of land tenure. That they should be asked to lay claims upon the soil was a startling proposition. Thirdly, the Ordinance was clearly biased against these people. For the colonial government and courts believed that no African, whether as an individual or a community had any title to land. Hence for purposes of the 1908 and other colonial land Ordinances land occupied by Africans was always treated as ownerless. Fourthly, the actual investigation of claims was done mainly by Mudirs—usually Mazrui Arabs absorbed into colonial administration—who were generally unsympathetic to the indigenous people. Some witnesses who appeared before the Committee even alleged that in the very few cases where claims by indigenous people were allowed, the size of such land was deliberately reduced and the whole often set wholly within land owned by Arabs. Such people were soon evicted simply by fencing them in! Fifthly, the time limit within which claims could be made was extremely short. And indeed after 1922 claims would no longer be received at all. Besides when in 1926 three "native reserves" were established in Kwale and Kilifi any further doubts concerning the possibility of ever receiving claims from indigenous coastals were laid to rest. For with the exception of thirteen pockets of land in Kwale, land comprised within these reserves were deliberately delineated *outside* the ten-mile strip. New Legislations passed in 1938 extinguished any other rights that "natives" in Kenya as a whole might have had *outside* their respective reserves. Sixthly, because the Ordinance had introduced a basically British conception of land, i.e. that whatever is attached to the land becomes part of that land, these people also lost whatever rights to the product of the soil, e.g. coconuts etc., that they may have had under Muslim law and their own customary law. Although a few people were compensated for permanent improvements, the majority simply remained on the land in the belief that it was still theirs; a situation which was perpetuated by the fact that most of the new landowners were never resident on the land anyway.

CHAPTER II.—LAND RIGHTS IN THE TEN-MILE STRIP SINCE INDEPENDENCE

13. *Summary*

The most important point we want to make is that the problem of landlessness in the ten-mile strip is not a new one. It started *before* colonialism. The 1908 Land Titles Ordinance simply consolidated it; as did the fact that for all practical purposes continued in undisturbed occupation of and to develop the land in the belief that they still had some rights to it. It was not until the eve of independence when Arabs, Europeans and Asians started evicting them that these people realized *that they were and had always been landless after all.*

14. *Political Parties and Land*

There is no need to emphasize the fact that land distribution was of fundamental issue at independence. Both KANU and KADU among others expressed strong fears that unless there was agreement on the need to redistribute land to Africans the political future of the independent state might be jeopardized. This was one reason why landowners both in the Highlands and at the Coast retaliated by threatening to or actually evicting labourers "squatters" or tenants.

15. *The Effect of the independence Constitution*

The final constitutional agreement on the issue however, was based on wider concerns. The most important was the feeling that land redistribution should not be made at the expense of economic (mainly agricultural) stability. This was incorporated into the independence constitution through an article (now Art. 75) which provided *that all existing land rights irrespective of the manner in which they were acquired be confirmed and guaranteed.* This was perhaps the single most important provision in the Constitutional Settlement arrived at in Lancaster House. *For more than anything else in the history of this country it ruled out the possibility that historical claims would ever be the basis for land distribution after independence.* This applied to the country as a whole and not just the highlands. For by an agreement signed in 1963 between the British, Kenya and Zanzibar governments, the Sultan renounced sovereignty over "Mwambao" which thenceforth became fully integrated into independent Kenya.

16. *Post-Independence approaches to the Coastal land Problem*

As we have stated above, the Kenya Government has initiated a lot of schemes for the resettlement of landless people in this country. Most of these, however, have been mainly in the former highlands. At the Coast it has been assumed that solutions can be found in either reactivating old settlement schemes such as Gedi and Shimba Hills, or designing new ones on similar lines. Since independence such new schemes have been started as shown in Table III below.

TABLE III SETTLEMENT SCHEMES AT THE COAST

District	Scheme Name	Date Started	Size in Hectares
Kilifi	Tezo-Roka	1960	3,763
"	Mtwapa	1966	3,370
"	Ngerenyi	1968	5,235
"	Magarini	1968	40,469
"	Mtondia	1968	—
"	Matsangoni	—	798
"	Vipingo	—	1,051
Kwale	Ukunda	1968	600
"	Tembo Springs	1968	125
"	Sabharwal	—	120
Lamu	Lake Kenyatta	1971	14,800
"	Magogeni	—	10,000

SOURCES:

Annual Reports of the Ministry of Lands and Settlement Memorandum of the Land Use Secretariate District Development Plan 1974-78—Kilifi District.

Schemes of this kind, however, always were and remained national-level undertakings which could not be expected to eliminate or at least substantially reduce the coastal problem. They were not specifically directed at the landless coastals. Thus unlike in the Highlands the pattern of land distribution at the Coast did not change.

17. *The Presidential Committee 1972*

It was partly in recognition of this that in 1972 the President Mzee Jomo Kenyatta set up a Special Committee to look into the problems of the ten-mile strip. The Committee consisted of the following:—

The Minister for Lands and Settlement—
HON. J. H. ANGAINE (*Chairman*)

The Minister for Finance and Planning—
HON. M. KIBAKI

The late Minister for Power and Communications—
R. G. NGALA

The Minister for Agriculture—
HON. J. J. NYAGAH

The Attorney-General—
HON. C. NJONJO

The Permanent Secretary Office of the President—
MR. G. K. KARIITHI

The Permanent Secretary Ministry of Lands and Settlement—
MR. N. S. KUNG'U.

This Committee met several times in 1972 and made various recommendations which we have found of great assistance in our own investigations. But we were unable to find out what the fate of those recommendations were. Thus up to the time this Committee was appointed no systematic efforts had been made to solve the coastal land problem. In fact the vast changes in the economic and social system of the area which have occurred since independence have tended to aggravate rather than contain the situation.

B. Changes in Economy and Society at the Coast

18. Economic Changes

The central feature of economic change at the Coast has been the growth of tourism as an important industry. Apart from its significance as a foreign exchange earner, tourism also opened up lucrative investment opportunities for individuals and private consortiums. This was facilitated greatly by two factors namely, that until recently coastal land prices were relatively low in comparison to those upcountry, and Arab, Asian, and Europeans were by and large willing to sell. Thus an active land market particularly in first and second beach plots arose and continues to thrive within the area. (There is no standard definition of what a first or second beach plot is. This depends entirely on the shape and inland stretch of parcels in question.) In addition the tourist industry also stimulated a lot of auxiliary industries and small-scale enterprises that have greatly boosted the economy of the area. These have had the effect *inter alia* of extending land marketing even beyond the ten-mile strip.

19. Demographic Changes

Apart from tourism, the coastal belt has also become a major destination for migrants, in search of employment opportunities and land frontiers. On the latter issue the 1972 Presidential Special Committee estimated that between 5-33 per cent of those considered landless in that year had migrated into the area during the previous calendar year. Although no accurate figures exist we believe that this trend is continuing especially in Kwale South, parts of Kilifi North, Lamu and the Tana River basin. The relevance of this phenomenon is that it has slightly altered the magnitude and political content of the land problem. For there are signs particularly in Kwale, that tensions between immigrants and the indigenous people are beginning to emerge.

20. Changes in the Structure of land ownership

An important consequence of tourism and immigration has been that although the pattern of land distribution has remained unchanged, its ownership structure had fundamentally changed. In Lamu District for example, over 50 per cent of what was unalienated government land on the mainland has been turned over to private ranchers on leasehold terms as shown in table IV below:—

TABLE IV—LEASEHOLD GRANTS FOR RANCHING IN LAMU*

Name of Ranch	Hectares	Existing Livestock	Status	Remarks
1. Witu	32,000	29	Directed Agricultural Company.	Total membership 97. Has been approved by D.A.C. & P.A.B. letter of allotment has been issued by the Commissioner of Lands.
2. Amu Ranch ..	25,000	—	Co-operative Society	.. Membership 200 local residents. has been approved by D.A.C. and P.A.B. with letters of allotment issued by Commissioner of Lands.
3. Nairobi Ranch ..	21,000	4,000	Private Company Registered in 1974. A private company of 4 people, letter of allotment has been issued by the Commissioner of Lands.
4. Tullu Ranch ..	20,000	—	Private Company Approved by D.A.C. and P.A.B. on 28-6-76 Min. 14/26 of 1972 meeting held in PC's Board room. Letter of allotment has been given by Commissioner of Lands.
5. Bujras Ranch ..	8,000	—	Private Company Approved by D.A.C. and letter of allotment has been given by Commissioner of Lands.
6. E. N. Mungola E. A. Masini Coast Ranch Co. Ltd.	10,000	—	Private Company Approved by D.A.C. (9-12-75) No letter of allotment has been given Commissioner of Lands to date February, 1977.
7. Lamu County Council Ranch	22,000	—	County Council Approved by D.A.C. (9-12-75) and letter of allotment has been provided by Commissioner of Lands.
TOTAL ..	138,000	4,029		

*A further 110,025 hectares to be organized on similar lines is envisaged.

SOURCE:—Memorandum of the Land use Secretariat (a working Committee of Government Officers) April, 1977

In Kilifi, Mombasa and (to a smaller extent) Kwale Districts changes in ownership took the form of a rapid substitution of land owners of all races with local and up-country politicians, civil servants, managerial staff in private industry, forces personnel and multinational corporations. In the case of Kwale this also meant further displacement of the Wadigo from pockets of trustland in Diani, Galu-Kinondo, and Msambweni; and the Waduruma from grazing lands south of Kikoneni location.

21. Implications

Most of the changes described above are still going on. In fact within the last year or so, the process of land transfer has been accelerated. The implications of this for the political stability of the area should not be underestimated. For *inter alia* changes in the structure of land ownership in the area will have a direct bearing on the success or failure of any attempts to solve the initial problem of landless however well-intentioned this might be. The explanation for this is given below.

C. Contemporary Problems in the Ten-Mile Strip

22. The Magnitude of Landlessness

That landlessness within the ten-mile strip is increasing seems fairly obvious. Disagreements arise only in the assessment of the *magnitude* of the problem and nature of occupancy, of the landless. On the question of magnitude the Coast Province Regional Physical Development Plan estimated in 1971 that there were between 75,165 and 100,000 "squatters" occupying approximately 6.5 per cent of Government or private land in the Coast Province as a whole. Of these 61.5 per cent were in Kilifi District, 18.8 per cent in Kwale, 12.8 per cent in Mombasa and 6.9 per cent in Taita. No figures were available for Lamu and Tana River Districts. We believe that even for 1971 these figures are inaccurate. Senior administrators in Kilifi and Mombasa Districts estimated that there were at least 100,000 and 10,000 landless people in those areas respectively. These were given as *minimum* estimates only. By using the same district percentage distribution that the Regional Physical Development Plan gave in 1971 we arrive at a population of not less than 15,000 for Kwale District. Although no figures were available for Lamu District, considering that over 96 per cent of the land on the mainland is government land, it is more than likely that most of the indigenous people there are landless. This could add at least another 6,000 to the over-all "squatter" population. We believe that the number of landless people in the ten-mile strip exceeds 130,000 and may well be up to 10 per cent more than that if we allow for the migration factor and under-assessment by administrative officers.

23. The Nature of Occupancy

Although it is common to refer to landless people at the Coast as "squatters", we found this description rather misleading. The exact nature of occupancy varied widely from place to place. The vast majority of the people were on the land with the full knowledge and consent of the landowners. In the rural areas many were and had always been paying "Ijara" (rent) to or sharing the fruits of their labour with the landowners. The urban landless were also living on same kind of periodic tenancies subject to the same rental conditions. A few were bare licencees and even fewer were *pure*

squatters. But although such a situation ordinarily imports some measure of protection in law, only to the urban "squatter" has express protection been offered in the past. The consequent uncertainty and insecurity has not been conducive to the development of the area.

24. Mass Evictions

Many landowners, particularly the new ones have taken advantage of this situation to carry out mass evictions from their land. We received many complaints ranging from evictions via actions in trespass to general harassment and intimidation of resident "squatters". For example in Kilifi we were told that there were over 300 trespass cases pending in respect of farms that had recently changed hands. Apart from creating a lot of tension between landowners and the landless, mass evictions have raised a new the old question of the nature of the "squatter's" interest in permanent improvements made by him. The most important of these are cashew and coconut trees, and occasionally houses.

25. Claims over permanent improvements

We have explained above that according to the Land Titles Ordinance such improvements were presumed to belong to the registered landowner. When the cashew nut campaign began in the mid-1930s, however, a series of tripartite agreements were negotiated under customary and Muslim laws in 1937 between the landowners, the administration and the "squatters" the effect of which was that:—

- (i) as long as he continued to pay "Ijara" the "squatter" was permitted to plant and own the trees.
- (ii) as long as they continued to pay "Ijara" the children of the "squatter" were allowed to inherit the trees.
- (iii) no "squatter" was allowed to sell his trees to a third party except with the consent of the landowner and only after the latter had been given the right of first refusal.
- (iv) where the "squatter" was paid by the landowner to plant particular trees, those became the property of the latter and
- (v) where the "squatter" died without leaving an heir, his trees became the property of the landowner.

As late as 1962 this agreement was still being used as a basis for the resolution of claims between landowners and the "squatters". Although the 296 arbitration proceedings conducted between 1957-62 were biased against the landless, that they were held at all amounted to a recognition of the "squatter's" right to bring such claims. Over the last five years, however, squatter claims over permanent improvements have received rough treatment from landowners seeking to improve the value of their properties by insisting on vacant possession either before or soon after change of ownership.

26. Land Pricing

But the coastal land problem has become more than just a "squatter" problem. *The conduct* of land transactions in the area has become an important issue also. For apart from the fact that it is an obstacle to the resolution of the "squatter" problem, it has already become a major hindrance to land development in the area. For it is now clear that many of the people who have bought land within the ten-mile strip during the last seven years are primarily speculators. One result is that land prices have rocketed to such a level that very few people (and certainly not "squatters") can now afford to purchase. Although no accurate figures exist, we estimate that since 1972 the price of prime beach land per acre has gone up by more than 5,000 per cent. No attempt has so far been made not even by land control boards either to regulate or stabilize these prices. The basic problems of the control boards have been lack of clear statutory authority in the determination of prices, and political interference by buyers and sellers alike.

In or about 1974, an administrative directive was issued requiring all transactions involving first and second beach plots to receive presidential clearance, before they go to land control boards. This directive, however, has had little impact on land pricing particularly in Kwale District where *inter alia* it has been interpreted in such a way as to exclude former trustlands.

27. Summary

It is clear from what we have said in this Chapter that we are dealing with something more complex than a mere local problem. The nature and magnitude of landlessness and associated problems at the Coast are such that solutions can only be found in the overall context of Kenya's national land, agricultural and urban development policy. An attempt is made in the first part of the next Chapter to indicate what general guidelines are appropriate in this context.

CHAPTER III.—RECOMMENDED SOLUTIONS

A Some Guidelines for a National Policy

28. The Need for national guidelines on landlessness

We feel that policy guidelines on landlessness are necessary if only for the purpose of clarifying how future claims to this or any other nature might be dealt with. This is because there may still be some latent or actual claims in other parts of the country that could become problematic in the future. In addition there is real possibility that the policy of individualization of tenure in the former trustland areas will in the not too distant future lead to massive landlessness in many parts of the country. This may in turn aggravate the problem of urban landlessness.

29. A foundation for National Policy

We offer two guidelines that could serve as a foundation for a national policy on landlessness. Firstly, it is important to understand that landlessness *per se* is not necessarily a problem for the state. In the rural context it becomes only if a substantial proportion of the livelihood of a people is derived exclusively from agricultural or analogous land-based pursuits. Similarly, urban landlessness is a problem only if the residential tenure status of the people involved is insecure and their source of livelihood precarious. In other words realistic national policy should in our view concern itself primarily with *absolute landlessness* rather than with mere actual inability to produce evidence of ownership. This means that some criteria for isolating absolute landlessness from other analogous situations would have to be developed. Such criteria ought in our view to take account of (i) the extent to which a person is actually without agricultural or in the case of the urban landless, his residential status is insecure, or permanent access to such land elsewhere, (ii) his inability to acquire land in the area of his choice, and (iii) the extent to which he is dependent on the utilization of this own labour in agricultural or similar pursuits.

Secondly, national policy should take cognisance of the fact that the Kenya government has opted not only for the protection but also the expansion of the role of private property especially land in the economy. This means that there can be no guarantee that each Kenyan will have land in future. *Therefore short of radical changes in land policy even the problem of absolute landlessness cannot be solved permanently by making land available to the landless.* The coastal experience indicates clearly that quite soon there would be no land to distribute. There are, of course, ways of freeing up under utilized land such as through a policy of ceilings as to the maximum amount of land each individual can own. But these must be seen purely as short term measures. For belief in the sanctity of property is inconsistent with the proposition that every citizen who wants land should be able to get it free. More comprehensive approaches designed to generate relevant opportunities for survival will have to be found. We recommend that appropriate guidelines along these lines be formulated and incorporated into the next Five Year Development Plan.

30. Areas of Immediate Action

Certain steps would have to be taken before these and other appropriate guidelines can be of value to the formulation of concrete measures for the elimination or at least long-term containment of absolute landless-

ness. Firstly, all people claiming to be absolutely landless would have to be registered and their various cases evaluated in the light of national guidelines. Such an exercise would not be new. The creation of an office of a Commissioner of Squatters in 1965 was precisely for this purpose. We believe that a similar exercise is necessary particularly at the coast, and that it is one which the administration assisted by expert advice can handle even without the revival of an office of a special commissioner.

Secondly accurate knowledge of the amount of land available for re-distribution is urgently necessary. "Available land" in this context would include all land whether government or privately owned that is unoccupied, abandoned, mismanaged, undeveloped or underdeveloped in such circumstances as would justify state intervention. In order to identify such land we would require something more than an ownership register. We would need registers indicating not only who owns what interest in what land, but what the potential of that land is in relation to the optimal use system for the area, the extent to which the land is actually being so utilized, and the probable environmental effects of such use.

Thirdly, it is necessary that deliberate efforts be made to stabilize or even keep the lid on agricultural land prices. For otherwise any of the measures recommended below might become not only difficult to execute but simply futile. In the case of the coastal strip, stabilization of prices *per se* would not be effective. A complete ban on all transactions involving agricultural land may be the only viable alternative. We note that the President has the necessary power under S. 23 of the Land Control Act (Cap. 302 Laws of Kenya) to issue decrees to this effect.

B. Long Range Solutions

31. Relevance to the Coastal Problem

The guidelines and preliminary steps indicated above are of special relevance to the ten-mile strip in that the core of absolutely landless people both in the rural and urban areas is not difficult to identify. The compilation of a register of absolute landless and identification of land available for redistribution should therefore commence immediately. For although the specific recommendations we are about to make are based on past experience with land settlement in this country and our assessment of what would be acceptable to all parties concerned, we believe that their proper implementation would require greater statistical accuracy than has hitherto been the case. A proforma that could be used in this exercise is reproduced below:

PROFORMA FOR ASSESSMENT OF LANDLESSNESS AND LAND DEVELOPMENT

1. Land Registration No..... Location.....
2. Size..... Acres
3. Registered Owner
4. Present Occupier
5. Land Use

- 6. State whether Developed/undeveloped/Partially developed or Abandoned
- 7. Nature of Development
- 8. Intended Development
- 9. State if there are any landless people on the land
- 10. No. of Families

The first is that it depends on the willingness of landowners to sell. Although most of the Arab landowners interviewed said that they would sell provided the landless could raise the requisite money within a certain time, it was clear that on the contrary the new landowners were not at all willing. Secondly it was clear that landowners who were willing to sell were asking for prices which the landless could not really afford. In at least three cases in Kilifi District transactions had fallen through precisely on this ground.

33b. *Improving the Bargaining Position of the Landless*

These limitations can be removed in several ways. Firstly, Land Control Boards should be directed to ensure that transactions in agricultural land do not receive consent unless the landless residents have been given first refusal or until all their legitimate claims have been justly resolved. This will require revision of the 1969 Handbook for the Guidance of Land Control Boards which is the current official policy guideline available. Secondly, the bargaining position and financial credibility of the landless should be improved by organizing them into land-purchase co-operatives. Spontaneous movements in this direction are already in process in all the four districts under investigation. We recommend that these movements be strengthened and accelerated. Thirdly, the government through the relevant parastatals such as the Agricultural Finance Corporation, the Agricultural Development Corporation etc., should assist these co-operatives by making loans available to them on special terms for this purpose. For as the experience of the existing farm-purchase co-operatives at the Coast indicate, landless people by definition cannot raise the speculative prices which are being asked for by landlords.

32. *The need for caution and accuracy*

We are aware that an exercise of this kind can be subject of grave abuses. Enumerators often make fictitious entries, or give biased or favourable assessments depending on where their sympathies lie. Landlords might react to the exercise by cooking up development plans without any real intention of pursuing them in the future. And experience with resettlement in the Rift Valley in the 1960s indicate that an exercise of this kind may stimulate in-migration by people who in fact have land but who are anxious to cash in on the new frontier. That caution and accuracy is vital cannot therefore be over-emphasized. In particular those in charge of the operation should insist on authoritative data and expert assistance in the evaluation of agronomic and social information that are contemplated here. Where practicable enumerators should insist on or inspect documentary evidence available. And in order to avoid opportunism by people claiming to be absolutely landless, residence within the strip for a period of at least five years should be produced in addition to the criteria of absolute landlessness outlined in paragraph 29 above.

34. *Rural and Urban re-settlement Programmes*

We realize, however, that land purchase on a willing-buyer and willing-seller basis is likely to take a long time and in the final analysis, can only offer a partial solution to the problems we have identified. In view of this, we recommend that comprehensive resettlement programmes be undertaken at the Coast. Unlike those currently underway, we envisage programmes that would be restricted to landless people within the ten-mile strip only. For reasons given below we are of the view that except for urban settlements such programmes should be ones in which the acquisition of absolute titles on individual or group basis is ultimately possible.

33. *Landowners should sell to the landless only*

We believe that landless people within the ten-mile strip have a justifiable case to stay on the farms on which they now reside. As a matter of principle therefore these people should be given first priority whenever any such land comes into the market for sale. We were told that landless people in many farms were already collecting money for similar purposes.

34a. *Acquisition of land for a rural re-settlement programme*

Although land may not be readily available for re-settlement, we agree with the findings of the 1972 Presidential Committee that there are a number of ways in which the government can free land for a million acre scheme type programme at the Coast. Firstly, there is still some government land especially in Kilifi and Lamu Districts which should be turned over for this purpose. In this regard we noted with grave concern the rapidity with which government land in Lamu District is being parcelled out in long leases to private individuals and companies. We are of the view that this practice should be halted as a matter of urgency. Secondly, the Settlement Fund Trustees should of its own initiative purchase land which the landless cannot themselves afford. These would then be used for re-

33a. *Advantages and Limitations*

Allowing landless people to purchase land on which they are resident has the major advantage that it avoids the explosive issue of claims over permanent improvements. As a spontaneous exercise it also makes it unnecessary to argue over historical claims. But it has two serious limitations which must first be removed.

settlement in the normal way. Thirdly, all under-developed land within the strip should be freed for re-settlement through the issue of management orders under Agricultural Act (cap. 318). This procedure has been used before to acquire some 56,920 hectares mainly in the Highlands for similar purposes. Consequently we envisage no policy problems here. Fourthly, that the Commissioner of Lands should set in motion the machinery for repossession in cases of Government lands where the Grantees are in breach of the implied covenants as to developments. i.e. under section 33 of the Government Lands Act. The Committee notes this particular section is sparingly used. All in all these four methods should yield considerable amount of land for re-settlement in the rural areas.

34b. Tenure Arrangement

It was strongly urged mainly by administrative officers that tenure arrangements in respect of any new settlement schemes should be on the basis of Temporary Occupation Licences (TOLS) issued under the Government Lands Act (Cap. 280) or the Trust Land Act (Cap. 288) as is presently the case with the Lake Kenyatta and all trustland schemes all over the country. It was argued that this would ensure continuous governmental control over the use of settlement plots. We concede that governmental control especially during the initial stages of the organization of the programme, will be essential. But we think this can be achieved without resort to insecure tenure conditions such as the TOLS would impose. Besides, experience with TOLS throughout the country indicate that not only do they stifle farm-level initiative, they are also inconsistent with the mainstream of land tenure policy in this country namely that *security of tenure* is essential to development. We recommend that the programme we envisage be organized on the basis of absolute proprietorship under the Registered Land Act (Cap. 300) but that the grant of certificates of title be made subject to satisfactory completion of appropriate development conditions. We also recommend that as far as possible settlement plots be parcelled out in 4-8 hectare plots and issued to families, co-operatives, or analogous bodies on the basis of common or group ownership rather than to individuals on the basis of private title. These recommendations would ensure ultimate security for the landless without the danger of voluntary landlessness through easy resales in the future.

We further recommend that this programme be administered by the Settlement Fund Trustees (SFT) as is presently the case with older schemes. The SFT has the technical capacity and administrative experience to undertake this at fairly short notice.

34c. Compensation for Permanent improvements

A programme along the lines outlined above will most certainly involve the removal of many landless people from all over the strip to new sites. Past experience indicates that the people are unlikely to co-operate unless just compensation is made in respect of their permanent improvements especially cashew and coconut trees. We are convinced that the landless have a legitimate right to be compensated by the landowners whose land they ultimately vacate. Consequently, we feel that before any removals take place all claims against the landowners should be recorded and adjudicated by an independent state-established tribu-

nal. Pending the establishment of Agricultural Land Tribunals as outlined below, we recommend that a committee of senior administrative and technical officers, county councillors and representatives of land-owners and the landless be set up in each administrative division to adjudicate these claims. Compensation should be awarded at rates amounting to not less than those recommended in 1975 in respect of plot 102 Maziwani Malindi by the Office of the Assistant Agricultural Officer viz:

	<i>At Sh.</i>
	<i>each</i>
(i) Improved Mangoes	200
(ii) Local Mangoes	75
(iii) Local cashew	100
(iv) Local coconuts	75
(v) Tall citrus	75
(vi) Kapoke	20
(vii) Bananas and Pawpaw	10
(viii) Guava and Apples	40

Permanent houses could be compensated at open market or cost prices.

34d. Acquisition of land for urban re-settlement programmes

The acquisition of land for urban resettlement, however, requires a different strategy. or urban development raises policy considerations that go beyond the need to resettle landless people *per se*. In this connection we agree entirely with the views expressed by officers of Mombasa Municipality that urban land on which landless people reside together with any permanent improvements on them should be compulsorily acquired under the Land Acquisition Act (cap. 295) and regranted to the Municipality or other urban centres on the usual 99 year lease for the resettlement of the landless. Depending on the zoning patterns of various urban centres we recommend that land so freed should be used for site and service schemes or other distributive forms of secured sub-tenancies. In principle we are inclined to the view that leasehold tenure is a much more effective tool for urban development than absolute proprietorships.

35. Agricultural Tenancy Legislation

Although land resettlement if properly pursued will substantially reduce landlessness and associated problems at the Coast, these cannot be completely eliminated. In particular occupation and use of land on tenancies or tenant-like conditions are likely to remain and even expand. Indeed the incidence of tenancy in agriculture is on the increase throughout the country. With this in mind we strongly recommend that immediate steps be taken to draft comprehensive legislation governing landlord and tenant relations in agriculture.

35a. The Objectives of Agricultural Tenancy Legislation

When the Registered Land Act (RLA) (Cap. 300) was passed in 1963, it was contemplated that separate legislation for the regulation of agricultural tenancies would be passed (see ss.46, 53 and 54 of the RLA). Nothing of this kind has occurred with the result that unlike his urban counterpart, the agricultural tenant remains completely at the mercy of the landlord. *The primary objective of enacting an agricultural tenancy legislation therefore would be to redress this imbalance and thus ensure stability in landlord and tenant relations through an arrangement that would guarantee to the former reasonable returns for the use of his land and to the latter security of occupancy, controlled rental conditions, and fair compensation for unexhausted improvements at the termination of lease.* For it is unlikely that a tenant on unsecured terms would be anxious to develop agricultural land resources. Indeed many farms at the Coast are underdeveloped precisely for this reason.

35b. The form which legislation should take

The experience with agricultural tenancy legislation in countries such as Argentina, Brazil, Denmark, India, Sweden, Egypt, the United Kingdom and Uruguay among others, indicate that the best legislative form is one that enables the tenant "to climb up the agricultural ladder" as it were and eventually become an owner/cultivator. This can be achieved *inter alia* by granting to the tenant a right of pre-emption in the case of sale of the leased property or automatic enfranchisement after a certain number of successive renewals. This has the major advantage of minimizing the possibility of tenant exploitation through tenancy arrangements. We recommend that similar provisions be incorporated in the legislation we envisage.

35c. Other Essential Provisions

We further recommend that the following provisions should also be incorporated in the legislation namely that:—

- (i) all tenancy agreements be reduced to writing and filed with an appropriate authority;
- (ii) all tenancy agreements be for a minimum period of between three and twelve years or for a term

equivalent to the period it would take the tenant to complete specific agricultural operations whichever is convenient;

- (iii) renewals of the term be automatic except where the landlord exercises a right of resumption in the manner explained below; and
- (iv) on the death of the tenant his heirs except for good cause be entitled to inherit the tenancy.

35d. The Establishment of Agricultural Land Tribunals

No tenancy law however comprehensive can offer effective protection to the tenant unless it is buttressed by an efficient administrative machinery. We recommend therefore that the legislation we envisage should provide for the establishment of Agricultural Land Tribunals and an efficient inspectorate to administer all matters arising from tenancy agreements. In particular such tribunals should have the power *inter alia* to fix rents, authorize resumptions and forfeitures by landlords, issue certificates of bad husbandry, approve quit notices, assess compensations for unexhausted improvements at termination of leases, and the settlement of general disputes between landlords and tenants. The tribunals should be established at the local divisional level so as to ensure easy accessibility for both landowners and prospective tenants.

36. Supportive Programme

But as we have indicated above the specific recommendations we have made must be supported by programmes designed to stimulate the entire economy of the country in other directions. In particular more effort should be directed towards employment generation schemes in the rural areas and the improvement of the informal sector within the urban areas. These have been the subject of a previous Select Committee of this House (see the Report of the Select Committee on Unemployment chaired by Hon. G. N. Mwicigi) and a study by the International Labour Organization in 1970 and 1972 respectively. The conclusions reached by these inquiries are in our view still as valid today as they were then. We associate ourselves fully with them.

CHAPTER IV.—CONCLUSIONS AND SUMMARY

37. *Conclusions*

In conclusion we would like to reiterate several important issues which run throughout our analysis. The first is that the land tenure and associated problems of the ten-mile strip will deteriorate if immediate steps are not taken to solve them. For it is evident that the social and economic institutions of the indigenous Coastals have been fundamentally disrupted over the past one hundred and thirty seven years through slavery, colonialism and lack of a comprehensive land distribution policy in the post-colonial period. This, in our view, is politically undesirable. Secondly, the solutions we have suggested here and any others that the government might come up with must be set in a wider national socio-economic policy framework. For ultimately land re-distribution programmes cannot solve the problem of landlessness.

38. *Summary of Recommendations*

Our recommendations are organized around three major strategies—

i. *Policy Guidelines*

Under this heading we have recommended that—

1. national guidelines on landlessness be drawn up for incorporation into the 1979/83 Development Plan.
2. such guidelines should *inter alia* take account of specific economic and social criteria of absolute landlessness, and national land policy.

ii. *Areas of Immediate Action*

Under this heading we have recommended that—

3. a register of absolutely landless people be drawn up—certainly at the Coast—by administrative officers.
4. A complete cadastral (as opposed to an ownership) register be drawn up so as to enable the government to identify land available for redistribution.
5. Agricultural land prices be stabilized and in the case of the Coast transactions in such land be halted altogether so as to prevent land potentially available for redistribution from being pushed beyond what the state or the landless can afford.

(iii) *Long-range solutions*

Under this heading we have made three types of recommendations of relevance to the Coast i.e. that—

6. landowners should be encouraged or even induced to sell to the landless only; in which event—

(a) Land Control Boards in the area should be directed to ensure that no transactions in agricultural land are approved unless the landless have been given first refusal or until their claims have been justly resolved.

(b) The bargaining position and financial credibility of the landless be improved by organizing them into land-purchase co-operatives.

(c) The government through its relevant parastatals should assist these co-operatives with loans *on special terms*.

7. Comprehensive programmes to be administered by the Settlement Fund Trustees or Municipal Authorities whichever is appropriate be undertaken in rural and urban areas for the resettlement of the landless on unalienated government land, land acquired by the Settlement Fund Trustees on a willing buyer, willing seller basis or compulsorily acquired by the Commissioner as mismanaged, underdeveloped or undeveloped land; in which event:—

(a) priority in the new settlement schemes should be limited to landless people within the ten-mile strip only;

(b) except for the urban areas, the schemes be organized on the basis of absolute proprietorship under the Registered Land Act (Cap. 300) rather than on the basis of Temporary Occupation Licences under the Government Lands Act (Cap. 280) or the Trust Land Act (Cap 288);

(c) on completion of appropriate development conditions certificates of title to settlement plots be issued to families, co-operatives or analogous bodies on the basis of common or group ownership rather than to individuals on the basis of private title;

(d) a committee of senior administrative and technical officers, M.Ps, county councillors and local representatives be set up to deal with the question of compensation for unexhausted improvements made by the landless; and

(e) urban resettlement programmes be organized with due regard to municipal (or general urban) development priorities, and as far as possible should take the forms of site and services schemes or other distributive forms of secured sub-tenancies.

8. Immediate steps be taken to draft comprehensive legislation governing landlord and tenant relations in agriculture. In particular such legislation should provide for—

- (a) mechanism whereby the tenant can climb up the agricultural ladder and eventually become an owner/cultivator through either the grant of a right of pre-emption or automatic enfranchisement after a certain period of occupancy;
- (b) registry of tenancy agreements for purposes of authentication and effective enforcement;
- (c) automatic renewal (or statutory tenancy after the original term) except in special circumstances;
- (d) heritability of tenancy on the death of the original owner; and
- (e) the establishment of Agricultural Land Tribunals at the divisional level to supervise the implementation of the legislation and to settle disputes arising from relations created by tenancy agreements. In particular such tribunals should be empowered to fix rents, authorize resumptions and forfeitures by landlords, approve quit notices and

assess compensation for unexhausted improvements at termination of lease.

39. *Constitutional and Political Questions*

We are convinced that the recommendations set out above are feasible within the constitutional and political context of this country. In this regard we have fully taken into account the argument among many landlords that their rights under s. 75 of the Constitution should not be violated. We think, however, that that section neither displaces the power of the State to regulate land use, nor ousts the legislative power of parliament in matters of national importance such as this. We are aware, however, that some of these recommendations may run into political problems especially in view of the land ownership structure examined in paragraph 20 above. Our only hope is that personal economic advantages will not be allowed to frustrate national goals.

APPENDICES: MINUTES OF THE MEETINGS OF THE SELECT COMMITTEE

MINUTES OF THE FIRST MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON THURSDAY, 26th MAY, 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. P. E. M. IVUTI, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. M. KUBO, M.P.

THE HON. SHARRIFF NASSIR, M.P.

In Attendance:

MR. L. J. NGUGI, Clerk of the National Assembly.

MR. J. K. MASYA, Clerk Assistant, National Assembly.

Minute 1—Programme.—The Committee discussed in great detail the resolution of the House on the matter and agreed to:—

— postpone the date for the closure of submission of memorandum by the members of the public agreed that arrangements be made for the Committee to visit the districts affected when the House goes on recess next; that list of those who can assist on that issue, e.g. recorder of titles, be compiled and that each Member of the Committee who had any names to suggest would submit them to the Clerk.

— visit and collect evidence from the members of the administration and the public in the districts of Mombasa, Kwale, Kilifi, Malindi and Lamu.

Minute 2—Adjournment.—The meeting was adjourned at 11.30 a.m. until a date to be announced later
Confirmed.

M. MATHAI,
Chairman.

20th July, 1977.

MINUTES OF THE SECOND MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON WEDNESDAY, 20th JULY, 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. M. KUBO, M.P.

THE HON. J. K. YERI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. K. KINYANJUI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

Minute 3—Confirmation of Minutes.—The minutes of the last meeting of the Committee were approved by the Members present and confirmed by the Chairman.

Minute 4—The trip to the Coast.—The Committee discussed the forthcoming visit to the Coast Province and agreed as follows:—

— That they would be visiting the district of Mombasa on Thursday 11th August, 1977 and that the date would be spent on general discussions with the Provincial Commissioner for the area. Then the next two days, that is 12th and 13th August, would be spent collecting evidence from the members of the public in the district.

— That the Committee would visit and collect evidence from Kwale district on 15th and 16th August.

— That the Committee would repeat the same exercise in Kilifi district on 17th and 18th August; Malindi sub-district on 19th and 20th August and Lamu district on 22nd and 23rd August, 1977.

Minute 5—Confidentiality of Evidence.—The Chairman drew the attention of the Members of the Committee to Standing Order No. 156 which requires that evidence or documents received by the Committee remain confidential until presented to the House. It was felt that certain Members of the Committee were discussing whatever was transpiring within the Committee with outsiders. The Chairman emphasized that this tendency must stop.

Minute 6—Adjournment.—The meeting was adjourned at 11.15 a.m. until Wednesday 27th July, 1977 at 10.30 a.m.

Confirmed.

M. MATHAI,
Chairman.

27th July 1977.

MINUTES OF THE THIRD MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON WEDNESDAY, 27th JULY, 1977 AT 10.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. SHARRIFF NASSIR, M.P.

In Attendance:

MR. L. J. NGUGI, Clerk of the National Assembly.
 MR. J. K. MASYA, Clerk Assistant, National Assembly.

Minute 7—Confirmation of Minutes.—The minutes of the last meeting of the Committee were approved by the Members present and confirmed by the Chairman.

Minute 8—The trip to the Coast.—The Committee discussed the administrative steps already taken to make arrangements for the Committee's forthcoming visit to the Coast Province. It was agreed that the procedure to be followed would be worked out administratively.

Minute 9—Other Programme.—The Committee discussed and agreed that the following persons would also be requested to appear before them at a later date:— Mr. Okoth-Ogendo and Dr. A. I. Salim both of the University of Nairobi, Mr. George Ndoria of the Ministry of Lands and Settlement and current Recorder of Titles; and Mr. K. M. Maina, an advocate specializing in land law.

The Committee also requested that the Commissioner of Lands be requested to supply details of land and plots along the strip.

Minute 10—Adjournment.—The meeting adjourned at 11.15 a.m. until Tuesday 9th August 1977 at 10.30 a.m.

Confirmed.

M. MATHAI,
Chairman.

9th August, 1977.

MINUTES OF THE FOURTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON TUESDAY, 9th AUGUST, 1977 AT 10.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. N. K. NGALA, M.P.
 THE HON. P. E. M. IVUTI, M.P.

In Attendance:

MR. L. J. NGUGI, Clerk of the National Assembly.
 MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 11—The Committee's visit to the Coast.—The Committee was informed that the Provincial Commissioner, Coast Province, had agreed to appear before the Committee on 11th August, 1977 and further that the Provincial Administration would render any assistance possible during the Committee's visit there.

Minute 12—Evidence.—It was agreed that the following persons would appear before the Committee on 6th September, 1977:—

Mr. Okoth-Ogendo and Dr. A. I. Salim, both of the University of Nairobi; the Commissioner of Lands together with Mr. George Ndoria, the Recorder of Titles and Mr. K. M. Maina, an advocate.

Minute 13—Adjournment.—The meeting adjourned at 11.15 a.m. until Thursday, 11th August, 1977 at 9.00 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE FIFTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN MOMBASA ON 11th AUGUST, 1977 AT 9.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. P. E. M. IVUTI, M.P.

In Attendance:

MR. L. J. NGUGI, Clerk of the National Assembly.
 MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 14—Visit to the Provincial Commissioner, Coast.—The Committee called on the P.C. Coast, Mr. E. M. Mahihu, who accompanied by his deputy, Mr. Mwakisha briefed the Committee on the historical background and the problems of land tenure prevailing along the 10-mile Coastal strip.

Minute 15—Courtesy call on the Chairman of the Mombasa Municipal Commission.—The Committee called on the Chairman of the Mombasa Municipal Commission, the Hon. Oselu-Nyalik, M.P., who extended his welcome and assured the Committee that he would help where possible.

Minute 16—Adjournment.—The meeting adjourned at 12.30 p.m. until tomorrow Friday, 12th August, 1977 at 9.00 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE SIXTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN THE MUNICIPAL HALL, MOMBASA ON FRIDAY, 12th AUGUST, 1977 AT 9.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. E. M. IVUTI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 18—Evidence.—The Committee heard and collected evidence from the Hon. Said Hemed Said, M.P. accompanied by four other witnesses.

Minute 19—Adjournment.—The meeting adjourned at 12.15 p.m. until 2.00 p.m.

Afternoon Meeting.—The Committee met at 2 p.m.

Present.—All those present during the morning sitting were also present.

In attendance.—The same as the morning sitting.

Minute 20—Evidence.—The Committee heard and collected evidence from the District Commissioner Mombasa, Mr. P. J. Mwangi.

Minute 21—Adjournment.—The meeting adjourned at 4.15 p.m. until tomorrow Saturday 13th August, 1977 at 9.00 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

Minute 17—Procedure to be followed.—The Committee resolved that the members of the public would be admitted during the hearing of an evidence. However, it was agreed that such evidence was not for publication by the press.

7th September, 1977.

MINUTES OF THE SEVENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN THE MUNICIPAL HALL, MOMBASA, ON SATURDAY, 13th AUGUST, 1977 AT 9.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 22—Evidence.—The Committee heard and collected evidence from Mr. D. K. T. Kashero accompanied by six other witnesses.

Minute 23—Adjournment.—The meeting adjourned at 12.15 p.m. until Monday 15th August, 1977 at 9.00 a.m. in Kwale.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE EIGHTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN KWALE ON MONDAY, 15th AUGUST, 1977 AT 9.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 24—Visit to the D.C. Kwale.—The Committee called on the District Commission, Kwale, Mr. Nyarangi, who briefed them on the issue of land tenure in the district.

Minute 25—Evidence.—The Committee heard and collected evidence from Councillor Abdalla Mwatsuma of Ngomeni location accompanied by several other witnesses.

Minute 26—Adjournment.—The meeting adjourned at 1.30 p.m. until 2.30 p.m.

Afternoon Meeting.—The Committee met at 2.30 p.m.

Present.—All those present during the morning sitting were also present.

In Attendance.—The same as the morning sitting.

Minute 27—Evidence.—The Committee heard and collected evidence from the following:—

COUNCILLOR ABDALLA MOYO of Waa Location;

COUNCILLOR HAMISI B. NYAMA, Chairman of the County Council and accompanied by the Clerk to Council;

COUNCILLOR JUMA MKWANDIKA on behalf of Diani Location;

COUNCILLOR J. H. MATSITSA on behalf of Tsimba Location;

COUNCILLOR EDWARD YAMA on behalf of Kilibole Location;

All these Councillors were accompanied by many other witnesses.

Minute 28—Adjournment.—The meeting adjourned at 6.30 p.m. until tomorrow Tuesday, 16th August, 1977 at 9.00 p.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE NINTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COUNTY HALL, KWALE, ON TUESDAY 16th AUGUST, 1977, AT 9.15 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. K. KINYANJUI, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

THE HON. M. KUBO, M.P.

THE HON. C. C. MURGOR, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 29—Evidence.—The Committee heard and collected evidence from Mr. Jacob Mutunga from Kigombero farm and accompanied by others; Councillor Mbwana Rashid on behalf of Msambweni location and the Clerk to the County Council of Kwale, Mr. Ngumi, on behalf of the Council as a whole.

Minute 30—Adjournment.—The meeting adjourned at 12.45 p.m. until 2.00 p.m.

Afternoon Sitting.—The Committee met at 2.00 p.m.

Present.—All those present during the morning sitting were also present with the exception of the Hon. Mathai, M.P.

In Attendance.—The same as in the morning sitting.

Minute 31—Evidence.—The Committee heard and collected evidence from the District Commissioner, Kwale, Mr. Nyarangi, and thereafter resumed hearing and collecting evidence from the Clerk to Kwale County Council.

Minute 32—Adjournment.—The meeting adjourned at 4.00 p.m. until tomorrow Wednesday 17th August, 1977 at 9.00 a.m. in Kilifi township.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE TENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN KILIFI TOWN ON WEDNESDAY, 17th AUGUST, 1977 AT 9.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. C. C. MURGOR, M.P. (*Ag. Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. N. K. NGALA, M.P.

THE HON. K. KINYANJUI, M.P.

THE HON. M. KUBO, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. SHARRIFF NASSIR, M.P.

Apology.—Apology for being absent was received from the Hon. M. Mathai, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 33—Election of Acting Chairman.—In the absence of the Chairman, the Committee nominated the Hon. C. C. Murgor, M.P. to act as Chairman.

Minute 34—Call on the District Commissioner, Kilifi.—The Committee called on the District Commissioner, Kilifi Mr. Shuria, who briefed them on the problems of squatters and land tenure system in the district. The Committee then proceeded to the Kilifi County Hall to hear and collect evidence from the members of the public.

Minute 35—Evidence.—The Committee heard and collected evidence from the following representative groups of the squatters who were led by the Hon. M. Mboja, M.P.:—

Tezo-Roka location, Kilifi Land Development Company, Kaloleni location, Takaungu location, Mtwapa location and Junju location. The spokesmen for these groups were accompanied by hundred others.

Minute 36—Adjournment.—The meeting adjourned at 12.45 p.m. until 2.00 p.m.

Afternoon Meeting.—The Committee met at 2.00 p.m.

Present.—All those present during the morning sitting were also present.

In Attendance.—The same as in the morning sitting.

Minute 37—Evidence.—The Committee resumed hearing and collecting evidence from the same groups that were represented during the morning sitting.

Minute 38—Adjournment.—The meeting adjourned at 5.00 p.m. until tomorrow Thursday 18th August, 1977 at 9.00 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE ELEVENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN KILIFI COUNTY HALL ON THURSDAY, 18th AUGUST, 1977, AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. C. C. MURGOR, M.P. (*Ag. Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. N. K. NGALA, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.

Apology.—Apology for being absent was received from the Hon. M. Mathai, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 39—Evidence.—The Committee continued to hear and collect evidence from the various groups as represented yesterday. The Committee also received a written memorandum from the Vice-Chairman of Kilifi County Council, Mr. Johnstone Muramba, on behalf of the Council.

Minute 40.—The meeting adjourned at 12.15 p.m. until tomorrow Friday 19th August, 1977 at 9.00 a.m. at Malindi.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE TWELFTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN MALINDI TOWN HALL ON FRIDAY, 19th AUGUST, 1977 AT 9.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. C. C. MURGOR, M.P.
 THE HON. J. K. YERI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. N. K. NGALA, M.P.

Apology.—Apology for being absent was received from the Hon. S. M. B. Mudavadi, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 41—Evidence.—The Committee heard and collected evidence from the spokesman of the groups from North and South Malindi constituencies who were

accompanied by two hundred and seventy-four others.

Minute 42—Adjournment.—The meeting adjourned at 12.45 p.m. until 2.00 p.m.

Afternoon Meeting.—The Committee met at 2.15 p.m.

Present.—All those present during the morning sitting were also present.

Minute 43—Evidence.—The Committee resumed to hear and collect evidence from the representatives of North and South Malindi.

Minute 44—Visit to Farms where squatters were being evicted.—The Committee visited several farms where squatters were being evicted by the land owners to acquaint themselves with the squatter plight at first hand.

Minute 45—Adjournment.—The meeting adjourned at 5.30 p.m. until tomorrow Saturday 20th August, 1977 at 9.00 a.m.

Confirmed

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE THIRTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN MALINDI TOWN HALL ON SATURDAY, 20th AUGUST, 1977 AT 9.15 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. J. K. YERI, M.P.
 THE HON. N. K. NGALA, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. M. KUBO, M.P.
 THE HON. K. KINYANJUI, M.P.

Apology.—Apology for being absent was received from the Hon. S. M. B. Mudavadi, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 46—Evidence.—The Committee heard and collected evidence from eight "Malindi Elders" representing the interests of Landowners. The Committee also heard and collected evidence from the Hon. F. B. Tuva, the M.P. for Malindi South and an Assistant Minister for Finance and Planning.

Minute 47—Adjournment.—The meeting adjourned at 1.45 p.m. until Monday, 22nd August, 1977 at 9.00 a.m. at Lamu.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE FOURTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN LAMU ON MONDAY, 22nd AUGUST, 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. M. KUBO, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 48—Visit to the District Commissioner's Office.—The Committee first called on the District Commissioner's Office, Lamu where they were briefed by the District Officer One, Mr. F. G. Chege, on the land tenure system in the district on behalf of the District Commissioner. The Committee then proceeded to Lamu County Hall.

Minute 49—Evidence.—The Committee heard and collected evidence from the Chairman of Lamu County Council, Mr. Fadhi Maawy, and three other witnesses.

Minute 50—Adjournment.—The meeting adjourned at 12.30 p.m. until 2.00 p.m.

Afternoon Meeting.—The Committee met at 2 p.m.

Present.—All those present during the morning sitting were also present.

In Attendance.—The same as in the morning sitting.

Minute 51—Evidence.—The Committee heard evidence from one witness.

Minute 52—Adjournment.—The meeting adjourned at 3.00 p.m. until tomorrow Tuesday, 23rd August, 1977 at 9.00 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE FIFTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN LAMU ON TUESDAY, 23rd AUGUST, 1977 AT 9.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. M. KUBO, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 53—Visit to Lake Kenyatta Settlement Scheme.—The Committee visited Lake Kenyatta Settlement Scheme accompanied by local Administration Officials. They witnessed the progress being made by the new settlers to develop the area.

Minute 54—Adjournment.—The meeting adjourned at 4.00 p.m. until tomorrow Wednesday 24th August, 1977 at 9.00 a.m. in Mombasa.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

MINUTES OF THE SIXTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN MOMBASA ON WEDNESDAY 24th AUGUST, 1977 AT 9.15 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. M. KUBO, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

The Committee then proceeded to the Municipal Hall.

Minute 56—Evidence.—The Committee heard and collected evidence from Mr. R. S. Nayer and Mr. K. V. Patel, Chief Valuer and Chief Planning Officer respectively, representing and Municipal Commission.

The Committee also heard and collected evidence from the Hon. S. Nassir in his capacity as the M.P. for Mombasa Central.

Minute 57—Adjournment.—The meeting adjourned at 12.30 p.m. until Tuesday 6th September, 1977 at 10.00 a.m. in Nairobi.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

Minute 55—Visit to Lands Office, Mombasa.—The Committee visited the Recorder of Titles, Mombasa, Mr. A. O. Oyalo, who gave them explanation in matters pertaining to issuing of land title deeds.

7th September, 1977.

MINUTES OF THE SEVENTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON TUESDAY, 6th SEPTEMBER, 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. C. C. MURGOR, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. K. KINYANJUI, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. N. K. NGALA, M.P.
 THE HON. M. KUBO, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 58—Appearance of Witness before the Committee.—The Committee reversed an earlier decision to invite Mr. K. M. Maina, and decided that since similar evidence would be offered by others, then there was no need to invite him.

Minute 59—Evidence.—The Committee heard and collected evidence from Dr. A. I. Salim, a Senior Lecturer in History at the University of Nairobi.

Minute 60—Adjournment.—The meeting adjourned at 12.45 p.m. until 2.30 p.m.

Afternoon Meeting.—The Committee met at 2.30 p.m.

Present.—All those present during the morning sitting were also present with the exception of the Hon. N. K. Ngala, M.P.

In Attendance.—The same as in the morning sitting.

Minute 61—Evidence.—The Committee heard and collected evidence from Mr. H. W. Okoth-Ogendo, a lecturer on land law at the University of Nairobi.

The Committee decided that Mr. Okoth-Ogendo should appear before them again on Thursday 8th September, 1977 at 2.30 p.m.

Minute 62—Adjournment.—The meeting adjourned at 3.45 p.m. until tomorrow Wednesday 7th September, 1977 at 10.30 a.m.

Confirmed.

C. C. MURGOR,
Ag. Chairman.

7th September, 1977.

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MINUTES OF THE EIGHTEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON WEDNESDAY, 7th SEPTEMBER, 1977 AT 10.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. C. C. MURGOR, M.P. (*Ag. Chairman*)
 THE HON. J. K. YERI, M.P.
 THE HON. S. M. B. MUDAVADI, M.P.
 THE HON. P. C. OLOO-ARINGO, M.P.
 THE HON. SHARRIFF NASSIR, M.P.
 THE HON. N. K. NGALA, M.P.
 THE HON. M. KUBO, M.P.

Apology.—Apology for being absent was received from the Hon. M. Mathai, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.
 MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 63—Confirmation of Minutes.—Minutes of the last fourteen meetings were approved by the Members present and confirmed by the Ag. Chairman.

Minute 64—Evidence.—The Committee was presented with a paper on the historical background to the land issue at the Coast prepared by Mr. J. K. Masya, Clerk Assistant.

Minute 65—Adjournment.—The meeting adjourned at 11.45 a.m. until tomorrow Thursday 8th September, 1977 at 2.00 p.m.

Confirmed.

M. MATHAI,
Chairman.

8th November, 1977.

MINUTES OF THE NINETEENTH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON THURSDAY 8th SEPTEMBER, 1977 AT 2.00 p.m.

Present.—The following Members of the Committee were present:—

- THE HON. M. MATHAI, M.P. (*Chairman*)
- THE HON. J. K. YERI, M.P.
- THE HON. C. C. MURGOR, M.P.
- THE HON. S. M. B. MUDAVADI, M.P.
- THE HON. P. C. OLOO-ARINGO, M.P.
- THE HON. SHARRIFF NASSIR, M.P.
- THE HON. N. K. NGALA, M.P.
- THE HON. M. KUBO, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 66—Evidence.—The Committee heard further evidence from Mr. H. W. Okoth-Ogendo and received clarification on points raised in a paper that he had earlier presented to the Committee.

Minute 67—Adjournment.—The meeting adjourned at 3.30 p.m. until a date to be announced later.

Confirmed.

M. MATHAI,
Chairman.

8th November, 1977.

MINUTES OF THE TWENTIETH MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON TUESDAY 8th NOVEMBER 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

- THE HON. M. MATHAI, M.P. (*Chairman*)
- THE HON. J. K. YERI, M.P.
- THE HON. S. M. B. MUDAVADI, M.P.
- THE HON. P. C. OLOO-ARINGO, M.P.
- THE HON. SHARRIFF NASSIR, M.P.
- THE HON. N. K. NGALA, M.P.
- THE HON. M. KUBO, M.P.
- THE HON. P. E. M. IVUTI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 70.—The meeting adjourned at 12.15 p.m. until 2.15 p.m.

Afternoon Meeting.—The Committee met at 2.15 p.m.

Present.—All those present during the morning sitting were also present with the exception of the Hon. N. K. Ngala, M.P.

In Attendance.—The same as in the morning sitting.

Minute 71—Evidence.—The Committee heard and collected evidence from Mr. J. G. Kibe, Permanent Secretary, Ministry of Lands and Settlement, who was accompanied by Mr. J. R. Njenga, Commissioner of Lands, Mr. P. W. Kariuki, Assistant Commissioner of Lands and Mr. B. C. Murage, Chief Registrar of Titles.

Minute 72—Adjournment.—The meeting adjourned at 5.00 p.m. until tomorrow Wednesday 9th November, 1977 at 10.00 a.m.

Confirmed.

M. MATHAI,
Chairman.

9th November, 1977.

Minute 68—Confirmation of Minutes.—The Minutes of the last two meetings were approved by the Members present and confirmed by the Chairman.

Minute 69—Evidence.—The Committee heard and collected evidence from Mr. G. K. Kinyua, Deputy Director of Settlement who was accompanied by Mr. R. D. G. Wachira, Estates Manager for the Department.

MINUTES OF THE TWENTY FIRST MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON WEDNESDAY, 9th NOVEMBER, 1977 AT 10.00 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. J. K. YERI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

THE HON. P. E. M. IVUTI, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

Minute 73—Confirmation of Minutes.—Minutes of the last meeting held on 8th November, 1977 were approved by the Members present and confirmed by the Chairman.

Minute 74—The next phase of the programme
(a) The Committee deliberated on the next phase of their programme and agreed that the Secretariat should seek the assistance of an expert on land law to assist in drafting a draft report for Committee.

(b) They also agreed that the format of the draft report should follow this sequence: general introduction, review of evidence received, the facts as required by the resolution, recommendations and conclusion.

(c) They also directed that the Secretariat should have the draft report ready by 1st December, 1977.

Minute 75—Adjournment.—The meeting adjourned at 11.45 until a date to be announced later.

Confirmed.

M. MATHAI,
Chairman

27th April, 1978.

MINUTES OF THE TWENTY SECOND MEETING OF THE SELECT COMMITTEE TO PROBE THE ISSUE OF LAND OWNERSHIP ALONG THE TEN-MILE COASTAL STRIP HELD IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS ON THURSDAY 27th APRIL, 1978 AT 10.30 a.m.

Present.—The following Members of the Committee were present:—

THE HON. M. MATHAI, M.P. (*Chairman*)

THE HON. C. C. MURGOR, M.P.

THE HON. J. K. YERI, M.P.

THE HON. S. M. B. MUDAVADI, M.P.

THE HON. SHARRIFF NASSIR, M.P.

THE HON. N. K. NGALA, M.P.

THE HON. P. C. OLOO-ARINGO, M.P.

In Attendance:

MR. J. K. MASYA, Clerk Assistant, National Assembly.

MR. S. W. NDINDIRI, Clerk Assistant, National Assembly.

Minute 73—Confirmation of Minutes.—Minutes of the last meeting held on 9th November, 1977 were approved by the Members present and confirmed by the Chairman.

Minute 74—Other matters arising.—The Committee deliberated for a while on the draft report and agreed to suspend the sitting until 12.00 noon to give more time to those Hon. Members who might not have seen the draft report to go through it.

Minute 75—Reconvening of the Sitting.—The sitting of the Committee reconvened at 12.00 noon.

Minute 76—Adoption of the Draft Report.—After collectively going through the draft report the Committee adopted it unanimously.

Minute 77—Adjournment.—The Committee adjourned sine die at 12.30 p.m.