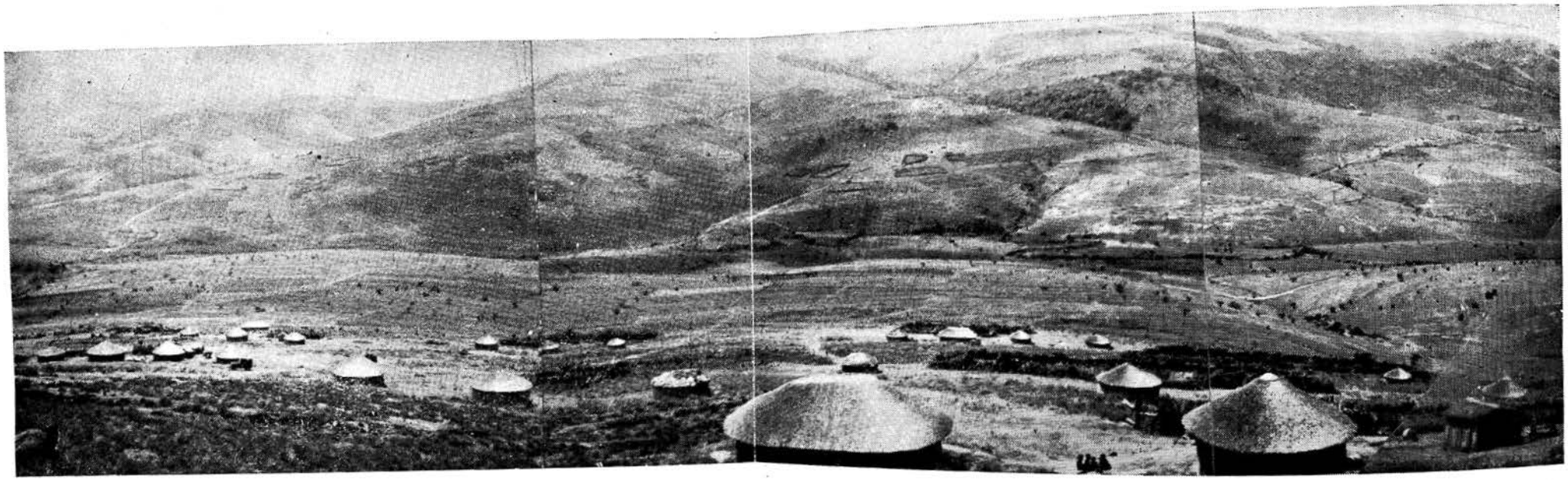


Photograph by R. Lindsay-Robb.

Panorama of Chatha Village from beacon at South-West hilltop, showing extensive cultivation west of the Chatha River and on the opposite bank scattered lands and huts on steep slopes. Hamlet in foreground.

KEISKAMMAHOEK RURAL SURVEY

VOLUME IV

LAND TENURE

By

M. E. ELTON MILLS

and

MONICA WILSON

PIETERMARITZBURG
SHUTER AND SHOOTER
1952

KEISKAMMAHOEK RURAL SURVEY

IN FOUR VOLUMES

Volume I	The Natural History of the Keiskammahoek District.
Volume II	The Economy of a Native Reserve.
Volume III	Social Structure.
Volume IV	Land Tenure.

The National Council for Social Research initiated and financed a comprehensive Rural Survey of the Keiskammahoek District, a Native Reserve in the Ciskei. This survey, which was directed by Professor Lindsay Robb, covered a number of different aspects of which the studies in this volume form a part.

Acknowledgment is made of the financial assistance given by the National Council for Social Research both in the conduct of the Survey itself and in the publication of this Report. Opinions expressed and conclusions reached are, however, those of the authors, and are not to be regarded as being an expression of the views of the National Council for Social Research.

Printed in South Africa by The Natal Witness Limited, Pietermaritzburg

PREFACE

The field-work on which this report is based was done by Mr. M. E. Elton Mills between October 1949 and July 1950. At the time Mr. Mills was a member of the Native Affairs Department, but he was seconded to the Keiskammahoek Rural Survey and paid by it. Mr. Mills has spoken Xhosa from childhood and had some knowledge of the area before beginning work. I have been responsible for planning the investigation and revising the original report. We were indebted to Mr. S. Skosana for a preliminary report on land tenure in Keiskammahoek and to Mrs. Fordyce (Miss Helen Scroggie) for a bibliography.

The detailed material on land tenure has been published as a separate report because it is bulky and specialized, but it is intended to be read along with Volumes II and III of the Keiskammahoek Rural Survey which deal with the economy and social structure of the district.

MONICA WILSON

Rhodes University,
April, 1951.

ERRATA

Page x Map II read Upper and Lower Rabula.
Map III read Burnshill Village.

CONTENTS

Chapter I

INTRODUCTORY

(*a*) THE PROBLEM

In the Keiskammahoek District of the eastern Cape Province, land has been held by Xhosa and Mfengu people under three different types of tenure for almost a hundred years, and a fourth type of tenure has recently been introduced. Freehold and quitrent holdings exist side by side with land held under communal tenure, and since 1936 land acquired by the South African Native Trust has been allocated on conditions differing from the older communal system. The district therefore offers an admirable field for observing the social and economic effects of these different types of land tenure, but hitherto, though the laws regulating the different systems are laid down,[1] there has been practically no information available on how they work in practice. The object of this study is to analyse the working of the different types of tenure. We have been particularly concerned to discover the relation between the different types of tenure and land use, the standard of living, migration to towns, and the stability of the family.

During the early nineteenth century the area now comprising the Keiskammahoek District was occupied by the Ngqika section of the Xhosa people under their chief Ngqika (Gaika) who had his principal homestead in what today is the village of Burnshill.[2] After the Umlangeni war of 1850–53 between the Xhosa and the Cape Colony, Sandili, the son of Ngqika, was expelled from the area, which was then declared a "Royal Reserve" in which close settlement by Europeans and "loyal Natives" was encouraged. In a Government Notice issued at Kingwilliamstown on the 12th February, 1853, provision was made for the establishment of a village at Keiskammahoek, and the principle was laid down that there should be no lone dwellings or

[1] *Vide* pp. 137 ff.
[2] Neither the social structure nor the systems of land tenure in the Keiskammahoek district are fully intelligible without the historical background. An historical report was planned as one of this series but money for it was not provided.

grants of large grazing farms, " inasmuch as that system is productive of much waste land available for cultivation and consequently calculated to defeat the all-important object of a dense and industrious population, with means for their own support; but that while free and ample commonage shall be allowed under certain restrictions, during pleasure, to all Her Majesty's Loyal Subjects permitted to have dwellings within the said ' Royal Reserve ' for the purpose of grazing and pasturage, nevertheless as far as may be, every place suitable for gardening and cultivation shall be made available for those purposes." A few Europeans—mainly German—came into the district, but the bulk of the land was taken up by groups of Mfengu people who had assisted the Europeans in their struggle against the Xhosa. These Mfengu (Fingo) had fled from their homes in Natal during Tshaka's wars, and had been given refuge by the Xhosa chief Hintsa, but in 1835 they had moved into the Cape Colony and were settled in villages near Kingwilliamstown, Peddie and Alice. Although their tribal units had been broken up they still had their recognised leaders, and when they moved into Keiskammahoek District they came in groups, each under its own chief. Settlement began about 1853. A group moved from Balase in the Kingwilliamstown district to Rabula (see map II) and settled there under their chief Ngudhle; from the Peddie District a group was moved under their chief Jama and settled in Chatha; others came from the Alice and Middledrift Districts.

The form of tenure granted varied from group to group. Old inhabitants maintain that usually their chiefs were responsible for choosing one type or another. In Chatha, which was settled on an unsurveyed communal basis, it is said that the land was given to Jama, the chief, and he was told to distribute it to his people. In Rabula it is maintained that the chief wanted the land surveyed so that each person could own his own farm, and a survey was carried out. At Burnshill, on the other hand, responsibility for the type of tenure is placed on the missionary, James Laing, who is said to have insisted on a surveyed quitrent system. Individual tenure was granted " only in cases where representations were received that the natives concerned desired it."[1]

The earliest instance in the Ciskei of individual tenure for Africans was the settlement in 1849 of some of the Mfengu in the Smith-

[1]Report of the Government Commission on Native Laws and Customs, G. 4–83, p. 376.

Calderwood location of Victoria East, where individual holdings were allotted on an annual quitrent tenure. The granting of farms to Africans on freehold tenure appears to have been begun by Sir George Grey in 1856, when he planned a buffer strip stretching between Kingwilliamstown and Fort Hare, in order to separate the colonists from the warlike Xhosa. In the freehold village of Rabula the majority of farms were surveyed between 1865 and 1870, while the titles to the quitrent plots at Burnshill are dated 1868 and 1869.

The freehold farms were not granted only to Africans although they received the majority. At Rabula, farms were surveyed as early as 1865 for Europeans.[1] It seems that where possible, Europeans were dispersed amongst the Mfengu freeholders. In the surveyed quitrent village of Burnshill, and the communally settled villages, no allotments were given to Europeans, although neighbouring farms were given to them. The main concentration of Europeans was made in the area surrounding the Keiskammahoek village, which now falls under municipal control. In the course of time certain of the African-held farms were mortgaged and lost to European bond-holders. In this way the proportion of Europeans in the freehold villages increased, until in 1913 and 1936 restrictions were placed on the acquisition of land by Europeans in certain areas. As a result of provisions made by the Native Trust and Land Act No. 18 of 1936, most of the Europeans who held land under freehold title in the African villages have now been bought out, the land thus acquired becoming the property of the South African Native Trust, which leases it to landless Africans in the district.

At the present time the District of Keiskammahoek is divided into fifteen territorial and political units which we call villages.[2] In most of these more than one type of tenure may be found. Ten villages have freehold land, two have a quitrent system, five have a communal system, and seven haves ome land allocated by the South African Native Trust and governed by regulations different from those in a communal village. The following table shows the distribution.

[1]Grants were made in 1865 to Richard Ross (missionary) and in 1866 to Johann Homann (German settler).

[2]The term " village " has been used in preference to " location " (the term used by the Native Affairs Department) because we wish to underline the fact that a regular village organization is developing in this district. cf. *Keiskammahoek Rural Survey*, Vol. III, *Social Structure*.

Village	Area[1] (acres)	Type of tenure
Mbem's	7,770	Quitrent : Freehold
Burnshill, Lenye, Fort Cox	10,378	Quitrent: Freehold: Trust
Chatha	10,500	Communal
Gwili-Gwili	9,555	Communal
Gxulu	5,878	Freehold: Communal: Trust
Mnyameni	12,600	Communal
Mthwaku	8,715	Communal
Lower Nqhumeya	1,890	Freehold
Upper Nqhumeya	2,092	Communal
Lower Rabula	7,455	Freehold : Trust
Upper Rabula	13,650	Freehold : Trust
Dontsa	7,350	Freehold
Wolf River	13,440	Freehold : Trust
Zanyokwe	4,200	Freehold : Trust
Nqolo-Nqolo	4,620	Freehold : Trust

[1]From estimates made by Native Commissioner in District Record Book.

Within the municipal area of Keiskammahoek and subject to municipal regulations there are freehold plots held by Africans and Europeans. These are not part of any village as here defined.

(*b*) Village Organisation

The structure of the villages varies somewhat with the form of tenure, but all are made up of homesteads (*imizi*). The basis of a homestead is the elementary family which is both patrilineal and patrilocal, and which consists of a man and his wife and their own children. There is, however, considerable variation about this basic form. Very often the head of a homestead is a widow, who, if she is still young, lives alone with her children. If she is old she may have one of her married sons and his wife and children living with her in the home. Unmarried daughters with illegitimate children may be members of this unit, or married sons and their wives may live together with their parents in the same home. There are often other relatives living in the homesteads as well. Each homestead has its own huts, and often its own cattle byre and garden (*igadi*) a little apart from those of its neighbours. When a married man lives in his parent's homestead, he usually has his own hut, but if he has no land of his own, he will eat from the same pot as his parents (*ukwandisa imbiza yasekhaya*). If, however, he has his own land, he will have his own storage arrangements and his wife will cook a separate pot. He no longer forms an integral part of his parent's household, but creates a more or less separate homestead alongside the parental establishment, though he continues to use his father's cattle byre. This arrangement is fairly common, but many sons who have their own land prefer to move away from the parental home and establish their own homestead elsewhere.

The average size of homesteads in the district is 7.12 persons, 3.5 adults and 3.62 children,[1] but there is an appreciable variation with differences in tenure. In a communal village (Chatha) the average for 73 homesteads was 6.2 persons, 3 of them adults and 3.2 children. Among freeholders in Rabula (from a sample of 35 homesteads) the average size of homesteads was 9.14 persons, 4.54 adults and 4.6 children, but among " squatters " (who owned no land) in the same village the average was 6.3 persons, 2.7 adults and 3.7 children. On the quitrent holdings in Burnshill the average size of homesteads was 7.7 persons, 4.2 adults and 3.5 children. Among freeholders and owners of quitrent plots, therefore, the homestead is larger than it is in a communal village, or among squatters on Trust holdings.

A number of adjoining homesteads, separated from others by a stream, ravine, or ridge, form a hamlet, and two or three adjoining hamlets make up a village section. The village is not a compact group, but it is territorially distinct from other villages, and forms a separate political unit. Each village has a headman, nominated by the villagers but appointed and paid by the Native Affairs Department acting through the local Native Commissioner. The headman chooses subheadmen from each section of his village. These men advise and assist him in the general administration of the village, and, in particular, look after the interests of members of their respective sections. They are not paid.

Each village has its council (*inkundhla*) of which every adult male of the village is a member, the headman being the chairman. This council is, as we shall see, more important in communal than in other villages, for there it largely controls the distribution of arable land, but it exists in all the villages to discuss village affairs, and it may arbitrate in disputes brought before it. Neither headman nor council

[1]168 homesteads were investigated. The figures include people away at work.

have legal power to try cases—the Court of first instance is that of the Native Commissioner—but the headman-in-council does in fact settle numerous disputes.

Villages with communal tenure are relatively homogeneous and there are no marked class differences in them, but in villages with freehold and quitrent tenure there are two distinct groups, the land-owners and the "squatters". The land-owners are generally better educated and have a higher standard of living than the landless families.

(c) Method of Work

Three villages were chosen for intensive study which, between them, exhibit each of the four different types of tenure. In Chatha the communal system of land tenure was studied, it being the only form of tenure in that village. In Rabula[1] both the freehold and the South African Native Trust leasehold systems were investigated, while Burnshill[2] provided a sample of the quitrent system of tenure. An average of two and a half months' intensive field work was done in each of the three villages and the material presented here represents the findings of that work. In each village a random sample of one in five families was chosen for intensive study. (In Rabula and Burnshill, the number studied was increased for the reasons explained on pages 46; 70). Genealogies of 110 agnatic lineages were collected and the landholdings and whereabouts of each male member of the lineages discovered. The lineages varied from five to two generations in depth (cf. pp. 152–3). Genealogies were clearly remembered and this method provided exact material on the history of arable lands, inheritance, subdivision, landlessness and emigration from the time of the first settlement of the villages. The sample chosen was the same as that selected for the family budget and crop yield study (except that in Rabula and Burnshill additional families were investigated for land tenure) and it is therefore possible to relate the land-holding and budget studies.

[1]Rabula has recently been divided into two, but for the purposes of this study it was treated as one village. It proved impossible to distinguish clearly the land rights of the two sections since people belonging legally to one section may live in the other.

[2]Burnshill was formerly a separate village but it has recently been amalgamated for administrative purposes with two adjoining villages, Lenye and Fort Cox. For this study it is treated as a separate village.

In Chatha (the village with communal tenure) all the lands belonging to or worked by the seventy-five sample families were measured with the aid of agricultural demonstrators. These figures give fairly full information on the areas owned and cultivated. The fields were also plotted on an aerial map, which serves as a check for the ground measurements. In Rabula (the village with freehold tenure) measurement of land was much more difficult. Freeholders often objected to their fields being measured and since more than one individual usually had rights over a field and some of the interested parties were absent from the district, it was almost impossible to get permission to measure lands at all. An aerial map was used to plot the fields of all the persons in the sample. The holdings on the South African Native Trust-owned land were measured. In Burnshill (the village with quitrent tenure) the fields were not measured. Each field is surveyed and as very few of them have been sub-divided, the survey figures have been used. In this village also an aerial map was used to plot the fields.

Chapter II

COMMUNAL TENURE

(*a*) Chatha Village

The essence of communal tenure (in the sense in which we use the term in this report) is that members of a village share certain rights in the land attached to their village. They all graze their stock, cut thatching grass, and gather firewood on one portion of the village land—the commonage—and the other is sub-divided into fields which are allocated to individuals to cultivate, and over which they have exclusive rights, for so long as they are domiciled in the village. Rights over fields may be inherited, but they cannot be sold. The allocation of arable land and the regulation of the commonage were traditionally the business of the chief or village headman in council, which was guided by traditional law (for the system is but a modification of the traditional tribal system), but as the population is increasing and land grows scarcer and scarcer, the law is, of necessity, changing. Furthermore, the Native Affairs Department of the Union of South Africa is taking an ever greater part in the regulation of land. Until 1921 the management of village land was left very largely in the hands of the villagers themselves; but since then the allocation of arable land, and the management of pasture, has been subject to increasing control through the Native Commissioner of the district and officers of the Agricultural Division of the Native Affairs Department. The expressed aims of the Native Affairs Department are to give as many men as possible a piece of arable land, and to combat erosion which is very serious in the district.

In this chapter we are concerned to define the rights of members of the village over pasture and arable land, to explain the system by which arable land is acquired, and to indicate the size of holdings.

The traditional view was that land belonged to the group, with the chief or village headman representing the group, and that it was allocated to the heads of families according to their needs. Jama, the

first chief of Chatha village, is said to have come with ten other families " to each of whom he apportioned land for all their needs." "All the land here in Chatha was given to our chief Jama, and he was told that he could live here with his people. The land was not only for his use, but for him to look after for all the people who lived here with him." This was invariably the form of answer when questions were asked about the ownership of village land. And, still, it is felt by the villagers that access to land is a right in which all should share. But it is recognised that the chief no longer holds the land for his people. People who gave traditional answers went on to explain that the land really belonged to the Administration which " could do what it liked with the land and the people living on it."

The village of Chatha lies in a valley surrounded on three sides by hills. Through the centre of the village runs the Chatha river which has its source in the mountain sponges (bogs) of the Amathole range. The upper end of the valley belongs now to the Department of Forestry, and is fenced in for the protection of the indigenous bush and the established plantations. Extending from the banks of the Chatha river and its tributary streams, the arable lands of the village (*amasimi*) spread into the hills on either side of the valley, ending just below the residential settlements (cf. map I). In some places a crude fence divides the arable lands from the commonage above, preventing cattle straying from the grazing areas into the arable lands, but often there is no barrier at all between field and pasture. Below each homestead there is usually a piece of land enclosed by an aloe or agave hedge, or a thorn bush or wire fence, which constitutes the garden belonging to the homestead, and alongside it a cattle byre. Building sites are not fenced; there are no visible boundary marks separating one homestead from its neighbour or enclosing its garden and buildings. All uncultivated land stretching from the fields and homesteads to the boundaries of the village, constitutes the commonage or pasture land (*idlelo*) owned by the people of the village.

The arable lands comprise a haphazard patchwork of fields varying enormously in size and shape. There is no discernible pattern in the layout of the fields, although the boundaries between them are clearly visible. They consist of raised grass ridges or strips along which peach trees may be growing, and at whose corners stones are usually planted. The contour banks built by the Administration cut across these boundaries and rather confuse them. Two different

types of arable land other than homestead gardens are recognised by the people themselves. A large field is referred to as *intsimi* meaning a proper field, while a small patch of cultivated land bounded on all sides by natural obstacles to its enlargement is referred to as *isitiya*. All fields are registered in the name of the holder by the Administration, but many patches have not been registered, and are thus illegal in the eyes of the Administration. The people themselves make no distinction between registered and unregistered patches—any field which is considered small by its owner is derogatorily referred to as an *isitiya*.

(*b*) The Acquisition of Land

i. *Allotment by the Village Council*

When Chatha was first settled, each adult male was allotted a portion of arable land for his own use. The allotment was made by the chief and the village council. The original grants were large, separate portions being given to each wife of a polygynist and every man having much more land than he could plough in one season. As his sons grew up, a man often sub-divided his holding, allocating a portion to one or more of them, but fathers rarely provided all their sons with land, and those who were without family land applied, like newcomers, to the headman in council. The recognised procedure was for a man to go to the headman with a gift (*iswazi*), usually money, a sheep or a goat, and ask for a particular piece of land. The headman would raise the matter at the next meeting of the village council and when the allotment was agreed to, the headman, together with the sub-headman and any other adult males of the village wishing to do so, would go to the site and mark off the boundaries of the land. All the men present acted as witnesses to the allocation and to mark the occasion in the memories of the men, the new holder would prepare beer and food for the party. The grant was thus formally recognised and the holder could proceed with his ploughing. Boundaries were marked by the grass strips which were left unploughed between the lands.

Outsiders were seldom accepted as members of the village without an introduction by some relative already living in it. Such an introduction was most commonly made through the parents of a woman married to someone from outside the village. The newcomer would

first live with his parents-in-law in the village until he became well-known, and the inhabitants grew accustomed to his presence there. His father-in-law would then approach the village council for an allotment of land. Many comparatively new families in the village also owe their presence there to the return of a widow and her children to her parent's home. If the children grew up in the village they became entitled to an allocation of land, although they bore a surname and clan name foreign to the village.

As new land for allotment became scarce, the homesteads were moved further up the slopes of the hills and old homestead sites were allotted as fields, but gradually all the land suitable for cultivation was occupied, until now there is no longer any unploughed land in the village available for allocation by the village council. The only fields available for landless members of the village today are the old allotments that have reverted to the village council for re-allocation on the death or departure of an owner who leaves no direct heir. Land also becomes available for re-allocation when a member of the village dies and leaves more than one field, in which case his widow is allowed to choose only one of the fields and the others revert to the village council.

There is keen competition for these fields, especially if they are large and fertile. It is said that in some villages the applicants will go to the headman by night—sometimes even before the owner is dead—and after presenting him with a gift of money, a sheep, or a bottle of brandy, ask for the land. Any number of landless applicants may thus go secretly to the headman, who will accept all the gifts and give his promise to do what he can. It is alleged that he will instruct his sub-headman to support the candidate he (the headman) favours and thus grant him the land after the matter has been discussed at the village council.

With the growing shortage of land in the village, the Administration has assumed increased control and has adopted a policy which takes advantage of every clause in the legislation facilitating an even distribution of land. Whereas in the past, the Native Commissioner was satisfied to approve any allocation or suggestion made by the headman of the village, this procedure is being abandoned, and the Native Commissioner is now an active participant in any allocation of land. His agreement to an allocation made by the headman is no longer taken for granted. Instructions have been issued by the Administration that preference is to be given to the landless applicant

who has been paying his local tax the longest. The people have come to realise the inability of the headman to grant the land to whom he wishes, and thus the futility of making gifts in order to establish their claim. Many people, especially those working in the towns, write or approach the Native Commissioner direct with their request for land.

Close agnatic relatives (other than direct heirs) of the previous holder of a field are considered by the people to have a strong claim to a vacant field, but this claim is not recognised by the Administration, which places more weight on the period for which the applicant has paid the local tax. Landless people will not as a rule press for a field which is claimed by someone who is thought to have more right to it than they. It is said that " the field has its people " (*inaßo aßantu ßayo lontsimi*). Fields are held to belong to a lineage,[1] and if a man leaves no widow or son to take over his land after his death, it is felt that the land should pass to his younger brothers if they are landless, or else to one of his brother's sons who has no field. Some who have been paying the local tax for a considerable time without receiving a field will realise the strength of their claim in the eyes of the Administration, and may consequently press their claim against a man who has family ties with the late owner of the field. This practice is considered dangerous, however, as by so doing the claimant risks being bewitched by the family to whom the land belongs. It is said that " a corpse (*i.e.* death) comes from the land ". But the sceptical argue that they will die of starvation anyway if they have no land, and it is worth risking witchcraft to acquire it. Usually, if more than one person presses a claim for a particular field, the headman will take all the parties to the Native Commissioner, who will decide to whom the field should be given.

Every arable allotment theoretically reverts to commonage on the death of its occupier, and should be re-allocated by the headman and the village council. In practice, however, a widow does not have to ask for her husband's field at the meeting of the village council after her husband's death—" it is not a matter for the village council ". The headman will merely take the widow to the Native Commissioner and have the name on the registration certificate altered. If the husband had more than one field she is required to choose the one she wants and allow the others to revert to the village council for re-allocation. The same is true of a married son who is landless. If he already has a

[1]The agnatic descendants of a common grandfather or great-grandfather.

field he is entitled to give it up and take over his father's field, if he wishes to do so.

All married adult males who have grown up in the village and who have no field of their own have a right to ask for an allocation of land. They are referred to as " starving people " (*aßalambi*). A widow with children, whose husband left no field, is also entitled to ask for an allocation of land if she intends living in the village. No adults from outside the village may be allotted a field in the village. Married men should wait until they have several children before they apply for an allotment of land of their own. Until then they are expected to live with their parents and eat from their lands. A man is not debarred from taking over his parents' field if he has no children, though he must have a wife. The number of children the applicant has to support is always taken into account by the village council when deciding to whom an allotment of land should be given.

During 1939 a member of the staff of the Native Commissioner was sent to the village to compile a register of all the fields. Stones were placed at the corners of each field and they were roughly paced off. Each field was numbered and a certificate of occupation was given to the holder. Since then, on the death of the occupier of a field, the headman of the village is required to report the matter to the Native Commissioner and one of the fields is transferred direct to the widow or heir of the deceased. The remaining fields (if there be any) are then " suspended " (*xonywa*, literally " hung up "), and the headman is told to give them out. The matter is discussed at the village council and the successful claimant is taken, together with the headman and sub-headman in whose village-section he lives, to the Native Commissioner, who, after ensuring that all taxes are paid, will make out a certificate of occupation or endorse that of the deceased. The recipient of a new field is expected to buy a bottle of brandy for the headman and the men who accompanied him to the Native Commissioner's office, or else brew beer for them at his home. There is no formal marking off of the field thus allocated—the recipient and other men of the village all know its boundaries. Only if the boundary is disputed will the headman and the men of the village go to the field and mark it off. Then all men with land adjoining the field must be present.

In allotting a field the Administration does not concern itself with its position in relation to the homestead of the holder. This

matter is, however, usually discussed by the village council, for the people dislike a man having his field far from his homestead. It is argued that if A has his field in the vicinity of B's field and homestead and his own homestead in another part of the village, B's cattle will constantly trespass in the field and A will always be claiming damages. B, on the other hand, will never be able to obtain reciprocal damages, as A's cattle graze nowhere near his (B's) fields. The people do not mind so much if the field allotted is in the centre of a large block of arable land as there is not much likelihood of the cattle straying so far into the lands. It is when the field adjoins the commonage or a road that they consider it necessary for the holder to live near it. Such fields suffer much from stock.

A large fertile field is very much coveted, while small stony patches of land will not be asked for unless a man is desperate. Any arable allotment that is registered is regarded as a field by the Administration, and a man may only possess one. The regulations stipulate only a maximum size and, since few fields approach it, the Administration does not concern itself with accurate measurement. No man who already has an allotment may be given another, no matter what the size of his first may be. The Administration does not allow large fields to be sub-divided any further, but makes no provision for the consolidation of small allotments to provide one reasonably large field. Any unregistered fields are illegal and a man ploughing one is liable to prosecution for ploughing the commonage. People are therefore not eager to take over a small patch, since doing so may preclude them from getting a full-sized field. Many young married men, will, however, take over such a patch in desperation, intending to give it up when a larger field becomes available. The allocation of unregistered patches is not discussed at the village council nor mentioned to the Native Commissioner, but a patch is taken over by the person allotted the large field that accompanies it. The two are considered as forming a unit.

When a field becomes very badly eroded, or when it is so exhausted that it will no longer produce a crop, its holder gives it up, or sometimes the Agricultural Officer orders that it be allowed to revert to commonage. In such cases the holder will inform the headman and the village council; his occupation certificate will be cancelled by the Native Commissioner, and he will be entitled to apply for another field when one becomes available. Occupational rights over a field

may also be surrendered when the holder inherits a better one. But to give up a field, no matter what its size or condition, is always considered risky, as a considerable time may elapse before another is acquired. Most people are in possession of their registration certificates, but they are not looked upon as being very valuable and are not as closely guarded as are the title-deeds to freehold land. There were many instances in the village where the certificates had been lost or destroyed.

Table I gives an indication of the average number of fields allocated to members of the village in each generation and the percentage of men who receive land from the village council. The steady decline in this percentage indicates the decline of the council's power through control over land (*vide infra*, p. 134). The area under cultivation is no longer increasing and a greater and greater proportion of the fields are directly inherited.

TABLE I

ALLOCATION OF LAND BY THE VILLAGE COUNCIL

Generation	Number of men eligible for an allotment of land[1]	Number of fields allotted by the village council[2]	Number of men who receive allotments from the village council	Average number of fields allotted per man	Percentage of men who receive allotments
Present	171	46	37	1.2	21.7%
Father's	204	116	86	1.3	42.2%
Grandfather's ..	99	105	57	1.8	57.6%
Great-grandfather's ..	26	36	16	2.3	61.5%
Great-great-grandfather's	2	9	2	4.5	100%

[1]This figure includes all married men—those who died having no land, those who left the village having no land, those who left the village having land, and those who obtained land as an inheritance from their parents. In this and all other tables, figures are from the sample lineages. *Vide supra* p. 6.

[2]These figures do not include the fields that are inherited directly.

ii. *Inheritance*

As we have already indicated, arable land is inherited, but the rights of inheritance in a communal village recognised by the Administration are more limited than those recognised by the people themselves. In theory, when the holder of a field dies it reverts to commonage to be given out to someone else who is wanting it. In practice the Administration recognises the right of a widow or son of the deceased to take over his land, but it does not regard any other member of the deceased's lineage as having a stronger claim to it than other landless men of the village.

More than thirty-three per cent of the fields that reverted to the village council for re-allocation over a period of four generations in the village were given to close relatives of the previous owner (other than his widow or sons) while the other fields only left the possession of the lineage group[1] because there was no one within the group at the time of the re-allocation eligible for an allotment of land. The Administration ignored this principle when it adopted an active role in allocating lands, placing more weight on the number of a man's local tax receipts than on his relationship to the deceased owner.

People take pride in the fact that they are still in possession of "family" land mainly because long established family fields are usually bigger and better situated than the others. Where possible, a man will always take over a family field, in some cases even giving up a field that he obtained from the village-council, in order to do so. And, as we have already shown, outsiders are somewhat fearful of applying for land to which a member of the lineage of the deceased has laid claim.

A widow has the first claim on her deceased husband's field, taking priority even over her married sons, and most widows avail themselves of this right, though by doing so they become liable for an annual tax of 10/– which they would not otherwise pay. In the 49 sample lineages 41.07 per cent of the landholders were widows. If she is young, a widow may return to her parents' home, in which case she will lay no claim to the land, and since any children she has will be too young to be eligible for it, the land will be re-allocated at the village council. But if she chooses to continue in the village she should,

[1]No compensation is paid by the recipient of the land to the members of the previous holder's lineage, nor is such payment even considered.

according to traditional custom, be allowed to take over her husband's fields. Much adverse comment was raised in Chatha by the refusal of the Administration to allow a young widow with children to take over her husband's allotment. The Administration had ruled that the field should be given to the landless younger brother of the deceased, who was to provide food from the land for the widow and her children. A widow is the medium through which a field is kept for the agnatic descendants of the deceased. She is given the field to keep for her children until they are able to take it over for themselves after her death. If, however, the widow has no sons at the time of her husband's death she is not prevented from taking over the land for herself. Should she remarry in the village, she will not retain rights over the land, even though she takes her children by her previous marriage to her new home. In such cases the land was traditionally given to an agnatic kinsman of her first husband to hold in trust for the children. There is thus no possibility of a man marrying a widow in order to obtain the use of her field, although it frequently happens that a man will plough such land on a share basis with a widow who is his mistress. If both parents died, their land was, traditionally, kept for their eldest son. With the approval of the village council it passed to the agnatic kinsman of the deceased father, who became guardian of the orphaned children. The land did not belong to him, but he cultivated it and used the produce to feed and clothe the orphans, until such time as the eldest son married, who then took over the land in his own right and, with it, the responsibility of supporting his younger brothers and his sisters. The individual holding land on trust for orphans used it as his own, storing the produce from it with his own grain and leasing or share-cropping a portion of it if he thought fit, but it was clearly understood that he had no permanent claim to it. Nowadays the Administration discourages this practice. It insists that if a man and his wife are both dead, and the children still young, his land should go to a landless relative in perpetuity. This relative is expected to help feed and clothe the orphans, but he has no obligation, in the eyes of the Administration, to hand over their father's land when the eldest son marries. This policy is not popular in the village. It is felt that orphans are being deprived of their inheritance and that a man who takes orphans' land as his own is stealing it. A relative who already has a field is not now allowed to hold the children's land for them, and a relative who has no land is reluctant to take it since the village will regard him as immoral if he takes it and refuses to give it up when

the eldest of the orphaned boys marries. Meantime he will have lost his chance of getting some other field from the village council. Four of the seventy-five families studied in the village were in possession of fields that they were holding in trust for the orphaned children of relatives, but all these were held under the old system which gives only temporary occupation. None of the sample families were in possession of land which they were holding for orphans under the new system.

Only men *inherit* land rights, though widows may retain the use of their deceased husband's fields, and daughters who bear illegitimate children at their parents' home, or daughters whose husbands have no land of their own, are sometimes given a portion of their father's land while he is still alive. Traditionally every married woman was entitled to a field, and rights over fields were the property of women (who alone cultivated) rather than of men, and were commonly, though not invariably,[1] inherited along with a woman's other property by her *youngest* son. As land became scarcer, however, and men took a share in cultivation, rights over fields came to be regarded as male property to be inherited by the eldest son, or, where polygyny survived, by the eldest son of each house. When Chatha was first settled all the land cultivated by one woman went to one of her sons, and the other sons obtained land from the village council, but as land became scarcer family fields were subdivided to give each son a share. In an analysis of the inheritance of land through four generations in Chatha it is apparent that eldest sons inherit more often than younger sons, and that the proportion of middle and youngest sons inheriting are about equal.

[1]The son who continued to live with his widowed mother in the old homestead inherited her fields, but sometimes all her sons had moved away and a grandson lived with her and inherited.

TABLE II

Generation	Present			Father's			Grandfather's			Great-grandfather's			Total		
	E	M	Y	E	M	Y	E	M	Y	E	M	Y	E	M	Y
Total number of sons ..	99	31	47	77	68	56	31	21	19	8	3	3	215	123	125
Number of these sons who inherit land ..	39	6	6	36	15	17	16	8	4	3	—	1	94	29	28
Percentage	39·4	19·4	12·8	46·8	22·1	30·4	51·6	38·1	21·1	37·5	—	33·3	43·7	23·6	22·4

E—Eldest sons; M—Middle sons; Y—Youngest sons.

iii. *Sub-division and Consolidation of Holdings*

Sub-division of land holdings has long been going on in Chatha. Blocks of fields are pointed out which first belonged to one man, then to three and now to six, and it was by sub-division that all the men wanting land were given a piece. But from early on there were men who chose to leave the village rather than take over only a fraction of what had been barely sufficient for their fathers.

With the introduction of the registration of fields in 1939, sub-division of single fields was stopped, although the sub-division of complete holdings was enforced. The principle of one man—one allotment was established.

The tale is told of a widow who had a large field which she could not manage on her own. She divided it into three sections, each of which she had ploughed on a share-crop basis with a different individual. As the land was not ploughed as a whole, dividing strips were left between each of the sections, and when the fields were registered, each section was registered as a separate field. On the death of the widow her son was allowed to keep only one of the sections, while the others had to revert to the village council for re-allocation. One old man in the village explained how he was going to give one of his two fields to his son, because when he died his widow would have to choose one of the fields and then the other would be lost to the family. But if he gave the one field to his son while he was still alive his widow would be able to keep the other when he died.

Along with the sub-division of fields and holdings there was some consolidation of holdings. Contiguous fields were not joined together but a number of men acquired fields both as an inheritance and as an allotment from the village council. In this way the holdings of men who inherited only a portion of their parent's land were increased, and in some instances equalled that of their parents. It is highly probable that men who thus obtained land from the two separate sources had inherited a small infertile piece of land, and after convincing the village council of their plight, were given another piece of land to augment their heritage. This process of building up and breaking down holdings continued until the Administration stepped in and put a stop to anyone having more than one field, but no attempt has been made to equalize the size of fields. There are a number of

fields—of half an acre or less, some of which are small not because of sub-division but because they are in broken ground and bounded by natural obstacles to their enlargement.

Table III gives an indication of the degree to which the consolidation of holdings of land has occurred, and the decline in its occurrence.

TABLE III

	Generation			
	Present	Father's	Grandfather's	Great grandfather's
Total number of men in sample who acquired land in the village ..	81	141	70	20
Number of men who consolidated their holding of land by receiving land from the village council and by inheritance	7	11	14	—
The percentage of men who thus consolidated their holdings of land ..	8.6	7.8	20.0	—

Table IV shows the percentage of heirs who inherit sub-divided portions of their parents' or husband's holdings in each generation.

TABLE IV

	Generation			
	Present	Father's	Grandfather's	Great-grandfather's
Total number of persons who inherit land (sons and widows)	106	87	27	4
Number of persons who inherit sub-divided portions of holdings ..	33	66	16	3
Percentage of those persons who inherit land who inherit sub-divided portions of holdings ..	31.1	75.9	59.3	75.0

Note.—Widows are here considered as inheriting land in the generation succeeding that in which deceased husbands lived, and not in the same generation.

This table gives some indication of the extent to which inherited allotments are sub-divided. It should be noted, however, that the extent of sub-division of allotments is greater than that shown in it, as the holdings that revert to the village council and are sub-divided by that body are not here taken into consideration.

Table V gives some indication of the extent to which succeeding generations are provided with land by the sub-division of the holdings of the previous generation, but here too it should be remembered that only the sub-divided holdings that are inherited are taken into consideration, as it was not possible to obtain a count of holdings that reverted to the village council and were sub-divided by them.

TABLE V

	Generation			
	Present	Father's	Grandfather's	Great-grandfather's
Number of persons in the previous generation who possessed holdings that were sub-divided for persons in this generation	14	26	6	1
Number of persons who inherit portions of the holdings of members of the previous generation	33	66	16	3
Percentage increase in the number of men provided with land as the result of the sub-division of the holdings of the previous generation ..	136	154	167	200

The percentage increase in the number of men provided with land as the result of the sub-division of the holdings of the previous generation shows a steady decline, as few people in one generation regain the number of lands that their parents held in the previous generation, and further sub-division becomes increasingly difficult. In this section only the formal sub-division of holdings has been considered, but it must be realised that the effective sub-division of land does not end there. All the families in this village which do not have land of their own are living off someone else's land, and thus sub-division has gone

considerably further than the register of fields indicates. In the 49 genealogies collected in the village there were 60 landless married men, 47 of them living, together with their wives and children, with the husband's parents, and sharing the produce of the parents' land, while the other thirteen acquired land to plough by renting, borrowing or share-cropping.

iv. *Rights of Transfer*

The Government Proclamation—No. 302 of 1928—which regulates the administration of all communal villages in the district, lays down that the holder of an allotment of land may, during his lifetime, transfer his allotment to a fellow villager entitled to hold land. The transfer should only be approved after consultation between the headman of the village and the Native Commissioner. Traditionally a man could make a gift of his land to whom he pleased, and it would seem that it is this customary right to transfer one's occupational rights over land to some other person that has been incorporated in the regulations for the control of a communal village. This right exists only while the owner of the land is alive, and land may not be transferred by a will, whether written or spoken. Once the transfer has been made, however, the person receiving the land retains it even after the death of the former owner. It is effected today by an endorsement on the registration certificate indicating that the land has been voluntarily surrendered and transferred to the recipient.

The usual form of transfers is from widowed mother to son, from father to son, or from someone who is leaving the village permanently to a relative. A widow is usually reluctant to transfer her land to her son, as by so doing she makes herself dependent upon him, but some widows do it in order to avoid paying the 10/- annual local tax. A father will transfer his land to a son when he feels that by so doing more land will be retained within the family group. Formerly, gifts of small fields, or portions of fields were commonly made to daughters who had borne illegitimate children at home, daughters who were the minor wives of polygynists, and daughters who returned home as widows and did not remarry, or daughters who were divorced or separated from their husbands and lived at home. Illegitimate sons were also given land by their social fathers; but today there is no longer sufficient land to make provision for daughters and illegitimate sons; it is the legitimate sons whose security is ensured by gifts

(*vide* page 20). People leaving the village permanently usually do so without publicising the event, and usually lose their land, if they have any, by failing to pay their local tax or contravening the regulations relating to absences from the village. In such an event they forfeit the right to land in the village. If they leave the village openly, however, they may make arrangements to transfer their land to some other person in the village. Instances have occurred where people have left the village and formally transferred their land to a relative before doing so.

No instances were found of land being transferred to another person in exchange for payment of any kind, although it is quite possible that someone leaving the village might be bribed by the person to whom the land is transferred. In such a case the bribe would be tantamount to payment for land. When questioned, people stated that it does not occur; it was held by all the informants that it would be illegal. Fields are seldom transferred to unrelated people in the village and never to people from outside the village. It is maintained that land is too valuable to give away, even in exchange for a bribe. If a man has land he will rarely give it up and leave the village unless it is a very poor land, and then no-one will want to take it over from him.

Land may not be transferred to people who already have land, although if they surrender their own allotment they become eligible to take over another field. It is difficult to determine whether land may be transferred to an unmarried woman in the village, as, for instance, to a daughter with illegitimate children, by her father. The Administration is not in favour of establishing the independence of such women, and as the prior approval of the Native Commissioner is required to effect such a transfer, it is quite possible that it might be disallowed. Transfers of certain fields might also be disapproved on the grounds that they were far from the homesteads of the proposed new owners. In such an instance the Native Commissioner might, through the representations of the headman, refuse to sanction the transfer. But no case of either type can be quoted. Exchange of fields occasionally occurs between members of the same village in order that each may be nearer his land. One such case was recorded but the transfer was not formally carried through by an endorsement on the registration certificate, nor sanctioned by the Native Commissioner.

v. *Forfeiture of Land*

Under the traditional form of tenure, land rights were forfeited when the holder left the village permanently, of his own accord, or when, for some reason, he was driven out. The traditional grounds for the forfeiture of land, together with certain modern ones, have been incorporated into the regulations for the control of a communal village cited in Appendix I. If the holder of an allotment does not cultivate his land for three successive years without a good reason, the Native Commissioner may order its cancellation, and the allotment reverts to commonage. This regulation was apparently designed to prevent people holding more land than they were able to cultivate, or else holding an uncultivated allotment of land which could be put to better use by another member of the village; it also prevents the holders of allotments of land leaving the village for indefinite periods and allowing their fields to lie fallow during their absence. Provision is made for a man to absent himself from the village for a period of less than a year, and during his absence to allow another village member to plough his field. If the holder of an allotment is absent for a period exceeding a year, and allows another person to take charge of his field without permission of the Native Commissioner, or if his absence exceeds the period permitted by the Native Commissioner by more than a year, then the land thus left is forfeited. Thus a man may not leave the village for more than three years and allow his land to lie fallow during that period, or allow someone else to plough it during the period of his absence, without the permission of the Native Commissioner. If either of these regulations is contravened, the owner of the allotment is considered as having left the village permanently, and after notices have been served on him, the allotment is forfeited and given to another member of the village. An allotment is also forfeited if the holder neglects to pay his Local Tax for more than two years. A widow who has taken over her husband's allotment of land may not continue to plough the land if she leaves the village or remarries. By leaving her husband's home she automatically forfeits her land which reverts to the village council for re-allotment.

People in the village are fully aware of the grounds on which land is forfeit and do not lightly throw away their rights. A case was noted where the relatives of a man whose allotment was about to be

them. Normally a sleigh is used as a measure. If someone has only one field, he may either plough it all on a share basis, or else only a portion on a share basis and the remainder for himself. If he has two or more fields one may be ploughed on a share-crop basis while he ploughs the rest alone. In some instances a share-cropping partner is given a special portion of the field—usually an acre—which he ploughs for himself exclusively and from which he reaps all the produce for himself, while the produce of the remainder of the field is shared with the owner; more often the produce of all the land is divided between the partners.

Both partners are equally entitled to forage (*ukufula*) for unripe maize, pumpkins and melons. It is always understood that they will collect only for their immediate requirements, and they need not go together to ensure that the other does not pick more than his share. Disputes may, however, arise if one of the partners is seen foraging only in the field planted on a share basis, while leaving his own field untouched. One man was heard grumbling about this and declaring that he would not share-plant with his partner again.

Share-cropping is an important means of acquiring land, or additional land for cultivation. Industrious men will tell their fellow-villagers that their land is too small for the needs of their family and that they are looking for a share-crop partner. While it is not the only means by which people without oxen are able to plough their lands, this is commonly given as a reason for entering into a share-crop partnership. Widows, particularly those who do not take lovers from amongst the men of the village, will enter into a share-crop partnership in order to obtain help in ploughing their land.

Share-cropping is regarded by the Administration as a legitimate practice. It is viewed as a means of paying in kind for ploughing when an individual is unable to plough for himself. The holder of the allotment or his wife must, however, be present in the village when the land is ploughed, or else the person he has left in charge with the permission of the Native Commissioner. The view that the Administration adopts is, in most instances, a true reflection of the arrangement, but there are cases in which a man who is rich both in cattle and land will plough some of his land on a share-crop basis; then the share he receives from his land is really payment in kind for the hire of the field.

vii. *Renting*

Unlike share-cropping, renting land (*ukugeſa*) is illegal. Nevertheless it occurs. Since an individual is given occupational rights covering only the *use* of the land, it is held by the Administration that he has no right to let it. No specific prohibition is made in Proclamation 302 of 1928, but it can be interpreted as prohibiting such practice unless the permission of the Native Commissioner is first obtained, and anyone found letting his land is liable to prosecution. The people themselves do not look upon the practice as wrong, although they are fully aware of the fact that it is not allowed by the Administration.

In the past, land was not considered as property from which money could be made, and a commercial attitude to the land has not developed to any extent in communal villages. The land is not let on a profit-making basis. The charge is £1 per season for an " ox-acre " (*iakile*) which varies in size according to the length of the field. An " ox-acre " is the area enclosed by the first two furrows drawn when the land is being ploughed. Large and small " acres " are recognised, but the price for all remains the same; nor does the price vary according to the fertility of the soil, although infertile pieces will not, as a rule, be hired.

A person who hires land does so, usually, because he has no land of his own, or because his own land is so exhausted that it will not produce a crop. Hiring a land is considered a better investment than purchasing a bag of mealies from the shop, as the lessee stands a chance of reaping more grain than he could have purchased with the price of hire. During the past few seasons there has been drought and crops have failed, and people who themselves had previously hired land were heard complaining that it was not really worth while to do so any more. It was far better, they said, to buy grain from the store, and be certain of some return.

Of the seventy-five families studied as a sample in the village only 4 (5 per cent) had hired land from others or had let their own land. In one instance the arrangement between the owner of the land and the lessee had begun on a share-basis, but after the crop was sown, the owner of the land asked his share-cropping partner to pay him

£1 per " ox-acre " for the land ploughed and thus convert what had been a share-crop land into a rented land.

Land is usually let in order to obtain ready cash without having to go out and earn it, or else is given to a debtor to plough in return for money owed. In the latter case money for rental does not actually change hands, although the land is nominally hired out. One old widow regularly let a portion of her land to her nephew in order to obtain money to pay her local tax, while another let a portion of her land in order that she could buy food to last her while the crops were still ripening. No case was found of a person who had let the whole of his land. Usually only an " acre " is let, while the remainder of the land is ploughed by the owner for himself.

A rented land is taken over completely by the lessee. The permission of the village council or the headman to let land is not sought, as a person is considered as being free to do as he chooses with his land. The lessee ploughs, hoes and reaps all the land rented by him for himself and can do as he chooses in the land while the crop is still growing. The lease lasts only for the duration of one crop, and when that is reaped and the dry stalks disposed of, the land again comes under the control of the owner, until such time as it may be let again. During the period of the lease, the lessee exerts the same authority over the land as he would over his own.

Hiring land is not popular. A man will only consider seeking land to hire after he has been unsuccessful in getting land to plough on shares, and an owner of land will only lease it if he is desperate for ready cash, or is unable to plough himself, or find a partner to plough on shares. The initiative usually comes from an individual seeking land, not from an owner.

The following figures give the actual sizes of land let and the rent paid for each. As will be seen, the " ox-acre " is usually smaller than a standard acre, except in a large field. The inaccuracy of the " ox-acre " measurement gives some indication of the relatively unsophisticated level the system of leasing out land has reached.

	3428 sq. yds.	£1
	3380 sq. yds.	£1
	1707 sq. yds.	£1
	2400 sq. yds.	£1
3 ac.	1394 sq. yds.	£2/10/0

The reliability of the data gathered on the renting of land is suspect because the practice is illegal. It is significant that most of our information refers to lands that are hired from others and that practically no information was obtained from men regarding the leasing of their own lands.

viii. *Borrowing*

Loaning of fields (*ukuboleka*) to relatives within the village is common. Of the 75 families sampled in the village, 6 had ploughed borrowed land during the 1949–50 summer season, while 5 had lent portions of their land to relatives in the village during the same period. In all cases of loaned and borrowed land, there was some close kinship tie between the two parties, either through affinity or marriage.

Fields are usually loaned to relatives who are in difficulties, having a large family to feed and little or no land of their own. A man may lend his landless son-in-law a portion of his land because he does not wish to see his daughter going hungry, or else lend his son a piece of his land in order to establish him independently in his own homestead. An old widow may lend portions of her land to her sons when she is too old to work it herself, rather than transfer it. A field may also be lent out when the owner and his wife leave the village temporarily to work in the towns. In this case the field is not lent to help someone who is needy, but to prevent it from reverting to grass and the grant being cancelled. If such a loan lasts longer than a year, it is necessary to obtain the permission of the Native Commissioner.

The loan of a field may, or may not, be made known at a meeting of the village council. Usually, if the owner is leaving the village to seek work, he will notify the headman that he has given his land to so-and-so for safe-keeping, but the loan of a portion of a field for a few seasons is not usually mentioned. The borrowing and lending of a field while the owner is present in the village is not frowned upon by the Administration and no action would be taken if it were discovered. It becomes an offence only when the holder is absent from the village for a period exceeding a year and the Native Commissioner's sanction has not been obtained for the arrangement. No direct payment is made for a borrowed field, but if the holder has been

away and returns home after the land has been sown, the loan becomes a share-crop for that season, the holder claiming half the crop for himself.

Share-cropping, hiring and borrowing are all recognised means of acquiring land for cultivation in the village. None of these means is looked upon, by the people themselves, as being wrong or contrary to custom, although landless people complain that if men have enough land to plough on shares, or to lease or lend, then they have too much land, and it should be taken from them and given to those who have no land at all.

(c) The Acquisition of Building Sites

Building sites are not so scarce and difficult to obtain as fields. Every youth who grows up in the village is held to be entitled to a site on which to build his own homestead some time after his marriage, and though, by order of the Administration, building sites are now only allocated where homesteads were before, there is no apparent shortage.

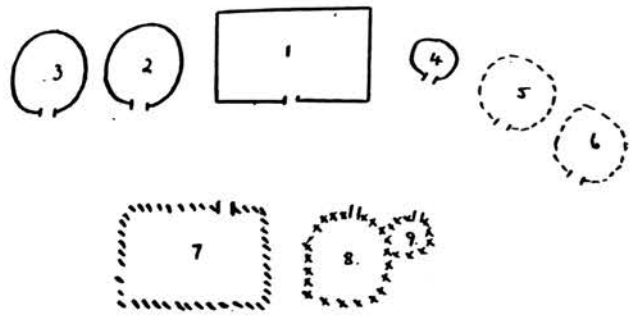
When a member of the village decides to establish his own homestead away from that of his parents, or to move from one village-section to another, he will approach the sub-headman of the village section in which he wishes to settle, with a request to live in that particular section.[1] The applicant will have previously selected his site and will be specific about it when making his application. The request is accompanied by a gift of money, brandy, or, in some cases, a sheep. The sub-headman will summon the people of his section and the matter will be discussed. The character of the applicant is taken into consideration, and if he is known to be a difficult person, or a thief, or is suspected of witchcraft, permission may be refused. Once agreement is reached and the permission of the village section is obtained, the sub-headman will take the applicant to the headman and inform him of the decision of the village-section. The headman, at this stage, also expects to receive a gift. At the next meeting of the village council the applicant will make a formal request for the allocation of a building site. He will be questioned as to its position, and the sub-headman will be called upon to make a formal acknowledgment

[1] It is maintained that if a man's father is still alive and the man is still young, he should not approach the sub-headman or council himself for an allotment, but leave it to his father to do for him.

of acceptance. If the building site thus granted is allocated on an old site there is no necessity for the men of the village to mark it out, but if the applicant is wanting a garden on the site, the headman, sub-headman, and men of the village may adjourn to the site and mark out the boundaries for the garden (if these do not exist already), in a rough square of 40 by 40 paces or 50 by 50 paces. On the day the allotment of the homestead site is made, the applicant should prepare beer and food for the men of the village, or buy a bottle of brandy. This is to thank the people for the site allocated (*isibulelo*). The garden need not necessarily be marked out at the same time as the homestead site is allocated. Several informants told me that they had only asked for their garden some time after the homestead site had been allocated. Under such circumstances, the applicant for a garden will make the request at the village-council and the men will gather at the homestead and mark out the garden with stones at each corner. Beer or coffee will be served to those who attend. It is considered necessary that men of the village should be present at such an allocation as witnesses.

The regulations for the control of the village lay down that registration certificates should be issued for homestead sites, and that they should not exceed half a morgen in size, but as yet the Administration has not introduced any form of registration. It is maintained, however, that the permission of the Native Commissioner must be obtained for such an allocation by the village council, and that this permission will be refused unless the site allocated is on an abandoned site. The size of building allotments is difficult to determine as there are no defined boundaries. The growth of a homestead by the addition of more huts in the row formed by the original huts, is controlled only by the proximity of other homestead sites. Diagram I shows a plan of a homestead, and its expansion with the growth of the family.

DIAGRAM I



Legend:

1. Square house (*uxande*).
2. } Huts.
3. }
4. Store hut (*ikoyi*).
5. } Position for huts to be added for married
6. } sons living at home (*Ukwenzwa*).
7. Garden (enclosed).
8. Cattle byre (*ubuhlanti*).
9. Pen for goats, sheep or calves (*isibaya*).

The acquisition of building sites by strangers to the village (*amaganuga*) is prohibited by the Administration, and the people themselves resent any new families coming to the village to "take away their land". There are families, however, that have lived for only one generation in the village, having gained an entry twenty years ago; none were found who had come more recently. These strangers also received their building allotments from the village council. Most of them had gained an entry only through relationship, either by marriage or affinity, with the headman or another important resident in the village. Such immigrants would either approach the headman, who would demand a "bottle" to call the sub-headmen together to discuss the matter, or else would follow the usual pattern of approaching the sub-headman of the section in which they wished to settle first.

Homestead sites were, in the past, also allotted to divorced, unmarried, or widowed women who had obtained fields from their

parents, but today there is only one woman in the village who maintained that she had been given her homestead site by the village council. Most women without husbands live with their parents or other relatives and either take over the family homestead or continue living with the person who does.

We have referred to gardens attached to homesteads. These are small plots fenced with aloes, agave, or prickly bush, and usually placed below the huts, adjoining the cattle byre. Seventy-five per cent of the sample homesteads had gardens, which ranged from over two acres to under a quarter acre in size, 78 per cent of them being under half an acre.

TABLE VI

Size of Garden	Number of Gardens	Percentage of Total
Over 2 acres	2	3.6
1–2 acres	2	3.6
¾–1 acre	4	7.2
½–¾ acre	4	7.2
¼–½ acre	25	44.6
Less than ¼ acre	19	33.9

The size of a homestead allotment is limited to half a morgen, or just over one acre, inclusive of the area occupied by buildings and cattle byre. It is obvious therefore, that anyone who has a garden exceeding an acre in size, has exceeded the maximum size allowed for a building allotment in his garden alone, and that any other area of land occupied by him for building is, strictly speaking, illegal. The Administration has not, however, made any attempt to keep a check on the size of the building allotments or enforce restrictions. The majority of gardens do, however, keep well within the limit imposed, the crude measurement of 50 by 50 paces for a garden enclosing roughly half an acre.

A comparatively new innovation in the village is the communal gardens run by the Administration. Two fields that reverted to the village council were taken over as demonstration plots to be supervised by the Agricultural Demonstrator operating in the village. The

plots are situated at opposite ends of the village and are fenced. One of them is irrigated. Women of the village were given small patches in the garden which they utilise under the direction of the Demonstrator who provides seed at a nominal price and advice free. A large portion of the one garden is taken over by the local school which uses it to train pupils in gardening and to provide vegetables for the school-feeding scheme. The demand for plots was not very great, the women not wanting to tie themselves down to definite days for attendance in the gardens (as they were obliged to do if they took a plot) but some of them saw in it a means of acquiring additional land and cheap seed. It is mostly the old women who have taken up plots. The scheme has not been operating very long and the results are still uncertain.

In the past, homestead sites were not very stable, but now with increasing scarcity of land they are tending to become fixed. In many instances men were living on sites previously occupied by their fathers, though far fewer had inherited homestead sites than their fields. The security of tenure of a homestead site seems to be much greater than that of a field, although, according to the regulations, the security of both is exactly the same. People do not talk or worry about their homesteads; they do not discuss the merits of people who should inherit them, or how long they have remained within the family. There is not the same amount of pride shown in the possession of a good building site as there is in the possession of a good field. Whenever conversation veered around to the discussion of property, it was always the fields that were discussed and never the homesteads. The reasons for this may be the greater scarcity of arable land and the importance of land as a means of subsistence. Fields are coveted by others and must therefore be guarded; a constant watch must be kept on land rights. Homestead sites are, as yet, not greatly coveted. People do not like to take over another man's homestead allotment at all, no matter how well situated it is, or how big the garden, but they snatch an opportunity of taking another's field. The chances of a family losing a field are fairly great and the loss is serious, but the chances of their losing a homestead are small and the loss unimportant.

Rights of transfer are defined in the regulations similarly to the right of transfer for fields, but since there is no registration there is no formal procedure for transfer, and there appears to be no buying and selling even of huts, much less of homestead sites. Old men in the

village questioned on the subject, maintained that they knew of no instances in the village in which huts had been sold. They admitted that it was a possibility for a man to buy a hut from another, but maintained that it had never occurred to their knowledge. People leaving the village may pull down the hut and sell the grass and door-frame to anyone wanting them, but they would not sell the hut as it stood. It was maintained that people did not like living in another person's hut and would prefer to build their own. Some maintained that a person leaving the village would destroy his huts completely so as to prevent anyone making use of them. They only did this if they could find no one to buy the thatching and door-frame. In another village in the district one family was found living in huts that they had not built themselves. They explained that they were only living there temporarily, and had taken the huts because they were fairly new. They had paid the previous owner ten shillings for the work he had done in building the huts, but refused to interpret this transaction as a sale.

Huts may be loaned or let to strangers. Agricultural demonstrators, teachers and other people working in the village usually rent huts in which to live. The charge ranges from 2/6 to 7/6 per month, depending on the owner and the financial position of the tenant. When the field worker in this survey was looking for accommodation in the village, a homestead was offered to him for 10/- per month, but he was told that this was too much and that the owner asked this figure only because he was white. The huts thus let are usually those belonging to people who have temporarily left the village to work in the towns, and have left their homestead in the charge of a relative or friend. The rent for the hut belongs to the owner, and it is not necessary to inform the headman of such an arrangement, although the huts are usually let through his agency.

(*d*) The Size of Holdings and Commonage

i. *The Number and Size of Fields*

The land holdings of seventy-five families in the village were investigated in detail and measured as accurately as possible. The

heads of these families held an average of 1.5 fields each. The table below shows the distribution of fields amongst them.

TABLE VII

Number of Fields	Number of families owning this number of fields	Total number of fields
4	1	4
3	4	12
2	31	62
1	37	37
0	2[1]	—
	75	115

Average 1.5 fields per homestead.

The people with several fields are invariably those whose families have held some political office. The husband of the widow with four fields had been a headman in the village, as had the husband of one of the widows with three fields. The others who had three fields had either been sub-headmen or close friends or relatives of the headman. Political office and relationship to the headman have, in the past, been closely connected with the acquisition of land. To marry the daughter of the headman was, in the past, a guarantee to the acquisition of land, but as the result of Administrative restrictions, this has now ceased to be the case.

The sizes of these fields vary enormously, some being as large as eight or nine acres, while others are smaller than the average size

[1]One of these families had no land at all. They relied on share-cropping and hiring as a means of acquiring land. The other family had land, but it did not belong to the head of the homestead who was a widow and had given her land to her son.

garden. The total amount of land held as fields by the heads of the seventy-five homesteads sampled was 375 acres 4,582 square yards.

TABLE VIII

Size of field (acres)	Number of fields	Percentage
7+	2	1.7
6–7	5	4.3
5–6	14	12.2
4–5	19	16.5
3–4	21	18.3
2–3	25	21.7
1–2	16	13.9
0–1	13	11.3

As can be seen from the table, 46.9 per cent of the fields are less than 3 acres in size, in spite of the fact that the average size is approximately 3¼ acres. There are still some very large fields in the village, two of them measuring between 8 and 8½ acres each.

The head of each family in the sample holds an average of 1.5 fields. The average size of each field is 3 acres 1,302 square yards. This means that the average amount of arable land, other than gardens, held by the heads of these families is 5 acres 61 square yards. If the gardens are added the average arable holding is nearly 5½ acres.

TABLE IX

Size of the holding (acres)	The number of families with this size holding	Percentage
10	5	6.6
8–10	8	10.6
6–8	13	17.3
4–6	20	26.6
2–4	22	29.3
0–2	7	9.3

It will be seen from these figures that 82.5 per cent of the families hold less than 8 acres of land. The maximum size for an arable holding

of land, as laid down by the Administration is four morgen, which is approximately 8½ acres. Nine of the families in this sample actually hold more than the maximum amount of the land allowed, but the remainder all hold less.

The table below shows the range of distribution of land per individual member of 75 families, inclusive of children. These figures are obtained by dividing the size of the holding of the head of the homestead by the number of persons living in the homestead, whether adult or child. People who are temporarily absent from the homestead or village have also been included as they are dependent on the land for subsistence at times.

TABLE X[1]

Amount of land[2] per individual (acres)	No. of families with this amount per individual	Number	Individuals with this amount of land %
3	1	2	0.4
2½–3	2	5	1.1
2–2½	—	—	—
1½–2	4	21	4.6
1–1½	17	94	20.6
½–1	31	208	45.5
0–½	18	127	27.8

In these calculations only the amount of land allocated to the head of each homestead has been taken into consideration. Seven families in the sample have additional land at their disposal, which they are able to use more or less permanently. This land is acquired either by

[1]It should be noted here that this table excludes the lands and families of 2 of the sample families. One is a widow who had given her land to her son although he continued to live with her. She as head of the homestead thus had no land, although the family had land. The other is a widow who had closed her homestead and gone to live with another family in the village. Her land was not used.

[2]Each individual member of the sample families has an average of 3,965 sq. yds. of arable land (excluding gardens). If the individuals who were temporarily absent from the village at the time of the investigation be excluded from the number of individuals sharing in the land, the average amount of land per individual is 4,529 sq. yds.

having another land-holder living in the homestead or else by holding land in trust for orphans. If the amount of land that these families thus have at their disposal be added to the land held by the heads of the 75 sample families, the average holding of each family is 5 acres 1,626 square yards, and the average amount of land per individual in the families is 4,158 square yards.

Apart from this land that is acquired semi-permanently, some families either increase or decrease their holdings of arable land each season by letting or renting, borrowing or lending, and share-cropping. These methods of adding to, or reducing the amount of land under cultivation last only for a temporary period, and there is no certainty that they will be used by the same people for two or more seasons running.

Ten families decreased their holding of land during the 1949–50 summer season by either leasing land, lending it, or ploughing a portion on a share-crop basis. These ten families constitute 13.3 per cent of the sample and the land they own constitutes 15.9 per cent of the total holding of the sample. The land of which they dispose for the season constitutes 4.2 per cent of the total holding.[1] Eleven families in the same sample increased their holding of land by hiring, borrowing or share-cropping. Those eleven families constitute 14.7 per cent of the sample, and the land they own constitutes 9.5 per cent of the total holding of the sample. The land, of which they obtain the use for the season, amounts to 4.8 per cent of the total holding of the sample families.

Thus, among these sample families, the amount of land by which people increase their holdings for the season is practically cancelled out by the amount by which the holdings are decreased. It is also apparent that it is the people who hold more than the average amount of land, who decrease their holdings, while those who own less increase their holdings. There are, of course, exceptions to this—some industrious men aim at having a large amount of land under cultivation—but generally speaking the somewhat unequal distribution of land between families is evened out by these practices of share-cropping, leasing and borrowing. It is evident also that effective sub-division of land has gone considerably further than the registered

[1]Where a holding is increased or decreased by share-cropping, the amount of land sown as a share crop is halved—this figure giving the amount by which the holding is increased or decreased.

division of fields, and that a small number of landless families are partly maintained by the charity of their landed relatives.

ii. *Pasturage*

It has been estimated that the total area of the village, inclusive of the Ministerial Grazing Leases is 5,000 morgen or 10,555 acres. Using this figure as a basis, it is possible to estimate the size of the commonage and other grazing land available to the people of the village.

Total area of the village[1]	10,555	acres.
Total area of arable land[2]	1,880	,,
Total area of building allotments[3]	375	,,
Church site[1]	2	,,
Trust Forests[1]	72	,,
Ministerial Grazing Leases[1]	2,720	,,
Forests[1]	2,736	,,
Commonage[4]	2,770	,,

N.B.—These figures are only estimates. This gives a total of 5,490 acres of pasture and each family in the village has 14.6 acres of grazing land, 7.4 acres of which is on the commonage and 7.2 acres in the Ministerial Grazing Leases.

From the 1949 livestock census undertaken by the Administration it has been estimated that in Chatha village there are :

951 head of cattle
8 horses
1,744 sheep
464 goats

[1]Information obtained from the District Record Book kept by the Native Commissioner. Original source of these estimates is unknown.

[2]The total land holdings of the 75 sample families of the village was 376 acres. As this was a 1 in 5 sample of the members of the village, the total area of arable land in the village is estimated to be five times this amount.

[3]The average size of gardens was estimated to be one half of an acre. Another half an acre is allowed for the area taken up by the buildings of the homestead. This is probably over-estimated although not excessively since large spaces are sometimes left between the buildings. As the sample consists of one in every five homesteads, it is estimated that there are 375 homesteads each occupying one acre.

[4]The difference between the total estimated size of the village and the sum of the other two estimates.

These figures may be reduced to " cattle units " for which it is assumed that one cow or horse is equivalent to 5 sheep or goats. There are thus 1,410 cattle units in the village, and approximately 3.9 acres of grazing per cattle unit.

iii. *The Extent of Landlessness*

In theory a young man is entitled to a field as soon as he marries, but in practice neither the Administration nor the men of the village consider that he should, with the present shortage, acquire his own allotment until he has been married some time and has one or more children. Newly married men commonly live in their parents' homestead. Such an arrangement is traditional ; it is liked by the parents since daughters-in-law do a great deal of the work of a house and a son living with his father contributes to the cash income of the homestead ; and the son may prefer to leave his wife with his parents, rather than in a separate homestead, when he goes to work in town. It is argued that so long as a young man is living in his father's homestead he does not really require a field of his own,[1] but if any opportunity of acquiring a good field occurs a married man will always take it.

Nearly 30 per cent of those eligible to hold land (married men and widows) in Chatha village have no fields of their own, and the great majority of these are young men. This figure does not include those who have permanently left the village and who would have had a claim to land had they remained. Of landless men, 81 per cent live in their parent's homestead while 19 per cent have already established homesteads of their own. All the landless men were either working in town, or in the Forest Reserve adjoining the village.

[1]Traditionally among the Mpondo (whose customary law is closely similar to that of the Xhosa and Mfengu) a bride was given a field of her own the first spring after her marriage, long before her husband moved out of the parental homestead. (Hunter, *Reaction to Conquest*, p. 18).

TABLE XI

	Generation			
	Present	Father's	Grand-father's	Total
1. Total number of married men in sample who are still alive and living in village	99	61	9	169
2. Total number of widows of men of this generation who are holding land	12	43	14	69
3. Total number of persons who actually hold land or who are entitled to it (1+2)	111	104	23	238
4. Total number of married men who live in the village but have no land ..	50	20	—	70
5. Percentage of eligible holders who are landless	45.04	19.23	0	29.41

The existence of these landless families in Chatha means that the land is sub-divided in practice even further than it is in theory, for most of them acquire some portion of a field by loan, or on shares or in return for a cash payment. Moreover they are not prevented from grazing stock on the commonage. Therefore, in Chatha, a total of 2,325 persons (1,125 adults and 1,200 children)[1] are trying to live off 1,880 acres of cultivated land and 5,490 acres of pasturage, *i.e.* 0.8 acres of arable land and 2.36 acres of pasture per head. We include in our calculations members of the village who are temporarily away at work since they graze cattle on the village pastures and claim rights to arable land.

[1]These figures are only estimates. The 1946 Census figures give the total population of Chatha as 1,273 persons. This figure excludes those people away from the village at the time of the Census. The total arrived at above is derived by multiplying the average number of persons per homestead—all who live in the homestead, inclusive of those away at work—by the number of homesteads—375. Our sample of 73 families was found to have an average of 3,965 sq. yds. (0.8 acres) of arable land per head.

Chapter III

FREEHOLD TENURE

(*a*) Upper and Lower Rabula

Rabula (which we treat as one village) differs radically from Chatha in that most of the land is not owned by the village as a group but by individuals. Plots of varying size were surveyed from 1866 onwards and sold by the Government to individuals on freehold tenure. Most of the buyers were African, but a few were European, and their holdings were scattered among those belonging to Africans. Besides the plots sold, a certain area was demarcated as grazing land on which all land-owners living within the boundaries of Rabula had the right to graze their stock, the number not being limited.

Freehold tenure carries a title to any land that an individual may buy or inherit, and he has much greater control over it than can be gained over land in a communal village. Under the communal system an individual can only acquire the *use* of arable land during his lifetime, and subject to conditions laid down by the Administration; he may not dispose of it at will and there is no certainty that it will pass to his children after his death. Freehold land, by contrast, remains the property of the owner so long as he lives, or until he chooses to dispose of it; on his death it is disposed of according to his will (subject to certain limitations) or, if he dies intestate, according to the law of inheritance. The land is free from control by the Administration and the owner enjoys a high degree of security.

The land-owners in Rabula form less than half the population; the others are " squatters " who own no land at all. From the time of the first settlement many a land-owner permitted one or more families not related to his own to live on his land and plough a portion of it in return for certain services. These people are referred to as *izicaka* (servants) and their economic position was somewhat similar to that of labour tenants on European-owned farms, the difference being that the services due were never so clearly defined nor as onerous as those of labour tenants on European-owned farms. Most of them

later freed themselves of their obligations to the land-owners by settling on the commonage, and renting fields, or ploughing share-crops. Very few tenants remain in the village today. Freeholders who lose their land also become " squatters " on the commonage. The commonage belongs to the freeholders of the villages, and building on it is in fact illegal, but families already accepted as members of the village are, in practice, permitted by the freeholders to build on it, though not to cultivate on it. Land-owners and " squatters " are on familiar terms and nowadays intermarry (though in earlier generations they did not do so), but the members of a freehold village are still very conscious of the difference, which forms the basis of a class distinction. The land-owners tend to be wealthier and better-educated than the " squatters ". The majority of land-owning families (88.5 per cent) are Mfengu, while more than half the " squatter " families (58.6 per cent) are Xhosa, so the old tribal division coincides in some measure with the class distinction.

The position of the " squatters " has been modified by the policy of territorial segregation of Europeans and Africans. Since 1936 the South African Native Trust has been buying up European-owned land in Keiskammahoek District whenever it came into the market, and settling landless Africans on this Trust Land. Approximately 2,459 acres within the boundaries of Rabula have been acquired by the Trust and settled with some of the landless families already living in the village. Other families continue to " squat " on the commonage. The present structure of Rabula is as follows :

Freeholders' homesteads[1]	Landless squatters' homesteads	Trust homesteads	Squatters living on commonage but cultivating Trust land. Homesteads
45.8% (of total)	14.1%	22.9%	17.2%

Besides the trader, there are also two European families owning land and living within the village boundaries.

In Chatha the homesteads are concentrated in groups, but in Rabula they are strung along the fringes of the fields, for most land-owners build on their own land, leaving the " squatters " on the commonage (cf. Map II).

[1]From a count of 227 homesteads situated in the whole of Upper and a portion of Lower Rabula. All homesteads were counted within this defined sample area.

(*b*) The Acquisition of Land

i. *Purchase*

The original settlers in Rabula bought their land at £1 per acre, the money being obtained from the sale of stock. One informant told how his father was sent, as a young man, from Fort Beaufort, driving four oxen with which to buy twenty acres of land.

During the period 1866–1895 many of the original arrivals bought additional land for their sons, choosing mostly lots adjacent to their own that had been left vacant. These lots were bought on a quitrent system, the buyer paying an annual amount which varied according to the size of the land. Individuals could redeem the quitrent on their land and in 1934 further payments (apart from arrears) were abolished by Act of Parliament. The conditions of tenure, however, are different from that of freehold.

From the time Rabula was first settled until about thirty years ago there was considerable emigration to the Transkei. Some of the original settlers in the village, as well as some of the later arrivals, either sold their land or left it in charge of another person, and moved to the Transkei, where grazing for cattle was more plentiful. Others moved because they had mortgaged their land and lost it to the bond-holders. Europeans (who had never been prevented from buying land in the village) acquired additional lots from time to time by taking over the mortgaged lots of bankrupt Africans.

Although the majority of the settlers in the village retained their lots and handed them on to their descendants, a number of lots have changed hands several times since they were first bought. While land was still relatively plentiful the ownership of freehold land was not so important as it is today. People were consequently more willing to dispose of their land, and to risk losing it by using it as a pledge for loans of money. Also lots mostly belonged to individuals who could do as they chose with their land. As individual ownership gave way to ownership by several brothers, it became more difficult for any one of them to mortgage or sell the land. At the same time the ownership of land became increasingly important because it was felt to give families security—a home from which they could not be driven out.

People became very unwilling to part with their land and would not do so unless it was absolutely necessary. Freehold lots now very seldom change hands by sale, in spite of the fact that there is a keen demand for them from outside the village, as well as from within. The most recent sale of land by Africans traced in the village was in 1943. Lots are mostly bought by members of the village who wish to provide land for their sons, or by outsiders who are anxious to establish a secure home. Instances were found of two brothers combining to buy land for themselves and being registered on the title deeds as owners of undivided half shares.

Sales of land have, in the past, been brought about mostly by the foreclosing of the bond holder and not by the choice of owner of the land. The mortgaging of land is recognised by the people as being extremely dangerous to their security. Owners of unmortgaged land are proud of the fact and maintain that they will never mortgage it. In "scheduled" and "released" areas, the permission of the Administration is required before a bond may be registered against Native property. Mortgaging land frequently led to trouble between the members of the lineage owning shares in it. As the capital sum borrowed is rarely paid off, the heirs to a bonded land have to divide the payment of interest and the arrears in the interest between them. As there are usually some defaulters amongst those responsible for the interest, others have to take over a double payment and consequently feel justified in trying to expel the defaulter from the land. Much of the mortgaged land has had to be sold and some owners have left the village while others have remained as squatters.

There is no evidence of any speculation in freehold lots. The land is looked upon essentially as a means of ensuring one's own security and that of one's children, and is bought for that purpose. While informants maintained that land is a good means of investing money, none of them could understand the suggestion that money could be made by speculating in land. Land is something to be kept for one's children. It is extremely difficult to obtain and those who own it are privileged. The sale of land is limited by the fact that the majority of the lots no longer belong to only one person and it is only those lots that are owned by one person that can be freely bought and sold.

TABLE I

AMOUNT OF LAND

(*Sample of* 50 *men*)

	Generation					
	Present	Father's	Grand-father's	Great-grand-father's	Great-great-grand-father's	Total
Amount of land bought (total)	159 ac	299 ac	737 ac	667 ac	143 ac	2,005 ac
No. of buyers . .	3	12	18	14	3	50
Average amount of land bought per man . .	53 ac	25 ac	41 ac	48 ac	48 ac	40.1 ac

It is difficult to get information regarding the price now paid for land. On the title deeds to one lot the price was endorsed each time the lot changed hands, and they therefore give some idea of the rise in the price of land.

20 acre lot purchased 1866— £20
sold 1912—£100
sold 1930— £70
sold 1938—£160
sold 1943—£160

Here the price per acre increased from £1 in 1866 to £5 in 1912, to £8 in 1943, with a drop in price during the depression of 1930. Two other sales of land investigated showed that the price per acre was £11.15.0 and £10.10.0. It is apparent that not so much attention is given to the price per acre as to the total price of the lot purchased.

Sometimes the whole of an original holding is sold, or sometimes it is sub-divided by survey and a portion sold. One case occurred in the village 44 years ago where a large plot was sub-divided into three

separate lots, two of which were sold. The reason given for the sale was that the owner had incurred debts which he was unable to repay, and that he had to obtain cash with which to marry his second wife. Where more than one person owns a share in a lot, sub-division by survey rarely occurs, but one of the joint owners may sell his undivided share. Usually the sale is to a fellow member of the lineage who already owns a share in the land, as when a daughter, who has inherited a share of her father's land, sells it to one of her brothers; only rarely is an undivided share sold to someone who is not a member of the lineage.

The sale of land (other than the unsurveyed portions just mentioned) is now rare in the village though there is no bar to sale to any African. Informants in the village maintain that when a lot is to be sold, the owner should give the members of the village the first option and announce the sale at the village council. Villagers try to prevent outsiders gaining an entry, although they cannot be excluded from the village once they have purchased land in it.

Most of the European-owned land in the village has been bought by the South African Native Trust during the last fifteen years. Only two holdings (comprising 153 acres) still belong to Europeans. The Trust negotiated direct with the European holders and there is no evidence of competitive bidding by African buyers, probably because the improvements on the properties, and their sizes, made it impossible for Africans to buy them. The prices paid by the Trust were high, averaging £11.13.0 per acre with some properties realizing as much as £23 per acre, *i.e.* three times the price paid in sales of African to African.

ii. *Inheritance and Subdivision*

Since the sale of freehold land by existing holders to private individuals is now infrequent and no new lots are available, inheritance is (with few exceptions) the sole means of acquiring such land.

If, as usually happens, the owner of the land dies intestate, the form of inheritance varies with the forms of marriage. Africans married by civil or Christian rites before 1927 were usually married in community of property (there being no ante-nuptial contract) and the property, after the death of both spouses, was divided equally between

their offspring, both male and female. Many freehold estates have been subdivided and disposed of in this way. But the law changed in 1927, for the Native Administration Act passed that year provided that "Natives" married by Christian or civil rites shall not be held to be married in community of property unless they state formally, before the marriage, that this is their wish. The property of a man married by Christian or civil rites after 1927 is then not divided among his children but is inherited according to "Native Law and Custom". If the marriage is not by Christian or civil rites, but a customary union, the "Native Law" of inheritance again applies. Under "Native Law", as interpreted by the Native Commissioner's Courts,[1] land is inherited by a man's senior son, and passes to the latter's senior son. Failing direct male heirs it goes to collateral male kinsmen in an order laid down in the so-called "Tables of Succession". The practical effect is that land is not legally subdivided (though each son of the deceased often gets the use of a portion of his father's land), the right of primogeniture is established, and women are excluded altogether from inheriting land.

Individuals are at liberty to make wills, whatever the form of their marriage, and a small number of men avail themselves of this right. Two cases were traced in which land had been disposed of by will. In one a man had passed over his eldest son and left all his land to his younger son. The authenticity of the will was doubted by the disinherited son, who was instigating proceedings for an investigation by the Administration. In some instances the disinherited sons are allowed by the heir to continue living on the land as though there had never been a will. It is felt that "to eat the inheritance alone" is not just, no matter what the circumstances, and anyone who insists on his rights is scorned by the members of the village. The younger brother in the instance quoted above was constantly criticised by others in the village for refusing his elder brother a place to live. When the elder brother nearly died of blood poisoning, the younger brother was accused of having tried to kill him by witchcraft. An elder brother who secured land and refused a younger brother a place to live would also be criticised. Thus though the right of disposal of land by will, and the right of primogeniture, are established in law they are limited by public opinion in the village. The men generally consider that

[1] As already indicated (p. 18), there is reason to think that in traditional law the heir to a field was often the youngest son.

women should not inherit land. In none of the cases studied in which an estate was divided according to will did a daughter inherit a portion of land, although they benefited from the other property. The views of women on the recent change in the law of inheritance as it affected them were not discovered, but many of the daughters of couples married in community of property before 1927 in fact pressed their claim to land, and in some cases, where a man had no son, a daughter or daughters inherited all his land. Some daughters, seeing other women inheriting land, also press their claims, even though their parents were not married in community of property. If the matter is not taken to the Administration or to lawyers for settlement, some of them succeed in obtaining a share. Although the laws regarding the inheritance of land have changed, the land belonging to those estates which are not administered authoritatively are still sub-divided, regardless of the type of marriage of the owner or the laws applicable to the estate. Table II shows that 13 per cent of those who have inherited land are daughters of the previous owner and nearly 17 per cent of those now owning land are daughters, or the matrilineal descendants of a previous owner.

TABLE II

DAUGHTERS OF SAMPLE LINEAGES WHO INHERIT LAND

	Generation				Total
	Present	Father's	Grand-father's	Great-grand-father's	
Total number of persons who inherited land ..	34	118	66	11	229
Total number of daughters who inherited land from fathers	3	17	10	—	30
Percentage of heirs who are daughters	8.8	14.4	15.1	—	13

TABLE III

MATRILINEAL DESCENDANTS NOW OWNING FREEHOLD LAND[1]

	Generation				Total
	Present	Father's	Grand-father's	Great-grand-father's	
Total number of people now owning portions of free-hold land	32	97	27	1	157
The number of these people who are matrilineal descendants	3	17	5	—	25
Percentage of owners who are matrilineal descendants	9.38	17.52	18.51	—	16.92

Little more than one half of the men in the sample lineages have actually inherited land, and only 30 per cent, so far, in the present generation have done so. There is no marked difference in the proportion of eldest, middle and youngest sons inheriting land. (See Tables IV, V and VI).

[1]Daughters and the children of daughters, who inherit land.
In present generation there are 1 daughter and 2 sons.
In father's " " are 15 daughters " 2 "
In grandfather's " " " 5 " " – "

This table deals only with the land acquired through inheritance by the members of the agnatic lineage group. *i.e.* There are several men amongst the members of the agnatic lineage groups studied who have inherited land from their mothers, but because their mothers do not belong to any of the lineage groups studied, these men have not been included in this count as inheriting land matrilineally. There are two widows of such men who have also been excluded.

TABLE IV

PERSONS IN SAMPLE LINEAGES WHO INHERIT LAND. (MEN AND WOMEN)[1]

	Generation				Total
	Present	Father's	Grand-father's	Great-grand-father's	
Total number of persons who are able to inherit land[2]	105	180	96	12	393
Total number of persons who do actually inherit land	34	118	66	11	229
Percentage of persons who inherit land	32.3	65.5	68.7	91.6	58.5

TABLE V

MEN IN SAMPLE LINEAGES WHO INHERIT LAND

	Generation				Total
	Present	Father's	Grand-father's	Great-grand-father's	
Total number of men who are able to inherit land ..	102	163	86	12	363
Total number of men who do actually inherit land ..	31	101	56	11	199
Percentage of men who actually inherit land ..	30.4	61.9	65.1	91.6	55.1

[1]In 12 of the 31 lineage groups sampled (*i.e.* 35%), daughters inherit land.

[2]The total number of persons able to inherit includes :

(*a*) All sons in each generaion who grow to adult status and who marry. They may now be dead or alive, or have left the village permanently—whether as adults or as children. They may have been legitimate or illegitimate.

(*b*) All the women who do actually inherit land.

TABLE VI

CLASSIFICATION OF SONS WHO INHERIT LAND

	Generation												Total		
	Present			Father's			Grand-father's			Great-grand-father's					
Category of sons[1]	E	M	Y	E	M	Y	E	M	Y	E	M	Y	E	M	Y
Total number of sons	66	12	24	74	47	42	32	29	25	5	2	5	117	90	96
Number of sons who inherit land	20	4	7	45	29	27	23	16	17	5	2	4	93	51	55
Percentage of sons who inherit land ..	30	33	29	61	62	64	72	55	68	100	100	80	53	57	57

In the early days all the men who could afford to do so bought additional land if they had more than one son and the parental lot was handed on intact, sometimes to the eldest son, sometimes to the youngest. If there were several sons, one obtained his own lot and the others divided the father's lot. Furthermore, an individual might inherit land from more than one source, getting perhaps a share of his maternal grandfather's land through his mother, as well as land from his father and a share of his paternal grandfather's plot. Ten per cent of the people in Upper and Lower Rabula still own one lot or more, but the remaining 90 per cent own only a part of an original holding, and nearly 73 per cent own less than half an original holding, as the following table shows.

[1]E, Eldest sons ; M, Middle sons ; Y, Youngest sons.

TABLE VII

DISTRIBUTION TABLE SHOWING THE NUMBER OR PORTIONS OF LOTS NOW OWNED BY THE 157 LIVING MEMBERS OF SAMPLE LINEAGES WHO OWN LAND[1]

Lots and fractions of lots	Persons owning lots	
	Number	Percentage
3	1	0.64
2–3	4	2.55
1–2	11	7.01
½–1	27	17.20
¼–½	36	22.93
⅛–¼	55	35.03
Less than ⅛	23	14.64

Average—0.44 of a lot per person.
Totals —157 persons.
67 lots.

Although most of the original holdings have been sub-divided and inherited more than once, over half (approximately 56 per cent) of the title deeds are still registered in the name of the original purchaser and less than a fifth (18.6 per cent) are in the names of the people now holding the land. Transfers are costly and are felt by the people to be an unnecessary expense. Moreover, most people appear to be unaware that undivided shares may be legally transferred, and they are not willing to allow the title deeds to be transferred to the name of any one of a group of heirs, as doing so would give him control over the whole lot. Sub-division by survey adds further to the expense of transfer and is rarely made. When a land-owner dies, the family either agree among themselves as to the proper division of the holding, or, if there is dispute, they may go to a European attorney for advice, but still not secure a legal transfer.

[1]The original lots were not of equal size, therefore the size of a fraction is no measure of the amount of land.

The table only indicates the extent to which the lots have been sub-divided. The sub-division is in fact greater than is shown for all the sub-divisions given above are assumed to be of one lot, but many people have sub-divided portions of more than one lot. Where, for instance, three lots have each been divided into three portions for three persons, it has been assumed that each person has one complete lot, whereas he has one-third of each lot.

Total number of persons who own a fraction of only one lot .. 111
Total number of persons who own fractions of two lots .. 37
.. .. three lots .. 8
.. .. Four lots .. 1

The informal sub-division of the freehold lots for members of the lineage has developed into a ceremonial occasion similar to the allotment of land by the village council in a communal village. The headman of the village is usually called, although his presence is not essential. The members of the lineage entitled to portions of the lot must all be present together with other members of the village, and an attempt is made to divide the land into equal portions. Informants describing the procedure represented it as a gala occasion with white flags flying to mark the corners and the men arguing about the method of division. One man (often the headman) who is thought capable of dividing the land fairly acts as the master of ceremonies. The presence of other men as witnesses is essential. Stones are placed at the corners of the sub-divided portions and furrows may be drawn to mark the dividing line. In some instances peach trees are planted along the dividing line. After several seasons the boundaries are clearly marked by the grass strips that are allowed to develop. Beer may be brewed for the occasion and a goat or a sheep may be slaughtered. After the sub-division of the land is completed to the satisfaction of all the members of the lineage, the party retires to the homestead, where the feast is prepared. It is explained that the food is provided both to attract the people to witness the sub-division and to impress the occasion on their memories. This method of sub-division is also used when formal deeds of transfer are obtained for undivided shares in a lot.

The lots are usually sub-divided into strips, running from the top of the lot towards the bottom of the valley. These strips may then be further divided into narrower strips or cut horizontally into patches in the subsequent generations. Where the lineage owns more than one lot, the members may have a portion on each. As a result of the sub-division, the arable land in a freehold village looks very like that in a communal village. It consists of a patchwork of fields scattered wherever it is possible to cultivate. On closer inspection, however, it is possible to distinguish the separate holdings and to see that the fields are usually much bigger than those in a communal village. This distinction is brought out clearly in the aerial photograph in which it is possible to distinguish a communal and a freehold village lying adjacent to one another.

Nearly a quarter of the owners of freehold land do not live in the village. Many are migrant labourers, and since a man's rights to

freehold land are not lost if he stays away for a long period, as is his right to communal land, many freeholders are long-term migrants, and a high proportion of them take their wives with them. Other landowners do not live in the village at any time but still have relatives there. Others again are the sons or daughters of former landowners who moved to the Transkei or some other part of the Ciskei and who have no close relatives left in Rabula. Migrants and absentee owners who still have relatives living in the village usually leave their land to be worked by other members of their lineage. As a rule they only have rights over a share of their father's (or mother's) holding, but these rights are clearly recognised and they, or their heirs, can return and take over their land whenever they wish. Only a few of them let their land and get a relative to collect the rent. On the other hand, absentee owners who have no relatives in the villages all lease their land.

TABLE VIII

ABSENTEE LANDLORDS[1]

	Generation				
	Present	Father's	Grand-father's	Great-grand-father's	Total
Total number of persons owning land	32	97	27	1	157
Number of persons owning land but not using it ..	10	23	6	—	39
Percentage of absentee landlords	31.25	23.71	22.22	—	24.84

iii. *Lease*

In a freehold village the leasing of land is much more common than in a communal village. The people who rent land are mostly landless " squatters " and the people who lease it are (as we have just

[1]Of the 39 absentee landlords, 15 (*i.e.* 38.46%) are the matrilineal descendants or daughters of the original owner.
Included in both sets of figures above are five daughters who are actually dead, but whose descendants have not been traced. It is thus assumed for the purposes of statistics that they are alive and still retaining their land.
The present generation is, of course, not complete.

seen) mostly absentee landowners. A very few hard-working freeholders rent additional land, and a few who are unable to plough themselves, lease a portion of what they own. The size of the fields leased and the rent paid for them vary, but the accepted rate is £1 per annum per " ox-acre ", as in the communal village. It was not possible to measure the land of absentee landlords and so check rent with acreage.

A study was made of two plots of land belonging to a lineage whose members had all been absent from the village for some generations. It was found that thirteen families of " squatters " either rented fields or had built their own homesteads on these plots. Nine families actually lived on the lots but only seven of them rented fields: the other four families rented fields but lived on the commonage. The total amount collected per annum as rent for the fields was £19. The two families which had built on the plots, but did not plough there, paid nothing. The rent for some of the land was given to the headman who acted as the agent for the absentee landlord, while the other was collected by one of the landlords himself, when he made his annual visit to the village for this purpose. The number of persons between whom the rent was divided is uncertain. The landlord collecting the rent was said to be the senior member of the lineage group owning the land.

In another instance, a man, X, who had left the village permanently and settled in the Transkei, leased his land, though his brothers remained in the village using their own shares of the family land. X's share of the family land is now leased to six different families, while another field he owns is ploughed on a share-crop basis. Three of the families renting land have their own homesteads on the lot. The rent, which amounts to £16.15.0 per annum and is X's alone, is collected by one of the brothers and posted to him. His half of the share-crop is either sold and the proceeds included in the rent, or else it is railed to him.

There is another system in the freehold village which, although it does not entail the actual leasing of land, is very closely related to it. Where people live on one of their lots, but own another some distance away they need someone to watch the distant fields. " Squatter " families are " hired with an acre of land " (*ukuqeʃa nge akile*) to live on a lot and to keep an eye on it. This labour tenant system is no longer common.

iv. *Share-cropping*

The organisation of a share-crop in a freehold village is exactly the same as that in a communal village, but the extent to which it is practised in a freehold village is now much smaller then in the communal village. It is, however, almost certain that before the South African Trust supplied " squatters " in the village with their own land, share-cropping was much more prevalent.

Freeholders are more independent of outside help in their agricultural activities than are the people in the communal villages, partly because their homesteads are larger and so more workers are available, and partly because they are more wealthy and have their own stock and implements. Only widows who are not able to plough for themselves resort to share-cropping. Share-crops between freeholder and freeholder are rare, for most freeholders have sufficient land of their own, but they do occur between freeholders and " squatters ". The " squatters " are anxious to find land to cultivate, while some freeholders find help in ploughing useful, particularly during the winter. It is maintained that there are more share-crops between " squatters " and freeholders during the winter season than during the summer and that freeholders also plough share-crops during the winter with people from the neighbouring village. Sometimes the freeholder consents to share-crop with a landless man out of charity " because they see he is starving ", not for their own advantage.

Absentee landlords usually prefer to lease their lots rather than work them as shares. No instance was found of lots belonging to a lineage group of absentee landlords being planted on a share-crop basis. It is obvious that such an arrangement would be practically impossible, half the crop from each field would have to be further sub-divided amongst the members of the owning lineage. But where the lot belongs to only one absentee landlord, share-cropping occurs. One " squatter " family is left in charge of the lot by the owner, and this family ploughs on a share-crop basis all the land which is not let out. The owner of the lot usually provides the seed for each crop planted. One such " squatter " explained that he was the " foreman " on the land, placed there by the owner to look after it. The owner returned annually at harvest time and supervised the division of the crop. The " squatter " then railed to him his share of the crop.

v. *Loan and Holding in Trust*

Freeholders seldom rent land or work it on shares but they take charge of and use the fields of absent kinsmen.

When the owner of a portion of a freehold lot goes to town, or when a daughter who has inherited a portion marries a member of another village, he (or she) leaves his land in the care of another member of the lineage, who uses it as if it were his own, but pays nothing for it. It may thus be considered that the land is loaned to him. If the owner dies while away, the land is held in trust for his or her children until they, or their descendants, return to the village.

Occasionally land is lent to married men who have none of their own. One instance was found in which a family, who were recent arrivals in the village, had been lent a small piece of land by a freeholder who was related to them by marriage. Another case was that of an illegitimate son who had been lent a portion of the lineage land by his legitimate half-brothers. They maintained that it could be taken from him at any time and the fact that he had been living on it and ploughing the same field for many years gave him no legal claim to it ; it was only a loan. The headman of each of the freehold villages studied had a family of Coloured builders living on his land to whom he had lent a field, which he ploughed and planted for them. It was said to be lent for the duration of their stay in the village.

(*c*) The Size of Holdings and Commonage

i. *Arable Holdings*

The measurement of freehold fields was made very difficult by the jealousy with which people guard their rights over land. Only the people whose confidence had been won were willing to allow their fields to be measured. In cases where many people held shares in a lot it was impossible to undertake any measurements. The figures for this section are thus not as detailed as was intended, although nearly 450 acres of land were measured. The aerial map of the village was used as a guide to the fields, but was insufficiently sharp to show all the sub-division, and also too old to show the more recent sub-

divisions. Therefore we have made two calculations : the first based on the sizes of lots shown in the original survey ; the second on measurement of the arable land of 13 lineages.

The lots originally surveyed varied enormously in size. In a sample of 59 the largest was 91 acres while the smallest was 9 acres, the average being 27.8 acres. The land-holdings of 28 lineage groups were investigated in detail and show that each lineage group now owns an average of 2.1 lots, with a range of 1 to 5 lots per lineage group. The largest holding of a lineage group is 141.5 acres while the smallest is 10 acres, the average being 58.5 acres.

It was found that 125 members of the 28 sample lineage groups owned shares in the land. Assuming that the shares of all members of a lineage group are the same, the average amount of land per person owning a share is 13.1 acres. The following distribution table shows the amount of land each member of the lineage groups would own if their land holdings were divided equally.[1]

TABLE IX

Size of holding (acres)	Number of lineage groups whose members have this size holding	Number of land-holding members belonging to these groups	Percentage of persons owning this amount of land
141.5	1	1	0.8
109.4	1	1	0.8
20–40	5	10	8.0
15–20	5	19	15.2
10–15	4	20	16.0
5–10	8	60	48.0
0–5	4	14	11.2

The number of fields a man has depends on the number of lots owned by his lineage group.[2] Each lot is divided into fields, one for

[1]It should be noted that this is an average of the whole surveyed area of each lot, and not only those portions of the lot that are arable. It was found that an average of 35.6 per cent of the total area of a lot is not cultivated.

[2]Very few men who inherit land from their father also inherit from their mother.

each person owning a share, so if the lineage group owns only one lot each member having a share in it has only one field, but if it owns two lots each member having a share will have two fields. Of a sample of 157 persons, 111 owned a fraction of only one lot ; 37 owned fractions of 2 lots ; 8 owned fractions of 3 lots and 1 owned 5 complete lots.

The figures hereunder are based on measurements undertaken in the village. They are inadequate because they represent a very small sample, but it is noticeable that the averages obtained from these figures agree very closely with the averages given above. The holdings of 13 lineage groups were investigated in detail. It was found that only 64.4 per cent of the surveyed lots are used as arable land : the remaining portions of each lot merged with the commonage or were used as building sites. The arable land totalled 407.5 acres, and 47 persons owned shares in it giving each person an average of 8.7 acres. If the total area owned by these 13 lineage groups be divided amongst those owning shares, each person has an average of 13.9 acres. In fact, however, it is only the arable part of a lot which is divided, and any portions of a lot that are not ploughed are used as though they were commonage.

Of the 47 members of these 13 lineage groups, 10 are absentee landlords who make no use of their land at all. Their portions are kept for them, but are used by other members of their lineages. Absentee landlords who retain the ownership of their own fields and either rent them or plough them on a share-cropping basis are included here amongst those who remain in the village. Although strictly speaking each person owns only an average of 8.7 acres of arable land, the area each man ploughs is increased by having the use of the land left by absentee landlords. If this land be included in the holdings of the persons who use it, the average amount of arable land used by men who remain in the village is 11.0 acres.

The following table shows the distribution of arable land amongst the 37 persons whose holdings were measured. The land belonging to the absentee landlords is included in the holdings of the persons who use the land. From this table it may be seen that 59 per cent of the land holders use less than 10 acres of arable land.

TABLE X

Size of holding (acres)	Persons with this size of holding	
	Number	Percentage
20–36	5	13.5
15–20	5	13.5
10–15	5	13.5
5–10	12	32.4
1–5	10	27.0

The homestead group in Rabula consists of 9.14 persons, of whom 6.62 were actually living in the village at the time of the investigation, and in the homesteads investigated there was only one landowner per homestead. Therefore the average amount of arable land per head is 0.96 acres, or, if the land of absentee landlords used by relatives domiciled in the village be included, the average amount of land per head is 1.21 acres.

ii. *Pasturage*

The total area of land within the boundaries of Rabula is 21,105 acres, made up as follows :[1]

	Acres
Demarcated forests	7,808
Trust forests	977
Church sites and schools . .	25
European-owned property . .	153
Trust-owned property . . .	2,459
African-owned property . . .	3,752
Divisional Council Outspan . .	248
Commonage	5,683
	21,105

[1]Figures obtained from the District Record Book and the surveyed sizes of lots.

The pasturage available for freeholders, Trust-holders and "squatters" consists of the commonage, the Divisional Council Outspan and the unploughed portions of the African-owned property. Also available as pasturage are grazing camps on Trust-owned property,[1] and the people of Upper Rabula have the right to pasture their cattle in two glades within the demarcated forest. The people living on Trust property pasture stock on the unploughed portions of Trust-owned properties surrounding the fields and homesteads, but again the extent of this grazing land is not known.

Excluding these two areas of which the size is unknown but which are not large, the grazing available to all the members of Rabula is as follows :—

	Acres
Commonage	5,683
Outspan	248
Uncultivated portions of Freehold land[2]	1,350
Trust-owned camps[3]	846
	8,127

This land is distributed almost equally. Freeholders could fence their land and exclude their neighbours' stock from the unploughed parts of their holdings as European land owners in the village did, but in fact no Africans have fenced their land, and they do not drive away their neighbours' cattle unless they are on particularly bad terms with them.

The 1946 Census gives the total population of Rabula as 1,901 persons. It is estimated that 55 per cent of married adult males are temporarily absent at any one time. Thus the total population at the time of the census together with the estimated number of married men who were absent at that time is 2,200 persons. This figure excludes any women, boys, girls and unmarried men who were absent at the time of the Census. The average amount of pasturage per

[1]One Trust camp is reserved exclusively for the people of another village and its area is excluded from the estimation of the amount of grazing available for the people of Rabula.
[2]Estimate based on finding that 36 per cent of property is not cultivated.
[3]Excludes Kincardine. Grazing on this pasturage is controlled and leased.

member of Rabula, as thus defined, is then 3.7 acres. The Administrative Stock Census gives the total number of large stock as 1,955 head and the small stock as 4,147 head. In cattle units this represents a total of 2,784 head, giving each cattle unit an average of 2.9 acres of pasturage.

iii. *Extent of Landlessness*

Under communal tenure a married man looks to the village council to provide him with a field, but under freehold tenure he is solely dependent on his family, unless he buys for himself, which he can rarely do. The division of land is usually made only after the death of the owner, when each heir is given his share. While the owner or his widow is still alive their sons are landless, and do not, as a rule establish their own homesteads in the village but either live with their parents or settle for a time in a town. Occasionally a father may mark off a portion of his land and give it to his married son who has established his own home, but this is not often found.

It is difficult to determine whether the married sons remain landless because their parents refuse to sub-divide their fields, or because the sons prefer to remain free of agricultural responsibility. Men questioned on this point maintained that their sons went to towns in search of money and did not need a field. If they chose to remain at home, they would not be refused a field of their own.

In Rabula in April, 1950, nearly one-third of the arable land was fallow, just over half being summer crops and the remainder ploughed for winter crops, *i.e.* arable land was available which was not used. It seems, therefore, that many married men of land-owning lineages prefer not to till fields of their own. They choose to work for long periods in town rather than to be part-time peasant farmers. Their position as sons of landowners is secure; they may return and obtain a field whenever they want to and their security is not dependent upon their residence in the village, as is that of men from the communal village. They are free to come and go without jeopardising their chances of obtaining a field when they want it.

The following table shows the extent to which married male members of the 31 sample lineage groups are landless. Those who

have left the village permanently are excluded from this calculation as they do not form a potential demand on the land.

TABLE XI

	Generation				
	Present[2]	Father's	Grandfather's	Great-grandfather's	Total
Number of persons who own land in the village[1] plus the married men who have their homes in the village but are landless ..	74	116	30	1	221
Total number of landless married men	42	19	3	—	64
Percentage of married men who are landless	56.8	16.4	10.0	—	28.9

This table shows only the percentage formed by those landless men who continue to consider the village as their home. The total percentage is nearly the same as that in the communal village, although it is larger in the present generation of the freehold village than that of the communal village. These are not the only men, however, who are landless. The following table shows the total number of living married male members of the sample lineage groups, inclusive of those who have left the village permanently, who are landless.[3]

[1]This figure includes all men, widows, daughters and matrilineal descendants owning land. Those who are absentee landlords are also included.

[2]This generation is not, of course, complete.

[3]Of the total number of adult male members of the sample lineages—both living and dead—38.8 per cent were landless at the time of their death.

TABLE XII

LANDLESSNESS OF LIVING MALE MEMBERS OF LINEAGES

Catagories of sons	Generation: Present E	M	Y	Father's E	M	Y	Grand-father's E	M	Y	Total E	M	Y
Total number of men living	59	9	22	43	21	32	7	2	7	109	32	61
Total number of these men who have no land	41	6	16	16	6	12	4	1	5	61	13	33
Percentage of men without land ..	70	67	73	37	29	38	57	29	38	57	41	54
	70%			35.4%			62.5%			52.5%		

From this table it may be seen that 52.5 per cent of the married men of the lineages do not own land in the village. Of these landless men, 40.2 per cent have left the village permanently. The table also shows that there is little difference in the percentage of eldest and youngest sons who are landless.

Landlessness is also linked with temporary migration from the village. The table below shows that 87.5 per cent of the landless men who do have their homes in the village were away at the time of the investigation. Of all temporary migrants from the village, 69.1 per cent are landless.

TABLE XIII

LANDLESSNESS AND TEMPORARY MIGRATION

	Generation: Present	Father's	Grand-father's	Total
Total number of landless men who live in the village ..	42	19	3	64
Number of these men who were temporarily absent from the village ..	36	17	3	56
Percentage	85.7	89.5	100	87.5

Chapter IV

QUITRENT TENURE

(*a*) BURNSHILL VILLAGE

Quitrent tenure is the most complicated of all in Keiskammahoek District, first because it was established under several different Acts and differs somewhat from village to village, and secondly because it was radically modified during the nineteen-thirties in Burnshill, the village in which it was studied for this report.

As first established in Burnshill the quitrent system did not differ greatly from the freehold system just described; inheritance was governed by the same laws, and the right of alienation of lease with the consent of the Governor, and the right of sub-division of holdings, was recognised; but in 1927 the law of inheritance was changed and the right of sub-division abrogated. Since that date, also, the right of alienation has been limited by Administrative policy.

The land on which Burnshill is established originally belonged to the Xhosa chief, Sandili, but was granted by the Crown to a group of Mfengu people for services rendered during the Umlangeni war of 1850–53, and is still referred to as " the reward land " (*umhlaba webaso*). Sometime after the settlement a survey was carried out, and during 1868 and 1869 grants were made of fields and building sites, on perpetual quitrent tenure. The survey caused considerable friction. The few Xhosa who were living in the village refused to accept grants on the ground that the land belong to their chief, Sandili, not to the Crown, and among the Mfengu two factions developed, one in favour of survey and the other against it. The faction that opposed the survey then emigrated to the Transkei, though some of them had obtained grants before they left.

Land was not sold, but the recipients of a grant were required to pay the cost of survey and £1 stamp duty for the title deed. A reliable informant stated that the cost of a field and building site at that time was £3/5/0. An annual quitrent of 10/- was paid for a

field, and 2/6 for a building site. The fields were all between 2 and 3 morgen in size. The arable land lay along the banks of the river but the building sites were concentrated some distance away, on the summit of a small hill. They were laid out in blocks, divided by streets, round the Church. James Laing, a missionary, who was established at Burnshill Mission in 1831,[1] is said by old informants to have been responsible for planning the village on a European pattern, and it was he, also, who pressed for the survey. But living in a compact village was not popular, and in time the people of Burnshill moved their homesteads on to the commonage, spreading out so that each family might be as near its own fields as possible. Only in the 1930's, under compulsion from the Administration, were they again settled in a compact group on the surveyed building sites, with the cattle byres, which elsewhere are the pivot of each homestead, on the outskirts of the village. There is still much grumbling about the village layout, people particularly disliking having to live far from their fields.

Within the boundaries of Burnshill "location", *i.e.* the land attached to the village, there is a large piece belonging to the Church of Scotland[2] with its own surveyed arable plots, some of which are used to provide land for "poor landless parishioners" of the local Bantu Presbyterian Church. There is also a group of large freehold allotments held by the members of one lineage. The freeholders live on their own plots and have their own subheadman, but fall under the jurisdiction of the headman of Burnshill.

Besides the owners of quitrent and freehold lots in the village, there are "squatters", who depend upon hiring land from the Church or ploughing share-crops with other landowners. Formerly they had their homes on the commonage, but recently building sites adjoining those of the quitrent owners have been laid out for them by the Administration, and they are now required to live in the compact village. They have their own subheadman.

That village land which has not been surveyed into arable or residential lots forms the commonage or pasturage, which is open for

[1] R. H. W. Shepherd, *Lovedale Past and Present*, p. 166; 1941 *Memorials of Rev. J. Laing.* (Edited W. Govan), published before 1875.

[2] The heir of Glasgow Missionary Society to whom the original grant was made. The property has not been transferred to the Bantu Presbyterian Church which now occupies Burnshill Mission.

grazing to all members of the village, including the freeholders and "squatters". It is fenced along its boundary, and is to be divided into six grazing camps, but so far only one has been fenced completely.

(*b*) The Acquisition of Land

i. *Grant, Purchase and Inheritance*

When the original grants were made, only one allotment—a field and building site—was given to any individual, but allotments were made in the names of women and minor children, provided the survey costs were paid, so it was possible for one family to acquire a number.

A sample of 30 lineage groups was studied of which 23 received grants of land; the founding ancestor of the 7 which did not do so only settled in the village some time after the grants were made. Of the members of the 23 lineages receiving grants, 40 per cent were founding ancestors while the remaining 60 per cent were their descendants. Some of these were grown men when they received the grants but many were still children. With four exceptions, no grants have been made since 1869.

Soon after the grants were made a number of families left the village to join those who had left at the time of the survey. Most of them already owned land, which they left either with relatives or friends who were remaining, or in the charge of "squatters", who had already begun to seep into the village. Titles were not transferred, though many of those who remained alleged that the land had been sold or formally given to them. They used the land as if it were their own and passed it on to their children to use. Each occupier was spoken of as having a right (*ilungelo*) to plough the field he used and it was he who paid the annual quitrent. The only regular sales with transfer of title appear to have been those in which quitrent, or payment on a mortgage, became overdue and the land was sold in execution of the debt. Buyers were available among the members of the village and the usual price paid was £40. No Europeans bought land in the village, possibly at first because the quitrent lots were too small to be attractive to them, and later, after the passing of the Native Lands Act of 1913, because it was illegal for them to do so, Burnshill having been declared a "scheduled area" in terms of the Act.

After some years it became apparent to the Administration that the ownership of land in Burnshill was in a state of chaos. Few transfers had been effected. Most of the lots were still registered in the names of the original grantees who were dead, and many of the rightful heirs had long since left the village. Accordingly, in 1928 a commissioner was appointed to discover the rightful owner of each lot and transfer it to him. Under the new regulations promulgated in 1928 and 1931 (cf. pages 147-8) lots can not be sub-divided or given to females, but must be allocated to one male person. The law of inheritance applying from this date is that laid down in the Tables of Succession.[1] Land must pass from father to eldest son and it may not be devised by will, though in effect a man may choose his heir by making an *inter vivos* donation.

A large number of the people entitled to land no longer lived in the village, while some of those who remained were found to be the owners of several lots. Of those who lived away from the village, some returned to take possession of the land. Others sold their land to members of the village wishing to purchase it. Some of those who found themselves the owners of several lots sold the extra ones to members of the village, or gave them to members of their lineage group. Other lots were sold in execution for debts by the Messenger of the Court—the debts having either been incurred by mortgage bonds, or through non-payment of the quitrent. The result of all this has been that many of the allotments have changed hands by purchase and sale since the original grants were made. The standard price of a building site and arable allotment is £40 for the two, but instances were found where the price paid was as low as £8. The highest price recorded was £112; this was for a field and a fenced building site with a house on it. A sale always includes the two properties—the building site and the field. No instances were found where these two had been sold separately or where a man owned a field but not the accompanying building site.

A total of 53 lots were acquired by grant and another 45 lots were purchased by the members of the 30 lineage groups sampled. The purchase of lots has thus been almost as important a means of acquiring lands as the original grants. Of the 30 lineage groups, 7 originated in the village by purchasing land; although the originators

[1] *Vide* p. 51.

of 3 of the 7 had lived first on the commonage as "squatters". The greater proportion of purchases—89 per cent—had been made by the descendants of men who already owned land in the village. In most cases it is only by buying land that the younger sons of each generation are able to get any, since the regulations now governing inheritance lay down that each lot must pass to the eldest son of the previous owner, so that younger sons must buy their own land, or remain as "squatters". Whenever possible, lots are bought and registered in the names of the junior sons even though they are still children. Now that the ownership of land has been more or less straightened out there is little liklihood of land again being available for sale, so younger sons of the present generation are likely to be landless.

In other villages a man does not obtain a field until he has a wife, but in Burnshill this is not the case. Much land is owned by children and unmarried men. But the parent or guardian of an unmarried owner of land uses the land, pays the quitrent, and generally treats the land as his own. Thus the purchase of land for a younger son, although made with the specific object of providing him with a field when he marries, also provides his parents or guardians with additional land for their own use, which they could not otherwise acquire.

Some of the original grants were made to women, and formerly women could buy land—in the 30 sample lineage groups, 2 daughters purchased their own land—but it is now the policy of the Administration to prevent women acquiring land, and it exercises control since transfers must be approved by the Chief Native Commissioner. Recently, women wanting to buy land have been compelled by the Administration to have it registered in the name of some male relative—usually a son. This is done, it is said, in order to prevent confusion over inheritance.

Table I below is an analysis of the members of the sample lineages who have bought land. A total of 39 persons bought 45 lots. It is the policy of the Administration to allow a man to own no more than one lot, and no instances were found where a man had bought more than one lot for himself. The extra six lots were purchased by some of the 39 persons for their minor sons.

TABLE I

PERSONS WHO BUY QUITRENT ALLOTMENTS

Persons of lineages who buy land	Generation			Total
	Present	Father's	Grand-father's	
Total number	16	21	2	39
Sons :				
Number	12	15	2	29
Percentage	75.0	71.4	100	74.4
Originators of lineages :				
Number	2	1	—	3
Percentage	12.5	4.8	—	7.7
Daughters :				
Number	—	2	—	2
Percentage	—	9.5	—	5.1
Matrilineal Descendants :				
Number	2	3	—	5
Percentage	12.5	14.3	—	12.8

Members of the village are strongly opposed to people from outside the village buying land. It is maintained that outsiders buy arable land in order to gain access to the commonage, where the grazing is good, but which is already overcrowded. It is insisted that if a field is to be sold it should be bought by some landless member of the village. A secret vigilance committee was formed at the time when the turnover of land was at its peak, with the express object of preventing anyone, who was not a member of the village, acquiring land. This committee actively assisted any resident, wanting to buy land, with a loan. All members of the village are expected to inform the village council of an intended sale of land, and to give fellow members first option on it. Some outsiders have acquired land by secret purchases, and are spoken of as having "stolen" the land. The Administration is unable to prevent an outsider buying land, as it has

been asked to do, but it is sympathetic towards the views of the villagers and assists where possible.

Very few people who remain in the village sell land. Only 13.3 per cent of the total number of lots acquired by members of the lineages studied have been sold at all, and some of these were sold to other members of the same lineage group. Such land as has been sold mostly belonged to permanent emigrants. Usually the owner had already settled elsewhere when he inherited it, and sold it in preference to leasing it or returning to Burnshill as a peasant farmer.

Table II below shows the grants, purchases and sales of lots belonging to members of the 30 sample lineage groups. From this table it will be seen that 86.7 per cent of the lots acquired either by grant or purchase are still retained by members of the lineages. These lots form the inheritance of succeeding generations.

TABLE II

PURCHASES, GRANTS AND SALES OF QUITRENT ALLOTMENTS

Total number of lots	Generation					Total
	Present	Father's	Grand-father's	Great-grand-father's	Great-great-grand-father's	
Granted ..	—	12	27	12	2	53
Bought ..	18	25	2	—	—	45
Sold	3	8	2	—	—	13
Remaining with members of lineages ..	15	29	27	12	2	85
Percentage of acquired lots remaining with members	83.3	78.4	93.1	100	100	86.7

When the original grants were made in Burnshill no fields or building sites were left to provide for the growth of families. Had there been no permanent emigration from the village, the amount of land available for purchase would have been negligible and many younger sons would have been without any. This inevitable outcome

of the system has only been delayed by the early emigration of landed men. In practise there has hitherto been sufficient land for most men who want a field to cultivate, to get one. The law of inheritance as applied since 1928 establishes the right of primogeniture, and an analysis of the sons of the 30 sample lineage groups show that a high percentage of the sons who inherited are eldest sons, but the letter of the law is modified first, by the fact that many younger sons now over twenty have fields which were bought for them and, secondly, by the fact that in Burnshill, as in Rabula, public opinion condemns a man who "eats the inheritance alone" and refuses to give his younger brother the use of a portion of the family land.

TABLE III

CLASSIFICATION OF SONS WHO INHERIT QUITRENT ALLOTMENTS

Catagories of sons	Generation												Total		
	Present			Father's			Grand-father's			Great-grand-father's					
	E	M	Y	E	M	Y	E	M	Y	E	M	Y	E	M	Y
Number of sons	46	15	23	41	33	28	17	6	12	2	1	2	106	55	65
Number of these sons who inherit	20	3	8	28	6	2	11	1	—	1	—	—	60	10	10
Percentage who inherit ..	44	20	35	68	18	7	65	2	—	50	—	—	57	18	15

The regulations now governing the inheritance of the quitrent land lay down that a widow should be allowed to continue using her deceased husband's field without actually having it transferred to herself. The field is not transferred from her husband's name until she dies, and the eldest son must wait until both parents are dead before the land legally becomes his own. It is thus not uncommon to find the eldest son of a family living with his widowed mother, waiting to inherit her field, while his younger brothers have already established their own homesteads and acquired their own fields. When the Commissioner was arranging the transfers of fields the difficulty often arose of a widow being in possession of a field which had never been transferred to her husband. The only solution here was to leave the

field untransferred until the death of the widow, or else to transfer the field to the widow's eldest son, on the understanding that the widow would have the use of the field until her death. Of the landholders in the sample lineages, 21.6 per cent were widows, some of whom used land that was still registered in their deceased husbands's names, while others used land that had already been registered in their sons' names. Some used land that had not yet been transferred from the original grantee. A widow is only allowed the use of a field: it does not become her own. If she remarries and has no sons she may not take the field to her new home; she automatically forfeits her right to it and it goes to the next in direct line of succession, according to the Tables. If she has a son, the field must be transferred to him, and if he is a minor, a guardian must be appointed to guard his interests. It is not usually in the interests of a widow to remarry if she has children, and no cases were found where this had occurred. Orphaned sons cannot be deprived of their inheritance. Their land is transferred to them and a guardian appointed to take care of them and the land. The guardian uses the land as his own and supports the children.

The only regulation that prevents a man from acquiring more than one lot is that which lays down that, if a man already owns a field when he inherits another, he may keep only one of the fields and must allow the other to pass to the next in the direct line of succession. He may, however, inherit several fields simultaneously. The "one man—one allotment" policy of the Administration has not been in active operation very long and, prior to this, men were allowed to acquire more than one lot. During the reorganisation of ownership it was found that some men were entitled to inherit several lots and they were allowed to take possession of them.

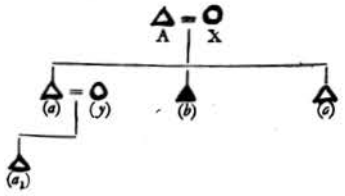
The people themselves are, however, averse to one man "eating the inheritance alone" and an heir to several fields will usually keep only one for himself and donate the others to the persons whom he considers entitled to them. He does not usually choose the best field for himself—it is felt that the field that has been in the possession of the family the longest is the one that he should keep, while any others should go to the subordinate heirs. Table IV shows the average number of fields inherited by a landowner in each generation is only 1.1.

TABLE IV

NUMBER OF LOTS INHERITED PER PERSONS

	Generation				
	Present	Father's	Grand-father's	Great-grand-father's	Total
Number of persons who inherit	35	39	13	1	88
Total number of lots inherited	40	44	14	1	99
Average number of lots inherited per persons ..	1.1	1.1	1.1	1	1.1

Fields do not always pass smoothly from one generation to the next. There is usually a great deal of discussion regarding an inheritance and many complaints from people who feel that they have not been treated fairly. Legal difficulties are constantly arising which prevent what the people consider a fair allocation of the land to the heirs. Techniques do exist whereby these difficulties may be overcome. The most commonly resorted to is an *inter vivos* donation, whereby the person legally entitled to the field takes possession, and then gives the field as a donation to the person morally entitled to it. By this means the regulations are satisfied as well as the parties. A description of an actual case gives some idea of the difficulties that are involved when a field has to be transferred.



The above is a diagramatic representation of a patrilineal family group. A owns a field of his own. (*a*) has no land and as the eldest

son will eventually inherit his father's—A's—field. A, in an attempt to secure his son (*b*) with land, purchases a field and has it registered in (*b's*) name. (*c*) has no land. (*b*) dies and A wishes to transfer his (*b's*) field direct to (*c*). The regulations do not permit such a transfer, as (*b's*) direct heir is A. As A already has a field he must choose the one he prefers—his own or (*b's*)—and allow the other to go to the next in line of succession. This person is (*a*). The Administration can do nothing to prevent (*a*) taking possession of the field and keeping it. A also can do nothing to prevent this, although his intention is that (*a*) should take transfer of the land and then donate it to (*c*). Whether this is done or not depends on the character of (*a*). If he keeps the field and does not donate it to (*c*) he will eventually become heir to A's field also. When this happens he must choose the field he wishes to retain and allow the other to pass to the next in line of succession—which in this case will be (a_1)—his son. By so doing (*a*) will be " eating the inheritance alone " and will be severely criticised for his " theft ". (*c*) and his descendants will have been completely cut off from the inheritance. Such circumstances are very unlikely to occur, and (*a*) will almost certainly donate the field he inherits indirectly from (*b*) to (*c*), although if he lives in the village he may make use of the field. This case had not yet been settled when the fieldworker left the district, as (*a*) was living in Johannesburg with his wife and children.

The above is a comparatively straightforward case. Many are much more complicated, especially when illegitimate children and matrilineal descendants have to be provided for. The people only partially understand the legal technicalities involved in a transfer, and are inclined to interpret them as an administrative technique for extracting money. All the steps are carefully followed and are fully discussed with other members of the village. The principle of the eldest son inheriting is fully understood, although it is criticised by many. The criticism is not so much against the principle itself, as against the rigidity of its enforcement. It is maintained that the position of the eldest son is made too secure and leaves him with no incentive to support his parents, while the younger sons who undertake this task receive nothing in return. " The eldest son is the father of the family " (*inkulu inguyise wosapho*) which means that he is expected to take over the support of the family together with the land, a duty which many are inclined to shirk nowadays.

An analysis of the people who inherit land in the village (Table V) shows that over 90 per cent are the legitimate sons of male owners. In the past, daughters have inherited where there are no sons, but it is doubtful if the Administration would allow this to happen again. In some of the cases where daughters inherited they did not actually have the land transferred to themselves, but made use of it and passed it on to their own children. When the Administration began its reorganisation it transferred the land to the sons of these daughters thus tracing the descent through the matrilineal line. Illegitimate sons form a very small minority of those who inherit, and special provision has usually to be made for them.

TABLE V

ANALYSIS OF INHERITANCE OF QUITRENT ALLOTMENTS

Type of heir	Generation				Total
	Present	Father's	Grand-father's	Great-grand-father's	
Total number of heirs ..	35	39	13	1	88
Legitimate sons who inherit from fathers:					
Number	31	36	12	1	80[1]
Percentage	88.6	92.3	92.3	100	90.9
Daughters and matrilineal descendants who inherit:					
Number	3	2	1	—	6
Percentage	8.6	5.1	7.7	—	6.8
Illegitimate sons who inherit from fathers:					
Number	—	1	—	—	1
Percentage	—	2.6	—	—	1.1
Men who inherit from their mothers:					
Number	1	—	—	—	1
Percentage	2.9	—	—	—	1.1

[1]Of the 80 sons who inherit land, 9 sons are unmarried. Thus, 11.25 per cent of sons who have inherited recently are unmarried. (Not all these sons are still alive.)

ii. *Sub-division*

Sub-division, which is so important on freehold land as a means of providing members of the family with fields, is not important in Burnshill. It has already been shown that the sons of each successive generation were provided with land from that left by the permanent emigrants; this made sub-division unnecessary. But when the Administration reorganised the ownership of land many people found themselves without any. Some of these people bought fields and were not greatly disturbed by the reorganisation that took place. Others were unable to do so, and a few of them were given part of a field by a relative. A man does not sub-divide his field to provide a landless cousin with a portion, but will usually do so if his son or brother is landless.

In a random sample of 30 landowners, only 4 (13.3 per cent) had sub-divided their fields. Two of these landowners were widows who had given their sons portions of their fields. The other two were men, one of whom had given his son a portion of his field, while the other had given his widowed mother a portion. The landless sons thus provided with land had established their homesteads alongside those of their parents—on the same building site. The other one had obtained a building site among the squatters, and left his mother to occupy the surveyed building site.

The regulations governing the Administration of the village prohibit the sub-division of fields by survey or the acquisition of registered titles to undivided shares in a field, but they stipulate that the occupation of a field by two or more persons is not prohibited. A field may thus be divided into any number of portions to be used by persons other than the owner, but no one other than the registered owner of the field has any rights of ownership over the sub-divided portions, and he may eject the others whenever he chooses.

In the past, men have been able to consolidate their holdings of land by adding to the fields they inherit, others that they acquire by purchase or by inheritance from their mothers; some had their holdings increased by the reshuffle of fields undertaken by the Ad ministration; but nearly all large holdings have now all been sub-divided to provide land for the heirs of the owner. Only two persons

in the sample of 30 lineage groups held more than one field each, and owing to the " one man—one allotment " policy of the Administration, there is no liklihood of such consolidated holdings being formed again.

iii. *Rights of Transfer*

One of the two conditions of grant specified on the original title deeds to the land was that the fields " shall not be alienated or leased except with the consent of the Governor ". In spite of this condition, cases were found by the Commissioner who was re-organising the ownership of land, where sales of land were alleged to have taken place, though the consent of the Governor had never been obtained and no transfers were ever effected. The Commissioner made direct awards of these fields to the people claiming ownership of them, unless it could be proved that the descendants of the original grantee had a *bona fide* claim to them.

This principle was carried over into the new set of regulations for the administration of the village. The rights of transfer are now regulated by Proclamation No. 117 of 1931. This proclamation makes provision for the transfer of fields and building sites and for the surrender of these properties to the Crown. In terms of Section 13 (i) of the Proclamation, page 128, the registered holder of (a field and building site) " shall not alienate, transfer or lease the (property) with out the approval of the Governor-General ". In practice only the approval of the Chief Native Commissioner is necessary before an allotment may be sold or donated by its owner to another person. This approval is not necessary when the property is transferred from the deceased owner to his heir, although the Chief Native Commissioner, as Registrar of Deeds, has to register the transfer. When the owner of a field and building site is a minor, the property may also be leased, donated or sold, but the Proclamation lays down certain strict conditions for such a transfer in order to protect the interests of minors who own land.[1]

By thus making the right of transfer subject to its approval, the Administration is able to prevent any practices in regard to the transfer of land which it deems undesirable, but which are not specifically

[1]Conditions specified under Paragraph 13 (i), (a), (b) and (c) of Proclamation 117/1931.

provided for in the regulations. By simply refusing to pass transfer, the Chief Native Commissioner is able to combat any tendency towards speculation in land; the acquisition of land by a person who already owns land; the acquisition of land by persons considered as undesirable, and the acquisition of land by women. The Administration is also able to prevent landowners rendering themselves landless and homeless by selling their land and from ousting the legitimate heir to the land by selling or donating it to some other person.

The right to transfer land has been used fairly extensively in the village, particularly during the period that the ownership of land was being re-organised. Many sales of property have been recorded and a large number of *inter vivos* donations made. Donations are made for several reasons, the most important of which is to provide land for persons considered as being entitled to it, but who would otherwise not receive it as an inheritance. If a man has no legitimate sons he usually prefers his land to go to his illegitimate sons or his daughters and their children rather than to the descendants of his brothers. Much discussion was heard in the village on this point. It is usually the daughters who stay at home and do not marry but bear illegitimate children who benefit, and it is agreed by all that these daughters should benefit before nephews. Illegitimate sons who live with their mothers and adopt their mother's surname are not usually provided with land by their fathers, but illegitimate sons who live with their fathers are provided for. A man may thus donate his field to his daughter's son (being unable to donate it to his daughter) or to his illegitimate son, if he has one. One instance was found where a man, as legal heir to two fields, donated one to his illegitimate brother. Some men, whose eldest sons have already obtained fields, donate their own fields to their younger sons and by so doing render themselves landless. Where such gifts are made, the donors usually continue to use the fields themselves until their death, secure in the knowledge that the fields will pass to their chosen heirs.

Sales of land are usually purely business transactions between unrelated men, although speculation in land is prevented both by the recognised fixed price for land (*vide* page 72) and by the power of Administration to refuse transfer if the price of the land is considered unjustifiable high. Cases were found where land had changed hands by sale at a purely nominal fee; it was explained that the sale was between relatives, and the owner was helping his landless kinsman.

iv. *Forfeiture of Land*

Before the re-organisation of ownership of land began, land in the village was liable to be forfeited and sold in execution for debts incurred by the non-payment of quitrent. We have been unable to determine the extent to which land was thus forfeited in the village, although old informants recall cases in which it occurred. It was usually the people who had left the village permanently who left the quitrent on their land unpaid and eventually forfeited it.

Under the new regulations for the administration of the village there are three conditions under which a field or building site may be deemed forfeited. It is laid down that "it shall be lawful for the Governor-General to declare (a field) or building site forfeited in the case of rebellion of the holder, or in the event of a canteen or shop being established thereon for the sale of wines, spirituous liquors or beer or malt liquors of any description". No fields or building sites have been forfeited under the provisions of these regulations and it is doubtful whether both properties would be forfeited simultaneously, or whether only one would be forfeited.

Land is also still liable to execution for a debt secured by a mortgage bond which has been registered, or a debt due to the Government in respect of the land. It may not be sold to recover outstanding payments of quitrent unless the owner of the field is dead, or has absconded from the village and cannot be traced, and arrears amount to three years quitrent. The owner of a field who remains in the village and who has not paid the quitrent on his property for more than three years, cannot have his land sold in execution for the debt, although any crops standing in the field may be attached and sold.

Among the members of the sample lineage groups there were no cases in which land had been forfeited and sold in execution for the non-payment of quitrent. The people are usually exceedingly careful to make the necessary payments, and if the owner himself does not pay the quitrent the person using the field will be so in order to secure the land.

v. *Share-cropping, Loan and Lease*

In Burnshill, as in other villages of Keiskammahoek District,

share-cropping is extensively practiced. In a random sample of 30 families using quitrent land in the village, 15 ploughed land on a share-crop basis during the 1949–50 summer season.[1] Nine of the people who ploughed share-crops did so in their own fields or in fields under their control, thereby reducing the amount of land they had under cultivation: the other six increased their holdings of land by ploughing share-crops with other landowners. In Burnshill the extent of share-cropping is greater than in any of the other villages studied, possibly because there are a large number of people who are landless, and who rely solely on share-cropping as a means of gaining access to arable land. But a substantial percentage of those who practice share-cropping to increase their land-holding already possess land. Some of these are unusually industrious, others find their own land infertile or vulnerable to the ravages of trespassing cattle, or too small for their needs.

We have already seen how men purchase land for their younger sons and by so doing obtain the use of the land, although it does not actually belong to them. Some men are themselves legally landless but use land belonging to their sons, and are regarded as belonging to the landed class, and live on the surveyed building sites amongst the other landowners in the village. Widows also find themselves in this position, where the land they use legally belongs to their sons. The sons owning land are not all minors; in the sample there were several who were already married. Young married men are mostly away at work. Some take their wives with them, others leave their wives in their parents' homestead, but do not take over land for themselves. In the random sample of 30 families, five men and two widows besides having their own land, had the use of their sons' land as well. Another three men and two widows legally owned no land but had the use of land belonging to their sons. Thus the heads of 12 families in the sample of 30 acquired land by holding fields in trust for their sons. Nevertheless the primary object in buying land for sons is to ensure that they should be provided with their own fields rather than to gain extra land for the parents.

Absentee landlords are also a source of arable land for people who remain in the village. Of the members of the 30 sample lineages who

[1] Five of these nine persons are widows. Two men amongst the nine control over three fields each.

owned land in the village 25.8 per cent were absentee landlords and while some of these people leave their land with landless members of their lineage group, many leave it in charge of people who already own land in the village. Some of the absentees are the sons who leave their land to be held in trust by their parents, others have no living parents and leave their land in the charge of brothers or cousins. In the sample of 30 families, the heads of six had in their charge land which belonged to absentee relatives. In three cases these relatives were brothers. All except one of the families using the land had other land of their own. In effect the people who use these fields belonging to absentee owners, borrow them. They pay nothing for the use of the fields and the owners usually pay the quitrent on the property themselves.

Leasing quitrent fields is not common. It is illegal without the approval of the Chief Native Commissioner and without drawing up a formal contract. No cases were found where this had been done, although several families were found in which a landless squatter had rented quitrent fields or a portion of a field. The usual price of £1 per " ox-acre " per season is paid, although when a whole field is rented the price may be less. In one case a field was leased for £3, in another £4. In the sample of 30 families no people were found who had let or leased any quitrent land. When lease is of a whole field it is usually from an absentee landlord, but when it is of portions, it may be from people living in the village.

Renting of land from the Mission is very common, especially amongst the landless squatters. It is not unusual to find landowners hiring from the Mission as well. The heads of two of the 30 sample families rented land from the Mission. Besides augmenting a man's holding of land, the Mission land is popular because of its situation, being comparatively well protected from stock and well suited to winter crops.

By all these methods people in the village are able to use arable land which they do not actually own, and many people are not confined to only one field for cultivation, although it is the intention of the Administration that they should be. The members of the 30 sample families use 44 fields, of which only 25 are actually owned by the heads of these homesteads.

Building sites are never rented. A landless man is usually able to obtain a building site among the landless squatters and there is no

demand at all for the surveyed building sites. Some of the people who live on surveyed building sites do not own them; *e.g.* a widow whose field and building site has already been transferred to her son will continue to live on it, and there are several people in the village not living on the building site indicated on their title deeds, but on that belonging to someone else; but this creates few difficulties since there is no competition for sites. Of the 132 surveyed building sites in the village, only 85—(64 per cent)—have buildings on them. The owners of 36 per cent of the building sites who do not use them are mostly either minors or men who do not live in the village; a few are people who live amongst the landless squatters.

(*c*) The Size of Holdings and Commonage

i. *The Size and Number of Fields*

There is a total of 129 surveyed fields in the village. A random sample of 50 of these showed that they varied in size from 4 morgen 389 Cape square roods to 2 morgen 353 Cape square roods (9.7 to 5.4 acres). The average size of the fields is 3 morgen 218 Cape square roods or 7.1 acres.[1]

TABLE VI

Size of fields (acres)	Number of fields this size	Percentage
5–6	5	10%
6–7	27	54%
7–8	8	16%
8–9	8	16%
9+	2	4%

[1]Because of lack of time the holdings of members of the quitrent village were not measured. The figures used in this section are based on the surveyed size of the fields with no allowance made for portions that are not ploughed, and regarded by the people as not arable. The fields are laid out in blocks and while the people with fields abutting the commonage may enlarge them by moving the beacons, there is little possibility of the majority of people expanding since their fields are surrounded by others. The size of the fields has probably been over-estimated, since parts left unploughed are greater than encroachments on the commonage.

The heads of six of the 30 families studied owned no land at all. The heads of the 30 owned 25 fields between them,[2] totalling 117.5 acres, which gives an average of 5.8 acres each. The heads of two of the families sub-divided their fields—one with two other families, the second with one other. If the sub-divided portions which are not used by the heads of the sample families be excluded, the average amount of land per head of each homestead is 5.6 acres.

In the previous section it was seen how a large percentage of families have at their disposal land belonging to sons and relatives who do not use the land themselves. If these fields be included in the family holdings, the average amount of land at the disposal of each family is nearly doubled. Instead of having only 5.6 acres per family, the average amount of land available is 10.4 acres. The following table shows the distribution of fields amongst the sample of 30 families.

TABLE VII

Size and number of fields	Number of families with this amount	Percentage
Less than one field (–7 ac.)	2	6.7%
1 field (7–14 ac.)	17	56.6%
2 fields (14–21 ac.)	9	30.0%
3 fields (21.3 ac.)	2	6.7%

The average number of persons per homestead is 7.7 inclusive of those away at work. The average amount of land per member of the families is thus 1.3 acres.

ii. *Pasturage*

The total area of Burnshill village (excluding the sub-villages of

[2]The head of one family owned 2 fields.

Lenye and Fort Cox) is 2,452 morgen or 5,150.6 acres. This area is made up as follows.[1]

	Acres
Demarcated forests	321.3
Building sites[2]	44.1
Mission land	180.6
Trading station	0.5
Church site.	0.5
Quitrent fields	911.4
Freehold lots[3]	270.3
Fenced camp[4]	2,310.0
Outspan	164.9
Commonage	947.1

From these figures it will be seen that the commonage is only 947.1 acres in extent. In practice, however, the outspan and the fenced camp are also used as grazing land. The pasturage of the village thus comprises over 3,422 acres. It is used by all members of the village, including the people who own freehold land and the "squatters"[5]

Six camps have been planned on the commonage by the Administration, but only one has been fenced completely. All the pasturage in the village, with the exception of the grazing in the one fenced camp, is open to the people all the time. The fenced camp is closed to grazing whenever the headman-in-council considers it expedient.

[1]All figures from estimates made by the Native Commissioner in the District Record Book.

[2]Includes the building sites originally surveyed together with those more recently surveyed for the squatters.

[3]Eight freehold lots lie together in the centre of the village. They are owned by Africans.

[4]This camp is legally Trust forest but is not treated as other Trust forests.

[5]Although the boundaries of the village have been enlarged to include Fort Cox and Lenye, the people in these sub-villages do not use the Burnshill commonage. Previously people from Mbem's village shared grazing with the Burnshill people on the plateau at the southern end of the village, but this has now been stopped.

It is estimated[1] that there are 130 homesteads in the village with a total population of 950 persons, inclusive of those away at work. The average amount of pasturage per homestead is thus 25.8 acres. Assuming an average of 7.3 persons per homestead[2] the average amount of grazing land per individual in the village is 3.6 acres. The Administrative stock census figures are not obtainable for Burnshill alone, but it has been estimated from the sample Family Budget[3] figures that there are 465 head of large stock and 1,121 head of small stock in the village. This represents a total of 689 cattle units. The average amount of pasturage per cattle unit is then 4.96 acres.

iii. *Extent of Landlessness*

Landlessness in a quitrent village has different characteristics from those of either a freehold or communal village. This is due both to the laws of inheritance relating to the quitrent land and the re-organisation that took place in the nineteen-thirties. Young married men in a quitrent village whose eldest brothers are still alive have no liklihood of obtaining a field of their own unless they buy land for themselves or their parents buy for them. A father or eldest brother may sub-divide his field in order to give a younger son or brother a portion, but this portion never becomes his own. He only has the use of the land. Therefore, theoretically, all middle and youngest sons should be landless. But because some of the eldest sons have died, and because people have left the village and disposed of their land, a large number of the middle and youngest sons have in fact got fields. Some younger sons for whom land has been bought have fields even before their eldest brothers who will inherit the parental land, and some children have fields of their own while their father's brothers are landless.

[1]Estimate based on a rough count, made up as follows :—

84	quitrent homesteads
41	squatters homesteads
5	freehold homesteads
130	

[2]The estimate is based on the number of persons per homestead under the different types of tenure.

[3]*Vide* Vol. II of The Keiskammahoek Rural Survey, *The Economy of a Native Reserve.*

The table below shows the number of married male members of the 30 sample lineage groups domiciled in the village who are landless. Some of them may have the use of land belonging to relatives, others may have sub-divided portions or else rent land from the Mission, but none has a field of his own. A large proportion of them do not have their own homesteads but live with their parents, when they are not working in the towns. Some of them leave their wives in the village, others take their wives to the towns. Those who have left the village permanently have not been included amongst the landless men, although those landowners who have left permanently have been included in the figures showing the number of persons owning land.

TABLE VIII

	Generation			Total
	Present	Father's	Grandfather's	
Total number of landowners[1]	51	35	2	88
Total number of landless married men ..	20	5	—	25

The extent of landlessness amongst those who remain in the village is less in Burnshill than in either the freehold or communal villages. This is due mainly to the large number of persons who migrated permanently from the village and left their fields to be purchased by or awarded to those who remained. Of the total number of adult male members of the sample lineages—living and dead—42.7 per cent were landless at the time of the investigation or had been when they died. The table below shows the difference between eldest, middle and youngest sons who are still alive.

[1]This figure includes all unmarried men and boys, widows, daughters and matrilineal descendants who own land.

TABLE IX

Catagories of sons	Generation: Present E	Present M	Present Y	Father's E	Father's M	Father's Y	Grandfather's E	Grandfather's M	Grandfather's Y	Total E	Total M	Total Y
Total number of adult male members of lineage still alive	44	12	20	13	11	15	—	—	1	57	23	36
Number of these men who have no land ..	20	5	11	1	5	10	—	—	1	21	10	22
Percentage of living men of lineage who are landless	45.5	41.7	55.0	7.7	45.5	66.7	—	—	100	36.8	43.5	61.1

The percentage of landless men of the sample lineages—45.7 per cent—is less than that amongst the freeholders. This table also shows that the larger proportions of the landless men are middle and youngest sons.

Landlessness of men living in the village is not so closely associated with temporary migration as in other villages. Only 37.8 per cent of all people absent from the village at the time of investigation, were landless, and only 56 per cent of the landless men are temporary migrants. Many of the landless men who live in Burnshill work at Fort Cox, nearby, and are thus not classified as temporary migrants.

TABLE X

LANDLESSNESS AND TEMPORARY MIGRATION

	Generation: Present	Generation: Father's	Total
Total number of landless men domiciled in the village	20	5	25
Number of these men who are temporary migrants	12	2	14
Percentage of landless men who are temporary migrants	60.0	40.0	56.0

Chapter V

SOUTH AFRICAN NATIVE TRUST LAND

(*a*) TRUST LAND IN RABULA

Seven villages in the Keiskammahoek District have in them land which has been bought by the South African Trust. This land was bought from Europeans, though much of it had originally been granted to Africans and sold by them. European families lived within the boundaries of the villages and by virtue of owning property there had free access to the commonage. The object of the Trust in buying such land was to exclude all Europeans from the villages and provide additional land for Africans who had none. No land was bought from African freeholders. Trust land is sharply distinguished by the people of the district from land occupied by communal villages, though this is also vested in the South African Native Trust, for occupiers on Trust land are subject to many regulations which do not apply to members of a communal village.

In Upper and Lower Rabula, where the Trust system of tenure was studied, the Trust has bought 1,519 acres of land, and has taken over other land which had been bought by the Government before the creation of the Trust, the total amounting to 2,459 acres. The Trust paid £14,350 for 1,231 acres[1] in Rabula, which gives an average price of £11/13/0 per acre or £24/9/0 per morgen. Many of the properties were fenced and had dwelling houses or trading stores built on them. The land suitable for cultivation has been divided into fields for the landless people already living in Rabula and the rest has been divided into building sites or kept as pasture. The houses on the lots are either let to Africans wishing to rent them or have been demolished. One trading store had also been let to an African to run on his own account. Trust land is governed by Proclamation 12 of 1945.

As we have seen there were numerous landless Africans in

[1]Figures obtained from the Kaffrarian Deeds Registry, Kingwilliamstown.

Rabula living on the commonage. Attempts were made to move them and settle them in Trust residential areas which were formed on the Trust-owned properties. A large number of them had moved before it was decided to abandon the scheme and await the recommendations of the Planning Committee for a planned resettlement of the villages. There are still people living on the commonages of both villages who have been given fields on the Trust properties. Others have been given neither fields nor building sites. No people from outside Rabula were given Trust fields although people in Lower Rabula were given fields in Upper Rabula.

The Trust properties are not territorially separate from other properties in the villages, and the people occupying fields on them do not form any separate territorial group. There are no Trust villages or village sections (*vide supra*, page 46), though a Trust " residential area " may form a distinct hamlet. The " people of the Trust " (*abantu betrasti*) who have been given fields and live on the Trust land class themselves separately from the freeholders, and show a certain political unity, which has been expressed in requests for a separate headman for the Trust people. This request has not been granted by the Administration. All the Trust people come under the headman of the village and the subheadman of the village-section in which they live.

The Trust people and the squatters in the villages differ from all the other African people in the Keiskammahoek District in that there is no continuity of their lineage groups in the villages, and no territorial cohesion amongst their members. They are wanderers—(*amaŧanuga*) and many families have no other members of their lineage groups living in the village or district. They have no permanent tie in the village except the land which they cultivate.

(*b*) The Acquisition of Land

i. *On Trust Property*

As each lot was acquired by the Trust, those portions which were deemed suitable for cultivation were divided into fields which were numbered. The fields were not surveyed or accurately measured, although they were made roughly the same size, and as far as possible they were laid out symetrically.

The fields were reserved for landless squatters and allocation was made through the headman-in-council of the village. Applications went to the headman ; the merits of the applicants were discussed at the council meetings, and a list was prepared for the Administration, giving the names of those people considered eligible for an allotment. Although the land was reserved for landless people, some freeholders who owned only small portions of land had their names included in the list. It was difficult to elicit information regarding the choice of candidates for land : although the headman naturally denied the receipt of gifts in return for nominating candidates, hints were occasionally dropped that, in this or that village, friends and people able to afford a gift were given preference.

At first, persons whose names appeared on the list compiled by the headman drew lots in the order in which their names appeared on the list, but this method proved unsatisfactory since many people got fields far from where they lived. The headman was then given authority to allot the fields as he thought fit, and to re-allot those which had already been given out. Most of the people willingly exchanged fields in order to obtain others nearer their homesteads.

The available fields were all allocated within a relatively short time and people remained who had not received any land. They still live in Upper and Lower Rabula. Most of those who received the fields are still in possession of them but occasionally a field becomes available for re-allocation, when the owner dies or moves. It is obvious from the cases in which fields have been re-allocated that much the same principles are applied in the disposal of the Trust fields as in the disposal of fields in a communal village. The Administration is not bound by any law of inheritance and can dispose of the fields as it thinks fit. Widows are usually given preference and after them the sons of the deceased owner. When the owner of a field dies or leaves the village the headman reports to the Native Commissioner. If there have been no applications for the field, the headman will announce at the village council that it is unoccupied and ask for applicants. Usually it is known in the village when a field is vacant and the headman receives numerous requests for it. Theoretically the re-allotment should be discussed by the village council, but in practice the headman merely takes the candidates nominated by himself to the Native Commissioner, who will transfer the field to this person if he is satisfied that all the conditions of

allocation are in order. Unlike the land in a communal village, the Trust property is spoken of as belonging exclusively to the Trust and the headman is recognised merely as an agent of the Trust. He is not the representative of a chief to whom a grant of land was made, as he is in a communal village. Each person is allowed only one field; no one who is in possession of any other land may be allocated a Trust field. Two cases were found where people who had received Trust allotments were found to own freehold land as well, whereupon their allotments were cancelled and re-distributed.

Persons owning a field on Trust property are not allowed to plough share-crops, sub-divide, rent or lend portions of their fields. Anyone found doing any of these things may have his allotment cancelled. These practices do occur secretly but we do not know how commonly.

Portions of Trust properties were divided into blocks of building sites, and a man who was given a field was also allocated a building site in the block nearest to his field. Most of the building sites are big enough to allow for a garden as well as a homestead and cattle byre. When re-allotments are made a widow or son who has been granted the field belonging to their deceased husband or father usually takes over the building site as well. But if a squatter on the commonage is allocated the field he continues to live on the commonage without moving to the building site. People are not anxious to take over building sites on Trust property, because the local regulations prohibit persons *living* on the Trust properties from owning any small stock. As these regulations do not apply to people living on the commonage, they are naturally reluctant to move to the Trust building sites, if allowed to remain on the commonage.

A count of homesteads in a major portion of Rabula was undertaken and it was found that of a total of 227 homesteads, 91 (40.1 per cent) belonged to people who owned Trust land. Of these, 57 per cent belong to persons who have their homesteads on Trust property while the other 43 per cent live on the commonage.

ii. *On Property Not Owned by the Trust*

There are no regulations preventing people who have been allocated fields on the Trust-owned property from acquiring the use

of additional land in the village, so long as they do not *own* the land. Here again, the people were uncertain of the regulations and consequently were unwilling to disclose the facts for fear of expulsion from their own property. The statistical data available is thus scanty and unreliable.

Before the Trust made land available, share-cropping and renting were the principal means by which landless people were able to get the use of arable land. Some of them have continued to use these methods, even after the Trust had supplied them with their own land. For summer crops share-cropping between freeholders and Trust people is not very extensive. The Trust people have their own fields to cultivate and the freeholders prefer to plough their land themselves. Informants maintain, however, that share-cropping increases considerably during the winter, when the Trust people, having such small holdings, have no portion reserved for winter crops. The share-cropping partnerships are usually with widowed or aged freeholders who cannot undertake the ploughing by themselves. Instances were also found in the village where people who had received Trust allotments continued to rent land from freeholders, the land they had rented before the Trust provided them with fields of their own. The term of lease is a year, but usually the same lessee rents for a long period, since if he gives up the field for a season he may risk losing it all together. One pound per annum per " ox-acre " is paid for the land.

Borrowing and lending of land is not common between freeholders and the Trust people, and is unlikely to occur unless the parties are related. A few cases were found where a man with a Trust allotment got the use of some freehold land also, because his wife was the daughter of a freeholder. In some of these cases the wives had inherited the freehold land themselves and actually owned it; in others the girl's parents " felt sorry for her " because she did not have sufficient land and gave her a portion of their own field to plough. It is doubtful whether the Administration would allow the widow of a Trust land holder to take over her husband's allotment if it were known that she already owned her own land. One instance was found where a widow had both her husband's Trust field and her own freehold field.

There is no possibility of Trust people ploughing parts of the commonage for their own use. The Administration and the freeholders are quick to notice any unlawful encroachment.

No one knows who was responsible for granting building sites on the commonage, either to the freeholders who live there, or to the squatters.[1] People maintain that the squatters lived first on the freehold lots, but later moved away from there and settled independently on the commonage. It is also said that the permission of the headman was not necessary if a homestead was established within 75 yards of the boundary of a freehold lot. To build in such a position the permission of the owner of the lot alone was necessary. Thus many of the squatters entered the village and obtained their homestead sites without reference to the headman at all, and there are now a large number of persons who illegally have their homesteads on the commonage. The number was much greater before the Trust provided homestead sites on its own property and thereby removed a large number of squatters. The granting of homestead sites on the commonage is now prohibited and people may no longer build where they choose. There has been no recent increase in the number of building sites on the commonage, but freeholders cannot be prevented from allowing squatters to live on their property and a blind eye is occasionally turned on a squatter who takes over a vacated building site on the commonage. People whose homesteads are on the commonage seldom have gardens as both the Administration and the freeholders object.

iii. *Rights of Transfer and Forfeiture of Land*

The Proclamation governing the Administration of Trust property (Proclamation 12 of 1945) lays down that subject to the approval of the Native Commissioner, "any Native may transfer any allotment in his lawful occupation to any other Native". No instances were found where this provision had been brought into operation and it is doubtful under what circumstances it would be used. It is unlikely that the Administration would allow a man to transfer his field to a daughter in order to secure her position, or to a wife in order to ensure that she had land after his death. It is possible that a man leaving the

[1]The Mfengu people in the village blame the Xhosa for the large number of squatters. It is said that the Xhosa have a great deal of benevolence (*ubuBele*) and always gather about them all their poor friends and relations. These people eventually become independent squatters in the village. This complaint was often made by the Mfengu people in the freehold and quitrent villages.

village may wish to give his field to a friend or relative, and under such circumstances he could make application to the Native Commissioner to have the field transferred, but the Native Commissioner has power to disallow transfer.

The allotment of Trust fields are made on a number of conditions, and if any of these are contravened the field may be forfeited, consequently, individuals feel their tenure on the Trust fields to be extremely insecure. If they observe the regulations they are probably secure during their own lifetime, but there is no guarantee of this. The threat of forfeiture of an allotment is used as a sanction against the mis-use of the fields, and cases have occurred where people have been evicted for non-compliance with the regulations regarding cultivation.

Trust fields may be forfeited for any of the following reasons :—

(i) "If the allotment holder is more than two years in arrears with any payment of Local Tax."

(ii) "If the allotment holder is more than two years in arrears with any payment of his squatters' rent."

(iii) "If, without reason deemed adequate by the Native Commissioner :

- (*a*) The holder of a (field) shall have failed to have cultivated such (field) for a period of two successive years, to the satisfaction of the Native Commissioner.
- (*b*) The holder of a (field) shall have failed to comply with the written instructions of the Native Commissioner, or of any officer acting under his authority, relating to the manner of ploughing or cultivating such (field) or the use of manure or fertiliser thereon or for the safeguarding of such (field) from erosion.
- (*c*) The allotment holder, without the written permission of the Native Commissioner, sub-lets his allotment or any portion of it, or permits any other person to cultivate it on a share basis.
- (*d*) If the allotment is used for purposes other than for which it was granted.
- (*e*) If the allotment is granted in error or through fraud or mis-representation.
- (*f*) For administrative reasons or in the interests of public order or welfare."

A building site may also be cancelled if the holder fails to occupy the site for a period of a year.

The allotments may not be cancelled until the holders have been warned by notice to appear before the Native Commissioner to show cause why the allotment should not be cancelled. Cancellations for certain of the reasons must have the prior approval of the Chief Native Commissioner, and persons whose allotments have been cancelled may appeal to the Chief Native Commissioner.

(c) The Size of Holdings

The regulations governing the administration of the Trust property lay down no size for fields; the matter is left to the discretion of the Native Commissioner, due regard being paid to the fertility of the soil, the average rainfall and the possibility of irrigation. Thirty-two Trust fields which were measured totalled 113 acres. The average size is thus 3.5 acres, and fields ranged from 6.2 to 1.4 acres.

TABLE I

Size	Number of fields this size	Percentage
5+ acres	1	3.1
4–5 „	9	28.1
3–4 „	13	40.6
2–3 „	6	18.8
0–2 „	3	9.4

Each person owning a Trust field is allowed only one, regardless of the size of the field. The average number of persons per Trust homestead was found to be 6.3, which gives an average of 0.55 acres of arable land per head. We have not adequate material to estimate the acreage of additional land rented from or worked on shares with freeholders.

The Trust people are not confined to any particular portion of the commonage for grazing their stock nor have they exclusive

rights over any other grazing land: their stock grazes, together with that belonging to the freeholders, on the commonage of the village. However, holders of Trust land are restricted to five cattle-units in the number of head they may graze without payment additional to their field rent. Any stock in excess of this number owned by the Trust people must be paid for at the rate of 2/6 per annum for each head of large stock and 6d. per annum for each head of small stock. Thus men with Trust land pay more and have more limited grazing rights than landless " squatters ".

The property acquired by the Trust which has not been made available for cultivation is preserved as grazing but does not form part of the commonage. The grazing camps, into which this land is divided, are fenced and only opened to grazing when the official in charge thinks fit. Grazing in the camps is hired by both the freehold and Trust members of the village, no distinction being drawn between them.

Since Trust land has only been allocated in Rabula since 1939 there can be no discussion of the percentage of children of Trust landowners who are landless. The only true picture of landlessness is for Rabula as a whole: 45.8 per cent of the heads of homesteads are freeholders, 40.1 per cent Trust holders and 14.1 per cent " squatters " without any land of their own. These figures underestimate the extent of landlessness since many of the Freehold and Trust homesteads have living in them the landless married sons of the head of the homestead. In a random count of 21 Trust homesteads there were 27 married men and widows of whom 6 (22.2 per cent) were landless.

Chapter VI

COMPARATIVE LAND USE

(*a*) Arable Land

Though the size of holdings differs, the techniques of cultivation and the crops grown are substantially the same on communal, freehold and quitrent land: only on Trust land, where cultivators are obliged to follow rules laid down by the Administration, are they markedly different. On the first three types of land fields are ploughed after the first spring rains and planted with maize and kaffircorn (*sorghum caffrorum*). They are weeded once, by hand, or with horse-drawn hoes, reaped by hand in the late autumn, and the crop carried home in home-made sledges, or, more rarely, waggons. Maize cobs are shelled and kaffircorn threshed by hand. Kaffircorn survives drought better than maize but gives more labour, since in addition to weeding, the crop must be guarded from birds as the grain ripens. Small boys are sent to scare the birds with rattles and whips, and some people burn herbs in their fields believing that the smoke keeps birds away. Pumpkins, squashes, and a variety of melons are planted along with the maize and kaffircorn, and small patches of peas, beans and potatoes separately, but there is no regular rotation of legumes or roots with grain, except on Trust land where the holders are required to plant a quarter of their holding with cowpeas every year. Birdseed, wheat and oats are sown as winter crops, but only where land that has been fallow through the summer is available. No fodder crops are grown.

The major difficulty in cultivation for each family is providing cattle, labour and implements. In communal villages ploughing combines are very common—in a sample of 62 families in Chatha less than a quarter (22 per cent) ploughed independently, and in Upper Nqhumeya (also a communal village) only 8 out of 74 landholders ploughed without help from outside their homesteads. In the freehold and quitrent villages more homesteads work independently, and when combines are organised they consist mainly of members of the same lineage group who are neighbours. The difference is partly

due to the fact that tractors are used in Burnshill and Rabula more than in Chatha. In Burnshill a group of men have purchased a tractor and when their own fields are ploughed other members of the village can hire it, with the driver. The Administration brought in tractors during the recent drought because so many cattle had died, and plough for individuals at the rate of 8/9 an acre. Many people avail themselves of the service. The problem with ploughing combines is to get the fields of all the members cultivated before the ground hardens. Spring rains are uncertain and everything depends upon getting the seed in quickly after a shower. Here the advantage of tractors is obvious, and those who benefit most from them are the old people and widows who have no means of ploughing themselves, and who hitherto have been dependent upon help from friends and relatives. Though they were helped, their fields were likely to be left to the last, and consequently their chances of reaping a good crop were less than those of other people.

Weeding with horse-drawn hoes is the work of men and is done by each family separately. Many people in the freehold and quitrent villages plant their maize in rows and weed it in this way; but all the kaffircorn, and most of the maize in communal villages, as well as some in other villages, is weeded with hand hoes. This is primarily the work of women. Every woman puts in many hours in her fields (an average of 36.7 days per annum in a sample survey) working alone or with her daughters, but where the whole field has to be hoed by hand, work parties (*amalima*) are often organized. The owner of the field provides food and beer and invites people to come and hoe for the day. In Upper Nqhumeya in 1949–50 29 out of 39 fields were weeded with the assistance of work parties and hired labour. Hoeing parties are frowned upon by many as being inefficient; it is said that the quality of the hoeing is bad, the helpers being more concerned with gossip than hoeing, and in fact such parties are never held in kaffircorn fields where hoeing has to be skilful. A few people hire other members of the village to do their hoeing, the usual payment being 1/3 a day for work in a mealie field and 1/6 in a kaffircorn field. The harvesting of maize and kaffircorn is done by each family separately, in a leisurely way, but winter crops, wheat, oats, and birdseed must be got in quickly as soon as they are ripe, and to harvest them work-parties are organized. Threshing the wheat is done by European-owned threshing machine which visits first one village and then another.

After the summer crops have been reaped, and again after the winter crop is in, the village cattle are turned into the fields to graze. When they have cleared the fields those who have facilities for ploughing turn over their land, but many families have not got cattle and labour to do this.

Influenced by the teaching of the agricultural officers of the Native Affairs Department the villagers have at last recognized the importance of manure, and with the assistance of Native Affairs Department trucks (for which only a small fee is charged) have begun to cart the manure available in their byres on to their fields. Some freeholders also buy small quantities of guano and artificial fertilisers. Nevertheless the yield is very low. In a *good season* it ranges from 2 to 3 bags per acre of maize or 2½ to 4 bags of kaffircorn. Production is not markedly different between the villages and such differences as there are appear to be related to rainfall rather than to the techniques of cultivation.

Yields in 1948–49—a year of drought—were as follows :

	Chatha[1] (communal)	Burnshill (quitrent)	Rabula[2] (freehold and Trust)	Mthwaku (communal)	Gxulu (communal and freehold)
Rainfall (Sept.-April) ..	17.38	11.8	10.54	15.64	18.36
Yield (lbs. per acre) :					
Maize ..	198	9	8	57	105
Kaffircorn	259	10	5	121	78
	1949–1950 (a good season)				
Rainfall ..	27.73	20.15	22.66	22.4	20.55
Maize	523	409	433	562	500
Kaffircorn ..	247	314	790	432	413

[1]These figures are taken from the economic report where yields are discussed at greater length.

[2]The production of freeholders, squatters, and people on Trust land was unfortunately not distinguished in Rabula.

(*b*) Pasture

In all the villages pasture lands are held in common ; even where there is individual freehold tenure a " commonage ", on which all members of the village have the right to graze their stock, exists. Freeholders often own land which is not cultivated, either because it is exhausted or is not suitable for cultivation, or because they have more land than they require for fields. A few of them exclude other people's cattle from such uncultivated land, but usually it is unfenced and is treated as part of the commonage.

One or two commonages are fenced along their boundaries, but none are divided into camps.[1] In theory the whole commonage of a village is open to all the stock of the village, but in practice there are conventional limitations which confine the stock belonging to the members of one village section within the boundaries of their village section. As a matter of convenience the people do not move their stock over a wide area of the village, but graze it in the vicinity of the homestead. In this way, the stock of all the villages, with the exception of the quitrent village, tend to graze only within the boundaries of the village section in which owners live. It is unusual for stock to be sent from one village section to graze around the homesteads of another village section, unless the owner of the stock gives them to someone in that village section to keep for him. This is frequently done by people who do not have good grazing near their own homesteads. In the quitrent village, where the homesteads are concentrated in one area, there are no village sections corresponding to those in the other villages, and the stock graze where their owners choose, but people usually have recognised areas to which they send their stock every day.

The right to graze stock on the commonage is dependent upon being a recognised member of a village. The villagers guard their boundaries very carefully in order to ensure that stock from the neighbouring villages do not trespass. The boundaries between the villages are usually fixed and well known, but exceptions do occur as in the boundary between Upper and Lower Rabula, which is very unstable. Here there is considerable overlapping on the marginal area, but the recognised members of upper village are not allowed to

[1]Burnshill has one fenced camp on the commonage.

use the commonage belonging to lower village, except where it surrounds their homesteads. Pasturage on the commonage is not restricted only to the people who own land in the village. All landless members of the villages and people living on Trust properties have access to it, though people on Trust properties have to pay a grazing fee which is included in their squatters' rent. No one is restricted in the amount of stock they may own, but people on Trust property have to pay an extra grazing fee for any stock in excess of a certain number.

In all the villages there are grazing areas which are situated separately from the commonage that surrounds the homesteads. In the communal village of Chatha there is the " Ministerial Grazing Lease " which consists of two fenced camps in the mountains. In Rabula there are the mountain glades situated within the boundaries of the Demarcated Forests areas and there are Trust-owned grazing camps. In Burnshill there is a Trust Forest camp which is fenced, and the plateau at the southern end of the village. Formerly these grazing areas were used as cattle posts to which the cattle were sent with their herds in summer. Now that these areas are mostly fenced, the cattle are left to graze unattended, being brought back to the village only for dipping and inspection. The " Ministerial Grazing Lease " in Chatha has been temporarily closed by the Administration, but when it is open to grazing no limitation is made on the number of cattle admitted, though small stock are not allowed. The Trust grazing camps are controlled by the Administration and grazing within them has to be hired. They are periodically closed and the number of cattle allowed in at any one time is limited. Herding is the work of boys, but as many of them attend school, the men usually help during school hours. Cattle which have not been sent to mountain camps are enclosed in the byre every night and herded on the commonage during the day. Sheep are herded separately ; goats are left to roam on the commonage but are brought in at night. A great deal of labour is thus expended because of the lack of fencing.

No system of rotating the grazing is used on the commonages, partly because there are no fenced camps, but also because the people do not understand the principles involved. There is no protection to allow the grass in certain areas to seed or to preserve it for winter feeding. All the commonages are very seriously overstocked. The available grazing affords, under 2¾ acres per cattle unit in the communal and freehold villages and under 5 acres per cattle unit in the quitrent village,[1] while the estimated requirement is 4 morgen (8 4/9ths acres) per cattle unit.[2]

In an effort to control the number of stock in the villages the Administration has prohibited those living on Trust property from owning sheep or goats. In effect the number of these small stock has not been greatly reduced by this measure as most of the squatters have given their small stock to other members of the village—freeholders or quitrenters—to keep for them. The villagers are aware that their commonages are overstocked : in Burnshill especially they are constantly on guard against outsiders gaining access to their pasturage by purchasing land in the village, and against villagers who undertake to look after stock owned by outsiders ; but individuals are not prepared to limit their own holding of stock, nor has any village in the District agreed to enforce a limit on its members. The rich graze much stock—it is said on good authority that a European freeholder in Rabula ran 1,000 sheep on the commonage before he was bought out by the Trust—and the poor graze what stock they have. The district

[1]Areas of pasturage :—

[1]AREAS OF PASTURAGE

	Quitrent (acres)	Freehold (acres)	Communal (acres)	Trust
The average amount of pasturage per homestead ..	25.8(1)	—	14.6(1)	*cf* Freehold
The average amount of pasturage per individual in the homestead	3.6(2)	3.7(2)	2.35(2)	*cf* Freehold
Average area of pasturage per CATTLE UNIT	4.96(4)	2.9(5)	2.23(4)	*cf* Freehold

Notes :

(1) Number of homesteads estimated. Such estimation not possible for Freehold and Trust homesteads.
(2) Estimated from 1946 Census figures for village.
(3) Estimated from estimated average number of persons per homestead.
(4) Estimated from Family Budget count of cattle per homestead.
(5) Estimated from Agricultural Stock Census figures.
N.B.—In Chatha the Agricultural Census shows 1,067 cattle units less than the estimated number of cattle units, using the Family Budget figures. This figure cannot be obtained for Rabula.

[2]R. R. Baker, " Rehabilitation in the Native Reserves " in *Man and His Environment*, published by Buffalo Catchment Association.

falls under the Betterment Scheme and the introduction of new stock is rigidly controlled by the Administration. A permit is necessary to introduce any new stock to a village, and stock may only change hands, without a permit, between people who use the same dipping tank. Losses of stock have been heavy during the recent droughts but unless a limit is enforced the numbers will increase again during good seasons.

The average number and type of stock owned per homestead vary somewhat with the type of tenure. Freeholders are the most wealthy in stock, especially in horses, those on Trust holdings the poorest. The family budget survey indicates that people living on quitrent land are at least as well-to-do as the freeholders but, as we have seen, the people in Burnshill are more conscious than any other group of the need to limit stock and some of them have put their savings into a tractor rather than into cattle.

	Cattle	*Goats*	*Sheep*	*Horses*	*Total Cattle Units*[1]
Freehold . . .	5.77	9.72	8.42	0.67	10.07
Quitrent . . .	4.0	9.8	1.3	0.36	6.58
Communal . .	4.27	2.4	8.2	0.19	6.58
Trust	2.3	3.4	2.9	0.18	3.74

There is no noticeable difference in the class or variety of cattle and sheep bred in the different villages. Though some individuals own better cattle and sheep than others, the freeholders and people in the quitrent village do not, as a whole, differ from the " squatters " in their villages, or the people in the communal village. But freeholders and quitrenters have noticeably better-bred horses, some of them costing as much as £30 and being imported from as far afield as Cape Town. Horses are used for riding, never as draught animals in the fields, and they are owned by the richer men only. No one makes a living out of stock-farming, although the sale of wool from sheep now adds considerably to the income of those who own them.

The dipping and inoculation of stock is enforced by the Administration, and supervised by the " Stock Inspector " of the district

[1]Figures obtained from the Family Budget Survey. An average of the 1948 and 1950 figures has been taken. Freehold families are the largest.

and African " Dipping Supervisors ". Each stock-owner pays for his stock and is issued with a dipping book which is used as a check on stock entering the village illegally. Not all the villages have their own dipping tanks, and two or more neighbouring villages may share a tank.

The commonage is important not only as pasture land but also as a source of fuel and thatch, and in some areas the children pick considerable quantities of wild fruit—prickly pears in the lower part of the district, and brambles on the high slopes. Any member of the village may collect on the commonage for his own use, or for sale. From certain of the adjoining forests women may take dead wood for firewood provided that they do not carry an axe, and that the wood is not bartered or sold. Thatch, reeds for mats, and materials for twine and rope are also collected under restrictions. Saplings and poles for building are nowadays usually bought from the Forestry Department : formerly they too were cut from forest patches.

(*c*) Improvements

Every family builds for itself, or hires a builder to erect several round huts or a rectangular house. Many of the huts and houses are substantially built of sun-dried brick, and have pitched roofs of sewn thatch or, less often, of corrugated iron. Generally speaking, huts and houses of freeholders and quitrent owners are more substantial and comfortable than those in the communal villages, for the freeholders and quitrenters are better educated and a little less poor than " squatters ", and those living in communal villages. The wealth of a family is almost always reflected in its housing. There was no water supply, other than an unprotected stream, and no form of latrines, in any of the villages visited.

Apart from the houses, " improvements " made on the land are negligible. Only one freeholder had his land adequately fenced. Some sort of barricade is made between the pasture and the blocks of fields, but it is usully inadequate and cattle break through ; the same is true of the aloe, agave, and thorn brush fences round " gardens " in the communal villages. One or two families had each planted a shade tree, near their homesteads, and one or two had planted fruit trees in their gardens, but for the most part villages are bare of trees and fruit.

"St. Helena" peaches seed themselves readily in the fields and are usually left to grow, but only the freeholders who live close to their lands get much fruit; other peoples' trees are stripped by children when the fruit is barely formed. There are no long term crops cultivated, no dams made by the people themselves and, except for the vegetable garden in Chatha organized by the Agricultural Demonstrator, no irrigation from the streams by Africans in any of the villages visited. Even the water furrow built by the Rev. James Laing in 1834 to irrigate the mission fields at Burnshill, has fallen into disuse. In the communal village of Chatha there was evidence of old irrigation furrows leading from the stream, but they, too, have fallen into disrepair. In the freehold village of Rabula a European holder has dammed one of the streams and is able to put most of his property under water, including a large plantation of orange trees, but similar schemes amongst the African freeholders are completely lacking. Apart from houses, there is no sign that freeholders, with secure tenure, are putting capital into their land and developing it further than the communal holders whose tenure is insecure.

Such agricultural improvements as have been made in the district have been carried out by the South African Native Trust, often in the teeth of opposition by the people. The two main improvements carried out by the Trust are the building of contour banks in the arable lands, and fencing of forest, watershed, and village boundaries. Though contour banks are essential to preserve the soil they are very unpopular because they take up space, reducing the ground available for cultivation, because they make ploughing difficult, and because, on communal and Trust land, the holders of fields are fined if they plough into the banks. The difficulties in ploughing are largely because the lands were traditionally allocated in strips and patches which bear no relation to the contours. Only a new demarcation of fields (which would be bitterly opposed) could solve this. Most of the contour banking has been done on Trust land and in communal villages, and there the banks are maintained under pressure—those who plough into them are prosecuted. The fields of a few freeholders who agreed to co-operate were also banked but they have mostly neglected their banks and ploughed them out.

Fencing along village boundaries is welcomed, and fencing off arable from pasture land, and division of the commonage into paddocks, would be welcomed also, but a great deal of the fencing

that has been carried out is of forest into which the villagers have been accustomed to drive their cattle (legally or illegally) during the winter. There is a real conflict between the need to preserve sponges and forest land, especially on steep slopes, and the need for shelter and feeding for the cattle. Again and again a fieldworker is told by the villagers of their longstanding grievances over grazing rights—of how one mountain or forest area after another which they once used has been taken from them. The villagers have argued their cases in the courts paying large fees to a white barrister to represent them. They have also taken direct action, cutting fences and pulling them up. The Administration, for their part, argue convincingly that if conservation measures are not taken there will be no grassland and streams left, only desert, and that the fencing is essential to the welfare of the people themselves, as well as to a wider community dependent on water from the district. The conflict is one symptom of the impasse created by a far larger population than the land can support trying to scratch a living from it; it is greatly exacerbated by race tension. The South African Native Trust is the body responsible for enforcing conservation measures. Those actually living on Trust land do not criticise it for, they say, they had no land and the Trust gave them some, but with the other inhabitants of the district it is supremely unpopular.

Chapter VII

LAND TENURE AND FAMILY STRUCTURE

(*a*) Differences in the Extent and Type of Migration Related to Differences in Tenure

i. *Permanent Emigration*[1]

Most men growing up in Keiskammahoek District establish their permanent homes in the village in which they were born, for there, and there alone, they have land rights. In each village there are a number of lineages, some of them five generations of married men in depth; only among the "squatters" and Trust land holders the lineage group is not a localised unit. "Squatters" and Trust holders seldom belong to a lineage group that is established in the village in which they live; for the most part they form a collection of unrelated elementary families which have wandered in search of land. They have neither the bond of kinship nor of long common residence in one village.

But though most men who have land rights in freehold quitrent or communal villages settle there, not all do so. Table I below shows the percentage of adult married male members of the sample lineage groups who have left the villages permanently as adults or children. It will be seen that the percentage of emigrants has increased from one generation to the next, and also that it varies with the type of tenure.

[1]This chapter should be read in conjunction with Chapter V of Vol. II of this series, *The Economy of a Native Reserve*.

TABLE I

Percentage of Adult Married Males—Living and Dead—Who have Left the Villages Permanently as Adults or Children

	Present generation	Father's generation	Grand-father's generation	Great-grand-father's generation	Total	Size of sample
Quitrent ..	29.3	32.1	29.2	18.75	29.2	267
Freehold ..	26.5	22.2	23.9	3.8	22.1	394
Communal ..	23.7	19.3	13.1	5.0	19.3	512
Trust	52.9	—	—	—	25.0	32

Many of the permanent emigrants from freehold and quitrent villages have left as children, accompanying their parents to town, or returning with their widowed mothers to the maternal grandparent's home, while few have left as children from the communal village, so that, as shown in Table II, the proportion of *grown men* now leaving the communal village is higher than that leaving freehold or quitrent villages. The sample for Trust land is too small for the percentage to be of much significance.

TABLE II

Percentage of Total Men of Lineage Who Leave as Adults

	Present	Father's	Grand-father's	Great-Grand-father's	Great-great-grand-father's	Total
Quitrent ..	8.7%	22.0%	27.1%	18.75%	50%	18.4%
Freehold ..	12.7%	12.6%	19.8%	3.8%	—	13.7%
Communal ..	16.9%	16.4%	10.6%	3.6%	—	14.6%
Trust	52.9%	—	—	—	—	28.1%

Not long after the villages were settled a large number of men left to go to the Transkei where other land was offered (*vide supra* pp. 47; 69) and where grazing was more plentiful. The greatest emigration

appears to have been from Burnshill and is reflected in the high percentages of emigrants in the grandfather's and great-grandfather's generations. The extent of this emigration from communal villages is not really known, for often entire families moved abandoning their land completely, and leaving no trace. On the other hand, the emigrants from the freehold and quitrent villages either retained their land or else sold or gave it to people who remained, so that evidence is more easily obtained. Subsequent to this mass emigration, individual men—whether they owned land or not—decided to leave their village permanently. Some went to relatives in the Transkei; many settled in towns and a few on European farms. Women left to join their husbands in other villages and some children—both boys and girls—were taken to live with maternal relatives in other villages. Amongst the permanent emigrants were men who owned no land—men who had sold or lost their freehold or quitrent land; men who did not claim their share of the inheritance; men who were the younger sons of the owners of quitrent land and who could not inherit; men from the communal village who decided not to wait any longer to obtain a field of their own. There were also men who had already obtained land of their own but who preferred the life in town. Many of the permanent emigrants who owned land before they left still retain it, as absentee landlords. Others sold their land before they left—either through necessity or by preference—and abandoned their village completely. Permanent migrants from the communal villages have to abandon all their rights to land when they leave. They cannot sell their land or retain it as absentee landlords, and it is very difficult for them to return to the village after they have left.

It is clear that landlessness is not the sole cause of permanent emigration for the following percentages of men emigrated permanently from each village *after* having obtained their own land:

Trust	0.0%
Communal	20.0%
Freehold	22.7%
Quitrent	32.5%

Many, however, emigrate from the villages because they are not able to obtain their own land or sufficient land to support them. It is also noticeable that the owners of land who emigrate permanently decrease in each generation.

Men emigrate for many different reasons. Few can make a living in the country and the difficulties of going backwards and forwards between town and village cause many men to abandon the villages completely and set up their homes in the towns. It is usually the more sophisticated men who now leave the villages to settle permanently in the towns. Freehold and quitrent owners are able to leave the villages secure in the knowledge that they can return if they wish.

It is often difficult to distinguish between a permanent emigrant and a long term temporary migrant. In the economic study of migration[1] the length of absence of a migrant is used as the basis for analysis, but in this study the classification given by the informants has been adopted. If it was considered that a man would not return to the village he was classified by his relatives as a permanent emigrant; but if there was any possibility of his return he was classified as a temporary migrant, no matter what the length of his absence.

The manner in which permanent emigrants leave the villages varies. In many cases the intention of the emigrant is made quite clear and a clean break is made from the village. But others who become permanent emigrants come and go between the villages and the towns for a considerable time before they eventually abandon all ties with the villages. While they are still single they may send money and gifts home to their parents, but when they marry and settle down in their new homes these usually cease. In the communal village the non-payment of the local tax is looked upon as a definite indication that a man will not return. But in the freehold and quitrent villages, where it is not necessary to pay this tax in order to retain a place in the village, men may return after long absences. Among the younger men of the village there are many who have been away for long periods and it is not yet known whether they will ever return, although there is nothing to prevent their doing so. There is little likelihood of men who leave the villages as children returning.

The people distinguish three types of migrants. Those who leave permanently (*ukufuduka*); temporary migrants who are "at work" (*ba semsebenzini*) and those who abscond (*ukut∫hipha*). When young men or boys go to the towns to work, it is expected that they send money and presents and make occasional visits home, and usually their parents know where they are working. But when they abscond

[1] See Vol. II *The Economy of a Native Reserve.*

from the villages all trace of them is lost and they neither communicate with their parents nor send them any of their earnings. Sometimes the parents do not even know to which town their sons have gone, although they may hear of them through other people. The word used to describe this type of emigrant is derived from " cheap " and is used in a derogatory way to imply the worthlessness of the individual. The men who abscond usually do so before they marry but after they have been initiated. They seldom return to the villages although some have been known to do so as old men. Of permanent emigrants, the following percentages left the villages by absconding :—

		Size of sample of permanent emigrants
Quitrent	8.8% . . .	80
Freehold	12.5% . . .	88
Communal	23.7% . . .	93
Trust	44.4% . . .	9

The reasons for which people abscond from the villages are difficult to determine. There is, however, some correlation between the type of tenure and the percentage of men who abscond. It is suggested that the difference may be due to the greater shortage of land in the communal village and on Trust holdings, making the prospect of retaining a footing in the village less attractive than it is in the freehold and quitrent villages. It may also be due to the greater dependence of sons on parents for the acquisition of land in the freehold and quitrent villages that makes the sons keep in closer contact with their parents. In the communal village and on Trust holdings the sons are not so dependent on their parents for the allocation of a field and a place to live and are thus more ready to abandon their parents completely.

The permanent emigration of landowners gives rise to a class of absentee landlords. In the freehold and quitrent villages 24.8 per cent and 25.8 per cent respectively of the landowners are absent. These people retain their ownership of the land and the right to return to the villages whenever they choose, but they do not live in the villages.

Table III below shows the places to which the permanent emigrants went.

TABLE III

PERCENTAGE OF PERMANENT MALE EMIGRANTS

Places of emigration	Communal	Freehold	Quitrent	Trust[1]
Other Reserves[2]	32.2	64.8	67.6	22.2
Reef towns	24.7	20.5	11.3	33.3
Ports	15.1	10.2	13.8	33.3
Smaller towns and farms	16.1	—	—	—
Unknown	11.8	4.5	7.5	11.1

From these figures it may be seen that under 40 per cent of the permanent emigrants from the freehold and quitrent and communal land go to large towns, but 67 per cent of people from Trust land do so. It is also noticeable that it is only the men and boys from the communal village who have emigrated to the European-owned farms in the neighbouring district of Cathcart and who have settled in the smaller towns.

ii. *Temporary Migration*

It has already been mentioned that it is often difficult to distinguish between temporary and permanent emigration. The lengths of absence of the temporary migrants vary enormously and they may or may not send part of their earnings home to the villages. There is a constant stream of men coming and going between the towns and the villages—men coming home for short spells of leave, men coming home to help with the ploughing, hoeing and reaping, and men coming home to attend ceremonies. Some men even come home every week-end. Many of the temporary migrants return to the villages at least once a year, but others stay away for much longer periods. Table IV shows the percentages of married men belonging to the sample lineage

[1]Numbers are too small for percentages to be representative.
[2]Transkei and other villages in Keiskammahoek or surrounding Ciskeian districts.

groups and considered as being domiciled in the villages, who were temporarily absent from the villages at the time of the investigation. The unmarried men and boys who were absent at the time are excluded.

TABLE IV

Married men in sample lineage	Quitrent	Freehold	Communal	Trust
Total number domiciled in the villages..	80	148	169	23
Number who were temporarily absent from the villages at the time of investigation	37	81	77	10
Percentage	46.3	54.7	45.6	43.5

There is no great difference in the percentages of men who are away working, except in the freehold village. A large number of men who would otherwise be temporary migrants from the communal and quitrent villages were employed in or nearby the villages and were thus not considered as temporary migrants. Fort Cox, which adjoins Burnshill draws much of its labour from the village, while during the investigation, the Forest Department employed many of the men from Chatha in replanting a section of the forest that had been burned. Rabula has no such labour market in its vicinity and the men had to go further afield to seek work.

The system of land tenure does not affect the extent of temporary migration to any degree but it does affect the length of absence of the migrants. From the freehold and quitrent villages the men may stay away for long periods. They have the right to absent themselves indefinitely without losing their land, but migrants from the communal village and the Trust holdings cannot do so if they wish to retain their land in the village, or if they wish to obtain a field of their own. They have to obtain the permission of the Administration to stay away for long periods and leave their land in the care of friends, or else they have to leave their wives to look after the fields. If they do not have a field they, or their wives, must keep in constant touch with the village in order to be able to apply when one falls vacant. These factors restrict men taking their wives to the towns and the length of their absences.

Table V below shows the extent to which the temporary emigrants from the different villages take their wives to the towns.

TABLE V

Type of tenure	Quitrent	Freehold	Communal	Trust
Total number of temporary married male migrants	37	81	77	10
Number who had taken their wives with them	20	35	19	4
Percentage	54.1	43.2	11.7	40.0

Nearly half the migrant freeholders and quitrent owners take their wives with them to the towns, but under 12 per cent of the migrants from a communal village do so. Some also take all their children, others leave them in the villages with their parents. Men who have already obtained their own fields in the villages and established their own homesteads do not usually take their wives and children with them, but leave them to look after the home.

The following percentages of temporary migrants from the different villages were landless at the time of the investigation:

Quitrent	37.8%
Freehold	69.1%
Communal	87.0%
Trust	50.0%

A holding does tend to keep the men in the villages, more especially in the communal villages, but also to a large extent in the freehold village. It is least effective in keeping the men in the quitrent village. Age is also an important factor in temporary migration. Even if a young man owns a field, he will not stay in the village; many of the young married men in the quitrent village legally own their own fields, but prefer not to take them over for their own use; while most of the older men, when not pressed by necessity, stay at home.

The centres to which the men mostly go to seek work are the Reef towns and the ports. A few go to the smaller towns near the district. There is a strong tendency for a large proportion of the men

of one village to go to one centre. It is said that the men already in the towns find work for their friends and relatives from their own village.

TABLE VI

PERCENTAGE OF TEMPORARY MIGRANTS IN THE SAMPLE LINEAGES WHO LEFT THE VILLAGES FOR THE CENTRES SHOWN

Centres of migration	Communal	Freehold	Quitrent	Trust
Reef	23.4	2.5	29.7	—
Cape Town	41.6	49.4	27.0	40.0
Other ports	19.5	39.5	21.6	40.0
Neighbouring villages, districts and towns	13.0	8.6	18.9	20.0
Unknown	2.5	—	2.7	—

iii. *Immigration*

It is apparent from the early documentary evidence available, and from the genealogies collected, that there has been a certain amount of immigration into the villages since they were first settled. The extent of this is difficult to determine, especially in the communal village where the immigrants have been completely absorbed into the village group. In the quitrent and freehold villages it is more easily discernible, as many of the immigrants are landless " squatters ", though some of them have purchased land of their own and been absorbed into the landowning group.

There are lineage groups in all the villages that are known to go back to the first settlement of the villages. For some time after this first settlement individuals and families arrived in search of a place to live. They did not come in groups as the original settlers did but in ones and twos. The descendants of the earlier of these scattered settlers are now looked upon as being established members of the villages and are in no way differentiated from the descendants of the original arrivals. But the descendants of later arrivals are still referred to as wanderers (*amaranuga*), and are only slowly loosing the stigma that attaches to such people. The attitude towards them varies in

direct proportion to the length of time their lineage has been established in the village.

Immigration of adults has now almost ceased, although occasional instances are found of men purchasing land in the freehold or quitrent villages. The Administration has stopped it completely in the communal village. The landowners in the quitrent village do everything in their power to prevent the immigration of adults, and with the passive aid of the Administration have been very successful. The freeholders are not so aware of the dangers of immigration and are not so careful or as well organised as the quitrent owners. Instances were found where adult immigrants had recently been allowed to " squat " on the commonage in Rabula and there appeared to be no antipathy towards outsiders purchasing land when they were able to do so. The immigration of children is still possible in all the villages, for if they are brought up in a village they take their place in it as do the children of the members. In this way new lineage groups may still be established in the villages, but while there is nothing to prevent such children in the communal village from acquiring land of their own when they become adults, it is very unlikely that they could be established as owners of freehold or quitrent land, unless they were direct heirs of the owners.

Even though immigration occurred it was not an easy process and the villages have been closed to most outsiders since they were first settled. In the communal village a stranger could not simply arrive and ask for a field and a place to live. He had to be introduced by a member of the village and had to live with this person until the people grew accustomed to his presence before he could obtain a field and a building site from the village council (*vide supra* page 10).

Immigration to freehold and quitrent villages was easier but most immigrants came as the servants of the landowners or as share-croppers. They now form a class of landless " squatters ", some of whom have been absorbed on the Trust holdings. They did not enter the villages as the equals and associates of the people already living there as was the case in the communal village, but as their servants and inferiors ; nor did their acceptance as members of the village raise them from this status or entitle them to land of their own, although they were never prevented from purchasing land if they were able. Only a minor group of immigrants gained access to the freehold and quitrent villages by purchasing land.

The original arrivals in the villages were mostly Mfengu people although there were some Xhosa amongst them. The large proportion of the immigrants were Xhosa, although here again there were Mfengu people amongst them.

(*b*) Differences in the Size, Composition and Wealth of Families, Related to Differences in Tenure

It has already been noted that the number of persons living in a homestead varies considerably with the type of tenure. Table VII below shows this.

TABLE VII

Average number of persons in a homestead, under each type of tenure	Freehold	Quitrent	Communal	Trust
Adult males[1]	2.25	2.0	1.44	1.22
Adult females[2]	2.28	2.15	1.66	1.44
Children[3]	4.6	3.54	3.12	3.66
Total individuals	9.14	7.69	6.22	6.32

The largest homesteads are on freehold and quitrent land, while those in the communal village and on Trust holdings are both smaller. The range in the number of persons per homestead is large, some having only one or two persons living in them, while others may have as many as seventeen. In all homesteads, except those in the quitrent village, there are, on an average, more children per homestead than adults. The reason for the difference in Burnshill is difficult to determine, unless the people, who are more sophisticated than those in other villages, are consciously limiting the number of their children. In all homesteads there is, on an average, a preponderance of adult females over adult males. It was found that in the communal village 41.07 per cent of the landholders or heads of homesteads were widows,

[1]Adult males include only initiated men.
[2]Adult females include only married women, widows and women with children.
[3]Include all who do not belong to the above groups.

while in the freehold and quitrent villages the figures were 31.1 per cent and 21.6 per cent respectively.

The difference in the size of homesteads with the difference in tenure is due first, to the fact that fields in the communal village are so small that two families cannot live off them and a married man gets a field of his own as quickly as he can, moving out of his father's homestead when he does so, whereas in freehold and quitrent villages the fields are larger; and secondly, to the fact that sons in freehold and quitrent villages are fairly secure in their inheritance, and do not endanger it by delaying occupation, whereas in a communal village a man seeks to secure a field as soon as he possibly can lest he should not get one at all. Young married men in freehold and quitrent villages wait much longer than those in the communal village before they take over a field, and usually continue to live in their parents' homestead while they are landless.[1] It is difficult to discover whether they do so because they do not want the responsibility of a home and land of their own, or whether they have no option in the matter. Their manner of living is nearer the traditional manner than that in the communal villages and it seems likely that change has been forced on the latter by land shortage. Owing to the recent re-organisation in the ownership of land in Burnshill many of the younger men have acquired land and established their own homesteads, but quitrent homesteads are still larger than communal homesteads. The people on the Trust holdings have only recently been established there and many of the young married men who did not emigrate took the chance of obtaining their own fields at the same time as their parents. Their homesteads are thus still small.

There appear also to be more widowed, divorced, and unmarried daughters with illegitimate children, living in their fathers' homesteads in the freehold and quitrent villages than in communal villages, as the following table shows.

[1]It was found that 31.6 per cent of married men in the freehold village and 20 per cent of married men in quitrent village live with their parents.

TABLE VIII

	Communal	Freehold	Quitrent
Number of homesteads investigated ..	52	33	34
Homesteads in which there are living unmarried, separated, divorced or widowed daughters or sisters who have children : Number	11	16	11
Percentage	21.2%	48.5%	32.4%

The freehold and quitrent systems of tenure provide some security for unmarried women ; they have no fear of being left without a home after the death of their parents ; they have had, until quite recently, an opportunity of acquiring land of their own, and even if they do not, they have a greater claim on their brothers than women in communal villages. In a communal village and on Trust land the Administration deliberately prevents such women becoming independent and relatives are not prepared to keep them indefinitely.

The figures given above include all the people who regard the homesteads as their homes. There is a considerable difference in the number of people who actually live in the homesteads, and the number of people domiciled there ; the composition of a homestead is constantly changing as migrant workers come and go, and a count of the occupants may vary considerably from one month to the next, although the number of people who consider it their home remains fairly constant. The larger homesteads in the freehold and quitrent villages have more temporary migrants than have the smaller homesteads in the communal village and on Trust holdings. At the time of the investigation the average size of homesteads was as follows :—

TABLE IX

	Average Membership of Homesteads at the time of investigation		
	Living in the homestead	Living away	Total
Freehold	6.62	2.52	9.14
Quitrent	5.57	2.13	7.7
Communal	5.4	0.8	6.2
Trust	5.48	0.82	6.3

Table X below shows the categories of temporary migrants from each homestead.

TABLE X

Average number of persons who were temporarily absent from each homestead	Freehold	Quitrent	Communal	Trust
Adult males	1.25	0.82	0.63	0.63
Adult females	0.71	0.66	0.1	0.07
Children	0.54	0.64	0.05	0.16

This table shows that it is only from the large freehold and quitrent homesteads that many adult females go to the towns to work, and it is only the freehold homesteads that have an average of more than one adult male migrant per homestead. Children form the smallest group of temporary migrants, but there are more from the freehold and quitrent homesteads than from communal homesteads accompanying their parents to the towns. It was also found that more children from these villages were sent away to school.

Comparing Tables VII and X it will be seen that it was only in the freehold and quitrent villages that there was on an average more than one adult male present in each homestead at the time of the investigation. Yet in all the villages there were an average of nearly 1.5 adult females present in each homestead.

It was expected, from casual observation, that there would be a considerable difference in wealth between the people in the freehold and quitrent villages, and those in the communal villages and on Trust land. The former people, on the whole, are more sophisticated and give the impression of greater well-being in their housing and dress. They are also better educated. But as has already been noted,[1] freeholders and quitrent owners do not own more stock than people in the communal villages though they have more than the people on the Trust holdings. An analysis of the annual average expenditure per homestead under the different system of tenure shows a slight variation.[2]

Quitrent	£45	2	4
Freehold	£42	7	5
Communal	£41	2	1
Trust	£28	7	1

Here again the difference is not so great between the people in the freehold, quitrent and communal homesteads, although there is a considerable difference between them and those on Trust holdings. If the expenditure per head is taken, then the difference between the quitrent, freehold and communal homesteads is even less, although the expenditure per head in the Trust homesteads remains very much smaller than that in the others. Judging then by the amount of stock owned and by the average annual expenditure, there appears to be little difference between the people in the communal, quitrent and freehold villages, but the families on the Trust holdings are considerably poorer. Working on a basis of averages tends to mask the important factor of distribution, and there appear to be greater differences in wealth among the freeholders and quitrent holders than there are in the communal village. The landowners also have capital invested in their land. Although most did not invest the money themselves, they are able to turn it into cash at will. Other investments which do not appear in the expenditure figures include better

[1] *Vide supra*, p. 108.

[2] Figures obtained from the Family Budget Survey. See Vol. II, Chapter IV. The income figures have not been used here for the reasons given in that report.

housing, furniture and education. Thus, although the figures do not reveal any great differences except between the Trust holders and others, it is probable that the freehold and quitrent owners are, on the whole, more wealthy than the people in the communal village, who in turn are wealthier than the families on the Trust holdings.

Chapter VIII

CONCLUSIONS

None of the families investigated in Keiskammahoek District make a living out of farming, and few of them have sufficient land to do so, even with considerably improved techniques. There are a few large holdings :[1] 10 per cent of freeholding lineages have arable holdings of 20 acres or over, but most of these are divided between several married men. The average arable holding over which a domestic family averaging 7.2 members has effective rights of cultivation is 5 acres on communal land, 11 acres on freehold land, 10 acres on quitrent land, and 3½ acres on Trust land, the average amount per individual ranging from 1.3 acres on quitrent land to 0.55 acres on

[1]Areas of arable land :—

[1]AREAS OF ARABLE LAND

	Quitrent (acres)	Freehold (acres)	Communal (acres)	Trust (acres)
(*a*) The average amount of land owned by the head of each homestead	5.6	8.7	5.01	3.5
(*b*) The average amount of land used by each homestead	10.14	11.0	5.34	3.5
Average amount of land per individual, using (*a*) as basis of calculation ..	—	0.96	0.82	0.55
The average amount of arable land per individual using (*b*) as basis of calculation	1.3	1.21	0.86	0.55
Percentage of landless families (married men and widows)	22.1	28.9	29.41	—

N.B.—28.9 percent of the married men from land-owning lineages in the freehold village had no land of their own and 14 per cent of the homesteads belong to squatters who have no land rights.

The people in the communal village have gardens averaging 0.46 acres in size, which are not included in the above calculations.

Trust land. These figures include temporary migrants and the land of absentees which their relatives use. Nearly 30 per cent of the married men in the communal village have no land ; 22 per cent in the quitrent village ; and well over 30 per cent in the freehold village. All families share in the common pasture, irrespective of whether they own arable land or not, and the amount of pasture ranges from 25.8 acres per homestead on quitrent land to 14.6 on communal land. Were the commonages fenced and divided this would give holdings ranging from 20 to 36 acres per homestead with 6 to 9 people, and only a very small portion of the holding would be suitable for cultivation. European holdings in the district average 80 acres of *arable* land and they have grazing rights in addition to that.

Since families cannot live by farming they are dependent upon selling their labour and, as has been shown in the study of family budgets, over 85 per cent of their income comes from cash earnings, mainly in the towns. Even the men newly settled on Trust land must necessarily be migrants, and it is the migratory system, which excludes a permanent population of able-bodied men, that is the major impediment to the development of efficient farming.

With all the types of tenure there is a tendency towards greater and greater sub-division of holdings. The policy of the Administration is to give as many families as possible a little land, and the holdings are smallest where Administrative control is greatest, on Trust and communal land. There is evidence that the holdings on communal land have been getting smaller and smaller with the enforcement of the principle of one man one lot. Administrative pressure, exercised through the registration of transfers, is also towards the wide distribution of holdings and against the development of consolidated farms on quitrent and freehold land. The people favour consolidation in some instances, but they do not expect an owner to disregard obligations to other members of the family—an heir should not "eat the inheritance alone "—and in practice effective sub-division has gone considerably further than legal sub-division through share-cropping, leasing and loaning (*vide supra* pages 26; 58; 84). Most of the 30 per cent of married men who are landless use portions of fields by one means or another. The feeling that land is a resource which should be accessible to all is still strong, and landholders feel an obligation to share with their landless relatives. Members of the Agricultural Section of the Native Affairs Department are keenly aware of the fact

that excessive sub-division and the consequent migration is inefficient, but they are required to enforce the principle of one man one lot which perpetuates the migratory system. The present trend is diametrically opposed to that advocated by agricultural and economic experts.[1]

A further impediment to efficient farming is the system of common pastures. It is not in the interest of any individual to reduce his stock alone, and agreement by the whole group of villages to reduce is difficult to secure. There has been no agreement on the principle of reduction—whether the number of cattle per owner which may be grazed is to be limited, or whether each man shall be allowed to keep only a portion of his stock, or whether the culling is to be done purely on quality. If the first plan is followed the more well-to-do suffer most, if the second or third the poor are likely to loose all their stock.

There are no appreciable differences in productivity with the differences in tenure, nor are there marked differences in the crops grown or the techniques of cultivation. There is no evidence of a greater investment on long term improvements such as fencing, irrigation and planting of fruit trees, on freehold and quitrent, than on communal land. Only in the housing is there an appreciable difference, freeholders and quitrent owners generally having more roomy and more substantial homesteads than the squatters, Trust holders, and members of communal villages.

It may be asked why the handful of owners of holdings of arable land of 20 acres or more have not become full-time farmers. First they have not the capital to develop their land—only one African-owned plot in the village investigated was fenced—and very few owners can afford to fence and buy effective farm equipment. Secondly, the returns from semi-skilled work in town is greater than that from farming a small holding, and the enterprising seek education and a

[1]In a memorandum submitted to the Native Laws Commission, 1946, in his personal capacity, Mr. W. R. Norton, then Assistant Director of Native Agriculture, stated that "A system under which migrant labour has to form the main source of income is irreconcilable with any system that can be devised to safeguard the soil and to maintain a stable rural society." "He urged that landholders must be in a position to be taught how to look after the land; therefore they must stay on the land, they must possess an economic unit of land and stock. This means that fewer people must own more land and stock per person and that all persons who cannot be accommodated as landholders must lose rights to own stock and work land."—Quoted from the *East London Despatch*, October, 1946.

The Native Economic Commission of 1932 concluded that "the time has come when the limitation of land-holding should be somewhat relaxed in the surveyed districts of the Transkei."—U.G. 22, 1932, para. 144.

semi-skilled job rather than attempting to farm 10 or 20 acres. Thirdly, the Xhosa and Mfengu people have not a tradition of skilled cultivation behind them such as many of the Central and West Africans have. They were primarily pastoralists and the traditional pastoralism cannot be followed on the limited land. For the great majority in the district making a living by farming is impossible, and the very few who have holdings which might support them have been slower to adopt intensive farming than many other Africans. The possibilities of production in fruit and vegetables are not being exploited as they are by Africans with small holdings in parts of Nyasaland, Northern Rhodesia, and Tanganyika. No one doubts that the productivity of the land, instead of increasing with more intensive cultivation, is declining.[1]

Though the land produces so little, the people of Keiskammahoek District value land rights greatly because these rights afford them a measure of security. With a few exceptions there is no security of tenure in a town[2] or on a European-owned farm: only in a reserve can an African family be certain of not being turned out. Secondly, a building site, a field and grazing rights offer the possibility of living with a very small cash income during unemployment, sickness and old age. Rent, water, sanitation and fuel which cost money (directly or indirectly) in town cost nothing in the country, and even the infirm can produce for themselves a little food. Dependents who could not possibly live on the earnings of one bread-winner in town keep together body and soul in the country. We suggest that it is because land is felt to be so important for security that absentee landowners exist. Were Africans able to buy their own houses in town the men who own freehold land in Rabula, but do not live in the village, would be likely to sell out and buy property in town instead. The opportunity for African investment in real property is very

[1]Vol. 1, *The Economy of a Native Reserve*.

Rev. James Laing, the first missionary to work in the district, was given sour milk at almost every homestead he visited, and comments that a homestead with only 7 head of cattle was exceptionally poor. The contrast today when few families have milk is marked. Govan *op cit.*

[2]An African may be excluded from an urban area if he is unemployed or his employer cannot provide accommodation for him. A woman may be excluded unless her husband or father has been in employment in the area for two years or more, and accommodation is available. Even then the right may be withdrawn. The fact that a man or woman has been born in town does not give him or her the right to remain in it. The power of exclusion is exercised by municipalities and not all of them use it. *Report of the Native Laws Commission*, 1946–48, U.G. No. 28, 1948, para. 36: 60.

limited. Freeholders are extremely reluctant to sell property and only do so as the last resort, while there is no lack of buyers for land.

The third reason for maintaining a foothold in a village is that membership of the village carries the right of grazing on the common pasture, and ownership of stock is still regarded by many people as necessary to health and happiness, as well as the best form of saving.[1]

Freehold land offers the highest degree of security, and a freedom from administrative control, which is ardently desired. Quitrent land gives considerable freedom but is subject to more administrative control. Communal holdings are much less secure for, as we have seen, a man is liable to loose his rights if he stays away long from the village, and there is no security in inheritance. There is also the possibility of bribery in the allocation of land. Trust land affords least security for there is no guarantee that the holder will remain in possession even though he fulfills the requirements of sound cultivation.

Neither the freehold nor the quitrent system has worked as it was supposed to do, for legal transfer of property is commonly not effected when the holder dies. This is partly on account of the cost of transfer, partly because of ignorance of the law, and for freehold land, partly because joint heirs often do not want the land transferred to any one of them; they can not afford a legal sub-division and may not know of the possibility of legal transfer in undivided shares. The legal position in Rabula is chaotic, and the titles to holdings in Burnshill have only been straightened out with great difficulty. But though the formalities of transfer are not observed freehold tenure and, to a less degree, quitrent tenure are cherished because they afford security and freedom from administrative control. There is a clash between the desire of the landholder to do as he likes on his land and the pressure of administrative policy (*a*) to settle as many people on the land as possible and control the selection of them, (*b*) to enforce certain methods of cultivation.

Conflict over land between White and Black is acute. In the view of the people their land rights are gradually being whittled away: areas which were once open for grazing have been closed, and they argue that erosion and denudation is not due to their misuse of land but to the fact that they have too little to support themselves. The Europeans retort that they destroy what land they have. This conflict

[1]Keiskammahoek Rural Survey, Vol. III, *Social Structure*,.

is one of the main impediments to better land use. The fundamental issue is the limitation of land available to Africans.

The lesser issue on which there is conflict between administrative policy and the concensus of opinion among the people appear to be: first, whether an individual be allowed to hold more than one field or not, the Administration enforcing the principle of one man one lot so far as it is able, and many villagers opposing this; secondly, whether rights of inheritance be maintained within the lineage or not, the Administration urging that land should go to the landless men who have been paying tax longest, and the people that inheritance of land rights by kin be maintained even though the deceased has no grown son.

There is much confusion over the rights of women in inheritance of land. Under the traditional law of the Xhosa-speaking people a field for cultivation was allotted to every married woman or widow. It appears usually to have been inherited (along with any property held by a woman in her own right) by her youngest son, but this was not of great importance when land was plentiful and fields frequently abandoned. Until 1927 Africans who married under common law without an anti-nuptial contract were held to be married in community of property and their children, irrespective of sex, were entitled to equal shares of property. Many such marriages took place in Keiskammahoek District and as has been shown on page 52 a considerable amount of freehold land has been inherited by, or through, women. It was not unusual, also, for a man in a communal village to give a field to a daughter, married or unmarried. Since 1927, however, common law marriages of Africans are not held to be in community of property unless they expressly state that they wish them to be, and tables of succession, which exclude inheritance by women altogether, are applied. At the same time the Administration opposes the granting of fields to any woman except a middle-aged or elderly widow. The net effect is to reduce the land rights of women very considerably. The implications of the change in law have not been fully realised by the people themselves.

Though the differences in tenure have no appreciable effect on production they have a considerable effect on the social structure. Freehold and quitrent tenure tend to hold together lineages, and legitimacy is very important as a qualification for inheritance. Homesteads are larger than in communal villages, and fewer young men

disappear into the towns maintaining no ties with their families. Freehold tenure gives the head of a family or lineage considerable power over his sons and classificatory sons, through control of the land, while quitrent tenure, with the insistence on primogeniture, tends to make an eldest son more independent. Freeholders and quitrent owners are relatively independent of the village headman, sub-headman and unrelated fellow villagers, for land is not asked for in the village council. There is also a marked tendency towards the development of class differences between landowners and squatters in freehold and quitrent villages.

Communal tenure makes for the greater importance of the village headman and sub-headman. Unrelated village neighbours—especially those living in one village section—are more closely knit because land grants are dependent upon the support of sub-headman and village headman, and also on the support of fellow villagers, who may speak in the village council when the allocation of land is discussed. Conversely, members of a communal village are much less dependent upon kinsmen than freeholders are, and legitimacy is not an important qualification for land rights. Class differences are not apparent among them.

The Trust landholders are not a closely-knit community bound by kinship and long intimacy like other villages, but a collection of families mostly not related to one another.

There are also differences in the form of migration with differences in tenure. The communal holders are necessarily short term migrants, and most of them leave their wives behind, either to look after their field, or to press their claim should a field fall vacant. The freehold and quitrent holders tend to stay away for much longer periods and to take their wives with them to town. There is permanent emigration from all the villages, and the extent of it does not vary appreciably with the form of tenure. It is linked with landlessness, but lack of a field is not the sole reason for emigration, for 20 per cent to 30 per cent of those who have emigrated had fields of their own.

One important point about the form of settlement emerges from our study. When left to their own devices the people of Keiskammahoek build their homesteads as near their fields as possible. The freehold homesteads are strung out along the boundary between field and pasture, and in Burnshill, where the people were originally settled in a compact group, they scattered like the freeholders, and have only been

concentrated again under administrative pressure. Trust fields allocated without regard to the place in which the owners lived were exchanged so that each family might be as near their fields as possible. The reason commonly given for this preference is that people wish to keep an eye on their fields to guard against straying stock and possible theft. Other advantages are obvious: the transport of manure is much less onerous when byres are near the fields, and transport of the grain is correspondingly less. People are close to their work and waste no time walking to and from the fields. This is particularly important to the women who like to pick their maize fresh every day during the green mealie season. Citrus and stone fruit do well in the district and one of the obvious means of improving the food supply is to encourage the planting of fruit trees, but unless they are planted close to the homesteads the owners will gather little. People in the communal village get almost nothing at present from wild peach trees scattered through the fields; the freeholders who live near their fields get much more. Concentration of homesteads on the higher slopes virtually rules out the development of small orchards. It is suggested by those who advocate close settlement in villages (such as are set up on Trust land) that the concentration allows more land for grazing, but we find it difficult to follow this argument, since the cattle graze round every homestead.

Keiskammahoek District is confronted with the dilemma which has faced every country in Europe in turn, and been dealt with in a variety of ways. "Enclosure" of some sort is unavoidable. As the population increases, not everyone can own a field, not everyone can have grazing rights; if production is to be increased, holdings must be consolidated rather than further and further sub-divided, and unrestricted grazing rights on common land must go. The process is perhaps always a painful one, for those who lose the security of a field, a place to build for themselves, and grazing rights on the commonage, seldom achieve the security of an industrial society—sickness, old age and unemployment benefits—immediately. The insecurity of the poor everywhere is exacerbated in South Africa by colour legislation which prohibits the sale of land outside certain limited areas to Africans, restricts their opportunities in industry and excludes unemployed African men (and often their families even when they are employed) from the towns. As we have shown, the desire for land is primarily the desire for security, and a reduction in

the number of people on the land will only be achieved if alternative forms of security are developed—the possibility of earning a wage on which a family can live, of owning a home and providing for sickness and old age. The whole weight of white authority has been directed towards sub-dividing and further sub-dividing land already occupied by Africans and establishing as many people on it as possible; for thus is segregation thought to be achieved and the obligation of employers to pay a wage on which a family can live,[1] and of the whole community to provide for the old, the sick, and the unemployed, avoided.

[1]A spokesman of the Chamber of Mines giving evidence before the Witwatersrand Mine Native Wages Commission maintained that "The ability of the Mines to maintain their native labour force by means of tribal natives from the reserves at rates of pay which are adequate for this migratory class of native but inadequate in practise for the detribalised urban native is a fundamental factor in the economy of the Gold Mining Industry." *i.e.*, The Mines admittedly do not pay a living wage for a family in town.—*Report of the Witwatersrand Mine Natives' Wages Commission*, U.G. No. 21, 1944, para. 101.

Appendix I

THE LEGAL POSITION OF VILLAGES

(*a*) A Communal Village

From the establishment of the Keiskammahoek District as part of a "Royal Reserve" in 1853, all land that was not held by individuals on freehold or quitrent title, has been regarded as Crown Land, and the villages established with a communal form of tenure have been known as "Crown Native Locations". A series of Acts passed by the Parliament of the Cape Colony regulated their administration until further provisions were made under the Native Administration Act 38 of 1927.[1]

All the land comprising the village of Chatha is "*vested*" in South African Native Trust by Section 6 (i) of the Native Trust and Land Act No. 18 1936. It does not, however, fall under the regulations for the administration of South African Native Trust land as contained in Proclamation 12 of 1945. Chatha and the other communal villages are "*released*" areas in terms of the Native Trust and Land Act, but

[1]Act 2/1869—Provision for the collection of Hut Tax in Locations.
Act 10/1870—Provision for the Management of Native Locations and for the regulation of rights of Commonage.—Repealed by Act 29/1881.
Act 6/1876—Provisions for the more effectual supervision and management of Native Locations.
Act 8/1878—Amendments and amplifications of Act 6/1876.
Act 37/1884—Provisions for the better and more effectual supervision of Native Locations and for the more easy collection of Hut Tax.—Repealed Acts 2/1869; 6/1876 and 8/1878.
Prior to the promulgation of the present regulations and their application to the villages in the District the administration of the communal villages was regulated according to provisions issued in Government Notice No. 833/1921 as provided for by Section 29 of Act 37 of 1884.
The regulations provided for by the Native Administration Act were promulgated under Proclamation No. 302/1928. Owing to the fact that the communally occupied villages in the District were not scheduled Native Areas under the Natives Land Act of 1913, the provisions of the Proclamation were not automatically applicable to them. They were, however, specifically applied to the village of Chatha and all the other communally occupied villages in the District except Gxulu by Proclamation No. 90 of 1938. The boundaries of the village of Chatha were defined by Government Notice No. 1255 of 18th June, 1948.

were not "*scheduled*" areas under Act 27 of 1913 until proclaimed as such by Proclamation 103 of 1950.

Chatha was not included in the original scheme for the control and improvement of livestock as laid down by Proclamation 31 of 1939, as amended by Proclamation 92/1944; 76/1947 and 66/1948. A meeting of the men of the village was held, however, at which it was "unanimously decided to request the Government to apply provisions of Proclamation 31 of 1939 to the (village)."[1] The request was supported by a resolution of the Local Council and approved by the Administration in Government Notice No. 2262 of the 31st October, 1949, whereby the Proclamation was made applicable to the village. The original Proclamation has now been repealed by Proclamation 116 of 1949 which replaces it.

This new proclamation automatically applies to the village, which is termed a "Betterment Area".

When the village was demarcated for the original settlers it included within its boundaries the whole of the mountain slopes, large portions of which were covered with indigenous bush and forest. It was subsequently realised that the forest areas should be reserved and a Commission was appointed in 1885 to report on the demarcation of Forest Reserves. It was maintained that as the land all belonged to the Crown, the Crown was at liberty to withdraw portions of the land given to the Natives and reserve it as a Crown Forest. The Commission fixed boundaries for the reserves and the grazing of cattle in the areas was prohibited. The original demarcations appeared in Government Notice No. 1029 of 1887. Further Commissions were appointed to investigate complaints lodged by the Natives in the villages and further demarcation adjustments appeared under Government Notice No. 806 of 1912. In this manner the whole mountain slope has been taken over by the Department of Forestry, villagers no longer having any rights in the wooded areas. These demarcated areas, however, included much land which did not contain any indigenous bush and these portions had been used as grazing areas. When these rights were also restricted, complaints were made which were settled when the residents of the village were given the right to pasture their stock in the grass areas of the Demarcated

[1]Extract from a document in the files of the Native Commissioner which is signed by nine members of the village who were appointed at a meeting of the village council to sign the request.

Forests, subject to certain conditions and the payment of a rent for the land to the Department of Forests. The land thus hired to the Natives as grazing became known as the "Ministerial Grazing Lease" and the residents were collectively responsible for raising the money for the rent. Great difficulty was experienced in collecting the amounts annually, and when, towards the end of 1938, the Department of Forestry seriously considered cancelling the leases, the South African Native Trust stepped in and undertook to take over the leases, paying the yearly rentals and any arrears. Further conditions in regard to fencing and rotational grazing were imposed by the Trust. The arrangement was accepted by the people of the village and is still in operation today.

Proclamation 302 of 1928 makes provision for the keeping of a village land register, in which details of all arable allotments made in the village under the provision of the Proclamation, are kept. Included in this register are the name of the allottee, the registration number of his arable allotment, the size of the allotment (accompanied by a rough diagram) and endorsements concerning all transfers, cancellations, and temporary arrangements for the use of the allotment. A copy of the entries made in the register is given to the allottee free of charge and is kept by him as a certificate of registration. This register is kept by the Native Commissioner.

Provision was made for all land held by a person prior to the enforcement of the Proclamation, to be registered in his name, regardless of the size and number of the fields he possessed. A limit was, however, placed on the size and number of all allotments made after the Proclamation came into operation. Homestead sites may not exceed approximately half a morgen, while arable allotments may not exceed approximately four morgen in size. The Native Commissioner is, however, empowered to take availability and quality of land into consideration when making an allotment and may allot, as one arable allotment, separate portions of land not lying together, so long as the total area does not exceed approximately four morgen. Only one arable allotment and one building site may be given to each person, although if a man has several wives, provision is made for one arable allotment and one building site to be given to him for each of his separate households.

The Proclamation provides that the allotments be made by the Native Commissioner after consultation with the headman of the

village, and that the allotment comprises only a "permission to occupy". This permission may not be given to any one who is already in occupation of land, either in the same village or another village. An allotment may be transferred by its lawful occupier to another person if the owner wishes to do so, provided that all the conditions of occupation are fulfilled. The transfer is affected by an endorsement in the land register and on the certificate of registration, and should be approved after consultation between the headman of the village and the Native Commissioner.

The Native Commissioner may order the cancellation of the whole or part of any allotment if he is satisfied that:

(*a*) the allotment is interfering with the interests or convenience of other persons,
(*b*) the allotment is required for public purposes,
(*c*) the cancellation is necessary for administrative reasons, or in the interests of public order or welfare,
(*d*) the holder has failed to cultivate it during a period of three successive years without some good and sufficient reason,
(*e*) the holder has been convicted a second or subsequent time within five years for the crime of stock-theft or arson,
(*f*) stolen stock has been traced to the homestead of the occupier, which is situated so as to afford special facilities for stock-theft,
(*g*) the holder of an allotment is more than two years in arrears with any payment of Local Tax.

In the circumstances provided under (*a*), (*c*), (*d*), (*f*) and (*g*) cancellation may not be effected until notice has been served on the occupier to appear before the Native Commissioner to explain why cancellation should not be ordered. If an allotment is cancelled because of the provisions of (*a*) or (*b*) the holder should be given another allotment and paid such compensation as the Native Commissioner may deem necessary.

If an allotment is cancelled or surrendered, or if the holder leaves the village, the land reverts to commonage. If the holder dies the allotment also reverts to commonage.

Anyone who encloses, ploughs, cultivates or breaks up the commonage for any reason other than the burial of the dead is guilty of an offence.

The Betterment Areas Proclamation No. 116 of 1949 provides,

inter alia, for the control and improvement of agricultural resources in the village. The cultivation and use of all agricultural land within the village is thus subject to any provisions the Native Commissioner may make in terms of the Proclamation. The Native Commissioner is especially empowered to fix times during which cattle may graze on arable lands or any harvested lands. He may issue directions for the method and manner of cultivating lands, the methods of cropping, tillage, rotation of crops and the kind of crops to be grown. He may also control the use of kraal manure, compost and fertilizers, the control of weeds and any other matters bearing on the reclamation of land and the maintenance of fertility.

The Proclamation provides for the re-definition and demarcation of arable and residential areas in order to facilitate the better use, occupation and orderly lay-out of such areas. If any area of land in the village is required for the prevention of soil erosion, the protection of catchment areas or the conservation of water sources, the people who occupy those areas—either residential or arable—may have their rights to the land either cancelled completely or else suspended for a certain period.

Proclamation 119/1937 provides for the protection of any soil reclamation works in the village, while Proclamation 38/1947 makes provision for the protection of crops in the village lands.

Proclamation No. 302 of 1928 gives the Native Commissioner the authority to prohibit the grazing of all stock on any specified portions of the commonage or to reserve portions of the commonage for the grazing of specified classes of stock only. Special provision is made for the exclusion of stock from other villages—no one being allowed to graze stock belonging to a member of another village on the commonage or to hire grazing on the commonage to anyone from outside the village. Anyone in the village may, however, cut sods and thatch grass, make bricks or dig water furrows on the commonage. The burning of any portion of the commonage is prohibited, except with the permission of the Native Commissioner.

Proclamation 116 of 1949 provided for the limitation and control of livestock grazing on the commonage in the village. By culling, certain classes of stock may be eliminated from the commonage completely and the remainder kept within the limits set by the grazing available. Provision is made for the division of the commonage either by fences or beacons into camps in which grazing may be regulated by the Native Commissioner.

Regulations concerning the use of the " Ministerial Grazing Leases " are laid down in a document signed by the headman and sub-headman of the village, in which the lease is handed over to the South African Native Trust. Provision is made for the creation and fencing of camps in the grazing area, the organisation of rotational grazing and the control of the number of stock in the camps. Camps may be closed to allow for the seeding of grass. No goats are permitted to enter the area and any trespassing stock may be impounded.

Government Notice No. 43 of 1944 provides for the removal, without a licence, of minor forest produce including dry firewood, from the Crown Forests, provided that it is not bartered or sold.

The only surface water in the village comes from the sponges in the mountain and runs down the Chatha stream and its tributaries to join the Keiskamma River. This stream is permanent and even during the severest droughts has not been known to dry up, although the flow weakens considerably. This stream provides for the everyday needs of the people in the village, the watering of stock and in a few isolated instances, for the irrigation of arable lands. There is no artificial tapping of underground streams in the village and there are no stock or irrigation dams. Everyone has the right to collect what water they need from the stream and to water stock at any suitable watering place. The common law of riparian rights to the water in the stream operates, the Crown being the riparian owner. Any member of the village may, where possible, construct a furrow to divert water from the stream to irrigate his lands. Such works are, however, subject to the approval of the Native Commissioner. The Chatha stream has not been declared an " irrigation river " and thus does not fall within the scope of the Irrigation Act.

In other communal villages where water is less plentiful, boreholes and dams are constructed by the South African Native Trust for the watering of stock and the provision of water for the inhabitants of the village.

Every adult male in the village above the age of 18 years is liable to pay a general tax of £1 per annum, provided he has not been exempted from the tax by the provisions made in the Native Taxation and Development Act No. 41 of 1925. This Act also makes provision for the payment of a local tax which is paid in respect of every homestead in the village. The same conditions for exemptions as apply to the general tax apply to this local tax. The tax amounts to 10/- per annum for a man who has one wife, and increases by 10/- for each subsequent wife.

In practice all men in the village begin paying the tax as soon as they marry, regardless of whether they have their own homestead or not. On the death of the man the widow continues to pay the tax but if she has no arable land of her own she does not have to pay. A widow may transfer her arable allotment to her married son and exempt herself from the payment of the tax. This practice is not common—a widow preferring to keep her own land. It is thus not uncommon to find a married son with no land living with his widowed mother and both of them paying the local tax. As the length of time over which a man has been paying the local tax is an important qualification in the acquisition of an arable allotment, it is in the interests of the landless male to commence payment of the tax as soon as he marries. A " dog tax " is payable in respect of all dogs owned by members of the village.

Theoretically the members of the village pay nothing for the land they use in the village, there being no direct tax on the land and no rent for allotments. The local tax is, however, considered by the Natives as being in respect of their allotments, and in fact an allotment may be forfeited for the non-payment of the local tax although not for non-payment of the general tax.

(*b*) A Freehold Village

Freehold land in Rabula was purchased under the provisions of Section D of the Kaffrarian Land Regulations of 1858. It is uncertain whether *all* the freehold land was purchased under these regulations, although much of it was. The conditions stipulated on the title deed provided that " neither the Grantee nor his children nor their heir, shall alienate (the land) by sale, lease or in any other manner whatsoever, without the written consent of the Governor previously had and obtained, and that no person whatsoever, other than the grantee himself or his direct descendants, be permitted or allowed, on any pretext whatsoever, to reside on the land thus granted, without the permission of the Civil Commissioner of the Division, in writing, first duly had ; . . ." For a breach of any of these conditions of grant the land could be deemed " absolutely " forfeited to the Government.

Before the promulgation of the Native Administration Act No. 38 of 1927, the inheritance and devolution of the freehold land in the village was governed by British Kaffrarian Ordinance No. 10 of 1864. This ordinance provided that the property of a "Native" married by civil rites should be administered according to common law. If the "Native" had, before his civil marriage, entered into a customary union, or had never contracted a civil marriage, his property devolved according to Native custom. All property that a Native acquired by Native custom had to devolve according to Native custom, regardless of the type of marriage contracted by him. If a Native had no wife or direct issue, he could devise by will all property which he had acquired, except that which he had acquired by Native custom. If he died intestate his property had to devolve according to Native custom. It was thus possible under certain circumstances for the freehold lots to be sub-divided amongst the heirs and for the daughter to inherit land.

Act 38 of 1927 repealed Ordinance 10 of 1864. Section 23 (3) of the Act provided that *any* Native may devise certain property by will, among which is included freehold land. No definite provisions were made in the Act for the devolution of freehold land belonging to an intestate estate. Regulations for this, provided for by Section 23 (10) of the Act were published in Government Notice No. 1664 of 1929, as amended. The main provisions of these regulations were that, amongst other property, the freehold land should devolve according to the principles of common law if the owner of the land had contracted a marriage in community of property or under ante-nuptial contract. If no such marriage is contracted, the property must devolve according to Native Law and Custom.[1] It should be remembered here that Section 22 (6) of the Native Administration Act provided that community of property no longer ordinarily ensues upon a marriage between Natives, unless it is specifically requested.

Where the land is held to devolve according to Common Law it is still possible for it to be sub-divided amongst the heirs, and for daughters to inherit on an equal basis with sons. Under Native Law and Custom the land must pass undivided to the eldest son.[2] Where a man has several wives, the land belonging to each house should pass to the eldest son of that house.

[1]There are other factors exempting the devolution of the land according to Native law and custom, but they do not apply in Rabula.

[2]If there is no eldest son, then to the next person entitled to inherit according to the Tables of Succession.

The quitrent land in the village was granted under three separate Acts—Nos. 5 of 1870; 14 of 1878 and 37 of 1882 as amended by Acts 15 of 1887 and 40 of 1895. The devolution of this land was governed by Ordinance 10 of 1864 in the same manner as the freehold land in the village. When the Ordinance was repealed by the Native Administration Act, special provision was made in the Act for the devolution of quitrent land, but because the villages were found not to be " locations " in terms of the Act—they having not been declared " scheduled areas " in terms of the Natives Land Act No. 27 of 1913—the provisions of Section 23 (2) of the Act did not apply. The devolution of the land was thus governed by exactly the same provisions as operated in respect of the freehold land. No distinction was made between the freehold and quitrent land in respect of their devolution.

Act 54 of 1934 was held to abolish all the quitrent payable for the lots in the villages, thus making them virtually freehold lots. The Act abolishing the quitrent specially stiplulated, however, that the abolition of the quitrent in no way affected the conditions of tenure relating to the land. Thus while no quitrent was paid, the land remained nominally quitrent.

Now that the villages have been declared " scheduled " areas by Proclamation 103 of 1950, the provisions of Section 23 (2) of Act 38 of 1927 will become operative in respect of the abolished quitrent land in the villages. The provisions of Proclamation 117 of 1931; 119 of 1931 and Government Notice 2257 of 1928 will all apply to the quitrent land in the same way as they apply to the land in the quitrent village of Burnshill. These provisions have not yet been actively introduced, but by their introduction it will no longer be possible to sub-divide the quitrent lots, which will have to devolve upon one male person to be determined according to the Tables of Succession,[1] when land held under title by Africans, changes hands. The transfer of all land in Rabula has had to be effected by qualified conveyancers and registered in the Kaffrarian Deeds Registry in Kingwilliamstown. When land changes hands a transfer duty is charged and the transferee becomes liable to a heavy penalty if the transfer is not effected. If it is necessary to sub-divide the land for the purposes of the transfer, the sub-divided portions may either be surveyed, and a transfer passed for each surveyed portion or else a

[1]The devolution of this land will be exactly the same as the devolution of land in the quitrent village of Burnshill.

deed of transfer may be obtained for undivided shares in land. The transfer duties, conveyancer's fees and the costs of survey, if the land is divided by survey, are usually high. Although all land in the villages has changed hands several times, very little has been transferred legally to the present owners.[1] The whole position in regard to transfers is chaotic. Before 1950 transfers would have had to be effected retrospectively through several generations of owners. Not only would all the complicated inheritance laws have had to be solved retrospectively for each estate and each generation, but the transfer duties and compounding penalties would have had to be paid by the present owners. In most cases this would have amounted to more than the value of the land.

With the coming into force of Proclamation 103 of 1950, declaring the villages " scheduled " areas, Proclamations 117 and 119 of 1931 are deemed to become operative in the villages, and in terms of subsection (i) of section 8 of the Native Administration Act, a Commissioner may be appointed to investigate and re-organise the ownership of land, as was done in the quitrent village (*vide* pages 72–82). The provisions of Proclamation 117 and 119 of 1931 have not yet been actively introduced into Rabula, but the main effect of their introduction will be to provide a cheap means of transferring both the freehold and the quitrent land. The Chief Native Commissioner will become Registrar of Deeds and the necessity to employ a conveyancer will be eliminated.

Rabula is a " released " area in terms of the Native Trust and Land Act No. 18 of 1936. Europeans were no longer able to acquire land there after 1936, and the South African Native Trust was permitted to purchase the land owned by the Europeans. The use and occupation of the land purchased by the Trust is now regulated by Proclamation 12 of 1945, while the control and management of the commonage also falls under this Proclamation. The commonage is vested in the Trust. A complicated position arises with the active introduction of Proclamation 117 of 1931 in the village, there then being two sets of regulations governing the administration of the commonage.

Rabula was declared a Betterment Area by Government Notice No. 791 of 1939 and thus falls within the purview of Proclamations 31 of 1939 and 116 of 1949, although there is now some doubt as to the legality of declaring Rabula a Betterment Area, and the Proclamations have not been put into operation.

[1] *Vide* pp. 47; 56.

The freeholders in the village pay nothing for their land. Earlier many of them paid annually for a licence to have a " Private Location " on their property, by virtue of which they were allowed to keep labour tenants on their land. They also all paid Divisional Council rates, based on the valuation of their property. The licences for private locations were abolished and by accepting the jurisdiction of the Local Council all owners of homesteads paid the local tax of 10/- and ceased paying the Divisional Council rates. The people also pay the general tax, dog tax and dipping fees. As the younger men do not have to pay local tax in order to establish their claim for land, they commence payment only when they establish their homesteads.

(c) A Quitrent Village

The building and arable lots in Burnshill were surveyed during 1865, and granted between 1865 and 1869. The land was not bought in the first instance, but the grantees had to pay for the costs of the survey and the registration of the title deeds. It is probable that the land was granted under the provisions of the Kaffrarian Land Regulations of 1858. The conditions stipulated on the title deeds provided that the land could not be " alienated or leased except with the consent of the Governor " and that a perpetual quitrent of 10/- per annum for the arable allotments and 2/6 per annum for the building allotments be paid. It is probable that the British Kaffrarian Ordinance—No. 10 of 1864—governed the devolution of the land. Transfers had to be effected by a qualified conveyancer through the Kaffrarian Deeds Registry in Kingwilliamstown, and a transfer duty had to be paid. There was nothing to prevent the sub-division of the lots, either by survey or by the transfer of undivided shares in the lots.

The Native Administration Act No. 38 of 1927 laid down the principle that all the quitrent land must devolve upon one male person to be determined according to the Tables of Succession. Government Notice No. 2257 of 1928 laid down regulations governing the inheritance of the land and tabulated the Tables of Succession. Provision was made in these regulations for the widow of an owner to occupy the land after her husband's death, without actually taking transfer. Only after the death of the widow can the heir take transfer. The land may not be disposed of by will; it may not be sub-divided

and may only at the discretion of the Governor-General be inherited by a woman.

Proclamation 119 of 1931, issued under section 6 of the Native Administration Act, established the Chief Native Commissioner as Registrar of Deeds for the village land. Transfers may now be effected without formal deeds of transfer entailing the employment of a conveyancer and the payment of transfer duties. They are simply endorsed on the title deed by the Chief Native Commissioner for the sum of 2/6.

The ownership of land in Burnshill was in the same chaotic state as that existing now in Rabula. With the introduction of this new legislation, and the appointment of a Commissioner in terms of Section 8 of the Native Administration Act,[1] the matter has been slowly sorted out and is now on a sound legal basis. The present laws of inheritance were applied retrospectively and the sub-division of the lots was avoided. In each case the lots were transferred to the present owners, except where they were occupied by widows.

Although there is no legislation preventing a woman from acquiring her own land by purchase, it is the policy of the Administration to prevent such acquisition. This is because of the confusion that arises over the devolution of the land when the female owner dies. If a woman purchases land she is persuaded to have it registered in the name of some male relative. There is no legislation preventing a minor being registered as the owner of land and this is frequently done. There is also no legislation preventing a man from owning more than one lot, although Government Notice No. 2257 of 1928 stipulates that when a person is already in possession of land, and falls heir to more land, he must choose either to retain the land he already owns or to surrender it and take over the land to which he falls heir. More than one lot may, however, be inherited simultaneously. The following extracts from Minute No. 71/2/6 dated 11/1/51 of the Chief Native Commissioner explains this :

> " In those cases where the heir is already the registered holder of land he will, in terms of Section 4 (1) of Part II of Government Notice No. 2257 of 1928, be required to elect whether he will retain the land already registered in his name or take transfer

[1]Appeals against the decision of the Commissioner may be heard by the Land Appeal Board, constituted under Section 8 (9) of the Act. Government Notice No. 1773 of 1928 lays down *inter alia* the duties of the Commissioner.

> of the land to which he has become heir. Should he desire to retain the land already registered in his name, the unselected land will devolve on the person next entitled to succeed in terms of the Tables of Succession. . . . On the other hand should he elect to take transfer of the land to which he has become heir, his *own* land will devolve upon the person next entitled to succeed in terms of the Tables.
>
> " The section should only be applied in those instances where the heir is the registered holder of quitrent land.
>
> " Where the heir is not already the registered holder of quitrent land he may take simultaneous transfer of any number of allotments, *provided that he became heir to the allotments at the same time*. He may thus relinquish his ownership of one land and become heir to three, provided he becomes heir to them at the same time. An effort should be made administratively to allocate the lots to other landless members of the family so as to conform where possible to the Department's " one man—one lot " policy. This can be done by transferring the lots to the heir and persuading him to donate them *inter vivos* to other members of the family after retaining one for his own use."

The Chief Native Commissioner as Registrar of Deeds is able to prevent any transfers of land that are contrary to the policy of the Administration.

The conditions imposed on the grants of land were superceded by a new set of conditions which are laid out in Proclamation No. 117 of 1931. This Proclamation also lays down the regulations for the administration of the village land, although it has been held not to apply to the freehold land in the village.[1]

Burnshill was one of the two villages in the district which were " scheduled " as Native Areas under the Natives Land Act No. 27 of 1913. It thus fell automatically under all the regulations applying to scheduled areas in the district. It became a Betterment Area under Proclamation No. 31 of 1939 and 116 of 1949, and was the first village in the district in which the provisions of these proclamations were introduced.

Burnshill was originally a separate village, but has been amalgamated with the adjoining villages of Lenye and Fort Cox by Government Notice No. 1902 of 1945.

[1]*Vide* Chief Native Commissioner's Minute No. 71/57, dated 29/3/43.

Besides the general tax, dog tax and dipping fees, the people pay only the 12/6 quitrent for their land. They do not pay local tax, although the quitrent is paid into the Local Council funds in lieu of the local tax. The squatters in the village pay local tax. The quitrent must be paid for each holding, regardless of the age of the owners.

(*d*) Trust Land

The South African Native Trust was created by Act 18 of 1936 with the objective of acquiring additional land for Africans. Certain specified areas in the Union were " released " and within these areas the Trust was entitled to purchase land. Practically the whole of the Keiskammahoek District was declared a " released " area. Only the Municipal area surrounding the town of Keiskammahoek, and St. Matthew's Mission were exculded. Rabula was declared a released area and it included much land owned by Europeans. Between 1937 and 1938 most of this land was purchased by the Trust. The Europeans were moved off the land and landless members of Rabula were settled there.

Section 48 of Act 18 of 1936 made provision for the formation of regulations for the renting of Trust land by Africans. For some time the rentals were not fixed and there were no definite regulations for the control of the Trust-owned land. The policy at the time was to make temporary arrangements until conditions became more settled. When the land was first allocated to landless Africans they had to pay a " squatter's " rent of between £1 and £2 per annum, depending on the size of the field allotted to them. General Circular No. 44 of 1940[1] made provision for the payment of a " squatter's " rent of £1/10/0 per annum for each household. This took effect in 1941. According to the register kept by the Native Commissioner some people paid only 10/– per annum if they had only a building site. This " squatter's " rent included a grazing fee for 10 head of large stock or 30 head of small stock. All people with fields paid the £1/10/0 " squatter's " rent, whether they had building sites or not. The people grazed their cattle on the commonage belonging to the village in which the Trust land was situated.

[1]Issued by the Department of Native Affairs.

Proclamation 12 of 1945 laid down regulations for the control and administration of Trust-owned land, and Proclamation 92 of 1949 laid down that every holder of an arable allotment on Trust land must pay a rental of £1 per annum. The proclamation also provides for the payment of a rental of 10/– by every " householder on Trust land ", but exempts those who pay local tax. All members of Rabula pay the local tax and so do not pay rental for their homesteads. There is no difference in the amounts paid—the only difference being in the allocation of the money. The rentals include a grazing fee for 5 cattle units and any stock in excess of this number has to be paid for at the rate of 2/6 per annum for each head of large stock and 6d. per annum for each head of small stock. The people also pay the general tax, dog tax and dipping fees.

The Proclamation provides that upon the death of the registered allotment holder his rights to occupy the allotment are cancelled and the allotment becomes vacant. Any widow or heir, or, in the event of the heir being a minor, his guardian or dependant of the deceased, shall have first claim for the re-allocation of the allotment, should the Native Commissioner consider that such person requires it. This provision establishes the principle that applies in the communal village regarding the inheritance of land. The two sets of regulations are, in fact, very similar, the main difference being that Trust land is forfeited if not properly cultivated (*vide* p. 99).

The regulations also provide the Native Commissioner with authority to prohibit, for any period to be fixed by him, the grazing of any specified stock on any portion of Trust land. He may also issue written directions relating to the manner of ploughing or cultivating allotments, or the use of manure or fertilizer, or the safeguarding of allotments against erosion. The Trust land all falls within the scope of the Betterment Areas Proclamations—31 of 1939 and 116 of 1949 and in terms of these the control and use of the land may also be regulated.

An allotment holder may temporarily leave the area in which his allotment is situated, but must obtain the permission of the Native Commissioner to leave his land in the charge of another person. Permission may be granted for a period not exceeding two years, but this period may be extended for another two years. Anyone who does not obtain such permission, or who stays away longer than the specified period, is considered to have left the village permanently.

Appendix II

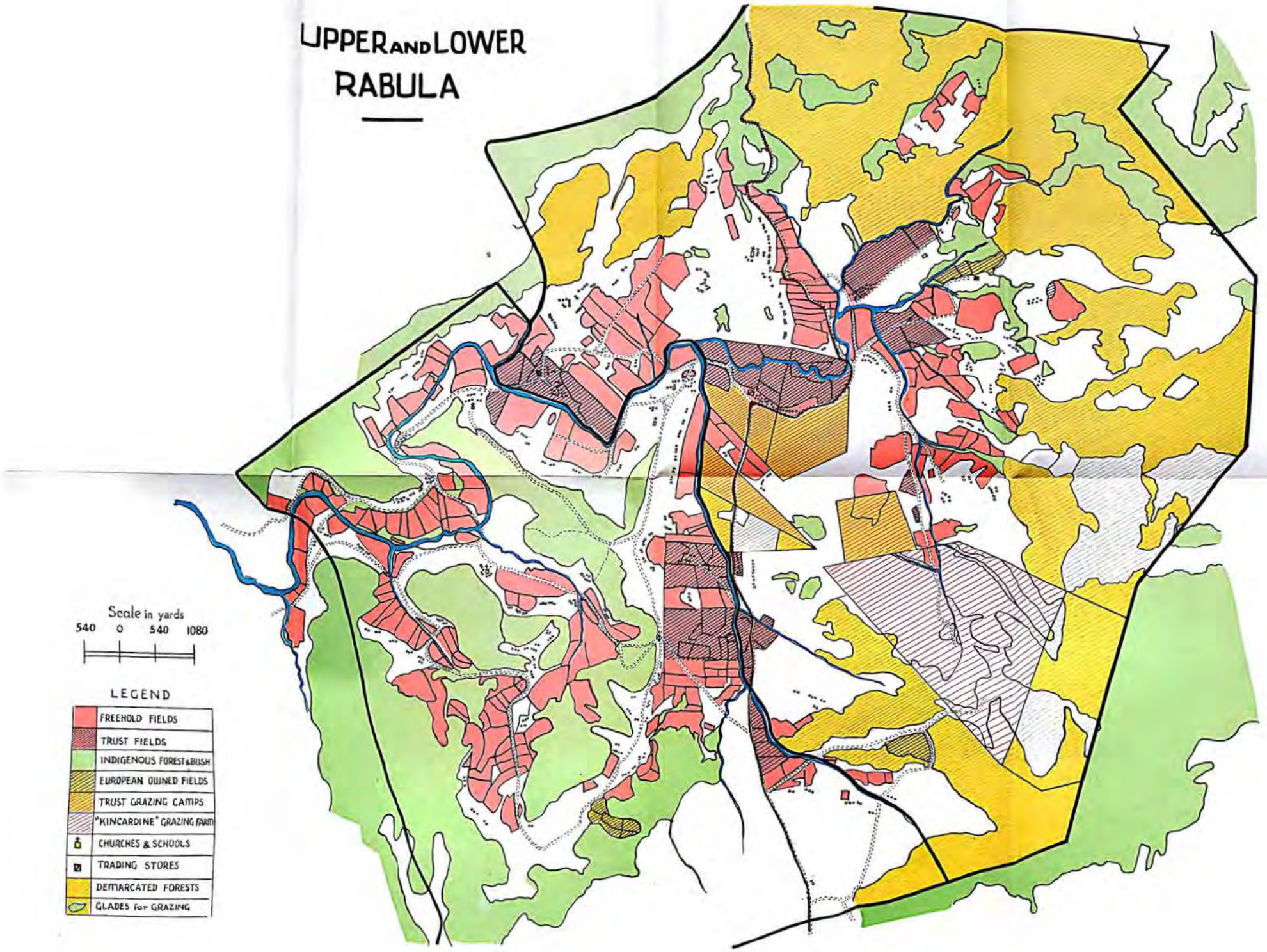
THE SIZE OF LINEAGES

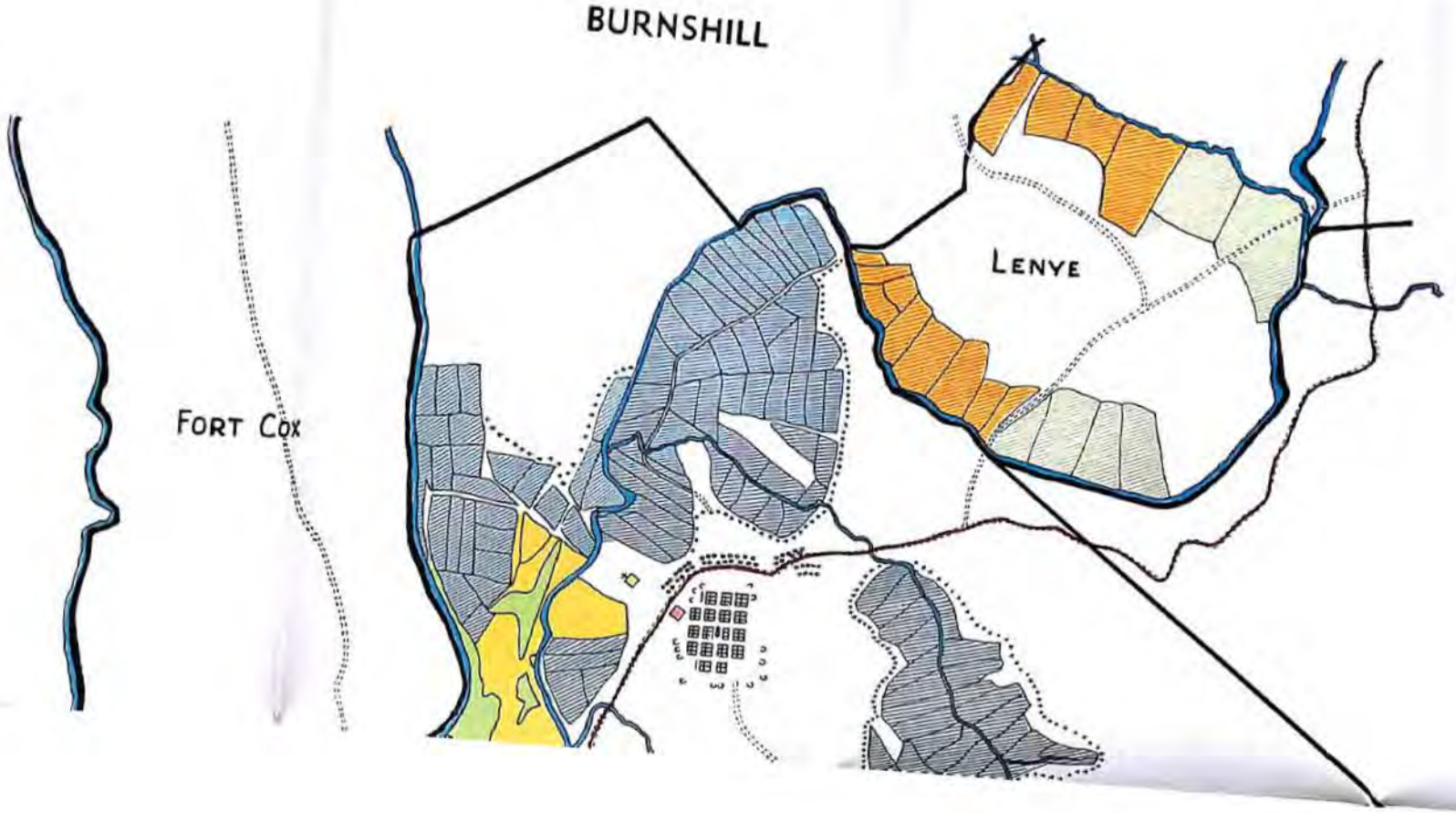
(In terms of married men)

		Freehold	Communal	Quitrent
Number of lineages sampled ..		31	49	30
Total number of married males :—				
Living and dead		394	512	267
Living		202	236	116
Domiciled in the villages ..		148	169	80
Average number of married males per lineage group :—				
Living and dead		12.71	10.45	8.9
Living		6.52	4.82	3.87
Domiciled in the villages ..		4.77	3.45	2.67
Average number of generations of married men :—				
Average number of generations of married men		3.5	3.3	3.3
	No. of generations of married men	No. of Lineages	No. of Lineages	No. of Lineages
Distribution ..	5	3	5	2
	4	14	13	10
	3	10	24	14
	2	4	6	2
	1	—	1	2

INDEX

UPPER AND LOWER RABULA



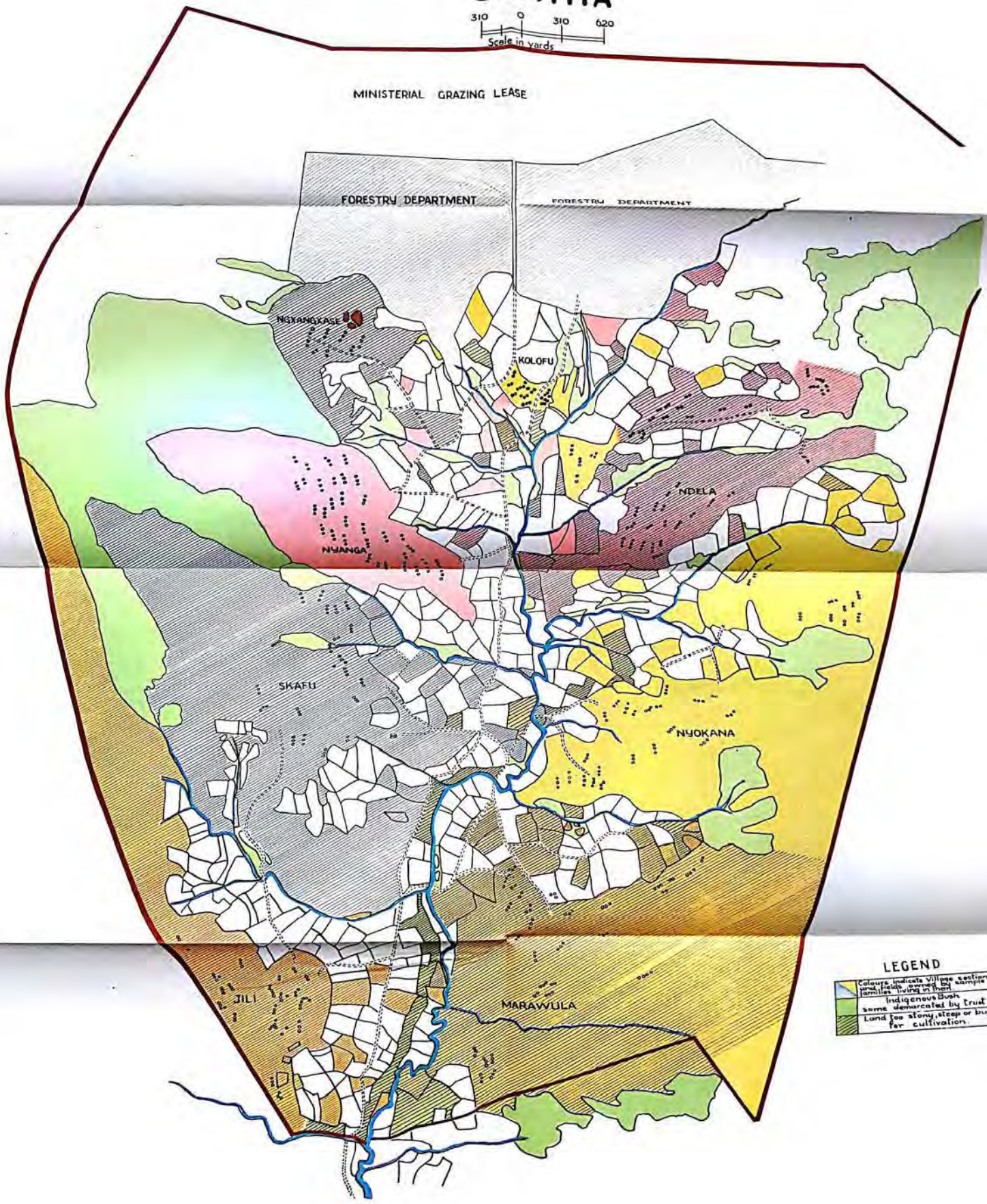

BURNSHILL
LENYE
FORT COX

CHATHA

310 0 310 620

Scale in yards

MINISTERIAL GRAZING LEASE



LEGEND

Colours indicate Village sections and Fields owned by families living in them

Indigenous Bush some demarcated by trust

Land too stony, steep or bushy for cultivation