When Fully Improved

Closer Pastoral Settlement in the Western Division of New South Wales

Janice Elizabeth Cooper

Research School of Humanities and the Arts

The Australian National University

Canberra

A thesis submitted for the degree of
Doctor of Philosophy of the Australian National University

November 2010
Declaration

This work contains no material which has been accepted for the award of any other degree or diploma in any university or other tertiary institution and, to the best of my knowledge and belief, contains no material previously published or written by another person except where due reference has been made in the text.

Janice E. Cooper

[Signature]
Acknowledgments

Many people have helped me through the challenges of this work. Special thanks go to my Principal Supervisor, Paul Pickering, whose unfailing support, enthusiasm, and grasp of detail and concept sustained me. Sincere thanks also to Bill Gammage and Ken Hodkinson for their willing advice as panel members and advisors, to Dr. Tim Rouse and Dr. Heather Radi for early assistance, and to Professor Peter Butt for being a sounding board and adviser regarding land law.

During researching and writing, the generous collegial support of fellow ANU PhD candidates Georgina Fitzpatrick, Sylvia Marchant, Jill Waterhouse, Dianne McGowan and Leigh Toop, and of ANU scholars Alistair Maclachlan and Ken Taylor, was gratefully experienced. I am indebted also to the administrative staff of the then Research School of Humanities, particularly Leena Messina and Suzanne Groves, who put themselves out to be problem solvers on my behalf.

Much gratitude was earned by Gail Davis of State Records NSW, Penny Pemberton of Noel Butlin Archives Centre, and Robert Lawrie, New South Wales Parliamentary Archives, for their skilled help at crucial intervals, and to the staff of the Australian National Library (including Mick on LG1) and the State Library of NSW for their unfailing assistance throughout.

Special thanks to NSW State officials, past and present, who gave freely of their time and advice, including, sadly, the late Barry Hayes, Dick Condon, Ted Spongberg, and Peter Spencer. Happily still with us are Doug Campbell, Doug Pearson, Peter Davey, Geoff Wise, Daryl Green, Mike Maher, Wal Berry, Geoff Nott and Elizabeth Burke.

During long gestation and failures of courage, I was supported by friends with western experience: Pat Cameron, formerly of Bourke, Ann Prendergast, formerly of Hay, Harold Hunt, formerly of Bourke and further west, Val Young also of Bourke and further west, David Huggonson formerly of Bourke, and finally, Barbara Moritz, Neroli Bevan, and Phillip and Zoe Rose of Lightning Ridge. I am exceptionally grateful to all those western landholders who took the time to talk with a sometimes confused questioner or who otherwise offered help, hospitality, or a reality check, particularly
Rory and Joan Treweeke, Wally and Margaret Mitchell, Rens and Merri Gill, Bob McFarlane, Ed Fessey, Annabelle Walsh, Maude Crang, members of the Davis family, Angus Whyte, Graham and Kathy Finlayson, Kevin and Robyn Ingram, Brian Johnston, Dermot and Ruth Murray, Mike McInerney, and others too numerous to mention but not forgotten. I regret much of their experience had to be left out due to word constraints. I wish to pay special tribute to all the local and family historians who made the Division come alive with people when sometimes I felt the place was indeed something of a blank space, so out of sight and out of mind was the Western Division to most easterners. I regret I could not use their work as much as I would have liked.

Entry into the world of science, fraught with dangers I felt, a well founded feeling, was helped in particular by the work of the *Stipa* organisation of landholders in the central west of NSW, whose trail blazers first alerted me to new thinking about native pasture management, and by the work of the holistic management and cell grazing thinkers, trainers, and consultants who have inspired landholders in the west and elsewhere. I am greatly indebted also to scientific personnel in other niches of the scientific debate, to Dean Graetz and David Tongway, Peter Cozier, Dr. John Pickard and Professor Wal Whalley, all active participants in the scientific debate I have sought to clarify. Particular thanks to the Professor Whalley for a critical reading of some draft chapters which prompted a remodelling. I hope the remodelling represents, as Dick Condon might well have said, a better account of ‘the facts’.
Abstract

This is a study of government sponsored closer settlement in the semi-arid and arid far west of New South Wales (NSW) since 1884. That year, the region was named the ‘Western Division’ for NSW land administration purposes. The study was inspired by disjuncture. First, disjuncture between the little that has been written about closer settlement in NSW and what I felt was its reality in the Division, in particular its acceptance of closer settlement without freeholding and commercial agriculture, hence my phrase ‘closer pastoral settlement’. This was redistribution of land from one white person to another without expectation of a ‘higher use’. Second, disjuncture between popular beliefs about the unpredictability of the western natural resource and the tough independence of landholders on the one hand, and evidence of bureaucratic controls and equity concepts, rural socialism, on the other. Third, between what varying government historical accounts of closer settlement there said, and what I knew to be the case, and finally, between what landholders and a Western Lands Commissioner in the 1980s argued to be the case and what I argue here.

I trace the actions and motivations of political, legislative and bureaucratic actors prominent in the process from 1884 to 1985 and argue that closer settlement in the Division developed and displayed the characteristics of a ‘policy paradigm’, a deeply shared and accepted collection of concepts and tools wielded by politicians, bureaucrats, landholders, and courts, and particularly bureaucrats. All shared a vocabulary peculiar to it, each seeking benefit from it, hence its strength and persistence. Given the frequency with which land was redistributed to those already with land, the study suggests ways general descriptions of closer settlement in Australia warrant elaboration. The last two chapters examine the problems of what would replace the paradigm once the irrelevance of these controls and concepts became obvious when there was no more land to redistribute, and when there were wide concerns about over-allocation of land and loss of the natural resource.

Concerns about the natural resource were raised throughout the period and though usually overwhelmed by the power of the closer settlement paradigm and the politics
surrounding it, it is important to trace them. I argue that when bureaucrats and politicians finally responded, they simply tried to convert the tools of closer settlement into tools of conservation. These attempts to give old tools a green tinge were a failure. A completely new paradigm had to be created before landholders could drop old images and vocabulary and speak in new ways that encompassed grazing management for conservation. I identify the factors bringing about the change and show that they share features of policy paradigm change identified in political science theory. Necessary to it was the overturning of the 'research-extension' model of dissemination of scientific knowledge and technique to landholders, a model closely associated with colonialism. Necessary also was the creation of new ways for scientific personnel both inside and outside bureaucracy to engage with landholders, daring even to enter and influence day to day management. In clarifying the history, the study may assist in showing ways forward for rehabilitation and further encouragement of grazing management for conservation of pastures.
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ACF    Australian Conservation Foundation
ADB    Australian Dictionary of Biography
AML&F  Australian Mortgage Land and Finance Company
AWU    Australian Workers’ Union
AJS Bank Australian Joint Stock Bank
Committee Joint Select Committee of Enquiry into the Western Division of NSW
CSIR   Council for Scientific and Industrial Research
CSIRO  Commonwealth Scientific and Industrial research Organisation
EP&A Act Environmental Planning and Assessment Act
F&SA   NSW Farmers and Settlers Association
Gazette New South Wales Government Gazette
GSB    Government Savings Bank
HL     Homestead lease
Journal Australian Rangelands Journal or Rangelands Journal
JSCWD  Joint Select Committee of Enquiry into the Western Division of NSW
LGPA   Livestock and Grain Producers Association of NSW
MLA    Member of the Legislative Assembly
MLC    Member of the Legislative Council
MERCWD II Minutes of Evidence, Appendices, and Returns, Royal Commission to inquire into the condition of the Crown Tenants in the Western Division of New South Wales, Part 11.
Plants Plants of Western New South Wales
TWG    The Wentworth Group
NBAC   Noel Butlin Archives Centre
Newsletter Western Division Newsletter
NSW    New South Wales
NSWLR  New South Wales Law Reports
NSWLAVP New South Wales Legislative Assembly Votes and Proceedings
NSWL CJ New South Wales Legislative Council Journal
NSWL CVP New South Wales legislative Council Votes and Proceedings
NSWPA  New South Wales Parliamentary Archives
NSWNFF New South Wales National Farmers Federation
NSWPD  New South Wales Parliamentary Debates
NSWPP  New South Wales Parliamentary Papers
RCS    Resource Consulting Services
RSS Branch Returned Soldiers and Settlers Branch (Department of Lands)
RSL    Returned Sailors’ and Soldiers’ Imperial League of Australia (1916-1940), Returned Sailors’ Soldiers’ and Airmen’s Imperial League (1940-1965)
RSRCWD I Report and Summary of Evidence of the Royal Commission to inquire into the condition of the Crown Tenants in the Western Division of New South Wales, Part 1

Abbreviations
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>SCNSW</td>
<td>Supreme Court of New South Wales</td>
</tr>
<tr>
<td>SCS</td>
<td>Soil Conservation Service of NSW</td>
</tr>
<tr>
<td>SMH</td>
<td>Sydney Morning Herald</td>
</tr>
<tr>
<td>SRNSW</td>
<td>State Records New South Wales</td>
</tr>
<tr>
<td>Study</td>
<td><em>An Economic Study of the Western Division of New South Wales</em></td>
</tr>
<tr>
<td>TWG</td>
<td>The Wentworth Group of Concerned Scientists</td>
</tr>
<tr>
<td>UNE</td>
<td>University of New England</td>
</tr>
<tr>
<td>WCIC</td>
<td>Water Conservation and Irrigation Commission</td>
</tr>
<tr>
<td>WLL</td>
<td>Western lands lease</td>
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<tr>
<td>WWF</td>
<td>World Wildlife Fund</td>
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</tbody>
</table>
**Glossary**

Please note that the meanings in this glossary are given only within the context of this thesis which deals overwhelmingly with leasehold, rather than freehold, land.

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>Acquire (land)</td>
<td>To obtain a legal or equitable interest in land. The word does not reveal the method of acquisition. In this thesis, the four main methods of interest are: application to the government; purchase in a market; purchase rights as a mortgagee by lending; inheritance; entry into a partnership with an existing landholder. When used by officials, the term usually means acquisition by purchase.</td>
</tr>
<tr>
<td>Additional(s) or additional area(s)</td>
<td>Land allotted by government to a landholder whose existing land is deemed too small to be a ‘living’ or ‘home maintenance’ area. Equivalent terms are ‘extension of area’, ‘make up’, and ‘build up’, the latter two being commonly used in the Division later in the twentieth century.</td>
</tr>
<tr>
<td>Agriculture</td>
<td>The term is used in this thesis to refer to cultivation of land to produce a commercial crop, as opposed to the land use of grazing.</td>
</tr>
<tr>
<td>Allot (land)</td>
<td>The process by which the Crown chooses, from amongst applicants, the successful applicant who receives the legal title, in our cases, leasehold title. See also ‘Disposal’.</td>
</tr>
<tr>
<td>Appraise</td>
<td>To estimate the value of a property and/or the rent payable to the government</td>
</tr>
<tr>
<td>Ballot</td>
<td>The process of choosing a successful applicant for land based on luck. It signified that the officials involved could not find an alternative basis for choice amongst numerous applicants. In our case, after other processes were completed, it involved marbles being drawn out of a revolving box. This</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<td>----------------------------------------</td>
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</tr>
<tr>
<td>Basal block (see also Original)</td>
<td>Land already held which enabled the holder to apply for an additional area.</td>
</tr>
<tr>
<td>Block</td>
<td>Land was offered for lease in the <em>Gazettes</em> as ‘blocks’. They had been roughly, though not finally, surveyed. When the block was accepted under any conditions stipulated, a lease document was signed by the recipient, the block became a ‘lease’, in our case, usually a Western lands lease, and was given a number. The <em>Gazette</em> recorded both the approval, and the issue, of the lease document.</td>
</tr>
<tr>
<td>Bona fide</td>
<td>In good faith; with sincerity; in our context, a quality desired by government from a new settler which had to be proved by such behaviour as fencing, residence, and working the land for the benefit of his and his family’s welfare. Applicants for land had to make statutory declarations of their ‘bona fide’, that is, that they were genuine in intent and were not taking up the land intending to transfer it to someone else or allow another to use it (See also ‘dummy’)</td>
</tr>
<tr>
<td>Build up</td>
<td>See ‘Additional area’.</td>
</tr>
<tr>
<td>Conservative stocking</td>
<td>Keeping what would be regarded as a relatively small number of stock on land.</td>
</tr>
<tr>
<td>Carrying capacity</td>
<td>The number of stock an acre of land or another stated area is thought to be able to carry, on average, over a long time.</td>
</tr>
<tr>
<td>Classification</td>
<td>The notion that certain land was most suited for a particular usage and should be used for that purpose.</td>
</tr>
<tr>
<td>Disposal</td>
<td>A general term covering all the activities of bureaucrats in transferring Crown land to private parties.</td>
</tr>
<tr>
<td>Draw a block</td>
<td>To be allotted land via a ballot. Strictly speaking, the ters should not be used for the Division until after 1934 when the ballot system was introduced. Has the ...</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<td>--------------------------</td>
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</tr>
<tr>
<td>Dummy</td>
<td>One who applies for land or occupies land from the government in the interests of another without ‘bona fide’ intent.</td>
</tr>
<tr>
<td>Expire</td>
<td>A lease (in the sense of right to use the land) expired if it was a term lease for a defined period. At the end of the term, the right expired unless other arrangements were made.</td>
</tr>
<tr>
<td>Equity</td>
<td>The financial interest that a part holder of land had, the other holder frequently being a mortgagee. If the equity of the mortgagor was very small, the mortgagee might consider taking possession and selling the property to recoup the debt. If the action was contested, a court might find formally that the equity of the mortgagor was or was not, extinguished, depending on whether the debt was believed to be so large that it can not conceivably be repaid.</td>
</tr>
<tr>
<td>Equity of redemption</td>
<td>The amount that a mortgagor would have to pay a mortgagee to extinguish his debt. If the equity is proved to be ‘extinguished’, the mortgagor is deemed to be unable to repay the debt in the foreseeable future.</td>
</tr>
<tr>
<td>Foreclosure</td>
<td>Action which may follow a formal court decree declaring the mortgagee’s equity extinguished which makes the mortgagee the holder of the lease as a <em>lessee</em> rather than as a mortgagee or the ‘absolute’ holder. Said not to have occurred in the case of leasehold land. Rather, mortgagees ‘took possession’.</td>
</tr>
<tr>
<td>Forfeit (a lease)</td>
<td>Loss of rights to the land following a Governor/Executive Council/Minister’s decision that a breach of the conditions contained in the lease document or legislation warrants the lessee losing the right. Advertized in the Gazette, rarely with reasons other than ‘non-compliance’ with conditions (of the lease).</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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</tr>
<tr>
<td>Freehold title</td>
<td>A right to the land which removes any control by, or record of, the government’s rights in the records of the Lands Department/WLC. The Crown is no longer a landlord. Dealings with this land proceed in the private sector only, subject to any legislation. Largely equivalent to ‘alienated land’.</td>
</tr>
<tr>
<td>Grant (verb)</td>
<td>The Governor grants land which is allotted or disposed of by the officials.</td>
</tr>
<tr>
<td>Holder</td>
<td>A person or entity having rights to leasehold land. A common distinction is between a mortgagee, who holds rights as such, and an equitable holder who holds rights (part-ownership) including the right to repay the debt. An equitable holder is often the lessee/mortgagor. If the mortgage debt is paid out, the ‘equitable’ holder becomes the ‘absolute’ holder. I use the term landholder throughout this thesis, reserving the term ‘owner’ for freehold land.</td>
</tr>
<tr>
<td>Holding</td>
<td>The land worked as one property, but whose legal title may be composed of numerous leases.</td>
</tr>
<tr>
<td>Improvements</td>
<td>Man made structures or works such as fences, watering points, sheds, yards, houses, killing trees (‘timber treatment’) so as to encourage more grass. The meaning changes at the end of this thesis to include better groundcover and soil quality.</td>
</tr>
<tr>
<td>Lease</td>
<td>Sometimes refers to land held under leasehold tenure, and sometimes to the lease document giving legal right to the land. The latter was signed by both the lessee and lessor (the Crown in this case) and was a legal agreement. Usually the distinction between the lease document and the land itself is clear from the context.</td>
</tr>
<tr>
<td>Leasehold area (LA on maps)</td>
<td>The area left to the landholder by the 1884 Crown Lands Act which could be applied for and held under a pastoral lease.</td>
</tr>
<tr>
<td>Lessee, sub-lessee</td>
<td>A person or interest acquiring rights to the land under a lease agreement with a person or the Crown. A sub-lessee obtains use of the land from a lessee, normally under a written agreement. Both pay rent. Lessees were commonly referred to in the later nineteenth century as 'Crown tenants'.</td>
</tr>
<tr>
<td>Lessor</td>
<td>One who permits another to use their land under a lease agreement.</td>
</tr>
<tr>
<td>Licence (of land)</td>
<td>A short term tenure, usually one year, which can readily be renewed or terminated by government.</td>
</tr>
<tr>
<td>Make up (noun)</td>
<td>See: additional(s) or additional area(s).</td>
</tr>
<tr>
<td>Mortgagee</td>
<td>A person or entity who has required a borrower holding land to offer the land as security for a loan. Law permitted the mortgagee to take possession should the debt not be repaid within agreed terms and times.</td>
</tr>
<tr>
<td>Original (noun)</td>
<td>Land already held which justifies the landholder receiving an additional area. Sometimes called a 'basal block'. Often the original was allotted by government but it was made clear in the 1930s that a private purchaser of land could receive an additional area from the government by allotment.</td>
</tr>
<tr>
<td>Pastoral lessee</td>
<td>Landholders holding pastoral lease tenure over pastoral leases after the 1884 Act. Prior to this they are often described as 'runholders', graziers or 'squatters'. After 1901, most of these became 'Western lands lessees'.</td>
</tr>
<tr>
<td>Pastoral holding</td>
<td>Land worked as one property. The name given to the pre-1884 aggregations of runs, and after 1884, containing the post-1884 pastoral lease and possibly also Occupation Licence and other areas held in one interest. Also sometimes used in a general sense to refer to any large property.</td>
</tr>
<tr>
<td>Palatable</td>
<td>Qualities of plants which make them favoured by stock. Not necessarily</td>
</tr>
</tbody>
</table>
correlated with nutrition. As in humans, palatability is influenced by hunger.

<p>| Register (noun) | A record of land rights held by government, indicating the right of the person or entity to the land. The register usually records transfers of interests in the land, the last name on the record showing the most recent transfer. Registration strengthened the rights. |
| Register (verb) | To record a person or interest’s right to land in the land authority’s books of record. |
| Registered holder | A person or interest accepted by government as having a right to leasehold land and recorded as such in its records. It appears that in the early twentieth century a mortgagee was recorded as the registered holder and the equitable holder (the mortgagor) was not necessarily registered. This may have contributed to the belief that mortgagees ‘owned’ the land. |
| Resume/resumption | Butterworths Australian Legal Dictionary (1997) defines this as action taken by the Crown to re-acquire land previously alienated. This overlooks nineteenth century usage in the 1884 Crown Lands Act which used the term in re-acquiring leasehold land. The Governor could resume small areas of leasehold land compulsorily and without compensation for public purposes. In the twentieth century the term ‘withdraw’ is used instead of ‘resume’, and the compensation offered is almost always an extension of term for the remainder of the leasehold land held, whereas elsewhere resumption of alienated land invariably meant cash compensation. |
| Resumed area (RA on the maps) | The area of a pastoral holding taken back by the Crown under the 1884 Crown Lands Act (about half), to be made available to new landholders. Usually held under Occupation Licence by the previous holder until ‘taken up’ by new landholders. |</p>
<table>
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<tr>
<th>Run</th>
<th>An area tendered for by early applicants for land from the government. Run areas were assessed in terms of how many sheep they could carry (rarely larger than 64,000 acres). More than one could be acquired, and they could be bought and sold. Though held for a term, they were renewable. The aggregation of runs into pastoral holdings established the 1884 map of pastoral holdings in the Western Division referred to in this thesis.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scrub</td>
<td>A loose term indicating thick growth, usually of small native trees and shrubs, which may be edible or inedible for stock. The terms ‘edible scrub’ and ‘inedible scrub’ are often used.</td>
</tr>
<tr>
<td>Selective grazing</td>
<td>The practice of grazing animals choosing the most attractive components of pastures when given the chance.</td>
</tr>
<tr>
<td>Station</td>
<td>Originally denoting the homestead, a pastoral property worked as a unit and usually containing the administrative area and homestead.</td>
</tr>
<tr>
<td>Take possession</td>
<td>A mortgagee action to take control of the property of a mortgagor, a physical action if resisted, and usually not involving court action unless contested.</td>
</tr>
<tr>
<td>Title</td>
<td>The bunch of rights and responsibilities to an area of land specified in legal documents. Similar to ‘tenure’, though the latter tends to be used to denote the degree of security offered.</td>
</tr>
<tr>
<td>Transfers</td>
<td>A passing of right to land from one person or entity to another, perhaps a partial right as when a partner is taken on and given part right to the land. In the case of leasehold land transfers are recorded by the government land authority. In the twentieth century the type of transfer was usually recorded (eg. by sale, by mortgage, by a will, or by sharing equity with a partner).</td>
</tr>
<tr>
<td>Withdraw/withdrawal</td>
<td>The government takes back land out of a lease. In the Western Division context, the term does not imply monetary</td>
</tr>
</tbody>
</table>
compensation for the loss of the right to use the land, but rather, usually, compensation via an extension of the term of the lease for the remainder of the land.
CHAPTER ONE

Introduction

During work based at Bourke from 1976 to 1981, my interest in the region’s history developed. Being there to establish and manage a regional office of the then Commonwealth Department of Aboriginal Affairs, I soon discovered how easy it was to develop a kind of paranoia about Sydney officials ignorant of conditions in the west—the extreme heat of summer, the distances, the dirt roads, the isolation—to mention just some. I would later recall this during research into events of the 1980s recounted here in Chapter Nine. While there I married a former Western Queensland grazier, who regaled me with stories of the past and introduced me to a strange vocabulary of ‘closer settlement’. He and his brother had been employees of pastoral companies before World War II, which both participated in. His brother had later ‘won’ a soldiers block north east of Bourke near Angledool (NSW), as his marble had been drawn out of a big wooden revolving box at a ‘ballot’. My husband had attended such a ballot to observe whether his marble went in, but if it went in (some suspicion attached to this), it did not come out. I was surprised luck was resorted to in the weighty matter of who got land.

People told me about the old ‘10,240s’, recalled with disgust. They were old blocks of land ‘taken up’ early, it was not clear when. I subsequently found that 10,240 acres was the maximum area that government would give an applicant for land during the years 1884-1900.\(^1\) The disgust arose from the stupidity of applying such a maximum to all country in the west, especially west of the Darling, where rainfall was even less and ‘carrying capacity’ even lower. The government showed its stupidity again after World War II, making the blocks too small. Though the 10,240s were early, blocks given to soldiers in the 1950s, my husband’s brother for instance, was still too small though his 8,000 acres was in the rainfall favoured north east where 10,240 acres was once thought very adequate. My husband claimed to be glad his marble hadn’t come out, because he’d have been tempted to ‘flog’ the land, to put too many sheep on it for too long, because the blocks were too small for a decent ‘living’.

I heard of ‘sheep areas’ (how many acres would carry a sheep, not the other way round, as with better land further east), of ‘carrying capacity’ (the number of sheep a particular
area of land could carry in the long term), and of ‘home maintenance areas’ (the number of acres required to support, in average seasons, an average family). These novel concepts tripped readily off western tongues. The last, the home maintenance area, however, reminded me of the basic wage concept which I was familiar with. I learnt that there was a Western Lands Commission which administered land matters in the Western Division (Figure 1), and that it had once been paternalistic, like a stern but caring father. Land purchases, or ‘transfers’ as they were called, had to be approved by it and not so long ago, expansion by purchase was not allowed beyond the number of sheep areas constituting a ‘home maintenance area’. This did not necessarily mean equality in size because size varied according to carrying capacity. The Commission was said to have used its powers to create some equality of landholding as expressed in the home maintenance area, and in the past would only ‘allot’ someone land if they did not already hold such an area.

The land it allotted had been taken from landholders regarded as being too large: it was part of the government ‘closer settlement’ policy. Price control, I learnt, was also applied by the Commission, but the restrictions on purchase had been dropped lately. Cotton and wheat were being grown on land once regarded as pastoral land, developments viewed uneasily by those who thought the land’s capacity to withstand cultivation without eventual erosion was limited. This was also viewed jealously if the rent hadn’t gone up appropriately because cultivation for commercial cropping was held to be more profitable than pastoralism and should attract a higher rent. Most of the land was held under lease tenure with leaseholders paying rent, and only small blocks deriving from a distant past, or used for special purposes, or blocks used for town residences and businesses, could be freeholded. Rent was paid to the landlord, the Crown, that is, the Commission. There were conditions in leases, the non-performance of which could attract ‘forfeiture’, loss of occupation rights and legal title, including a condition that the lessee must not overstock so as to cause damage to pastures and soils.

Socialism’s commitments to equality and uniformity did not sit well with characteristics of the far west environment. There, low ‘average’ rainfall, from eighteen inches (475mm) in the north east to less than eight inches (200mm) in north west, concealed

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1 For consistency sake I have retained ‘acres’ as the land measure throughout this thesis.
great variability. Grazing was an unpredictable and risky business, my husband said, and the native pastures continued to surprise people; plants not seen for years
sometimes appeared. I heard that the Commission had exercised ‘overstocking’ powers in earlier times, and that landholders who ‘flogged’ land were controlled through fear of forfeiture. Now, however, the Commission had gone soft, and there was little fear that the power given in the Western Lands Act would be used to evict a landholder from his lease. It was believed, however, that overstocking continued. All that was needed, he would say earnestly, was one good example of forfeiture for overstocking to bring people into line.

My work consistently reminded me that I was dealing with the impact of land redistribution on the land’s original holders, my official clients, for whom I was engaged in providing housing, often in towns, or near towns on reserves. One unusual project placed houses on a pastoral property, on Weilmoringle, for the Aboriginal people who had hitherto camped in self built dwellings. Landholder Rens Gill had agreed to the excision of an area from Weilmoringle which enabled transfer of the land to the local Aboriginal organization, with freehold title. Freehold title was granted so that the Commonwealth could fund the organization for housing for the residents, which would be owned by the organisation. Rens had purchased Weilmoringle in 1964 from the New Zealand and Australian Land Company his father had worked for. It was the homestead block, left to the Company after much of the original property had been taken for new settlers including returned soldiers. When the Company or its agents asked Rens if he wanted the camp removed before taking possession, he had said no. He and his wife Merri found that the Aboriginal residents and the Company had established ‘a preset pattern of life and activity’ which included loans booked up against future work, supply of cash and petrol by the manager (now Rens), annual Christmas celebrations, and cooperative work for the primary school. The Gills did not regret Rens’ decision, benefitting from a ready made workforce of shearsers, crutchers and lamb markers.

My initial desire to trace the relationship between what had happened in the white world, with developments in the Aboriginal world, had to give way to a focus only on the former. The forebears of other white landholders had been on the land much longer

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2 N.C.W. Beadle has provided a concise account of the variable features of the western climate. See The Vegetation and Pastures of Western New South Wales with Special Reference to Soil Erosion, Issued under the authority of The Hon. George Weir, M.L.A., Minister for Conservation, 1948, Chapter 3.
4 I found that Heather Goodall had traced Aboriginal history in relation to closer settlement legislation in NSW. See ‘A history of Aboriginal Communities in New South Wales, 1909-1939’, PhD thesis, Department of History, University of Sydney, December 1982. However there is, perhaps, scope for a
than the Gills. Research carried out by a locally based medical researcher at the time said that family ties amongst western landholders were widespread and that ancestry was a source of great prestige. Indeed the researcher had found a ‘powerful web’ of relationships throughout the north-west and that it was unwise to criticize anyone who might be a proud relative. Those with only two or three generations of local ancestors were mere barons compared to dukes of longer standing. How did the current landholders get there, I wondered—were they the descendents of ‘the pioneers’ who I assumed preceded the ‘10,240s’ people, or descendants of the latter, or more recent new people? How had the public and private mechanisms for obtaining land co-existed in the case of this leasehold land? I resolved to satisfy my curiosity if and when I could.

When I began a literature search in 1985, and again in 2000, I found little academic history to enlighten me. Once interested in the Division as part of the history of settlement or the wool industry, academic historians had retreated. Stephen Roberts had addressed it in his early magisterial overview of land settlement, and economic historians paid it some regard up to the 1960s. Thereafter, it dropped from academic sight, and those who continued contributing to settlement history were not focussed on the far west. Interest in the NSW government’s redistribution of land after Robertson’s Acts of 1861 was carried forward in time only by an intrepid few as it became overlaid with amending legislation, making research more daunting even for the eastern part of the State. When his 1924 book was reissued in 1968, Roberts expressed disappointment that it had not been ‘entirely superseded’. In 1990, social historian Bill Gammage, one of the intrepid few, called for detailed research about who got land. In 2005 Graeme Davison and Marc Brodie, reviewing the literature about rural Australia rather than land settlement as such, found a similar dropping away of research. They

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complained that the preoccupation of Australian historians with the heroic period of pioneering and a selective approach to the study of twentieth century rural history had left us with inadequate benchmarks for understanding the historical roots of the present rural crisis.\textsuperscript{10} I resolved to focus on ‘closer settlers’ rather than ‘pioneers’ and on the process of closer pastoral settlement in the region.

I found I had to use the term ‘closer settlement’ broadly to mean government action to redistribute land from one large landholder with a ‘white’ legal title, to another person with no land or less land, regardless of the way the land was retrieved from the first person for redistribution. This was broader than historian Richard Waterhouse’s use. He tied it to the method government used to make the land available, to government buying back freehold land from a landholder in order to make it available to new landholders.\textsuperscript{11} Government didn’t, as a rule, buy back land in the Division except in one ill fated instance and the land remained largely leasehold, not freehold.\textsuperscript{12} Davison used the term broadly and included its popular ideological component, saying it was a twentieth century ‘movement’; but in limiting it to the ‘twentieth century’, he disqualified Robertson’s legislation as closer settlement legislation and also the ’10,240s’.\textsuperscript{13} The necessity for broad usage was brought home to me when a Department of Lands official familiar with eastern NSW told me emphatically that there was no such thing as ‘closer settlement’ in the Western Division. This was a shock, given that I was contemplating embarking on a history of just that—didn’t he know about the ’10,240s’ and subsequent action?

Literature search revealed confusion about when closer settlement in the Division started, even in recent advice to the Commonwealth government. The 1998-2000 Kerin Review of the Division, for instance, thought that closer settlement there ‘became a reality’ after 1950. One of its six consultancies providing background material for the Inquiry thought that it commenced after World War I. It also thought it was designed to

\textsuperscript{10} Graeme Davison and Marc Brodie, eds: Struggle Country: The Rural Ideal in Twentieth Century Australia, Monash University ePress, 2005, xii.

\textsuperscript{11} Richard Waterhouse’s narrower definition distinguishes ‘closer settlement’ from ‘selection’, that is, selection was the free for all selection before survey, whereas closer settlement derived from the voluntary or compulsory acquisition of land by government for which the landholders were paid. See ‘Poor land use is our heritage’, Higher Education section, Australian, 8 November 2006, 28.

\textsuperscript{12} The case of Canally is dealt with briefly in Chapter Six. It is also possible that in the 1880s and 1890s government may have paid for some small freeholds contained within the resumed areas, but I doubt it occurred. It was cheaper for the government to offer the lessee an equivalent area of freehold within the leasehold area, known as ‘exchanges’. There is reference to both possibilities in the relevant legislation.

\textsuperscript{13}
create ‘small family farms based on the British model’.\textsuperscript{14} I was finding that the significant closer settlement in the Division was the closer pastoral settlement that commenced in 1884 (the old ‘10,240s’) and that it was not based on a British model, at least not on a model of cultivated agriculture. Nor did small farms on a British model constitute the major government closer settlement effort in the 80 million acres of land contained within the low rainfall semi-arid and arid Division, 42 per cent of the State’s land mass.\textsuperscript{15}

My broad use of the term ‘closer settlement’ was, I found, most compatible with that of geographers, R.L. Heathcote and J. M. Powell. Heathcote applied the term to government action to redistribute land, whether leasehold or freehold, regardless of the land use envisaged.\textsuperscript{16} Powell broadened it further to take into account how the land was made available for redistribution but also taking into account private subdivision and sale as a form of closer settlement (Figure 2). His types of closer settlement reflected a mixture of private and public action and he suggested that we should view the evolution of rural landscapes as the outcome of a ‘combined official-popular enterprise’.\textsuperscript{17} This approach encompasses the Western Division experience in several ways given the mixture of ‘public’ and ‘private’ action that emerged, though the two did not always happily co-exist in the eyes of politicians, particularly Labor politicians. Having said that, a new category within his schema is still perhaps needed.\textsuperscript{18} Geographers had also created some social history for the Division, but tended to view people from on high, impersonally, or to leave them somewhat in the background, where they tended to be statistics unless notable enough to leave readily available public records. Local, family, and property histories were appearing which drew attention to the people on the ground, often written by wives, daughters, or other relatives of landholders.\textsuperscript{19} Bobbie Hardy’s

\textsuperscript{14} Western Lands Review, Final Report: Summary and Recommendations, Department of Land and Water Conservation, Sydney, April 2000, 6; Nick Abel, David Farrier, Bill Tammell and Carla Mooney, A Rangeland Enmeshed: The Legal and Administrative Framework of the Western Division of New South Wales, June 1999, 6, consultancy study for the Western Lands Review.

\textsuperscript{15} Most of the Division is regarded as ‘semi-arid’, the north west corner with below ten inch average rainfall being regarded as ‘arid’.


\textsuperscript{17} ibid.

\textsuperscript{18} Powell did not provided details of his categories 2 (a), (b), and (c), relying only on legislation which he did not identify, so it is not possible to be confident about the similarity and difference of Western Division practice. See Chapter Five for description of the ‘surrender and subdivide’ legislation in the Division which could justify an additional category of ‘private subdivision of Crown land under minor government control’.

\textsuperscript{19} Bobbie Hardy, West of the Darling, The Jacaranda Press, Milton, Queensland, 1969; Shaw, Mary Turner, Yancamnia Creek, Melbourne University Press, 1987. Local historians, compilers, editors and biographers who have assisted greatly in ‘peopling’ the Division in the twentieth century are as follows: Patricia McCaughey (Samuel McCaughey) 1955; Myrtle Rose White (Wonnaminta station) 1956; Bill
Private subdivision and settlement

1. Independently of governments: voluntary subdivision; settlement induced by taxation.

2. Under government control, via
   (a) agreement with owners, with or without government assistance (NSW);
   (b) assisted purchase under Bank Certification (NSW);
   (c) official adoptions of agreements between owners and other persons (NSW, Vic., Tas.).

Government subdivision and settlement


2. Repurchased lands:
   (a) by agreement with owners, lessees;
   (b) by resumption.

Sources: State and Commonwealth legislation.

and Mary Turner Shaw’s work focussed on the pre-1884 settlers and their history ends as closer settlement begins, whereas Maxine Withers’ regional history focussed on the the twentieth century. The work of local historical associations was valuable though many lacked the broad view and referencing practice demanded of scholarly history. Rusheen Craig’s laborious voluntary work recording NSW Government Gazette (Gazette) information from 1884 to 1910 was an invaluable resource.20 Her perception that many of the families which owed their entry to land to the ‘10,240s’ were still there in the 1980s, including some of her relatives, fitted with a conclusion I was reaching. They were not the ‘pioneers’, but the term turned out to be a very relative concept.

Government files, archived and non-archived, revealed landholders further, files that were difficult to access, understand and use until the opaqueness of the terminology lessened.21 The letters of landholders to ministers and administrators threw light only on the face they chose to reveal to power holders, but the files also revealed the concerns that bureaucrats faced, their ideological commitment, and the way they developed and manipulated the tools of closer settlement to achieve what they saw as some success. The important role of officials in the process became clear and they became a vital tier in my study, sometimes standing uncomfortably between landholders and landseekers on the one hand, and politicians on the other.22

Parliamentary debates accompanying legislative change, along with newspaper and journal comment, were and a necessary aid to understanding the legislation itself. Maps and the Government Gazette had to be used to track landholders and files at times. Finally, an array of scientific literature, with its technical language and method, mostly the work of scientists in the land focussed bureaucracies, had to be grappled with.

Literature search showed that government officials had constructed a history for the Division. In 1957, the Chief of the Division of Marketing and Agricultural Economics in the Department of Agriculture, C.J. King, had produced a useful basic text in 1957

21 The files are public documents, but not many have been archived relating to the twentieth century. Most files are titled by a lease number, as was the practice of the bureaucrats, not by the names of landholders, and use of maps, Gazettes, and other data was often necessary to find a way of locating files which might throw light on a particular matter or trace a family through time.
22 Libby Robin, following Stretton, has noted neglect of the bureaucracy by historians. See her Defending the Little Desert: The Rise of Ecological Consciousness in Australia, Melbourne University Press, 1998, 90.
focussing on major legislative and technological change throughout the State. He rarely ventured into opinion or analysis and overlooked some significant legislation in the Division. However in the late 1970s, a Soil Conservationist and Western Lands Commissioner, Dick Condon, began to reveal a history developed by him and later, he said, by lessees themselves. Versions of this were published in professional journals, conference proceedings, submissions to a parliamentary inquiry, and after his retirement, in a book. By the time I left Bourke I was aware that he was a political actor of a kind himself, and research revealed that his historical accounts were produced in the context of threat to his position and to his organization. His book’s perspective was that of a bureaucrat for whom the Western Lands Act was a tool in environmental progress in the Division, and for whom closer settlement after 1950 showed environmental progress. It was an outcome of his and lessees’ desires to put the record ‘right’ in the face of conservationist and scientific views which said that closer settlement in the latter part of the twentieth century had continued to degrade ‘the rangelands’.

One hundred years’ operation of the Western Lands Act was commemorated in 2001. Bureaucratic descendants of the first Western Lands Commission established by the Act of 1901 produced an attractive photographic publication celebrating ‘100 years of natural resource progress’ in the Division. The 1901 Act was described as ‘the first natural resource management legislation in Australia’, though what justified this description was not revealed. A little earlier, academics, scientists and others had canvassed their views in a Special Issue of the Rangeland Journal. A former landholder wrote that when he had purchased land there, he believed the Western Lands Commission to be expert about the Division’s land management, but in the 1980s he had seen properties ‘blatantly abused, overstocked, and degraded with little or no maintenance…a living testament…to the failure of the administration’, which had

24 See references in Chapter Nine, and also Dick Condon, Out of the West: A historical perspective of the Western Division of New South Wales, Lower Murray Darling and Western Catchment Management Committees, 2002.
25 Maree Barnes and Geoff Wise, 100 Years: Celebrating 100 years of natural Resource Progress in the Western Division of NSW, West 2000Plus and Department of Sustainable and Natural Resources, April, 2003, cover page and page 3.
‘never thrown anyone off a ... lease for failing to adhere to lease requirements’.

Historical geographer Michael Quinn wrote that though bureaucrats had once utilized ‘stringent controls’, these later become weak ‘in practice’. Condon, meanwhile, was writing that the Act recognized the need for ‘control over land use’ through its Schedule A, which placed conditions in leases which ‘may be enforced at any time’.

Tom Griffiths, the only academic historian to contribute, titled his article ‘One Hundred Years of Environmental Crisis’, not progress. Apart from Condon’s assertion about Schedule A, no specifics about the Act were identified in these assessments. It was as though it had never changed since 1901.

As research progressed, some propositions about closer settlement in the Division surfaced out of the detail which could be incorporated into Australian closer settlement history. First, pastoral land under lease tenure had its own form of closer settlement, distinct from the usual picture presented of a conversion from pastoralism to commercial cultivation and from leasehold to freehold title. In the Division, (perhaps in other pastoral jurisdictions in Australia), these conversions were a minor part of the major closer pastoral settlement effort with retention of leasehold title.

Second, the time frame was very different for the Division. Historian John Hirst’s time frame of eighty years for closer settlement in ‘eastern Australia’ after 1850, takes us only to 1930, three years before land redistribution of a significant kind in the Division was about to commence again.

Third, the one hundred year process in the Division from 1884 to about 1984, though revealing bursts of redistribution as an aftermath of war, also saw a steady allotment of additional land (‘additionals’) to landholders already there throughout the twentieth century. It was a kind of ‘two steps forward, one step back’ process, land going not only to the landless but also to those already with land. Overall, in terms of the activities and concerns of bureaucrats over the one hundred years, ‘one step forward, two steps back’ is perhaps a more accurate characterization, some landholders receiving additionals two or more times over lengthy periods. This makes it advisable to

28 Dick Condon, Out of the West, 160.
supplement the usual description of 'closer settlement' as the 'cutting up' of large holdings to place small men on the land, with the rider, 'and to provide more land for small holders already on the land'. This on-going official investment in the 'success' of the settlers is recognized by Powell's concept of a combined enterprise.

Fourth, when closer settlement in the form of placing new landholders on the land did occur in the Division, it was largely a process internal to the Division, not a city to country phenomenon. Apart from the first new entrants hailing from afar—the mobile teamsters, fencers, and damsinkers of the 1884 to 1900 phase or the odd dummy found by land agents—new landholders thereafter were recruited overwhelmingly from those already there or with strong connections in the Division. At first they were recruited from occupations ancillary to the grazing industry (including publicans of course) and from the towns. As the twentieth century progressed, they were largely recruited from the employees of local landholders, often the pastoral companies. Soldier settlement after both wars did not significantly dent this internal focus, as many returned men simply returned to country and people that they knew, were related to, or were employed by, before the war. Nor did the special legislative provision made in 1934 for Central Division landholders further east dent this internal focus, as this was for additionals. Closer settlement therefore took on the form of social mobility from within, rather than city-rural or urban working class-rural mobility. The Labor men's later urgings were on behalf of rural workers already there, as well as on behalf of the sons of landholders already there. The political pressure came from rural NSW and rural towns, not cities.

The strong bipartisan element of giving land to the sons of existing landholders helped maintain the appearance of the status quo. The results of closer settlement were hard to see, in the short term: the advent of 'new' landholders did little to change the look of rural places, and even less the look of the people. Nor did social and cultural activities change noticeably, new landholders merely continuing pre-existing roles and social activity: horse racing, agricultural shows, community activities to do with the local hospital and bush nurses, etc. This predominantly internal process, remote from a Sydney government preoccupied with more familiar things, produced a conservative society in the sense of preference for a known past. It also produced a sensitivity about their specialness, their ability to survive on the land, and, with some justification, a

30 John Hirst, Sense and Nonsense in Australian History, Black Inc. Agenda, Melbourne, 2006, 121.
strong suspicion of externally generated expressions of need for change. It also enhanced the commitment to the ideology and practice of closer settlement which bureaucrats had established over the years. Landholders shared the language and concepts of closer pastoral settlement, which so many had benefited from, or hoped to, with the officials whose bread and butter it was.

Fifth, closer settlement did not establish an engine for the growth of towns or of population. The flushes of business activity that accompanied closer settlement pushes by bringing new capital to the Division, died down when the new fencing, building and tanksinking (later poly piping), ceased. Though the early twentieth century companies were blamed for not buying locally and therefore hindering town development, increased closer settlement did not sustain momentum in the towns. As early as 1938, this was clear to geographer Macdonald Holmes, and today the Sydney Morning Herald *SMH* writes of deserted homesteads around Broken Hill, once social hubs for numerous neighbours, and the ‘get big or get out’ syndrome.\(^{31}\)

Finally, closer pastoral settlement in the Division offers evidence which can be integrated into a conceptual framework and historical generalization which reflects more accurately its nature and complexity over time. Hirst’s statement that the politics surrounding the settlement of small holders on the land determined the nature of rural society is supported by my evidence, in full measure. Nonetheless, this observation, so far as the Division is concerned, lacks depth.\(^{32}\) Its landholders were in many cases there for reasons other than just ‘politics’ in its more public and well known forms, and owed their presence to the land officials who developed the ideology of closer settlement into a set of controls and beliefs which even shaped the way landholders conceived of and managed their enterprise. Officials, for example, developed techniques to suppress stock dealing, with its ‘fly by night’ image, and encourage breeding, with its stable, elite image. The landholder must be ‘anchored’ to the land, serious in intent, ‘bona fide’, preferably breeding himself. Though bureaucratic involvement in landholder management in the division did not approach the degree experienced by Marilyn Lake’s World War 1 soldier settler cultivating farmers in Victoria, it was strong enough to


constrain the nature of the enterprise and attitudes towards it.\textsuperscript{33} This was almost certainly detrimental to the natural resource. In 1942, H.C. Moulder told the Legislative Council that though only the north eastern and southern parts of the Division could be regarded as ‘breeding land’, most of the Division was being used for breeding. He said this created overstocking and erosion.\textsuperscript{34} The living area or home maintenance area, and the way it was measured, which was central to the ideology, was not the only thing that could make a property ‘too small’. The nature of the stock enterprise could also do so.

When ideology was combined with the tools of control developed by officials, the combination justifies a description of closer pastoral settlement in the Division as a ‘policy paradigm’ of the kind identified by political scientist, Peter Hall.\textsuperscript{35} He likened a policy paradigm to Thomas Kuhn’s famous scientific paradigm, and defined it as a framework of ideas and standards which specified not only ‘the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems’. This framework became evident in the ‘terminology through which policy makers communicate about their work’ and was influential precisely because so much of it was taken for granted, unamenable to scrutiny as a whole.\textsuperscript{36} A policy paradigm contained three central variables. At the top, as it were, was the goal, or hierarchy of goals, shared by most actors and based on a fundamental conception of how things worked (in Hall’s case, shared conceptions of how the economy worked; in our case, shared conceptions of desirable land settlement and what was needed to achieve and maintain it). Next were the techniques and policy instruments devised to achieve the goals. In our Western Division case, these were the controls created by officials and later legislated for, tools such as the home maintenance area concept and control over sale price. At the bottom were the ‘precise settings’ of the policy instruments, such as the ‘sheep area’ and ‘carrying capacity’. Although Hall’s empirical data, the change in British macroeconomic policy from Keynesianism to monetarism between 1970 and 1989 seems very remote from far western NSW, his concept is helpful in understanding what closer settlement in the Division was, and why it was so resistant to change. This

\textsuperscript{33} For example, Victorian farmer soldier settlers were strongly urged by bureaucrats to apply the agricultural science of the day, as described by Marilyn Lake, in \textit{Limits of Hope: Soldier Settlement in Victoria, 1915-38}, Oxford University Press, Melbourne, 80-100.

\textsuperscript{34} \textit{NSWPD}, 15 December 1942, 1280.


\textsuperscript{36} ibid., 279.
thesis’s main focus is first on the creation of a policy paradigm which sustained closer pastoral settlement and explains its strength, then second, on its overthrow.

Hall’s main interest was in what it takes to overthrow an existing policy paradigm with another. He saw different types of change occurring at three levels. ‘First order change’ was change in the ‘precise settings’ of tools and techniques. Initiated by officials in the light of past experience or new knowledge, it was ‘normal’ policy making or incrementalism, without changing the nature of tools, goals and concepts. Changes in the arithmetic calculation of carrying capacity and the home maintenance area are, as we shall see, examples. ‘Second order change’ is change in the techniques or policy instruments established for pursuit of the goals, but not so as to change the goals. ‘Third order change’ creates a ‘disjuncture’, a change in all the levels, and eventually the displacement of one policy paradigm by another. In Hall’s case, it involved a new way of seeing the economy, in our case, of seeing the land and landholders.

Hall found characteristics associated with the three levels of change. First-order change was the preserve of experts in the public service. Second-order change altered existing instruments of policy without altering goals, and remained the preserve of bureaucrats. Third-order change involved not only a change in goals, assumptions and language, but a change in the locus of authority, with politicians, experts outside the bureaucracy, and the media, playing the most prominent roles. During this process, there might be an ‘accumulation of anomalies, experimentation with new forms of policy, and policy failures that precipitate a shift in the locus of authority over policy and initiate a wider contest between competing paradigms.’

Interestingly, one of the failures of the Keynesian paradigm, Hall notes, was the failed promise that economic management could be effective ‘without intervening directly in the affairs of individual economic actors’. Containing basically different accounts of their world, advocates of different paradigms usually fail ‘to agree on a common body of data against which a technical judgment in favour of one...over another might be made’. The choice is rarely made on scientific grounds alone and depends on judgments more political in tone, the outcome depending on ‘the positional advantages’ of arguers within ‘a broader institutional framework’. In Hall’s case the new paradigm became politically appealing,

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37 ibid., 280.
38 ibid., 280, 285, 289.
a simple solution for government’s dilemmas that would restore its authority; and change became a ‘society wide affair, mediated by the press, deeply imbricated with electoral competition, and fought in the public arena’. As the new paradigm gained ascendancy, its supporters secured positions of authority and were able to ‘rearrange the organisation and standard operating procedures of the policy process so as to institutionalise the new paradigm’.

As a political scientist Hall was interested theories of the ‘state’. As an historian, I am interested in exploring why and how a policy of closer settlement was maintained for so long despite recurrent publicly expressed criticism that it was damaging the productivity of the natural resource and despite substantial interference in what were thought of by the non-Labor side of politics as private property rights. Chapters Three to Eight show how the policy was maintained by the creation and use of policy tools which were an important middle level of a policy paradigm, how they achieved broad support until carried to extremes, and how they intertwined with electoral politics, judicial mechanisms, and legislation. What happens, however, when a policy paradigm’s reason for being, redistribution of land, ends because there is no more land to redistribute? The final two chapters address the process of change, showing that until ‘third order’ factors very like those identified by Hall came into existence, significant change did not occur.

Though my study suggests that the controls evident in the Division were idiosyncratic in some ways, they were developed and sustained by bureaucrats recruited from the Department of Lands with responsibilities further east in the State. Given the new insights provided by Western Division evidence, further studies of the relationship between land, politics, and bureaucracy in the State seem warranted.

The Howard government’s handling of climate change led Clive Hamilton to conclude that the politics of climate change challenged ‘the Enlightenment’s faith in the power of science and reason’, that was characterized by denial of knowledge, of agency, of personal power, and of responsibility. This thesis shows that it was not until the

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39 ibid., 280.
40 ibid., 287.
41 ibid., 280-81.
42 ibid., 275.
politics surrounding a government’s ability to take and give land had abated and until the political organizations of landholders claiming control over perceptions of reality were side stepped, that room was made for the emergence of non-political perceptions of the natural resource. Before such perceptions could be embraced by landholders, a broad State wide movement, Commonwealth funding, a new landholder relationship with government, and a new relationship between science and landholders, all had to come together. This was facilitated by scientific private entrepreneurs acting outside bureaucracy but assisted by government funding.
CHAPTER TWO

Unsatisfactory Settlers

No more serious blunder was ever committed than when Parliament blindly resumed half of every run in the colony.¹

When Edward Millen wrote the above for the Sydney Morning Herald (SMH) at the turn of the nineteenth century, he was thinking of far western New South Wales (NSW) and the Crown Lands Act of 1884.² Once a landholder near Bourke, a journalist, a newspaper proprietor and free trader member of the NSW Legislative Assembly for Bourke, he was now a nominated member of the Legislative Council. His writings were a kind of swan song, as he would soon take his talents to the new federal Senate and a parliament that did not constitutionally have responsibility for land matters in the new states.³ The ‘blind’ resumption he spoke of took half a landholding away from existing lessees for anticipated new settlers. Though familiar with land near Bourke, he wrote after an extensive journey throughout the west (perhaps financed by the SMH), so his knowledge was fresh. He described an environmental disaster, which, he believed, was caused partly by the 1884 Act. This Act had also created the far west of the colony as the ‘Western Division’ for the purposes of land administration.

This chapter examines the government’s motivations for the Act’s ‘blind’ resumption, and particularly the part the Western Division was expected to play in fulfilling them. It argues that the provisions for the far west derived from the government’s need for a continuing source of government revenue from pastoral rents, postponing the politically difficult issue of finding an alternative source, and from its desire to direct more of the wool and meat trade and related business to Sydney for the benefit NSW businessmen as against rivals in Melbourne and Adelaide. I look at the 1884 Act in the manner historian Bill Gammage urged for earlier legislation and provide additional evidence for what he and Don Baker argued: that land legislation after 1861 showed the growing power of the ‘alliance between

¹ E.D. Millen, ‘Our Western Lands: A Vanishing Asset’, SMH, Sydney, January 1900, 27. The SMH published this as a separate publication, composed of Millen’s articles in the SMH between 18 November 1899 and 3 January 1900 plus subsequent editorials in the Worker and the SMH.
² An Act to regulate the Alienation Occupation and Management of Crown Lands and for other purposes 1884, 48 Vic 18, referred to as the Crown Lands Act of 1884.
the state and urban middle class interests’ as against pastoral landholders, particularly leaseholders. Connell and Irving have also seen the legislation as part of the process by which the ‘mercantile bourgeoisie’ gained political and class victory over pastoralists in the period 1840 to 1890. In our case, however, the ‘bourgeoisie’ was a NSW bourgeoisie, rather than a ‘class’ across colonial boundaries. Loveday and Martin have provided further evidence of the importance of mercantile activity in colonial liberal political thinking and factional political organization up to 1889 (the year payment for members was introduced), after which time, protection and free trade ideologies helped create more disciplined political parties.

The general picture of inter-colonial competition for trade, the role of river transport and railways in this, and the need for government revenue as drivers of closer settlement in the nineteenth century, has been recognized for NSW. The role that closer pastoral settlement in the newly named Western Division was asked to play in 1884 has not. The celebrations surrounding the completion of the railway linking Sydney with Bourke on the Darling river in 1885 left no doubt about what the railway was expected to do. During the September festivities at Bourke, Governor Loftus told his banquet audience that every new line of railway should inspire ‘in the minds of English capitalists’ greater confidence in the colony’s resources and its ‘sagacity’. Prominent visitors carried to the Darling in three special trains included the Mayor of Sydney, Thomas Playfair, wholesale and shipping butcher, who had recently established Homebush sale-yards in Sydney, and Charles Campbell MLC, son of merchant and shipowner Robert Campbell of Campbells Wharf, Sydney. Representatives of wool firms also attended, along with gentlemen from Orange, Wellington and other towns along the rail line.

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5 R.W. Connel and T.H. Irving, *Class Structure in Australian History: Poverty and Progress*, Longman Cheshire, Melbourne, 1992, 83-113. It should be noted that the word ‘pastoralist’ did not gain currency until the early 1880s.
8 *Sydney Mail*, 12 September 1885, 567.
9 Ibid.
The *Sydney Mail* outlined Bourke’s prominent buildings, its fourteen ‘duly licensed’ places for entertainment, five banks, and a ‘somewhat humble’ lands office. Its ‘Special Artist’ rose to the occasion with appropriate visual images (Figure 3). The *Mail* remarked on the large tracts of ‘famous saltbush’ upon which stock fattened so readily, but it noted a problem: the low water level in the Darling had stranded four steamers at Bourke for many months.\(^{10}\) Unreliable river transport had not benefited NSW businessmen, but a reliable railway pointing only towards Sydney, might. The *Mail* had no doubt about what the completion was expected to achieve: not only had most of the wool and meat from this district left NSW on the river steamers bound for Melbourne or Adelaide, the trade accompanying them had also done so. The railway might change this ‘course of trade’ and draw more of the resources of the colony’s western borderlands, as well as the resources further north and west in Queensland and South Australia, to Sydney.\(^{11}\) The Department of Mines’ Inspector Gilliat was well aware of this in 1881. By then there was then only one stock route west of the Darling linking Bourke with Hungerford on the Queensland border, but he recommended numerous stock routes linking the Darling to the Queensland and South Australian borders, to divert, he said, stock and other traffic ‘towards our railways and markets’.\(^{12}\)

The 1884 Act which commenced closer pastoral settlement in the Division showed next to no interest in the existing social and economic context upon which the legislators were about to impose redistribution of land from one white person to another. This chapter suggests that though the prominent legislators knew very well who *some* of the landholders were, and this knowledge fed into their motivations, their knowledge was very limited. Even if this had not been so, knowledge would have been overwhelmed by government need. Before addressing this immediate need, older and deeper cultural forces driving action should be looked at briefly.

By 1884 Bourke was twenty two years old, and some towns, like Wentworth in the south on the Murray, were a little older. Though the region’s exploring, squatting, and pioneering days were well over, the terms ‘pioneers’ and ‘squatters’ would linger on, and on, the former used with respect, the latter rarely so. ‘Squatter’ in reality, meant an occupier without white legal title. It could be properly applied to some landholders in the

\(^{10}\) ibid.

\(^{11}\) *Sydney Mail*, 5 September 1885, 532.

\(^{12}\) *NSWLAVP*, Vol. 3, 1881, 506-07. The map provided shows the one route from the Queensland border, and the numerous proposed routes from the Darling to the South Australian and Queensland borders.
Figure 3. Celebrating the Sydney-Bourke Connection *

* From the *Sydney Mail*, 12 September 1885, 568.
west up to the 1860s, but this was usually a short term occupation in anticipation of being able to tender for legal title.\textsuperscript{13} As on earlier colonial frontiers elsewhere, land administration lagged behind settlement.\textsuperscript{14} Early annual licences for ‘runs’ had given way to fourteen year leases in 1847, but in 1861, John Robertson’s legislation created only five year renewable leases. The licences and leases were tendered for from government in a kind of bureaucratic auction, which created revenue in the same way that alienation of land (‘freeholding’ or ‘sale’) did. But by 1884 there was probably little if any land left to be tendered for, as Matilda and Abe Wallace found as early as the 1860s, at least land that was naturally watered. Fresh from Somerset, Matilda experienced nine uncomfortable years, travelling with sheep between the Barrier Range and the Darling, stopping here and there, being moved on by the legal title holder on occasion, and losing three babies.\textsuperscript{15} Left alone while husband Abe applied for land elsewhere or bought and sold sheep, she kept moving to find water for their sheep. Abe had men boring for underground water on the land that eventually held their name.\textsuperscript{16}

By 1884, however, many Division landholders had not gone through this trying process of tendering, having purchased most or all of their leases on the private market, if not all of them, then additional ones to add to those originally tendered for. The apparently insecure tenure of five year renewable leases did not hinder the operation of a private market in relatively cheap land as compared to freehold. Despite robust operation of the free market, the term ‘squatter’ was simply retained to apply to leaseholders.

Over sixty years had passed since Oxley found the Macquarie river ending in marshes rather than the Darling, so flat was the country. Over fifty had passed since Sturt followed the Castlereagh to the Darling, and nearly fifty had passed since Surveyor General Major Sir Thomas Mitchell followed the Bogan to the Darling and built what he called the ‘Fort Bourke Stockade’, a little way downstream, as a security measure against Aborigines. In the 1840s, his son Roderick, a Commissioner of Crown Lands, had mapped the outlines of rivers in the north east of the region—the Narran, Bokhara, Birrie and Culgoa—all flowing

\textsuperscript{13} George Melrose, who took his bride for a honeymoon from South Australia to Lake Victoria in 1847, eventually got sick of waiting for a lease, and left, according to Bobbie Hardy, \textit{West of the Darling}, 63.

\textsuperscript{14} ibid. In Melrose’s case it lagged behind because the colonial boundary between South Australia and New South Wales had not been set. For similarities with other frontiers, see John C Weaver, \textit{The Great Land Rush and the Making of the Modern World, 1650-1900}, McGill-Queen’s University Press, London, 2003, 20.

\textsuperscript{15} Matilda Wallace, \textit{Twelve Years Life in Australia: From 1859 to 1871}, n.p., 1871. This autobiographical account is not catalogued under the author’s name in the National Library of Australia, but she is the author.

(or sometimes flowing), from Queensland. Travelling north along the Narran on his last expedition in 1846, Mitchell found the pasture the richest he had seen in NSW. Noticing a pond surrounded by fresh herbage and Aboriginal huts, he thought of what cattle would soon do to the water and the food supply of the countrymen of his helpful Aboriginal guides, and he 'blushed inwardly' for his 'pallid race'. 17 Soon afterwards he had similar feelings while riding past nine miles of piles of tall grass which had been pulled and stacked to dry and drop seed for later processing and baking. 18

Mitchell had written to members of the Ulster based Wilson family who were about to emigrate in 1838, telling them of the benefits of getting in early in a colony: sheep could be bred up and multiplied on unoccupied land and land could be subdivided and sold when it had increased in value. 19 It was part of the expectations some people brought from the Home Country, as was his belief that there was nothing more alluring than the opportunity to spread 'the light of civilization' on country where 'science might accomplish new and unthought of discoveries'. 20 Alexander Wilson followed his advice, subsequently acquiring Toorale and Dunlop, admired properties in the area of the Stockade. By 1884 they were held by Samuel McCaughey, his nephew, mortgaged in a friendly manner to the uncle. 21 The adjoining Fort Bourke holding where the Governor lunched during his visit to open the railway, was held by three partners including the son of a former premier of Victoria but was later purchased by McCaughey. 22

The passing of the Aborigines Protection Act in 1883 just before the 1884 Bill was introduced seemed no coincidence. It recognized the need for greater sustenance for displaced indigenous people no longer able to support themselves from natural resources or employment on pastoral stations: massacres and hostile confrontations had ceased. 23 The Aborigines Protection Board created by the Act reported sixty-six localities in which aged or infirm Aboriginals could receive rations. 24 Of these, only three were in the Division, two on the north eastern border at Collarendabri (now Collarenebri) and Mungindi, and

19 Patricia McCaughey, Samuel McCaughey, Ure Smith, Sydney, 1955, 33.
20 Quoted in a display at the Back O’Bourke Exhibition Centre, Bourke. Viewed 27 June 2009.
21 Patricia McCaughey, Samuel McCaughey, 60.
22 The Premier was Sir John O’Schanassy, and the son, Mathew.
one at Brewarrina further west. Their relative absence indicated both the integration of Aboriginal people into the pastoral workforce and their retention of living areas in self-made camps on some of the larger holdings. Goodall and Hardy’s evidence is that landholders provided rations for the elderly and infirm in the camps when their ability to survive from hunting, gathering, or paid employment declined, while younger people were absorbed into the largely casual pastoral workforce or domestic work at the homestead. 25 After the Board was created, landholders were paid for maintaining the former. 26

That there was no mention of Aboriginal people in the Crown Lands Bill debate spoke volumes for the power of the notion that human progress had and would, move from a hunting and shepherding stage to an agricultural one involving cultivation of the soil and fixed residence, and that mobile hunters and herdsman had no claim to fixed landed property. Kate McCarthy has argued that this stadal theory owed much to Scottish thinking and John Weaver has shown other contributing strands of thought, all justifying colonial appropriation of first people’s land and later appropriation as well. 27 The right to landed property was associated with cultivated agriculture and fixity of residence, and more ancienly it had been associated with the application of labour, ‘industry’, ‘culture’, even ‘foresight’ and ‘art’, to land. Now it was also accompanied by the assumptions that British colonizers possessed a more profound understanding of how nature worked than the colonized and that ‘science’ would ‘improve’ colonial land, thus justifying the displacement of the colonized. The theory seriously undermined the image of Aboriginal people in Australia, but also that of the pastoralist, as the ‘squatters’ or ‘grazers’ were coming to be called, despite the pastoralists’ importance in the colonies’ economies at the time. 28 The pastoralist merely used the existing native plants and did not cultivate, or did so only in favourable spots merely to provide additional feed for horses or stock. This was, according to the Picturesque Atlas of Australia in 1886, a backward form of production.

26 Heather Goodall, ‘A History’, 40.
28 Edmund Morey, who overlanded from Lake George to the Riverina in the 1840s and took up Euston on the northern bank of the Murray in 1850, wrote in the early 1900s that the ‘general view’ of pastoralists was either that he was a ‘greedy squatter’ who did not fully use his grass in good seasons or that he overstocked it in bad. Morey believed it was not until the general drought at the turn of the century disorganized all other industries and was widely felt, that the public understood the value of the pastoral industry to Australia. See Vivian R. de Vaux Voss, The Morey Papers, Emu Park, Queensland, 10 February 1952, 130.
Though the country north of Brewarrina had great possibilities, it said, its 'enterprise' was still 'primitively pastoral'. Pastoralists and indigenous people had something in common: others wanted to replace or change them, particularly those most wanting 'progress' in the colony (more production and commercial agriculture therefore population) and there was yet another stage to be reached, the highest commercial stage.

Turning to more immediate contributors to politicians' motivations, a significant one was the good economic conditions of the 1870s for the pastoral industry. The most prominent legislators would have known that the good seasons and high prices of the 1870s had been lucrative for the wool and meat trades and had increased the west's share of the colony's and eastern Australia's sheep flocks. The earlier dominance of cattle had given way to sheep both for meat and wool, but particularly wool. During the decade, sheep numbers in NSW had increased at a greater rate than in Victoria, and within NSW there was a change in the geographical focus of the industry from the coastal regions to the central and western more arid regions. The most prominent legislators would also have known that many sheep, once moved daily and protected from dingoes by shepherds and their dogs, were now constrained by wire fences (which did not protect them from dingoes). Fencing enabled landholders to dispense with the services of shepherds (often convicts) and this was believed by many to increase productivity. The Government Statistician said, in 1892, that this view was 'universally accepted', but there is evidence that outside Australia and New Zealand, it was not an accepted view. Many of Premier Alexander Stuart's business associates and those supporting his faction in parliament would have known of these developments, particularly the good seasons and prices, which contributed to the sanguine

30 Kate McCarthy, *Agrarian Discourse*, 61.
31 In the 1860s, the west's sheep were a mere 6 per cent of eastern Australia's flocks, but by the early 1880s, its seven and a half million constituted some 30 per cent of the colony's sheep. See N.G. Butlin, 'Distribution of the Sheep Population: Preliminary Statistical picture, 1860-1957', in Alan Barnard, ed., *The Simple Fleece*, Melbourne University Press in association with the Australian National University, 1962, 284-87. See also John Merritt, *The Making of the AWU*, Oxford University Press, Melbourne, 1986, 5. There are slight variations in Butlin and Merritt's figures.
32 N.G. Butlin, 'Distribution', 285-86.
hope that Sydney could claim more returns from its hitherto errant far west. Surely the downturn in prices and rainfall in the early 1880s would soon pass.

Prominent legislators would also have known that earlier reliance for finance on family, friends, partners, and judicious marriage, was giving way to a degree to formal borrowing from banks and other financiers, though in 1884-85 over half the landholders were not formally mortgaged.\(^{34}\) As economic historian Noel Butlin has shown, these mortgagees were not the worried, controlling companies that Brian Fitzpatrick and others had claimed for the 1870s.\(^{35}\) Butlin’s research of company records found lenders in the 1870s and early 1880s eager to capture the associated wool-broking business, eager to defeat their competitors, willing to be ‘dragged along…by inveterate borrowers.’\(^{36}\) Some were anxious to offload unwanted cash, and the early 1880s saw a ‘rush for new clients’, spurring the then Melbourne based Australian Mortgage (later Mercantile) Land and Finance Company (AML&F) to invest heavily in the Western Division.\(^{37}\) This ready availability of credit is consistent with the pictures of competitive, bustling, optimistic Darling river towns given by contemporary visitors, consistent with Edmund Resch’s successful commencement as a brewer at Wilcannia in 1879, and with the numerous petitioners responding to the threat that the Crown Lands Bill of 1883-84 posed to their livelihood.\(^{38}\)

Premier Stuart and his Minister (Secretary) for Lands,\(^{39}\) J.S. Farnell, would also have known that the Division was looking ‘full’ in one sense. In 1884, the Department of Lands published a map of the ‘Western Division of New South Wales’ which, unlike the previous privately produced maps showing rivers with small ‘runs’ clinging to them and lots of blank space out the back,\(^{40}\) showed the large ‘pastoral holdings’ with no blanks at all away from the rivers. It was perhaps a satisfying thing for the Department’s officials, though

\(^{34}\) N. G. Butlin, “’Company Ownership’ of N.S.W. Pastoral Stations, 1861-1900’, in *Historical Studies, Australia and New Zealand*, Vol. 4, No.14, May 1950, 96. Butlin gives a figure of 54.5 per cent of landholders in 1888-89 as individuals or partnerships of groups of individuals, that is, not having mortgaged, their names appear rather than that of a financier/mortgagor company. I am confident that Hanson is the source and that the Gazettes of 1884-85 are being referred to.

\(^{35}\) ibid., 89.


\(^{39}\) The term ‘Minister’ was not used as a title for a portfolio holder until 1880. The term ‘Secretary’ was used, and the head of the Department was the ‘under-Secretary’. Older Departments, including Lands, retained the use of the term ‘Secretary’. I shall henceforth use the term ‘Minister’.

\(^{40}\) For a private map of the 1860s, see Reuss and Browne’s map, Map NK 5928, National Library of Australia.
they had done little to make this possible, as the holding boundaries were largely the outcome of private enterprise, purchases made in a market, boundaries which were destined to provide a template for government redistribution of land for many years.

The Crown Lands Bill that Farnell introduced in October 1883 was complex, relating as it did to the whole of NSW, and was laboriously debated for over twelve months, with clear signs at various points that many members were struggling to comprehend the significance of legislative clauses. My account of it focuses mainly on the clauses of significance for the Western Division and overlooks the situations of ‘selectors’ and lessees further east, though these dominated the debate. Perhaps for this reason, but certainly for other reasons, I cannot accept Loveday and Martin’s conclusion that the opposition charges that the government dealt over-leniently with ‘the squatters’ had substance. The other reasons are first, their citing, in support of their view, of Martin’s interpretation of a part of the debate and legislative process dealing with improvement purchases.41 Martin’s interpretation incorrectly presents the government as seeking to retain the right to freehold improvements. Farnell’s amendment, debated on 16 January 1884, actually provided a date for their cessation, as they had previously promised and announced. Martin’s presentation of R. B. Smith as a defender of their cessation and is incorrect, Smith even joining Robertson in charges of ‘repudiation’ and protesting that not even a squatter’s homestead could be protected.42 Second, the determined actions of the squatters during the years after 1884, to overturn or amend significant parts of the Act, dealt with here in Chapter Three, show significant continued lessee dissatisfaction.

The Bill provided for an intensification of settlement in a somewhat different way than hitherto, envisaging more government control of the process (though not enough for some people), than was evident in Sir John Robertson’s laissez-faire ‘free selection’ legislation of 1861. It also treated the colony’s land differently according to its attractiveness for settlement purposes. It named the former ‘unsettled districts’ the ‘Western Division’ and gave it a defined eastern boundary, and tied it conceptually to the rest of the colony further east. The ‘intermediate districts’ became the Central Division, and the ‘settled districts’

41 Loveday and Martin, Parliament Factions and Parties, 128-29.
42 A.W. Martin, ‘Pastoralists in the Legislative Assembly, 1870-90’, in Alan Barnard, ed., The Simple Fleece: Studies in the Australian Wool Industry, Melbourne University Press in association with the Australian National University, 1962, 587-88. Robertson’s legislation permitting improvement purchases would be repealed by the 1884 Act, but existing rights incurred under it were retained unless express provision was made to the contrary. Farnell’s amendment made express provision that after a certain date no applications would be complied with. See NSWPD, 16 January 1884, 1291-96, 1310. 6 August 1884, 4737. The relevant section is at Part 1, Section 3, sub-section (11). Act 48 Vic 18.
along the coast became the Eastern Division (Figure 4). A novel provision for the Western Division sought closer settlement there, without an expectation of the more intensive use of commercial agriculture or a change in title from leasehold to freehold title.

There were significantly more than two types of title, however. By 1884, the stadial land use theory underlying colonial expansion was accompanied by a hierarchy of white legal land tenure administered by the Department of Lands, as depicted in Figure 5 (not necessarily comprehensive). It moved, in terms of ‘security of tenure’, from low to high. At the bottom was ‘permissive occupancy’, which could be terminated immediately by government; then there was a ‘licence’, for a while, usually a year; then a ‘lease’ for a designated period or ‘term’ stated in legislation or the lease document or both; then, at the top, was the highest title, freehold or ‘fee simple’. Once freehold, the government landlord roles of collecting rent and keeping track of any requirements (conditions) imposed by the Crown on its tenants, ceased, and the land passed out of the Department’s records. Officials were no longer obliged to record ‘dealings’ with it (transfers by way of sale or mortgage, discharge of mortgage, transfer through wills, sub-leasing, etc.) and it went, as it were, into the private sector, to be handled by the private legal profession.

Within the last two categories of leasehold and freehold, there was room for mixing and matching, so that the tenure was not clearly or precisely one or the other, but in concept, leasehold tenure was associated with pastoral activity where the Crown as landlord waited to see whether the land could be put to better use, make more money and supporting more people. Its tentativeness was reflected in its giving rights to the land for a stated time only, a ‘term’, the Crown retaining the right to eject a tenant if conditions and responsibilities outlined in the lease document or legislation were not carried out. \(^{43}\) Paying rent to the government and making ‘improvements’ were overwhelmingly important ones in 1884.

Robertson’s 1861 legislation had applied to all leasehold land in the colony, allowing people to locate and apply for any land held under this tenure or title without government first making the land available by demarcating or surveying it, hence its description as ‘selection before survey’ or ‘free selection’. It was far from ‘free’ in a monetary sense for until the full price of one pound per acre was paid for the freehold title, and until certain conditions were met, the land could not be finally freehold with the private holder no longer sharing title with the Crown, hence the term ‘conditional

\(^{43}\) Such leases are often referred to as ‘term leases’. The legislation applying to them defines the number of years for which the lease is granted, plus any conditions or responsibilities of the tenant/lessee.
Figure 4.* The Three Divisions, 1884.

### Figure 5. Tenure Hierarchy

<table>
<thead>
<tr>
<th>Generic name of tenure</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freehold</td>
<td>The Crown fully conveys all rights forever, subject to legislation.</td>
</tr>
<tr>
<td>Lease in Perpetuity</td>
<td>Conveys a right to occupy forever with the Crown retaining rights as specified in the lease document or in legislation.</td>
</tr>
<tr>
<td>Term Lease</td>
<td>Conveys a right to occupy for the time period stated in the lease document, from two to ninety nine years. The leases may have a variety of titles, eg., western lands lease, conditional lease, artesian well lease, improvement lease.</td>
</tr>
<tr>
<td>Annual lease</td>
<td>Conveys a right to occupy for twelve months, usually renewable every year, cancelable every twelve months.</td>
</tr>
<tr>
<td>Occupation License (OL)</td>
<td>Conveys a right to occupy for a week, renewable weekly, cancellable on notice within a week or less. A Preferential Occupation License is to be granted only to the landholder stated in legislation, normally the lessee from whom the subject land has been taken.</td>
</tr>
<tr>
<td>Preferential Occupation License (POL)</td>
<td></td>
</tr>
<tr>
<td>Permissive Occupancy (PO)</td>
<td>Day by day tenure which could be cancelled at any time.</td>
</tr>
<tr>
<td>Squatting</td>
<td>No legal tenure</td>
</tr>
</tbody>
</table>
purchase’. Deposit and time payment was later introduced. The area that could be applied for was up to 320, later 640 acres, and later again, plus a leasehold area of up to three times the selected area. Many people assumed that Robertson’s intention was to encourage commercial cultivated agriculture though the legislation never stated this, but the high cost of freeholding (buying the ‘highest’ title from the government, ‘alienating’ it from the Crown) assumed a more intensive and profitable land use than pastoralism.

Commercial cultivation required a particular seasonal rainfall and market, and the west’s low, uncertain rainfall, and its distance from major markets, made it marginal to this legislation. The 1883 Crown Lands Bill therefore proposed closer pastoral settlement, without anticipating either a more intensive or profitable use or freeholding. When Farnell told parliament that the day might come when the climate in the west might become more humid, perhaps thousands of years hence, and that he wanted to preserve it for future generations, he was not talking about preserving the natural resource: he was saying it would be kept as leasehold, a policy that the fledgling Labour Party of the 1890s would adopt for all land in the colony in 1893.44

Stuart had foreshadowed the Bill in November 1882 when as Opposition leader, he confronted the Parkes-Robertson factional hegemony by challenging existing land law and triggering a double dissolution. Having promised to reform the unpopular Robertson legislation, by now seen as favouring pastoral leaseholders, and winning a clear majority, he could boast of this mandate. Within the Legislative Assembly, almost half of the members were businessmen in commerce, mining or manufacturing.45 Scottish born Stuart had been a prominent Sydney merchant and long time business partner of the older English born shipowner, trader and inveterate entrepreneur, Robert Towns. Both had been directors and presidents of the Bank of NSW, the Bank which had been given the right to use leasehold land as collateral security for a mortgage by colonial legislation, something opposed by the Imperial government.46 Both had also been committee members of the Sydney Chamber of Commerce, and their partnership acquired or financed extensive pastoral land in Queensland. Stuart had also held senior positions in the Bank of NSW and

successfully pursued corrupt practice there.\textsuperscript{47} Respected as a man of high principle, he now expressed determination to address the corrupting effects of Robertson's legislation, outcomes which the war between competitors for leasehold land had produced. Because selectors were given the right to select and freehold portions of leasehold land at the same time that existing holders of the land, the lessees, had been given rights to freehold portions of the same land, the latter had used these rights to block selectors who on their part devised their own stratagems.\textsuperscript{48} Lawyers and others worked out ways of assisting one side or the other. Stuart's solution was to minimise the war by stopping lessees and selectors competing for the same land, to separate the combatants geographically, as it were. The Act would divide leased holdings into approximate halves: in one half, called the resumed area, newcomers could choose and apply for land while the other half, called the leasehold area, was left to the existing lessee free of threat. As compensation for the loss, existing lessees were offered a longer tenure for the remaining land than the five year renewable leases they currently held.

In the Bill and the Act, the resumption of half the holdings was inaccurately called the 'Division of Runs': it was in fact a division of all land held as a holding or property.\textsuperscript{49} This applied throughout the colony, and was, on the face of it, a serious loss for existing lessees. They had been required to carry out improvements to increase the carrying capacity of their land by at least half before the lease would be renewed for another five years.\textsuperscript{50} In reality, 'improvements' consisted largely of the construction of catchments for run-off rainfall water (ground tanks), construction of wells and bores for underground water, construction of dams in river beds, and more recently, wire fencing. Stock yards and other necessaries were also improvements, but homesteads were not officially regarded such.\textsuperscript{51}


\textsuperscript{48} They could freehold strategic areas on their leases by purchasing it from the Crown at auction ('auction purchase') or by purchasing the freehold of land around improvements ('improvement purchase'), and by other means.

\textsuperscript{49} 18 Vic 18, Sections 70 to 77. 'Holdings' is a more appropriate word than 'run', as the Act did not divide runs specifically, but rather the aggregations of runs which landholders had built up, their 'holding' or 'station'. 'Runs' were the blocks originally taken up by tender, with no limit on numbers which could be acquired, and which were now 'leases' though often no formal leases had been issued and they were held under promise of a lease. In 1884 they were also called pastoral holdings when all the runs worked as one property were spoken of.

\textsuperscript{50} Section 15, An Act for regulating the Occupation of Crown Lands (Crown Lands Occupation Act), 25 Vic 2, 1861.

\textsuperscript{51} They were not mentioned in official forms designed to assess the nature and value of improvements. However, a homestead would surely be included in a market price.
Recent amendments had required unspecified ‘improvement’ to a certain monetary value, to be checked by government ‘appraisers’ before renewal of the leases was granted.

Aware that loss of half a holding would not be looked on with equanimity, Stuart and Farnell appealed to the broader good, arguing not only that leasehold land was Crown land which the government was duty bound to take back for better uses, but that this was in the best interest of the ‘nation’ or ‘state’. By ‘throwing its aegis over all the claims of the people’, Stuart urged, the state ‘ought to see that the best is made of the great interest intrusted [sic] to them’. 52 Proud to be ‘native born’ (though Irish in background), Farnell appealed to members to see the Bill as one for the ‘whole community’. 53 Stuart had promised to halt or minimize improvement and auction purchases (which lessees could initiate), and he called a halt to the latter until his new legislation was finalized. Auction purchases were unpopular, being designed for the highest bidder, therefore a wealthy class, but freeholding in this way, Farnell said, had not only become an important source of revenue during the past eight years, it was using up the ‘national capital’ without regard for future generations. 54 His legislation, he said, would provide a more ‘legitimate’ way of making income equal expenditure.

The need for additional revenue, the parlous state government finances, and reluctance to introduce sensitive direct property or income taxes, has been well documented. 55 The possibility of increased pastoral rents as a source of increased revenue was a dominant, and somewhat desperate, theme of the Morris Ranken Report commissioned by Stuart in January 1883. It was a rushed task for Augustus Morris and George Ranken, required to report within three months, and they relied heavily on the Department of Lands and its District Surveyors. The latter were asked to report on the effects of the various types of freeholding not only on the ‘public interests’ and ‘public estate’ but on the relative values of land sold (alienated/freeheld) and unsold. 56 The Report paid particular attention to the ‘Third Division’ soon to be the Western Division. Here, Farnell told parliament, most of the ‘public estate’ remained under five year renewable leases with only a little over one million of its eighty million acres alienated from the Crown. 57 The Report had stressed that

52 _NSWPD_, 8 November 1883, 385.
53 Ibid., 358.
54 _NSWPD_, 7 November 1883, 254.
57 _NSWPD_, 7 November 1883, 339.
freeholding diminished the revenue of annual rents from leasehold land, and it reproduced a map, provided by the Department, of the Warrego district in the Division’s north east. This showed blocks being prepared for auction along eighty miles of Narran river frontage. The message was that though freeholding by pastoral lessees was much less in the far west because conditional purchase selectors were not as threatening there, it was starting; and government would lose rent because once freehelded, whether by selectors or lessees, less rent would be claimable from the back blocks away from frontages. How, it asked, could the Crown charge reasonable rents on the ‘back portions’ if the valuable land on the river banks was freehelded? 58 It provided tortuous calculations that the annual income from a lump sum paid to government for the freehold would be less than that from the same land held under ‘secure’ leasehold tenure for which a higher rental could be expected. 59 This higher rental, it should be noted, would also retain the functions, perhaps the life, of the Department of Lands.

The Act’s method of dividing the holdings into halves showed some finesse. Lessees were asked to send in a plan of the holding proposing a dividing line. If they didn’t do this, they could expect their leases to expire and not be renewed; but the Minister would decide which half the pastoral lessee could apply for as a ‘pastoral lease’. 60 The new pastoral leases in the Division would be for fifteen years, with a possibility of another five year extension, subject to satisfactory improvement. Lessees in the Central Division could apply for pastoral leases with a term of only ten years, and in the Eastern Division, five years. The longer term in the Central and Western Divisions as compared to the current five years, though conceived of as compensation, would attract a higher rental. Lessees could well afford, Farnell said, to pay more than the average seven sixteenths a penny (438 of a penny) per acre, and if the rents proposed in the Bill were reduced by half (such a proposal must have existed), the government would need to resort to further taxation to make income equal expenditure. 61 If, however, the rentals in the Bill were applied, revenue of one and a half million pounds sterling could be expected whereas pastoral rents currently yielded only £248,741. 62

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59 ibid.
60 48 Vic 18, Section 83.
61 The rents in the Bill were twopence per acre in the Western, threepence in the Central, and twopence in the Eastern Division.
62 NSWPD, 7 October 1883, 352.
The Act limited further freeholding by the combatants, and banned further conditional purchases in the Western Division except in proclaimed ‘Special Areas’. Instead, applicants for land there were invited to apply for ‘homestead leases’ of from 5,760 to 10,240 acres in the half called the resumed areas. They would be liable for the same rents as the pastoral leaseholders. Rental of both pastoral and homestead leases would be ‘determined’ for the first five years by the Minister after appraisement (calculation) by new ‘Local Land Boards’ that would operate like a court. Composed of up to three members, they would be chaired by ‘officers of tried experience and capacity formerly connected with the Department’, presumably meaning retired officials. The other two would be ‘gentlemen in country districts’. Amongst other duties, they would hear evidence about rents and the capacity of land to carry stock put by landholders or their agents. Farnell did not intend them to be ‘local’ in the sense of being constituted by landholders, though some people in parliament and some outside, including a recent land conference, did see them as an avenue for local democracy and wanted members to be elected. Farnell referred to an American model, staffed by officials, aimed at decentralised and faster administration. Though providing for appeal from Board decisions, he did not want to water down the power of the Minister and Parliament to dispose of Crown lands, a power long fought for and finally given by the Constitution Act: the Minister, ‘in open court’, (landholders or their representatives could argue before him) was, in fact, the court of appeal. Those who sought amendments which would involve the legal profession more generally, provide an independent court of appeal, or provide appeal to the Supreme Court, were unsuccessful.

The Act set only minimum rents (the Boards would appraise the final rent, considering stock numbers) for the first five years, but the Act said that these would increase in the Western Division, by one quarter for the second five years, and by one half for the last five years. Similar provisions applied in the Central Division, but leases there had only a ten year term with two five year rental periods. The Eastern rents were set for only one period.

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63 No further purchase by virtue of improvements was permitted (Section 3 (ii)), conditional purchase of land containing fixed improvements was banned (Section 21 (ix)), auction purchases were limited (Section 61), and Section 21 (iii) banned all conditional purchase in the Division except as noted.
64 48 Vic 18, Section 82.
65 The Department had difficulty finding suitable local members given that the local members were not permitted to have direct or indirect interest in matters before a board. Two members were a quorum and the chair had an original and casting vote. See Act 48 Vic.18, Section 11; C.J. King, Outline, 103-04.
66 See, for example, Farnell, Stuart and Abbott speeches, at NSWPD, 7 May 1884, 3211, 3213, 8 May 1884, 3232, 3234.
67 NSWPD, 8 May 1884, 3239-40. Farnell said such Departmental men solved questions more puzzling than anything in Euclid.
68 48 Vic 18, Section 78, (i) to (iv).
of five years in anticipation of expiry. This left the central and western areas as the major source of future rental revenue, except that all pastoral lessees could apply for an additional term of five years at expiry of the leases (unless notified to the contrary by the Minister) at a rental rate not less than the preceding period’s rent.

This assertion of government landlordism, its arbitrary increase of rents according to legislative dictate, and the clear intended Ministerial control, stirred lessees, but not for the first time. The convoluted process of setting rents established by the 1847 Orders-in-Council showed the struggle that occurred at that time. Though a flat rate for minimum rent was set for each run by legislation (a run should be able to carry at least 4,000 sheep or equivalent in cattle), an additional amount for the number it ‘will carry’ was assessed by a convoluted process. 69 Legislators were never happy with the level of income, and even Robertson had tried to legislate for higher rents in 1858 but his proposed process was said to be too complicated to understand. 70 In 1884 he still thought rents inadequate. Lessees west of the Darling had been happy enough with the old system, but were disturbed by 1880 legislation which provided for new appraisers appointed under contract, replacing the old Crown Lands Commissioners, locally regarded as experienced with the land. In 1882 they published a pamphlet, printed in Melbourne, which suggested ways of overcoming the ‘current mutual dissatisfaction’ between lessees and government. The new appraisers, it said, lacked knowledge of their districts and worked ‘under instructions’ to raise rents, and it was unhappy that appeals now went to a Board appointed by government, and that the new minimum rent was one pound per square mile, inappropriate in dry country which could only carry sheep for three months of the year. 71 Showing awareness of Stuart’s intentions regarding homestead leases, it argued that the country was suited only for men of large capital. To cut it into small areas of 5,000 to 10,000 acres would be ‘ruinous’. 72

Opposition to the ‘division of the runs’ was voiced strongly in parliament though few matched Robertson’s indignation. The current system, he said, had allowed pastoral

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69 Rents were to be appraised by a ‘valuer’ nominated by the lessee, and the Commissioner of Crown Lands or his nominee. These two may choose, if necessary, an umpire, but if they cannot agree on an umpire, he shall be appointed by the Governor. See ‘Orders in Council Respecting Occupation of Crown Lands’, ordered to be printed 3 August 1847, NSWLCVP, Vol. 1, 1847, 287.
70 SMH, 13 August 1858, 4.
72 They proposed that the landlord buy back or compensate them for their improvements at the end of a reasonable term, and then increase rentals according to the value of the improvements; then if and when further ‘agricultural extension’ was needed (closer settlement), the landlord could arrange the area so as to make the most of its improvements. ibid., 12.
lessees to borrow in England and develop the ‘interior’ so that 15,000,000 sheep were now to be found there (a fanciful number compared to official statistics at the time), and that the ‘interior’ was already paralysed, with dam-makers leaving. Securities were being ‘repudiated’ because money lent on the supposition of so many acres would now have to be repaid with only half the area to work with.  

73 John Lackey, former ticket-of-leave man but soon to be Sir John, recent purchaser of Buckwaroo near Cobar, agreed, and Henry Copeland, mining entrepreneur, said the banks would foreclose when they lost half their security. Farnell revealed what he saw as the main obstacle stopping further settlement in the west under existing conditions: the increase in market value and property size that had occurred meant that people from ‘the mother country’ with ‘a few thousand pounds’ were not able to purchase a sheep farm.  

74 The Morris Ranken Report had advised that capital and labor resources beyond that of just a family would be required, and a special system adapted to the west was needed.  

75 The Act’s creators expected it to prize open the hold current lessees and their financiers had, to make land available for new lessees with new capital and financiers.

Argument against the Bill in parliament was largely ineffectual, seemingly undermined by a deeply ingrained acceptance that the large land holdings should be able to support a greater population in the west, a path dependent factor associated with the duty of colonies. Some parliamentarians who held land in the Division or had financial interests through partnerships there, spoke powerfully, but unsuccessfully. They were thought to exaggerate the problems of the dry country and the costs of making it productive because they thought Sydney legislators knew nothing about it.  

76 Opposition was undermined also, however, by immediate and practical factors: knowledge of the revenue situation that Farnell had put and Stuart’s overwhelming support in the Assembly.  

77 Of the fifteen votes taken in Committee during June and July 1884, all were won by Stuart’s supporters, thirteen by a majority of twenty five and over (Tellers were not counted in this calculation).

Views put by lessees and others outside parliament was not discussed during the debate. Farnell refused to provide details of a deputation from South Australia he had met on 13 November 1883. Lessee input into the Morris Rankin Report failed to attract parliamentary attention. It was, in any case, perfunctory and conflicting, though the Report authors gave the impression that lessees would be willing to pay more rent in return.
for a more secure tenure.\textsuperscript{78} The views of only two anonymous landholders (‘squatters’) in the Third Division were reproduced in the Report. One, west of the Darling, wrote that Robertson had publicly assured squatters, again and again, that they would not be disturbed, and their five year leases would be renewed so long as they carried out improvements, until their holdings were required for sale to conditional purchasers (my emphasis).\textsuperscript{79} This was a ‘national contract’ made with the squatters to induce them to occupy the ‘desert’. He had expended over £70,000 on wells, tanks and fencing since he purchased it seven years ago and still employed about 100 men. Nature had protected them from selectors, he said (by making agriculture not generally feasible), and so long as the law stayed as it was, security of legal tenure was of no particular benefit to him. Perhaps he was unmortgaged. Conditional purchasers who became carriers and such like were no threat, but he was not prepared to pay additional rent for a secure tenure if half his ‘run’ was to be taken for ‘another class of squatters’—this was ‘confiscation’.\textsuperscript{80} He was of course referring to the proposed ‘homestead lessees’ who could in theory apply for enough land to run stock for a living without paying up front for market value, but paying rent like him. The second unnamed ‘squatter’, east of the Darling, was more generous in spirit, mindful of his own humble beginnings as a blacksmith on the Darling and his subsequent success, though some of this success and generosity may have derived from his sales of freehold land and other business activities at the village of Louth.\textsuperscript{81}

Farnell claimed he did not want to discourage existing pastoral holders, and he soon proposed an amendment to reduce the minimum rents by half, the main concession made to pastoralist complaint. On the issue of compensation for the loss of improvements at the end of the term of the pastoral leases fifteen or twenty years hence however, he stood firm. The Bill said that upon expiry, the government could relet or auction pastoral leases, or declare them to be a resumed area, but whatever the case, improvements would become the property of Her Majesty.\textsuperscript{82} Critics argued that if no compensation was paid, lessees would let improvements run down as the expiry date came closer. He proposed a seemingly quixotic amendment which said that compensation would be paid, perhaps in an attempt to

\textsuperscript{78} ‘Report of Inquiry’, 27. The actual recommendations of the Report were not made public, according to a note initialled by Farnell on the ‘Letter transmitting Report’ dated 12 April 1883.
\textsuperscript{79} ‘Report of Inquiry’, 70
\textsuperscript{80} ibid., 71.
\textsuperscript{81} This ‘squatter’ is recognisable as T.A.D. Mathews of Wiltagoona. He and his sons had acquired freehold land upon which the village of Louth was based, so it is possible that his ‘success’ included some dealings with this land, some of which he said he had ‘donated’ some for public purposes. See also D. N. Jeans, An Historical Geography of New South Wales to 1901, Reed Education, Sydney, 1972, 199.
\textsuperscript{82} 48 Vic 18, Section 83.
force an end to the lengthy debate, for all parliamentarians quickly agreed that the
government could not possibly pay compensation (amounts of from about ten to over fifty
six million pounds for the colony were bandied about).\textsuperscript{83} A ‘tenant right’ option was
mooted and found its way into the Act as regards improvements taken over by homestead
lessees—\textit{they} would pay the lessee for the improvements. The homestead lessee could not
take up occupation until the Land Board had taken various necessary steps and until
improvements on the lease and the survey fee had been paid for. Survey followed a
successful application.

Late in the debate, William Brodribb in the Council, former pastoral lessee in the Riverina,
then near Ivanhoe in the east of the Division, and former MLA for Wentworth, presented a
petition from 967 ‘Crown tenants, landholders, merchants, storekeepers, tradesmen,
labourers’ and others ‘interested in the welfare of the Western Division’.\textsuperscript{84} As only some
313 lessees (pastoral holdings) existed in the Division, many non-lessees obviously signed
this. A second petition from ‘certain Crown Tenants’ had only eleven signatories.\textsuperscript{85} The
voluminously signed petition urged that compensation be paid to pastoral lessees at the
termination of their leases so that they would not allow improvements to deteriorate or stop
placing improvements on unimproved portions of the resumed areas \textit{not} taken up by
homestead lessees. It urged that the pastoral lessees’ annually renewable ‘occupation
license’ tenure on the resumed areas until taken up by homestead lessees, was not capable
of attracting finance for the constructing watering points or keeping rabbits down.\textsuperscript{86}

The petitioners’ fear of losing work suggested that Robertson’s ‘national contract’ had
been effective, but there was other evidence. Alexander Wilson, stock and station agent,
told parliament there were many runs in the western district on which £100,000 had been
spent, and overall, he thought some £8,000,000 had been spent there.\textsuperscript{87} Some of the
western country, he said, had stubbornly resisted improvement, water not being found
underground, and had been ‘abandoned’, particularly the difficult country between the
Lachlan and the Darling (east of the Darling). Journalist Percy Meggy provided other
evidence, too late for the debate. He accompanied Mines Minister P.J. Abbott’s party, in
horse and buggy, across the southern part of the Division to Broken Hill in May 1885.
Much had been spent on improvements on the ‘back blocks’ away from the rivers, he

\textsuperscript{83} \textit{NSWPD}, 3 July 1884, 4168-87.
\textsuperscript{84} New South Wales Legislative Council, \textit{Journal, (NSWLCJ)}, Volume 36, part 2, 1883-1884, 295.
\textsuperscript{85} ibid., 297.
\textsuperscript{86} In the Act the word is spelt with an ‘s’.
\textsuperscript{87} \textit{NSWPD}, 3 July 1884., 4182, 4178.
wrote, many unsuccessful wells had been sunk, and ground tanks, which could take years to fill from rainfall run off, were often made useless by seepage.\textsuperscript{88} Seeing the country at the end of a four year drought he described the ‘squatters’ as ‘pioneers of civilization’ without whom the west would lie ‘barren and waste’.\textsuperscript{89} Also impressed by the risks and costs landholders experienced, Abbott told his Silverton banquet audience that he now realized he knew little about the west’s pastoral districts and that the ‘prevailing impression’ that landholders held enormous territories not put to proper use was inaccurate, taking no account of the enormous sums that had to be spent before getting a return.\textsuperscript{90} Other contemporary statistical evidence can be found in the large increase in population in the rural hinterlands of the Division between 1881 and 1891. Excluding mining and other towns, the population for the ‘Remainder of Western Division’, that is, rural properties and small villages, increased between 1881 and 1891 by the extraordinary figure of 15,658, from 16,006 to 31,664.\textsuperscript{91} Most of these people would have been workers and contractors camping on properties.

The voluminously signed petition requested a gradual approach to the resumed areas. Resume only half of the proposed resumed areas, it begged, and when three quarters of that half went to new lessees, throw the other half open. Until ‘actual demand’ was known, it urged, leave the present lessees with the largest area possible, and don’t create scattered holdings with land between them overrun with pests. It seemed a reasonable request, an incremental approach in the face of unknown demand, but the broad brush laissez faire approach (administratively easier and cheaper) prevailed. The only change made to the provisions for resumed areas was, that after an application for a homestead lease was made, the Land Board and Minister could vary the design of the block to ensure that the homestead lessee did not monopolise available water and preempt possibilities for other homestead lessees. The other petition, signed by Crown tenants, requested that the minimum rent in the Division be reduced to .375 pence per acre (less than half of the Bill’s

\textsuperscript{88} Percy R. Meggy, \textit{From Sydney to Silverton}, n.p., 1885. On page 29 he states that on 35 stations, the amount spent had reached ‘the enormous figure’ of £1,227,680, and on page 52 he describes Netley as having spent over £50,000 on improvements including many wells, constructed with river red gum timber from the Murray 811 river miles away. The Cudmore Brother’s expenditure on Avoca on over ten tanks, plus on unsuccessful wells is at page 54.

\textsuperscript{89} ibid., 27-28.

\textsuperscript{90} ibid., 68.

\textsuperscript{91} Macdonald Holmes, \textit{The Erosion-Pastoral Problem of the Western Division of New South Wales—Australia}, Part 1: \textit{An Estimate of the Western Division after Sixty Years}, University of Sydney Publications in Geography, Geography Department, University of Sydney, New South Wales, 1938?, 4-7, particularly his Fig. 2 at page 7. Holmes drew his figures from the N.S.W. Statistical Register.
one penny), and that the pastoral lessee, not the Minister, choose which half of the divided holding would be resumed. None of these requests were met.

Who then, were these unsatisfactory settlers, disparagingly called squatters, unable to pull the heart strings of the NSW government? Historical accounts produced by and for the NSW government have overlooked them. These suggest that in the beginning there were the ‘companies’ and then there were the closer settler ‘families’, put there by government closer settlement policies.\(^2\) The ‘companies’ are rarely identified. A closer look shows that the unsatisfactory settlers were often families, rather than companies, and it helps to explain why the Sydney legislators firmly believed that the pastoral lessees could afford to pay though losing half their land (or potentially so). They were not only too large and too wealthy, their loyalties lay elsewhere, certainly not with Sydney and NSW.

The 1884 map of pastoral holdings before division showed that holdings west of the Darling were larger than those to the east. This may have reflected decline in average rainfall from east to west, but it may also have reflected the greater financial resources available to holders west of the Darling. Certainly, larger holdings tended to be unmortgaged compared to smaller properties, which suggested greater wealth, and these predominated west of the Darling.\(^3\) The NSW Government Gazettes (Gazettes) which gave the names of holders of the leasehold and resumed areas in 1885, using information provided by the Department of Lands, only showed the ‘registered’ title holders, and these were often mortgagees. The information was collated and published as *The Pastoral Possessions of New South Wales* by retired former Government Printer, William Hanson, in 1889.\(^4\) Many of the ‘registered holders’ could be recognized as banks or finance companies, the latter consisting of stock and station agents, woolbroking firms, mortgage loan companies and a few insurance companies. There were an insignificant number of ‘land companies’ in the sense of companies established with the intention of

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\(^2\) For instance, see Dick Condon, for the Lower Murray Darling and Western Catchment Management Committees, *Out of the West: A Historical Perspective of the Western Division of New South Wales*, 2002, 382.

\(^3\) This generalization arises from data for 1844-45 published by William Hanson (see later). Accepting the evidence that properties registered in the names of individuals or partnerships were not formally mortgaged (see later), the average size of unmortgaged properties was 208,078 acres and that of properties held in the names of banks or pastoral companies, 177,375 acres.

\(^4\) William Hanson, *The Pastoral Possessions of New South Wales*, Gibbs, Shallard & Co., Pitt St., Sydney, 1889. Noel Butlin later referred to this as an ‘unofficial’ source. Hanson referred throughout his book to the Gazettes and dates of notification. He noted that successful applications for leases, and after that, all transfers of title, had to be registered in the General Office for the Registration of Deeds and notified to the Lands Department before the applicant or transferee became a ‘registered holder.’
owning and managing land. The lessee - mortgagors who borrowed, were simply not shown, though they might in future again appear as the registered holder after the mortgage was paid out. The Department of Lands’ records revealed only that at a particular date, 1885 in this case, there was a debt sufficient to have made the borrower agree to a mortgage and that the Department had registered the mortgagee as the registered holder. Registration gave mortgagees greater protection of their rights.

The information, however, lent itself to the interpretation that companies ‘owned’ the land and had foreclosed or taken possession, a matter which attracted forceful academic debate much later. Another list, published by the Department of Mines’ Stock and Brands Branch in 1883, looked very different. It showed hardly any bank or company names at all amongst the ‘owners’. Like the Lands Department, the Department of Mines did not clarify the basis for their listings but their names were mostly those of men or women, in other words the lessees, or if mortgaged, mortgagors.

Perhaps it was lack of parliamentary interest in lessees which moved historian Tom Griffiths to say that they saw the west as a ‘space’, a ‘blank canvas, a legislative playground and stage for an epic battle between classes or a morality play’. The evidence suggests however that the warriors were more colonies than classes: NSW businessmen and financiers of pastoralists on the one hand, and Melbourne and Adelaide businessmen and financiers of pastoralists on the other. Given Stuart’s business and banking background, he would have known the ‘largest’ and most prominent of the western landholders. The 1885 gazettals and Hanson revealed a smattering of knights and members of parliament, men who were either unmortgaged or might sometimes be mortgagees themselves. The most prominent of these were not associated with the NSW parliament nor NSW, and herein lies a key to Farnell’s confidence that lessees in the Western Division could afford to pay more rent. West of the Darling in particular, they were wealthy aliens and competitors with no desire to assist NSW businessmen, rather the

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95 Hanson’s data reveals only Peel River Land and Mineral Company (Bogeira East and Bogeira Back), New Zealand and Australian Land Company (Til Til), and the Australian Pastoral Company (Yeranbah and Lower Nilgie).
96 Alternatively, officials may not have yet established proper transfer records, or as Butlin suggested after he could not locate many transfer documents, they may have become lost in the Garden Palace fire of 1882. As an example of such a listing in the early years of the next century for a pastoral lease in the Western Division, see Appendix List/transfer.
97 See N.G. Butlin, ‘Company Ownership’, 101-02.
98 ibid.
99 Department of Mines. Stock and Brands branch, Annual Report for the Year Ending 31 December 1883, Appendix 2, in NSWPP, Vol. 4, 1883-84, 765. The Petty Sessions districts relevant for the Western Division (though there is overlap into the Central Division In the case of Walgett and Balranald) are: Balranald, Bourke, Brewarrina, Cobar, Menindie, Walgett, Wentworth.
opposite; they were South Australians or Victorians, often involved with pastoral finance companies tapping British capital. This would have been well known to former banker Stuart.

Sir James McCulloch and his South Australian partners, Sir Thomas Elder and Robert Barr Smith, were perhaps the most notable lessees and like other luminaries, held land in more than one colony. They held the largest holding, Momba (over two million acres). Sir James was a former Victorian Treasurer and Premier.\(^{101}\) With another partner he held Mount Gipps, where his nephew George was manager, and where the young Sid Kidman gained some experience (Figure 6). It was also where George’s boundary rider picked up the interesting rock that inspired a group of landholders and others, including George’s employees, to form the syndicate which became the Broken Hill Mining Company (BHP) in 1884-85.\(^{102}\) This activity on Mount Gipps did not help NSW businessman much either, but rather South Australia and Victoria.\(^{103}\) The Division had a stubborn way of not benefiting Sydney, even with mining. Needless to say Sir James did not reside at Momba or Mount Gipps, nor did his prominent South Australian partners: Elder sat in South Australia’s Legislative Council and, with his partner Barr Smith, would soon create one of the world’s largest wool selling firms, Elder Smith.\(^{104}\)

James MacBain and three others were partners in Canally, stretching between Balranald and Euston. Soon to be knighted, MacBain was President of the Victorian Legislative Council. Since 1865 he had been managing director and chairman of the Melbourne based AML&F.\(^{105}\) Sir Samuel Wilson, a prominent former member of the Victorian Legislative Council, still held Toorale and Dunlop as friendly mortgagee for his nephew Samuel, who would later desert the family political background in Victoria and join the NSW Legislative Council, but with little appetite for politics. Two other members of the Victorian Legislative Council were elite holders. John Cumming held two nearly


\(^{103}\) Blainey wrote that ‘While Broken Hill was the third largest city in New South Wales it got most of its supplies from South Australia. The mines gave work to South Australia’s wharves, railways, farms factories, warehouses, and silver smelters. . . . For every eleven breadwinners in South Australia there was one in Broken Hill and nearly all he spent or saved returned to Adelaide. . . . The Proprietary mine was directed from Melbourne and that city gained much from the field. The young pastoralists had chosen Melbourne because they came from that city or spent their holidays there or chose to retire there as magnates and gentlemen.’ ibid., 152-53. The NSW government of course received royalties.


Figure 6. Young Sid Kidman at Mount Gipps, 1873.

adjoining holdings, Arumpo and Burtundy, just east of the Darling, and Scottish born William Campbell, whose daughter had married Samuel Wilson, held Booligal on the Lachlan below Hillston. In the late 1870s Campbell held some nine properties concurrently in several states, but by 1884, he too had returned to England. He was a large shareholder in Goldsborough Mort and Company, and Director of the Australian Agency and Banking Corporation.\textsuperscript{107} John and Harvey Patterson were neither knights nor parliamentarians themselves, but their father had been a Victorian Legislative Councillor and was related to Robert Officer (later Sir Robert), with whom he had sailed to Hobart in 1829 with eight other Pattersons.\textsuperscript{108} The families intermarried. By 1884 the Pattersons, like some other Riverina landholders east of the Lachlan, had gone further west, seeking cheaper leasehold land rather than staying to meet the cost of freeholding as a defence against Robertson Act selectors.\textsuperscript{109} John and Harvey’s marriage links with the Officers and the Landales, both prominent Riverina pastoral families around Deniliquin, and their father’s friendship with James Blackwood of the Union Bank of Melbourne whose son was to become prominent in the pastoral finance firm that became Dalgety and Company, gave them access to finance. Sydney’s nationalistic \textit{Bulletin} depicted Harvey as an effete English dilattente known for flamboyant living, coursing and racing, but John showed every sign of being a serious professional pastoralist. For a time he lived at Corona, which fronted the South Australian border, where one of his children was born. Uncle Myles in England wrote expressing concern about such a life, though he supposed in bad times ‘one had to give personal attention to these large leases’.\textsuperscript{110} The brothers had homes in Hawthorn and St Kilda to retreat to, and relied on managers such as the Dawes family. Harvey and Robert Blackwood, part-holder of Talawanta on the Darling, who had also married into the Officer family, invested in the Broken Hill Mine in 1884, and in 1885, Blackwood became Chairman of Directors of BHP Ltd. Shaw’s comment that ‘it was still a small pastoral world’ west of the Darling in the 1860s, still applied in the early 1880s.\textsuperscript{111}

\textsuperscript{107} Frank Strahan, ‘Campbell, William (1810-1896)’, \textit{ADB}, Vol. 3, Melbourne University Press, 1969, 348. The other company was the Australian Agency and Banking Corporation.  
\textsuperscript{109} John had first purchased Gol Gol, 345,497 acres, Topar, 319,900 acres, and with Harvey, Menamurtee, 418,629 acres. He later purchased Yandama, 127,950 acres, and Warrata, 64,000 acres, close to the South Australian and Queensland borders, and Harvey bought Corona 1,653,920 acres.  
\textsuperscript{110} J.O. Randell, \textit{Pastoral Pattersons}, 163-64.  
\textsuperscript{111} Mary Turner Shaw, \textit{Yancannia Creek}, 37.
Compared to these luminaries, members of the NSW parliament, or former members, who were Division leaseholders, looked humbler. They boasted only one knight, Sir Daniel Cooper, who shared title to Mount King East in the north-western corner near Queensland with another. He had been a member of the early Legislative Council and one of the first Legislative Assembly’s elected members. A former Sydney merchant, and former director and President of the Bank of New South Wales, he had worked to mobilise finance for NSW enterprises, including Sir Henry Parkes’s *Empire* newspaper. ¹¹² Though long back in England by 1884, he continued to work for NSW’s interests in London. ¹¹³

Others were not well connected by ties of kinship, marriage or friendship to pastoral finance companies, certainly not to Melbourne based pastoral finance. They tended to take in partners for financial reasons, to borrow from friends or relatives, even the odd pastoral employer friend keen to promote good people onto the land, or to borrow from banks. Most, except Cooper, Edward Quin, and perhaps Robert Smith, held land east of the Darling. Quin, managing partner at Tarella near White Cliffs and member for Wentworth in the Division, had Melbourne ties, including a Victorian partner who supplied his rams, and a property near Melbourne in a milder climate to retreat to in the hot summers, a property share farmed by dairymen. ¹¹⁴ In 1884, Quin had been ‘on the Darling’ for about twenty years, and like other wealthy looking landholders held land in more than one state. ¹¹⁵ Another parliamentarian, John Watt MLC, a friend of Stuart’s, was more in the NSW bourgeois mode. He held Llanillo on the black soil plains near Walgett, on the eastern edges of the Division where New South Welshmen tended to focus. Together with his cousin W.O. Gilchrist, Watt owned the mercantile and shipping firm Gilchrist Watt and Company. This, plus Gilchrist’s marriage to a daughter of Edward Knox MLC, placed him firmly in Sydney merchant circles. ¹¹⁶

Other NSW parliamentarian-lessees had some convict background, certainly not a characteristic of the Victorians and South Australians. One was Sydney solicitor Robert Smith, whose electorate was in northern coastal NSW (the Macleay). The reasons for Smith’s resentment of Quin, expressed during the 1884 debate, are obscure, though his

¹¹³ Ibid.
¹¹⁵ He also had an interest in land in Queensland with partners Patrick Sellar Lang, and John Lang Currie.
reference to Quin’s having a ‘palatial residence in Melbourne’, is suggestive.\(^{117}\) He claimed that Quin was wielding secret influence on the government regarding improvement purchases in the interests of pastoral lessees and to resent this, but he seemed confused, as he himself tried to retain the pastoral lessee’s right to freehold (purchase) his homestead as an improvement.\(^{118}\) Perhaps he was influenced by his insecure status in those upwardly mobile times, for he was said to be ‘fond of associating himself with’ the squatter class.\(^{119}\) William Brodribb’s father had been transported for administering unlawful oaths. The son’s loyalties and hopes regarding Victoria and New South Wales oscillated somewhat, but his landholding stayed in NSW. After eleven years as manager for prominent pastoralist William Bradley near Cooma, and financed by him, he followed the Murrumbidgee track and purchased Wanganella near Deniliquin, then, like others driven further west by selectors, later tendered for Moolbong and Yallock near Ivanhoe in the Division.\(^{120}\) After failing to win Balranald (NSW) in 1859, he entered the Victorian Assembly briefly, but in 1880, as a free trader, won Wentworth (NSW). By 1884, he had sold his landholdings, at a loss, he said, moved to Sydney and accepted a seat in the Council, being there as we have see, to present the Division’s petitions.\(^{121}\) John Lackey in the Assembly, also the son of a ticket-of leave man, was a more firmly established NSW landholder with land at Moss Vale as well as in the Division, and who had helped form the Agricultural Society of NSW.\(^{122}\)

Finally, William and Francis Suttor represented the third generation of a prominent Bathurst family. Their names did not appear in Hanson’s list as they were mortgaged. William, in the Council, had managed his prominent father’s runs, and in partnership with him taken up runs near Tilpa on the Darling in the late 1850s.\(^{123}\) By 1884, he held, with partners, Curranalpa and Buena, near Tilpa. He did not spend much time there, but his younger brother Herbert did, one of Herbert’s children being listed amongst the eighty five

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\(^{117}\) *NSWP D*, 6 August 1884, 4702-03.
\(^{118}\) ibid., 4737.
\(^{120}\) See William Adams Brodribb, *Recollections of an Australian Squatter*, Queensbury Hill Press, Melbourne, 1976, for details and his experience with selectors, 140.
\(^{122}\) C.N. Conolly, *Biographical Register*, 184.
born between 1862 and 1884 whose parents nominated Tilpa as their residence. 124 Another Suttor, Ernest, spent most of his life on Suttor properties near Tilpa, forming a business partnership with the humbler Mungovan family there. 125 By 1884 their leases were mortgaged to the Commercial Banking Company of Sydney, and William was in financial difficulties. Francis, in the Assembly, was prominent in NSW sheep breeding and stockowners associations and was a director of the NSW and Queensland focussed Australian Joint Stock Bank (AJS Bank). 126 This bank was keen to compete with southern financiers. By 1884 it held only six mortgages over properties in the north east of the Division, as compared to the greater numbers and greater spread of mortgages held by other financiers. 127 Its eagerness to extend its operations in the Division utilizing the 1884 Crown Lands Act provisions will be seen in the following chapter, which addresses the Act’s outcomes.

These leaseholders were parliamentarians, and the actual variety of the kinds of pastoral lessees in the Division cannot be explored here in detail. However variety, at least in terms of property acreage, is suggested by Figure 7. The work of Hardy, Shaw and Withers, suggests there were a solid core of middle class resident family landholders west of the Darling, particularly around the Darling’s southern Anabranch, who ‘worked with their men,’ and bought and sold land to build up their properties. 128 Hardy speaks of the advent of ‘developed family holdings’ in the early 1880s, 129 and her index, like Withers’, is replete with ‘famille’. Shaw’s account of the Shaws at Yancannia was a family story, as was the less well known Kennedy family at Wonnaminta and Nundoro who had traveled with ten children from Goulburn in 1879. 130 Such men as these were hailed as ‘the pioneers’ by those who later noted their passing from the Division or from life.

124 Michael McInerney and Colin Middleton, Tilpa, Vol 11, 1857-1994, Tilpa Historical Committee and Tilpa Flood Plain Wool Press, 1 April 1994, 15-24, 34. Three of these parents gave their occupations as squatter or grazier, the rest relied on pastoralism in some way for their livelihood.
125 Western Herald, 30 June 1920.
127 In 1884 the prominent mortgage holders were the Australian Mortgage Land and Finance Company, the Bank of New South Wales, the Commercial Banking Company of Sydney, Dalgety and Company, New Zealand Loan and Mercantile Agency Company, Richard Goldsbrough and Company, and the Trust and Agency Company of Australasia.
128 Maxine Withers, Bushmen, 43-44.
129 Bobbie Hardy, West of the Darling, 65, 140.
Figure 7.  Pastoral Holdings Variety, 1884.

<table>
<thead>
<tr>
<th>Number of Properties (Holdings)*</th>
<th>Size range in 100,000 acres</th>
<th>Acreage in Range</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>2,000,001 plus</td>
<td>2,095,364</td>
</tr>
<tr>
<td>0</td>
<td>1,900,001 - 2,000,000</td>
<td>0</td>
</tr>
<tr>
<td>0</td>
<td>1,800,001 - 1,900,000</td>
<td>0</td>
</tr>
<tr>
<td>0</td>
<td>1,700,001 - 1,800,000</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>1,600,001 - 1,700,000</td>
<td>1,653,920</td>
</tr>
<tr>
<td>0</td>
<td>1,500,001 - 1,600,000</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>1,400,001 - 1,500,000</td>
<td>1,403,688</td>
</tr>
<tr>
<td>0</td>
<td>1,300,001 - 1,400,000</td>
<td>0</td>
</tr>
<tr>
<td>2</td>
<td>1,200,001 - 1,300,000</td>
<td>2,453,449</td>
</tr>
<tr>
<td>1</td>
<td>1,100,001 - 1,200,000</td>
<td>1,123,720</td>
</tr>
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<td>3</td>
<td>1,000,001 - 1,100,000</td>
<td>3,125,342</td>
</tr>
<tr>
<td>3</td>
<td>900,001 - 1,000,000</td>
<td>2,880,741</td>
</tr>
<tr>
<td>5</td>
<td>800,001 - 900,000</td>
<td>4,233,613</td>
</tr>
<tr>
<td>6</td>
<td>700,001 - 800,000</td>
<td>4,395,694</td>
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<tr>
<td>7</td>
<td>500,001 - 600,000</td>
<td>3,939,715</td>
</tr>
<tr>
<td>20</td>
<td>400,001 - 500,000</td>
<td>8,815,822</td>
</tr>
<tr>
<td>30</td>
<td>300,001 - 400,000</td>
<td>10,230,685</td>
</tr>
<tr>
<td>42</td>
<td>200,001 - 300,000</td>
<td>10,235,141</td>
</tr>
<tr>
<td>80</td>
<td>100,001 - 200,000</td>
<td>11,570,489</td>
</tr>
<tr>
<td>108</td>
<td>Up to 100,000</td>
<td>5,157,103</td>
</tr>
<tr>
<td>313</td>
<td>TOTAL</td>
<td>75,271,529</td>
</tr>
</tbody>
</table>

*Some unmortgaged holders held more than one holding, but the number was not significant and has not been taken into account.
East of the Darling, this resident family is harder to see. Batchelor managers like the young Richard Casey, ‘passionate about improving properties’, perhaps seized by what they saw as the national or imperial importance of their role, met other managers at race meetings. His absentee employer was not a ‘large company’, but rather the General manager of the Bank of Victoria, who had his son in mind for the property. Other employers included city businessmen, but it seems that between the largest landholders, the luminaries, and the smallest, some of whom were hoteliers and others entering via Robertson’s legislation who had purchased additional land, there was a solid core of middle sized landholders.

The Act recognized small holdings by giving the Minister power to decide not to withdraw half the holding if its area was regarded as too small. Hanson’s data showed he used this discretion in about thirty nine cases, twenty six of which were below 30,000 acres. This did not stop much protest from holders somewhat larger than this when their holdings were divided.

What kind of ‘civilisation’, to use Meggy’s word, did pastoral lessees and their largely private sector operations create? The answer varies greatly depending on location and individual characteristics. Though the Meins, not far from Walgett, left little trace of contribution to local society, their homes and clubs, including the Victorian Racing Club being in Melbourne, the nearby Parkers made local contributions with some of the noblesse oblige expected of a landed elite. Langloh was active in forming the Walgett Agricultural Society and on the bench, and Katie looked to the formation of ‘cottage hospitals’ and ‘township libraries’. Further west at Weilmoringle, the McKenzie sons continued the operation of the property built up by their father since he left the Mudgee Cox family as studmaster in 1857. Weilmoringle, family owned for thirty six years, was starting to exhibit features of the ‘self-contained’ pastoral property—a village in itself, mitigating the isolation with the benefits of propinquity and a certain mutual reliance. The McKenzies contributed to local births and marriages and perhaps to the development of a good

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131 When bachelor Richard Casey, assisted by his medical father’s contact with a member of the Officer family, became manager of Kilf owa in 1875, it had previously changed hands many times and when he went to race meetings, he met ‘fellow managers’. Lord Casey, *Australian Father and Son*, Collins, London, 1966, 66.

132 ibid., 62.


relationships with the resident Aboriginal people, certainly with its substantial non-
Aboriginal work force.\textsuperscript{134} When Colin McKenzie took a business partner to buy
Weilmoringle from his widowed mother in 1881, the son of a landed Brewarrina family
joined with him, and his mortgagees were no large company but a partnership of a former
licensed surveyor who had done well with the Broken Hill Proprietary shares, and another
man whose family later became resident manager/owner. Landholders even more remote
from townships than Weilmoringle were unlikely to leave a local impression or memory
beyond that made on their employees and Aboriginal people (not mutually exclusive
categories). London born Bill Hamilton near the South Australian border was such an
example. Son of a Scottish merchant financed to Australia by his mother in the 1860s,
after a stint of jackerooing he teamed up with Wilcannia storekeeper Emile Geyer to
purchase Morden near the South Australian border. As working partner there, he took a
Malyangapa woman as his wife. When he struck financial problems after 1884 and spoke
of moving to New Zealand, she left him, taking their daughter with her. According to his
great grandson, this caused him great distress.\textsuperscript{135} Their descendants, and those of other
unions, remained to contribute to the western pastoral industry as workers, contractors and
shearers (Figure 8).

Keeping individual differences, places, and circumstances in mind, some
generalizations can be suggested. Sons seemed to be born prolifically to successful
stayers like Shaw of Yancanna, were groomed for the land, and expected to take over
from father or a manager. Where numbers and distance permitted, fathers contributed
themselves, their sons and their employees to cricket or other competitions of ‘country
versus town’ or ‘married versus single’, or property versus property. Aboriginal people
sometimes joined in the teams. Lessees contributed to, and collected their employees’
contributions to the hospital funds of the towns, and also contributed to funds often
required by the government as a local contribution to attract government funding for
services such as post and telegraph offices and schools. Their names appear in local
histories as attendees of meetings called to advance and petition about such services at

\textsuperscript{134} Merri Gill, \textit{Weilmoringle: A Unique Bi-cultural Community}, Development and Advisory Publications,
Weilmoringle in 1903.

\textsuperscript{135} Harold Hunt, \textit{Memoirs from the Corner Country: The Story of May Hunt}, Magabala Books, Broome,
Aboriginal Workers

developed in the 1880s, mainly to maintain stock routes and combat stock disease and plant pests (a sore point for Labor later as they were elected and voting power was to a such as postal services to replace the private services they had commenced. They took part in the formation of the legislated Pasture Protection Boards (the-degree related to stock numbers). Those with Aboriginal camps on their holdings found Aboriginal labour, male and female, valuable, as well as the companionship and care given them and their children. Women such as Katie Parker felt a responsibility to provide domestic training, and their protective behaviour towards her prompted her to ‘speak up’ for her ‘darkie friends’ in public. Her publications on Aboriginal mythology were popular at the time. To a degree, landholders with resident Aboriginal camps, lived in what has come to be seen as a mutually beneficial relationship with them, a relationship Goodall has called ‘dual occupancy’ and Long has described as ‘perhaps the most effective work’ for their ‘protection and civilization’, given the alternatives of camping near towns with exposure to alcohol.

Some lessees sat on the bench or on juries, some bringing the class consciousness of the Old Country with them. A journalist visiting Bourke in the 1870s wrote that within a radius of one hundred miles, there were more gentlemen ‘by birth, manners and education’ than he had come across in any other inland town. In the mid 1880s, the Picturesque Atlas of Australia noted that the larger hotels were divided into the ‘squatters side’ and the ‘bushman’s side’, though it thought this was no great problem as each preferred their own side. Edward Quin’s governance at Tarella was taken aback when he told her that she must be finding life unusual in a literary household like his. Katharine Susannah Prichard, budding author, did not take offence, even when he told her not to cultivate an interest in his son because he was engaged to the daughter of an old friend (which he was not). She later described Quin as having acquired ‘the grand manner’ of prosperity even though heavily mortgaged, and his hospitality was in the tradition of the ‘squatter aristocracy’, kindly and generous. Visitors dined at his long

137 Marcie Muir, My Bush Book, 158. Katie Parker wrote to the Sydney Mail, of 16 December 1899, speaking up for them.
140 Town and Country Journal, 8 June 1872, 728.
142 She later found this to be untrue.
table and a hut near the shearing shed catered for swaggies and wanderers who would find no other habitation ‘for many dreary miles.’

When the drought ended (probably 1903), there was a ball and celebration for four days, with guests coming from miles around.

Angledool on the Narran was like a dormitory village for men working on surrounding properties. The opulence of its second hotel delighted the young Jim Harpur, who later realised it owed its existence to the ‘large stations’, but he fell foul of T.J. Sherwin of nearby Nullawla when he dared to address him by his first name. Some homestead lessees in this area would later feel the sting of the chalk line on the floor at social gatherings in this region and elsewhere. Station hands at Tibooburra also experienced this at balls organised by the ‘West Darling Squatters’, whose annual race meeting at Broken Hill was ‘the social event of the year for the area’s squattocracy and the town’s elite’. Miners, who at times doubled as station hands, had uneasy relations with pastoral landholders, not surprising given their competing land uses.

Other pastoral lessees, like W.W. Davis of Keribree, ‘Baldy Thompson’ in Henry Lawson’s story of that name, and Joe Dunne of Netley, did not assert status, and perhaps could not have done so had they wished. Lawson’s friends regarded Davis as a ‘squatter of the old order’ who had worked his way up and ‘been through it all’. Yarn hungry, he loved to argue politics with the men in the huts. Joe Dunne, living near Menindee on the Darling, was famous for his ‘IOUs’ which kept a local currency circulating before banknotes became common. When he drowned in the Darling after a festive evening with ‘many cronies’, there was, says Hardy, much sadness. This was not, however, the end of the Dunne name at Netley and John Dunne was one of the 54.5 per cent of holders whose name appeared in the *Gazettes* of 1885 as the registered holder (unmortgaged) and whose name and family was still there in 1918.

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148 Bobbie Hardy, *West of the Darling*, 102-03.
The quality of stock was a subject of yarn in pubs and more refined circles. Good horsemanship and judgement of stock were admired, as Langloh Parker’s obituary confirmed, and being a good ‘bushman’ and popularity with ‘bushmen’ were also. This may explain why one of Langloh’s in-laws referred to him as an ‘admiral Chrichton’, presumably referring to his ability to adapt to different types of company and situations, and why a torchlight procession of ‘old hands’ surrounded the Bangate homestead the night the Parkers were ousted by mortgagees in the late 1890s. They sang that Langloh was ‘the Whitest Boss’ the back creeks ever knew. Katie’s diarizing suggests his indebtedness did not prevent him helping people in need, perhaps one reason for the praise. Katie and Langloh sang a very different kind of song, with Katie at her piano (it is still yours, Langloh said), showing a cynical view of both banks and a government which had taken half the squatters’ ‘run’.\textsuperscript{149} Ernest Sutor earned similar praise: he was ‘a thorough white man’, a ‘typical westerner’, and though shy and reserved, had ‘many friends’\textsuperscript{150} The ‘global colour line’ written of by Lake and Reynolds took on character nuances in far western New South Wales, and may have contributed to the frequent references to friendships amongst men before ‘mateship’ became better known as a quality amongst working class men.\textsuperscript{151} Ernest’s brother William, along with William Brodribb, were amongst those who left reminiscences of their times in the colony and its west, Brodribb’s exhibiting clearly the importance he placed on family relations and friendship in pastoral enterprise.\textsuperscript{152}

Some lessees established reputations as breeders of livestock, or participated in experimental approaches taken to improve horses, cattle, sheep and wool through selective breeding. Though the quality of horses was a sign of social status, the picnic race meetings supported by pastoral lessees and others contributed social cement and entertainment for all, as did horse racing for the nation at large at the Melbourne Cup. Some were admired for their introduction of technological advances such as wool scouring, wool baling, machine shearing equipment, fencing, techniques of water ‘conservation’ and boring for water. Some, like Parker, the Dickson brothers of Yarrawin, and Peter Waite of Ophara,

\textsuperscript{149} Marcie Muir, \textit{My Bush Book}, 140-41.
\textsuperscript{150} \textit{Western Herald}, 30 June 1920.
\textsuperscript{151} Marilyn Lake and Henry Reynolds, \textit{Drawing the Global Colour line : White Men’s Countries and the Question of Racial Equality}, Melbourne University Press, 2008. I found the term ‘white man’ known in Bourke in the 1970s. When I suggested this was racist, I was told this was not the case. Users of the term believed it referred to fair and honourable qualities.
were known for their experimentation with and maintenance of native grasses and saltbush.\footnote{153}{In 1886 Parker had six bags of native grass seeds (blue, Mitchell, and star grass) in his stores, as well as twenty five tons of bush hay. See Marcy Muir, *My Bush Book*, 130. See Chapter @@@ for the Dickson brothers and Peter Waite.}

Lessees’ wives, when resident, managed the homestead, famously difficult cooks, and along with Chinese gardeners, their gardens, so easily destroyed by summers and drought, and they coped with distant and at times unreliable medical care. They themselves provided amateur medical care for employees and the Aboriginal camp, worked to organize dances at the end of shearing and entertainment at Christmas.\footnote{154}{H.M. Glover, *A Town*, 87.} Some close to villages such as Angledool attempted to ameliorate the masculine, hotel driven culture of village life with temperance activity, or worked to provide relief for working class women and children.\footnote{155}{Marcy Muir, *My Bush Book*, 139.} Their efforts were of no interest to a government with eyes firmly fixed on revenue, greater productivity, and the application of new capital to land which would benefit Sydney’s commercial class.
CHAPTER THREE

Pioneers of the Working Class

Though nearly thirty six million acres of resumed area land was potentially available for ‘homestead lessees’, the 1884 parliamentary visions of who would be attracted to this new opportunity were very limited. The word ‘yeoman’, often used by those arguing for closer settlement by appealing to an English model of cultivated agriculture, was not invoked. It was a brief and pedestrian discussion, hardly consonant with the groundswell vote creating Stuart’s ‘land reform’ government or the class battle/morality play invoked by Griffiths.

Farnell supplemented his vision of people from the mother country with a few thousand pounds, with that of NSW parents with some money willing to finance sons into this ‘important’ work. He and barrister Thomas O’Mara (The Tumut), invoked the ideal of the healthy upright countryman, and purported to fear the debilitating effects of industrialization and ‘civilization’ on men’s health and manliness.  

\[1\] Farnell even invited members of parliament to do the right thing, and finance their sons into settlement in the west rather than letting them hang around the city looking for work in the civil service or banks. O’Mara urged that going west and working in the open would ‘make men of our youths’.\[2\] Lack of experience need not matter, he thought, as they would learn, possibly by grouping together to employ a manager. He was attracted to the idea of creating a ‘middle class’ between large lessees and small selectors, a class land legislation had so far ignored, he thought.\[3\] Two other members based their vision on local knowledge. Wealthy property owner and businessman, Sydney Burdekin (East Sydney, formerly Tamworth), thought men who ‘knew the country’, station employees, would take up homestead leases. Given the difficulties and expense of western conditions—transport costs and distant markets—he wanted the area increased to at least 16,000 acres, but his amendment was lost by thirty six votes to six. Farnell thought anything greater than 10,240 acres would not suit men of small means, and

\[1\] Karen Downing’s PhD work in progress presentation, 10 September 2009, Research School of Social Sciences, ANU, stated that for the period 1788 to1850 ‘British men were acutely aware of their health...in striking contrast to the claims of good health in letters and journals of British men traveling or residing in the Australian colonies.’ See also Graeme Davison’s review of the country life ideal of the early twentieth century, ‘Country Life’, in Graeme Davison and Marc Brodie, eds., Struggle Country: The Rural Ideal in Twentieth Century Australia, Monash University ePress, 2005. 01.1-01-3.

\[2\] NSWPD, 8 July 1884, 4223

\[3\] ibid.

59
O'Mara didn’t want to 16,000 acres as it would reduce the number of potential lessees from 3,900 to 2,500, a mathematical vision. Produce merchant James Young (The Hasings and Manning), thought homestead leases would be taken up by graziers further east, who would sell up and move west, attracted by the larger area available, even at 10,240 acres.

This chapter looks at the legislative provisions surrounding homestead leases and at the degree the hopes for these were fulfilled. Did it attract men with capital from the mother country? No, at least not directly. Did it create a new middle class? No, but it did make a start for some new men. Did it fill up the resumed areas with 3,900 homestead lessees as Young had hoped when he opposed an increase in the maximum area of the homestead leases? No. Did it provide more revenue? If at all, only for a while. Did it do what I have argued was more privately hoped for, turn more of the wool trade to Sydney? Probably, and in at least one case of determined Sydney action involving homestead leases, outlined in this chapter, certainly. Did it stop, as Stuart had promised, the war between existing and new landholders. No, but the war waged by pastoral lessees looked quite respectable and legal, while the war waged by homestead lessees, some NSW Land Agents, and some NSW financiers, looked less so.

Pastoral lessees and their financiers mobilized against the Act rather than against homestead lessees. In 1886 they formed of the Commercial, Pastoral and Agricultural Association of New South Wales (Association). Its 309 members included landholders in the Central and Western Divisions, pastoral financiers, and interested others whose subscriptions supported an office in Hunter Street near parliament. The tardiness of petitions and argument during 1884 would not be repeated. An associate of Langloh Parker’s, Cuthbert Feathersonaugh, became its chairperson. ‘Union is strength’, its prospectus advertising its aims declared. The ‘union’ in mind, was one of all classes of landholders against the deficiencies of the 1884 Act and its ‘continuing’ aim of creating class hostility and mutual destruction. The Association knew that homestead lessees and selectors could pull the heartstrings of government more than the likes of their members.

After the Act commenced, the booklet said, Sydney merchants noticed a contraction in the trade of the western districts because banks and monetary institutions refused to make

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4 NSWPD, 8 July 1884, 4222-23, 4226-27.
further advances for construction works which they expected to lose on the expiry of the leases. Much needed tanks and fences could not be commenced, contractors and workmen were idle, and roads, ‘once busy’, were ‘becoming grass-grown’. In addition, no advances were made for the ‘Homesteads’. ‘Darling squatters’ came to Sydney, complaining that they had been made to cease all improvement works, and concerned Sydney merchants had called a meeting at the Exchange. The legislators’ mistakes, the booklet thought, arose from their lack of knowledge of the west, much better known in Melbourne and Adelaide. It outlined how a deal between pastoral lessees and aspiring homestead lessees had been struck.

The prospectus prompted two representatives of homestead lessees to come to Sydney to ask the Association to help them stop squatters putting sheep on their homestead lease areas and eating them down before their sheep got there. This was another kind of battle, on the ground, over pasture. The Association empathised with their concerns, even formulating a ‘treaty’ incorporating this and other aims of the homestead lessees. It supported their request that applicants should have the right to occupy the block with stock at the time of application, rather than waiting until after a Land Board hearing, survey, payment for improvements and so on, which sometimes took many months. It also agreed to support the request that the Land Boards should have ‘executive’ power to order destocking by pastoral lessees. In return for this, the small men agreed to help the squatter get as good a lease as possible, so long, the small men added, as it was accepted that the resumed areas were theirs, just as much as the squatters’ leases were theirs. Time would show this to be quite a pro-squatter view.

The Association also fought in the courts, supporting William Alison and Sons, holders of Meryula and Canonbar in the Western and Central Divisions respectively, who appealed in a common law action against the Minister’s setting a rent higher than that set by the Land Board. This would affect homestead lease rentals also. The Board had set the rent for the Alison’s leases at the minimum rent of one and a half pence per acre, £1,928 annually. The Board’s chair (usually a retired Lands Department official), dissented from the other two members’ appraisement, and the Minister subsequently determined a higher rent,

6 ibid., 8-10.
7 ibid., 11.
8 ibid., 23-24.
9 ibid.
twopence per acre, £2,571 annually. The Supreme Court of NSW held that his decision was proper and that as ‘State Landlord’, he had discretion. On appeal to the Privy Council in England, this was overturned, their Lordships ruling that the Board and the Minister should concur, that the Minister had no power to act as he did, and that the matter should have been returned to the Board for revision.

This ruling fed into the 1889 amending Act which abolished the minimum rent and the legislated increases. Hereafter, rent would be ‘appraised’ by the Land Boards and could be appealed against in an independent Land Court, not the Minister ‘in open court’. After further legislative change in 1895, though the rents for a small number of Pastoral Holdings per acre remained the same or were increased slightly, the vast majority of rents were lower than they had been under the 1884 Act. The vision of the Division as a future revenue provider had indeed dimmed. Giving reasons for the rent changes in 1889, James Brunker, Minister for Lands in George Reid’s government which was conditionally supported by Labour, merely referred to distress in the pastoral industry ‘caused by paying high prices for property, adverse seasons, and the increases in rents. This recognition of distress by this Maitland stock and station agent and recent founder of the farmers association there, occurred long before the big drought that started after 1895 and later came to be seen as a major cause of the Division’s economic problems. Brunker also introduced longer leases for both pastoral and homestead leases in the Division, for twenty one years with an expiry date of 1910. This was, he thought, a ‘liberal’ concession to pastoral lessees, and homestead lessees were granted their fervent wish for the right to occupy their claimed lease with stock at the time of application, which in effect meant in reality at a moment’s notice the right they had asked the Association to pursue.

The argument for this right to occupy immediately usually cited allegations that pastoral lessees ate out the claimed country (‘flogging’ it), so that there was no grass for the incoming tenant’s sheep, though details of the offenders were not given. The change meant that the pastoral lessee’s sheep and the homestead lessee’s sheep could find

11 Alison and Other Plaintiffs; and Burns Defendant, On Appeal from the Supreme Court of New South Wales, Privy Council, 15 App Cas 44, November-December 1889, printed from Lexis Nexis; New South Wales. Burns was the Treasurer.
12 Return 2 in ‘Western Division of New South Wales—Report and Summary of Evidence of the Royal Commission to inquire into the condition of the Crown Tenants’, Part I’, (hereafter RSRCWD I), 149-60, in NSWLAVP, Vol. 4, 1901. 131-322. The rentals are compared in columns three and seven.
13 NSWPD, 15 May 1889, 1266.
themselves competing for feed and water designed only for the pastoral lessees’ sheep, that
is, until the latter were found some new watering point, something not easy to do quickly if
new ground tanks or bores were the only option. This war on the ground between sheep
owners could go on for three months after the homestead lessee’s application, after which
time the homestead lessee could, the Act said, impound the pastoral lessees’ sheep (shut
them up in an enclosure). Homestead lessees could not take an action for trespass until
they had fenced their lease, which often took years. The legislation did not stop this kind
of war on the ground, despite Stuart’s desire to separate the parties, and in giving
homestead lessees the right to occupy suddenly, and force the pastoralists’ sheep off after
three months, pressure must, at times, been placed on watering points causing overstocking
and degradation around them as stock need to remain within walking distance of such
points. The request of the homestead lessee representatives that the Land Boards have
power to order destocking, did not, however pass into law and laissez faire elements
remained.

The resumed areas with land not taken up by homestead lessees, was also an issue pressed
by pastoral lessees. In 1886, the Association had opposed a Bill seeking to return the
remaining resumed areas west of the Darling to the pastoral lessee, which stimulated some
complaint from pastoral lessees.\(^{15}\) In 1889, some four million acres were held under 426
homestead leases, which left some 32 million acres of unclaimed resumed area. Very
carefully, Minister Brunker told the Assembly why he could not accede to the pressure to
return the unclaimed resumed areas to the pastoral lease. He had just returned from
viewing his friend W.W. Davis’s boring operations on Keribree north west of Bourke. In
1886 Davis and his partners (and financiers) had struck water at depths of over 1,000 feet,
water which gushed into the air, lifted by hydraulic pressure created by large basins of
deep, trapped, underground water, the real artesian basins.\(^{16}\) This new water source was
relatively cost free once found, and while the basin remained full enough to produce free
hydraulic pressure it could be distributed under this pressure throughout downsloping
country in trenches cut in soil. Brunker had read about artesian water in France, America
and Germany. This, plus the sight of the Keribree water made him unwilling to accede to
the pressure to return the resumed areas to the pastoral lessees. There was no reason, he

\(^{15}\) Western Herald, 20 October 1888, letter from ‘Old Pioneer’.
\(^{16}\) The term ‘sub-artesian’ referred to shallow underground water often needing to be pumped. ‘Artesian’
refers to the deep water in the underlying basins which can rise to the surface under natural hydraulic
pressure while there is enough water contained in the basin to produce the pressure.
said, that the resumed areas could not be made highly productive.\textsuperscript{17} Information provided by the Department had bolstered his decision. He read out two letters from homestead lessees outlining their effort and expenditure on fencing and the destruction of rabbits, and he claimed that there were 409 ‘homestead lessees’ already settled in the west, ‘103 more families’ than was the case under the ‘pastoral lease system’ with its 306 holdings.\textsuperscript{18} Influenced by such information, and dubious statistics, he said that ‘when these [pastoral] leases expire’, there will be forty million acres ‘studded with an industrious yeomanry’ instead of a barren waste.\textsuperscript{19} The English rural ideal had risen up along with the artesian water.

Brunker’s set views ensured that the passionate appeal of the newly elected member for Bourke, W.W. Davis, and the arguments of E.B.L. Dickens, son of the novelist and a former pastoral lessee newly elected for Wilcannia, fell on deaf ears.\textsuperscript{20} Davis threw himself on the mercy of the House: ‘I stand, under the present law’ his maiden speech began, ‘upon the brink of the precipice of ruin’.\textsuperscript{21} How, he asked, as Robertson had, could the pastoral lessee be expected to surrender half his holding on which there were improvements and a mortgage over the whole?\textsuperscript{22} Brunker sought to increase the area of a homestead lease to 20,480 acres, purportedly to attract new and somewhat wealthier homestead lessees. After lengthy debate, this failed to pass and instead, the minimum area of a homestead lease was reduced from 5,670 acres to 2,560 acres. This was presumably to cater for people that Thomas Waddell, also representing Bourke, said had told him they could only afford to develop 2,000 to 3,000 acres, obviously people not planning to rely on grazing alone for a living.\textsuperscript{23}

To encourage artesian boring, the 1889 Act allowed pastoral lessees to take up artesian well leases on their resumed areas with the same terms as the pastoral leases. It also permitted them to take up ‘improvement leases’ for the purpose of activities such as scrub clearing, ringbarking, and tank sinking. Samuel McCaughey used these provisions to the full, as can be seen at Figure 9, and the Patterson brothers, amongst others, also availed themselves of such opportunities, and finally, another concession was made to pastoral

\begin{footnotes}
\item \textsuperscript{17} \textit{NSWPD}, 15 May 1889, 1269-70.
\item \textsuperscript{18} ibid., 15 May 1889, 1270, 1272-73.
\item \textsuperscript{19} ibid., 3 July 1889, 1748.
\item \textsuperscript{20} Dickens had been active in the Pastoral Protection Association formed in the Wilcannia District in June 1886 to fight against the Act.
\item \textsuperscript{21} \textit{NSWPD}, 17 July 1889, 3178.
\item \textsuperscript{22} ibid., 30 May 1889, 1772.(check)
\item \textsuperscript{23} ibid., 2 July, 1889, 2694-96. Act 53 Victoria, No 21, Crown Lands Act of 1889, Section 34.
\end{footnotes}
The shaded area shows leases successfully applied for on the resumed area of McCaughey’s Dunlop. His Toorale borders Dunlop on the north east. He obtained such leases there as well. The Rosedale homestead leases addressed later in this chapter can be seen to the south west on Marra’s resumed area. The attraction of homestead lessees to river frontage blocks can be readily seen. The Paroo river can be seen west of Dunlop. The large print names as in ‘Killara’ and ‘Landsborough’ are county names.
lessees, expressly permitting them to remove ‘moveable improvements’ on land claimed by homestead lessees. The Association’s membership contributions had dwindled by 1890 and it decided to wind itself up. Chairman Featherstonhaugh, smoothed reservations about this by saying that many of the Association’s aims had been achieved, and that the financial institutions considered its work done. Also, a body of pastoralists was being formed which, he was confident, would provide a means of keeping pressure applied in the future.\textsuperscript{24} This was the Pastoralists’ Union of New South Wales, formed that month in response to the mobilization of shearsers by the Amalgamated Shearers Union (ASU), the later Australian Workers Union (AWU). Its energies would focus heavily on fighting the ASU over ‘freedom of contract’ in the employment of shearsers. As F.S. Piggin has shown, by 1890 some of the foundation members of the Pastoralists’ Union in the Western and Central Divisions were heavily mortgaged and under threat from mortgagees. William Alison, who had fought the rental case, was one, leading Piggin to suggest that the 1884 Act contributed to the industrial confrontations of the early 1890s.\textsuperscript{25} Alison also supported the creation of the \textit{Australasian Pastoralists’ Review (Review)}, a monthly journal established to create a ‘bond of union amongst all Australian pastoralists’ and fight injustices to producers.\textsuperscript{26} The \textit{Review} urged the same approach to homestead lessees as had the Association. It was not too early, it wrote, to muster a powerful ‘country party’, with the object of stimulating pastoralists to ‘organize the small settlers into powerful electoral bodies for the conservation of their common interests’ To the satisfaction of the \textit{Review}, ‘Crown tenants unions’ were being formed in 1892 which included both pastoral and homestead lessees.\textsuperscript{27}

Further backtracking from the avidity of the 1884 legislation became evident in amending legislation in 1895 under George Reid’s freetrade ministry, with J.H.M. Carruthers as Minister for Lands. Both pastoral and homestead lessees could apply for a reduction of rent on the grounds of devastation by rabbits, depreciation of values, deterioration of grazing capacity or similar causes, and both were given a further extension of term, to

\textsuperscript{24} \textit{SMH}, 8 July 1890, 5.
\textsuperscript{26} \textit{Pastoral Review (Review)}, 16 October 1931, 980. The \textit{Australasian Pastoralists’ Review} was renamed the \textit{Pastoralists’ Review} in 1901 and the \textit{Pastoral Review} in 1913. A company was formed to own the journal. Captain A.W. Pearse and R.E.N. Twoopeny were its first editors, Pearse also being its long term manager and managing director. See G. P. Walsh, ‘Pearse, Albert William (1857-1951)’, \textit{Australian Dictionary of Biography, (ADB)}, Volume 11, Melbourne University Press, 1988, 185.
\textsuperscript{27} \textit{Review}, 15 August 1892, 791; 15 September 1892, 840.
1918. The homestead lessees’ position was strengthened by the requirement that the outgoing lessee need now only be paid the value of the improvement to the incoming tenant. This meant that if, for instance, a large tank designed to water 5,000 sheep, existed on a homestead lease that could carry only 2,000 sheep, only a like proportion of the value need be paid. If agreement could not be reached, the value would be set by the Land Board, though it had no power to enforce the payment. It was not surprising that many pastoral lessees complained that they were not paid, or were underpaid, for improvements.28

Finally, 1895 amendments conceded to the pastoral lessees what Brunker would not concede in 1889, the return of the unclaimed resumed areas to the pastoral lease, though hedged with some conditions, and not automatic. This backtracking was no doubt a response to the near cessation of homestead lease take up, the spread and intensity of the rabbit plague, or to the knowledge that eight pastoral lease properties had been forfeited for non-payment of rent as well as many resumed areas.29 Henceforth, if the Land Board and the Minister were satisfied that land remaining unleased in a resumed area was not likely to be required for settlement before the pastoral lease expired (now in 1918, so a very arbitrary assessment obviously), the Minister could ‘add’ it to the pastoral lease (or as the maps showed, ‘attach’ it). The land would then no longer be available for homestead leases.30 The clause was wiped out in the Assembly, reinstated in the Council, and the deadlock finally broken by Minister Carruthers, who exempted the Land Districts of Brewarrina, Walgett North, and Hay North from the provision. Land there had shown the greatest take up of land by homestead lessees, he explained.31 From the perspective of the Division as a whole, however, this area definitely left open for prospective homestead lessees was small. Carruthers thought that the improved tenure of leasehold (rather than occupation licence or none) would result in rents being paid. Later evidence showed that

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28 The solicitor for the Hughes Brothers of Kinchega wrote to the Western Lands Commission in 1903 saying that they had spent £75,000 on improvements but a great deal of it was lost to them as the resumed area was wholly taken up, and in many cases no payment or inadequate payment was made. Their area was now insufficient to return a fair interest on capital expended. See letter of 26 June 1903, Back File WLL 575. ‘Back File’ refers to files not yet archived held in the NSW Government Repository. Access requires Department of Lands approval and payment of a fee for each box retrieved. Throughout this thesis these will be referred to as Back Files, with the relevant WLL number.

29 Return Z, RSRCWD I, 149-60, in NSWLAVP, Vol. 4 1901. 131-322. Columns seven and eight of Return Z provide the information.

30 Section 8, An Act to further regulate the sale, letting, disposal, occupation and management of Crown Lands…’, Crown Lands Act of 1895, 58 Vic 18, 1895.

31 NSWPD, 9 April 1895, 5199.
by 1901, only thirty nine resumed areas had been reattached, which suggested lessee apathy.\textsuperscript{32}

The issue, however, stimulated ideological argument, and Brunker’s 1889 dreams were elaborated on. In 1984, J.M. Chanter (Deniliquin), soon to become a Labour Party member, expressed the view that Party members would espouse in the future with some modifications. Seeing the adding of the resumed areas to pastoral leases as a bar to future settlement, he asked, ‘Is it not a fact that the more people you put on the land the more you increase production?’\textsuperscript{33} This anthropogenic view obviously had limits. E.W. O’Sullivan (Queanbeyan), also soon to join the Party, expressed a view which would long be held by his Party colleagues. Claiming, on the basis of the faulty information from Hanson’s recently published book, that all twenty one pastoral holdings in the few pages of the book he referred to, showed company ownership, he therefore opposed any help or concession to them. The fact that the landholders were mortgaged to banks, finance companies and ‘the likes of James Tyson’, meant, he said, that they were controlled by them, so aid to mortgagees was aid to the companies, not to the ‘pioneer pastoralist’.\textsuperscript{34} In fact, O’Sullivan’s list of twenty one holders showed eleven apparently unmortgaged individuals or partnerships.

Apart from the lobbying of the Association, pastoral lessees and their financiers resorted to other ‘legal’ methods on the ground, directed at pre-empting prospective homestead lessees. The 1884 Act banned pastoral lessees from themselves taking up homestead leases, and after 1895, ‘bona fide’ was demanded of homestead lease applicants, which meant that they were only intending to take up the land for themselves, and were not in league with others to pass on the land to them. The application form made this clear, indeed it showed little interest in anything else. There were suspected shadowy figures in the background threatening ‘bona fide’. After asking for name, age, marital status, address and employer during the last two years, it asked:

Do you intend using the land...solely for your own use and benefit?

Have you entered into any agreement...by which any person other than yourself, can acquire any interest in the land...?

\textsuperscript{32} Return X, RSRCWD 1, 144-47, in \textit{NSWLaPP}, Vol. 4. 1901, 131-322.
\textsuperscript{33} \textit{NSWPD}, 26 September 1894, 761.
\textsuperscript{34} ibid., 780. Though James Tyson was a large landholder in more than one state, and had similar aspirations to those of the later Sidney Kidman (see Chapter Five), his holdings in NSW were relatively minor, being, by 1884, Tupra (incorporating Juanbung) in the south, Maranoa in the north (worked with Tinnenburra in Queensland). He was also mortgagee at Bangate, and possibly Goondrubluie.
Is there any understanding … that will tend to defeat or evade the provisions of the Crown Lands Act of 1884?

Do you hold any land from the Crown requiring residence at the present time?\textsuperscript{35}

It is not hard to guess what the answers were. A statutory declaration avowed that the truth had been told, and that the applicant did not already hold, wholly or in part, any other homestead or a pastoral lease. No interest was shown in the applicant’s experience and skills in grazing: managing a homestead lease was something anyone could do.

Homestead lease applicants sometimes cooperated with pastoral lessees to find ways around the legislative provisions designed to prevent the pastoral lessee using ‘dummies’. Dummies were people who took up a lease with the intention of allowing the pastoral lessee or others to either acquire it or use it. Section 84 of the 1884 Act said that homestead lessee could ‘hold’ only one homestead lease (after 1889, more than one so long as the maximum area was not exceeded), and it forbade pastoral lessees from also holding homestead leases, and vice versa, thus keeping ‘the classes’ apart. Past history led some parliamentarians to suspect pastoral lessees of using dummies who had promised to give or sell land back to them, but this was often associated with land that once freeholded could be sold or dealt with free of bureaucratic or ministerial intervention. In the case of leasehold land, ‘dealings’ (transfers) continued to pass through the Department, where legal title was recorded, so anonymous operation and escape to the freehold private sector was not possible. Pastoral lessees, however, soon found a simple method of using the land without any need to have it transferred to them. They simply obtained a ‘sub-lease’ from the homestead lessee.

Officials imbued with the bona fide concept viewed this sub-leasing as a frustrating weapon in a war against the Act. In 1891, the Brewarrina Land Board decided that William Shearer’s sub-letting of his homestead lease to the pastoral lessee was not a bona fide use of his lease. The Minister appealed to the Land Court, which by this time was not the Minister, and it held that sub-leasing, provided it was ‘honest’ and ‘bona fide’ (presumably meaning that the pastoral lessee was doing no more than grazing his sheep in the terms of the sub-lease), was not in contravention of the law. On appeal to the Supreme Court, the three judges agreed that sub-letting to the pastoral lessee did not constitute a contravention of Section 84 of the 1884 Act. They held that ‘common law’ rights applied, as to all property, and that sub-leasing was a valid use until such time as

\textsuperscript{35} Form 49, \textit{New South Wales Government Gazette}, (Gazette), No.3, 2 January 1885, 137.
the legislature made it quite clear ‘in language clear and unmistakable, to the contrary’. The Department of Lands’ Under-Secretary publicly expressed regret, in language which land bureaucrats had developed into a fine art of bureaucratese. He wrote:

It was hoped that the law would have found otherwise, merely because in transactions of this nature a certain amount of facility is offered for the defeat of the intentions of the law on account of the difficulty in discriminating between cases in which the privileges of the Act are taken advantage of bona fide and those in which they are not.

Hapless officials required to continue inspecting instances of ‘sub-leasing’ and to fill out forms which asked ‘Is the land being used ‘bona fide?’ gave conflicting reports over time. Some just said ‘don’t know’, some reported it was ‘doubtful’ because the land was rented to the pastoral lessee, or because the fencing was peculiar, or because the homestead lessee was previously employed by the pastoral lessee and had no sheep of his own. The officials wanted the matter to be settled.

In 1897, District Surveyor C.J. McMaster listed the case of Herbert Waterson, formerly bookkeeper for Angledool station and a homestead lessee on its resumed area, for a Land Board inquiry. The Crown Solicitor advised against the action unless further evidence of the relationship between Waterson and the pastoral lessees was obtained. A disgusted Surveyor O’Malley Wood told his superior, McMaster, that his only reason for bringing the case under notice ‘was to show how the law is defeated…and the utter impossibility of securing bona fide settlement in the present state of the law.’ The Act had, obviously, not been amended ‘in language clear and unmistakable’.

Co-operative employees of pastoral lessees were not the only homestead lessee applicants participating in the war. There was nothing to stop sons of pastoral lessees taking up homestead leases, definitely not a new class of lessee of the kind envisaged by parliamentarians. Some sons took up homestead leases on the resumed areas of their father’s holding. Six sons of W.W. Davis, for instance, took up homestead leases on the resumed area of Kerribree, most of them using water from an artesian bore, perhaps the

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38 State Records of New South Wales (SRNSW), Homestead Lease file (henceforth HL file) 1362, NRS 14569, [10/43836]. The file number is the lease number. The evidence of Inspector Tietkens in April 1897 was that Waterson was present, (previous reports suggests the dwelling was on a piece of freehold land), that the lease was sub-leased to Angledool station (a legal document to this effect was obtained) and that the lease’s boundary conveniently had panel gates to the north and the south to allow the station’s sheep in and out.
one their father had famously provided. Ernest deGraves Davis (not related to the Keribree Davises) took up one on his father’s Kenilworth near Byrock, totally, he told the Land Board, in his own interest and out of money in his own bank account. George Miller’s son took up a lease on the resumed area of his father’s Redan, (George had protested that his holding was too small to be divided) the only one, as it turned out, to be taken up before the resumed area was reattached to the pastoral lease. Other sons of pastoral lessees applied successfully for homestead leases in an apparent attempt to establish some financial independence, being in parlous financial circumstances themselves. This appeared to be so with Michael and William Darchy who took up homestead leases in a seemingly desperate bid to establish some independence from the financial hold that mortgagees, the AML&F, had over their father Thomas’s estate, including Tarcoola and other stations. From an official perspective, such successful applications, though ideologically dubious, at least had one comforting result: as the rent for a homestead lease was higher than the rent for an occupation licence, at least one of the aims of the legislation was being achieved.

On the ground, the war was prosecuted against pastoral lessees by some successful homestead lessee applicants. The government desire for stable residents, dotting the landscape and making a living from the land, was made clear in the 1884 Act through conditions of fencing and residence for five years. Breaches of the conditions could attract forfeiture of the lease, but the fact that homestead lessees were required to reside for only six months of each year perhaps showing some concessions to the hardships of the west’s harsh summers. Some successful applicants used the legislation aggressively and deliberately, taking up leases with watering points on them merely to exploit the water and the land law for short term gain. Such was the case with the group of bullockies on Quin’s Tarella, who pooled their money to take up leases around one of his ground tanks, used up the water and grass, and left. What would they care if the leases were forfeited?

Like parliamentarians, historians have tended to see pastoral lessees as the great dummies, though they have recognized that speculators or ‘land sharks’ also indulged

39 See files for homestead leases (HLSs)724, 721, 723, [10/43787]; HL 855, [10/43798]; HL 1088, [10/43817]; HL 603, [10/43780], NRS 14569, SRNSW.
40 File HL 603, [10/43780], NRS 14569, SRNSW.
in it. Western Division cases, however, showed that dummying was carried out by an array of non-genuine homestead lessee applicants, Crown Land Agents, stock agents, their bank financiers, and some members of the legal profession. This was no simple matter of a relationship between pastoral lessees and homestead lessees. An important tools of control in these cases, were mortgage documents. The cases of Goolring and Rosedale outlined below show how this worked in practice. They illustrate how difficult it could be to decide who was doing the dummying because a process was at work, something that would today attract the term 'systemic', as it attracted at the time. It involving shared understandings but with great opportunity for misunderstanding. It is necessary to outline the legislative measures that targeted the practice and which Stuart claimed would control it.

The limitation of a homestead lessee to 'holding' only 10,240 acres meant also they could not purchase another lease. The 1884 Act said that a homestead lessee could not sell (transfer by sale) the lease until conditions of residence were completed (and they would have to find a buyer who did not already have a homestead lease). He was also required to fence the lease within five years (two years originally), and as mentioned before, reside, or the lease would be forfeited. The Act also banned transfer by way of mortgaging until these conditions were fulfilled. Some parliamentarians regarded this as quixotic given the initial costs of setting up a homestead lease. Others regarded mortgages as a cover for pastoral lessees trying to get the land back and argued there should be no ability ever to mortgage a Crown lease. Some were aware that mortgages had been used in ways that resulted in land being acquired by mortgagees, and Farnell described how people made out wills or gave mortgages to those employing them to take up land and make improvements. Stuart admitted to difficulty with the matter of transfer and mortgages and there was confusion, no doubt compounded by the common law dictum that the giving of a mortgage actually transferred legal title to the mortgagee. The 1889 amendments, however, permitted the homestead lessee to

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43 Section 118 said 'the holder of a homestead lease shall have no power to transfer (his right of lease) until he shall have fulfilled the condition of residence...'
44 For Farnell, see *NSWPD*, 7 November 1883, 336; For evidence of general knowledge amongst officials in Victoria, see Margaret Kiddle, *Men Of Yesterday: A Social History of the Western District of Victoria 1834-1890*, Melbourne University Press, 242-43.
45 See *NSWPD*, 8 July 1884, 4234, for the confusion. See also Peter Butt, BA, *Land Law*, Third Edition, LBC Information Services, 1996, for the common law dictum which saw a mortgage as a legal conveyance of the land, a matter of form, whereas equity law, as it developed, saw the mortgagor always retaining the 'equity of redemption', 526-28.
borrow *before* the five years residence was completed and approved, and to mortgage the land, with the approval of the Minister. They also permitted mortgagees to hold, as ‘bona fide mortgagees for value’, more than one homestead lease. A marked increase in the take up of homestead leases after this legislation occurred.

Stuart assured parliament that he had tied up the Act so hard and fast that dummying would not occur. He pointed to the ‘legal’ provisions Section 121 and 122. Section 121 said that:

> Every...contract...agreement or security made entered into or given before at or after the date of any application to make a...homestead lease with the intent ...of enabling any person other than the applicant to acquire by purchase or otherwise the land applied for shall be illegal and absolutely void both at law and in equity.

Section 122 said that:

> If any person knowingly...shall induce any other person to make ...any contract...or agreement declared by this Act to be illegal...shall be guilty of a misdemeanour and shall be liable to be imprisoned and kept to hard labour...

Section 122 removed a technical legal problem in previous legislation by making the *dummier* rather than the *dummy* liable, rather than both, as previously. Stuart also saw his creation of Local Land Boards as preventing dummying: their ‘local knowledge’ and operation in ‘open court’ in the light of day, would discourage the practice. However, Crown Land Agents created by the 1884 Act, appointed by the Minister, were given the task of receiving applications on the advertised ‘land board day’ and of passing on a recommendation to the Land Board. If there were multiple applicants for the same land, the Agent was required to make a selection with applicants present, by writing names on a ticket, numbering them consecutively, placing the tickets in the box provided, and drawing them out ‘without looking’, thus establishing a priority order to be forwarded to the Board. The initiative given the Agent, and the opportunity for manipulating the initial application phase, by for instance, initiating and selecting applicants, was substantial. New regulations in 1889 elaborated on the process, permitting the applicants to place their tickets in the box *themselves*, which suggested suspicion. The local light of day thought to be offered by the local Boards was not evident in this initial phase.

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46 *NSWPD*, 8 July 1884, 4239. J.P. Abbott explained that the evidence of both parties to a crime against each other was not admissible.

47 *Gazette*, No. 3, 2 December 1885, 57; No. 631, 2 December 1889, 8552.
Some people had no fear of these legislative strictures. One was W.N. Willis, MLA and Crown Land Agent in the Bourke area with an office also in Bligh St, Sydney, near parliament and the Department of Lands. As a young man, Willis had embarked on occupations very different from that of Irish born blacksmith father, and after menial work in the theatre in Sydney, went west to Dubbo in the late 1879 to work for a well established general store. The west stimulated his ambition:

\[\text{to gaze at the glorious splendour of the setting of the western sun, and dream of millions and millions of acres of land far away in the interior...and hear the stories...of gold, silver and copper and other minerals...ripened the youthful ambition and helped the insatiable desire of youthful adventure to answer the voice of the wilderness and penetrate its bosom.}\]

At Dubbo he became friendly with fellow Catholic W.P. Crick, fresh from Bathurst’s St Stanislaus College. Crick went to Sydney to develop his legal talents in law firms while Willis went further west, following the railway, as a hawker, storekeeper and liquor seller, either in his own right or with a partner, Tottenham Lee Richardson. Richardson and his brother held the admired Murrawombie just inside the Division’s eastern boundary, and were involved in a copper mine, probably the Girilambone mine. In 1889, the year payment for members was introduced, Willis entered parliament for Bourke and Crick entered for West Macquarie. Willis soon set up as a Crown Land Agent, and took up a homestead lease himself near Brewarrina and his brothers and father purportedly did so also (their names being on maps). Several names have been used for Willis’s lease(s), Tarrion, Denman, and Yarmouth being three. He later described his activities as ‘trying in my own way to hook a financial towline onto this mulga station wishing to drag it to the rest and security inside the harbour of a joint stock company’.

With the assistance of others, including Crick, he would soon do this on a broad scale.

Some homestead lessees near Bourke found Willis’s services useful in allowing them to circumvent the constraint of being able to hold only one homestead lease. In 1889, Henry Lack and three of his brothers were allotted four leases north of Enngonia, off Belalie’s resumed area. They were teamsters, tanksinkers and publicans, the hotel being at Barringun on the Queensland border. Three of the leases adjoined, but the fourth was separated from the others by a lease allotted to James Caldwell, a clerk in the Telegraph

\[48\text{ W.N. Willis, } The Life of W.P. Crick, Author, Randwick, Sydney, 1909?, 4.}\n\[49\text{ ibid., 122.}\]
Department. Inspecting the leases, Inspector Edmund Barton (younger brother of Russell) was happy enough with two roomed or four roomed dwellings made of sawn timber, but William Lack’s residence in a tent, and his absence away ‘with his team’, prompted a Board inquiry. Forfeiture was threatened for incomplete fencing, but, as frequently happened, promises were made, forfeiture was waived and extensions of time given to complete.  

The inconvenient intervening lease became available for application in late 1889 after Caldwell decided not to accept it. One applicant, Edward Chambers, told the Bourke Board that he was a former Cobar miner, a widower and sixty years old. No, he had not seen the lease, but he was willing to pay the same amount for improvements as Caldwell had agreed to. Yes, he knew Mr Willis, but Mr Willis had no interest in his application which was solely for his own use and benefit. John Lack had told him to apply, but the Lacks had nothing to do with his application. His application was approved. On 21 October 1891, Chambers gave a mortgage to Robert, William, Henry and John Lack, who assigned it on the same day to their mortgagees, Goldsbrough Mort, presumably as additional security for their borrowings. Eight months later, on 17 June 1892, the District Court pronounced a Judgment Debt against Chambers, and the Sheriff sold the lease to young James Lack, who had to complete the residence conditions. Chambers died at a Bourke hotel soon afterwards.

Widow Ann Magee also obliged the Lacks in 1890 by applying successfully for a lease next to Chambers’, and she gave a mortgage to Willis which was assigned to Goldsbrough Mort on the same day. Her lease was also soon sold by the Sheriff to Edward Genner, who immediately gave grazing rights to the Lacks. Willis’s mortgage document was prepared by Crick’s legal business. I have attempted a plain language account of this mortgage which, I suggest, was an example of an ‘illegal agreement’ in terms of the 1884 Act’s Sections 121 and 122, being built entirely around the expectation that on completion of fencing and residence conditions the mortgagee would transfer the lease to the mortgagee (Appendix 1). Magee purportedly gave an undertaking in the mortgage document to do so when required by the mortgagee, if action to recover debt had not already been taken through a Sheriff’s sale. In the

50 SRNSW: Department of Lands, NRS 14569, HL file 514, [10/43772]; HL file 527, [10/43773]; HL file 528, [10/43773]; HL file 581, [10/43778].
51 SRNSW: Department of Lands, NRS 14569, HL file 626, [10/4378].
52 The lease was renumbered HL 626.
mortgage document she agreed that Willis could sign and enter a Judgment Debt against her in the Supreme Court for the sum of £846, though this would be put into effect only on default. The document was signed by Willis on her behalf, and contained her agreement that Willis had her power of attorney. The mortgage document in itself was no proof that Magee had received £846.\footnote{See Appendix 1 for a plain English account of the mortgage and for source details.}

By 1900 six leases totalling 69,000 acres made up ‘Goolring’, and Goldsbrough Mort’s Inspector Hogarth had started visiting and urging economy on ‘Lack’ (Robert Jnr) who had ‘bought’ his brothers out by accepting the debt to Goldsbrough Mort.\footnote{Inspector Hogarth’s Reports for July 1900 and 6-7 April 1901, Reports on station properties, Goldsbrough Mort, Noel Butlin Archives Centre (NBAC), 2/309/104.} In 1902, after new legislation created a new administration, Goldsbrough Mort asked their solicitors about the mortgage documents relating to Goolring, in particular whether the new administrators would be likely to make an issue of ‘bona fide’ of the Lacks. Minter Simpson told them not to be concerned, that the new administrators would ‘steer clear of any such enquiry’, partly because the new legislation did not contain the ‘bona fide’ concept in it, and because the mortgages had been drawn up under ‘very carefully considered instructions’ with nothing, on the face of them, to justify an enquiry into bona fide.\footnote{Letter, Minter Simpson & Co. to the General Manager, Melbourne, 3 March 1902, Client documents relating to Goolring Station (Lack Bros.), Goldsbrough Mort, NBAC, 2/507/1.} In 1905, Surveyor Mullen reported that the leases originally held by the Lacks were now being worked by Goldsbrough Mort. By 1913, large landholder A.T. Creswick held Goolring along with his other Western Division and Riverina properties.

Obviously, no new class was created in this instance, and the Lacks undoubtedly returned to, or continued in, their previous occupations and businesses. The evidence does not show that the Lacks were dummies—they may have been hopeful but hopelessly indebted homestead lessees— but it does show that Willis organized dummies for them, using Crick’s mortgage document, and that he ensured that Goldsbrough Mort became the mortgagee of the dummied land.

A more spectacular display of dummying became public knowledge in the Rosedale case, where a property was created from thirteen homestead leases taken from Marra pastoral holding. As with Goolring, pastoral lessees were not involved. The point of following this complex case in some detail is, I suggest, that it showed how mortgages were used, how the District Court Sheriff’s sales were used, how everyone concerned,
including the Minister, financiers and the courts, knew that large scale dummying was occurring, but, except for frustrated officials and some persistent members of parliament, it was overlooked by the Minister and others. It also showed that when the financiers supporting Willis’s activities were NSW financiers close to government who would ensure that wool would go through the port of Sydney, they would not be hounded by statutory law. It also showed how inadequate the Department of Lands’ maps and statistics of leases were as measures of land settlement. For the sake of coherence much detail has been omitted from the complex story. 56

Soon after the 1889 amendment allowing mortgaging of homestead leases, thirteen applicants for homestead leases on Marra’s resumed area, and four on Dunlop’s, were successful. Marra, where Katie Parker had spent her childhood, was now held by the Melbourne firm of Hay, Graves and Paxton who employed a manager. The thirteen Marra leases adjoined as did the four on Dunlop. 57 One of the successful applicants, Edward Montgomery Perrott, looked rather like the type of man sought by Stuart and Farnell. The son of a Police Magistrate and grandson of a surgeon with the 41st regiment who was granted land at Armidale, he had worked in an Armidale bank before going droving for Tottenham Richardson, to whom he was distantly related by marriage. He brought stock from the Gulf of Carpentaria to Murrawombie, just inside the Division’s eastern border. 58 He played a prominent role in relation to the other lessees.

There were ties of sorts amongst some of the lessees. Six, including Perrott, had recently been employees of Richardson at Murrawombie before the Australian Joint Stock Bank (AJS Bank) took gentlemanly possession, the Richardson brothers being shareholders in the bank. Two others came from Bourke, and three came with the assistance of Crown Land Agent Willis. Willis’s reputation was obviously far flung as one successful applicant, Anthony Stuckenberg, had only recently disembarked at the

56 To avoid greater complexity I have largely ignored the four Dunlop leases called Talyawalka, as also Tottenham Lee Richardson’s position, though Case No. 7589, Supreme Court of New South Wales in Equity, was titled Hill versus Perrott &or, the ‘ors’ being T.L. Richardson and his wife Louisa, also indebted to Hill. This suggests T.L. Richardson may have initiated the Rosedale dummying with the help of Willis with whom he was friendly (leaving him his library in his will), but all soon became dependent on Hill Clark and AJS Bank funding.


58 Murrawombie, occupying the dog leg type protuberance which can be seen in the maps (between Marra Creek and the Bogan river), had been held by T.L. Richardson and his brother W.W. Richardson, a prominent early member of the Royal Agricultural Society.
port of Melbourne and had heard, on board, about Willis's office in Sydney. Yorkshire born John Dawson, recently a pastry cook in Sydney, took up a lease next to Edward Perrott's lease. The latter was the only lease to be given a name, that of Rosedale. John Dawson and his seamstress wife Rachel, who was related to Willis by marriage, spent a year or two in Bourke where their second son was born before moving to a two roomed iron dwelling on John's lease to fulfil the residence conditions.

In late 1889, Perrott obtained sub-leases from the four lessees on Dunlop, one of who was 'John Willis Snr', and stocked them. The four gave mortgages over the land, stock and wool to Willis, purportedly in return for a loan of £4,000, who in turn assigned them to William Clark.  

Clark was a partner with W.C. Hill in a stock and station and woolbroking business in Sydney, heavily financed by the AJS Bank. According to Willis, Clark was the first client of any importance to acknowledge Crick's legal ability. On Marra, Perrott quickly obtained 'Agreements to Mortgage' from twelve of the thirteen lessees, actual mortgages not being possible until the leases were gazetted. These Agreements were for small amounts, £100 and £150, the documents said. In March 1890, Perrott used these as security for a loan of £5,145 worth of sheep from the Union Mortgage and Agency, a debt which was very unusual in that it was discharged in late 1890. In 1891, however, the partners Hill and Clark became substantial mortgagee financiers of Perrott and the other lessees. By August, eight had mortgaged to Hill, the documents said, in return for advances of £1,500 at the rate of 15 per cent interest, the go-between undoubtedly being Perrott. At least five on Marra gave sub-leases to Perrott.

The Brady experience revealed that persuasion could be involved in signing mortgages. In 1892, Perrott took the three Bradys, father and son and widowed daughter Ann Morris, to the Supreme Court, purportedly for failing to repay monies advanced under the 'agreements to mortgage.' According to Brady Snr, their refusal to sign the

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59 See, for example the case of John Hoffman, Assignment of Mortgage, Indenture No. 964 Book 433 of December 1889, then Indenture No. 438, Book 845, Registrar General's Department, Sydney. Identical Indentures were drawn up for Jackson and Willis. Stuckenber mortgaged to Clark on 10 July 1890.

60 Willis, Life of Crick, 11.

61 He perhaps knew, from his work in the bank, that they were 'tantamount' to a mortgage.

62 Indenture No. 435, Book 193, Registrar Generals Department, Sydney.

63 When the Review published an image of a squatter wading through a swamp on crutches weighed down by a load of problem packages on his back, the rabbit was on top, a mortgage was underneath, and an interest rate of only 9 per cent was under that.

64 The case is outlined in 'Return Respecting Homestead leases in the names of W. Brady Snr, Ann E. Morris and W. Brady Jnr., Wilcannia District,' NSW LAVP, Vol. 3, 1897, 717-23.
mortgage documents precipitated Perrott's action. In court, he said that he was not indebted to Perrott: Perrott had approached him in Bourke and asked him to 'pull off his shirt' and give Mr Richardson a good start by doing some fencing and lending him his horse and cart. Perhaps unaware that he was putting his old employer in some jeopardy, Brady told the court that he had told Perrott that he and his son and daughter had already agreed with Richardson to dummy for twenty five shillings a week and rations, plus a bonus of £100 at the end of five years (the magic five years when residence and fencing conditions could be approved). He admitted receiving money from Perrott, but said this was owed him for wages by Richardson. Perrott's claim that he owed him money for fencing was not true, he said, because his lease was fenced by the time he had got to it (very fast fencing). Perrott had never asked him for a 'refund' until he refused to sign Hill's mortgage.

The Bradys may have been put off by the mortgage documents: the amount of money named in them as being borrowed, some £1,500, could be increased indefinitely by unspecified future advances, which meant that the amount actually lent was not clear. The interest rate of 15 per cent was extremely high.\(^\text{65}\) Repayment was to be made 'on demand' within twenty four hours notice, and not before.\(^\text{66}\) The Bradys appear to have tried to extricate themselves from the situation by applying to surrender their leases, but they were persuaded, with Willis's involvement, to change their minds. Willis wrote to the Department asking for the reversal, saying that Mr Matheson, who had purchased Brady Snr's lease at a Sheriff's sale, would suffer greatly if the lease was surrendered to the Crown, and pointing out that the Brady son and daughter had promised to pay back rents. The Departmental Under Secretary advised the Minister to refuse the application given the history of the case and the Judge's notes on the case *Perrott v Brady senior*. Minister Copeland had other priorities—there was 'a lot of land on hand', he wrote, and back rents to be paid by the Bradys.\(^\text{67}\)

The Brady son and daughter signed mortgages to Perrott, who assigned them to, a process which appeared to be a pre-condition for remaining a homestead lessee on Marra. Ann Brady had married William Wright, a Tilpa labourer, and he and her

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\(^\text{65}\) See, for example, Willis's mortgage with John Hoffman, No. 964, Book 433, Registrar-Generals Department, Sydney.

\(^\text{66}\) See, for example, Perrott's mortgage with WM Brady Jnr, No. 862, Book 505, Registrar-Generals Department, Sydney.

brother worked for Perrott from time to time.\textsuperscript{68} Brady Snr, however, was dislodged, the District Court finding that he was so indebted to Perrott that his ‘equity of redemption’ was extinguished. Matheson soon signed a mortgage to Perrott, who assigned the mortgage to Hill, and Matheson continued complying with the residence conditions which remained to be fulfilled.\textsuperscript{69} Old Brady set up camp on the river, though he was ‘in and out’ of the Rosedale house, Rachel Dawson said. The old worker was unimpressed by Matheson: ‘by his appearance’, he said disgustedly, ‘I don’t think he is worth a sixpence’.\textsuperscript{70} Matheson was, however, worth more than that to Perrott and Hill—he signed the mortgage.

Only two male lessees on Marra, James Henry Parker and John Dawson, were married and with young children. Though having signed the mortgage documents, they did not receive sufficient money to keep their families, as both soon disappeared with maintenance orders out against them, and in September 1892 Parker told the Land Board he had not been able to reside on his lease because he could not ‘procure a position’.\textsuperscript{71} The \textit{Police Gazette} of 1 February 1893 reported that a James Henry Parker was sought for fraudulently obtaining money and was thought to be making out back towards the Paroo river. After John’s departure, Rachel Dawson became Perrott’s housekeeper, living in the Rosedale house with her two boys.

Some seven months after many of mortgages were signed and registered, Hill’s solicitors, Norton and Smith, took out writs against Parker and Dawson and at least six other lessees near Perrott. These writs claimed they owed Hill £1,500 plus interest at the rate of 15 per cent.\textsuperscript{72} Given that an annual rural wage at the time was around fifty pounds plus keep and only some seven months separated the date of the mortgage and the date of the writs, the mortgage documents could hardly be said to represent genuine loans. Some money may have been paid as wages. It was easy for Hill to obtain

\textsuperscript{68} Their names show up in Perrott’s wages records produced in the case \textit{Hill v Perrott}, No 7589, SCNSW in Equity. See also ‘Return respecting Homestead leases…’, op. cit, 721. For Perrott’s writ see File 4478 of 1892, Box 144, Supreme Court of New South Wales, Sydney.

\textsuperscript{69} HL File 886, [10/43801], NRS 14569, SRNSW.

\textsuperscript{70} ‘Return respecting Homestead leases…’, op. cit, 721. For Perrott’s writ, see File 4478 of 1892, Box 144, Supreme Court of New South Wales, Sydney.

\textsuperscript{71} File HL 884, [10/43801], NRS 14570, SRNSW.

\textsuperscript{72} Hill’s (and occasionally Perrott’s) writs were listed in the 1892-93 Common Law Indexes held by the Supreme Court of New South Wales, Sydney, viewed in 1985-86. The Index and Process books and papers are now held at SRNSW. The Index records writs against Jacobsen, Hoffman, Clements, Cravigan, Dwight, Enright, Hitchcock, Parker, the Bradys, and Dawson, see Index to Process books (plaintiffs) 1891-1893, [4/8301], NRS 13469, SRNSW. Process Papers are at NRS 13467, Judgment Papers are at NRS 13472. Hill’s affidavits, writ of summons and judgment papers regarding John Dawson’s purported debt of £1,695 is at File 644, [20/11258], NRS 13472, SRNSW.
judgments triggering a Sheriff's sale: all that was required was his word in the form of an affidavit or statutory declaration, sometimes sworn before W.W. Richardson JP in Sydney (brother of Tottenham), that the debt existed. Following the Sheriff's sales, the new purchaser/lessees carried the Judgment Debt. In late 1892 and early 1893, this mechanism saw lessees Jacobsen, Parker and Dawson replaced by Masson, Galvin and Andrew on Rosedale, and Stuckenberg and Jackson replaced by Miniley and Quodling on Talyawalka.

The conditions of residence had to be approved in 1896, after which, transfer of the leases by sale was permitted by the Act (but only to someone not already holding 10,240 acres). Three leases on Marra remained to be finally inspected. Inspectors had tolerated bough sheds and shearer's quarters and such like as residences, but tolerance cracked in late 1895. The Inspector was offended by Masson's 'impertinence' and advised the Chairman of the Land Board that Masson had told him that 'Peter Meller was the only bona-fide dummy on the place'. This amusing oxymoron did not amuse the Inspector, nor did the reply to his request for an explanation. Meller, Masson told him, was the only one who would not go off his lease for Perrott. The Inspector was also offended by the fencing, designed 'with a view to working a large property, not for the separate working of each holding.' He commenced forfeiture action, but this was pre-empted by other action.

On 5 August 1896, three men burst into the Rosedale house at sunrise, disturbing Rachel Dawson and her sons. Perrott was away supervising shearing. She picked up a gun when the men refused to leave, and when they advanced, shot one of them, Frederick Acheson, in the groin. He was a local shearer recently refused a shearing pen by Perrott, and who had shown the other two men, McNair and Anthers from Sydney and Cobar, the way. Soon after the shooting, which was reported by newspapers in Sydney, Brisbane, Melbourne, Hobart and Perth, Tottenham Lee Richardson and Willis appeared at the Rosedale homestead in a buggy. They were escorted off the property by Perrott, who had by then returned, and his men. On Dunlop to the north at the same

73 File HL 880, [10/43800], NRS 14569, SRNSW.
74 ibid.
75 George McNair and Frederick Anthers had travelled from Sydney and Cobar respectively.
time, a smaller and more successful take over occurred on the leases called Talyawalka, executed physically by young Dan Green, a clerk in the law firm Crick and Meagher.\textsuperscript{76}

In court, the three intruders into the Rosedale house said they had been authorised by Hill and Willis to take possession.\textsuperscript{77} Perrott said they had come to steal documents. Rachel Dawson, arrested on a charge of malicious wounding with intent to murder, was subsequently found guilty of malicious wounding and sent to Bathurst goal. Suspecting that Perrott was intending to sell wool on his own account, Hill had obtained an injunction to stop him, and successfully asked the court to appoint a Receiver of Stock, who duly arrived at Rosedale for the purpose. Hill later told the Supreme Court in Equity that Perrott had refused to give him a lien (mortgage) over the wool which he had given in previous years. Perrott installed his brother at Rosedale to keep an eye on the Receiver, while he went to Sydney to seek the help of his uncle, Thomas Perrott, and that of John Haynes, an independent journalist and MLA for Wellington, one of the founders of the Bulletin, and publisher of weekly newsheets.\textsuperscript{78}

Hill asked the Supreme Court to declare that Perrott be foreclosed on as his mortgagor in relation to all seventeen leases, and that the mortgages be ‘consolidated’.\textsuperscript{79} The latter action would mean that no individual debt could be repaid without repayment of all. If Hill, through foreclosure, removed the theoretical ‘equity of redemption’ belonging to theoretical debtors, the legal and absolute (unshared) title to 170,000 acres (Rosedale and Talyawalka) would be his. This, however, overlooked the statutory technicality that only a ‘mortgagee for value’ could hold more than one homestead lease. Perrott said in court that he was Hill’s mortgagor in relation to only seven of the leases, and if it was proved there was a debt in relation to these, he would pay it. Hill countered that Perrott was a man of no means at all and that the debt should be proved. In proving the debt, the court made no mention of the mortgages or the existence of the shadowy ‘homestead lessees’. What was produced in evidence was Perrott’s bank account at Bourke, which showed that Hill Clark had paid money into it since 1890 and which Perrott had paid

\textsuperscript{76} Affidavit of Daniel Green, Bankruptcy Case 177556, [10/23538], SRNSW. See also, Clune, Scandals, 41. Green was only 21 years old.

\textsuperscript{77} Details are given in evidence reproduced in ‘Return respecting the Case of Rachel Dawson, Tried at Dubbo for Shooting at Frederick Acheson’, NSWLAVP, Vol. 7, 1897, 1379-1402.

\textsuperscript{78} Peter Ross, Let’s Face It: The History of the Archibald Prize, Art Gallery of New South Wales, Sydney, 1999, 13-15.

\textsuperscript{79} Hill v Perrott, Supreme Court case in Equity, No 7589 of 1896, SCNSW, Sydney.
out under two headings, ‘Rosedale’ and ‘Talyawalka’. The established debt included not only the money advanced to the account, but Hill’s legal costs, the costs of the possession exercise at Rosedale and Talyawalka, including whisky and fruit salts, the cost of Rachel Dawson’s trial, and Acheson’s hospital bills. No mention was made of any income from wool which might have been offset against the debt.

Perrott’s solicitor clearly contemplated exposing the dummying situation, for he gave notice that he intended to subpoena the Prothonotary of the Supreme Court (whose duties included issuing writs), the Minister for Lands, the General Manager of the AJS Bank, W.N. Willis, T.L. Richardson and W.C. Hill. Hill’s solicitor, James Norton of Norton and Smith was a director and shareholder of the AJS Bank, and Hill was a prominent shareholder. It was a true NSW bank, focusing on NSW and Queensland and with more New South Wales depositors than the rest of the banks operating in the colony put together. Its head office was in Sydney, though a London branch had been established, and most of its shares were on the Sydney Office register. It had ‘good friends’ in parliament, indeed a good minority of shareholders were members of parliament, along with a few parliamentary officials. Other shareholders were ‘gentlemen’, merchants, barristers, senior officials including the President of the Land Court, and graziers, and its directors were men familiar with stock and land ownership. In the 1890s, it directed clients to sell wool through Hill Clark, the firm which had pioneered sale of wool in Sydney rather than in London, and it directed that its own wool to be sold through them. The 1899 Bank Minutes revealed that it had a financial agreement with Willis, renewed that year.

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80 Perrott’s account with the Bank of New South Wales at Bourke and other details of the case were produced in the case Hill v Perrott. ibid.
81 Hill v Perrott, ibid.
82 In January 1900, the General Manager directed that Mr Hill’s share of the profits be given priority. Australian Joint Stock Bank, Board Minutes, 12 January 1900, Accession A-389, Westpac Banking Corporation, Westpac Historical Services.
85 Australian Joint Stock Bank, Board Minutes, 24 March 1899, Accession A-3/88, Westpac Banking Corporation, Westpac Historical Services. Two Directors were authorized to sign the Agreement.
Though the railway may have been largely responsible for the satisfaction expressed by the Stock and Brands Branch of the Department of Mines with the increasing proportion of New South Wales wool being shipped from Sydney rather than Melbourne or Adelaide in 1893, the work of Hill Clark and the AJS Bank in taking advantage of closer settlement legislation, also contributed.

Charles James Manning, Chief Justice in Equity, had done much to assist banks and companies through the financial crisis of 1893 and much to help the trading and commercial world, ‘with whose interests he was most materially concerned’. He now made no secret of his annoyance at Edward Perrott’s temerity. ‘In all his experience’, he said in June 1897 when decreeing absolute foreclosure over the seventeen leases, ‘he had never heard anything approaching the impudence of the defence’. Perrott’s denial of being mortgagor in relation to all the leases was a claim no man with common sense could listen to ‘for one single second’.  

Though foreclosure was decreed, it did not occur. Instead, only Perrott’s lease was foreclosed on by the AJS Bank, who then sold it to Edward’s uncle Thomas. Almost certainly, the belated realization that foreclosure meant that the statutory land law would be breached was a reason. ‘Foreclosure’ made the mortgagee the ‘absolute’ holder and no longer just a ‘mortgagee for value’, and only the latter was permitted to hold more than one homestead lease, let alone seventeen. The Chief Justice and others had apparently overlooked this statutory obstacle, but it was acknowledged in a Bank document in 1897. Fear of Perrott’s solicitor’s threats, which would have meant a public exposure of dummying involving senior players, may also have contributed. Along with Perrott’s homestead lease 884, the AJS Bank also sold Thomas 26,000 sheep plus horses and cattle on the 17 leases plus their brands, the plant, machinery and wool clip, and the mortgage debts obtained by Hill, Willis and Perrott, the sub-leases and pasturage rights. According to an Indenture, Thomas bought all the above for

88 SMH, 9 August 1898, 5.
89 SMH, 11 June 1897, 3.
90 ibid.
91 A draft Report on the 1893 Scheme of Reconstruction written in January 1897 noted that advances had been made on the securities of ‘a rather precarious nature’ in the case of homestead leases. On these, it said, the bank could not ‘ever’ foreclose and become the owner of more than one at a time. See Report Upon The Affairs of the ...in Connection with the Proposed Modification of the Scheme of Arrangement, Proof under Revision, 9/1/97, Westpac Banking Corporation, Archives, 73-6/636, GM Private Papers 1876, or see copy in possession of the author.
£21,500, paying a deposit of £5,000 borrowed from the Australian Mortgage and Agency Company, and mortgaging the remaining sixteen leases back to the Company for the remaining amount. 92

It looked like a victory for Edward, who remained at Rosedale as manager for his uncle. John Haynes, on his part, determinedly pursued the early release of Rachel from Bathurst gaol, finally succeeding after a petition was taken up. Along with some local western members of parliament, he alleged that there had been a large scale miscarriage of justice and widespread dummying in the vicinity of the Darling. On these occasions, Hansard recorded much bluster, with members ‘rising in their places’. 93 One critic of the way Mrs Dawson’s case was handled even thought it a pity that her bullet hadn’t struck a little higher up. 94 A Royal Commission was agreed to and ‘issued’, but did not report for lack of evidence. 95 Following her early release, Rachel returned to become Perrott’s housekeeper again. 96 The critics persisted, and in 1899 a select committee was appointed, chaired by Richard Sleath (Labour), which interviewed a few people and wrote to Premier Lyne in November saying that they were satisfied that Mrs Dawson had shot in self defence, without premeditation, and recommending that she be compensated, with £250 to be placed on the estimates. 97 Rosedale remained intact, as a property of thirteen leases, covering over 130,000 acres, for many years thereafter.

The Rosedale case was the most public example of homestead lease dummying, but it was not the only one involving Hill and others which aroused suspicion. 98 It is not possible to say how widespread this kind of dummying was, but Stuart’s belief that he had tied up the Act so tight that subversion of ‘bona fide’ settlement could not occur is certainly not borne out. Nor is John Hirst’s belief that the existence of Land Boards in

93 NSWPD, 19 August 1897, 3226-55; 9 December 1897, 1897; 22 November 1898, 2374-77; 29 November 1898, 2595; 22 December 1898, 3987.
94 NSWPD, 19 August 1897, 3239.
95 ibid., 22 December 1898, 3987.
96 She had to report fortnightly or monthly to Louth police for some time, which angered John Haynes. NSWPD, 22 November 1898, 2379.
98 Richard Sleath asked questions regarding ten homestead leases near B rewarrina ‘alleged to be dummyed by W. Flood, W.W. Richardson and W. C. Hill’ on 9 June 1897. Are any of the original lessees there, he asked, and was 15 per cent interest charged on the mortgages? The Minister was not aware. NSWPD, 9 June 1897, 960.
the 1880s and 1890s and the Minister’s power to forfeit selections were improvements in land law which gave the small man a better chance to acquire land.99

Willis had a way of having the last word on things. In 1905, after being ‘profitably involved in land transactions of a shady nature involving leases which required Ministerial consent’ in the Central Division, when his friend Crick was Minister for Lands in Sir John See’s Protectionist government now supported by Labour, he decided it would be wise to leave Australia.100 He was goaled briefly in Western Australia through the action of the persistent John Haynes, and while there, has a fellow inmate say to him:

‘Good Gord...in for dummying!..wot chance ‘as a poor bloke got?’ The banks and wool firms would be stony broke without dummying...God bless your soul, I filled in my spare time...dummying land for squatters; it’s the only thing (they) will pay for.’101

Given that old Brady said he was owed money by Richardson, there was perhaps some truth in this. But then, Richardson owed so much money to the AJS Bank, it was perhaps, as Perrott’s solicitor had intimated, the Bank that was really doing it. Willis certainly later made it clear that he saw himself, and Crick, as the ‘little’ victims carrying the can for the big fellows who escaped the law, especially the AJS Bank’s F.B. Suttor.102

What then, did ‘bona fide’ homestead lessees look like? Glimpses given by historians to date are unsatisfying. Understandably, Stephen Roberts did not examine one state or region closely during his 1948 grand sweep through Australian land settlement history.103 He glanced in passing at the New South Wales’ homestead lessees, ‘new classes’ which were created to be crushed, an outcome of drought, delay, low prices, the rabbit plague, and the spread of scrub in ‘the Darling lands’.104 In the west, ‘only 200 small settlers came forward’, he said, and ‘the resumed half of every run [meaning holding] became a breeding ground for vermin’. He concluded that by the time of the

101 W.N. Willis, The Life of Crick, 197.
102 ibid., 141. By the time Willis wrote, activities in the Central Division to do with other leases had overshadowed the Western Division events.
104 ibid., 309-310.
drought of 1901, ‘there was less settlement in the west than there had been in 1860’. He did not provide actual evidence or sources for these statements.

Roberts’ conclusions appear to have been adopted in later accounts though he is not acknowledged as the source. He did not reveal what he meant by ‘came forward’, but he could not have meant that only 200 people applied for homestead leases because the Department of Lands Annual Reports showed that 2,390 applications had been made from 1885 to 1901. Not all these applicants proceeded with their applications and some were unsuccessful, roughly 445 in all, but this still left about 1,945 gazetted homestead leases. After 1889, about 30 applicants obtained a second ‘Additional Homestead Lease’ to make up their acreage to the allowable maximum of 10,240 acres. This left some 1,915 possible lessees, vastly more than 200. As the Morris-Ranken report had rightly pointed out, bureaucratic statistics did not reflect what was happening on the ground, recording leases rather than lessees, and there were certainly not 1,915 new settlers in 1901.

Geographer R.L. Heathcote’s 1965 study of settlement in a small portion of the Division in the north-east, about 12 per cent of the Division, took in country across the border in Queensland also. The NSW portion included country often regarded as the best in the Western Division, the high rainfall county of Finch, otherwise known as the Walgett North land district, including the well known Toorale and Dunlop between the Warrego and Darling rivers. In aggregating and using data from both states, Heathcote often lost focus on NSW, and his assumption that closer settlement legislation and administration in both states was equivalent and could be studied and compared as a unit, can be questioned. His study spanned a lengthy time period, 1828-1956 but the years to 1901

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105 Ibid., 311.
106 See George Main, Gunderbooka: A ‘stone country’ story, Resource Policy & Management, A.C.T., 2000, 10: ‘Few small settlers came forward....Squatters dummied over sixty per cent of resumed land...at the turn of the century... western New South Wales supported fewer pastoralists than in 1860’. See also Dr. B.R. Davidson, Some Comments on the Draft National Soil Conservation Strategy, State Pollution Control Commission, May 1989, 11: ‘Small runs were unprofitable. The resumes areas became a safe haven for rabbits and other vermin, Finally the resumed areas were returned to the original owners.’
108 The Department of Lands Reports gave the numbers of applications ‘permitted to be withdrawn’ or ‘refused’, but did not distinguish between the two.
109 R.L. Heathcote, Back of Bourke: A Study of Land Appraisal and Settlement in Semi-Arid Australia, Melbourne University Press, 1965. When using maps as sources, Heathcote’s New South Wales area was smaller than when he used the New South Wales Statistical Register as his source for statistics, because two Counties, Irrara and baronna, contained land west of his mapped study area. His Register figure for ‘Total Area’ was 13,706,000 acres, but the map area was smaller. See his Table 7, page 214, and Figure 16, page 137.
received most attention.\textsuperscript{110} He came much closer to the people on the ground than Roberts of course, but his reliance on statistics left his small holders, ‘graziers’ as he called them, anonymous economic or business units, unable to be traced as individuals or families over time.\textsuperscript{111}

Heathcote’s assessment of ‘grazier’ success by 1900 is less dismissive than Roberts’. He acknowledged the opposition to occupation by homestead lessees from pastoral lessees, and the arguments put forward by the latter—that large areas were needed to source patchy rainfall and provide a reserve of unused land, and that small men with little capital could not survive drought when even the larger holders were suffering heavy losses—and he agreed that ‘the odds against success were high’.\textsuperscript{112} He then assessed the evidence largely from maps and statistics.\textsuperscript{113} His first conclusion was that in the NSW, over one third of the resumed area intended for homestead lessees was still vacant.\textsuperscript{114} That ‘pastoralists could continue to graze over hundreds of square miles of country intended for closer settlement’ he said, ‘was a sad commentary on the effectiveness of closer settlement at the turn of the century.’\textsuperscript{115} Accepting his conclusion that two thirds of the resumed areas had been taken up, and given his mention of the odds, it could, however, be argued that the taking up of two thirds was a sign of substantial success in the region, particularly, as he said, the land not taken up was more waterless than the occupied two thirds.

He then asked was the land ‘in closer settlement’ used and held ‘bona fide’, thus accepting bureaucratic and legislative concepts of success. Was each lessee holding and using only one homestead lease? Finding that the last names of holders indicated holdings aggregating more than one lease, he concluded there was ‘ample evidence’ of ‘control’ through family ownerships or partnerships, of areas in excess of the legal size.\textsuperscript{116} This ignored the fact that there was no legal bar to sons (sixteen and over), and daughters (eighteen and over) or even wives (so long as it was ‘from their own money’) all taking up homestead leases alongside father. Even officials had no problem with

\textsuperscript{110} Some 82 pages as compared to 24 pages for the years 1902-1956.
\textsuperscript{111} In 1990 Bill Gammage questioned the usefulness of statistics in assessing closer settlement success further east. See ‘Who gained and who was meant to gain from land selection in New South Wales’, \textit{Australian Historical Studies}, Vol. 24, No. 94, April 1990, 121.
\textsuperscript{112} R.L. Heathcote, \textit{Back of Bourke}, 136.
\textsuperscript{113} Only his observations which relate to New South Wales rather than Queensland, or which state his general conclusions applying to both areas, will be considered.
\textsuperscript{114} R.L. Heathcote, \textit{Back of Bourke}, 138.
\textsuperscript{115} ibid., 139.
\textsuperscript{116} ibid.
this, and it was often an indication of likely success on the ground and of ‘bona fide’. Heathcote also noticed that many ‘graziers’ rented their land to adjacent pastoralists. This was not, as we have seen, illegal. His assessment of these practices as indicative of failure, rather than success, can be questioned.

Using evidence given by lessees before the 1901 Royal Commission, Heathcote found some exceptions to his picture of failure. Unfortunately, his focus on homestead lessees, the closer settlers whose success he was addressing, became blurred. Of the three cases he cites, two were not homestead lessees and therefore not a product of the legislation he was evaluating. One, A.S. Barton, had entered landholding by purchasing a subdivided pastoral lease of 20,000 acres on the private market, and was also renting two homestead leases. Another, W. Bacon, with his merchant partners Wright and Heaton, had purchased 44,000 acres of subdivided pastoral lease in 1881 before the 1884 Act, plus 12,000 acres of conditional purchase land, and also had grazing rights over other land, about 84,000 acres in all. He was not a homestead lessee in any sense, and had, like Barton, gained access through the market. Both these examples suggested that the private market was already creating a ‘middle’ class in the Division through subdivision of pastoral leases and their sale. This left William H. Moore, the only one of the three who had applied for a homestead lease and worked it, and he described himself as a ‘grazier and publican’. As the commissioners did not ask him if he was still running or managing a hotel, or what portion of his income came from sheep, he was not clearly an example of success, if by that is meant full time grazing as the sole source of income.\footnote{ibid. 141 and his footnotes 7-9.}

Hardy’s 1969 regional history of the west Darling saw homestead lessees as a product of unfortunate government action at an unfortunate time, and even without the rabbits, she viewed the 1884 Act as dislocating the already vulnerable economies of pastoral stations and imposing closer settlement on land not able to support it.\footnote{The evidence of the three men is at MERCWD II, 127,750, 150 and 665, in NSWLAVP, Vol. 4 1901, 323-1185.} She noted the apparent demise of many newcomers through ‘foreclosure’, a problematic conclusion.\footnote{ibid., 185.} However she provided glimpses of homestead lessees as people who\footnote{Peter Butt, BA, LLM (Syd), has noted that foreclosure is brought about by court decree. Possession and sale do not require court action unless successfully disputed and taken to court. He also says that foreclosure has been rarely used as a remedy for mortgage debt in New South Wales due to its}
emerged from the social and economic fabric of the time. Although identifying only three, they shared some characteristics—the influence of family co-operation on the one hand, and on the other, the importance of having a place in the local economy already, like butchering.  

In 1980 historian Jennifer Lee expanded on Hardy’s sketch. Like Hardy, her major interest was in the ‘squatters’ and her time period ended about 1902. Her geographical area, ‘western New South Wales’, remained somewhat vague, but included the Division. She placed homestead lessees nicely in the fabric of its economy. The prosperity of the 1870s and 1880s, she observed, encouraged the construction contractor, the bush storekeeper, the bullocky, carrier, butcher, and stock dealer, to take up homestead leases and use them in conjunction with their other enterprises, if not for full time grazing. She discerned a new group of ‘pastoral capitalists’ who benefited from the cheap access to land provided by the 1884 Act, or as she put it, entry into landholding without incurring the costs imposed under the old ‘squatting regime’ (presumably meaning the cost of purchase). The benefit of cheap access was just as Stuart and Farnell had planned, though they had other types of people in mind. Using additional evidence from homestead lessees before the Royal Commission, from archived files, from property and company records, and family and local histories, the emerging new landholders can be characterized further, and it is possible to see them more clearly in terms of the hopes and expectations of the parliamentarians and in terms of their place in the social context.

Some seemed to be the new people that Stuart and Farnell wanted, some even fresh from the mother country. They were not entirely new to Australia when they applied for their Western Division leases, however, and probably did not bring the desired money from ‘home’. Some worked their way to the Division, as teamsters, fencers, and dam sinkers. John Withers, as Maxine Withers has recorded, left the family farm in Devon in the late 1870s, probably for the same reason as pastoral lessee Shaw of

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122 This sometimes results in an emphasis or generalization not justified for homestead lessees as such. For example, she says that ‘smallholders’ campaigned vigorously against improvement leases being offered over abandoned land and implies inclusion of homestead lessees in this by sourcing evidence before the Royal Commission. There is no mention of improvement leases in these sources, only in the third source she gives, that of the *Hillston Spectator* of 7 May 1898 which refers to land and settlers around Hay in the Central Division (page 245, footnote 273).
Yancannia before him—too many sons for the family farm and the high cost of land. He arrived at Adelaide and went to Burra in South Australia, but found few opportunities from mining or land there, so went east to the Anabranch with his wife and four children, to apply there. In his application for a homestead lease out of Avoca’s resumed area in August 1885, he gave his and his family’s occupation as ‘Rabbiters’. It seemed a lowly occupation for a man who had left a family farm in Devon, but it gave him ample opportunity to walk over the land, gain knowledge of the lie of it, assess the possibilities for ground tanks and its likely water supply. The pastoral lessees, the Cudmore brothers, quickly placed a caveat on his application, arguing that it included frontage to the Anabranch’s stream bed and left a large strip of land unusable by the Cudmores, as well as other homestead lessees: his claim overlapped water reserves containing a good waterhole (now dry) which if ‘monopolised’ by him, would leave surrounding country unworkable by anyone else. As Maxine Withers notes, it is little wonder that the word ‘rival’ derives from the Latin ‘rivas’, river. The surveyor came up with a new design to get around this objection, one which increased John’s lease area to 10,205 acres, and John and the Cudmores seem to have resolved their issues without obvious hostility. Perhaps he had been rabbiting for them, and the devil they knew was better than one they did not. On the other hand, the Cudmores felt the need of caveats, to ensure consideration of competing interests. Caveats, as well as spirited argument regarding the cost of improvements or fencing on shared boundaries, were often an indication that genuine closer settlement was going on. Like other pastoral lessees, the Cudmores thought Land Boards tended to favour the newcomers. They also found it hard to get payment for their improvements: Cudmore wrote to John’s son in May 1906, saying it was a very long time since he had occupied their country, and ‘high time’ he paid for the improvements.

John began to build a house on his lease even before it was gazetted as approved, although he said he did not put stock on until after gazetted because it was bare and needed a rest. His passage through the various stages required before the conditions were finally fulfilled was not trouble free. Many hearings and decisions of the Board were required before lessees could rest easy: hearings regarding the application itself, regarding dispute over the cost of improvements, regarding the fulfillment or not, of

124 Maxine Withers, Bushmen, 92.
125 File HL 177, [10/43743], NRS 14569, SRNSW.
126 ibid.
127 Maxine Withers, Bushmen, 90.
conditions regarding fencing and residence, and regarding the initial appraisement of
rent, and more. Agents and solicitors were often employed by lessees to give sworn
evidence. Forms and paper work accompanied each step. Even under optimum
circumstances, becoming a homestead lessee could be a difficult road. Thirteen classes
of fencing were defined by law for the whole of the state, one or more, or a variation of
them, being stated in the gazette notice approving the allotment of a lease.\textsuperscript{129} The
Inspector found John’s bimble box (\textit{Eucalyptus populnea}) fencing too small in diameter
at the base and below standard. Like many others, he failed to meet the fencing
deadlines, in his case partly due to the flooding of the lakes on the lease. He could
hardly be blamed for this, but his use of five wires instead of six, was a sticking point.
It was not until he agreed to attach a sixth wire, that final approval was given.

John’s sons, John Jnr and Alfred, were also confident successful applicants. Alfred’s
homestead lease 484, applied for in March 1888, came off Bunneringee held by William
Crozier. A previous successful applicant, an employee of Bunneringee, had declined to
accept the offer due to the high rent. In September, the Inspector found Alfred resident
in a tent and cutting timber for a house. He also found that that Margaret Wright, lessee
of an adjoining lease, was Alfred’s wife, and that they were fulfilling the conditions of
residence of six months a year by alternating residence. Wives, often a sign of being
‘settled’, pleased officials: ‘I have no doubt that he is a genuine lessee’, the Inspector
wrote with what seemed a bureaucratic smile.\textsuperscript{130} Alfred’s sister Katie applied for a lease
of 5,596 acres between her father’s and brother’s in April 1893, and told the Land
Board that her father was fencing the lease and building a house for her. After her
marriage, she had difficulty fulfilling the residence requirement due to confinement, and
a sublease she had agreed to caused official concern. Her husband, who had told the
Board that his lease was too small, purchased Henry Smith’s larger lease which became
their home instead, later sold to John Jnr. Katie’s lease was sold to John Leary in 1900,
and later to Alfred Withers.\textsuperscript{131} Lessees were using the family and the market in
homestead leases, leases whose conditions had been fulfilled, to rearrange themselves
on the land. This was not considered to be an undermining of closer settlement
aspirations at the time.\textsuperscript{132}

\textsuperscript{129} The thirteen classes were in a Schedule appended to Regulations published in the \textit{Government Gazette},
2 February 1885.
\textsuperscript{130} File HL 484, [10/43769], NRS 14569, SRNSW.
\textsuperscript{131} File HL 1417, [10/43840], NRS 14569, SRNSW. \textit{See also Withers, Bushmen}, 106.
\textsuperscript{132} Regarding ‘bona fide’, C.J. King comments that the legislature has placed parents and children in quite
a different position to outside individuals. \textit{See Outline of Closer settlement}, 135. This may refer to the
New family formation was less evident, and took longer, for the Falkenhagens. Settlement was largely male affair for a long time. The Prussian born father, a cabinet maker, had embarked for South Australia in 1849. After marriage in Adelaide and the birth of a child, the family tried their luck on the Bendigo goldfields, where, from 1853 to 1878, ten children were born. Soon after, Fred and three sons worked on the lower Darling, sinking tanks for landholders around Wilcannia. In 1886, the sons, aged thirty one, twenty eight, and twenty six, successfully applied for adjoining homestead leases from Gundabooka’s resumed area between Bourke and Louth. Fred joined them afterwards, purchasing an adjoining forfeited homestead lease at auction. His wife, Irish-born Annie Turner, stayed at Eaglehawk near Bendigo. The four men worked the leases, taking two years to fence them and to build four small dwellings to satisfy the residence conditions. After these were fulfilled in 1891, two sons departed, for apparent money earning reasons, one to the Western Australian goldfields, one to run a hotel at Narrandera further in. They did not return. Colin married a local girl in 1892 (her parents gave permission), and remained to keep the ‘Falkenhagen name’, as family history has it, going in the region. In addition to a pleasant house he provided a small school room and employed a girl from Bourke as governess for his and perhaps neighbours’ children (Figure 10). They possibly pooled resources for this, as the Education Department did not fund schools unless sixteen children were available.

The three Irish Egan men, two brothers and a son, and their friend John O’Shannessy, arrived in Melbourne on their way to the Victorian goldfields. They then decided to follow the fencing and tank sinking opportunities they had heard of in western New South Wales, using their earnings from gold to purchase equipment. They fenced together around Wagga, Parkes and Grenfell for many months, and purchased tank sinking equipment for use further north and west. The three younger men married there and had children. The families became expert camp managers, the women capable midwives and nurses. Despite their camping life, they maintained the rituals of daily life, dressing for dinner at night ‘in their second best clothing’, perhaps in comfort.

Central Division, as in the Western Division, no mention is made of this in legislation though the policy certainly prevailed.  

134 By 1900, the two older brothers, still bachelors, had died, one of typhoid on the Western Australian goldfields and one of alcoholism.  
135 I thank Gail Willan for the information that the NSW Education Department has no record of the school.
Figure 10.* The Falkenhagen House and Schoolroom

* Photo kindly supplied by Gail Willan. The schoolroom is at left.
Figure 11.* A Boring Contractor’s Tent Accommodation, c. 1905.

approximating to some degree that shown in Figure 11. During the twelve or so years in which they worked their way up NSW, they were always planning for a permanent home, and after reaching the Enngonia area, erecting fencing and sinking tanks on various pastoral holdings including Morton Plains, they applied successfully for homestead leases off Morton Plains. This occurred after an anxious journey to lodge applications.\textsuperscript{136} Not knowing whether Bourke or Brewarrina was the place to lodge them, they had first ridden to Bourke, to be told the place was Brewarrina, so they rode to Brewarrina, only to find the correct place was Bourke (they were probably trying to find Willis). Their horses were, by this time, knocked up, and no fresh ones being available, so they built a boat and rowed to Bourke, to find they were the only applicants. Put off by the 'grave scarcity of water' in the region, John O'Shannessy resisted the Egans' entreaties to join them in a grazing partnership and instead put his share of the money into a hotel and store at Enngonia. This ended what had been until then the three families' shared bank account. In later years, Enngonia was regarded as the home of the Egans and O'Shannessys.\textsuperscript{137}

The Withers, Falkenhagens and Egans, no doubt others like them, were new faces in the Division. Other homestead lessees came off the stations, from the station workforce, just as Burdekin had anticipated. These have been overlooked in previous accounts, the internally recruited 'closer settlers'. They were not new faces and may have moved only a little way, or not at all, from their previous locale, their place of employment. They came from all levels of the workforce, with the possible exception of jackeroos who, usually recruited through relations or friends of the pastoral lessee, were unlikely to apply. Amongst them was a man journalist Charles Bean spoke to briefly when he steamed down the Darling from Bourke to Dunlop in 1909. Bean was reporting on the wool industry for the \textit{SMH}, and he had a personal agenda, being disposed to search for the emergence of a distinctive Australian national character in what he saw as the 'real' Australia. He gained the impression that almost all the 'small holders' in the area had sold out, but he came across one, by chance, when the steamer stopped at East Toorale opposite McCaughey's Toorale, to drop off stores. The passengers headed for a white roof thinking it might be a public house, but instead found a homestead lessee. Bean was delighted to see a paddock of wheat grown for fodder in a small natural catchment,

\textsuperscript{136} ibid. Mrs Egan uses the spelling Eringonia; however as the 1884 Department of Lands map uses the modern spelling I have used it. Local history has it that the name was originally 'Erin's Gunya'.

\textsuperscript{137} I have been told that the Mallons share in this reputation, but have not been able to research them adequately.
and, given his dislike of the mechanical specialization that had accompanied the industrial revolution in England, to find the man displaying something approaching his ideal of the multi-skilled rural worker who could turn his hand to anything: he was shearer, picker-up, tar boy, rouseabout, presser, station-hand, brander, roller, piece-picker, and classer ‘all in one’, and he harvested native grasses for bush hay. ‘There’s some reckon you can’t make it pay’, he told Bean, ‘but I know you can...The only thing is, never borrow...The man that borrows is broke.’\(^{138,139}\) He had a Scottish name, Bean wrote pointedly. He was Donald Fraser, married with small children, whose father-in-law, John Mackay, had brought sheep up the Darling in the 1840s or 50s to Gundabooka for the Mayor of Melbourne. Mackay had managed Gundabooka before he was allotted one of the first homestead leases granted in 1885, which now adjoined Donald’s.\(^{140}\) The Frasers, no new chums, had already producing a new generation in the Division.

Bean met another homestead lessee near White cliffs, a former Momba employee, Robert Leckie. Robert and his brother had left Victoria to work on Momba and had been allotted leases off its resumed area in 1888. Robert’s experience on the largest holding in the Division seems to have encouraged him to think big, both in terms of land and sons, the two were linked in his mind. It was not long before he created a large family including six sons and was poised to take advantage of the time when the restrictions of the legislation would be lifted and to argue for more land given his large number of sons.\(^{141}\) Bean found him ‘a magnificently made, keen, kindly, intelligent giant of a pastoralist’, the finest ‘of all that we met across the Darling’.\(^{142}\) However, he thought Robert was no longer a homestead lessee, as he had increased his holding to 109,627 acres.

Evidence given before the Royal Commission at the turn of the century provided further glimpses of the homestead lessee emerging from the station workforce. It should be kept in mind that the Commission was appointed to find ways of mending the economic distress, natural resource degradation, loss of population, and increased mortgagee company take over of pastoral holdings that followed the 1884 Act and the rabbit plague, exacerbated by recent drought. The commissioners had an agenda of keeping

\(^{139}\) ibid., 93-94.
\(^{140}\) File HL 18, [10/43729], NRS 14569, SRNSW.
\(^{141}\) HL 537 of 10,240 acres was Robert’s original lease. He later bought out John’s, and expanded further (see next chapter).
\(^{142}\) Bean, *Wool Track*, 95.
all who were already on the land, be they old or new, large or small, there. People giving evidence knew this, and their evidence was influenced by it: they were putting forward what they wanted, their best image, and what they thought the commissioners wanted as well. Four homestead lessees, amongst others, spoke on behalf of some 185 others whose signatures they produced. 143 The surnames often showed the influence of large families and large numbers of sons. 144

Twenty eight year old Kenworthy had lived on Mundi Mundi station for sixteen years before he took up a lease in 1894. The station had been his home, his parents’ home, and his training ground, which perhaps explained why he said that the leasehold areas should be left to the current holders and not be interfered with further. He did not regard pastoral lessees as class enemies whose day must pass, as some others did, and was confident ‘that if it [future land redistribution] were put into the form we suggest it will provide homes for a prosperous and useful lot of settlers’. 145 That form was one that would provide enough land to run enough stock to support and educate a family, and it involved survey and government assessment of carrying capacity, with no arbitrary measures like 10,240 acres. He told the commissioners that his wool had brought the highest price on the Adelaide market, that homestead lessees had put down more watering points than were put down on ‘other country’, and that they were keen to go in for small paddocks so that productivity would increase. What had stood by them was that they provided their own labour: they were, in fact ‘the pioneers of the working classes on the land and, therefore, largely assisting in coping with the labour difficulties of the colony’. 146 No doubt this cheered some members of the Commission, though it was not clear how members of the working class who were not family members, would benefit.

These homestead lessees wanted enough land to run a minimum of 3,000 sheep (a common figure given by other lessees), with no specified area for a homestead lease, and they wanted the resumed areas ‘classified’ or surveyed so that the best bits would not be picked out leaving inferior land to become a breeding ground for ‘vermin’. 147

144 The fifty one Menindie signatories included seven Bennets, five Parkers, three Chesters, three Litchfields, two Bucks, two Medicotts and two Morrisons.
145 MERCWD II, 438, NSWLAVP, Vol. 4, 1901, 323-1185.
146 MERCWD II, 439, NSWLAVP, Vol. 4 1901, 323-1185.
147 The text given to Kenworthy from the meeting of lessees actually said from 1,000 to 6,000 sheep, but he admitted he did not agree with the lower figure, which he thought due to the influence of part-timers.
They wanted the restrictions on the holding of only one homestead lease lifted, whether the additional land was allotted by government or purchased on the market, and also wanted the ability to take up additional areas at some distance from their original holding—forty miles away was not too far. Charles Chester, whose father, brother and brother-in-law held adjoining leases totalling 35,910 acres, would also have touched a responsive chord amongst the commissioners. He argued that the leases had been a paying concern before the drought, but not since. His brother had just started a family, his father ‘kept himself’ out of his lease, his brother-in-law had three children, but he himself ‘couldn’t afford to start a family’. He wasn’t fussed about an extended term, or even the rent, he just wanted additional land—fifty miles away would be alright—enough for 4,000 sheep.¹⁴⁸ Louis Bache agreed with him, wanting more land so he could educate his large family—there was no school near him and he couldn’t afford to pay for a teacher—but he also needed his large family with him to assist ‘on the lease’. Irishman James Byrnes, stockdealer and ‘grazier’, had ‘known’ the country since 1872, and his sons had been able to observe his ‘successful management’ on his lease ‘Tartna’.¹⁴⁹ When questioned further, his successful management turned out to be just ‘hard work’. His sons had taken up leases and worked them with a butchering business. There should be no limit on area—the ‘squatter’ had had the pick of the land and should improve what he had. His use of the old word was rare during the Royal Commission. Existing lessees should be given preference over new people if more land became available, he asserted, that is, they should be able to get additional land before new landholders were offered it.¹⁵⁰ Robert Symes, speaking for the ‘large families’ he represented, wanted the resumed areas not just for his generation but for their children, and he knew of ten or eleven men saving up for a block. The country would be ‘depopulated’, he said, if this now ‘bona fide’ demand was not met, an argument that appreciated a major concern of parliamentarians.

Some homestead lessees from higher echelons of the station workforce shared the view that their sons should also be allotted land cheaply by government. John Sloane Gordon, a Scot of good lineage whose father and uncle had migrated in the 1830s, was as enthusiastic as the ‘working class’ pioneers about this. His uncle had arrived in Australia to be quickly recruited as ‘steward’ for the elite Macleays, later purchasing one of their admired properties, Borambola near Wagga Wagga. His daughter married

¹⁴⁹ ibid., 447.
¹⁵⁰ ibid., 473.
into another elite landed family, the Campbells of Dungalear, in the Division’s north east. Like his uncle, John had climbed the pastoral ladder of opportunity by providing twenty years dedicated service as jackaroo, overseer, then manager, for the Riverina based Mackay brothers. By 1900, he was planning to establish a merino stud, and, amongst other civic activities at Walgett had founded the Barwon Amateur Turf Club.\textsuperscript{151} All this earned the Gordons a place in Kenyon’s \textit{Story of Australia, Its Discoverers and Founders}, and John a place in \textit{Who’s Who} in 1928. He told the commissioners that he managed Brewon, just over the border in the Central Division, also Wilkie Plains, a small pastoral holding nearby in the Western Division, as well as three homestead leases off Llanillo. They did not ask him how he came to be ‘managing’ the three homestead leases, such matters were now best overlooked. The Crown should deal fairly with the pastoral lessees, Gordon said, and give them a reasonable extension of term, but he did not say this for the benefit of the pastoral lessees, adding that, ‘when our youngsters grow up there will be land for them to take up, and they can reside in the district.’ ‘Our trade or profession is the pastoral industry’, he said, and a man with youngsters born and bred in the district should take precedence over strangers from another country.\textsuperscript{152}

That a core of genuine homestead lessees existed was evident in sources other than government records. In the 1890s, Christian Koertz patented and advertised the ‘New Koertz Selectors’ and Homestead Lessees Press’ for wool (Figure 13). Priced at only £17, it was ‘originally designed for small holders’ but could manage 20,000 sheep, and be ‘worked by one man’ using ‘less than half the labour of the most expensive press made’. Large stations were instead advised to purchase the Squatters’ Press at £25.\textsuperscript{153} Homestead lessees, and selectors further east, were clearly potential customers worth the cost of developing a new press. The \textit{Australian Pastoral Directory}, created by the \textit{Review} in 1891 in part to help sheep men contact one another when in search of good sheep and rams, also provided evidence. It included in its lists of ‘stockholders’ not only holders of 2,000 sheep or more, but those with 1,000 to 2,000. Amongst the latter

\textsuperscript{152} ‘MERCWD II’, 661, \textit{NSWLAVP}, Vol.4 1901, 323-1185.
"New Koerstz Selectors' and Homestead Lessees' Press"

The Wool Press of Australasia, has practically Annihilated all Competition.

Originally designed for small holders, this Press has proved equal to the requirements of stations with 2000 sheep, or more, and has been just as effective when dealing with Deserted Wool. During the last four seasons about five Thousand have been sold, giving unqualified satisfaction to every purchaser, and without a single breakage, a solitary complaint, or suggested improvement.

The Press is most substantially built, from the best materials, and by thoroughly competent workmen, it is simple, easily and quickly operated, weighs about 12 cwt., occupies but little space, requires no fixing, can be worked anywhere and by any man; it will press as much wool into a bale as many hours in a day as the most expensive Press made, and with less than half the labour. With ordinary care it will last for many years; and cannot fail to give the utmost satisfaction.

For large stations and wool scourers, where the work is very heavy and continuous, the Koerstz Squatters' Press at £25, or the improved Langley at £30 are recommended. See Circulars and Testimonials.

FREDK. MASON,
SOLE AGENT FOR Langley and Koerstz Squatters' Wool Presses, Koerstz Pumps and Quartz Crushers.

Box 399, G.P.O., Sydney.
Factory—Abattoir's Road, Pyrmont. SYDNEY.
were some of the homestead lessees already mentioned here. The *Directory* was, in
fact, probably where Roberts found his 200 lessees who ‘came forward’, because 203
stockholders were listed in the stock districts within the Division in 1901.\(^{154}\) Though far
short of Young’s aspirational 3,900, these 203 had done more than come forward: they
were still there,\(^{155}\) Scobie’s dour comment can also be noted. Though he had often made
representations on behalf of homestead lessees in the Wentworth electorate as local
AWU agent or MP, in 1901 he told parliament that the homestead lessees had come to
stay, ‘like the rabbits’.\(^{156}\) Whether they made the cost of the handsome new Bourke
Lands Office, completed in 1898, worthwhile, is a moot point (Figure 14); but there was
more work to be done.

**Figure 13.** The Bourke Lands Office (recent photograph)

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\(^{154}\) *Australian Pastoral Directory*, The Pastoral Review Pty. Ltd., Sydney, 1901. The stock districts
were
Balranald, Bourke, Brewarrina, Cobar, Hillston, Ivanhoe, Menindie, Walgett, Wentworth, Wilcannia,

\(^{155}\) Langwell’s statement during the debate on the 1901 Western Lands Bill, that there were then 359
homestead leases ‘held’ though not all were held bona fide, may also be consistent with this. See
*NSWPD*, 11 December 1901, 4142.

\(^{156}\) *NSWPD*, 3 December 1901, 3849.
CHAPTER FOUR

The Western Lands Act of 1901

‘...among members of bureaucracies...demands...are suppressed... by failing to gain entry to...the processes of the system...some alternatives are not considered.’

By 1900, dry seasons were drought, contributing to the disaster Millen had described. He was adamant, however, that drought was not as important as ‘stock and rabbits’ in creating bare soils, sanded up fences and tanks, abandoned homesteads and land, spreading scrub, and homes in charge of ‘married couples’ or bachelor overseers instead of families. ‘We have legislated too much on theory’, the SMH editorialized, and urged the gathering of ‘facts’. In April, Wilcannia’s Western Grazier reported numerous meetings calling for an inquiry or Royal Commission, as the SMH had recommended, calls made as early as 1892. Respected pastoral lessee Robert Barr Smith, partner of Peter Waite in Momba and Ophara, told the Grazier’s readers that the decline in the volume of the wool clip reflected more than loss of production: the ‘national estate’ had been overtaxed, perhaps permanently. Government should play its part by giving long leases so that the land could be rested to regain its ‘fertility and herbage’ and by not basing rents on the number of sheep it could be forced to sustain ‘for one or two seasons’. He wanted a Royal Commission similar to the recent South Australian one which had recommended long leases.

Though Millen called for parliamentary action, this was for him only a preliminary step to enable landholders ‘to alter their system of working’. The ‘old squatters’, he said, had only used their back blocks intermittently after rain, necessarily resting them when surface water was not available. Construction of watering points since then had enabled continuous stocking around them, helping to cause groundcover decline. He wanted graziers to adopt Waite’s system of resting paddocks, a system mimicking the old

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3 SMH editorial, 26 January 1900, 36.
4 C. Wade of Mundi Mundi wrote to the Review of 15 August 1892 calling for a Royal Commission to bring justice to ‘this long suffering district’. 784.
5 R. Barr Smith, Letter to the editor, Western Grazier, Wilcannia, 10 March 1900.
system, but believed longer leases and lower rents, reflecting a lower carrying capacity were necessary to make this possible.  

The Grazier's editor, Thomas Bell, a homestead lessee himself briefly, agreed. The west needed government help as much as the cities and eastern regions, he wrote, and longer leases were needed though not 'leases in perpetuity', an option not publicly discussed. This view reflected the belief that despite what had just happened, closer settlement in the Division was unfinished business: leases in perpetuity signified an acceptance of a permanent right to land, for satisfactory settlers. Bell wanted westerners to appeal beyond government to people generally, and as though providing an example of the sort of appeal needed, he offered a model argument. 'Colonisation' was at stake, he urged, with 'the desert' encroaching on 'civilisation'; no 'general interest' would be served by allowing the country to lapse into its 'original barrenness.'  

He must have thought this anthropocentric and racist appeal a good model, but when not thinking about such an appeal, his paper published more reflective thoughts about white settlement:

God bin make um country first time. He bin make um plenty grass, plenty water. He bin have um little fella mob kangaroo, emu, turkey, plenty duck. Then whitefella come. He see um country. He like um. He yan, and come back, fetchum sheep and bullochy, big mob, big fella mob. Bullochy and sheep bin tuck out grass, and bin finiss um waterhole. Then whitefella bin make um dam, and stop um creek. God, he don't like um, but he no bin yabber. Then water he go bung more, an' whitefella he fetch um hinging and makem bore. Then God he cobbun saucy. He want kickem up cobbun plurry row - bullocks and sheep eat up grass - whitefella swear, and God laughs - won't send rain - says: 'Alright. You bin plurry flash, makin' dam and makin' bore. Yah Yah! Now you make'm plurry grass.'  

A Royal Commission was appointed in August 1900 to 'inquire into the condition of Crown tenants in the Western Division' and the reasons for the 'depression' there. About the same time the Premier announced that the revenue from the Division was £50,000 less than for the same month the year before due to abandoned land. The Review thought he sounded like a disappointed Treasurer rather than someone with sympathy for lessees. The 1884 parliamentary attitude died hard. The Review

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7 *Western Grazier*, 21 March 1900
8 Ibid.
9 Bobbie Hardy, *Lament for the Barkindji: the vanished tribes of the Darling River region*, Rigby, Adelaide, 174. I have simplified the spelling slightly for ease of reading
10 *Review*, 15 August 1900, 381-82.
appealed to pastoral lessees to pull together with homestead lessees to present evidence to the Commission and to accept the homestead lessee desire for a bigger area, for this would only bring them on a par with Queensland graziers where 20,000 acres was allowed.\textsuperscript{11} Disappointed that six of the eight members were current parliamentarians because of likely delay, it rightly anticipated that the three months allowed would have to be considerably extended.

The Commission members spanned a political spectrum and represented western union and Labour interests generously. Hugh Langwell, W.G. Spence, and W.J. Ferguson owed their appointments to their Western Division electorates and their prominence in shearer or mining unions and the formation of the Labour Electoral Leagues. They worked with W.W. Davis, pastoral lessee, and James Ashton, an authority on land law and a Land Agent for large pastoral lessees. W.N. Willis was also a member, along with R.R. Machattie, former licensed surveyor, MLA, and homestead lessee.\textsuperscript{12} The President/Chairman, C.J. McMaster, was the respected District Surveyor for the Moree district (which then extended well into the Division) to whom O’Malley Wood had complained about sub-leasing. Most recently he had been a senior land official in Sydney. The Commission consulted exhaustively in the Division and elsewhere, interviewing lessees, financiers, government officials, inter-state officials and others, some 264 witnesses in all. After fourteen months, it produced 800 pages of easily readable evidence and a short Report written by James Ashton.\textsuperscript{13} The Minutes of Evidence suggest it was steered strongly by McMaster who chaired all the sittings and asked most of the questions.\textsuperscript{14}

The Commission’s evidence and Report has attracted attention from historians, geographers, scientists, scientific officials, and officials of the administration it

\begin{footnotes}
\item[11] op. cit.
\item[12] Amongst the parliamentarians, Hugh Langwell, W.G. Spence and W.J. Ferguson owed their appointments to their Western Division electorates and their prominence in the establishment of the shearers and miners unions and the Labor Electoral Leagues. Langwell was President of the Bourke Electoral League in 1891 and represented Bourke in the Assembly between 1891 and 1894 (when he was replaced by E. D. Millen) and in January 1900 was appointed to the Legislative Council.\textsuperscript{13} Spence represented Cobar until he moved to the federal parliament in March 1901. Mining union leader Ferguson was based at Broken Hill (Sturt electorate). James Ashton, newspaper proprietor at Hay and MLA for Goulburn had written and campaigned on land matters and became a Crown Land Agent for some prominent pastoral lessees like McCaughey. R.R. Machattie, a former MLA for Bourke and former homestead lessee in the Brewarrina Land District near Willis’s leases, had early experience in the west as a licensed surveyor. W.N. Willis and W.W. Davis we have already met, the latter being the only Division pastoral lessee on the Commission.
\item[13] \textit{SMH}, 25 May 1934, letter to the editor from James Ashton.
\item[14] C. J. Brandis of the Land Court was originally appointed President but withdrew.
\end{footnotes}
established. This interest derives in part from the fact that landholders and others giving evidence had been in the Division long enough to describe the changes in the natural resource wrought by the white man’s domestic stock, particularly sheep. Their descriptions of the loss of the original resource and their expressions of willingness to change, has been seen as showing concern and commitment to change. Environmental historian Tom Griffiths found a ‘unity in concern for the land’.  

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Historical geographer Michael Quinn went further to find commitment to change, not only in the evidence but the subsequent Act, where he found ‘more stringent controls on the use of land’, designed, he said, to ensure the future viability of the industry.  

16 He did not describe the controls. Non-academic accounts also show this view of the Act: Hassalls and Associates’ economic study of the Division in 1982, which relied heavily on official input, held that the 1901 Act was introduced ‘to initiate and promote protective measures’ for the natural resource and correct the overestimation of carrying capacity of the 1880s and the drought of 1902.’  

17 I argue instead, that as debate moved from Evidence, Report, Bill, to Act, there was a decline in concern and commitment. Quinn observed a decline, but placed this after the Act in the first ten years of implementation and later. Decline, however, can be seen even before the Act, and there is little evidence to justify Quinn’s belief that there was commitment to a change in ‘land use’, or that the Royal Commission or the Act sought to ‘match European land use with the Australian environment’ or ‘modify pastoralism’.  

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The evidence before the Commission left no doubt that the natural edible grasses and shrubs, and the edible trees cut for feed when the low groundcover was gone, were being depleted, not just because of rabbits and drought but because of grazing by domestic stock. The spread of inedible ‘scrub’ and trees was associated with the depletion of the edible groundcovers. The Commissioners were told that indigenous and exotic noxious weeds and undesirable tree suckers and pine scrub, were gradually occupying the place of valuable pasture plants. This was not always presented as a matter of ‘overstocking’ because some who had been in the west for forty years or more


placed the commencement of the spread of inedible scrubs in the early 1870s just after the introduction of sheep.  

Though the evidence showed an acceptance of a need for change; the kind of change thought to be needed, varied. Millen’s assertion that management by landholders needed to change was urged by some officials with scientific roles. Enthusiastic botanist and former Botanic Gardens official, Fred Turner, was joined in this by the Manager of the Department of Agriculture’s Experimental Farm at Coolabah on the Division’s eastern border, Robert Peacock. Both spoke forcefully about the need to change grazing management within a property. Unless a ‘good’ system of grazing management within a property was adopted, the most valuable indigenous herbage would die out. Turner had written extensively on indigenous fodder plants and grasses in the 1890s, believing they were better suited to the Australia climate and soils than the exotics that had been introduced. The management he recommended was to graze pastures in rotation, so that each paddock, ideally of no more than 5,000 acres, was rested for three to four months each year and no paddock was ‘persistently’ eaten down, thus giving them a chance to ‘recuperate and perfect seeds for their natural perpetuation’. This would also allow crops of grass and other herbage to be cut in some paddocks during good seasons to make hay or silage. Many experienced pastoralists, he said, agreed that this or something like it was necessary unless stockowners were prepared to lose thousands of animals every drought. He recommended that saltbush be grown from seed or cuttings in fenced reserves, though he feared seed might have to be got from Americans who had enthusiastically introduced and grown it in California.

Peacock described how he had propagated saltbush successfully, relatively easily and cheaply, from seeds and cuttings at the Coolabah Farm. It had recently been established in response to the nearby spread of scrub and to carry out experiments with drought resistant strains of wheat, but reclamation of bare scalded country and sand dunes

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22 MERCWD II, 307-08.
through plantings of edible trees, shrubs, saltbushes and grasses were also 'the province' of his department. Commissioner Ashton questioned him closely saying it was 'a very important point' for the inquiry'. Peacock was unimpressed with improvements as a measure of good management: 'No matter what improvement a man might go in for', he said, 'if he overstocked, he would undo the whole of his work.' He agreed with Turner about grazing management and said his Minister was currently giving priority to 'systematic grazing experiments'. Upset to see the wholesale destruction of edible mulga, emubush, ironwood, and other trees, axed down at the butt, he proposed instead that branches need only be cut and pulled down to save the life of the tree.

Some pastoral lessees had already acted on such views. The Dickson brothers of Yarrawin on the Bogan had routinely planted saltbush, their employees doing this when not otherwise engaged. Far away on the South Australian border, Peter Waite, described how he managed saltbush at Ophara, which, when he first saw it in the 1870s looked 'heavenly country'. The original large paddocks with only one watering point had been eaten in a circle around the water, leaving the rest untouched, too far away for the sheep to walk to and from water. Paddock size had gradually been reduced to about 2,240 acres (about three and a half square miles). Now, stock were moved before eating down went too far, rather like the kind of grazing needed for sustaining lucerne, he said. Sheep had been removed after the last good rains twelve months ago to allow the saltbush to re-establish. Small paddocks meant higher fencing costs, so he had designed a cheaper form of fencing. This management occurred only where he had reasonable leasehold tenure, and he doubted that the method would apply to sandy or grass country where the feed came and went quickly, such as on Momba.

At Ophara, Waite's manager, Andrew Smith, there for twenty two years, provided more detail. Small paddocks had stopped sheep from moving in large groups to favoured

23 ibid., 206.
24 ibid., 208, 210, 211 Peacock described how he had cast seed of old man saltbush into single furrows and the plants were seven foot high after sixteen months, without his watering them and even under the drouthly conditions. Young plants had to be protected from stock for some twelve months to produce bushes big enough to withstand grazing, and seed production could be expected some six months later. A man with saltbush could carry sheep for eighteen months to two years longer than his neighbours.
25 ibid., 212.
26 ibid., 207.
27 ibid., 188-90.
28 ibid., 406-07.
29 ibid.
30 ibid., 470, 413. His Momba manager, Charles Reid, was less positive about small paddocks. Momba had a large area of sandy country which was 'just a moving mass'
locations dictated by their habits of eating into the wind, reusing previously made tracks, and getting ‘boxed’ too far from water. They kept sheep within walking distance of water and ensured they grazed more evenly. Movement of stock was essential to the system: he moved sheep from a paddock to a spelled paddock after three weeks grazing in some cases. The original sheep numbers of 4,000 to 6,000 had been maintained, the land was used all year round instead of seasonally as in the past, and good lambings had been achieved. The saltbush seen by the commissioners that day was ‘as good as when we took the country up’, whereas neighbouring properties were without stock due to lack of feed.\(^\text{31}\) A precondition of success, however, was the rabbit and dog proof fence surrounding Ophara. Though movement of stock through paddocks was essential to the system the ‘Summary of Evidence’ on this matter, titled ‘Effect of small paddocks with judicious stocking, on the condition of the country’, emphasized only small paddocks, Waite’s cheap fences, and watering points, with only a mention of the need for ‘spelling’ paddocks. Whatever ‘judicious stocking’ meant, the emphasis given by Smith to movement and rotation was lost.

An idea common to all who spoke of grazing management was that persistent grazing was the problem. Mark Tully, former manager, pastoral lessee and now government Stock Inspector (a not uncommon progression currently) had thirty four years experience in the Wilcannia area. He blamed overstocking and rabbits for the deterioration, but believed it arose partly from the ignorance of those who came from the ‘grass country’ further east, where perennial grasses could be eaten severely and even sometimes improved with grazing.\(^\text{32}\) In the ‘bush country’ the perennial bushes died when all their leaves were eaten off (perhaps referring to saltbush), and there were now mainly annual plants.\(^\text{33}\) Edward Quinn accepted blame for deteriorating his country, saying he would now run 40,000 sheep, instead of 80,000, more profitably, he believed, since each individual sheep would be more productive with more feed to go around.\(^\text{34}\) He approved of small paddocks because they could spread stock ‘more evenly’, and ‘you might have to stock the country lighter and have smaller numbers’.\(^\text{35}\)

\(^{31}\) Ibid., 405-06. It was not old man saltbush in this case, for Smith said the stock wouldn’t eat that species. It was almost certainly bladder saltbush given the good reputation this species had as stockfeed, then as now.

\(^{32}\) Ibid., 480.


\(^{34}\) ‘Western Division of New South Wales—Report and Summary of Evidence of the Royal Commission to inquire into the condition of the Crown Tenants, Part 1’, (hereafter RSRCWD 1), 109, in \textit{NSW LAPP}, Vol. 4, 1901, 131-322.

\(^{35}\) Ibid.
Smaller landholders and homestead lessees gave similar accounts of the effect of stock on the country, but did not see a need for a change in grazing management. John Gordon had seen the West Barwon country change from open plains ‘with grasses having possession of the ground’, to thickly timbered country with young coolabahs, box, and budda (inedible plants). He thought it ‘only natural’ that sheep ate everything edible in droughty seasons, and that constant picking did not give plants a chance to grow. His suggestion, repeated by others, was not a preventive measure: the government should require lessees, through lease conditions, to keep suckers and young trees down. Other homestead lessees were amenable to suggestions that there should be a firm stand regarding such things as ‘scrubbing’ and ‘grubbing’ inedible scrub and destroying rabbits. Almost all agreed with the idea of signing ‘a covenant’ about such things. One urged it should be made compulsory to destroy rabbits and that the Land Boards had been right to insist on suckering being done after ringbarking. A few said that if given the concessions of rent, long leases, and additional land, they would undertake to bring saltbush back by resting paddocks.

The questioning of witnesses revealed an agenda which had nothing to do with the natural resource but much to do with the ‘economic depression’. The desires of the large lessees and their financiers were no secret: long leases and lower rents (the ‘preliminary step’ in Millen’s view); the desires of the small holders were also well known: the lifting of the restraints on size, whether through allotment or purchase. But the matter of mortgage debt, the hold that mortgagees had as a result of the over-capitalisation of previous years was strongly in mind. The Commissioners sounded out mortgagees as to whether they would be prepared to do a deal with the government. Their questioning of the pastoral finance companies and banks went like this: if the Crown gives concessions of low rent and long tenure, would you in turn give concessions to your mortgagors, keeping them on, and also writing down their debt and interest rates? This showed sensitivity to criticism in Labour circles that giving long leases to mortgagees ‘virtually in possession’ would end up being only for their benefit

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36 MERCWD II, 662.
37 ibid.
38 ibid., 34-35, 444, 77
39 ibid., 185.
40 As seen in the last chapter, homestead lessees had in some cases ‘acquired’ additional leases, perhaps by purchase, and were strictly outside the law. This may not have mattered to them on the ground, but if they wished to borrow, lenders or mortgagees may well baulk at lending if their title was not backed by the Government.
should they eject the current mortgagor when good seasons returned and land values increased.

All financiers expressed willingness to co-operate, though they could not be ‘bound’ at the time. The AJS Bank’s General Manager, Francis Adams, said: ‘we do not throw over the original debtor because some new man comes along’, and he was sure that given a good season, some mortgagees would, after sale, get back their money and be able to give a balance to the mortgagor. ⁴¹ This was not exactly what the Commissioners had in mind: they wanted the existing mortgagors to stay. Adams informed them that the law did not allow a mortgagee to foreclose on leasehold land and hold the title absolutely, although a mortgagee could sell the property: ‘once a mortgagee always a mortgagee’, he said. Peter Close, partner in the firm Hill Clark and Co. and a land agent associated with Willis, claimed he was prepared, except in cases where a man ‘loses his head’, to carry the mortgagors and for a number of years. ⁴² The Report carefully quoted such responses. ⁴³

The homestead lessees’ part of the deal was to undertake to borrow for improvements. Time and again, the Commissioners asked them what improvements they would be prepared to make if they could borrow at cheaper interest rates with long leases. Some were given quite a strong message that they would be expected to borrow. ⁴⁴ Most had ready answers: they would borrow for a bore, more watering points, fencing, ringbarking, scrub clearing. Malcolm Livingston assured the Commissioners that homestead lessees ‘as a class’ wanted to be able to borrow on the security of longer leases. ⁴⁵ Although many said that the carrying capacity of the land had declined since they had known it, their answer was further investment in improvements designed to utilize further, if not their current land, then an additional area they might get as an outcome of the Commission’s recommendations.

The Commissioners wanted to keep those who were there, there. There was no advantage, their Report said, in a policy which aimed to dispossess ‘the man who has borne the heat and burden of the day for another man whose incoming involves no

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⁴¹ MERCWD II, 798-99.
⁴² RSRCD I, xxi.
⁴³ ibid., xix-xxi.
⁴⁴ See, for instance, the questioning of Edward Lynch, MERCWD II, 138.
⁴⁵ MERCWD II, 167.
radical change in the character of settlement'. The forms created for surveyors to use under the subsequent Western Lands Act showed that ‘improvements’ were expected from the incoming man, though no change in land use. One used routinely, asked surveyors to answer the question: ‘What is the grazing capacity of the land in ordinary seasons (a) as unimproved, (b) with present improvements, (c) as fully improved.’ Possible improvements were usually ground tanks in as yet unwatered country. These were, wherever possible, listed and costed, along with an increased carrying capacity.

The Commission’s short Report enthusiastically recorded ‘Mr. Waite’s system’ of close subdivision into small paddocks, but it did not mention that stock movement was part and parcel of it. Politicians waiting to legislate were not told precisely why small paddocks were desirable, and what that meant for stock management. Though it wanted ‘progressive’, or ‘judicious’, management, it did not bother parliamentarians with the meaning of these adjectival concepts. The ‘judicious’ management concept was in fact at least one hundred years old, and remained vague: when John Macarthur used it 1805 as the colony’s first promoter of fine merino wool, he almost certainly included culling and ‘breeding’ in its meaning. The concept would linger on for many years, being adopted by some academics and used in advisory texts as late as 1987. The Report did not mention the Department of Agriculture’s interest in another adjectival concept, ‘systematic grazing management’, nor recommend cooperation between it and lands officials to spread the practice. Its recommendation about longer leases, however, was clear cut: it would enable lessees to borrow for any ‘improvement’, because to ‘let the present lessees simply drift along...without doing anything to infuse life into them...would be the very worst policy.’ Lessees needed the life infusing activity of making improvements rather than moving stock around as the shepherds had done.

The causes of the ‘depression’ given prominence by the Report had a circular thinking quality about them: low rainfall and periodic drought, rabbits, over-stocking, sand-
storms, growth of inedible scrub, fall in wool prices, constraints on homestead lease areas, distance from market, loss of stock, (some ten million between 1891 and 1900, much of this due to deaths), depreciation in land values of from fifty to eighty per cent over fifteen years, loss of employment, and business stagnation. How could ‘business stagnation’ have caused the depression: surely it was a symptom of it. Similarly sandstorms were not a cause, at the same level as overstocking, they were partly, it was admitted, a result of overstocking. And listing low rainfall and drought as ‘the primary and most constant cause of the difficulties’, was problematic given that the Report urged that drought had to be accepted as ‘normal’. In other sections of the Report, less prominent causes were given, often overlooked in later historical accounts. After referring to the high prices for wool in the 1870s and early 1880s, it noted that landholders had paid too much for the land, had spent freely and ‘not always wisely’ and paid interest; then the 1884 Act became law and many lost half their land, and rents went up with a bound. There was then

an irresistible temptation to try and carry the same number of stock on the reduced area…Then the rabbits came…Large sums...had to be spent in destroying them...it was at this period...that the disastrous overstocking commenced in earnest...the country was after 1884, asked to carry 42 per cent more stock...after 1884 they shared it with the rabbits...[then] came a decline in prices. 52

The Report recognized the additional man made causes of competitive over-lending or over-borrowing, the government’s ‘division of the runs’, and high rent.

In addressing ‘overstocking’ as one of the causes of the depression, the Report placed the word in quotation marks, perhaps suggesting common use or a rubberiness in meaning. It contented itself with one meaning: that of not moving stock off a property as drought advanced; it found extenuating circumstances for landholders who had been criticised as having only themselves to blame:

On a given date he is carrying...a certain number of stock. The weather becomes dry; but according to precedent, based on limited experience, rain may be expected...soon. The rain holds off. To send his stock away means loss of profit – perhaps an increased overdraft. He decides to wait a little longer. The expected rain fails to come. The run is then overstocked; and owing to the condition of the stock routes rendering it impossible to get the sheep away, it remains “overstocked” until the sheep die or the weather breaks. 53

52 ibid., vii.
53 op. cit.
Sheep numbers dropped from a record fifteen million in the Division 1891 to five million in 1900, many dying from starvation.  

Some terms of reference were addressed forcefully. Yes, longer lease tenures were recommended. Yes, the rents were excessive, three and a half times greater in 1900 than they were in 1879. How best to set them in future was a difficult matter and left vague: one could only seek a ‘reasonably accurate average’ given the changeability of seasons, differences in carrying capacity and changes in prices. It agreed that the country’s carrying capacity had been overestimated, first by lessees themselves and later by government officials setting rents, and over five million acres of resumed area land had been ‘thrown up’. More significantly, nearly one million acres of leasehold area land with 18 years of tenure left (my emphasis), had been forfeited or surrendered. Together, this ‘abandoned’ land approximated less than 8 per cent of the Division, but the Report clearly wanted it rented again, at a nominal rent, as soon as possible, in the hope that rabbits and scrub could be kept down. No, the remaining resumed areas should not be added to the leasehold areas (meaning those not already reattached) until homestead lessees nearby had the chance to get additional areas. Yes there was a need for new administration. A small central body should set rents more equitably across the whole of the Division, replace the formal Land Boards, and adopt a more personal approach to ‘the problems’. It would have the virtue of being ‘exceedingly economical.’ It would negotiate the ‘common agreements’ between mortgagees and mortgagors which would write down debt and interest rates. Using the carrot of long leases and the stick of expiring leases, no mortgaged lessee would be given an extended tenure unless the agreement had been arrived at and signed off by the three parties. The longer term for the leases would provide the opportunity to recoup losses, secure the fruits of lessees’ labour, renew confidence in the future of the

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54 Evidence given by lessees frequently showed this. See, for example, evidence for Bangate where stock losses of 34,000 over two years was due to starvation as there had been no shortage of water ‘since the bore had been secured’. MERCWD, 655.


56 In two main areas: one in the far north west near the Queensland and South Australian borders, the other south of Cobar on the red ground of the Cobar peneplain. The counties involved were Thoulcanna, Delalah, Evelyn and Thoulcanna in the north west, Mossgie, Mouramba, Mournab and Blaxland in the east near Cobar. The leasehold areas were in the north west: Delalah Downs, Delalah, Bouka Lake, Berawinnia Downs No. 3, Olive Downs and Caryapundy Swamp No 2; in the east, Roto North East, Keewong and Taringo Downs. Details are at pages x-xi of the Report.

57 RSRCWD I, xxiv.
industry, and more ‘progressive’ management would result, though not Millen’s altered ‘system of working’.

W.P. Crick, Minister for Lands in John See’s Protectionist government supported by Labour, introduced his Bill on 14 November though the printed Bill was not yet available and the Report not yet tabled. He wanted no further delay—men were being driven mad by residing out there, he told parliament —deprived of the advantages of civilization and in danger of letting their children ‘grow up like little blackfellows’. 58 It was a relief measure, he said, designed to put heart back into lessees and reverse loss of population (an estimated 5,000 souls, or 25 per cent, he said) and stock. The important thing was to keep the people who were there, there. The SMH thought this was what the financial institutions had rightly been trying to do: to ‘keep the West in the hands of the men who are now out there...who know most about it’. 59

The preamble to the Bill and the Act said its purpose was ‘to vest the management and control of that portion of New South Wales known as the Western Division’ in a Western Land Board, and ‘to grant extension of leases...and all purposes necessary and incidental thereto’. 60 The Crown Lands Acts would no longer apply to leases brought under the new Act, and all holders of pastoral, homestead, improvement, scrub, and inferior land leases and holders of occupation licenses, could apply to come under it and be granted an extended term to 30 June 1943, and lower rent. 61 The Report had wanted the new administration to have discretion about the length of term, particularly regarding the land district of Walgett North where the Commissioners had found opposition to any extension of leases. There was opposition in parliament, mostly from Labour men, to any extensions from those who claimed mortgagees would sell up mortgagors when prices and seasons improved and gain all the benefit of the reforms. Donald MacDonnell (Cobar) said that financiers had lent money knowing the security they had, and they should now wear it: they had no claim on parliament. 62 Small men would, he believed, work the country better. In response to criticism that the land would be ‘locked up’ from additional closer settlement for forty three years, Crick disagreed, saying that a future parliament could change things. 63 Labour’s Niels Nielsen

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58 NSWPD, 28 November, 1901, 3781.
59 SMH, 28 November 1901, 6.
60 Act No. 70, 1901, Western Lands Act of 1901.
61 Part III Section 13. Some other old types of leases were also included in 1905.
62 NSWPD, 28 November 1901, 3907.
63 ibid., 3 December, 1901, 3898
(Boorowa) argued against extensions for the large holders and the banks, while urging, presciently, that perhaps leases in perpetuity should be granted to smaller holders over an area sufficient for a man and his family.  

Crick was forthright about some aspects of the Bill, less so about others. He was forthright about its being a financial relief measure compared to the 1884 Act with its goal of ‘screwing as much rent as possible’ out of landholders. Rents would be significantly lowered, within a set minimum and maximum, and would be calculated by the new administration. A Board of three Commissioners, one being the Chief Commissioner, would set rents according to carrying capacity in different parts of the Division. There would be no reappraisement of rent until 1918, and then not until 1930, and it could be increased or decreased only by up to 25 per cent. Crick saw rents as having a natural resource aspect, (not causing overstocking), but his main motivation was to allow a lessee to be able to tell a financier that he had a long lease for which rental would not change more than 25 per cent. Certainty for financiers was required. Whether this would benefit the natural resource, was less certain.

Crick was well known inside and outside parliament. After moving to Sydney and working in law firms including that of J.A.B. Cahill, he entered into partnership with R. D. Meagher and established a reputation and an admiring public for his performances as a defence criminal lawyer. Feared by some parliamentarians for his scornful guttersnipe tongue and mockery of parliamentary dignity, others held his intellect, decisiveness, and aggressive Australianess in high regard. His admiring friend Willis, feared that his love of whisky and the racetrack, and his capacity for making enemies, would dim a potentially brilliant career. Minister for Lands since April 1901, he was regarded as having some knowledge of the west, his father having been a mail contractor on the lower Darling. His lawyer status, and his confidence in handling difficult land legislation gave him some dominance, particularly since several experienced men had left the State legislature to enter federal parliament. Parliamentarians seemed relieved to leave the intricacies to him, often relying on his assurances. His capacity for unilateral action and his concern for cheap administration in the Division, became

64 ibid., 3880.
65 *NSWPD*, 27 November 1901, 3717.
66 op. cit.
evident in the debate on the bill dealing with rabbit control, under discussion at the same time as the Western Lands Bill. This placed some compulsion on landholders for rabbit destruction following the establishment of rabbit boards. Crick explained that because landholders in the Division had given him an undertaking to destroy rabbits in return for the long leases promised by the Bill, he had excluded the Division from it, thus saving the cost of rabbit boards there. The destruction of rabbits was one of the conditions attaching to the new long western leases. Local Labour parliamentarians questioned this, pointing out that because much of the Division was unoccupied, no lease conditions were applicable, and some lessees were not intending to come under the Western Lands Act. Also, they argued, rabbit destruction by lessees would be nullified by the spread of the fecund animals from unoccupied Crown land.  

The relevance of the word ‘control’ in the preamble was hard to detect during the general Assembly debate, which emphasized ‘relief’, not control. Only passing mention was made of ‘Schedule A’, attached to the Bill, which was only mentioned in passing as containing controls. It contained the conditions which would be written into leases, non-compliance with which could attract forfeiture of the lease. Forfeiture, as we have seen, was a policy instrument or tool devised to cancel the occupation right of lessees who defaulted, mainly on rent in the case of pastoral lessees, or in the case of homestead lessees, on fencing and residence conditions or ‘bona fide’. Though it did not refer to it in detail, Schedule A appears to have prompted the Review’s comment that the new Board would have ‘immense powers’. It hoped that the appointees would exercise them wisely.

There were twenty two conditions in Schedule A, only a few of which referred to the natural resource. It was not discussed in the Assembly until the Committee stages, the customary clause by clause examination of legislation. Discussion took place on 3 December 1901, between 7.30am and 8.04am, after an all night sitting. Only fifty-four of the 125 Assembly members were present. Crick, Willis, and R.D. Meagher were prominent in the little discussion there was. The widespread concern about loss of saltbush and edible shrubs and trees was met with the lease condition that the lessee must ‘foster and cultivate such edible trees and shrubs...as the commissioners may from

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69 *NSWPD*, 5 December 1901, 4050-53.
71 *NSWPD*, 3 December 1901, 3923-25.
time to time direct’. It survived. However another reference to this elsewhere in the Bill did not. This had made the planting of edible trees and shrubs an ‘improvement’ which would attract ‘tenant right’, that is, a valuer or an incoming tenant would take this into account in the price to be paid for improvements, giving this activity a status, alongside such things as fencing, constructing ground tanks, bores, ringbarking and so on, as an element in productivity and land value. It was knocked out.

Another clause required a lessee to destroy ‘useless scrub and undergrowth’ should the Commissioners ‘from time to time direct’, was knocked out on Crick’s motion, without explanation or argument. The condition that the lessee must destroy noxious weeds as directed by the Commissioners, survived, as did the condition that the lessee not destroy timber without the written consent of the Commissioners except when using it for work on the lease. Regarding rabbits, the clause required the lessee ‘To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the satisfaction of the commissioners.’ This survived given Crick’s deal with landholders, and the word ‘shall’ bound the commissioners more strongly than in the other conditions, which instead used the word ‘may’.

There was also a clause/condition addressing ‘overstocking’. The rubberiness of the concept had already become evident outside and inside parliament: sometimes it was applied to the Division as a whole, as the Report had done, sometimes to a property, a paddock, or to the area around watering points within a large paddock, the area over which sheep walked to water and back to feed (later called ‘the piosphere’). Some parliamentarians recognizing botanical matters, some did not. Responding to the view that you could not overstock in a good season, former Freetrade Minister for Lands, Carruthers, currently forming the Liberal and Reform Association, argued that pastures needed spelling in good seasons, not just during drought (the Report’s view), so as to create liberal distribution of seed. Others disagreed, saying that the grass in the west died off quickly and needed to be eaten quickly, the short term productivity view. Others said it was pointless to rest country now, as rabbits got the grass. An industry view expressed outside parliament just as the debate concluded posed the dilemma. The Review’s Southern Riverina writer believed that light stocking in good seasons, which left a reserve of old uneaten grass to pull stock through a dry season, saving the cost of moving them to rented grass or the cost of their deaths, was characteristic of successful
pastoralists. However, he saw drawbacks in this as ‘persistent’ eating out caused a
deterioration in the quality and quantity of pasture.\(^2\)

The overstocking clause/condition said that the lessee would not ‘at any
time...keep...on the lease or any part thereof more than a specified number of sheep’
and, would ‘agree and submit to any modification or alteration in such specified number
as may be notified by the Commissioners from time to time.’ This had not been
recommended by the Report, and its source, most likely officials, remained
unacknowledged. Six parliamentarians commented: Crick, Meagher, Willis,
MacDonnell (Cobar), Carroll (Lachlan) and Thomas Fitzpatrick (Murrumbidgee). Two
members present, Willis and Ashton, were former Royal Commissioners.\(^3\) Only one
parliamentarian wanted the clause retained: the only experienced professional grazier
amongst them, Fitzpatrick.\(^4\) Meagher moved to delete the clause, and asked who would
count the stock anyway. He overlooked the fact that stock mortgages required the
lessee to muster all sheep so that they could be counted for the satisfaction of the
mortgagee’s inspector.\(^5\) Of course, the mortgagee would be counting for an entirely
different reason, wanting to find the maximum number named in the mortgage
document. Willis opposed it as an unreasonable limitation on the discretion of the
lessee: people had wanted the Bill to get away from ‘the minister, from boards, and all
such harassing troubles’, in other words, controls.\(^6\) Crick said that if ‘this sub-section
was omitted, a covenant would need to be inserted in the lease ‘to the effect that where a
lessee was found to be carrying over the assessed carrying capacity he must pay for the
difference’.\(^7\) He seemed to have rent in mind, rather than the natural resource, which
was confusing, as he had stated that high rent was one cause of overstocking. At
7.45am, whisky was perhaps not a reason for his lack of clarity, but rent as revenue
obviously weighed on his mind.

If Willis’s later account of the passage of the Western Lands Bill is believed, other
causes can be suggested. In 1905, when he and Minister Crick and others were in

\(^{2}\) Review, 16 December 1901, 663.

\(^{3}\) Langwell had been appointed to the Legislative Council in January 1900 and Spence had moved to the
federal parliament, but Ferguson, Davis and Ashton did not speak on Schedule A. Ashton spoke shortly
after.

\(^{4}\) He held land near Junee.

\(^{5}\) See, for example, ‘Mortgage of Stock and other Chattels, Robt. Lack Esq. To Goldsbrough, Mort &

\(^{6}\) NSWPD, 3 December 1901, 3925.

\(^{7}\) Ibid.
danger of being pinned down by a Royal Commission for receiving money for 
 favourable decisions made by Crick regarding improvement leases in the Central 
 Decision, Willis has J.H. Want, MLC, recall that the same men who were now pursuing 
 him and Crick were those who had piloted the Western Land Bill through on ‘fraud and 
 bribery’. Though Willis’s sometimes beguiling, sometimes self serving, account of 
 events needs to be treated with circumspection, it can confidently be said that he was in 
 a very good position to know about such matters.

The Legislative Council saw no need to make further changes to Schedule A, and when 
 the Act was published on 27 December 1901, the only signs left in it showing that there 
 had recently been a ‘unity of concern’ about the natural resource, were the conditions 
 regarding not killing timber without permission, destruction of rabbits etc., destruction 
 of noxious weeds, and the ‘fostering’ and cultivation of edible plants. The watering 
 down did not end there. Section 18 allowed the Governor to vary conditions of leases 
 coming under the new Act. When the leases were printed and issued, the maximum 
 expenditure which had to be spent on destruction of rabbits and noxious weeds and 
 cultivation of edible plants, was limited to one farthing per acre per year. It was another 
 deal, done in secret outside parliament.

Quinn’s view that the commitment and concern displayed during the Royal Commission 
 lay in ‘stringent conditions’ in the Act can hardly be supported. His view that the 
 commitment dissipated during the first decade of the new century is supported, though 
 not, as he supposed, because of ‘loss of memory’. The remainder of this chapter shows 
 that what was influential was administrative mind sets, administrative status, and lack of 
 will, along with a pretence that cheap administration could sit side by side with control. 
 There were also incompatible goals at work: the overriding role of the new Board was 
 to keep those who were there, there. The command and control approach of land 
 legislation designed for closer settlement, with forfeiture as a tool, was designed to get 
 rid of people.

C.J. McMaster became the first ‘Chief Commissioner’. In 1903, he and J.H. Maiden, 
 Government Botanist and Director of the Sydney Botanic Gardens, read papers before 
 the prestigious Royal Society of New South Wales. Both spoke within a context of 

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78 W.N. Willis, Life of Crick, 191.
79 Schedule A as it appeared in the Bill is reproduced at Appendix 2.
80 The other two commissioners had the title of ‘Commissioner’.
apprehension about sandhills ‘moving’ from the west and encroaching on the ‘good’ land, an image that would recur. Both spoke of how to stop or minimise the destruction of groundcover in the Division.\(^{81}\) McMaster showed that he was unenthusiastic about planting saltbush, and did not support colleagues who wished to promote the practice. His concept of management for conservation of pastures was a technologically oriented one, not dependent on day to day management but on publicly provided infrastructure. Maiden, appropriately for a botanist, focussed on plants, the food needed by stock.

Maiden stressed both the ‘conserving’ and ‘planting’ of indigenous plants, though he did not exclude ‘exotic’ plants suited to an arid environment if they could be found. He knew indigenous plants were adapted to western conditions and that their loss might not be able to be ameliorated by the introduction of plants from elsewhere. Like Peacock, he thought conserving more important than planting. To conserve pastures, stock had to be kept off ‘for a considerable period’. For planting, all that was required was an area of smooth sand, protected by a fence made of locally collected ‘plant-rubbish’, a few hundred feet long by some fifty feet wide. Within the fence, the surface should be protected by branches of any kind (to catch soil and any rainfall and prevent seed blowing away, he might have explained). It was a method similar to that reported many years later by officers of the Trangie Agricultural Research Station.\(^{82}\) The role of the State was to set an example with model plantings, to collect seed, to advise on and supervise plantings. His Botanic Gardens staff could experiment and develop a ‘systematic’ way of working. The proposal seemed relatively modest and achievable given that the materials were cheap and to a degree, available, and he had offered his staff. In addition, the enthusiastic Department of Agriculture had shown a similar interest.

Though McMaster found Maiden’s proposal ‘most valuable’, he focussed instead on the need for railways ‘within easy reach’ which would enable stock owners ‘to regulate the quantity of stock holdings are capable of carrying with safety...’ and remove them when available feed was disappearing in dry seasons. This was the kind of overstocking

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the Report had described. He thought 'the cost of making plantations would be out of all proportion to the productive capacity of the 'extremely low grade country' in which sand-drifts occur'. The pastoral occupiers would not be able to afford it, he thought, though what he meant by 'plantations', and why he thought they would be so expensive, was not revealed. Only after railways were achieved, he said, would it be possible for Mr Maiden's proposals to be 'effected', and by this time, the drift problem might have been solved by railways alone and the proposals would not be needed. 83 He gave no detail of the destination of the trains that would carry the stock away, or what country they might penetrate, or the cost which looked vastly greater than Maiden's. During the brief discussion, Maiden remarked that 'the public' would need to be educated in regard to the need for light railways. Later history showed that the public were never educated, and railways never did come within easy reach (Figure 14).

Why did McMaster so readily dismiss a working relationship with the Government Botanist, particularly as he had heard only two years before how the Department of Agriculture's Coolabah Farm was poised to assist? Several factors can be suggested. Competitiveness and lack of co-operation amongst land based departments was often commented on at this time. Lands Department officials, therefore the Western Land Board, were kings of the land, part of the continuing colonization of Australia, men of high standing. McMaster may not have been a status conscious man (he had been a popular District Surveyor), but as a surveyor focused on mathematics and economics, he was disinclined to accept ideas outside his professional area. His personality may have played a part—he was a private and precise person according to family memory—and a cooperative exercise across disciplinary and departmental boundaries may have been beyond his comfort zone, possibly of his staff as well. In addition, the Western Lands Act's invitation to 'manage and control' the Division, as though it was a separate territory, and with politicians placing faith in him, he may have been disinclined to share his powers with less notable officials. Perhaps the thought of enthusiastic botanists (botany was regarded as a rather effeminate science) or even agricultural officials, impinging on the 'management' of lessees, particularly the kind of high

83 These included: the conservation of natural fodder through ensilage (burying it); the cutting of grass for haymaking during good seasons or purchase of it in good years when it was plentiful and therefore cheap; the putting aside of 5 per cent of net profits in good years for a 'famine fodder fund'. The virtues of such practices echoed well into the twentieth century.
status lessees to whom he was linked by marriage, did not sit comfortably with the pastoralists and senior lands officials.\textsuperscript{84} Most importantly, he would have been well aware, from the \textit{Review}, of its persistent calls for more railways and light rail and was most comfortable putting forward what he knew to be the view of ‘the industry’. Also, with the drought apparently breaking in 1903, pressure for doing anything differently could be foibed off with some comfort. Lastly, seemingly timeless characteristics of bureaucracy may have been influential: the view from the bottom did not reach the top. Though Surveyor Granter recommended planting saltbush as a condition of a lease which Samuel McCaughey applied to bring under the new Act, by the time his handwritten recommendation of 1904 was converted into typing by draftsmen or clerks for the approval of the commissioners, mention of the condition had disappeared.\textsuperscript{85} Files show this filtering was not uncommon, whether through clerical simplification or knowledge that such suggestions need not be passed upwards given policy, it is not possible to say. Whatever the case, I have never sighted a document which required a lessee to cultivate edible shrubs.

The Department of Agriculture soon afterwards closed its Coolabah Farm. Had McMaster offered cooperation to the Government Botanist and the Department of Agriculture, it would surely have kept going. Many years passed before saltbush seedlings would be made available in the Division, and when they were, they were offered by the private sector with the encouragement of a later Western Lands Commissioner, Dick Condon.\textsuperscript{86}

Notwithstanding Crick’s assurances and the non-discretionary nature of the rabbit clause in Schedule A, implementation of this condition was ineffective. The condition said the commissioners ‘shall’ direct lessees to destroy rabbits ‘within a specified time’. By the end of 1902, drought had nearly wiped out even the rabbits, but as rainfall improved in 1903, they multiplied, and in 1905 the commissioners reported that when they had issued the new ‘Western Lands Leases’ under the Western Lands Act, they had

\textsuperscript{84} McMaster married a member of the Sinclair family, large landholders in the Central Division and holding land in the Western Division on the eastern border near Collarenebri.

\textsuperscript{85} Back File Western Lands Lease (WLL) 811. These files are held in the Government Records Repository and require permission from the Department of Lands to be accessed. A fee is charged. At the time of writing, subject to permission, this can be done through the State Records at Kingswood or through the Department’s library. Hereafter they will be cited as Back Files along with the Western Lands Lease (WLL) number.

\textsuperscript{86} Narromine Transplants was established in the 1970s offering saltbush and other native plant seedlings as an outcome of the efforts of Dick Condon, Peter Yates, and Andrew Sipple, horticulturist and former grazier. Seedlings continue to be offered by Sipple’s \textit{Grazing Management} business.
called lessees’ attention to ‘the special covenants contained therein relating to the destruction of rabbits’. Having received letters of complaint that neighbours were not killing rabbits, they devised a legal looking letter on grey paper, stamped with their red ‘seal’, which was delivered by registered post during November 1905 to most if not all lessees, and which invoked the condition. It commenced: ‘TAKE NOTICE that you are hereby required and directed . . . to commence destroying rabbits as set out in the attached schedule’. Their approach was like that of a school principal who responds to an incident by lining up all children and warning them. If, the letter continued, it was found that this direction was not being followed, the commissioners would be compelled to ‘set in motion the provisions of the law for forfeiting the lease’. Responses came from a range of lessees. William George Jackson of Downham Farm, River Darlin (sic), via Wentworth wrote: ‘Just a line to tell you’, he wrote, that he had been poisoning rabbits for the past two months at considerable cost, but his neighbours, the Williams Brothers of Bellview, ‘large holders’ in his view, were doing nothing. It was ‘hard on a man who is been trying to keep the pests in check’ when he was destroying ‘Williams Rabbits’ (sic). Hubert Murray of Tara near Louth replied that he had killed 12,000 rabbits last summer with poison, and he and his sons were about to take sheep to rented land near Bourke in the hope of saving them. He hoped the commissioners would allow him to discontinue poisoning on his lease until rain allowed him to bring the sheep back. J.T. Sherwin at Nullawa was passionate and convincing. He and his son had waged ‘war’ against rabbits over the past four years using wire netting, pit traps, constant poisoning, two men with dogs. The grass and feed on Nullawa was exceptional in the region, he said, showing both that it had not been overstocked and the results of persistent work on the rabbits. A neighbouring homestead lessee had done nothing at all, he said, and thousands of rabbits were pouring in from this lease—it was most ‘disheartening’.

87 Department of Lands, ‘Report of the Western Land Board for the period 1st January, 1905, to 30th June, 1905’, in NSWPP, Vol. 3, 1905, 539. Annual Reports after this one were for financial years rather than calendar years as previously, and will be referred to as ‘Annual Reports’ for the later year. The Reports were listed in the contents pages and paginated as a part of the Department of Lands Report for some periods and at other periods independently of the Department, probably reflecting the tug of war in the relationship.
88 Back File WLL 767.
89 File HL 1048, [10/43814], NRS 14569, SRNSW.
90 Back File WLL 172
91 Back File WLL 348.
The most passionate letters came from Charles Lort-Smith, an executor of the estate of John Dunne consisting largely of Netley. Having recently returned from Netley to Melbourne, he wrote on 19 October 1905 saying he had managed Netley since 1893 by reducing stock numbers and spelling country 'judiciously', but this was no good if rabbits were left alone. He was doing his best to comply with lease conditions, with seven poison carts going and more on the way, and had spent more than the lease document required (the farthing per acre limit), but now he needed the aid of the commissioners so that neighbours did their share in keeping rabbits as well as noxious plants down. Rabbits were now 'swarming down' from Kinchega, and 'our carts are kept going...to intercept them along the River Bank', he wrote; the 'great Darling' could be saved if lessees were compelled to observe the terms of their leases and 'should be required to show you what they have spent, and are spending.' If they were required to spend ¼d per acre intelligently, 'the pests can be coped with, but concerted action is necessary...unless the country is to be turned into a wilderness.' What was the use of covenants, he asked, if they were treated as so much waste paper? After receiving the reply that all lessees would receive directions by next mail, he wrote again. The lessees needed to be protected from their own 'petty meanness', he said, and their cry that 'nature would find a remedy' showed how they took everything the sheep would provide without giving anything in return to lessen 'the evil threatening their very existence.' He now feared the rabbits from Tolarno, across the river, held by the Union Bank which 'had hardly stocked or worked the place' and where they were swarming. He pleaded:

Give the lessees notice that strict proof will be required at an early date as to the amounts spent under the covenants for suppression of vermin and noxious weeds – with a warning that that...noncompliance(sic)...will mean the institution of proceedings for forfeiture...The strong hand is wanted and your Board have the powers.  

Grand words, but the administrators did not follow his advice about asking for proof of money spent, objective and provable information which would oblige them to act if expenditure was below the standard.

Documents under seal invoking forfeiture soon ceased. How could the commissioners forfeit perhaps half of leased properties in the Division when they had been appointed to

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92 Back File WLL 767.
93 ibid.
take a ‘personal interest’ in lessees and strive to keep whoever was there, there? Despite initial expressions of determination not to relax their powers, their Report for 1906 showed they had given up. Some 28 million acres in the Division was not under their control, they wrote; indeed they seemed alarmed to discover that it was not under any legislative control regarding rabbits. This did not fully explain why they had decided to give up on the land that was under ‘their control’, but they did. They had discussed the matter with ‘members of the Pastures Protection Boards and others interested’, and decided that with certain alterations, the provisions of the Pastures Protection Act should be extended to the Division. Locally based management, they had concluded, was a better hope.

Regarding edible ‘scrub’, the native trees and shrubs that were relied on when groundcover grasses and herbs gave out, and which witnesses before the Royal Commission had said were being cut in a way that killed them, the commissioners took some initiative. However, they did not go as far as their surveyors wanted, and they did not try to protect all edible trees and shrubs. Schedule A required lessees to obtain permission to kill ‘timber’. Permission was normally given to kill inedible trees except those on forest reserves and stock routes, and, on a lease those needed for firebreaks, shade, and on the banks of watercourses. The Western Lands Act did nothing specifically to attempt to preserve edible trees and shrubs, but the bureaucrats used the necessity to obtain permission to destroy ‘timber’ by excepting edible trees and shrubs, and then determining the way, for mulga only, it should be cut. The new Western lands leases issued said that lessees were not to destroy, or permit the destruction, of timber or edible scrub on the lease without the written consent of the Commissioners, provided that the lessee could use edible trees or scrub for stock feeding purposes ‘in such manner as the Commissioners may from time to time determine’. The Commissioners therefore had to ‘determine’.

In due course, letters giving lessees permission to cut or lop edible ‘scrub’ (trees and shrubs), provided that ‘one strong limb or branch be carefully preserved’, but for mulga

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95 ibid. By this time, the rabbit act provisions had been included within the Pastures Protection Act.
96 The word ‘timber’ suggested the underlying motive that trees on leasehold land were regarded as belonging to the Crown, to be exploited commercially, if appropriate. In the Division, white cypress pine was a potentially commercial product.
97 See, for example, Files WLL 23 and WLL 593, [10/43905], NRS 14572, SRNSW: The actual lease documents are contained in this series.
only. This did not acknowledge that other edible trees may need preservation, even more highly regarded as stock feed (kurrajong, for example), a surprising omission given that surveyors often called for prohibition of cutting down all edible trees, as opposed to lopping or ‘crooking off’ of branches. In addition, the instruction would have encouraged the belief that cutting all but one strong branch was acceptable. It was not until about 1944 that this ‘condition’ extended to all edible trees or shrubs and more limited time periods for ‘cutting’ were imposed, three months instead of twelve or more. Later, lessees were told to leave two strong branches, and to cut those with mistletoe on them (good feed). The concern for mulga was hardly appropriate or effective in providing a resource for the future, as Figure 15 shows, photos taken in 2010. The photos show that mature mulga did not resprout, (mulga is an acacia and does not readily resprout unlike eucalypts and some other edible species), and is soon no longer a resource, unless felled completely. When, in 1955, Soil Conservationist M.E. Stannard supplied a photo of regenerating mulga in the West Darling, it showed young trees that had been ‘pruned’, not ‘cut’, ‘lopped’ or ‘hooked’.

Reviewing the situation of ‘fodder trees’ in western NSW in 1955, Soil Conservationist M.E. Stannard was concerned about their death from severe cutting, lack of regeneration from seed, and stock and rabbits ensuring this. Though he thought action should be taken to reverse the decline as these plants provided shade, helped to prevent erosion, and were a drought resource, he noted a negative. If landholders relied on them in drought for too long, serious damage would at the same time be done to perennial grasses and small shrubs through overgazing. In other words this ‘drought resource’ could encourage landholders to hang onto stock too long.

In the light of the above analysis of the Act and its implementation regarding the natural resource, assertions that it was an environmental measure need, I suggest, to provide evidence. Though the Act was in part a response to a natural resource crisis, it was more a response to a financial crisis. The latter took pride of place in the Act and in the minds of the politicians. Time would show that lessees had little to fear from the

98 See, for example, Surveyor Granter’s response to Question 22 in his Report on an application for an additional area, 29 May 1903, and Surveyor Mullen’s Report of 19 August 1903, Section 8. Back Files WLL 1029 and 881.
99 See Back File WLL 153. The Triggs Pastoral Estate was told to preserve one strong limb or branch on all edible trees and shrubs in 1944.
101 ibid., 129.
Figure 15.*  Cut Mulga

*Photos in possession of the author, taken in 2006 (top) and 2010 (bottom). Unlike eucalypts and some edible species, mulga obviously does not resprout after mature wood is cut.
powers of the commissioners. Their concern would be about making people stay and ‘improve’, especially those people they themselves put on the land. And they would soon find it necessary to find more ways to make them stay.
CHAPTER FIVE

From Honeymoons to Tools of Control

There were priority tasks under the new Act. Lessees had to apply to come under it and obtain tenure to 1943, and be issued with Western lands lease documents. There were no conditions in these documents regarding residence, fencing, or any stipulations controlling purchase or sale, nor were such stipulations in the Act. There was, in fact, a free market, for a while. Class distinctions were now ignored: all old ‘pastoral’ and ‘homestead’ lessees became ‘Western lands lessees’. Mortgaged holdings went through the process of the mortgagees, mortgagors and the commissioners signing a ‘common agreement’ before a lease could be approved. The commissioners took this task very seriously, as J.T. Sherwin of Nullawa, and his bank, found. McMaster queried their ‘common agreement’, and delayed signing it, asking them how did they think Sherwin could ever repay his debt of £24,360 when it appeared returns from 16,000 sheep would not pay working expenses and interest on that debt. The bank reduced the debt by £4,000. McMaster later said some £3 million of debt had been written down, with banks being cooperative. Some ten pastoral leases did not come under the Act, whether for failure to apply, to sign common agreements, or something else cannot be established, but their term leases would expire in 1918, rather conveniently for soldier settlement after the WWI. The priority task of setting low rentals apparently gave satisfaction, as no record of complaint has come to light.

Another priority task for the commissioners was to allot additional areas to small lessees no longer limited to one lease and permitted enough land ‘to make a living’, as decided by the new commissioners. They and their surveyors were responsible for deciding on the area, and some allotment was at first done without advertisement, giving former homestead lessees priority access to additional land from the resumed areas before general advertisement commenced as required by the Act. Advertisement ended ‘free selection’ (laissez faire selection) though advertised blocks were usually not finally surveyed. When advertisement of land commenced in late 1903, the Gazettes’ only stipulations were that forfeiture would mean loss of improvements to the Crown, that 20 per cent of the first years rent must accompany applications, that freeholding was not

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1 See Back File WLL 384. Notwithstanding this reduction, Sherwin sold to the New Zealand Land and Finance Company in 1907.
possible, and that the lease was issued under the Act. Government was standing back, and parliament was happy to hand over land no longer seen as an el dorado, to a Western Lands Board of three commissioners thought to be ‘independent’ of party politics. It was an independence that would become difficult to sustain.

Though the 1884 Act was generally regretted in parliament, further closer settlement in the form of taking more land from former pastoral leases was not forgotten. The Royal Commission had not recommended this. Though there were nearly nineteen million acres of resumed area left, either unoccupied or under occupation licence, further inroads into the old pastoral leases was quietly legislated for. A barely noticed clause which became the Act’s Section 17, was inserted by Crick, empowering the Minister to withdraw, at any time, ‘one eighth’ of ‘a lease’ for the purpose of ‘providing small holdings’. The Review said this was to satisfy Labour. Compensation for this withdrawal would be an additional period of up to six years added to the term of the lease from which the land was withdrawn, to 1949. Discretion as to the timing of the withdrawals was given the new administration and Minister, discretion which would be problematic for the commissioners.

C.J. McMaster’s fellow commissioners (they were titled just ‘Commissioners’) were Hugh Langwell and Robert MacDonald. Though they and their staff were called the Western Lands Board, to avoid confusion with earlier and later ‘boards’, the three will be referred to here just as ‘the commissioners’ except when an individual commissioner is being referred to. McMaster remained Chief Commissioner until retirement in 1922, to be replaced by Langwell, who remained Chief Commissioner until 1931. There were lengthy periods of continuity in these senior positions, no doubt characteristic of the public service at the time, and also in less senior positions—surveyors, draughtsmen, clerks—who were at times promoted to the senior positions. It was often said about landholders in the Division that once they settled there they didn’t want to leave. This was the case also for the senior officials who settled in the new Board.

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4 The period would vary according to the date that the land was withdrawn. A limit of 20,480 acres was placed on land that could be granted to a settler under this provision.
5 This terminology is also justified by the lack of delegation practised in these early years, documents frequently being signed by two or three of the commissioners.
6 One of the west’s sayings was that if you crossed the North Bourke bridge over the Darling, you would never leave.
This chapter shows how the ‘relief’ granted from legislative and bureaucratic controls imposed in 1884 on small lessees, gave way to the reintroduction of control for new lessees, and why the initial popularity of the new administration gave way to suspicion, political buckpassing and lost support. Underlying this, there was a kind of tug of war going on amongst politicians: was the land really Crown leasehold land to be treated in the ‘public interest’, or was it really private land, to be treated like freehold. The administrators became meat in a political sandwich, and after a brief honeymoon period their ‘independence’ was no longer perceived as such by Labour (later Labor) parliamentarians. Even their somewhat desperate commitment to closer settlement in the form of agricultural settlement, which was shared by many Labor men, did not protect them.

The honeymoon was obvious in 1905. All parliamentarians then showed relief that parliament’s creation of the new administration in 1901 had proved wise. Admiration was expressed for the commissioners’ personal qualities, their personal approach as compared to the Land Boards, and their economical operation (staff of the Boards had been redeployed and offices closed or scaled down).7 This assessment prevailed during debate on the 1905 bill put forward by the commissioners themselves. Labour men participated in the accolades, though some had concerns. Donald MacDonnell (Cobar), former shearer, now Secretary of the AWU, regretted that financial institutions had got so much benefit out of the 1901 Act because they were not ‘naturally’ station managers and could not put the land to its ‘best use’.8 Nevertheless, benefit had come from the capable way the commissioners had administered the legislation, tramping the length and breadth of the country and setting the rents so as to take into account factors such as nearness to railways.9 Now a member of the Aborigines Protection Board, Labour’s Scobie (Murray), found settlers appreciative of their personal approach as compared to the bullying of departmental attorneys before the old Boards, and he welcomed the drop in rental revenue.10 Former Freetrade Minister for Lands, James Brunker, now MLC, admired their ‘expeditious’ work, and Reginald Black, MLC, former bank inspector, stockbroker and Goldsborough Mort company director, was glad administration had been given to men of their ‘character’.11

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8 *NSWPD*, 9 November 1905, 3669.
9 ibid, 3670.
10 ibid., 3665. He said revenue dropped from £299,572 in 1886 to £72,000 in 1905.
11 ibid.,, 6 December, 1905, 4641.
On the negative side, though not blaming the commissioners, Scobie alleged that ‘common agreements’ which wrote down debt were sometimes nullified by privately agreed higher debt and interest rates, but he was more concerned that the commissioners were not meeting the demand for land. He had presented petitions to the Minister asking that all the one-eighths should be withdrawn ‘at once’. His party colleague, John Meehan (Darling), former shearer and currently secretary of the Bourke AWU, instead called for a ‘land bank’ which would help the less well off get land without a crushing burden of interest rates. Parliamentarians from urban electorates with no direct interest in the Division were well represented by Nicholas Hawken (now MLC): the Division, he said, was very dry, and its occupation would be confined to only a few individuals for many years; people in cities were not very interested in land that could not be cut up into small conditional purchases or ‘individual settlements’. He supposed the Bill was formed by the commissioners and therefore supported it, but did not understand it.

The commissioners’ popularity in the Division may have derived in part from their new ‘personal’ approach. They travelled extensively to meet people and were not averse to a quick interview at a railway station if one person only was involved. They advertised ‘sittings’ in the local press, inviting all to attend to discuss any matters. Lessees and landseekers no doubt welcomed dealing with senior officials directly rather than land agents and the Boards. The ‘sittings’, however, were usually held in a courthouse, a venue encouraging formality. In fact, informality soon proved to be a fragile commodity, when competition for land and water was at stake. Landseekers themselves chose to jettison it, regardless of the commissioners’ desires, as John Warren’s behaviour showed. Anxious for an additional area off Cuthro’s resumed area in the Anabranck country in 1906, John Warren, who had already acquired additional leases adjacent to his original homestead lease bringing his total area to 25,530 acres, applied. Unsuccessful at first, he called on the help of Scobie, as well as a solicitor. He was subsequently granted an additional 49,000 acres separate from his existing three leases. Despite employing a solicitor, the stress of arguing his case produced an apologetic letter: ‘Gentlemen’, he wrote, ‘Since coming home and sobering up my imagination has led me to believe that I behaved in a very abrupt manner and did not show due respect to the Board while sitting in Chambers…the drink was in and the wit was out’. He asked them to send him ‘the plan I had, marking out the

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12 ibid., 9 November 1905, 3666; 23 August, 1905, 1612.
13 ibid., 9 November, 1905, 3667.
14 ibid., 3673.
15 *NSWPD*, 6 December 1905, 4641.
16 The additional lease was WLL 1743.
area intended to be allotted to me, as I have only the feigntest (sic) idea of how it was marked the day I saw you... Hoping if ever we meet again that I will meet you a sober pastoralist'. 17 Though he promised not to employ a solicitor again, Surveyor Granter soon received a letter from one which said that if the boundary of Warren's lease did not go right through the middle of a swamp, he would not accept it. 18 No informality there.

A combination of official anxiety about bringing vacant land or land held only under occupation licence under western lands lease title, plus a generous approach to areas allotted as additionals, often far in excess of the old 10,240 acres, enabled some former homestead lessee families to become more than firmly established. 19 Some also took advantage of the new free market to purchase leases, now with a clear conscience. Beneficiaries included Joseph Kenworthy, whose evidence before the Royal Commission has been noted. When allotted an additional 15,000 acres from Netley's resumed area, he had good reason to be pleased at the degree to which his urgings had borne fruit. 20 The commissioners responded to another request from him for even more land, and proceeded to withdraw one eighth from Netley to accommodate him and some others. This produced an example of the commissioners' use of their discretion as to timing regarding one eighth withdrawals as compared to the homestead lease days of blanket legislation. Advised of the imminent one eighth withdrawal, Lort-Smith wrote anxiously, saying that because it was well grassed, envious eyes had always been cast on Netley, and he begged the commissioners to stay their hand until the season improved and he could remove the sheep without enormous loss, the stock routes being impassable. 21 The commissioners obliged, giving him a new deadline. Their discretion was undoubtedly one of the reasons they were perceived to be 'independent' of party politics, at least by such as Lort Smith.

Bean's Robert Leckie did well. Arguing his need for additional to Surveyor d'Apice in 1907, he said he had a lot of sons, and therefore needed a lot of land. He received substantial additional areas from Momba. 22 As he would have thirteen or fourteen children, six of whom were sons, it was a happy coincidence that the The Avenue's homestead was a

17 Back File WLL 1743.
18 ibid.
19 The public record can be found in the New South Wales Government Gazettes (Gazettes) under the heading 'Western Lands Act - Leases Issued', and within that broader category, in the Gazette text headed 'Leases granted under section 32, Western Lands Act 1901'. 19
21 Back File WLL 767, letter from Lort-Smith, 18 December 1907.
22 Back File WLL 501. See also Rusheen Craig, 'Index', 1906 and 1907.
former hotel, built to service the travelling stock route known as the Mt Browne road. 
Since the days when Robert and his brother John had selected homestead leases off 
Momba, he had been allotted two additional areas, and purchased three other leases, two 
from his brother and another from a former homestead lessee. Some former homestead 
lessees even purchased old pastoral leases: in 1911, Alf Withers purchased not one, but 
two, from his friend Ben Chaffey, who appeared to have been speculating in leases, as he 
had purchased those he transferred to Alf only twelve months before—Mallee Cliffs, of 
125,510 acres, and Tapalin, 220,678 acres, both with many miles of Murray River 
fronstage. They were transferred to Alf ‘absolutely’, that is, no formal mortgage was 
involved or registered. Alf may have borrowed informally, but whatever the case, he had 
done well since his rabbiting and homestead lessee days.

Surveyors sometimes thought the new regime too generous. Surveyor Granter disapproved 
of what seemed to him to be untoward expansion of some former homestead lessees. 
Reporting on Margaret Withers’ application for an additional in 1902, he wrote that her 
family controlled seven (eight is pencilled in on file) ‘full’ homestead leases (10,240 acres),
and that the conditions were not fulfilled in two and unlikely to be, and without the 
additional land she had applied for (20,000 acres), she and her ‘immediate family’ had 
53,760 acres (63,940 pencilled in). Granter thought it enough. Margaret had inherited 
land from a former spouse, and her marriage to Alf Withers expanded the area worked by 
the family.

Despite the nearly nineteen million acres of land ‘available’ in resumed areas in 1904, 
demand could not always be satisfied. It might not be near people who wanted it, might 
not be attractive watered land, might not be advertised at the right time, or paying a half 
share in its rabbit proof fencing might cost too much. Some landseekers chafed at 
legislative limits, some at the slowness of surveyors on horseback (only three staff 
surveyors), too slow for impatient men with stock already on the move. No land could 
come from the old pastoral leases areas until the commissioners got around to withdrawing

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23 *Pastoral Lease Register*, held by the Western Lands Commission in Sydney, now by the Land and 
Property Authority, Western Branch, at Dubbo, entries for Mallee Cliffs and Tapalin, lease numbers 91 
and 106. The Register, in book form, shows transfers of pastoral leases up to about 1930, listed by lease 
number.
24 Back File WLL 1029, see especially his report of 29 May 1903, Section 26, ‘Recommendation and 
Remarks’.
25 Although the legislative authority for it seemed lacking, some land was used for additionals from 
leasehold areas not yet brought under the Western Lands Act, as well as from the resumed areas, but a 
halt was called after complaint.
one eighths from them. Landseekers applying for such areas *before* they were withdrawn forced the commissioners to take a firm stand. As one disgruntled ‘small holder’ complained in April 1905, he was surrounded by ‘leasehold land’, and there would be ‘devil to pay with the station’ if ‘we’ tried to get ‘our mauleys’ on it. He was right: an early incursion by applicants into Kinchega’s leasehold area (its resumed area having been largely taken up) was soon blocked by a letter to the commissioners from solicitors Du Faur & Gerard. At times the commissioners negotiated use of leasehold land, promising that the area would be subtracted from one eighth withdrawals in the future. In 1902, the *Review* told readers that the commissioners had advised they would not proceed with one eighths withdrawals until ‘necessity arose’: a difficult judgment indeed.

The commissioners’ beneficence extended to those who had small blocks under the Crown Lands Acts for economic activities other than grazing—market gardens, cultivation, orchards, dairies and so on, so their reputation did not rely just on how they handled grazing land. Their 1905 amendments enable old tenures under the Crown Lands Act to come under the Western Lands Act, which meant lower rent, saving some small farmers near rivers who had been threatened with forfeiture for non-payment of rent by the Department of Lands. Deadlines for applying to come under the new Act were removed so that more people could do so: the commissioners were in for the long haul. Annual Reports faithfully recording the increasing amount of land coming under the Western Lands Act. The commissioners also responded to developmental and business aspirations: a 1905 amendment enabling them to issue ‘special leases’ for non-grazing purposes. Another enabled them to withdraw, without compensation, small areas of up to 80 acres to be used for ‘special purposes’ such as jetties, horse paddocks, fishing stations, inns, sawmills, stores, tramways and so on, suggesting the need to respond to varied developments. These ‘special’ leases allowed them to impose ‘conditions other than those specifically referred to in the Act’. They had in mind the need to adapt rental and other conditions to non-pastoral businesses, including agriculture or mixed farming, which, as ‘higher’ or more intensive and profitable uses, required higher rental. Such leases would soon be the tenure suitable for pursuing the possibility of wheat growing at the eastern and

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26 The 1905 Report asserted, as though reflecting previous doubt, that the leasehold areas were ‘sacrosanct’.
27 *Bourke Banner*, 17 April 1906.
28 Back File WLL 575, letter of 26 June 1903.
29 *Review*, 15 September 1902, 486.
30 William Cock, at first holding two special leases on the Darling for wheat growing, was one. See Back File WLL 1621.
southern margins of the Division. Their commitment to this possibility was more than obvious in Annual Reports which made persistent calls for diversion of the waters of the southern rivers to the southern mallee country, and for the extension of railways there to facilitate marketing. This was the commonly accepted Labour supported notion of ‘closer settlement’, the yeoman agriculturalist rooted to the soil by sedentary production. Satisfied with the passing of their Bill into legislation, the commissioners saw no need for further amendment in the foreseeable future.\textsuperscript{32}

There was, however, an undebated amendment, hidden by obscure legal wording but worthy of note in view of later events. It reflected a philosophy of government looking after its ‘own’ settlers, those who gained access through government allotment rather than by using the private market. The 1901 Act had limited eligibility for additional areas (‘extensions of area’) to those who did not already hold an area ‘sufficient to maintain a home and make a livelihood’ and who obtained their land before 1901.\textsuperscript{33} The 1905 amendment now said that landholders who had acquired their land since 1901 ‘otherwise than by purchase or lease direct from the Crown’ were not eligible for an additional area.\textsuperscript{34} The preference was now not only for those already there, but those who had obtained land through the government, the government’s own settlers, as it were. This change suggested that the commissioners and/or the bill drafters saw their main clients as men without significant financial resources. It also placed a limit on demand for land from the government by sending the message that those who purchased into the Division, or who inherited, should not expect additional areas from the government. It was a message which would not be heeded for long.

Given their approval rating in 1905, the 1908 Liberal-Reform government’s reluctance to renew the seven year terms of the commissioners was puzzling. It twice brought in bills to renew their term for one year only. With the return of good seasons and prices by 1908, it is likely that influential parliamentarians thought the special task of rehabilitation no longer necessary, and that administration could return to the Department of Lands, saving the salaries of the three commissioners.\textsuperscript{35} Local ideas differed. Western lands lessee

\textsuperscript{32} ibid., 57.
\textsuperscript{33} Western Lands Act of 1901, No.70, 1901, Section 32.
\textsuperscript{34} Western Lands (Amendment) Act of 1905, No. 38, 1905, Section 30. This amended Section 32 of the principal Act.
\textsuperscript{35} The Chief Commissioner’s salary was £1,500, the other two, £1,000. Their combined salaries approximated one third of total salary costs.
'associations' formed, however briefly, to support them. Letters and petitions were sent from Walgett North in the northeast, Hillston in the central east, Wanaaring in the northwest, and Clare and Hatfield near Balranald in the south. They expressed appreciation of the commissioners' care for people's welfare, rather than 'bureaucratic self-aggrandisement', of their honesty, business ability, and knowledge of the Division, of their independence from party politics, their capacity to implement a *continuous* policy, and their cheapness. The writers and signatories were clearly strongly opposed to coming under the old Land Boards and the Department of Lands again. Their fears were allayed with the return of a Labour government in 1910. In a minute to legal officers in the Department of Lands (which provided overarching services for the Western Lands Board), Minister Nielsen instructed them to draw up a bill extending the terms for seven years and gave reasons. He praised their 'splendid' work, and though attributing good results to good seasons and record prices, stressed that for the Division's continued 'successful occupation' it was necessary to prevent overstocking and apply 'sympathetic' administration. He did not explain how the commissioners were preventing overstocking, but his approval was clear. He suggested, somewhat mischievously, that if the commissioners had spare time he might ask them to do some work in the Central and Eastern Divisions. This suggested underlying bureaucratic jealousy was at work. Why, otherwise, would a Minister find it desirable to justify a bill to legal officers this way?

According to the Annual Report for 1911, this year was one of continued prosperity, with stock numbers reaching a new peak. At the same time, their 1905 satisfaction with the Act had diminished. Demand for 'what may be termed home maintenance areas', they said, using the terminology of the Crown Lands Acts, could not be met without new legislation. The one eighth withdrawals had been exercised in most cases 'where the land was favourably situated' and all areas formerly under occupation licence with similar advantages had been disposed of. This signal to the politicians that yet more land was needed from large holders because of demand, bore no fruit.

The completion of the Condobolin-Broken Hill rail line in 1915 prompted renewed urgings by the commissioners that a water supply for southern mallee land be found so that it could

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36 Letter to A.E. Collins MLA, 11 March 1910, Special Bundles, [7/7593], NRS 14563, SRNSW.
37 'The people' wrote Mr Lyons of Magenta Station near Clare and Hatfield, would find it 'a bit of a calamity' if the Western Lands Act was given over to 'pigeon holing...officials who take more interest in the upholstering of their office furniture than the welfare of the Western Division.' ibid.
38 Ministerial Minute, 9 January 1911, ibid.
be cultivated. ‘Expert opinion’ believed it would grow lucerne or wheat, thus providing a way of combating drought, occupying country, and increasing revenue.\(^{40}\) They wanted land to be resumed for this purpose, using the word normally meaning government taking back land already held under a title, often freehold, for monetary compensation. Their optimism about this contrasted with their recent caution about placing men on pastoral land during dry times. They had, for instance, not made much land available in 1914 due to drought, rainfall records having shown an ‘unparalleled’ state of affairs since the drought that ended in 1903.\(^{41}\) It was not, they explained, in the public interest to place lessees on land when there was little chance of occupation, at the same time depriving present lessees of the use of country needed for stock which could not be removed elsewhere. They welcomed the 1915 Drought Conference resolution that the Government Savings Bank (GSB) should change its policy against making loans on the security of western leases, apparently regarded as too risky. Loans would now be available, but only on their recommendation.\(^{42}\) They thus wanted, or accepted, the role of expert go-betweens, not only mediating views of land, but that of settlers’ capacities and the economics of grazing enterprises. This would test their resources and that of their staff surveyors. It would also help to create a perception of the Division’s people as requiring special treatment of a paternalistic kind. How much this derived from the commissioners’ own desire for control, and how much from a desire of other agencies to be relieved of the need to staff the far flung west, cannot be established, but an image of the Division as needing special knowledge and paternalistic control would continue and intensify.

In 1917-18, debate on an amending Bill revealed disagreement about the Division’s land—not about its natural resources but whether it was really public or really private land. The outcome was influenced by electoral politics and by the unelected Legislative Council. Wartime prices, the British purchase of the wool clip during the war, and the creation of a stable centralized marketing scheme, had created relative prosperity for the wool and stock industries. The mining industry, on the other hand, was hit hard, producing much unemployment including at Broken Hill.\(^{43}\) The government was cobbled together from a grouping of several political forces led by the ex-Labor, now National, Premier Holman.

Apart from ex-Labor men disaffected by the conscription issue and now Nationals or Independents, there were some Liberals and a few ruralrly oriented Progressives. The latter derived largely from the Farmers and Settlers Association (F&SA) focussed in the Central Division, staunch upholders of freehold title and yeoman self images, with whom the declining Liberal Party had been negotiating. Holman had courted it and the Progressive Party by appointing three F&SA men to the Council, including George Beeby, the Progressives’ 1915 founder. Walter Wearne, executive member of F&SA, had just won Namoi, which included the Division’s Walgett North district so popular with New South Welshmen. Brian Doe, ex-Labor man who left over conscription, had just won Murray which included the southern portion of the Division fronting the Murray river. Purportedly in the interests of wartime unity, Holman had undertaken not to introduce contentious legislation during the war.  

Some Labor men, however, thought the Bill contentious.

Officially known as ‘surrender and subdivision’ clauses, the Bill introduced what today might be called private subdivision. As early as 1911, the ALP policy in NSW was that where land was subdivided by ‘private owners’ for sale ‘purchasers to be subject to such conditions as to residence, area, etc., as may be approved by government for closer settlement purposes’. The Bill said that the ‘owner’ of a lease whose one eighth had been taken (the word ‘owner’ was never used by officials, a sign it had not been drafted by them) could apply to surrender the lease to the Governor, subdivide the land into smaller areas, and give, or sell, the new smaller leases to a person of their choice. Alternatively they could simply retain the subdivided leases in their own names, presumably while waiting for a suitable buyer to come along. McMaster described the commissioners’ part in the process as only coming in ‘in a supervisory sort of way’: the subdividers were not required to ‘sell through the commissioners’, that is, to obtain their approval. The Governor had discretion to refuse an application, but no grounds for refusal were offered in the legislation. The commissioners could only advise the Minister to vary the form and areas of the proposed subdivisions. Minister Ashford was thought to be contemplating a ‘living area’ for the subdivisions, but because one person could hold any number of subdivided leases, any such contemplation was just that, contemplation. It was a far cry

44 Michael Hogan and David Clune, ibid., 157.
45 Australian Labour Party, New South Wales Branch, Rules and Constitution; and the Policy and Platform, State and federal, 1911, 6.
46 The Bill’s provisions became Sections 2-8 of Act No.15, 1918 of the Western Lands (Amendment) Act, assented to on 21 March 1918 and were incorporated in the parent Act in 1927 as Sections 37-43.
48 See also NSWPD, 16 October 1917, 1691.
from ‘government closer settlement’ where the government initiated the process, chose the new settler, and limited them to a modest area. Looking back to Powell’s ‘closer settlement systems’ at Figure 2, the amendments perhaps warranted a new category, 2 (d): ‘Under minor government control.’

The amendments specified that only the conditions contained in the original large lease would be contained in the new smaller leases. This showed awareness of what the commissioners had been doing: placing additional conditions into the ‘new’ leases they had been issuing after 1909 (as will be seen), and it showed a determination to avoid similar treatment. Minister Ashford’s account of the purpose of the amendment was less than clear: to provide a title for small areas which would attract capital; to enable fathers to provide land for sons; to help those born and bred in the Division and familiar with its conditions, (desirable people) to stay there. It was all just closer settlement in another form, he urged.\(^{49}\) His colleague, Walter Wearne, at the time busy forming a ‘country committee’ in parliament, was not averse to coalition with the Nationals. He had pledged to ‘unlock the lands of the Division’ near the border town of Walgett before the election. Not surprisingly, he supported the amendments as, as he said, the one eighths had all been used up in this district.\(^{50}\) He wanted access for the sons of farmers east of the river in the Central Division (and his electorate).

The commissioners called the changes ‘privileges’, and described the outcomes as not what they had ‘been led’ to expect.\(^{51}\) One such outcome suggested speculation in land (unearned increment) which the commissioners experienced. Labor’s James McGirr (Yass) claimed that the original purpose of the Western Lands Act, to let the land out cheaply, get improvements on it, and have them later revert to the Crown, was being forgotten. He also thought the amendment would mean a gift to large squatters and financial interests.\(^{52}\) He tried to introduce changes more in line with Labor approved techniques: a ballot to choose new transferees; a new lessee to be allowed only one lease; the Minister to have power to approve the new holders. When Labor’s B.B. O’Connor respectfully asked Solicitor-General Garland did he not agree that the choice of settlers should be made by government rather than landholders, he was firmly put in his place. Leases were the property of the lessees as long as the term ran, Garland responded, and the proposed settlers were ‘persons

\(^{49}\) Ibid., 1690-92.
\(^{50}\) Ibid., 1696.
\(^{52}\) *NSWPD*, 16 October 1917, 1697.
familiar with the western district and prepared to invest money there’.\textsuperscript{53} There is no way of knowing whether he had in mind persons such as J.M. Donnell, who wrote to the commissioners in July 1918 from Rose Park, South Australia, saying he was thinking of bidding for Menamurree’s 414,822 acres and could he cut it up and sell it in 50,000 to 100,000 acre lots? The answer was suitably non-committal.\textsuperscript{54}

Another amendment more in line with the commissioners’ desires authorized the Governor to withdraw the whole or any part of a lease when required for closer settlement, but the compensation for loss of the land was very different than hitherto. The lessee would be entitled, not to an extension of the term for the remainder of the land, but to cash compensation for the loss of the full use of the lease for the remainder of its term, and for loss of improvements, the amount to be calculated by the commissioners. Garland succeeded in changing this calculation to: ‘the market value of his interest in the lease’ plus the market value of any freehold portions, plus compensation due to any damage by severance of the land from the property.\textsuperscript{55} This looked more like the monetary compensation expected to be paid when freehold land was resumed. The Minister or the lessee could appeal against the commissioners’ assessment to a District Court Judge.

Given the new kind of compensation, political competition over the location of the land arose. Ashford correctly said the commissioners had irrigation land in the south in mind, the mallee country they believed suitable for wheatgrowing. Their Reports and argument elsewhere attested to this,\textsuperscript{56} and Ashford had supported Doe’s election in the south by promising to resume land there.\textsuperscript{57} Walter Wearne, however, whose electorate in the north encompassed Walgett North, had promised to unlock land in that region. Broken Hill based Labor members, however, wanted the provision applied to land around the Anabranch lakes, where miners could grow vegetables for the Broken Hill or South Australian markets.\textsuperscript{58} Not surprisingly, the Bill left the Assembly with the location of the area unspecified. The \textit{Review} objected vigorously: such vagueness would destroy the security of tenure for all leases and discourage financiers from supporting lessees during drought and price downturns.\textsuperscript{59} It hoped the Council would change this, and, at Garland’s

\textsuperscript{53} \textit{NSWP}, 12 March 1918, 3497.
\textsuperscript{54} Back File WLL 623.
\textsuperscript{55} \textit{Western Lands (Amendment) Act}, Act No 15, 1918, Clause 9.
\textsuperscript{56} Langwell argued this before the Public Works Committee in 1918, see \textit{NSWPP}, Vol. 2, 1917-18, 130. Their Annual Report for 1917 also did so, see \textit{NSWPP}, Vol. 2, 1917-1918, 130-31.
\textsuperscript{57} \textit{NSWP}, 16 October 1917, 1695-96.
\textsuperscript{58} \textit{NSWP}, 16 October 1917, 1699-1700.
\textsuperscript{59} \textit{Review}, 16 March 1918, 299.
urging, it did, restricting the area to Walgett North, a long way from the southern country the commissioners had in mind. 60 The desires of the commissioners, of Ashford, and of the Labor men were dashed. Jabez Wright concluded bitterly and correctly, that nothing would happen, as land in Walgett North would be too costly to resume. Minister Wearne soon discovered he was right.

Pressures on the commissioners came from other quarters in 1918, both specific and amorphous. Western Division Labor men specifically made their concerns known. At first they attacked Sidney Kidman, a large lessee west of the Darling, for monopolising the country, but they lay the blame for him at the feet of the commissioners. Attacks made by Jabez Wright and Percy Brookfield (both representing Sturt based on Broken Hill) in 1918 escalated after M.A. Davidson’s election for Cobar that year, and particularly after E.M. Horsington’s for Sturt four years later. The passion and persistence of their complaints warrants a closer look. Kidman’s large landholdings in the Division was a major issue, but it was not this alone which upset the Labor men.

Born in South Australia in 1857, Sidney Kidman had eschewed home life and schooling for that of a drover, teamster, and stockman. According to biographer Jill Bowen, he learnt much from Aboriginal co-workers and close observation of country in his early knockabout days across the border around Broken Hill, and he later learnt from maps and geography taught him by his schoolteacher wife. All this and a phenomenal memory contributed to his later success. 61 He was early seized by the challenge of getting stock to market utilizing localized rainfall and the intermittently flooded country, water which the rainfall maps of ‘average rainfall’ created by the bureaucrats, ignored. With his brothers, he was first a homestead lessee and butcher at Cobar, then Broken Hill (one of the group Lee remarked upon), but he later pursued his dream of creating a stock route from the north of Australia to Adelaide by purchasing properties. He purchased his first pastoral lease in the Division in 1901, Caryapundy Swamp on the Queensland border. By 1919, he had used his earnings, including from horse breeding and sales, his borrowings from the Bank of New South Wales, and the resources of partners, sometimes family members, to amass a large portion of the west Darling. During the war years, dry years, he purchased, with partners,

60 The amendment became Section 9 of Act No. 15, 1918, Western Lands (Amendment) Act of 1918. The Assembly accepted the Council’s change by a majority of one. See NSWPD, 14 March 1918, 3623.
no less than twelve properties there.\textsuperscript{62} They provided an almost continuous area to carry stock, mainly cattle, from Queensland and the Northern Territory to rail terminals in the south, thence to market. When the President of the West Darling Pastoralists Association, T.M. Daskein, sold out to him in 1919 ‘after thirty eight years residence in the back country’, the \textit{SMH} reported inaccurately that Kidman had acquired 30 million acres from him, a report repeated by Wright in parliament and corrected by Ashford.\textsuperscript{63}

The Western Division Labor men were stirred, as like minded union men and others had already been in South Australia, charging that Kidman’s monopoly of the meat trade there had forced prices up.\textsuperscript{64} When a bill was introduced in NSW to renew the commissioners’ tenure for one year only, Jabez Wright took the opportunity to blame the commissioners for Kidman’s alleged power and to claim they were the ‘agent of the squatters’. He described Kidman as a ‘ruthless invader’ a ‘scourge’ who cut his workforce and wiped out outposts of civilization like Tibbooburra and Milparinka. The commissioners, he said, asked all sorts of questions when small men applied for land, but they did not ask Kidman such questions.\textsuperscript{65} This overlooked the fact that Kidman did not apply for land, he purchased it. Wright wanted more government control. Percy Brookfield (Sturt) blamed the commissioners for not stopping land reverting to large holders through dummies, and Horsington and others soon added to Kidman’s sins: he pulled down buildings and sold the iron, ripped out fences and sold the wire, monopolized the stock routes, reduced production by not employing enough men, allowed dingoes to run free and encroach on sheep properties forcing neighbours to sell out to him, and he charged too much for his subdivided leases, let improvements run down, and, the final insult, employed Aborigines.\textsuperscript{66} Why, they asked, did not the commissioners control him. The Labor men were largely correct in their accusations, but their indignation was questionable. Kidman’s defenders argued that he had largely purchased from banks or desperate sellers, that if he were not there the land would be totally unoccupied, and it was a big man’s country.\textsuperscript{67} Kidman’s land management

\textsuperscript{62} See Appendices A, B and C for information on Kidman holdings in the Division and elsewhere. Kidman had several partners and formed companies in whose names the properties were held. For simplicity’s sake, I have not distinguished amongst these. Unlike James Tyson, Kidman did not lend money so as to become a mortgagee.

\textsuperscript{63} \textit{SMH}, 16 September, 1919, 8. 30 million acres was a ridiculous figure if it referred to the Western Division only, nearly 40 per cent of its total area. The properties in the Western Division, according to the \textit{Pastoral Lease Register}, were Mount Arrowsmith and Wonnamininta, transferred in 1919, totalling 540,820 acres in 1884. Occupation licences or other leases would also have been held in the resumed areas. Ashford gave a figure of one million acres: see \textit{NSWPD}, 25 September 1919, 1255.

\textsuperscript{64} Jill Bowen, \textit{Kidman}, 214-35.

\textsuperscript{65} \textit{NSWPD}, 21 February 1918, 2861; 5 March 1918, 3268-69; 23 September 1918, 1707.

\textsuperscript{66} \textit{NSWPD}, 1 September 1925, 455; 27 January 1927; and see Bowen, \textit{Kidman}, 260-61.

\textsuperscript{67} Jill Bowen, \textit{Kidman}, 262-63.
practices later attracted approval, his stockmen were proud to be ‘Kidman men’ (Figure 16), and his practices regarding long serving employees, Aboriginal and non-Aboriginal, were remembered by some with gratitude.  

The basic issue was that Kidman was a cattle man, not a sheep and wool man. The two industries had attracted loyal followers, at times given to creating suitably denigrating images of each other, but the economics and management of cattle and sheep were different, and sheep were associated with closer settlement. Cattle required less labour and of course no shearsers; they did not need fences to the same degree, and were less subject to dingo attack. Sheep required less land therefore a ‘small’ man had more opportunity to enter into ‘independence’ as a sheep man. Most importantly, financiers were happier to lend for sheep and wool as security, thus consolidating the association of sheep with closer settlement, and making Kidman represent its opposite. Sheep lasted better into a drought before dying; their smaller teeth and their digestive system enabled them to eat the pasture down more than cattle, and, even when the ground was bare, to eat the clover and other burrs (seed pods) in the soil, even fatten on them and produce wool in a drought. They required less water, were cheaper per head than large stock, and represented less loss if they died during drought. Most importantly, ever since the Lien on Wool Act of 1844, financiers had been able to take the wool clip as security for an advance, and to be sure, if they were also woolbrokers, that they got their money first, and they could take a mortgage over the animal as well as over the wool clip. In short, sheep offered better security than cattle, and a new entrant could borrow more easily. That these basic issues underlay the attacks on Kidman is shown by the fact that A.B. Triggs, a modest rival given the spread of his landholdings east of the Darling, acquired in the same way that Kidman acquired leases, escaped all appoebrium.

68 Jeremy Beckett, A Study of Aborigines in the Pastoral Far West of New South Wales: 1958 MA Thesis with new Introduction and Preface, Oceania Monograph 55, University of Sydney, 2005, 39; Mary Turner Shaw, Yancannia Creek, 219; Aboriginal worker Harold Hunt found Dan Ward still resident on Wanaaring Station after Kidman’s estate sold it to Henry Gibbons and his sons. Pers. comm. with Harold Hunt, 12 June, 2009. Hunt’s manuscript describing the encounter is available from myself or Harold Hunt. For an opposing view of Kidman as an employer, see Myrtle Rose White, Beyond the Western Rivers, Angus and Robertson, Sydney, 1956. For his defenders in NSW, see Bowen, Kidman: Forgotten King, 262-64 and for the pride of ‘Kidman men’ see Bowen, Kidman: Forgotten King, 1-11.

69 Jill Bowen, Kidman, 261. Bowen says Kidman ran sheep in the Division where he thought the land suitable, on Wonnaminta, Mount Arrowsmith, Yancanina, Corona and Weiniteriga. Wonnaminta was able to provide a station team big enough to play cricket with the shearsers.

70 I am indebted to Peter Wright of Bowral, former wool buyer for Dalgety and Co., for the emphasis on sheep as security in this analysis. Pers. comm., 6 June 2005.

71 Peter Wright suggested it was much harder for a financier to find cattle than sheep if it was necessary to take possession of stock as security.
Kidman employees taking part in the Adelaide rodeo celebrating his seventy fifth birthday in 1932. From Jill Bowen, *Kidman the Forgotten King*, 6, 8-9. Bowen acknowledges the Stockman’s Hall of Fame as the source.
He was a sheep man (and a firm New South Welshman), and he was not in the electorate which encompassed Broken Hill. Lessees and the commissioners would together soon take action to consolidate the position in favour of sheep and closer settlement in the Division through the construction of the NSW portion of the Dog Fence (Figure 17), designed to keep dogs west and north of the straight line borders of the Division.

Wright should have asked why parliament did not control Kidman, not why the commissioners did not. As has been noted, controls over transfers by sale were by this time being placed on new small leases through advertisement in the Gazette. Such control was not possible for old large leases which were in a free market, unless parliament acted. To Wright’s complaint that Kidman had been permitted to buy Daskein’s 30 million acres, Ashford had responded that he had no control over land in the Division and that it was ‘under the Western Land Board’, as though a mere Minister, like him, was not involved.\(^\text{72}\) He passed the buck to the bureaucrats. The commissioners responded to the accusation that they let land revert to large holders through dummies, that of the land allotted from one eighth withdrawals, 1,624,730 acres in all, only 83,865 acres had gone back to the original holders but only before Ministerial control of transfer was introduced in 1909 (via conditions in leases).\(^\text{73}\) Other Labor men made negative comments about the commissioners. Stuart-Robertson disliked them, (and commissions generally) because they were unaccountable, ‘practically Czars’, he thought, who did just what they liked, with politicians having little chance of calling their actions into question. He also hoped the western lands could be brought under the Lands Department.\(^\text{74}\) His judgment about the commissioners’ freedom was questionable: in fact, setting rentals was the only function which lay with the commissioners alone as opposed to the Minister or Governor.\(^\text{75}\)

Introducing the bill to renew the commissioners’ tenure for one year only in March 1918, Minister Ashford said the government was considering a scheme for the reorganization of the ‘western lands system’ and later said the term would not be renewed.\(^\text{76}\) There

\(^\text{72}\) *NSWPD*, 16 September, 1919, 794.
\(^\text{73}\) *NSWPD*, 16 March 1918, 208.
\(^\text{74}\) *NSWPD*, 5 March 1918, 3270-71.
\(^\text{75}\) Langwell told the 1931 Royal Commission that the setting of rentals was the only function the commissioners alone had. A reading of the Act from this perspective supports him. The Act in fact placed decision making powers in other matters with the Minister or Governor, sometimes ‘on the recommendation’ of the commissioners or after their report. Other functions were ‘on’, or ‘after’ their recommendation to the Minister.
\(^\text{76}\) *NSWPD*, 5 March 1918, 3268-69; 27 November 1918, 3037.
The Dog Fence

was talk about only one commissioner being needed, and some parliamentarians seemed to think they did not have much work to do, which appeared to have some truth. Others pointed out that rents were due for reassessment, a task needing their expertise, and revenue from rental income could not be ignored, the income of £94,000 being much in excess of the cost of administration. The commissioners’ faithful Review found other things well worth keeping: their expeditious decision making, lack of red tape, cheapness, and lack of criticism of them by ‘lessees’, at least the lessees the Review knew about.

McMaster faced other public inquisitors in 1918. During a Royal Commission into the Public Service, he was quizzed by Royal Commissioner, G. Mason Allard, and it became clear that there was again pressure to reduce the number of commissioners or bring staff under the Department of Lands. When presented with the criticism of a land agent previously interviewed by Allard, that the commissioners had not taken all the land they could in the Walgett North area, he was emphatic that there was no land left to be taken there except in the case of small leases of about 10,000 acres, and taking an eighth from them would be too small for closer settlement purposes. This latter requires some explanation. He was referring to old homestead leases, improvement leases or artesian well leases which had sometimes reverted to former pastoral lessees. The Act’s ‘one eighth of a lease’ had originally referred to the 300 or so large pastoral leases which came under the Western Lands Act, but it later come to be applied also to the small leases in the old resumed areas when held by large holders, which raised the problem of inconveniently shaped and located blocks formed from ‘one eighth’ of them. Figure 18 models what he was referring to. He referred Allard to statistics in Annual Reports, an un congenial suggestion for anyone examining them, who would have had great difficulty locating relevant information given bureaucratic terminology and the structure of the tables.

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77 One position of Assistant Commissioner had been left vacant for four years from 1906 when Robert McDonald left to become Surveyor General. In 1910, S.W. Moore, former Minister for Mines and Agriculture and Lands, who had lost his seat of Bingara, was appointed to the vacant position. In 1911, Langwell was absent for months as Royal Commissioner inquiring into the Kentia Palm Seed Industry on Lord Howe Island.

78 The Annual Report for 1919 showed income of £98,063 of which £94,279 was from rent. Expenditure was £11,188.

79 Review, 16 October 1918, 960. The Review’s July Editorial supported the commissioners for similar reasons.

80 'First Sectional Report of the Royal Commission of Inquiry into the Public Service together with Minutes of Evidence, Appendices, etc.,', 514, in NSWPP, Vol. 4, 1918, 373.

81 For instance in 1897 Samuel McCAughney had created over thirty improvement leases from the Resumed Areas of his Toorak and Dunlop, in areas ranging from over 16,000 to 20,480 acres, totalling over 550,000 acres.

82 See Appendix 3.
Allard examined some files, and concluded the Board’s procedures were cumbersome, costly, and needlessly protracted, but he similarly criticized the Department of Lands. He found strength in the argument that it might be unworkable, at least at this time, to reorganize the Western Lands Board and make it a sub-branch of the Department of Lands, (a clear sign this was contemplated), and he thought it best to retain the existing ‘patriarchal administration’ which, ‘it was claimed’, was suitable for the Division.\textsuperscript{83} However, he recommended that the Public Service Board regulate staffing and inspect methods from time to time.\textsuperscript{84}

McMaster’s response was less than gracious. His next Report said that criticism of minor matters of administration overlooked the important duties carried out, presumably meaning reappraisal of rents, revaluation of north eastern land given the recent arrival of railways on the border at Collarenebi and Walgett, imminent soldier settlement, and possible wheatgrowing in the Mallee, all of which he had pointed out to Allard as major tasks. The Board’s procedures, he wrote, were ‘economical, ‘effective’, and ‘approved by the lessees’, virtues the \textit{Review} and the Graziers’ Association of NSW had consistently asserted.\textsuperscript{85} In November the \textit{Review} was able to publish a letter from Ashford to the Graziers’ Association saying no disturbance would be made in the commissioners’ positions as so many soldiers from the Division had enlisted and needed to be catered for, ‘adapted’ for settlement there as they were.\textsuperscript{86} The virtue of economy seemed well justified, for apart from the three commissioners, the staff of the Board numbered a mere fifteen people: three surveyors, five draftsmen and five clerks.\textsuperscript{87} McMaster’s attitude to criticism of minor matters of administration as compared to important duties, was somewhat reminiscent of Surveyor-General Mitchell’s lordly opposition, many years earlier, to controls that a mere colonial governor sought to impose.\textsuperscript{88} He would not personally experience the downside of this before his retirement, but Langwell would.

Richard Meagher MLC was a less pleasant inquisitor than Allard. Late in 1918 he

\textsuperscript{84} ibid., lvi.
\textsuperscript{86} \textit{Review}, 16 November 1918, 1089.
\textsuperscript{87} ‘Public Service Lists’, \textit{NSWPP}, Vol. 4, 1918, 63.
Figure 18. 'One Eighth of a Lease', taken literally, could produce oddly shaped properties/paddocks. The Figure is a model, not showing real withdrawals.
moved to establish a Select Committee ‘to inquire into land development’ under the Western Lands Board’s administration. His success was in large part a manifestation of the renewal of closer settlement ideology aroused by the war and the view, held beyond Australia, that its emptiness needed be filled up with British migrants to develop the county’s productivity, help it take its independent place in the future world, and defend it from outside attack or infiltration from Asian sources in the north. Migration publicist E.J. Brady fuelled such views. Son of an Irish immigrant, journalist, poet, author and socialist visionary, his enormous book, *Australia Unlimited*, replete with rosy words and pictures, claimed limitless Australian productivity and potential, including in the Division. He used official data as well as the evidence of his own eyes during extensive travel. For him, the Western Division was full of possibilities, and as opposed to the negative stereotypes created by his friend Henry Lawson and others, he saw life there as safe and healthy, its women just as pleased to dust and tidy as their sisters in Sydney, and its red soils ripe for cultivation when science and technology would, inevitably, overcome problems such as the chemical content of artesian water. In the future, easier access (his car ‘glided’ over smooth roads) and better understanding would ‘pour a treasure untold’ out of its ‘cornucopia of rich abundance’. The book became the ‘standard reference work on Australia in schools, diplomatic offices and in government departments. The Catholic Bishop for the Forbes-Wilcannia joined in in a different way. The *SMH* reported his call for the ‘unlocking’ of the ‘80 million acres’ of the Division to assist problems of repatriation, acres he believed to be held by ‘big syndicates’ whose profits went overseas. Given his ‘80 million acres’, the whole of the Division, the Bishop was obviously unacquainted with the closer settlement that had occurred since 1884.

As chairman of the Committee, Meagher was able to interview only some eight witnesses before it turned into a half hearted affair. His questioning of McMaster revealed his suspicion that western lessees, with the help of the commissioners, were doing far too well. The slippery McMaster gave basic replies, about one eighth withdrawals, about rents, and about resumption (for money) in Walgett North. He told Meagher that there had been no resumption (for money) in Walgett North because the commissioners had not been asked to resume

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92 *SMH*, 17 September 1919, 8.
93 Meagher attempted unsuccessfully to convert the Committee into a Royal Commission.
land there, and because the price was too high. Meagher told him that the Government was compulsorily resuming land in Sydney for over £500 a foot, and did he not think there should be legislation to allow this in the Division? No doubt containing himself, McMaster did not care to express an opinion: why should he answer a question more appropriately answered by a minister.  

94 There was, in any event, such legislation. The buck was again being passed. Meagher pressed for details of the one eighths taken. 'We could have made one-eight of 52 million acres available', McMaster said, but 'dealt' with only 40 million acres, and did not take all from that either.  

95 He provided the figure of 2,596,000 acres taken, which was one eighth of 23,648,000 acres, not forty million, which he vaguely explained by the far north west not being suitable for closer settlement and the far north east leases being too small or difficult. A list of the withdrawals was published. Had it been available earlier, Meagher may have been more aggressive. It showed one eighth had not been taken from Dunlop, and only very recently from Toorale, either just before or after Sir Samuel McCaughey's death, and that one eighths had been taken from only 111 holdings, much less than half the 1901 pastoral holdings coming under the Western Lands Act.  

96 It was perhaps fortunate for McMaster that Meagher appeared not to be aware that McCaughey's will had left substantial amounts to both McMaster and Langwell amongst a large number of the bachelor's beneficiaries.

Meagher's view that rents needed revision upwards may have borne some fruit, because they subsequently were, and his suspicions about the one eighths may also have borne fruit because there was a considerable increase in these in 1919-20.  

98 Two other witnesses before him, Wearne, and a land valuer and agent from the central west, cautioned against taking further land from large holders.  

99 No reorganization of the Board emerged, but the


95 Ibid., 30-31.

96 The list was published as Appendix D, 'Progress Report from the Select Committee on the Land Development under Western Lands Commission Administration', 38, NSWPP, Vol. 1, 1919. McCaughey's will left £3,000 to both men.

97 For McCaughey's will, see Probate Packets, NRS 13660, Series 4-97830, Sir Samuel McCaughey, SRNSW.

98 During 1919-20, 1,180,326 acres were taken, an acreage comparable to that taken during the previous twenty years. See 'Annual Report' for 1920, Schedule 1. The figure comes from the increase in area since the previous year under Section 17. See notes (a) and (c) of Schedule 1.

99 'Progress Report', op. cit. Wearne told him that demand for land in the Division arose largely from family formation, from business people who saw closer settlement as a boost for business, and from prejudice against large holders, in other words, not from a genuine desire by outsiders to further populate it. He advised restraint, with the cost of stock and wire so high, and building materials so scarce. Land agent Howard Speight cautioned against 'holus bolus' withdrawals because it tended to 'mix the classes' too much.
suspicions and visions, fair or unfair, suggested the delicate situation of the commissioners in the political landscape.

They themselves had put their popularity at risk in the longer term in another way: by the controls they had introduced through lease conditions, controls which perhaps underlay Allard's acceptance of the need for 'patriarchal' administration. We have seen how, during the passage of the 'private subdivision' amendment in 1918, holders of the large old leases took care to ensure that control over sale was avoided for their subdivided leases. This control, which the commissioners and a minister had felt compelled to impose, would gradually erode their support base amongst small holders so that when their operations were next seriously investigated, locals would no longer spring to their defence. Why did they do this? The answer helps explain Stuart-Robinson's perception of them as 'czars', and necessitates some backtracking in time.

The resort to controls can be traced to their personal responsibility for choosing successful applicants for advertised land and recommending the 'most entitled' to the Minister.\(^{100}\) Advertisement of blocks commenced in late 1903, not specifically for either additionals or originals: it was left open. The commissioners encouraged applicants to apply for more than one area, thereby increasing their chances of being allotted one.\(^{101}\) Any male sixteen and over, or female eighteen or over, could apply, and in these early years previous inquiries by surveyors in the field often meant applications were already anticipated, and the advertisement was in part a response to demand as assessed by the surveyors. The advertised land might be one big block which would be split up, depending on applications. The size of the area allotted, either as an additional or an original, was up to the surveyors to recommend, and their recommendations were invariably approved. When the commissioners recommended to the Minister, they were not obliged to give reasons and did not do so.

Application forms showed little interest in personal qualities or background. The form for additional areas asked about marital status, land already held or which had been held. The form for applicants for original blocks was uncurious about both background

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\(^{100}\) *Western Lands Act of 1901*, Section 26.

\(^{101}\) The term 'block' was used for purposes of advertisement. The word 'lease' could not be used until the successful applicant was offered the lease and accepted it. A lease number was than created and the lease document issued and signed by both parties.
and experience, asking for little more than occupation and birthplace.\textsuperscript{102} Grazing, it seemed, was still an enterprise which anyone could do. This changed a little in February 1906, when a declaration was included in the form asking for marital status, number of children, and the capital, plant and stock available for ‘grazing pursuits’. It also required a declaration that the applicant’s sole object was to hold and use the land for their own exclusive benefit—the ‘bona fide’ concept already enshrined in legislation further east.\textsuperscript{103} By 1914, they were asked whether their stock and plant was encumbered, what knowledge they had of the block applied for, what experience they had in grazing or agricultural pursuits, where gained, and whether their wife would reside with them on the land.

Public advertisement encouraged public interest in the outcome. In populated areas close to rail and water, advertisement and the local interview process soon aroused comment and feedback to the commissioners. There were opportunities for deception. A block of 10,240 acres off Trida’s resumed area, an old forfeited homestead lease, was advertised in March 1909 attracting twenty one applicants.\textsuperscript{104} Its proximity to the proposed railway line from Hillston to Ivanhoe, thence Menindee, explained its popularity. The occupations given in applications were: contractor, boundary rider, hotel keeper, domestic duties, grazier, wife of a homestead lessee, coach proprietor, labourer, and dealer and butcher, a fairly representative range of occupations, except for station employees, and former Victorians were well represented. The ‘grazier’ applicants held no land, but Charles Brush said he had held an interest in Boondara pastoral holding and worked there (probably as managing partner). An associate from Heidleberg provided a letter he used as a reference (‘My Dear Brush’ it began), promising assistance and support. However the block was recommended for Archie Edwards, ‘labourer’, but before the lease was issued, Brush telegrammed the commissioners: ‘Your action re Trida block meets unanimous approval a successful hotelkeeper in this town’.\textsuperscript{105} He obviously did not see hotel keeping as a suitable qualification. Investigations were made, the recommendation was withdrawn, and a station contractor/boundary rider was allotted the lease.

\textsuperscript{102} Form 2, Supplement, Gazette No. 70, 24 January 1902, 608. Statements made on oath by applicants at the actual interview are usually recorded on file, but they are in the form of a handwritten record of answers, are sometimes indecipherable, and provide no more than a slight elaboration on the information given in the form.
\textsuperscript{103} Form 2, Gazette, 14 February 1906, 1117.
\textsuperscript{104} Back File WLL 2285.
\textsuperscript{105} ibid.
A more serious undermining of the commissioners’ reputations arose when their choice of the ‘most entitled’ was subverted by the market. The following cases represented a larger group. Eight people applied for a block of 93,000 acres from the resumed areas of Paddington and Neckarboo in 1906. Two were former successful homestead lessees, and two were ‘sheep overseers’ related in some way to the owners of the pastoral holdings from which the blocks were taken. Applicant James Conley had held land in both the Central and Western Divisions but had lost it, he said candidly, through ‘over-speculation and droughts and rabbits’. Fifty six years old, his ‘wealthy nephews’ in Cobar would assist him financially. He made sure the commissioners knew of the family relationship of some of the applicants to large holders, particularly drawing attention to applicant Arthur Robinson, stepson of Walker, holder of Neckarboo and Paddington. Walker had a lot of land, he wrote, while he had none. Conley was allotted not only the 93,000 acres, but a nearby block of 27,000. He wrote from ‘Corinya’ soon afterwards, reporting progress in putting a dam in the creek and mentioning financial help from his nephew, also allotted a lease of 150,000 acres nearby. Like other lessees, he was having difficulty paying rent, and wrote regularly asking for time to pay, saying that money spent on improvements instead of rent was more productive. In 1909, he sold the smaller lease to large lessee A.B. Triggs, and later, also the larger one. The commissioners had on occasion themselves allotted leases to large holders, including Triggs, when demand was lacking and they believed the lease title rather than the licence title would attract funds for development, but it was an entirely different matter when one of their chosen new lessees sold out to him.

The same thing could happen when their choice seemed assured, based on apparently good local advice. Land agent and Mayor of Bourke, E.J. Bloxham, had long urged the commissioners to allot a block of 40,000 acres off Wanaaring’s resumed area to Pay and Norris, butchers and stock dealers north west of Bourke. The commissioners finally did so in 1909. Bloxham had told them the station owners, Hebden and Bailey, had no objections to Pay and Norris, knowing them to be respectable men, and it was ‘better to

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\(^{106}\) William Parker and Garret Byrnes.  
\(^{107}\) He stated that he had held Bulgoor, Central, The Cowls, and Springfield stations in the Western Division. A James Conley had also held HL 511.  
\(^{108}\) Back Files WLL 1538 and 1575.  
\(^{109}\) These became WLL 1539 and WLL 1575.  
\(^{110}\) Back File WLL 1539. In 1914 the larger lease was also sold to Triggs, who was soon to approach modest rivalry with Kidman in the extent of his holdings east of the Darling.  
\(^{111}\) In their early years of operation in areas such as south of Cobar (Surveyor D’Apice’s area), they had allotted leases to existing large lessees and former pastoral lessees’ sons. They drew the line at the pastoral finance companies, however, some of whom applied regularly and, seemingly, defiantly.  
\(^{112}\) Back File WLL 2236.
have trustworthy neighbours than strangers'.\textsuperscript{113} Hebden and Bailey even wrote that they had already sub-leased the land to Pay and Norris so that they could use it to help carry on their business. Aware of the commissioners' priorities, as all good land agents were, Bloxham said the partners had undertaken to spend £400 on improvements 'at once'. After all this, however, the lease was soon sold to a much larger former butcher, Sidney Kidman, soon to be accused of denuding the West Darling of its white population.

Their experience with Mathew Good Snr, a former homestead lessee and stock dealer, may have provided the tipping point. After allotting a block close to Bourke to him, they later withdrew the approval due to misinformation he had given about his landholdings. They chose another lessee, who later sold it to Good, who then soon sold it back to the well known large pastoral lessee, Malcolm Robertson of Jandra.\textsuperscript{114} The commissioners, particularly Langwell who had spent many years in Bourke when shearer unionism was strong and fresh, would have been well aware that its grapevine would ensure that residents would know about this, and be suitably entertained and unimpressed.\textsuperscript{115}

About this time, written notes started appearing on files containing such cases: 'transfer does not require Ministerial approval', it was noted, meaning that it should. Though the word transfer could apply to all kinds of transfer, transfer by sale was in mind. In 1909, the commissioners expressed concern about 'speculative traffic' and blamed the high value of wool growing properties for nullifying the 'great care' they exercised in selecting lessees.\textsuperscript{116} In 1910, Labour's A.E. Collins (Namoi), reflected the dissatisfaction of disappointed applicants with their judgment, and asked Minister Moore to introduce amendments making applications go to ballot so that every applicant would have 'equal opportunity'.\textsuperscript{117} Instead, Minister Moore, soon to become a Western lands commissioner, approved the recommendation that controls apply in future.\textsuperscript{118} From 16 March 1910, the Gazette's advertisements of blocks said that successful applicants must agree to conditions, breaches of which could attract forfeiture of the lease, with improvements reverting to the Crown. The conditions were: that lessees could not transfer, convey, assign, sublet or

\textsuperscript{113} The commissioners frequently asked outgoing lessees if they had any particular objections to proposed incoming tenants. No legislative requirement for this consultation appears to have existed. It was, however, a check on local knowledge.

\textsuperscript{114} Back File WLL 1538.

\textsuperscript{115} For the role of Bourke and the Western Division in the formation of the ASU-AWU and in the shearers' strikes of the 1880s and 1890s, see John Merritt, The Making of the AWU, Oxford University Press, Melbourne, 1986, especially 93, 96, 128-29, 264, 267.


\textsuperscript{117} NSWPD, 29 June 1910, 494.

\textsuperscript{118} 'Annual Report' for 1910, 74, in NSWPP, Vol. 1, Session 2, 1910.
mortgage their leases, or grant grazing rights (agistment) over them, without first receiving the Minister’s consent in writing, and they also had to show ‘continuous and bona fide residence during the term of the lease’ or by another person approved by the commissioners in writing.\textsuperscript{119} The tools of closer settlement were appearing, the instruments or tools of a policy paradigm.

This was not legislation applying to all leases, but a ‘contract’ of a kind with the successful applicants, one created by the wording in the \textit{Gazette}. The administrators’ control in relation to small leases they issued began to create two markets, one for leases without controls in them, and one with. The one without controls applied to pre-existing leases, older and larger lessees. The control of new small lessees would soon push the administrators’ reputation towards the autocratic end of a management spectrum as the control became better known and felt, as more such leases were applied for. The \textit{Western Herald} publicized the conditions in September 1913 when it announced successful applicants for the long awaited land made available from one eighth withdrawals, in this case from Winbar’s leasehold area. It was pleased Senior Constable John LeLievre of Louth, well known in the area since 1896, was one. A ‘smart officer in every way’, it said, he would leave the force to occupy 50,000 acres, and Winbar would have a good neighbour, one with a ‘hankering after the land and a penchant for dealing’.\textsuperscript{120}

An early example of the commissioners’ use of the new conditions showed how they used their powers and how when they sat as a Local Land Board in ‘open court’, local opinion could seek to influence outcomes. It also showed how the ‘family’ became a measure of bona fide and genuine intent, as well as the strength of a closer settlement ethic, deeply ingrained in the landseeker population and their supporters, only too willing to tell the commissioners how they should do their job.

The 16 March 1910 advertisement announcing the new conditions was for two blocks from the one eighth taken from Llanililo near Walgett, choice grazing land in the commissioners’ view. Charles John (Jack) Prentice, butcher and dealer of Lightning Ridge, was allotted

\textsuperscript{119} \textit{Gazette}, 16 March 1910, 1609: ‘The lessee shall not transfer, convey, assign or sublet the said land or any portion thereof, or mortgage or charge the same...without having first obtained the written consent of the Minister after report by the Commissioners. The lessee shall not grant any grazing rights over the said land or agist stock thereon without first having obtained the consent as aforesaid...The lessee shall occupy the said land during the said term by the continuous and bona fide residence of himself or some other person approved of by the Commissioners in writing...’

\textsuperscript{120} \textit{Western Herald}, 13 September 1913.
one of its blocks of 7,192 acres. Like other applicants, he swore at interview that he was aware of, and prepared to comply with, the conditions. Three years later, Surveyor Mullen found Jack’s cousin and his wife and small child living on the lease in a dwelling of two rooms and a kitchen, while Jack continued in his butchering business and lived with his family in Lightning Ridge. His lease would be forfeited, he was told, if he did not reside with his wife and family. He asked for an exemption for two years so that his son could complete his education at the Lightning Ridge public school and continue working with a tutor he was happy with. He wanted his son to get a good education, he said, something he himself lacked. Exemption was not granted, and forfeiture was again threatened. The commissioners took the precaution of advising the Minister about the case, saying it was the first test of the conditions in the Division, and that ‘if exemption...be granted in this case the condition cannot be enforced in other cases, and the whole policy of settlement in the Western Division will have to be abandoned’. George Black MLA became involved, supporting Prentice, but the commissioners received a letter from G. Everitt of Lightning Ridge designed to stiffen their resolve. Prentice was financially well able to reside on his lease, he urged, and if this sort of thing was allowed, noone would be living on their blocks and dummying would again be rife.

Later, Prentice was found to be spending more time at the lease, but his wife and family were not resident. This, a stern letter advised, was ‘almost conclusive proof’ that he was not making the lease his home. The ‘family farm’ concept had its usefulness for bureaucrats seeking to ‘settle’ men down, whatever ideological trappings it also carried. A man employed by Prentice in the butchery wrote defending him, saying he was not good at pleading his own case, that it was hard for him to reorganize the partnership with his cousin in the butchery (his cousin being no butcher), and that he had a ‘horror’ of borrowing. Everitt, he added, was a ‘mad noall’(sic) who ‘expounds his arguments in front of the billiard room every night with the most profane language’, whereas Prentice was ‘a white man’.

The commissioners sat as a Local Land Board at Collarenebri to inquire into the fulfillment of conditions in March 1914. The Walgett Spectator, drawing on the Collarenebri Chronicle, headlined its report, ‘C.J. Prentice Forfeits his Western Lease; Non-fulfilment of Residence Conditions’. It also reported that the witness ‘broke down and wept, and begged

121 The information for this case is taken from Back File WLL 2369.
122 Ibid., Minute to Minister Trefle, 13 March 1913.
123 Ibid., Letter, Marrot to Minister, 29 March 1913.
for another chance’.\textsuperscript{124} The lease had not in fact been forfeited, but the Chairman
(McMaster) had announced that the Board would advise the Minister to do it, though the
Minister just might be lenient.\textsuperscript{125} On 8 April, the Gazette notified forfeiture. Prentice went
to Sydney to talk to the commissioners, and soon afterwards, Everitt wrote saying Prentice
had returned to town saying he might get the lease back, but ‘the general public’ were of
the opinion ‘he should not get it back’.\textsuperscript{126} Prentice did get the lease back, but only after he
had sworn on oath he would reside and promised to dissolve the partnership with his
cousin. Late in 1914 Surveyor Mullen found a ‘comfortable house’ on the lease, Prentice’s
family there, and forfeiture was subsequently revoked. It is hardly surprising that some
later soldier settlers believed, incorrectly, that it was necessary to be married before you
could be allotted a Western lands lease.\textsuperscript{127}

The introduction of controls is understandable from the perspective of bureaucrats, but as
time progressed, the way that they were implemented was much less so. It showed signs of
bureaucratic obsessiveness and insensitivity, as the Galloway family found, far from the
‘personal’ care envisaged in 1901. A ‘special lease’ for ‘grazing and conservation’ was
issued in 1910, containing the controls as above, plus the condition that: ‘the lessee shall by
means of tanks, dams, or wells conserve sufficient water to maintain the quantity of stock
the Lease will carry’.\textsuperscript{128} It was one of a number issued at that time with this same additional
lease condition, which was not continued. The land was taken from Teryawinia holding,
fifty five miles from Wilcannia on the road to Ivahoe. The original 1910 lessee had
disappeared by the time Surveyor Granter managed to get there to inspect four years later,
and he recommended that ‘the residence condition be waived on all the Teryawinia cases’
because water was so difficult to find. In August 1914, the lease was transferred to Joseph
Galloway, one of four brothers whose father had been allotted the homestead lease known
as ‘Black Gate’ on the Darling near Wilcannia in 1898.\textsuperscript{129} In 1917 Granter found Joseph
and his brother living on the latter’s adjoining lease, ‘Coolamara’, and visiting their father
following recent release from military training. The man in charge told Granter the

\textsuperscript{124} \textit{Spectator}, Walgett, 26 March 1914.
\textsuperscript{125} ibid.
\textsuperscript{126} Back File WLL 2369, letter to the Minister for Lands, 25 April 1914.
that her father, Bill Ker, on his return from the war as a single man believed he was ineligible and applied
only after his marriage.
\textsuperscript{128} Back File WLL 2330.
\textsuperscript{129} Black Gate was HL 1627, WLL 488. It is unclear how the transfer of WLL 2330 to Joseph came
about.
Galloways had sunk seven tanks on the two leases which were stocked with 2,400 sheep and 11 horses.

In 1924 Surveyor d’Apice found Joseph, now a family man, living at Black Gate, held jointly by the brothers from the father's estate. They were working four leases together, jointly owned stock, and had dug four unsuccessful bores costing, along with fencing repairs, £480. ‘Perhaps under the circumstances’, d’Apice wrote hopefully, ‘residence at Black Gate might be accepted as...part of the lessee's holding’. Not so, replied the commissioners—Joseph knew the conditions of the lease when he purchased it—and if he wished to prevent forfeiture he must live there. How could he, Joseph replied, when there were times when a man ‘couldn’t get a drink of water for months at a stretch’—five bore holes had delivered water 'as salt as the sea' and the 8,000 cubic yard tank had given out. He was told others in similar circumstances were living on their leases. Joseph wrote saying that he would soon move to his block, but could he purchase a nearby one which had good stock water? No, they replied, the nearby blocks also had conditions of residence and approval of transfer on them, and neither lessee would be given permission to sell to him. Being surrounded by such leases, Joseph could not buy nearby. The ritualistic application of residence and transfer conditions, when Joseph Galloway and his brothers were clearly genuine lessees, verged on the ludicrous.

When the conditions were applied to returned soldier applicants after 1918, they could appear particularly harsh, even when patience was shown, and there were new observers on the scene to notice the commissioners actions. The commissioners’ approach to soldier settlement was cautious, returned soldier status, in itself, was not necessarily a sufficient selection criterion. They had not offered land for new settlement during 1918 because the majority of the ‘best men’ enlisted in the early stages of the war and had not yet returned.130 They knew also that returned men would prefer to settle in familiar localities where they had friends or relatives to assist them, and though many had enlisted as youths and were too young to have had lengthy grazing experience, if they had lived in the locality and had friends or relations to help them, every consideration would be given them.131 Only on one occasion, in August 1919, did the Gazette tell applicants for forty eight blocks that returned soldiers would have preference, and even then previous grazing experience ‘in the

130 This comment may have reflected the knowledge that physical fitness requirements and perhaps patriotic enthusiasm had been higher early in the war. ‘Annual Report’ for 1918, 2, in NSWPP, Vol. 1, 1918, 918.
locality’ would be given priority. By 1925, the commissioners’ reported that of the 236 blocks allotted to returned men, 187 were still in occupation on leases provided ‘free of any expense to the State’, a reference to the fact that resumption for cash was not required, as was necessary elsewhere.

The following cases show how conditions were used as tools of control during a probationary period, how the tool of the need for approval for agistment could be used, not as was later thought as a protection of the natural resource, but as a means of providing income in an establishment phase, for a limited period only, until bona fide was established. The Lucey case shows how the hierarchy of tenure outlined in Figure 5 was used to bring pressure to bear on non-performing new lessees, how tenure manipulation was yet another policy tool. The cases were in a relatively populated area in the east, close to rail, a trucking yard, and with a stock route through at least one of them. Land agents, competing landseekers, solicitors, and local parliamentarians were no longer the only people involved: so also was the Returned Soldiers’ and Sailors’ Imperial League of Australia (RSL).

In 1920, three adjoining blocks formed from the one-eighth withdrawn from Kilfera’s leasehold area, all roughly 17,000 acres, were advertised. A.T. Creswick of Toorak, holder of land in several Australian states, was losing the land. The surveyor estimated each lease to have a carrying capacity of about 2,298 sheep, one to seven and a half acres. All were allotted to returned soldiers. Daniel Lucey and George Kennedy were single, aged about 30, both claiming ‘lifelong experience’ with stock in the general region, as well as local relatives. Lucey, had served in Egypt, Belgium and France and was still suffering from the experience. Kennedy had been a Farrier Quarter Master Seargent with the Sixth Light Horse Brigade. His application form revealed dependent parents and five dependent nieces and nephews, the only hint on file of his Aboriginal heritage. He gave his assets as £150 cash, 20 draught horses, and a wagon and harness.

Kennedy fielded requests for agistment from the very beginning. Like many others, he was slow to reside. He did not immediately use up his soldiers loan, spending portion only on a ground tank. When Surveyor d’Apice inspected in January 1922, he’d been absent ‘for

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132 The preference was indicated by a coloured slip placed in the Gazette, indicating a tentative approach.
some time’ and a man was camping there with 500 head of Canally cattle, without permission for agistment. Kennedy was written to severely, responding that he was living with his parents two miles from the boundary, that he visited the lease almost daily, and that he hadn’t known that he had to get approval for agistment for short periods. In early 1923 he sought permission to sell to the third successful applicant for the Kilfera blocks, George Smith, who had offered him £1,650. Yelty was not large enough to make a ‘home’, he explained, and he needed to go elsewhere for employment. The Commissioners’ refusal may have hurt Smith more than Kennedy, for Smith wrote to the Minister on 12 November 1923, mentioning his Croix de Guerre:

the consent to transfer was...refused on the grounds that Kennedy was not entitled to the profit...the Commissioners attempted to inflict punishment on Kennedy, causing me to be the sufferer...My lease is not a living area, and with this added, would enable me to live comfortably, combat drought and retire in my old age...Kennedy accepted my deposit for sale...(he) is not a bona fide settler as his property is leased at present.136

Smith deduced that the refusal was part of the commissioners’ determined effort to dampen ‘speculative’ taking up of leases, but he reported a ‘good deal of dissatisfaction’ with the administration of the Act. He soon wanted to sell his lease, his agent telling the commissioners that it would only carry 1,200 sheep, not a living area, as ‘old landholders’ like Angus Waugh of Clare were prepared to attest. Other agents wrote wanting to buy the lease. Kennedy wrote asking could he be employed by Rees Brothers to look after their sheep on his lease and they would pay his rent. No, he could not, and as no attempt to reside had been evident, forfeiture would be recommended. Permission was given twice to agist Rees’ sheep for three months.

Kennedy applied for a loan of £750 from the GSB ‘to buy sheep’ in early 1924. No, the Commissioners advised the Bank, not until the residence condition was fulfilled. Surveyor d’Apice reported there was an ‘unfinished cottage’ on the lease, but George, now married, was not there, and someone else was looking after Rees’s sheep.137 D’Apice noted that Kennedy had only spent £321 from his approved soldiers’ loan (in other words, he could have applied from this source rather than the GSB, but apparently nobody told him).

Kennedy was again told his lease was liable to forfeiture and it continued to be in demand for agistment, which in May 1925, was again approved for three months. On his next visit

136 Back File WLL 2853.
137 Edward Rees had been allotted a homestead leases in the 1880s and an additional in 1906. Since then he had purchased other former homestead leases on the market and his sons, Rees Brothers, were managing some three properties by the 1930s.
d’Apice found him resident with his wife and family, but told him no further approval of agistment would be given. 138

After Creswick obtained a Judgment Debt against Kennedy for £262 for improvements, and the Returned Soldier Settlers Branch of the Department of Lands (RSS Branch) became concerned about his capacity to start repaying his soldier’s loan, the commissioners approved the sale of Kennedy’s lease to the Wilkinson’s, builders of Broken Hill, who borrowed for the purchase. The GSB Manager at Broken Hill recommended a loan of £1,100 to them, noting that the purchase price of £2,056 was regarded locally as low, but the vendor was financially embarrassed. The arrangement was, he wrote, that Kennedy would accept £1,000 in cash initially, and on receipt would sign the statutory transfer form; the remainder of the purchase money would be paid over three years. The bank Manager recognised this would amount to an unsecured loan by Kennedy to the Wilkinson’s, but said that if his superiors had no objection, the loan could be approved. The transfer form was duly received by the commissioners, who found it to be satisfactory after an omission of the date of signing was rectified. 139

J.H. Rhodes, Condobolin solicitor, thought it unsatisfactory, as in January 1929, he wrote saying that Kennedy had received only £25 deposit, and that if the Wilkinson’s failed to complete after fourteen days he would require the documents back. His client had signed documents he should not have signed, he said, and a second mortgage to secure the balance of the purchase price should have been taken: could this be arranged, he asked the commissioners. The file shows no response. Rhodes wrote saying the Wilkinson’s had not completed, and his client had cancelled the contract. The commissioners responded that the documents were in order and they intended to register the transfer. Rhodes protested that a Court of Equity would protect Kennedy:

...the documents sent to you were not prepared by a solicitor. My client is an ignorant man who acted without legal assistance...the Purchasers had ample time to get things in order yet have failed to do so. In the face of this you are prepared to assist the purchasers in obtaining title! 140

138 Back File WLL 2853.
139 ibid.
140 Rhodes’ weakness in asking about the second mortgage rather than acting on this independently was possibly symptomatic of the relative lack of capability felt by lawyers more comfortable with freehold land dealings uninvolved with bureaucracy and familiar with the ‘traditional conceptions and terminology of the law of real property’. See Andrew G. Lang, Crown Land in New South Wales, Butterworths, Sydney, 1973, vii, ix.
But the commissioners wanted Kennedy out, and took advantage of the statutory transfer form to stand by their decision, noting that the contract between Kennedy and the Wilkinsonsons was only oral. He had not paid Creswick, nor rent, survey fee, or instalments on his soldier’s loan. The Bank and the Wilkinsonsons, on the other hand, had agreed to pay these debts when the loan came through—indeed the Bank undertook to pay these debts direct and pass the remainder to the Wilkinsonsons. This was the solution to the problem of Kennedy, who, according to the file, had finally managed to acquire 300 sheep, but now had no land.\footnote{141}

Daniel Lucey attracted wider support when he fell foul of the commissioners.\footnote{142} When no residence was found he was told the lease was liable to forfeiture, and on 10 July 1925, it was gazetted as forfeited.\footnote{143} Representations from M.A. Davidson were supplemented by representations from the Balranald Branch of the RSL. Lucey’s grandfather also wrote pleading that it was his (the grandfather’s) illness that had stopped Daniel residing. Daniel made a sworn declaration at the Western Lands Office in Sydney that he would live there, and the forfeiture was reversed. But he was on probation, for he was given only the lowest form of white legal title, permissive occupancy, and when he applied for an advance of £1,300 from the GSB in 1926, the commissioners declined to recommend approval because the title was only permissive occupancy, the insecure tenure they themselves had imposed. In early 1927, local meetings of ‘Western lessees’, as well as of the RSL Branch, made representations. The Branch said that Lucey’s doctor had diagnosed his illness as due to active service and advised him to apply for a pension. The Branch President, Stock and Station Agent Dowling, asked for the permissive occupancy to be extended to at least 31 May to allow Lucey to have his sheep shorn and sold, and to appoint an approved manager until his health recovered. Less altruistically, the lessees’ meeting called for the ‘stringent conditions’ making leases not ‘negotiable’ to be changed. The commissioners informed the Minister that though they were not in agreement with Lucey’s ‘friends’, the permissive occupancy might be extended to 31 May 1927.\footnote{144} On 27 May, however, the lease was forfeited and advertised as available for application.\footnote{145}

Dowling wrote to the President of the NSW Branch of the RSL criticizing the administration as too ‘stringent and unreasonable’. The increasingly influential RSL,
recognized by the Commonwealth government since 1918 as the representative body for returned soldiers, contributed to a wider awareness of the commissioners’ approach, a far cry from the personal and flexible administration envisaged in 1901. The forfeiture had left the Crown with $325 worth of improvements on the lease. The new lessee, Francis Heritage, ‘stock worker’, also a returned soldier, was called on to pay that amount to the Crown.\footnote{146} If Lucey had been permitted to sell, he may have recouped that amount.

In areas remote from towns, rail, and RSL branches, the commissioners still received complaints from disgruntled landseekers aware of the conditions and only too ready to report on successful applicants not fulfilling them. The Ridge brothers, both returned soldiers allotted a lease in March 1920 on the Paroo, were slow to reside.\footnote{147} R.C. Simpson, an unsuccessful applicant over six years, he said, wrote from Bourke in May 1928 pointing out that the brothers were shareholders in Tuncoona (held in the past by their father, originally manager there), and that neither of them had lived on their block for more than a week or so, they rarely had stock on it, and that they let stock die. He put himself forward as a suitable substitute:

I cant understand why practical & fair minded men that You are...allow this sort of thing to go on...or is it because this case has never been brought under Your notice before, if not I beg to bring it under your notice now. I feel sure that men like You commissioners who are working for the good of the countary(sic), and to put poor men with famileys (sic) on the land, will do something for me...I don’t see why single men and station oweners (sic)...should be allowed to hold a block for years and do nothing with it while I am a married man with three children, & can’t get a block.\footnote{148}

The frustration of the staff surveyor who \textit{finally} recommended forfeiture of the Ridge brothers’ lease, jumps out of the file, as also does his relief, when signs of residence, \textit{and a wife}, appeared in 1932. Forfeiture and permissive occupancy were reversed. But the tolerance of the Ridges’ tardiness lasted eleven years, far longer than that for Kennedy and Lucey.

Soldier settlement also brought the administrative actions of the commissioners under the critical gaze of other suspicious people: senior Department of Lands officials responsible for soldiers’ loans. When the commissioners received applications from fathers and sons or from brothers, at the same time, usually applying for several blocks in the same area, and

\footnote{146} When Lucey had been allotted the lease, the Crown improvements had been nil, the only improvements being the private improvements of A.T. Creswick.\footnote{147} Back File WLL 2839.\footnote{148} ibid.
one was a returned soldier, they invariably asked the applicants if they would accept one block (lease). The answer was usually yes, though the area of the lease was supposed to be a living area, or as the Department of Lands was calling it, a ‘home maintenance area’. This meant that two, occasionally three, people became joint title holders of one lease. During the six years 1919 to 1925, 311 grazing leases were issued in the names of 402 people, eighty two leases being held by two, sometimes three (male) title holders. Applicants seemed to have accepted this without complaint—perhaps they thought there was no option—but this was something different from the commissioners’ stated desire to place returned soldiers near helpful friends and relatives. It bound the dual title holders together legally and financially, with shared equity. This hardly showed business acumen by the commissioners, and it soon created demand for more land from disaffected partners who worked on properties too small for all. As time passed, the commissioners had to tell some of the dual title holders who sought more land, that one should buy the other out, and there was family dispute about rights as family formation developed. It was left to later Ministers, administrators and lessees themselves, to work this out.149

The commissioners’ thinking can only be surmised. Was it that they saw land as so scarce that they sought to satisfy ‘demand’ in this way? Possibly, but it was unlikely to be a primary reason given its short sightedness. Was it that they thought that returned men, often young and destabilised, perhaps physically or mentally damaged, would benefit from an older relative’s solidity, experience and financial acumen and be a steadying or protective influence? More likely, but the policy was not restricted to returned men.150 Was it that male relatives were seen as necessary to assist with labour needs, perhaps psychological needs as well, at a time when physical labour was so important? Also likely, particularly as family labour was widely accepted necessary: the Rural Bank Department of the Government Savings Bank (GSB) for instance, asked loan applicants to state the ages of any children who would assist in the working of the ‘farm’.151 The knowledge that soldiers were eligible for the £625 loan administered by the Department of Lands’ Returned Soldiers Branch may also have encouraged acceptance of the shared title. All this made some sense, but not to financiers, one of whom was the Department of Lands’ Returned Soldiers and Settlers Branch (RSS Branch), with lending policies hinged on the

149 Back File WLL 3255. Widower James McDonald and three adult sons were placed on a block of 68,000 acres, one of eight taken from Salisbury Downs’ resumed area advertised in 1925. The sons later transferred their interest to the father, not without some argument. The father had formed a new family with young sons, but dispute between the latter as they formed their own families later developed.
150 ibid., James McDonald, aged 54 at the time of application, was not a returned man.
151 ibid. See James McDonald’s application form for an advance dated 30 March 1929.
home maintenance area’ concept. It seemed alarmed to find that western debtors had only partial equity in their lease, and sometimes their stock. Headed by the legislatively accomplished T.W. Irish, co-author of departmental explanatory texts on land legislation, the Branch persistently asked the commissioners whether a lease they were recommending lending on was ‘a home maintenance area’. The answer was always yes, but the logic was less than clear given that such an area was defined as being able to support an average family. When the Branch asked whether the lease held by the Ridge brothers was a ‘home maintenance area’, it was told that the lease was ‘a home maintenance area for two single men’, and when it asked about a lease held by the DeGoumois brothers, both with a wife and children, living in a ‘camp’ and a ‘hut’ respectively, it was told the lease was a home maintenance area for ‘both lessees’. The Branch’s concern can sometimes be detected in the tone of their letters to the commissioners, and it seemed nonplussed when even single title lessees wanted to borrow, soon after allotment, to purchase more land because their areas were not big enough to provide a living, as did Herbert O’Mally. Why, it asked, would he want to borrow so soon after allotment to enable him to purchase yet more land?

The commissioners’ go-between role, adopted earlier in regard to the GSB, multiplied with the advent of the soldiers’ loans and would show the downside of patriarchal administration. When returned soldiers sought their £625 advances from the Branch, usually in instalments requiring repeated approvals, or when they or others sought a loan from the GSB, both would ask the commissioners for a recommendation. They would also ask for a valuation of the land, which would influence their lending, particularly if they had taken a mortgage, which both could do, although the Department was required to sign an undertaking that it would postpone its claims in favour of the Bank Commissioners. The commissioners would seek advice from their surveyors about the value of improvements and the land. As improvements were created, so the ‘value’ of the leases increased, and as debt mounted, so did the value of the leases, and the paperwork. The Department could also take a stock mortgage if the advance involved purchase of stock, in which case lessees

153 Back File WLL 1951.
154 Back File WLL 2819.
155 Unlike the Victorian soldier settler experience recounted by Marilyn Lake, no evidence has been found that the £625 limit on soldier loans was exceeded in the Division, but the GSB was called on by soldiers after they exhausted the Department of Lands loan. See Lake’s The Limits of Hope: Soldier settlement in Victoria 1915-38, Oxford University Press, Melbourne, 1987, for the Victorian experience.
were required to sign a form instructing woolbrokers to pay a certain amount to the Department from the proceeds of wool sales. When indebtedness to local storekeepers became evident in 1929, new loans were introduced by the Advances to Settlers (Government Guarantee) Act. Again the commissioners were called on to advise.\textsuperscript{156} Their paternalistic role created an enormous work load.

Lessees borrowed to purchase stock, to pay outgoing lessees for improvements, to pay for new improvements, including housing materials, and at times, to pay rent. The commissioners shaped and recommended budgets, sometimes ensuring that a budget included payment to the outgoing lessees for improvements.\textsuperscript{157} If, or more usually as, requests for further advances were made, the Department and the Bank would ask for advice about settlers’ ‘intentions’ or ‘reliability’. The commissioners often recommended a lesser advance than that sought, rarely an outright decline unless the lessee was regarded as needing a firm hand, or encouragement to forfeit or to seek approval to sell. More commonly, they put the best foot of the lessees forward—he was a ‘good’ or a ‘hard working’ settler, they would say, on the advice of the surveyors, sometimes to the chagrin of local bank managers.\textsuperscript{158} As long as they stayed on their leases and conformed with the model of the resident family man building up his own flock and not speculating or agisting indefinitely, they were defended. When pressured by the Department or the Bank, lessees wrote to the commissioners appealing for help, involving them in further correspondence. Communications from lessees became increasingly monotonous: about not being in a position to start paying back the Department of Lands or the Bank, not being able to pay rent right now, about waiting for the wool to be sold, waiting for drought to break or wool prices to recover, about waiting for the wool to be sold the following year, and about needing more land because the lease was ‘eaten out’ or ‘bare’.\textsuperscript{159} The commissioners at times wrote direct to wool brokers/financiers cap in hand asking them to make arrangements to reduce rent arrears.\textsuperscript{160}

\textsuperscript{156} Still later, in the early thirties, Unemployment Relief loans for ‘Reproductive Works’ became available through the Department of Agriculture.

\textsuperscript{157} There were many complaints about non-payment or slow payment of these and private court action resulted. For example, of £300 due to Welsh Brothers, £150 was finally paid to their official liquidator in 1923, after the Wells family was granted Lease 2790 from the ‘Meadows’ in 1919.

\textsuperscript{158} The Bank Manager at Hay was quite shocked that Henry Hubert Harries had called on him in June 1929 at 7.15am on a Saturday morning to tell him he had not been able to answer correspondence as he had been on the road for months. The manager thought it no wonder that he was in a bad position if he acted like this. Eight months earlier, d’Apice had found him a ‘hardworking industrious settler’. See Back File WLL 2849.

\textsuperscript{159} Back File WLL 2951.

\textsuperscript{160} Back File WLL 3255, letter, Commissioners to Dalgety and Co., 18 April 1933.
By 1930, there was only 35,421 acres of occupation licence left, compared to the 14.6 million acres of 1904, and the one eighths were now really used up. The Division was looking full again. The drop in wool prices in early 1929, the subsequent economic depression, and the dry years of 1930-31 exacerbated the existing indebtedness of many lessees. Something, it seemed, had to give. After a Nationalist Minister made a contentious foray into Western legislation during 1929-30, a Labor government was returned, and the frustrated and suspicious western Labor men at last had the chance to see what their own Labor government would do. Calling the commissioners to account was, as will be seen, something they could do easily. Their worst suspicions were not vindicated by this accounting, but serious maladministration was exposed.
CHAPTER SIX

Lang’s Threat, Buttenshaw’s Bargain.

The years 1930 to 1934 revealed which politicians were prepared to engage seriously with the Division and why. Labor’s government under Premier Jack Lang from November 1930 to May 1932 gave way to a coalition United Australia Party and Country Party government which, largely due to the Country Party, seized the opportunity to strengthen a bonding of an as yet young Country Party with western lessees and nearby landholders. Passionately held Labor ideology inhibited Labor politicians from seizing the opportunity to make an impact on the Division’s land history, an opportunity seized by a Country Party Minister more pragmatic about land matters. Lang Labor’s attack on the coalition government as toadies of overseas financier interests and large holders contributed to what looks like, retrospectively, a lost opportunity for Labor to establish rural credentials. Lang Labor’s stance: that no concessions should be made to large interests, no negotiations entered into, and that their leases should be left to expire and see the last of them, required no action. The Country Party Minister instead acted on behalf of smaller holders and established a template for the future, one which could not easily be varied or overthrown. An important component of this was the creation of the ‘lease in perpetuity’ title for smaller landholders in the Division. The achievement, shared to a large degree with Departmental bureaucrats, has been overlooked by Party historians, but arguably, it made a strong contribution to the expansion of the County Party’s constituency from the north east of the State, to its south and west. This chapter supports these statements.

Though Lang’s pre-election speech in 1925 had promised to resume the ‘big leases’ and put them to more productive use, Labor’s 1925-27 government had done nothing to make more land available for new or existing grazing lessees in the Division. Its focus on closer settlement as cultivated agriculture, a focus shared with the commissioners, was, however, demonstrated. Premier Lang’s first Minister for Lands, P.F. Loughlin (Cootamundra) experienced the same pressure from Horsington that the Nationals’ Minister Wearne had previously experienced, wanting resumption of land at its ‘use’

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1 *Labor Daily*, 2 May 1925, 5. Lang admitted that his promises were qualified when he responded to Premier Fuller’s charge that when Labor had been in power, it failed to keep promises, by saying that Labor in NSW had never been in power, only in office, a reference either to numbers or to the fact that Labor had never had a majority in the Legislative Council.
value, or on time payment, and wanting transfers of land to large holders to cease.\(^2\)
While W.F. Dunn was Minister assisting the Minister for Lands and Forests (Lang) in 1926-27, Labor made amendments permitting the freeholding of agricultural or mixed farming leases. It also removed the 1918 Legislative Council’s restriction of resumption for monetary compensation to the Walgett North district, so that now \textit{any} land in the Division was liable to resumption for monetary compensation. The monetary compensation clause was amended to ensure that any land resumed would be valued \textit{only} as grazing land, not as land suitable for ‘higher’ agricultural use. This was bipartisan, most parliamentarians eschewing the prospect of government paying a landholder a price which anticipated a higher use and value because of a \textit{publicly} provided infrastructure, delivering the landholder an ‘unearned increment’. The commissioners were alert to this. In 1926 when J.L. Brown applied to surrender his Uranaway lease near Matakana Siding on the Condobolin-Broken Hill railway line, subdivide it into two, and transfer one portion of 48,173 acres to Thomas McFarlane and Frank Laird, who intended to subdivide it further, the request was declined because the commissioners were interested in resuming that land for mixed farming for \textit{their} clients.\(^3\) At this time, the Wyangala Dam was the infrastructure in mind, a project funded through the post-war Empire Migration Scheme, which, it was hoped, would result in the distribution of the relatively unimpressive volume of Lachlan river water into the Division. Before the 1925 election, Lang had vowed that migrants would get no preference from him, a hint of the nationalistic fervour that would come to full flower during his 1930-32 government.\(^4\)

Horsington’s brief stint as Minister in 1927 passed without parliament sitting, so he had little opportunity to make an impression. He may have felt some satisfaction when he refused to permit a Kidman company to subdivide Nundoro into two leases of 135,000 and 229,056 acres, retaining one and transferring the other to another Kidman company. The commissioners had recommended approval but he declined it, telling them it would merely add one large holding to another.\(^5\) They later submitted the proposal to the

\(^2\) \textit{NSWPD}, 17 September 1925, 847; 13 October 1925, 1470; 9 December 1925, 3127; 22 January 1926, 4371.
\(^3\) Minute of 21 September 1926, Back File WLL 801.
\(^4\) \textit{SMH}, 2 May, 1925, 15. An offshoot of the Lachlan flowing west into the Division when the river was high enough, known as Willandra Creek, was apparently the hoped for recipient of the Lachlan’s stored water.
\(^5\) The incident was dealt with in the \textit{Report of the Royal Commission of Inquiry into the Administration of the Western Division of New South Wales}, 31-33, in \textit{NSWPP}, Vol. 1, 1930-32.
Nationals' new minister who approved it. The Nationals, however, were losing influence in rural regions.

At the beginning of Lang's 1925-27 government, the rurally oriented Progressives known as the 'True Blues' formed the Country Party, at first not keen on a close merger with the city dominated Nationals. Its power base derived in part from the Farmers and Settlers Association (F&SA), strong in the north and central western NSW with members being both wheat and sheep farmers. To a degree composed of Labour supporters in its early years, by 1910, F&SA's commitment to freehold land title alienated Labour members from it, the Labour Party maintaining its early commitment to retaining land under leasehold title. Premier Lang's 44 hour week and child endowment legislation alienated rural Labor members in the wheat and sheep belt, and helped to push the Nationals and the Country Party closer together, the latter gradually dropping opposition to accepting portfolios in a National led government. Bruxner's replacement as Country Party leader by E.A. Buttenshaw in 1925 and Fuller's replacement as the Nationals leader by T.R. Bavin, eased closer coalition. The electoral pact between the non-Labor parties, the end of multi-member electorates, the disaffection of rural Labor parliamentary members from Lang's policies all helped to bring about Labor losses in rural electorates in 1927. The Country Party had success in some rural seats previously held by Labor, and achieved an increased vote in others. Those in the Party seeking its expansion west and south were encouraged, and in 1927, the Nationals, with Bavin as Premier, had to negotiate portfolios with it. Don Aitkin's account of the negotiations does not mention the Lands portfolio, but the F&SA's desire for five, instead of the resulting four, would surely have included it. The Nationals' R.T Ball occupied it. Buttenshaw's 1927 electorate of Lachlan took in a portion of the south east of the Division, even the Labor stronghold of Cobar, but he was surrounded by Labor men—Scully to his north (Namoi), Horsington to his north west (Sturt), Davidson to his south west (Murray) and Flannery to his south (Murrumbidgee). Further south again was Ball, in Corowa (Figure 19 a.).

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7 ibid., 351.
8 ibid., 365-366. See also Figure 19 a.
Figure 19.* Labor’s Rural Advance and Retreat

1927 Election

1930 Election

1932 Election

After three years of drought, a drop in wool prices, and the Wall Street crash of October 1929, Minister Ball announced that cabinet had decided to extend the terms of the western leases. He did not say that a source of pressure came from London, the headquarters of the ‘Anglo-Australian’ land and finance companies such as the AML&F, the Australian Estates and Mortgage Company and the Australian Pastoral Company. Premier Bavin ad experienced this while visiting London in June 1929. The commissioners subsequently received a letter from the NSW Treasurer enclosing a ‘Memorandum re Western Lands Leases’ given Bavin while in London. The commissioners wrote to Ball in October 1929 saying that in the light of the three year drought, increased mortgage debts needed to keep some stock alive, the ‘disappearance’ of some blocks (whatever that meant), reduced income, and the unwillingness of financiers to increase mortgage debts unless ‘securities were improved’, the government should consider extending the terms of the leases. Detriment to the State could occur, they advised, if lessees were unable to restock when the drought broke or if its ‘experienced settlers’ were lost. Bavin asked them to put a proposal to cabinet suggesting extension of the leases but also commenting on ‘the question of the subdivision of any of the larger areas’, something the commissioners had not themselves raised. By this he meant withdrawal of land, the accepted quid pro quo for extension of terms. The commissioners recommended that in return for an extension of all leases to 1958, withdrawal of half the large holdings, one quarter after five years and one quarter after fifteen years, be legislated for. Ball also asked for advice on the question of giving lessees the right of conversion to freehold, but the response, if any, is not known.

Ball described the purpose of his Bill rather colourlessly: to extend the term of the western leases which would become subject to withdrawals to provide land ‘for

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10 Review, 16 January 1930, 82.
11 The Times, London, 22 November 1929, 23. The chairman told a meeting of AML&F shareholders that Mr Bavin was willing to correct the mistakes of previous Labor governments. Just what mistakes they had made in NSW, at least in the Division, were unclear, but shareholders were concerned about Queensland also. Given that Labor Governments had not done anything detrimental to the interests of the companies in 1920-22 or 1925-27 the chairman may have had Queensland in mind, or alternatively, was influenced by threat rather than action.
12 ‘Report of the Royal Commission of Inquiry into the Administration of the Western Division of New South Wales’, 58, in NSWPP, Vol. 1, 1930-32, 151. The memorandum given to Bavin was not reproduced or outlined in the Report.
13 ibid.
14 op. cit., 59.
15 ibid.
settlement’. Its preamble did not even mention the latter, merely speaking of extending the leases and ‘other purposes’. He did not initially argue its necessity in terms of small settler needs, though he sought to do so later in response to Lang’s criticism in Labor Daily that he was ‘locking up’ huge holdings of millions of acres held by absentee landlords at a peppercorn rental. An election was in the offing in 1930 and in the depressed economic times, Lang would make the most of the opportunity to present the coalition government as toadyingly to the big overseas moneyed interests against the interests of Australian working men, the unemployed, and young Australians whose ‘birthright’ it was to pioneer the land. ‘If ever there was an instance of the people being robbed of their birthright’, he told parliament, this infamous bill was one. Many Australian families were waiting for the day when the western leases would fall in and if anyone had a moral right to anything, the western leases belonged to ‘the farmers of New South Wales’. He listed the profits, reserves and capital of some companies: the Scottish-Australian Investment Company, Goldsborough Mort and Co. Ltd, the New Zealand Loan and Mercantile Agency Co. Ltd, the Australian Estates and Mortgage Co. Ltd, and the AML&F. When government members asked what profit came from the Western Division as opposed to their activities elsewhere, he avoided answering. In later election material and elsewhere, he studiously omitted to mention the other part of the Bill which said that land would be taken (withdrawn) as the quid pro quo for the extended lease terms, an omission which Ball felt the need to correct in a pre-election pamphlet.

The Bill proposed an extended term for all western lands leases due to expire between 1943 and 1949, to 1968 (ten years longer than the extension suggested by the commissioners). Those who applied for the extension would be subject to withdrawals of land from their leases in four stages over twenty three years in most of the Division, and twenty years in Walgett North (a less severe timing of loss than that recommended by the commissioners). Withdrawals would commence after eight years, except in the Walgett North where they would start after one year. In the end, the withdrawals would mean a loss of half the area of the holding, the same area recommended by the commissioners. There would be no withdrawal that would reduce the area still held

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16 *NSWPD*, 20 March, 1930, 3970
17 *NSWPD*, 8 May 1930, 4977.
18 ibid.
19 ibid., 4978.
20 The larger ones were due to expire later than 1943 by virtue of the extension of term of up to six years subsequent to the one eighth withdrawal authorised by the 1901 Act.
below one which would carry 4,000 sheep in Walgett North and 6,000 sheep elsewhere. A lessee could, within seven years of the end of the term of an extended lease, apply to the Minister to retain a part or whole of the land for a further twenty years, but, according to a successful amendment proposed by Wearne, only for a ‘home maintenance area’. Wearne’s vision suggested an eventual equality of holdings as home maintenance areas. The withdrawn land, Ball said, would be available for additional areas for existing landholders and for new settlers.

Labor’s F.W. Spicer urged that the first withdrawal should occur after one year throughout the whole of the Division, not just near Walgett, but former Labor man E.A Farrar rejected this on the grounds that large holders would decide not to apply for an extended term and financiers would not be encouraged to renew lending. Labor’s Scully in the north, apparently reflecting the desires of landholders near the Division’s eastern borders claimed that any member with an electorate adjoining the Division who supported the Bill would be ‘hurled from public life’ and remembered forever as having inflicted ‘a grave injustice on posterity’.

Continuing the habit politicians had of passing the buck to the commissioners, Ball told parliament he was acting on their advice, a half truth. Horsington thereupon thundered that unless the commissioners refuted Ball’s statement before Labor got into office, ‘we’ will regard them as ‘representative of the large leaseholder’, and ‘treat them accordingly’.

On the other hand, referring to the meetings of small lessees and landseekers in the west opposing Ball’s Bill, he admitted people were also saying, ‘for God’s sake let it go through, or they will not advance us a penny’.

The heat surrounding the main clauses of the Bill and the difficulty of interpreting amendments, perhaps averted parliamentarians’ gaze from two amendments which passed unnoticed, even in the committee stages designed to apply a fine toothcomb. One suggested pressure from private sector entrants. It wiped out the clauses in Section

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21 The Bill originally said 6,000 sheep for all the Division, but the modification for Walgett North was accepted. The difference between the endlessly debated ‘home maintenance area’ size in the Western Division, and that in the Central Division, which had come to be set by the Land and Valuation Court operating there, was highlighted in August 1930 when Justice Pike, taking into account the fall in prices for wool, increased it to 2,000 sheep (sheep areas). See SMH, 9 August 1930, 12.
22 NSWPD, 8 May 1930, 4977.
23 ibid., 14 May 1930, 5116.
24 ibid., 25 March 1930, 4070
25 ibid., 7 May 1930, 4916.
26 ibid., 4917.
which limited eligibility for additional areas to those who had obtained land direct
from the Crown and who were ‘in occupation for grazing purposes’ of their land. This
widened the demand for additions, including, for instance, non-resident landholders
like H.C. Moulder, stock and station agent of Condobolin who had purchased privately
after the 1918 private subdivision amendment. Given the Labor men’s concerns for the
small and landless men and their opposition to ‘private’ rights being imposed on
‘Crown’ land, their lack of opposition to this undeclared concession to private sector
entrants is surprising. It was not changed by the subsequent governments. The second
unnoticed amendment suggested a more socialistic influence. It was a remarkable
amendment for a coalition government to make, and its mysterious appearance was
even more remarkable: it was not in the Bill, but it was in the Act, and there was no
discussion of it during the debate. It gave the Minister power to control the transfer of
leases by large lessees, the same power that had been applied to small lessees to prevent
their ‘aggregation’. In official terminology, it created ‘restricted title’ for leases held
by the likes of Kidman, Falkiner, Triggs, the Crossings, Croziers and so on, not to
mention the land and finance companies. Perhaps the commissioners or others drafting
the Bill were responding to the complaints of the Western Division Labor men.

Labor’s election material for the October 1930 election repeated Lang’s claims and
promised to repeal the Ball Act. Its silence regarding the withdrawals side of the
equation, was an omission repeated by at least one general history. Labor claimed,
with justification, that British financiers had brought pressure to bear on the
government, and it appealed to aspirations for equality, escape from the class privilege
of the old country, and Australian nationalism. One of its election cartoons depicted
Country Party members, only two of whom attended the debate on that day, as asleep.
Another depicted the Bavin government as a ‘good doggie’, which, in return for the
bone of financial contributions to the National and Country Parties made by ‘big
pastoral interests’, delivered a newspaper titled ‘Western Leases Gift’ to the plump
bearded squatter in leggings and waistcoat while a clean shaven ‘small settler’, sleeves
rolled up, stands by his wooden fence preparing to shoot the dog with his ‘Labor gun’
(Figure 20 a. and b.).

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27 Western Lands (Amendment) Act, No. 16, 1930, Section 178 (3) (c).
28 Geoffrey Robinson, ‘The 1930 Election’, in Michael Hogan and David Clune, eds., The People’s
Choice: Electoral Politics in 20th Century New South Wales, Volume Two, 1930 to 1965, Parliament of
New South Wales and University of Sydney, 2001, 3.
The so-called “Country” Party busily watching the settlers’ interest. (Loud laughter.)

Read what the “Sydney Morning Herald” said of the attitude of the so-called “Country” Party.

A most important feature connected with the debate on western land was the apathy of members of the Country Party. “The Sydney Morning Herald” commented on this as follows:—

“It is one of the most vital measures of the present Parliament from the country standpoint. Little interest appeared to be taken yesterday in the Western Land ‘Amendment’ Bill by Country Party members. While the debate was proceeding there were only two Country Party members in the Chamber, Messrs. Budd and Missingham. Mr. Missingham was asleep on the middle bench. Mr. Budd was busy writing letters.”

LABOR promises—and will honor its promise—that young men will secure living areas.

LABOR will watch your interests. The Bavin Government will continue to fight for the big man.

FOR BRIGHTER TIMES
Change the Government!
VOTE LABOR

Authorised by Jas. J. Graves, Campaign Director, N.S.W. A.L.P., Trades Hall, Sydney.
"GOOD DOGGIE!"
The Bavin Government is popular with the BIG PASTORALISTS
and no wonder!!

The big pastoral interests were the ‘wealthy overseas companies’ with lords as their directors, the men destroying Australia’s credit in London, Lang claimed. The rhetoric suggested a desire to win rural support in the face of Country Party expansion. The Labor Party would ‘restore to the sons of Australian farmers their right to settle on the western lands by repealing the Bavin-Stevens legislation’, and by ‘reclassification of all areas...that substantially exceed a Home Maintenance Area with a view to more effective settlement...’, this latter having been a policy adopted at the ALP annual conference regarding the Division in 1930. What ‘reclassification’ meant was not clear. Lang promised to help not only the sons of farmers, but also young land-hungry working Australians. Both Labor and the Country Party therefore accepted that another generation created by men already with land, should be catered for, but Lang also included the category of ‘workers’.

A Labor government was returned in 1930 with new victories in the central west (Figure 19 b.). The importance of Lang’s promise to repeal Ball’s Act in this expansion is debatable. Geoffrey Robinson has concluded that Lang’s actions regarding organized wheat marketing was electorally significant, but his detailed study of the Lang government of 1930-32 found that Lang’s 1930 election promise to repeal the Ball Act plus his pledge to ‘break up big estates through taxation and extend closer settlement in the western district’ dominated Labor’s rural campaign. He saw the ‘western lands’ as the ‘focus’ of Labor’s attempt to promote ‘smaller settlement’ though he was undecided about the extent to which the Labor government (or the new Board, as he put it, the commissioners appointed by Labor), acted on the election promises. A look at what Labor actually did can clarify this.

As Horsington promised, the first thing Labor did was to treat the commissioners ‘accordingly’. In March 1931, Lang’s Minister for Lands, Tully, asked the Chief Inspector of the Department of Lands, G.F. Allman, to inspect their offices. In April 1931 he found a severe backlog of work, a lack of system, neglect of certain duties, evidence of lost files and inordinate delays. There had been no response to many letter

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32 ibid., especially 359-60.
writers, including members of parliament, even the South Australian government regarding the Dog Fence. In May 1931, the Governor appointed a Royal Commission to enquire into their management since 1 January 1923, soon after Langwell took over from McMaster who, along with Commissioner Moore, resigned or retired in late 1922. At that time, G.A. Denning, Secretary to the Board, had been appointed Assistant Commissioner, as had A.W. Mullen, formerly Staff Surveyor at Bourke. The Review reported that the Graziers Association lodged a protest that organizations such as theirs had not been given the chance to nominate men for such positions. All three still held their positions in 1931. McMaster’s administration was excluded from examination, though, as we have seen, Allard had found problems in 1918. Now they were much worse.

After labyrinthine investigations somewhat suggestive of Charles Dickens’ Bleak House, Royal Commissioner Prior reported in October 1931. Apart from a large number of miscellaneous matters, the Commissioner addressed the Labor men’s main concerns: the one eighths withdrawals; the Nundoro subdivision that Horsington had declined to approve but which Ball had approved; the negative outcomes of the commissioners’ long held dream—their attempt to establish a mixed farming settlement at Lake Benanee on the northern bank of the Murray; whether the commissioners had misled Ball about the ratio of ‘large’ to ‘small’ holders when he was preparing his Bill; and, perhaps most importantly or at least most emotionally for the Labor men, the alleged overpayment of money for land resumed for cash (or at least bonds) while Ball was Minister. Ball had asked the commissioners to act following a deputation to him at Balranald. Only the last two matters can be addressed here.

The resumption of land from Canally galvanized the Labor men, not because it was done, but because they believed too much had been paid the landholders as compensation and this confirmed their suspicion that the commissioners favoured large

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33 Review, 16 December 1922, 951.
34 M. J. McMahon was appointed as Royal Commissioner in May, but after he became ill, E.A. Prior was appointed in August 1931.
35 Court Reporting Transcripts of Evidence – Western Land Royal Commission, 1931, [6/1602], NRS 2713, SRNSW, 631.
36 Regarding the one eighths, later reports revealed that the commissioners had been diligent enough regarding the old ‘one eighths’ after 1918. In 1934 the then Commissioner found only an additional 149,623 acres remaining from this source. Regarding Benanee, the sorry story has been recounted by Michael Quinn, ‘Possessing the West: The Public Management of the Western Division of New South Wales, 1880s to 1030s’, a thesis submitted for the degree of Doctor of Philosophy, ANU, January 1995, 241.
holders. Their suspicions were aired during the debate on Tully’s repeal Bill and the commissioners later stated they had asked for a Royal Commission to clear their names of maladministration and corruption. Royal Commissioner Prior’s findings exonerated them from the suspicion of corruption, but this was small comfort. Yes, he agreed too much had been paid, but not because of bias or corruption but rather the sloppy methods they used to value the land as compared to the more efficient approaches displayed elsewhere. Much laborious evidence regarding valuation was given and the outcome seemed doubtful until some hard and fast confident calculations were produced. The commissioners’ valuation was found to be some twenty month old by the time that the resumption was actually made and to Commissioner Prior and the efficient staff of the Department of Lands, this was indicative of general backwardness.

Prior paid special tribute to the work of the three members of the Closer Settlement Advisory Board who checked the valuation, and especially to M.J. Cronin, Staff Surveyor for the Department of Lands in the Central Division, also recruited to check the valuation. The Advisory Board members had adhered faithfully to principles of valuation laid down in a Sydney court case, and Cronin had spent ten days camped on Canally, with three qualified surveyors carrying out topographical surveys. All produced ‘field books’, Cronin’s being regarded by Mr Flannery, K.C., as ‘of the utmost use’, showing as it did ‘minute thoroughness and extreme care to guard against mistake, disclosing figure by figure each calculation and processes on different bases to prove the accuracy of his results’. Cronin’s clarity in setting out the calculations was described as being of great assistance to the Commission, whereas the commissioners’ surveyor, Surveyor d’Apice, only carried out a ‘general survey’, with a chairman, and did not use topographical maps. That d’Apice had discussed local sales with his friend, the oldest resident in Balaranalda and a land and estate agent over the years, did not rate. Cronin had checked twenty three recent sales. A chartered accountant brought in by the commissioners to argue their case had to agree with Cronin’s computations, with only some disagreement relating to calculation of interest payable on the bonds accepted by the vendors in lieu of cash.

37 *NSWPD*, 17 February 1931, 1339; 18 February 1931, 1308.
39 ibid.
40 ibid., 46.
Staff Surveyor’s conferences of the late 1920s showed Cronin to be a firm proponent of the ‘market value’ approach as against the ‘productivity approach’ to assessing land value. The productivity approach, also known as the ‘use value’ approach, focussed on the land’s productivity and capacity to earn income—matters more difficult to be definite about and requiring more knowledge of the land than comparison of sale prices to arrive at a market value. It fitted with the home maintenance or living area concept which aimed at enough land for a living, whereas the market value or sales approach also reflected supply and demand and an interest in market price should sale occur, rather than income production for settled stable occupants. Cronin urged his colleagues to adopt the market value approach because it was adopted by Justice Pike of the Land and Valuation Court. Staff Surveyors in the east had increasingly been called on to argue for the Crown before the Court regarding land valuation, which was used as a basis for rental setting in the Central and Eastern Divisions. Cronin wanted his fellow surveyors to be professionally strong and united before the Court. Some were uncomfortable with this: Surveyor Nowlan expressed concern at the tendency to try to create ‘rule of thumb’ methods for working out home maintenance areas and values. Though acknowledging that surveyors’ early training in mathematics tended to make them exact and precise, ‘you cannot work these things out like quadratic equations’, he warned.\(^{41}\)

As the Western Division lacked appeals to the Court from the decisions of its ‘Local Land Board’ (the three commissioners), its three surveyors, two of whom seem to have been contract surveyors for some years, lacked this experience before the Court. Langwell could only point out that Surveyor d’Apice, whose advice the commissioners had accepted regarding Canally, had nearly 29 years experience in the Division. The commissioners had looked at a few sale prices, but Langwell did himself little service by telling Prior that there were many ways of arriving at land values and when they were all summed up, it boiled down in the end ‘to one thing, in my opinion, and that is, a matter of opinion’.\(^{42}\) This may have shocked or embarrassed the efficient men from the east who had helped Prior decide too much had been paid: yes or no. Following Cronin’s highly commended work for the Commission, he and his Forbes mentor, Frank ‘Valuer’ Brown, were promoted to the Closer Settlement Advisory Board.

\(^{41}\) Staff Surveyors Association of New South Wales, Eighth Annual Conference, April 1928, 59. J.H. Waite of Tamworth expressed similar views in 1929.

\(^{42}\) Court Reporting Transcripts of Evidence – Western Land Royal Commission, 1931, op. cit., 638.
On whether the commissioners had misled Ball about the proportion of small and large holdings in the Division when he was contemplating the 1930 Bill, Prior found that they had provided information about large and small leases, rather than about lessees or holdings. This greatly underestimated the area held by large holders because many of these still held small leases, mainly old homestead leases left over from the 1890s and converted to western lands leases by former pastoral lessees. The account of what information Ball actually asked the commissioners for, and what they gave, is very confusing, somewhat reminiscent of the exercise ‘Chinese Whispers’, popular in business communications training courses today, which shows how messages passed orally, without two way communication by a chain of participants, becomes different as it is passed on. There was also confusion about ‘blue maps’ and ‘red maps’. But Langwell, ex-AWU, was not politically naive, and would have known only too well what information was really wanted or needed by Ball, whatever he actually said when he asked for it. Commissioner Prior concluded, given this and the litany of mismanagement displayed in other miscellaneous matters, that the commissioners were guilty of incompetence and misbehaviour. The advanced age of ‘these old Crown Servants’ he wrote (Langwell was seventy one), was an ameliorating factor contributing to the situation. Though Langwell told Prior he had asked for the Royal Commission to clear their names of dishonesty and corruption, he may have regretted this given the litany of mismanagement made public. Their dismissal by Cabinet was a humiliating end.

Another thing Labor did, as promised, was to repeal Ball’s Act. This cancelled the extensions of the leases which once again became due to expire between 1943 and 1949. This also cancelled the withdrawals from them, so no more land would become available for small or new holders. Soon after the repeal, Minister Tully visited the Division’s eastern portion accompanied by his office secretary and a legal officer from the Department of Lands. At Hillston a deputation from the Western Lessees Association urged him to make additional land available for small lessees and a combined deputation of the Lessees and Graziers Association expressed concern that he was not accompanied by the commissioners, ‘in whose integrity, ability, and knowledge

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44 ibid., 78.
45 Court Reporting Transcripts of Evidence, Western Lands Royal Commission, 1931, op. cit., 640.
46 SMH, 23 April 1931, 7.
of the western lands the associations had every confidence’. On his return to Sydney Tully said there was an ‘urgent necessity’ to provide additional land for some 900 settlers with less than a living area, a somewhat belated perception.

The third thing Labor did by repealing Ball’s Act was to repeal the clause in it which placed transfer control on large leases, the very control demanded by Wright and Horsington. Like them, Tully had attacked the commissioners for allowing areas allotted to small holders to return to the original pastoral lessees. The cases he cited, Murrawombie, Netley, Tolarno, Glen Lyon, Mundi Mundi, Kinchega and Boulka Lake, were from withdrawals made before 1910, that is, before the commissioners had initiated ministerial controls over transfers for leases issued thereafter. Tully had apparently not noticed that the Ball Act’s Section 17B (3) (c), which referred to leases extended to 1968 from which withdrawals would be made, had said that ‘the lease or any subdivided portion thereof shall not be transferred without the consent of the Minister being first obtained’. This had given the Minister power to control transfer by sale or mortgage of large extended leases or subdivided ones, control that the 1918 amending Act had eschewed and which Wright and Horsington had since demanded. The detail was unearthed by P.G. Gilder, the SMH’s Agricultural Editor, when he went to the Division to discuss responses to Ball’s Act in July 1930. Lessees told Gilder it was the part of the Act most likely to stop them applying for an extended lease. To ‘exchange the present almost freely negotiable security for one that is subject to the caprice…of any party holding the reins’, they said, would be an unwarrantable risk.

Gilder thought control of transfer by way of mortgage worried them most—they thought it likely to bring them under the GSB/Rural Bank which many small holders relied on. The SMH editorialized that the restriction would hamper the provision of finance, and also countered Lang’s claims about absentee landlords and handsome profits. No specific mention was made of transfer by sale, but the clause included it. This control, placed on large holders by a Nationalist Minister (or the bureaucrats) and long demanded by Labor men, was, ironically, removed by a Labor Minister. There are devils in details.

47 ibid., 10.
48 ibid., 7.
49 NSWP, 17 February 1931, 1303-04.
50 See Gazettes, from 5 December 1906 to 13 May 1908.
51 SMH, 8 July 1930, 8.
52 SMH, 10 July, 1930, 10. No doubt based on Gilder’s views, it said that a ‘fair estimate’ was that lesse than one eleventh of the Division’s acreage was held by absenteeees.
Evidence of action by the Labor government to make more land available in the Division is therefore lacking. Robinson noted that Labor promised to break up big estates through taxation, and seemed to see this as applying to the Western Division, but this was not the case. Tully’s Large Estates Taxation Management Bill was indeed a radical measure, designed to promote more intensive land use or force the landholder to pay higher tax, but it excluded ‘all land in the Western Division’. Federal Labor’s land tax legislation in 1910 had also excluded most of it by exempting leasehold land. The word ‘estates’ in itself suggested freehold land. Labor’s election promise to ‘reclassify’ all areas in the Division that exceeded a home maintenance area with a view to ‘more effective settlement’, whatever that meant, did not happen. Lang, in fact, had made no election promise which would clearly make any more land available for existing or new settlers in the Division before 1943-49. Labor’s own people believed it would. Labor’s Ken Hoad (Cootamundra) told parliament that men in his electorate who shore in the Division each year would like to secure a block there and build a home and that the big swing to Labor in 1930 in electorates bordering the Division was due to the promise to repeal the Ball Act and introduce a measure ‘in accordance with their ideals’. Whatever these ideals were, Hoad must have been disappointed with Tully’s ‘important’ Bill, introduced a year after his visit to the Division in May 1932.

The Bill was presumably the basis for Robinson’s view that Labor took action to ‘facilitate the resumption of land from western district leases so as to make more living areas available to small settlers’. This overlooks the conservatism of Tully’s Bill. The measure addressed only the old ‘one eighth withdrawal’ provision of the 1901 Act which had said that one eighth could be taken from ‘a lease’. As already noted, in 1901 this had meant one eighth of a pastoral lease, but it could be applied to any lease, particularly small leases held by large holders in the old resumed areas. As the commissioners had said in various contexts, it was not usually easy to take a useful one eighth area from small leases, but if they were viewed as a group from which one eighth

53 Section 5.
54 See J.D. Bailey, A hundred Years of Pastoral Finance: A History of the Australian Mercantile Land and Finance Company, Oxford University Press, London, 1966, 191. The company’s response to the land tax and other closer settlement pressure was to envisage that it might have to end up holding land only in the ‘back country’.
56 NSWPD, 17 February 1931, 1293.
of their total acreage could be taken in one block, regardless of lease boundaries, a useful size might be created. The Act’s wording, however, posed the possibility of legal challenge. All this was aired, without clear resolution, during the Royal Commission.\(^{58}\) Langwell told the Commission that such withdrawals ignoring lease boundaries had at times been negotiated, and Buttenshaw later said that had the commissioners done more of it, they would have needed ‘protection’, meaning police protection.\(^{59}\) Tully’s Bill simply verified that the total area of leases held in one interest was the area from which one eighth could be withdrawn, which was just legalizing what had already been at least tried using negotiation.\(^{60}\) His Bill did not make more land available nor envisage any more withdrawal from old large pastoral leases, which Ball’s Act had done, which was why Tully could describe it as not ‘controversial’.

This uncontroversial Bill lapsed with the fall of the Labor government in June 1932, which saw Labor lose all the gains it had made in the electorates bordering the Division in 1930 (19 b. and c.). Country Party leader Bruxner had campaigned throughout the central west, telling a Walgett meeting that Lang and Tully had locked up the Western lands rather than opening them, and promising extensions of term only for holdings not substantially greater than a home maintenance area.\(^{61}\) The election saw the voters of central western rural NSW drive Labor out of all the electorates adjoining or overlapping the Division, with great advantage to the Country Party, and also out of Murray in its south. Horsington and Davidson were left more than a little isolated from their coastal Labor colleagues (Figure 19 c.). Lang’s state-wide promise to defend the family farm against the banks had been ineffective, as Labor lost every non-mining rural electorate.\(^{62}\) If Lang’s promises had been at all responsible for the successes of 1930, it could equally be suggested that lack of any real action was responsible for the failures in 1932.

Did Lang really care about western NSW? Labor could expect little electoral advantage from the Division: the mining towns of Broken Hill and Cobar already ensuring its

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\(^{59}\) NSWPD, 26 July 1934, 2275.

\(^{60}\) A Bill to amend the law relating to the withdrawal of lands held under lease, and the disposal of lands so withdrawn; and for these and other purposes to amend the Western lands Act of 1901, as amended by subsequent acts; and for purposes connected therewith, May, 1932.

\(^{61}\) SMH, 27 May 1932, 11; 2 June 1932, 12.

dominance over much of the Western Division’s area. In contrast, the Country Party showed more genuine involvement on behalf of small holders and new holders. Regardless of the significance of the Division for electoral politics, however, by June 1932, Lang’s behaviour in withholding State revenues from the Commonwealth and British creditors and his dismissal by the Governor, may have been sufficient to explain the election results, which have also been explained in terms of Lang’s determination to secure his own power base rather than electoral support for his Party.

To find Labor’s performance ineffectual does not necessarily mean that Lang’s rhetoric was. By putting fear into the hearts of coalition politicians about what he might do, Lang may well have focused the electorally conscious Country Party members’ minds, on the Division. Certainly, his threat that a future Labor government would let the leases expire and take the lot, was circumvented by Buttenshaw, the first Country Party Minister for Lands, who was willing to grapple with the niceties of land legislation and enter into a collaborative relationship with senior lands official T.W. Irish, whose advice he acknowledged in parliament. The resulting legislation was politically sophisticated, perhaps worthy of the modern term ‘elegant’, and with an eye to electoral politics. Small holders in the Division would be strengthened and voters in the Central Division nearby would be rewarded. Buttenshaw’s efforts makes it possible to suggest that Don Aitkin’s finding about the record of the five Country Party ministers in the UAP coalition government of 1932-41 needs to be modified. He found it impressive except in the field of closer settlement. This judgment overlooks its achievement in the Western Division. That bureaucrats were also important does not nullify this, and recognizing the achievement does not necessarily mean approval of it.

During the 1932 debate on the Large Estates Taxation Bill, the Country Party’s Sir Norman Kater, MLC, set out to educate new members of the Council about the wool industry. He spoke about the contribution stud sheep breeders made to the success of the ‘economic backbone’ of the country. He placed stud flocks at the apex, their work

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63 In 1930, Labor’s vote in Sturt was 93.2 per cent and in Cobar 72.4 per cent. See Geoffrey Robinson, ‘The 1930 Election’, 46.
65 Royal Commissioner Prior had been asked to consider whether the Department of Lands should take over the Western Lands Board but had dismissed the idea without argument other than saying it was against the main intention of the Western Lands Act.
66 Don Aitkin, The Colonel, 172
67 NSWPD, 17 March, 1932, 8673-8677.
being integral to the industry’s ‘detailed and scientific working’. Underlying this was Darwin’s theory of natural selection. He quoted Darwin’s writing which stressed the need for a large population for the purpose of discerning ‘useful variability’.\(^6^8\) Good wool via stud rams and ewes, bred at the top of the hierarchy, disseminated downward through flocks in the second tier through sale; the second tier, in turn, sold sheep to the third echelon. This third, the small men, could not afford expensive rams and extensive culling of low quality sheep, therefore their wool was of lesser quality.\(^6^9\) The message was that the elite level was essential, though threatened by the lack of understanding.

However, the heart of Country Party Minister Buttenshaw was sufficiently empathetic with the second and third tier, and also with the newly won electorates near the Division, to ensure that his legislation was more radical in some ways than Ball’s.

Buttenshaw’s first Bill, introduced on 7 December 1932, supported existing small holders. He gave statistics for ‘small’ and ‘large’ holders, not leases, as 1,096 small, covering some 29 million acres averaging 25,460 acres, and 215 large, covering some 46.3 million acres, averaging 215,349 acres. The figure for ‘small’ perhaps included small mixed farming leases: it was not clarified.\(^7^0\) The Bill was an initial measure he said, and during the calm and brief debate during which Lang barely spoke, he acknowledged the complexity involved and the need for negotiation with landholders.

It was passed in little more than a week and introduced perpetual lease title to the Division (improvement of the ‘securities’), a tenure lasting forever, not ninety nine years as some landholders later believed.\(^7^1\) But only some landholders were eligible to apply, and the same conditions as outlined previously with forfeiture as punishment for breach, attached to perpetual leases, though the Minister could impose additional ‘terms and conditions’ to increase the carrying capacity. ‘Water supply’ was given as an example in the Bill, also killing wild dogs, rabbits, and other noxious animals.\(^7^2\) The perpetual lease title was believed to be the next best thing to freehold—Lang claimed that it was even better, given the cheap rent and no cost of purchase on the market. No withdrawals could be made from a perpetual lease, promising the end of insecurity and government approval and acceptance of the smaller lessee.\(^7^3\)

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\(^6^8\) ibid.
\(^6^9\) *NSWPD*, 14 May 1930, 5094.
\(^7^0\) *NSWPD*, 8 December 1932, 2712.
\(^7^1\) The idea about ninety nine years may derive from an interpretation made for the purpose of computing land tax, for a brief time, later in the century.
\(^7^2\) *Western Lands (Amendment) Act*, No. 66, 1932, Section 3 (5). It became 18 E (5) of the principal act.
\(^7^3\) *Western Lands (Amendment) Act*, No. 12, 1934, Section 18 E (2) (b).
Only those who held an area less than a ‘substantial home maintenance area’ were at first eligible to apply, thus only the smaller ‘securities’ could be improved, but in 1934, amendment made holders whose land did not substantially exceed two home maintenance areas, a middle sized class as it were, eligible to apply for a perpetual lease over one home maintenance area.\(^{74}\) The largest holders were thus excluded while medium sized holders could consider their options—retain all land until expiry, or apply to convert some to lease in perpetuity. Land outside the Division and land held by a spouse, had to be included in the calculation. Any land left over after a perpetual lease was granted would remain as a term lease due to expire. In offering the superior title to, for want of a better term, medium sized landholders, Buttenshaw showed a political sensitivity shown neither by Ball nor Lang, probably reflecting that of his bureaucratic advisors in the Department of Lands.

An eventual goal of having all landholders with one home maintenance area can be detected in the 1932 Act, suggesting a bipartisan agrarian socialism that even Labor men might have agreed with, at least in principle. Ministerial consent to transfer (sell or mortgage) perpetual leases was made mandatory, and the Minister could not approve sale of a perpetual lease which would increase the land of the proposed purchaser (and his/her spouse) to an area substantially exceeding a home maintenance area.\(^{75}\) This, Buttenshaw explained, was ‘a necessary safeguard’ to stop perpetual leases passing into the hands of large holders.\(^{76}\) Horsington should have been pleased. The new title was no innovation, Buttenshaw said (it existed further east), and its purpose was to enable lessees to offer financiers a better security so that advances would flow and tide them over the depression.\(^{77}\) He could not know of course that seventy years later, this title would be found by the High Court of Australia to have extinguished native title.\(^{78}\) The legal argument seventy years later was that the title was introduced to attract finance in order to ‘carry on’ leases and ‘develop’ the land, thus conferring ‘exclusive occupation’ and extinguishing native title.

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\(^{74}\) *Western Lands (Amendment) Act*, No. 66, 1932, Section 3 18E (2) (b) and *Western Lands (Amendment) Act*, No. 12, 1934, Section 10 (c).

\(^{75}\) *Western Lands (Amendment) Act*, No. 66, 1932, Section 3,18E (10).

\(^{76}\) *NSWPD*, 8 December 1932, 2714.

\(^{77}\) *NSWPD*, 7 December 1932, 2661.

The ‘development’ intention is not well supported by the debate: the intention was more to ‘carry on’ the lessees, permit restocking, and provide more time to repay debt, rather than for ‘development’. Buttenshaw saw refinancing as being needed to ‘tide them over’ the depression. Development in the form of boundary fencing was mandated, but this had been so since 1905 and was not new, but the Minister could require further ‘development’ through a condition in the leases: it was up to him. Destroying wild dogs, rabbits and other noxious animals was mentioned in the Act as examples, but these conditions were already covered by Schedule A so could not be considered new ‘development’ conditions ‘Water supply’, also mentioned, was not a new requirement, and was left up to the Minister. The new title could be used to borrow money for any purpose, including the payment of rent arrears, a matter which Buttenshaw and his new Commissioner, T.W. Irish, pursued assiduously. Buttenshaw frequently noted on his approvals of conversion to perpetuity, that the applicant and the mortgagee should be informed that it was ‘hoped the granting... will facilitate the early payment of arrears.’

Given the new title’s restriction to a ‘home maintenance area’ and the prospect of argument, Buttenshaw and his advisors included a formula for calculating the area in the Act. This allowed for a range of sheep (or sheep areas), from 3,500 sheep notionally in the east where carrying capacity was higher, one sheep to up to three acres, to 8,500 sheep or sheep areas or more in the west, where the carrying capacity was low, one sheep to over 12 acres. Areas from 10,500 acres (one to three acres) to over 102,000 acres (one to over 12 acres) were envisaged (Figure 21). These ‘standard’ areas could be increased according to distance from a trucking yard and in recognition of discontinuous land holdings, that is, higher costs. Buttenshaw explained that higher stock numbers, therefore larger areas, in the presumed poorer and more distant country were justified by higher costs of production and marketing there. These home maintenance areas were, therefore, not merely a reflection of supposed ‘carrying capacity’ but also of production costs. The formula did not remove room for argument because underlying it was the prior decision about carrying capacity per acre(s).

Argument about carrying capacity had engaged the minds of many men, in stock camps,

79 Davidson argued the lessees were ‘on a treadmill, and though kept going all the time they were getting nowhere.’ NSWPD, 7 December 1932, 2663. It is not surprising to find a western federal politician welcoming the High Court native title decision by saying, in 2002, that ‘banks can no longer use the possibility of Native Title to limit loans’. See Cobar Weekly, 14 August 2002, 4.
80 All land except special leases granted to small holders after 1934 were normally granted as leases in perpetuity.
81 See, for example, Back File WLL 172, application of Herbert Murray.
82 NSWPD, 7 December 1932, 2662.
Figure 21: Buttenshaw’s Home Maintenance Areas, Section 18E (9), Act No. 66, 1932.

1. **Standard Area**: Where the land is within 40 miles of a trucking yard and assuming the land to be reasonably improved, the formula was as follows (the acres in the fourth column have been derived from the legislated formula.)

<table>
<thead>
<tr>
<th>i.</th>
<th>Where the average carrying capacity is 1 sheep to 3 acres or better</th>
<th>3,500 sheep</th>
<th>3,500 to 10,500 acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii.</td>
<td>Where the average carrying capacity is less than 1 sheep to 3 acres but not less than one sheep to 4 acres:</td>
<td>4,000 sheep</td>
<td>10,501 to 16,000 acres</td>
</tr>
<tr>
<td>iii</td>
<td>Where the average carrying capacity is less than 1 sheep to four acres but not less than 1 sheep to 5 acres</td>
<td>4,500 sheep</td>
<td>16,001 to 22,500 acres</td>
</tr>
<tr>
<td>iv</td>
<td>Where the average carrying capacity is less than 1 sheep to 5 acres but not less than 1 sheep to 6 acres</td>
<td>5,000 sheep</td>
<td>22,501 to 30,000 acres</td>
</tr>
<tr>
<td>v</td>
<td>Where the average carrying capacity is less than 1 sheep to 6 acres but not less than 1 sheep to 7 acres.</td>
<td>5,500 sheep</td>
<td>30,001 to 38,500 acres</td>
</tr>
<tr>
<td>vi</td>
<td>Where the average carrying capacity is less than 1 sheep to 7 acres but not less than 1 sheep to 8 acres</td>
<td>6,000 sheep</td>
<td>38,501 to 48,000 acres</td>
</tr>
<tr>
<td>vii</td>
<td>Where the average carrying capacity is 1 sheep to 8 acres but not less than 1 sheep to 9 acres</td>
<td>6,500 sheep</td>
<td>48,001 to 58,500 acres</td>
</tr>
<tr>
<td>viii</td>
<td>Where the average carrying capacity is less than 1 sheep to 9 acres but not less than 1 sheep to 10 acres</td>
<td>7,000 sheep</td>
<td>58,501 to 70,000 acres</td>
</tr>
<tr>
<td>ix</td>
<td>Where the average carrying capacity is less than 1 sheep to 10 acres but not less than 1 sheep to 11 acres</td>
<td>7,500 sheep</td>
<td>70,001 to 82,500 acres</td>
</tr>
<tr>
<td>x</td>
<td>Where the average carrying capacity is less than 1 sheep to 11 acres but not less than 1 sheep to 12 acres.</td>
<td>8,000 sheep</td>
<td>82,501 to 96,000 acres</td>
</tr>
<tr>
<td>xi</td>
<td>Where the average carrying capacity is less than 1 sheep to 12 acres</td>
<td>8,500 sheep</td>
<td>96,001 to 102,000 acres</td>
</tr>
</tbody>
</table>

2. **If the land is more than forty miles from a trucking yard**, an additional area was to be added for each twenty miles, or part thereof, sufficient to carry one twentieth of the number of sheep specified above.

3. **An additional** calculation applied where the holding consisted of more than one continuous area of land.
in pubs, in surveyors’ camps, board rooms, and elsewhere.\textsuperscript{83} It was a concept for the long term when linked to a ‘home maintenance area’, and often boiled down to an average of the number of stock actually carried on properties during a series of different seasons, usually excluding ‘abnormal’ drought seasons. Surveyors in the beginning had relied on this ‘local knowledge’.\textsuperscript{84} Buttenshaw’s 1932 legislation had given responsibility for calculating the home maintenance area to the three commissioners sitting as a Board. His 1934 legislation gave responsibilities to new ‘local land boards’ that had one non-official local appointed member.

Though restriction of the perpetual lease title to a home maintenance area hinted at an eventual degree of equality, it was not socialistic enough for the Labor men in 1934. James McGirr found the legislated formula over-generous, particularly in the Walgett North region. No other business in New South Wales, he claimed, offered so much possibility for the future, given that some leases had been purchased at low prices recently and could now reap an increase in cash value. He cited the recent purchase of a lease a little west of the Lachlan by the Chairman of the (now) Land and Valuation Court (a good judge of land value), in support of his statement. Western Division lessees were, he said, much better off than nearby Central Division lessees restricted to 2,500 sheep areas by the Land and Valuation Court, and who paid higher rents as well as local government rates (local government in the Western Division was restricted to urban centres until the 1950s).\textsuperscript{85} McGirr was pleased Buttenshaw rejected a Council amendment put forward by H.C. Moulder, stock and station agent of Condobolin, which sought to increase the lower limit of 3,500 sheep to 4,000. Moulder had recently purchased a subdivided lease for his son on the western bank of the Lachlan near his own land (or his father’s) on the eastern bank, and had lost money, he said, finding that fat lamb production was not viable in the Division.\textsuperscript{86} Labor’s Concannon said Labor was against granting leases in perpetuity, preferring leases for fifty to ninety years, but his party colleagues showed him no support.\textsuperscript{87}

\textsuperscript{83} The \textit{Review} of 14 April 1927, 334-35, records a respected contributor’s view of how carrying capacity was arrived at by various men. I thank Dr John Pickard for this reference. See also his ‘Safe Carrying Capacity and Sustainable grazing: How Much Have We Learnt in Semi Arid Australia in the Last 170 Years?’ in A.J. Conacher, ed., \textit{Land Degradation}, Kluwer Academic Publishers, Boston, 2001, 275-89.

\textsuperscript{84} Dr. John Pickard, ‘How Much Have we Learnt’, ibid., 277.

\textsuperscript{85} \textit{NSWPD}, 16 December 1934, 3197.

\textsuperscript{86} ibid., 14 December 1934, 2920, 3128.

\textsuperscript{87} ibid., 8 December 1932, 2917.
Before introducing his second Bill dealing with large leases in 1934, Buttenshaw had invited parliamentarians to accompany him on a trip to the Division. Twenty seven went. The Country Party’s Benjamin Wade, newly elected for Barwon, found it enlightening, even though he had been ‘in and out’ of it before. Surprised by the variation in the land, he concluded that any visitor should take notice of local experience and understanding. The carrying capacity had diminished, he said, and unless a settler was in a position to ‘spell’ country, it would be further diminished. Presumably taking notice of local opinion, he believed more land should be made available to existing lessees in order to protect the natural resource.\(^{88}\) His answer to diminished carrying capacity was more land. The new Country Party member for Murray, Joseph Lawson, said soil had been abused by overstocking and he had ‘never seen such poverty, hardship and despair…children had never been to school, some families had never been away from the district’.\(^{89}\) The trip gave more parliamentary members, particularly new Country Party ones on the Division’s eastern border, confidence to speak from local knowledge.\(^{90}\) Western Labor men might need to exercise caution in their claims about the Division in the future.

The 1934 legislation, like Ball’s, provided for further withdrawals from large landholders in order to provide ‘additionals’ for existing landholders or originals for new landholders. It invited large lessees not eligible for leases in perpetuity to apply for extensions of term as compensation for future loss of land.\(^{91}\) Buttenshaw’s First Reading speech on 10 May acknowledged that the more he delved into the western lands problems, the more apparent the difficulties became, difficulties which ‘no previous government had been game to tackle’.\(^{92}\) It was a reasonable claim. He had made the best bargain he could, he said, between the needs of the large and small lessees, and he fulsomely acknowledged the assistance of T.W. Irish, recently head of the RSS Branch in the Lands Department and now Under-Secretary. His claims of consultation and negotiation were well founded. The Country Party’s Colin Sinclair, MLA, partner with his brothers in Bundinbarrina in the Division purchased in 1916 and holders of land in other parts of the State, acknowledged his involvement, but there

\(^{88}\) ibid., 25 July 1934, 2207.

\(^{89}\) ibid., 1 November 1949, 4707. Lawson was Deniliquin based, both as a farmer and politician, east of the Division.

\(^{90}\) R.H. Hankinson (Murrumbidgee, elected 1932), J.A. Lawson (Murray, elected 1932), B. M. Wade (Barwon, elected 1932), A. W. Yeo (Castlereagh, elected 1932), C.A. Sinclair (Namoi, elected 1932).

\(^{91}\) Many applicants, unsure of what they would be eligible for, submitted two applications, one for conversion to perpetuity, the other for extension of term.

\(^{92}\) *NSWPD*, 10 May 1934, 282; 17 May 1934, 406, 411.
were ‘negotiations’ at various levels: meetings between large and small lessees themselves, as well as between Buttenshaw and lessees. In April and May 1934, the Nyngan, Carinda and Walgett Land Defence Leagues, representing landholders in the Central Division near the Western Division border, assisted by land agent Howard Speight’s strenuous efforts, petitioned strongly about their need for more land and for rentals more in line with lower Western Division rentals. The difference between the two administrations’ practices were highlighted, and Buttenshaw was told his 1932 Act’s home maintenance area formula was unsound. He met their deputation at Walgett on 12 May and welcomed any assistance they could give in achieving greater concessions from large holders.93 Two former members of the 1901 Royal Commission, James Ashton and Robert McDonald, wrote to the SMH, both invoking the disaster of the 1884 Act and appealing for understanding of the low carrying capacity and rainfall in most of the Division. Ashton pleaded for help for those already there.94

At first the Bill envisaged withdrawals totalling less than Ball’s, only three eighths of the total area. The first withdrawal of one eighth was, apparently in response to the Central Division claims, subsequently increased to one quarter, making the total area to be taken one half, the same as Ball. Buttenshaw estimated that the first withdrawal would produce about 5 million acres, but after this amendment some 10 million acres could be expected if all large lessees decided to apply (in theory, the final total withdrawal would be about 20 million acres). Perhaps in return for this concession, the third withdrawal of one eighth was postponed for another two years. Large lessees were invited to apply for an extension of 20 years in Walgett North and 25 years elsewhere, years starting after existing expiry dates of 1943-49. This gave expiry dates of 1963-69 in Walgett North and 1968-74 elsewhere.95 The first withdrawal could commence throughout the Division six months after the Act commenced, the second could be taken after nine years (1943) and a further one eighth after fourteen years (1948).96 No withdrawal could reduce the remaining land held below a ‘substantial home

93 Spectator, 4 April 1934; 11 April 1934; 18 April 1934; 23 May 1934.
94 SMH, 25 May 1934, 10; 26 May, 1934. 14. McDonald recalled the regret of a homestead lessee who, enticed west from Wagga Wagga by the 1884 Act and its promise of large areas (he and family members applied successfully) who lived to regret it at length as an innkeeper.
96 See Western Lands (Amendment) Act, No 12, 1934, Section 17C(4) (b). The Act’s wording of one sixth and one fifth of the remainder for the second and third withdrawals is equivalent to one eighth of the whole. The actual wording of the timings was: first withdrawal, ‘in not less than six months’, second in not less than nine years, third, ‘in not less than fourteen years’.

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maintenance area’, but a special ‘liberal’ provision was made for stud properties (only ‘genuine’ ones Buttenshaw stressed) which could retain additional home maintenance areas.\(^97\) He envisaged that the residue of the land could be used in the interests of closer settlement—he hoped it would be privately subdivided. This was, he said, ‘really our object’, not something which impressed M.A. Davidson.\(^98\) Get small or get out, he seemed to be saying.

The Kidman interests did not apply, either believing they were too large to apply successfully, or, as Bowen has said, preferring to operate as before for the remainder of the terms.\(^99\) Buttenshaw’s Act drove them out of NSW, and their expiring leases would come in very handy for Labor after 1945, but in the meantime, the first withdrawal of land would not deliver the possible ten million acres. Other large holders did apply, and also went to a deal of trouble to get the deadline for applying extended beyond the legislated three months. Their loyal adviser, the *Review*, thought they should take the opportunity now instead of hoping they might get a better deal from a later government before the present leases expired.\(^100\)

The maximum total area to be withdrawn had to be demarcated before any withdrawals were made, disregarding lease boundaries, and published in the *Gazette*. The area could not include the principle homestead, woolshed or watering point. Appeal against these demarcated areas could be made to a special tribunal consisting of two members appointed by the Minister and one by the appellant. After demarcation of the maximum area, if the land was found to be overstocked or improvements neglected, the lease of any of the land was liable to forfeiture.\(^101\) Ministerial approval of sale of any land within the demarcated area was also mandated, but for a limited period of two years only in the case of leases not previously subject to ministerial control of transfer. Buttenshaw explained that ‘it would have been very unwise to enable the large lessee...to sell something that did not belong to him...virtually a lease in perpetuity, when he only held a lease for a period’, and this could also ‘bring in new settlers...when

\(^97\) *NSWPD*, 10 May 1934, 263.
\(^98\) ibid., 283. Davidson asked Buttenshaw in parliament were large leaseholders subdividing in order to get a perpetual lease? Buttenshaw replied that they had to get consent and some applications had been refused. *Spectator*, 14 October 1934.
\(^99\) Jill Bowen concluded that Kidman had no interest in retaining ‘hacked-up holdings’ rather than ‘the chain system enterprise’ he had built up. See *Kidman*, 392. Horsington claimed that after Kidman’s death in 1935, his son-in-law made an application that was not approved by Minister Sinclair a decision Horsington not surprisingly approved of.
\(^100\) *Review*, 16 November 1934, 1103.
\(^101\) See *Western Lands (Amendment) Act*, No 12, 1934, Section 17c (4) (e), (7) (c).
it would take all our time to make up the area for men who were already there.\textsuperscript{102} Nothing would defeat the right of the Minister to take the withdrawable area, ‘notwithstanding that the properties may have been subdivided and changed hands in the meantime’ (presumably after the two year ban was removed).\textsuperscript{103} On the face of it, if the government had not allotted the land to a new lessee within two years, it could be sold.

Most of the land from the first withdrawal was allotted for additionals. Priority in time was given to the eastern areas and Walgett North. Buttenshaw made sure he would be able to reward men in his own and other border electorates. The Minister could ‘set it apart’ and advertise it, in one of four ways: for lease generally (for anyone); for lease by Central Division holders (additional); for Western Division holders (additional); or for both Central and Western Division holders (additional). Buttenshaw thus made sure he could meet his obligations to the men near the eastern border (additional for Central Division holders) who had been pressuring for so long, and whose support the Country Partly valued. His legislation was much more about people already there than about new closer settlement, and he softened the residence conditions, making only five years necessary for new entrants, and releasing existing lessees of residential commitments following issue of a certificate.\textsuperscript{104}

During the 1934 debate, Lang again promised to repeal the legislation, saying that ‘extraordinary profits’ were being given away, money that belonged to the Crown, and that the leases should be allowed to expire.\textsuperscript{105} His arguments about the profits were rebutted by Colin Sinclair.\textsuperscript{106} I shall, however, let Lang have the last word, because he highlighted the elusive, ever moving, contentious boundary between public and private sector rights to Division leasehold land, the same source of tension I have highlighted in connection with the 1918 private subdivision amendment. Lang made his thinking plain. He used the example of Sinclair’s holding (160,000 acres) composed of sixteen

\textsuperscript{102} \textit{NSWPD}, 17 May 1934, 409.
\textsuperscript{103} ibid., 406-07.
\textsuperscript{104} \textit{Western Lands (Amendment) Act}, No 12, 1934, Section 18 F. An exception to this was made for special leases known as 28A leases.
\textsuperscript{105} Ball claimed in response to this that ‘we should have such a state of chaos and confusion that I doubt whether the Minister for Lands and all his officers would ever get out of it’. \textit{NSWPD}, 23 May 1934, 536.
\textsuperscript{106} ibid., 1 August 1934, 2469-72.
home maintenance areas.\textsuperscript{107} After half was surrendered, he said, eight would be left, and then:

Although under the existing Act the whole of the leases would revert to the Crown in twelve years...the large lessee [under this proposed Act] can hold the other half for thirty one years, and in the last year of his lease...subdivide the holding into eight home maintenance areas and sell six or seven of them...not on a lease with one year to run, but on the tenure that each of those blocks carries a lease in perpetuity.\textsuperscript{108}

Large lessees, he said, would have no trouble finding relatives or others without land who would be able to purchase a lease with less than a year to run, at a perpetual lease price which anticipated the new title. He was invoking the unearned increment argument in another form. The public, this time, contributed not a dam or a railway, but a better title. That money, let alone the land, belonged to the Crown, he claimed.\textsuperscript{109} His argument did not attract the bipartisan support surrounding the former kind of unearned increment. The Review noted that 'with his customary charm', Lang promised that a Labor government would find out who the responsible criminals were and put them in goal.\textsuperscript{110}

Though Trollope’s ‘nomad tribe’ of nineteenth century itinerant male workers, famously elaborated by Russell Ward later, had largely disappeared by this time, Buttenshaw’s legislation was the beginning of the end for another kind of worker.\textsuperscript{111} This was the itinerant family: the contractors who could obtain years of work on large properties and who camped where the work was. The young Val Colthart experienced this life as a child. Her father, once a mechanic and fencing contractor around Tibooburra, fenced on Toorale for six years from 1935 to 1941, doubling as a mechanic at shearing time. Her family lived the camping life much as the Egans and O’Shannessys had done in the 1880s, though Blackfriers Correspondence School and a determined mother ensured Val’s lessons were done rigorously. When they moved into Bourke in 1942 and the ten year old Val went to a school for the first time she could more than compete. On Toorale, they lived in a ‘kitchen tent’ and a ‘sleeping quarters’ tent. Her father’s two or three employees supplied their own ‘cottage tents’. The Coltharts were one of the families with employees camped on Toorale, perhaps ten in

\textsuperscript{107} Bundinbarrina.
\textsuperscript{108} \textit{NSWPD}, 1 August 1934, 2493.
\textsuperscript{109} ibid., 1 August 1934, 2493-95.
\textsuperscript{110} \textit{Review}, 16 August 1934, 785.
\textsuperscript{111} Russel Ward elaborated on Trollope’s image in his well known \textit{The Australian Legend}, Oxford University Press, Melbourne, 1966, 9-11.
all, working for the Berawinnia Pastoral Company. This home grown company was owned by Stalley, Crawford and another. Bill Stalley, son of Thomas who took up a homestead lease in 1891, and his son Brian, were resident managers. Val remembers outings to Bourke, to the homestead area which seemed like a village with a bookkeeper, a cook, a store, or a Chinese gardener, or to the woolshed for shearing, for voting, or for more glamorous events like the wartime fundraiser for a Spitfire plane when the Stalley ladies showed their finery. She loved the life, never feeling disadvantaged, though she was aware visiting ladies saw her as such. During that time on Toorale she never saw the homestead, out of bounds to employees and surrounded by a large hedge. She remembers the Stalley ladies rather than the Stalley men, as aspiring to landed gentry status.\(^{112}\) Her father and mother’s way of living would come to an end in the 1940s, though Aboriginal people in particular continued the lifestyle and the work.

\(^{112}\) Val Young, *Life on "Toorale" in the 1930s – through the eyes of a child*, Unpublished mss., January 2010, in the possession of Val Young, Dubbo.
CHAPTER SEVEN

Legislating for Uniformity

The Country Party’s occupancy of the Lands portfolio ended when a Labor government was returned in 1941. Labor coasted along, taking advantage of land made available by Buttenshaw’s legislation, until 1949 when a majority in the Legislative Council and WWII returned soldiers facilitated further legislative change. This chapter spans these years, addressing first the new power sharing introduced by Buttenshaw’s reintroduction of Local Land Boards to the Division. The chapter title, ‘legislating for uniformity’, refers to the culminating event, Labor’s 1949 legislation which reemphasized centralized controls. This did not indicate a change in Labor ideology so much as the new power, given at long last, by a majority in the Legislative Council. The Labor Minister was then more than happy to support the bureaucratic tools officials relied on with overarching legislation, legislation which applied to nearly all lessees, producing reactions somewhat similar to those surrounding the recent proposed super profits tax on mining. The enemies of uniformity however, as we shall see, were by this time not just the old large companies, but home grown families and family companies, intent on being larger.

Concern about the natural resource surfaced strongly in parliament during the 1940s, posing a tension between closer settlement and the continued productivity of the natural resource. The issue was debated in anthropocentric and ideological terms: who was most to blame for overstocking and the resultant decline in carrying capacity, ‘small’ holders or ‘large’? Two solutions were provided: the command and control tool of forfeiture deriving from the closer settlement policy paradigm, the other being more land, additionals, the tool used since 1901. Both solutions had problems. sitting oddly with the ideas about conservation held outside what, after 1934, was called the Western Lands Commission.¹

The tenure of the commissioners appointed by Tully was brief. They told Buttenshaw of their policy opposition to the extensions, and it was accepted that they would have to go, with compensation. The 1934 Act recreated Local Land Boards, and after T.W.

¹ This title replaced the ‘Western Lands Board’. The ‘Chief Commissioner’ became the ‘Commissioner’, assisted by the two Chairmen of Local Land Boards.
Irish was appointed Commissioner, the serious work of withdrawal and allotment began, Irish being assisted by two ‘Chairmen of Local Land Boards’ replacing the two former commissioner positions. One was occupied by experienced senior official, A.A. Britton, formerly in charge of Bills and Regulations in the Department of Lands, the other by Sydney Smith, formerly Officer-in Charge of the Department of Agriculture’s Stock and Brands Branch. The unpopularity of the Boards in the late nineteenth century was forgotten, and by now, they had nicer functions to perform. They had continued to exist in the Eastern and Central Divisions, and procedures familiar there were applied. In contrast to the 1880s, the word ‘local’ now included local landholders though not in a majority. Tasks were shared between the Boards, the government centre, and the Land and Valuation Court (LVC). There was some appeal from the Boards to the Court, and the Commissioner could refer matters to the Court. The Boards ‘sat’ in eleven districts in the Division, areas corresponding with P.P. Board districts. Unlike elsewhere in NSW, they had only two, rather than three, members. The Chairman, officials Britton or Smith, had a casting and an original vote, so the Boards were less than local or democratic in membership. But they were semi-judicial bodies relying on evidence given before them, and their ‘local’ nature derived from this argument. They sat ‘in open court’, except in some instances, to hear evidence on oath, from landholders, their agents or solicitors.

The two men had significant tasks. They recommended on applications for conversion to perpetuity, on whether the applicant’s land, together with that of a spouse, exceeded a substantial home maintenance area, or two such areas. Buttenshaw found it necessary to pass an amendment in 1936 which gave the Minister ‘absolute discretion’ to refuse an application. They made recommendations regarding applications for additions, the Act requiring them to choose the person most ‘in need’, and they were required to take into account an applicant’s proximity to the additional land applied for, the length of time they had held their existing land, and the manner in which such lands had been used. They also carried out a cull of applications for original blocks, and if priority could not be established, recommended a ballot. They assessed the value of improvements, decided whether land within the gazetted maximum withdrawal areas was being overstocked, decided whether improvements were being satisfactorily maintained, settled fencing disputes, and reported on any additional conditions.

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2 ‘Prescribed’ instances, usually where agreement between parties had already been established. The Chairman then sat ‘in chambers’, alone, no doubt in his office in Sydney.

3 *Western Lands (Amendment) Act, No. 12, 1934, Section 26 (2).*
minister might wish to place on perpetual leases. They certified that five years
residence was satisfactorily completed on original leases issued after 1934, and they
recommended some rents.

A Board decision was a recommendation to the Minister via the Commissioner. The
Minister could approve it, refer it back to the Board for further consideration, or refer it
to the LVC. There was limited opportunity for appeal to the Court from the Boards in
the case of decisions about additionals, and none in relation to exclusion from ballot.4
According to C.J. King, the LVC had decided that Board decisions must be
demonstrably ‘wrong’ before they would be ‘disturbed’ by the Court.5 The Court could
not undertake independent questioning of witnesses before the Boards, and appreciated,
King said, the advantage the local Board had of ‘seeing the applicant’ and his
‘demeanour’.6 Since 1921, the Court had consisted of one person, Justice Pike.

This sometimes tortuous sharing of decision making power amongst the Crown, the
Boards, and the LVC, would become a focus of parliamentary struggle after Labor
regained government. Labor members wanted greater Ministerial power and coalition
members wanting greater power for the Boards and the Court. Examples of the
operation of the Boards in three main activities: allotment of additionals, conversion to
perpetuity, and maintenance of improvements, are drawn on here to show the values
applied: ‘development’ and ‘improvement’.

Like his former party colleague Walter Wearne, Buttenshaw knew that legislation was
one thing and administration another. Like Wearne he wanted surveyors and
administrators to be generous. He begged the annual conference of Staff Surveyors in
1934 to be generous: if they had to err at all (which surveyors were never happy to
admit to), err on the side of generosity, he said.7 Administrators and surveyors,

4 Section 26 regarding additionals said ‘there shall be no appeal to the Land and Valuation Court from
any decision of the local land board under this section, except in the case where such an appeal if
successful would not affect any person who has made a simultaneous conflicting application the granting
of which has been recommended by the local land board: Provided that the Minister may, within twenty-
eight days after the decision of the local land board … refer it to the decision of the Land and Valuation
Court, and in such case the decision of the Land and valuation Court shall be final.’ Western Lands
(Amendment) Act, No 12, 1934, Section 26 (4).
5 C. J. King, An Outline of Closer Settlement in New South Wales: Part I; The Sequence of the Land
Laws 1788-1956, Division of Marketing and Agricultural Economics, Department of Agriculture, New
South Wales, Australia, Reprint from Review of Marketing and Agricultural Economics, September-
December, 1957, 252-53, footnote number 134.
6 ibid.
7 Staff Surveyors Association of New South Wales, Twelfth Annual Conference, March 1934, 5.
however, found it difficult to achieve the generous standards in the legislation regarding the home maintenance area when allotting additionals. Commissioner Irish noted several times in the 1930s that the ‘standard’ set by the Act for home maintenance areas had not been adopted, and ‘no attempt’ had been made to increase areas up to the standard. He did not say what had prevented this, but the implication was that demand greatly exceeded supply. He stressed that the policy of the Minister had been followed and priority was given to increasing the areas of small holders before making land available for new settlers. Davidson persistently sought information about the size of additionals allotted, and to whom, and the size of perpetual leases granted, always suspicious that those with the least land missed out, and that the perpetual lease areas were unnecessarily large.

Given that the legislative criteria limiting eligibility for additionals had been removed, there was no lack of demand. The Land Board hearing at Wentworth in October 1935 exemplified this. The land came from Lake Victoria, Cuthro and Avoca, about 366,000 acres in all. The *Sunraysia Daily* reported that about 200 graziers came to town, that the courthouse was ‘thronged’ with applicants and their agents, and the town had a ‘more animated appearance than had been the case for many years.’ Only one original block was advertised, 37,000 acres, which went to ballot and was won by a Victorian single man whose marble came out, much to the disappointment of the locals. Lake Victoria’s holder, J.B. Armstrong, attended somewhat ruefully, but invited the Board members to dinner at his homestead. Of the over eighty applicants for additionals, some forty appear to have received additional land. Assistant Commissioner Smith ruled out applicants who had only small pieces of freehold because such areas were not ‘meant to be built up’. Announcing the results, he said no human being could satisfy all wanting land in the Division. Few seemed to receive sufficient land to carry the number of sheep they believed to be necessary for a living area. Smith said pointedly that the land had been ‘given away’, and warned successful applicants not to sub-let, sell, or agist without approval.

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9 See for example, *NSWPD*, 16 December 1936, 1350; *NSWPD*, 17 August 1937, 183.
10 ibid., 31 October, 1935.
11 *Sunraysia Daily*, 8 November 1935.
12 ibid., 5 November 1935.
13 ibid., 8 November 1935
The allotment of additionals from a smaller withdrawn area the same year revealed conflict between Labor and coalition interpretations of ‘need’, producing yet another Royal Commission. The evidence showed how a Board interpreted the Act’s words: ‘priority’, ‘need’, and ‘the manner in which the land had been used’, and how interpretations of the LVC were influential. It also revealed that the private subdivision process since 1918 had created properties which, just like those allotted by government, were soon claimed to be too small.

The Royal Commission resulted from Lang’s claim in parliament that the Stevens government was the most class-ridden ever in power in the State.\textsuperscript{14} One example he gave was the granting of additionals by the Hillston Land Board, from 14,000 acres made available from land withdrawn from A.B. Triggs’ Eremoran. Eleven applicants had been reduced to three by the time the hearing began. One was P.H. Pike, son of Justice Pike, who held nearly 20,000 acres and who worked it along with the adjoining lease of his father under a stock partnership. The two leases totaled some 40,000 acres.\textsuperscript{15} Another was H.C. Moulder, MLC, stock and station agent of Condobolin, who held 15,720 acres.\textsuperscript{16} Another was W.J. Norris, who held 15,937 acres. All three had purchased their leases from Triggs about six years before and were still mortgaged to him, none having paid the full price up front. The Board allotted Pike about 6,000 acres, Moulder about 5,000, and Norris less than 3,000. ‘Priority’ and ‘need’ was not, therefore, judged in terms of the amount of land already held, for Pike, found to be the neediest, held a significantly larger area and also worked his father’s land, receiving income from the stock partnership, lately running at a loss, Pike said. ALP policy in NSW had long held that those with least land, or at least those with land of the smallest value, should be given preference in allotment of land.\textsuperscript{17} The administrators and the Minister accepted the Board’s recommendation, but Norris wrote to Buttenshaw and saw him in Sydney asking him to refer the Board’s decision to the LVC. Lang said that Norris and his wife, with seven young children, was the most deserving of additional land, just the sort of ‘struggling settler’ the 1934 Act was claimed to have been designed

\textsuperscript{14} \textit{NSWPD}, 12 September 1935, 64-66.

\textsuperscript{15} Western lands leases 3452, 19,288 acres, in the name of George H. Pike, and 3453, 19,348 acres, in the name of P.H. Pike.

\textsuperscript{16} Moulder’s brother-in-law held a nearby lease and was an applicant but as his lease was on the market, his application was given no priority.

\textsuperscript{17} Australian Labour Party, New South Wales Branch, \textit{Rules and Constitution; and the Policy and Platform, State and federal}, 1906, 5, (‘The Platform’, 2 (m)).
for, whereas the other two were sons of well known well off fathers who financially assisted them. He claimed this showed class bias and favouritism.

The Royal Commissioner interviewed the two Board members, A.A. Britton, Chairman, and W.E. O’Brien, local member, also Irish and Buttenshaw. Lang was invited to attend but did not. The Royal Commissioner found that the decision makers had acted properly and it was not possible to impute bias or favouratism to them. The evidence was that Norris, loath to borrow, had not cleared trees from some 7,000 acres of his lease, nor killed the suckers on country which had previously been ringbarked. As Britton put it, he had a lot of ‘green’ country as opposed to ‘killed’ country, and had shown little initiative, only employing people when unemployment relief funds were available. He thought Norris a little ‘dull-witted’, perhaps dulled by hard work on the land in days gone by. The other applicants, on the other hand, had improved their land by killing trees. The evidence before the Land Board was that all three had cut edible scrub in the drought of 1932-33 and Pike had, he said, ‘scrubbed’ for 2,500 sheep and ‘cut out’ his rosewood and kurrajongs trees, still losing over 3,000 sheep. He argued that his land was fully improved and that he needed land with edible scrub on it as hand feeding sheep in drought with purchased feed was too expensive due to cartage and freight costs. The land with scrub was given him on his additional 6,000 acres. When Irish later asked Pike if he could accommodate Norris’s desire for a change in the shape of the block allotted him, Pike could not, because the block was allotted to him so that ‘I might have some scrub’.

‘Need’ was not to be interpreted in its usual sense, the Royal Commissioner said. When Moulder was being cross examined during the Land Board proceedings, he responded to the allegation that he was hardly the type of settler the law was intended for, by saying that when he had assisted in framing the law, the framers assured him it would cover cases such as his. Whatever else this meant, it was a clear acceptance of

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18 *NSWPD*, 12 September 1935, 65.
20 Ibid., 5.
21 Evidence of P.H. Pike before the Board, 4–6 June 1935, Eremeran Block B, Correspondence relating to applications and ballots for leases of Crown land, 1935-55, [12/6157], NRS 14564, SRNSW.
22 Letter, P.H. Pike to the Commissioner, 30 June 1935. Ibid.
the eligibility of original private purchasers for additionals.24 Britton, with his extensive experience of Boards and the guiding interpretations of Justice Pike, was confident that the principles laid down by the Court were being followed, so the backing of the Court for the values of ‘development’ and ‘improvement’ was clear.25 It was also clear that the ‘need’ for land was not conceived of in terms of social mobility for those with less land and financial resources. Later Board recommendations about additionals confirmed that financial ‘need’ was not as important as other factors, including being within a ‘reasonable distance’ of the new land, having basal land considered less productive than another comparable applicant’s land, or having areas so small there was little prospect of ever achieving a home maintenance area. Having a barrister to argue the case, or a bank manager attesting to character, integrity, and ‘good’ management, could also help.26

It was clear that ‘the manner in which such lands had been used’ (land already held by the applicant), one of the circumstances to be taken into consideration by a Board, did not mean that it would be inspected by the Crown to see if it had it been used sustainably. This is not just to transpose modern ideas back in time, for there had been a condition in most leases since 1904 ‘That the lessee shall not ringbark cut or otherwise destroy or permit the destruction of any timber or edible scrub without the written consent of the Commissioners: Provided That (sic) the Lessee may use in such manner as the Commissioners may from time to time determine edible trees or scrub for stock-feeding purposes’. This was not examined by either the Board or the Royal Commission. The Staff Surveyor giving evidence to the Board for the Crown was not asked whether lessees had obtained permission to cut edible scrub. Pike and the others may have killed their rosewood and kurrajongs, or at least cut them at the butt, so that leaf matter could not appear for years, if ever. The point, however, is that the issue was not canvassed. ‘The manner in which such lands had been used’, meant was it being ‘improved’ so as to kill inedible trees (so that more grass might grow), but the matter of whether edible trees and shrubs, regarded as a necessary drought resource, were being harvested, was not part of that manner. The commissioners, on their part, had laid down no ‘ways’ that these should be harvested, apart from mulga.

24 *NSWPD*, 12 September 1935, 65.
25 Allegations of conflict of interest regarding P.H. Pike were met by indignant assertions that his father would have stood down had the case been referred to the LVC.
26 Back File WLL 1078, Decision of Local Land Board and Evidence, February 1969, on 10,240 acres formerly part of Curranyalpa Holding.
The first withdrawal was nearly completed by 1938, and of the 6.2 million acres allotted since 1934, nearly 5.1 million acres had provided additionals for 452 Western lessees and 728,238 acres had provided additionals for 187 Central Division lessees. Only 388,274 acres were for twenty four ‘originals’ and some of the latter appear to have been for small vegetable growers or special leases. Conscious of political issues, Commissioner Irish expected that the second withdrawal in 1943 would yield a much greater proportion of ‘new’ holdings for new landholders.

The process of converting leases to perpetuity showed that the Labor men were not alone in viewing Buttenshaw’s home maintenance area formula as overly generous. Robert Leckie’s application to convert six leases covering 110,972 acres of The Avenue to perpetuity had been declined by Labor’s commissioners in 1933 before the ‘local’ Boards were given the recommending function by the 1934 Act. His reapplication was also declined by Commissioner Irish. Robert’s solicitor wrote protesting that Robert was a ‘pioneer of the far West’, one who had ‘reared a large family of some fourteen persons on his property’ and given them an excellent start in life, an outstanding grazing man and a fine citizen. McClure of Netally, he continued, had obtained perpetual lease title and was closer to a trucking yard than Robert, and ‘from a national standpoint’ his family creation, though excellent, did not approach Leckie’s ‘meritorious performance’. Like other lessees who felt the need to argue his case eye to eye, Robert set out for Sydney to argue his case, but died when his car crashed in the Blue Mountains. His executors, two sons and Austen Brown, persuaded Irish to refer the matter to the new Local Land Board, Sydney Smith and M.J. Anderson.

Local knowledge of the practical men won the day. They argued before the Board that The Avenue’s carrying capacity had deteriorated since the days when staff surveyors’ estimates had been placed on central files. Bunker Creek no longer flooded to enhance the grass and herbage and the edible bush had been killed by overstocking and disease. Robert’s son, Cecil, had travelled ‘all over’ the Division and stated that The Avenue had been gradually deteriorating, like all land in the Division. Based on this argument and the Staff Surveyor’s current estimate of a sheep to fourteen acres, a lower carrying capacity than previously recorded, the administrators had little choice but to accept the

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29 Back File WLL 497. Other information regarding Robert’s family, the solicitor’s correspondence, and the Land Board proceedings, has been taken from this file.
30 Ibid.
recommendation that Robert’s land did not greatly exceed a substantial home maintenance area. The beneficiaries obtained perpetual lease title because the carrying capacity had declined, an argument repeated before Boards on other occasions.

Another refused application for perpetual lease tenure revealed the bureaucratic use of their tool of transfer control to cement their notion of how a settler should behave regarding land. John Mungovan, son of Margaret, had bought his sisters out of her small pastoral lease of 6,330 acres, Tanarooka, inherited by them in 1900. John was allotted an additional of 10,000 acres in 1904, which he accepted rather grumpily, having applied for 30,000 acres.\textsuperscript{31} It was still not enough for a living, he said. Surveyor D’Apice had thought him to be ‘in straightened circumstances’ the year before. Some effort had been made on his behalf by the commissioners, as his additional was from an area of 20,000 acres taken from Nelyamo’s leasehold area (the resumed area being far distant), a deal negotiated with Nelyamo by the commissioners for him and also Thomas Stalley. John died in 1930 and his widow and the Public Trustee, executors of his will, applied to convert the two leases to perpetuity. The application was refused when it was discovered that John’s estate held shares in Curranyalpa and was in partnership with others in Rosedale and Clifden nearby, which meant that his holdings, the file notation says, would ‘probably’ exceed two home maintenance areas.\textsuperscript{32} The two leases were instead extended for twenty five years, when a less capitalistic purchaser, James Luffman, was able to convert them to perpetuity.

Conversions to perpetuity for others proceeded more smoothly. By 1941 more than half the acreage of the Division, over 47 million acres, was held in perpetuity by those deemed to hold less than a substantial home maintenance area. The official statistics continued to record numbers of ‘leases’ rather than ‘holdings’ and this area was said to cover 2,814 leases. As applicants for perpetuity listed all their leases in applications, the number of applicants, which reflected landholders, was much smaller. Of the 1,507 applications since 1932, 1,287 had been granted, 168 refused, 42 withdrawn, with ten outstanding.\textsuperscript{33} This suggested that 1,507 holders had thought themselves small enough to apply, and that 1,287 were acceptably small. This 1941 figure can be considered an advance, in closer settlement terms, as compared with Buttenshaw’s 1934

\textsuperscript{31} Back File WLL 920.
\textsuperscript{32} ibid. See notations on Form 7, the application form for conversion to perpetuity.
\textsuperscript{33} ‘Report’ for 1941, 17, in \textit{NSWPP}, Vol. 1, 1941-42, 23.
figure of 1,048 ‘small settlers’ covering 31.3 million acres.\textsuperscript{34} The figures need to be viewed cautiously, however, as the words ‘small’ and ‘large’ were not defined and the area was elastic due to varying carrying capacities, always declining. There is evidence independent of the Labor men’s complaints that landholders had been able to convert, or acquire, or both, larger areas than one home maintenance area as a lease or leases in perpetuity. In the 1940s, for instance, agents for the New Zealand and Australian Land Company advertised Tongo for sale, approximately 185,000 acres of lease in perpetuity, saying that the Western Lands Commissioner had advised that he would approve transfer as a whole to an approved buyer, or, as divided into two or three blocks to suit individual buyers.\textsuperscript{35}

Irish was persistent in pursuing rental arrears and equally so in requiring maintenance of improvements, systematic inspections of which had commenced after his appointment. He referred the matter of Kidman’s maintenance to the local Board twice, in 1933 and again after Sir Sidney’s death in 1935. He focussed on Yantara, a holding devoted to cattle. Yantara’s manager, Con White, who had longer experience in the west Darling even than Kidman, gave evidence on both occasions, and Sid Reid, a central manager, did so the second time.\textsuperscript{36} Their evidence threw light on Kidman’s management. White said that Kidman did not believe in watering every area and keeping stock on it until the last vestige of feed was eaten, and that he left some watering points out of use in order to rehabilitate the country. Kidman’s policy, said Reid, was that if rainfall was insufficient to fill tanks, the ‘country’ should ‘lie dormant’: in other words, stocking depended on substantial rainfall. However, Reid said, if the Board insisted, he would put them ‘in commission’ again.\textsuperscript{37} Irish assured his Minister that the Kidman interests now had a better appreciation of their responsibilities regarding improvements, improvements, it can be noted, which he was aware would be taken over by suitably small lessees; but he did not tell his Minister how Kidman regarded the ‘country’. This would have flown in the face of the dominant ideology of ‘improvement’ and the government superstructure supporting it.

In early 1935, the bureaucrats and Buttenshaw showed a concern for the natural resource in a secretive way, not bothering parliament about it. On 22 March 1935, the

\textsuperscript{34} \textit{NSWPD}, 17 May 1934, 412.
\textsuperscript{35} Properties for Sale, NSW, 1948-49, New Zealand and Australian Land Company (NZAL), NBAC, 146/1182.
\textsuperscript{36} Back File WLL 497.
\textsuperscript{37} ibid.
Gazette advertising land included the condition that successful applicants ‘shall not overstock’. This was a condition of a lease which, if breached, could attract forfeiture, just like non-payment of rent. It is likely that a stimulus for this was general governmental concern about soil erosion heightened by the ‘dust bowl’ experience in America. An inter-departmental committee to examine soil erosion had been set up in NSW in 1933, and Staff Surveyors Conferences started to reveal concern. At the 1934 Staff Surveyors conference, which some newly appointed Western Division surveyors attended, a paper was given on the subject by a senior Water Conservation and Irrigation Commission (WCIC) official. Surveyor Lipscombe told the conference that the Western Division was currently suffering wind erosion. The WCIC official said that in America, control of grazing was being stressed but in Australia no effort had been made. At the 1936 conference, the Surveyor-General, H.B. Mathews, asked surveyors to consider measures which could be taken to correct overstocking in the semi-arid parts of the State, and what ‘the measure’ of it should be. It was something to be measured. As it was evident that paddocks closed to stock showed growth of scrubs and grasses, Mathews said, could the surveyors please consider how this could be made part of the ‘grazing lands program’. It was a matter ‘extremely difficult to control’, he added, and ‘we shall have to think a lot about it in order to regain our vegetable cover in the west’.

Stimulus may also have come from author-travellers familiar with Australia’s outback, popular writers such as Ion Idriess and Percy Hatfield. They wrote for the Sydney press and for Walkabout, a magazine established in November 1934 by the National Tourism Association. Walkabout’s December issue featured Idriess as a boundary rider on the South Australian-New South Wales Dog Fence, so he would have been known to the Division’s officials. The SMH editorialized in January 1936 that they and other writers had ‘for some time’ been contributing articles about ‘the increasing desert areas in Australia of man’s own making’. It urged the need to ‘educate every outback settler’. The new Commonwealth Council for Scientific and Industrial Research (CSIR) also became involved in 1935, asking its newly recruited staff member, Francis Ratcliffe, to go outback and report on rumours of an encroaching desert. Ratcliffe contacted the Western Lands Commission while planning his investigations but

38 Staff Surveyors Association of New South Wales, Twelfth Annual Conference, March 1934, 44.
39 ibid., 38.
40 Staff Surveyors Association of New South Wales, Fourteenth Annual Conference, April 1936, 71-73.
41 SMH, 30 January 1936, 10.
42 ibid.
focussed on South Australia where he was assisted by its Pastoral Board. His report and subsequent book found no encroaching desert, but instead the ‘local production of desert conditions, chiefly as a result of overstocking, here there and everywhere, in the low-rainfall country’. He spoke with a manager in NSW near the South Australian border, and was told: ‘You lose a piece of country...to one of your small neighbours; but in a year or two you get most of it back again—blown over the fence.’ Ratcliffe was in no doubt that the policy of closer settlement was responsible for the deterioration of great areas, and that the disastrous effect of building up small holdings in stages was more marked in New South Wales than in South Australia.

Though acknowledging the endurance, self reliance and faith of settlers, Ratcliffe’s subsequent book appealed to Australians to eschew closer settlement in the ‘inland’, because it had already been done ‘too well’. His ideal solution was ‘inconstant’ stocking, but the impracticality of this ‘given the way the industry was structured’, made him recommend stock numbers suited to drought years rather than good years. Pondering the controls needed in his report to CSIR, he thought that the simplest control would be to limit the number of breeding ewes on a ‘block’.

His proposal was not taken up, but a member of the NSW Erosion Committee chaired by former Surveyor-General H.B. Mathews, Professor MacDonald Holmes, head of Sydney University’s Department of Geography, went to the Division to investigate. Unlike Ratcliffe, he acknowledged assistant from Commissioner Irish. His report, he advised, should be read ‘in conjunction’ with Ratcliffe’s. Though more equivocal, more opaque, and less clear about his informants than Ratcliffe, and with the broader regional focus of a geographer, he was in agreement that there were problems, including loss of ‘virgin abundance’. He saw a need for, (yet again), new administration suited to the Division’s ‘several’ environments. He was unhappy with the work of surveyors—their lease boundaries being ‘arbitrary’ rather than suited to land, soil and vegetation

44 ibid, 46.
47 Macdonald Holmes, *The Erosion-Pastoral Problem in the Western Division of New South Wales – Australia*, University of Sydney Publications in Geography, Geography Department, University of Sydney, 1938, 4, see ‘Note’.
48 ibid., 46. Holmes saw a need for what he called a ‘national administration’, which appears to have referred not to a federal takeover, but one with the national interest in mind.
characteristics, and he was not very happy with ‘endlessly disputed’ concept of carrying capacity. Degradation around watering points had created an ‘ever widening zone of erosion potentiality’, but the creation of still more watering points to spread pressure around, could, with bad management, simply lead to ‘over-stocking and consequent destruction of all vegetation’. Though ‘everywhere in the west’ overstocking (presumably meaning retention of stock) during drought was said to be the chief cause of plant exhaustion, soil degradation and diminishing monetary returns, he thought reintroduction of stock too soon following drought the most damaging management practice. He detected a ‘groping’ for a philosophy of land, and the need for ‘a mental attitude different from that of the nineteenth century and from that of farmers in the eastern part of the State’, without specifying what this was. Though not mentioning Buttenshaw’s legislation, he believed the policy of giving increased areas to meet decreasing vegetative growth in existing properties would not solve ‘the problem’ of the Division as it may have done some decades ago. On the other hand, he spoke of the ‘new thought’ that allotment of land should recognize not just living standards but the preservation of the natural environment. He ended on an optimistic note: though the population was low, over fifty two thousand souls, with half in mining towns, its people were a special class of men and women who enjoyed the environment and showed signs of permanency and a desire to stay. They could enrich the life of the nation, he thought, and rental income exceeded the Western Lands Commission’s costs.

Holmes put forward options suggested by anonymous informants, of pensioning landholders off or allowing the Division to revert to ‘a great National Park’. With some apparent political naivety, he put forward three administrative options: to leave all administration to ‘large financial institutions’ which could maintain ‘a wise distribution of property managers rather than owners’, hardly politically likely; to leave it to cooperative councils of landowners, hardly likely; or to leave it to a strengthened Commission with greater powers. It is not hard to see which option would seem most feasible.

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49 ibid., 45-46
50 ibid., 12.
51 ibid., 44.
52 ibid., 10, 51.
53 Ibid., 47.
54 ibid., 48, 51
55 ibid., 52.
No plans for the education of outback settlers as urged by the *SMH* emerged. Ideas about ‘judicious stocking’ however had developed since the 1880s, though they remained bound up with adjectives, generalization, and the idea of carrying capacity. The Department of Agriculture’s 1918 *Farmers Handbook*, edited by P.G. Gilder, nearly broke away. Much had been written, it said, about overstocking (the opposite of judicious stocking), but its evil consequences were misunderstood by those who believed it occurred when their stock started to lose condition. Overstocking occurred when stock were kept on an area for too long so that weeds and bare patches developed (stock selecting the native pasture for preference). Timing of their *removal* from the pastures for the future maintenance of the pasture was important. A judicious or ‘optimum’ carrying capacity, was the largest number of stock an area would carry without injury to the pastures and future grasses. Observation of condition of the pastures should be the trigger for removal of stock, but it did not advise how this decision should be made in the short term. This begged the question: if the length of *time* stock were there was important, and that *time* was governed by the state of the pastures, how important was *numbers* of stock. A larger rather than a smaller number of stock would have to be removed sooner. It could suggest no hard and fast rule about the numbers of stock a particular area would carry, something, however, that surveyors who measured land for ‘originals, ‘additional and leases in perpetuity, had been deciding in the Division for many years. It went on to recommend ‘division and resting’ of pastures, small paddocks, each of which should be rested to produce ‘a good stand of grass’, but the generalized adjective intervened:

> Once a good stand of grass is obtained in paddocks of limited area the judicious handling of such paddocks will permit of a maintenance of the pastures for an indefinite period.\(^5^6\)

These perceptions were rather like those evident in the *Review* and supplied by Frederick McMaster of Dalkeith near Cassillis, knighted in 1934. Amongst many other services to the industry, McMaster established a close relationship with the new Council for Scientific and Industrial Research (CSIR) established by the federal government, donated money for its animal health laboratory at Sydney University in 1931, served on its NSW Advisory Council, and promoted science as one of the ‘three indispensable tool’ of the pastoral industry along with capital and labour.\(^5^7\) The *Review* editorialised on the ‘Evils of Overstocking’ in June 1938, and referred readers to McMaster’s article.

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\(^5^6\) *Farmers Handbook*, Third edition, Department of Agriculture, New South Wales, 1918, 709-11.

He wrote that the land manager and his stock, not just lack of rain, worsened the effect of lack of rain over the long term; dry weather withered feed, but it did not pull it out by the roots. This ‘complete destruction’ of pasture was ‘the greatest loss to Australia.’

His definition of ‘safe stocking’ was, again, the number that could be carried ‘without loss or destruction of the natural pastures’ (emphasis in the original). If pasture plants were pulled out by the roots, when rain came, fresh growth had to await seed germination and growth of new plants rather than quick vegetative growth from existing plants, and there was a higher percentage of ‘rubbish’ as opposed to ‘good feed’. To ‘overstock’, he said, was ‘a sordid gamble, financially uncertain, nationally unpatriotic and unspeakable cruel’. He acknowledged the influence of science, quoting the American Frederick Clements who had established what came to be known as ‘successional’ or Clementsian theory, which saw overstocking as resulting in driving dominant grass species out of the landscape so as to force a reversion to a lower level of pasture and encouraged dominance of weeds. Following Clements, his method of grazing was to leave a reserve of pasture in paddocks at all times, called ‘reserve stocking’ or ‘regulated grazing’, but this was at times presented as keeping an ‘area’ as a reserve and at others, as meaning no paddock was eaten down. He also lowered stock numbers below the accepted carrying capacity so as to achieve greater productivity per animal. On his death, the NSW Soil Conservation Commissioner wrote that ‘his decision to move stock was made on the condition of the pasture’ and when seeding of desirable grasses was needed. The Commissioner recommended wider use of the methods, on similar soft country. Despite McMaster’s close relationship with CSIR and its successor, the Commonwealth Scientific and Industrial Research Organisation (CSIRO), their scientists did not write about his grazing methods, apparently seeing this as an industry or a personal matter.

Commissioner Irish seemed unaffected by these discussions though he had been Commissioner when the new overstocking lease condition was placed in new leases. In 1938, ‘one of the worst years in the Division’, with stock dying from starvation and being artificially fed and stock routes closed for lack of feed and water, his Report saw the statistical maintenance of stock numbers as a sign that its carrying capacity was not declining, as was ‘often alleged.’ Though Staff Surveyors’ conferences continued to

58 _Review_, 13 June, 1938, 645-46.
59 ibid.
60 ibid., 16 February 1942, 94-95.
discuss erosion and overstocking, no extension work was planned. At the 1945 Staff Surveyors conference, former Surveyor Sheaffe, now a Chairman of Local Land Boards in the Division, revealed he had been thinking about Surveyor-General Mathew’s request about erosion in the Division. He said it was caused not by overstocking but by continuous stocking, together with rabbits. In other words, it was not a matter of numbers so much as leaving stock on too long, or putting them back too soon. How could lease conditions address this?

Labor leader William McKell’s 1941 election speeches promised that Division land would be made available for ‘qualified’ returned men and ‘competent’ men unable to get land, while others had ‘a superfluity’. The prospect of returned soldiers strengthened the power of closer settlement adherents with the additional force of repaying debts to war heroes. Some queried that returned soldiers should again be rewarded with rural land, but influential reviews of previous soldier settlement recommended only that past mistakes, such as placing inexperienced and unqualified men on land and expecting them to suddenly become business managers, or failing to provide adequate technical guidance and advice, should be corrected. Science and technical education had paid little attention to the management of grazing enterprises in semi-arid native pasture country, focussing instead on animal husbandry and breeding, on cultivated agriculture, on introduced pastures, and on diseases and pests. The renewed emphasis on ‘qualifications’ in the Division after the war merely served to emphasize the old preference for western ‘experience’. This would now be attested to not just by officials and Boards, but by a ‘Qualifications Committee’ set up to vet all aspiring soldier settlers and issue certificates establishing eligibility to apply.

McKell promised to bring forward in time Buttenshaw’s scheduled 1943 and 1948 withdrawals and take them earlier and together. Christopher Cunneen’s view that he ‘opened up more land for settlement’ in the Division is not, strictly speaking, correct, as McKell did not make more land available. He just made the land already made available by Buttenshaw, available earlier. Nor is he correct in saying that McKell reduced the debt burden by ‘conversion to leases in perpetuity’ as Buttenshaw had

63 Staff Surveyors Association of New South Wales, Twenty First Annual Conference, January 1945, 16.
64 Rural Reconstruction Commission, Settlement and Employment of Returned Men On The Land, Second Report to the Honourable J. B. Chifley, M.P., Minister for Post-war Reconstruction, 18 January 1944, 12-16.
65 Christopher Cunneen, William John McKell: Boilermaker, Premier, Governor-General, UNSW Press, Sydney, 2000, 139.
already done it. McKell’s promise to *resume* land from large holdings was not implemented, perhaps because it became clear that the terminating leases of Kidman and others after 1945 made the need less pressing. Bourke’s *Western Herald*, assiduously supplied at this time with unattributed material, told its readers in June 1943 that over 15 million acres would soon be available and that no former government had envisaged ‘so vast an area of Crown land for the promotion of settlement.’ Of that area, none had in fact been made available by a Labor government which inherited an easy ride.

Though McKell had worked to depose Lang, he retained some of his ministers including Tully, who again became Minister for Lands in 1941. Given this chance to make a firmer imprint, when he introduced his Bill in August 1941 Tully regrettfully admitted that the ‘comprehensive plan’ he had had in mind was stymied by the pattern Buttenshaw had put in place and must remain a ‘dream’. The *Review* rightly remarked that unless there was adequate compensation offered for any additional loss of land, its passage depended on the ability of the Government to command a majority in the Legislative Council. His Bill authorized Buttenshaw’s second and third withdrawals to be taken ‘at once’. Controversially, it offered no compensation for this earlier loss of land in the form of additional extensions of term leases, though during debate Tully introduced a clause authorizing the Minister to permit compensation of up to three years extension of term for the remaining land. It also extended the ban on subletting and agisting without Ministerial approval which existed in old small leases, to all perpetual leases, which much of the land soon to be withdrawn would become. During the Bill’s passage in the Assembly, M.A. Davidson successfully moved to have a clause inserted to reduce the home maintenance area formula to 3,000 sheep areas in Walgett North, 3,500 in the Brewarrina district, and 6,000 elsewhere, prompting the Country Party’s S.D. Dickson to point out that Davidson’s expressed concern about soil erosion was a strong argument against this amendment.

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66 ibid.
68 *Western Herald*, 11 June 1943.
69 *NSWPD*, 14 August 1941, 379. Tully did not elaborate on his ‘dream’ but it no doubt depended on all the leases expiring in 1943-49.
70 *Review*, 16 August 1941, 594.
71 *NSWPD*, 27 August 1941, 666, 678; see also *Review*, 16 September 1941, 691.
It was now the opposition’s turn to exercise rhetoric, rivaling even Lang’s. The United Australia Party’s leader, Alexander Mair led with the claim that this was dishonourable repudiation of contracts made with the previous government.\textsuperscript{72} Lessees meetings in Sydney protested the ‘arbitrary confiscation’ of one quarter of their land, and the \textit{SMH} held that the ‘very foundation of national stability and sanctity of contract’ was threatened.\textsuperscript{73} The clauses were rejected by the Legislative Council, and Tully withdrew the Bill, submitting another nearly a year later in October 1942. The Legislative Council’s demands were accommodated by a time scale for the withdrawals (to commence after 23 August 1943), by providing for compensation for the earlier loss of the previously scheduled 1948 withdrawal to be computed by actuarial calculation instead for three or four years, and providing for any charge of overstocking on withdrawn areas to be referred to the Local Land Board. During the 1941 debate, though Tully had promised that land would be set apart especially for returned men, there were still ‘necessitous small settlers’ needing additional areas. He was only ‘hopeful’ there would be land for new settlers (including returned men).\textsuperscript{74} Mair claimed he was using returned men as an emotional smoke screen for repudiation.

Tully’s Bills showed concern about overstocking, but it was a limited concern on behalf of an incoming lessee and it threatened large holders only, like Buttenshaw’s legislation had done. Buttenshaw’s Act had said that if, in the view of the Board, land being withdrawn was overstocked by the outgoing lessee, the lease could be forfeited, with appeal to the LVC. Tully’s Bill said that if, in the opinion of the Minister, outgoing lessees overstocked the withdrawn area above its ‘fair carrying capacity’ during the time they held it under occupation licence, the Minister could cancel the licence and impose a fine of £200.\textsuperscript{75} For Sir Henry Manning, a judicial member of the Western Circuit, the prospect of the \textit{Minister} deciding what was overstocking, perhaps fining, or possibly sending a lessee to goal for non-payment of the fine, was totally objectionable, a fundamental attack on individual rights which only a Court could protect.\textsuperscript{76} The Council reinstated the Board as the initial decision maker, which meant appeal to the Court. The

\textsuperscript{72} ibid., 14 August 1941, 389-93. Mair led
\textsuperscript{73} \textit{SMH}, 20 August 1941, 6.
\textsuperscript{74} \textit{NSWPD}, 14 August 1941, 384.
\textsuperscript{75} Section 2(11) of the Bill introduced on 12 August, 1941.
\textsuperscript{76} \textit{NSWPD}, 15 December 1942, 1270-71. Ten years later, Manning recalled this ‘reprehensible’ bill in a pamphlet written to show how the Legislative Council’s work in protecting the rights of individuals in a civilized society was essential and therefore that the Council must be retained and protected from Labor’s threats to its existence. See The Honourable Sir Henry Manning, \textit{Upper House, the People’s Safeguard, 1850-1953}, New South Wales Constitutional League, 1952, 70-72.
fate of the clause showed it was not its *objective* that was important, but *who* would make the decision. Obviously Manning preferred the Court.

Given this limited concern *in legislation* regarding overstocking, the degree to which it aroused debate in 1941 and 1942 was notable, though the existence of the overstocking clause in leases issued since 1935, the tool offered by the bureaucrats, was never mentioned. Debate about overstocking was confused and ideologically driven, particularly by Labor men. J.A. Lawson (Murray), and Bruxner, both Country Party men, said that to prevent overstocking it was necessary to provide enough land to carry sufficient stock to provide a living without the lessee having to resort to overstocking. As Bruxner put it, a man needed something (land) up his sleeve to tide him over dry times or ‘extra commitments’.\(^{77}\) Lawson doubted that more land would prevent overstocking, and wanted an additional safeguard, without saying what.\(^{78}\) Bruxner claimed that if all landholders in the Division were to have home maintenance areas there were already too many landholders there already.\(^{79}\) He had recently flown over the Division and found that a quarter of it was ‘windswept and down-trodden’ and its carrying capacity had deteriorated as compared with the previous century when it carried ‘16 million’ sheep.\(^{80}\) The implication was that closer settlement since then had been responsible for the deterioration. Horsington responded that the Division was covered in feed from one end to the other. How, he asked, could anyone claim that carrying capacity had decreased when the Annual Report of the Western Lands Commission for 1940 showed that the average number of sheep in the Division over thirty seven years 1903 to 1939, was over six million, and at December 1939 it was over seven million. This, he claimed, showed that the carrying capacity had increased by over one million sheep in one year. The statistics he referred to (Schedule 3, ‘Stock Returned, 31st December in each year’, in the Annual Reports), shows that such fluctuations had been quite common since 1903, and that numbers exceeding seven million were common early in the century, occasionally exceeding seven and a half million.\(^{81}\) The evidence hardly pointed to his conclusion, and he confused the long term concept of carrying capacity with short term numbers of stock.

\(^{77}\) *NSWPD*, 14 August 1941, 403.

\(^{78}\) ibid., 19 August 1941, 474-75.

\(^{79}\) ibid., 14 August 1941, 402.

\(^{80}\) ibid.

\(^{81}\) ‘Report’ for 1940, Schedule 3, in *NSWPP*, Vol. 1, 1940-41, 69. Use of the term ‘sheep’ is not strictly accurate. Horsington used the figures given for combined horses, cattle and sheep, the large stock being regarded as six sheep. I used the same total stock figures.
Labor's E.P. Dring (Ashburnam), once resident in the Division and with a 'small interest' in a property in its south west, claimed to understand 'the psychology' of the western men. It can therefore be supposed his contribution reflected this. It also reflected the Labor tendency, noted by Geoffrey Robinson, to deny limits on land productivity and to assert that labour was more important than capital. 82 Dring criticised large holders for not making sufficient watering points to enable stock to be kept on the country 'year in and year out', and for removing stock in dry times because they had land elsewhere. This was not as worthy or productive as keeping stock on land 'year in and year out'. 83 Small settlers could make holdings so safe, that they could even carry some stock through droughts. 84 They also brought back areas to their 'previous carrying capacity' through hard labour, rabbit proof fences, and rehabilitation of scrub growth, whereas large holders 'allowed the scrub growth to be removed without making provision for increasing the value of the land from a sheep-raising point of view'. 85 Just what small holders did to rehabilitate scrub growth, was not explained.

Lawson quoted from articles in the Agricultural Gazette in early 1937, based on a report of E.S. Clayton, Director of the newly formed Soil Conservation Service, which concluded that the NSW 'back' country would gradually be turned into a 'desert' unless stocking was brought into 'equilibrium' with the vegetation. His party colleague, R.S. Vincent, formerly Minister for Mines and Forests, spoke passionately of being disturbed in the late 1930s by the disappearance of Mitchell grass, saltbush and bluebush, particularly in what he called the 'dead heart' between Wanaaring and White Cliffs: the vegetation had no time to grow before being nipped off by sheep and in some cases rabbits. He had visited a settler who grazed 41,000 acres, a small holding there, who did not know where his sheep were, and was too afraid to look, so he asked:

"What hope is there for you..." and he replied, "I shall be all right in the next five or six years because...land owned by the Kidman interests will fall in, and I shall receive another 21,000 acres." 86

Vincent told parliament that large areas should be fenced off and spelled from both rabbits and stock for some ten years.

83 NSWPD, 20 August 1941, 529-30.
84 Ibid.
85 Ibid.
86 Ibid., 20 August 1941, 545.
For Vincent’s small man, and most politicians, the solution to starving sheep was more land, not removing them. Though Dring argued that the advent of the motor truck enabled quick removal of stock as drought approached, the truck was obviously not always used.

Horsington read from a letter from A.W. Kershaw, near Milparinka for fifty years and now holding sixty thousand acres. He had a lot of sheep on his little place and could hold on for another four months without rain, but it was hard to see good land all around going to waste for want of improvement. The sheep market was very dull so:

…if we cannot get rain or more land, it looks like letting them die on the place, as we have been forced to do before, just for the want of another 40,000 acres…  

Other letters to the commissioners begging for more land sometimes referred to the sheep as having to run their legs off looking for feed. These situations looked very much like that which had concerned Ratcliffe: ‘the building up of small settlers in stages’ creating ‘a constant pressure of overstocking only temporarily relieved by the periodic transference of country from large to small’.  

Davidson made an unusual contribution to the discussion, disappointingly vague in the light of later thinking about grazing management. He knew one of the most successful settlers took up a leases about twenty years ago, and ‘worked it scientifically’, always with some paddocks in reserve while he kept his sheep in another paddock. What was ‘scientific’ about it? The man was moving sheep around and resting vegetation even though he was not ‘large’. No politician sought clarification, and impatient with all this talk, Tully announced that small settlers at Walgett had recently told him that large holders were to blame for the country being overstocked and he preferred to accept their views rather than those of the Opposition. When discussion of the natural resource was so politicized, viewed through an anthropocentric prism of battle between ‘large’ and ‘small’, it was clear that an acknowledged problem (‘we all admit that’ said Davidson in a cooler moment), would not be addressed using scientific, botanical or biological knowledge, and that the closer settlement tools already at hand, more land, or the as yet untested tool of forfeiture for ‘overstocking’, would have to suffice.

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87 ibid., 19 August 1941, 469.
88 F.N. Ratcliffe, ‘Soil Drift’, 47.
89 NSWPD, 14 August, 1941, 398.
90 ibid., 21 August 1941, 573.
91 ibid., 17 November 1942, 978.
Another amendment made by Tully in 1945 showed that he shared the concerns bureaucrats were feeling about the effect of inheritance on demand for scarce land. He cited a case, obviously put to him by officials. In 1910, he said, a settler had been allotted a lease of 9,600 acres, and in 1938, was granted another lease of 4,800 acres to bring his holding up to home maintenance standard. The settler willed the original lease in trust for his widow, the second to his son. In the present state of the law, Tully said, a devisee had either to obtain the Minister's certificate that he was entitled to hold the lease or else transfer it within three years or such further time as the Minister might permit. As the son did not hold any other land, the Minister was bound to issue a certificate, but the devisee 'had the effect of breaking up a home maintenance area, and creating two holdings, each substantially below that standard', aggravating the very position that the granting of the additional lease was designed to cure.\(^2\)

The Commissioner's Report explained that the amendment's purpose was to regulate devolutions to landless men who would acquire inadequate holdings and 'ultimately embarrass the Crown with claims for additional land'.\(^3\) A Buttenshaw amendment had given the Minister power to decline to approve a transfer of land in a will to beneficiaries, so the control, was not novel, but Tully's amendment gave the Minister 'discretion' to refuse.\(^4\) Sons born and bred in the Division and wanting to stay there, long upheld as the most deserving type of settlers, now seemed problematic. Given the bureaucrats' worry about this, it can be asked why they did not seek to amend the legislation so that additional land allotted was added to the land of the original lease, just making one larger lease. The answer may have lain in the different conditions attached to a 1938 lease as compared to a 1910 lease, the overstocking condition for instance: 'legal problems'. Of course the creation of additional demand by the father's inheritance decisions was not inevitable, as the son and mother might continue to work the property just as the father had done.

Tully increased Land Board membership from two to three, with the Commissioner and an Assistant Commissioner taking two of the three positions, displaying a desire for stronger central control of Land Boards.\(^5\) He gave some figures about 'settlement'. Since 1942, nearly six million acres of land had become available for disposal, both

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\(^2\) ibid., 14 March 1945, 2641.


\(^4\) The amendment appears at Section 18H (2) of the principal Act.

\(^5\) *Western Lands (Amendment) Act*, No. 23, 1945, Section 3 (g) (i).
from expiring leases and withdrawals, and 3.4 million acres was still on hand. Of the 2.6 million acres which had been allotted, practically all was for ‘additionals’. Only sixteen blocks covering 429,011 acres had been advertised and granted as blocks for ‘original holdings’ and all had been granted to returned servicemen. Irish’s expectation in 1937 that the next withdrawal would produce new settlers was not being realized. At the 1945 Staff Surveyors Conference, Tully gave some startling information. The Classification Committee which issued ‘Qualification Certificates’ to returned men, had issued 2,000 certificates for men in the Western Division, as compared to 1,000 in the Central Division, a rare example of Western Division statistics showing a numerical predominance in statistics relating to the State. Of Tully’s 2,000 returned men with certificates, many would be disappointed, and those who applied would go through an intricate process. After an initial cull by the Land Board, the ‘ballot’ applied and involved marbles being placed in a box especially designed for the purpose and rotated, the marbles emerging first designating the lucky successful applicant. All was conducted with due solemnity under the watchful eyes of officials and applicants, and the RSL was invited to observe. The photos at Figure 22, though not taken in the Division, suggest the nature of the procedure.

Introducing Labor’s next amending Bill in September 1949, Minister for Lands, W.F (Billy) Sheahan, provided some statistics. There were now 1,760 grazing properties in the Division, excluding small blocks for mixed farming or irrigated agriculture near the rivers. Since 1942, 158 blocks covering 5.3 million acres had gone to new holders, of whom 110 were ex-servicemen, and 440 blocks had been allotted as additionals to those already there. The annual reports for those years showed that some 6.5 million acres had been devoted to ‘additionals’, 5.2 million to ‘originals’. Given that the allotments of the 1930s were almost totally devoted to additionals for those there or nearby in the

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96 Staff Surveyors Association of New South Wales, Twenty First Annual Conference, January, 1945, 7.
97 This initial cull was due to be abolished by regulations in 1957. See Country Life Stock and Station Journal, 13 September 1957, 1.
98 NSWPD, 19 October 1949, 4272. An additional 22 ex-servicemen had been placed on irrigation blocks on the Murray.
99 A calculation made from the Reports’ Schedule 2, (the portion showing new leases granted as additionals or originals) gives 6,571,314 acres for additionals and 5,158,566 acres for originals. The area for additionals includes land ‘added’ to leases without advertisement as permitted by Section 35C.
Figure 22. A Ballot *

Photo 1: The Board with the Mayor and members of the RSL Sub-branch at Coonamble in the Central Division.

Photo 2: The Deposition Clerk checks names and numbers of applicants while the Sub-branch President and Mayor checks marbles placed in the ballot box.

Photo 3: The marbles are drawn from the back of the box.

Photo 4: The President of the Sub-branch announces the result. Unfortunately the public gallery is not shown.

* Adapted from: Reveille, 1 August 1949, 11
Central Division, and that the two decades of allotment to 1950 had also been largely devoted to additionals, it was not surprising perhaps that in 1949, Sheahan wanted more land for ex-servicemen, though he also still wanted it for ‘sons of settlers’ who had lived there all their lives (the two categories were not mutually exclusive), and also for additionals for some still needy existing landholders.\(^{100}\) Whether the Division’s land area could accommodate all this generosity was doubtful.

Many things came together in 1949 to make the Western Division attractive for Sheahan. Good seasons continued after the drought conditions of the war years and wool prices were high—the Korean War would soon make them even higher. The chances of success in the short term were good. The Commonwealth and the states had thrashed out a financial sharing arrangement regarding soldier settlement and land resumption, and the Commonwealth had undertaken to share losses and administration costs. There were now much more handsome benefits for returned soldiers as compared to the previous post-war benefits—substantially bigger government loans, a living allowance for the first year, and in the Division, postponement of the first years rent. After winning Yass in 1941, Sheahan, a barrister and former clerk in the Crown Law Department, referred jokingly to his success as being partly due to his thousands of relatives in the electorate. A World War I returned man himself, he was well known for his public call in 1947 for an ex-serviceman to be made Governor-General instead of McKell, and he was, naturally, highly regarded by the RSL and ex-servicemen who saw his Ministerial appointment in May 1947 as likely to bring greater benefits to returned men.\(^{101}\) The League reported that he had streamlined his department to ensure ex-servicemen got priority, that he would cut through red tape, that he had opened departmental files to it, and that he had no qualms about using his legal skills to argue on behalf of returned men (in one instance before the LVC).\(^{102}\) He was unhappy with the dual Commonwealth-State financial arrangements, and the prospect of using land in the Division at no cost to his own government must have been enticing. Labor at last had a majority in the upper house, and the opportunity to carry out what he saw as the unfinished business of past Labor governments was too good to miss. When these factors are added to the Labor ideologies shared by Sheahan, commitment to equity, the belief that the Division was ‘prolific’ (which he asserted when he introduced his Bill), and the belief that small settlers would work the land harder and were more productive

\(^{100}\) *NSWPD*, 19 October 1949, 4277.


\(^{102}\) ibid., 1 October 1947, 24-5; 1 July 1948, 17; 1 August 1948, 22.
than large landholders, his action was almost inevitable. With his maternal cousin Reg Downing in the Council as Leader, there would be none of the willingness to accept compromise that McKell had shown. 103

His second reading speech claimed glowing success for recently returned soldiers placed in the Division, an account reproduced by Reveille. 104 It was a premature judgment given that they had occupied the land for at most, five years, the first having done so in 1944. Five years operation under very favourable seasonal and wool price conditions was hardly a test of success in the Division. His account was seen by Opposition members as an emotional ploy to make his Bill, which would take even more land from large holders, more palatable. The list of successful (unnamed) soldier settlers he produced was the result of the work of the new Commissioner since 1946, M.J. Cronin, whom we have met as the efficient provider of evidence about the market value before the 1931 Royal Commission. It compared the ‘financial position’ of the men at the time of application, with their financial position in 1948. The latter calculation included the estimated market value of the land and improvements, of plant, stock, and wool on hand, less bank overdraft, and in addition, the degree of repayment of government loans which was stressed repeatedly by Cronin in his annual reports. All this was hardly a measure of long term success, and ignored debts to finance companies, which some soldier settlers had acquired in order to pay out the government loan which brought with it a high degree of official supervision.

The Bill enabled the Minister to withdraw, at any time, remaining land held by large lessees which exceeded two home maintenance areas. Unlike Buttenshaw’s legislation, no option was given to the large holder to keep all the land and lose the lot on the expiry of the leases that Buttenshaw and McKell had extended as compensation to 1968-73. Sheahan recalled Buttenshaw’s willingness to bargain with disgust, and was determined, he said, to restore the balance in favour of those whom Labor represented and of parliament over ‘outside’ interests. The two home maintenance areas left to them would each be granted a lease in perpetuity, this being presented as compensation. 105 Lessees could appeal regarding the area and its carrying capacity to a tribunal composed of the Commissioner, a person experienced in Western Division grazing nominated by the

104 Reveille, 1 February 1949, 18, 23.
105 Clause 2 of the Bill, which became Section 17CCC of the Act.
RSL, and a person nominated by the Graziers’ Association of NSW. The apparent generosity of two home maintenance areas was modified by the fact that the word ‘substantial’ was dropped from the definition of a home maintenance area, and Buttenshaw’s allegedly over generous formula was deleted and replaced by ‘an area which would, when reasonably improved and in average seasons and conditions, carry 3,000 to 5,000 sheep’. This shrank the previous formula, particularly at the upper end, reflecting perhaps the philosophy inserted in the Labor Party’s platform in 1945-46, which urged reduction in the size of the home maintenance area in the Division to permit redistribution of lands and ‘provide a minimum living standard for all graziers’. Sheahan stressed, however, that stud properties were permitted to retain three or four areas, and that of the nineteen registered studs in the Division, only four would be affected. He thought that the total withdrawals would yield some seven million acres, affecting about forty four large holdings. Following pressure and press comment, he added a paragraph which provided that where more than one holding was held by a lessee and worked separately, and valuable improvements such as homesteads existed on them, one additional home maintenance area per holding could also be retained, but only as a term lease. This was the limit of Labor’s willingness to respond to loud complaints of injustice. The beneficiaries would include not only returned soldiers with local experience, but former employees of the companies, who, T.P. Gleeson, recently appointed to the Council, could now face the dust and isolation as owners, not as ‘hirelings of the great squatter companies’.

Petitions and deputations soon arrived, and at the beginning of the Council debate, Garfield Barwick, Kings Counsellor and Barrister-at-Law was granted permission to speak in support of twenty-six petitioners. They included eighteen ‘incorporated bodies’, three individuals, two partnerships, and three deceased estates, mostly in the east of the Division. As before, the main argument was that compulsory acquisition of land was being made without just compensation. Some wanted cash compensation

106 Section 17CCC (13) of the Incorporated Western Lands Act of 1901, certified 14 September 1950.
108 Baimkine, Dungalear, Murrawombie and Willandra. NSWPD, 19 October 1949, 4327.
109 NSWPD, 1 November 1949, 4729; Western Lands (Amendment) Act, No 45, 1949,17CCC (6) (b).
110 NSWPD, 8 November 1949, 4786; 19 October 1949, 4279-80. The companies were AML&F: Charlton, Milroy, Cowga, Angledool, Llanillo, Coocoran; New Zealand and Australian Land Co.: Weilmoringle, Goondooibui, Bangheet, Maranda-Brindabell (sic),Til Til; Goldsborough Mort: Dumble, Manfred-Kilfera, Eremoran, Mullingawarrina.
111 Amongst them were the AML&F, the New Zealand and Australian Land Company, Goldsborough Mort and Company Limited, the Squatting Investment Company Limited, Sinclair Brothers, and Frederick Charles Pye, a descendant of a pastoral lease holding family. NSWPD, 2 November 1949, 4762-66.
under Section 44 of the Act, the section envisaged by the former commissioners as resumption of land for ‘higher’ purposes including cultivation. Sheahan rejected this out of hand, recalling the Canally case with distaste.\textsuperscript{112} The complainants stressed they were not against soldier settlement but it did not justify ignoring principles of British justice, fair play, the principle incorporated in the Australian Constitution and the acquisition of property on just terms.\textsuperscript{113} Surely, they said, the RSL and returned men would not want land to be taken so unfairly. The Graziers’ Association claimed that expropriation of larger holders would lead to the expropriation of small holders as well, ending up with government taking the land unto itself: ‘State management’ of both large and small holdings, socialism.\textsuperscript{114} Barwick was not so fanciful, merely pointing out that the small area remaining to large lessees would be uneconomic to work using managers or employees and would be suitable to be worked only by a resident settler.\textsuperscript{115} Sheahan would have happily agreed. The \textit{Review} had earlier argued that closer settlement producing too many wool types, and it now stressed the far-reaching effects that cutting up large properties would have on ‘Australia’s most important dollar-earning industry’, with the quality of wool deteriorating through the creation of ‘small lots’ rather than the ‘big lines’ of wethers that the Division supplied to the fine wool growers of the Northern Tablelands and elsewhere.\textsuperscript{116} It also anticipated the end of the ‘effective spelling and conservative stocking’ essential to the preservation of the country, the national asset, and even expected that a strong section of the Government’s own supporters, the Australian Workers Union members, might be the losers from the wholesale cutting up of existing leases. They would find their work prospects diminished.\textsuperscript{117}

Clauses which extended the controls in many leases issued since 1910 to practically all landholders were also objected to. This broader control was achieved simply by placing in legislation the controls that previously only small lessees had found in the \textit{Gazette} and their lease documents. Clause 4, which became Section 18G of the Act, required all holders of perpetual leases, holders of all leases issued for the newly reduced home

\textsuperscript{112} Not all the arguments are recounted here. There was additional argument about unfairness as between larger and smaller ‘large lessees’ and injustice caused by some landholders giving up land in the Central Division for soldiers under a pegged market value, then moving to the Western Division and paying market value in the Western Division and now losing some of that land.

\textsuperscript{113} \textit{NSWPD}, 9 November 1949, 4850. See also the eloquent arguments advanced in the \textit{Review}, 15 October 1949, 946-47.

\textsuperscript{114} ibid., 947.

\textsuperscript{115} \textit{NSWPD}, 2 November, 1949, 4764.

\textsuperscript{116} \textit{Review}, 16 June 1943, 466; 16 September 1943, 625; 16 September 1949, 838.

\textsuperscript{117} ibid., 16 September 1949, 838, 839.
maintenance areas, and holders of the term leases for the residual areas, to obtain
Ministerial approval of transfer whether by sale or mortgage, and now all leases would
become liable to forfeiture if the holder sublet, granted a grazing right over, agisted
stock on, or grazed stock under a stock partnership, without first having gained the
Minister’s approval.118 ‘Uniformity’ was the keynote of Labor’s reforms, Sheahan said,
and he meant uniformity in terms of the area and in the controls the Minister could exert
regardless of lease documents.119

Sheahan gave examples of ‘weaknesses’ and ‘loopholes’ in previous law, but these did
not involve large companies. New home grown enemies of uniformity were
appearing.120 Two illustrated the loophole of sub-leasing. The first was well known
amongst officials, he said, similar to leading cases in the law courts. Mr and Mrs
Penzer had land in excess of a home maintenance area which they sold to C.J. Clancy so
that their remaining land could be converted to a lease in perpetuity. Having achieved
this, they sub-leased Clancy’s land. Second, Glanville and Murray had sub-leased
97,000 acres, but, having also purchased two leases and wishing to convert them to
perpetuity, they cancelled the sub-lease so that they would be eligible. Having achieved
this, they then took a fresh sub-lease over the 97,000 acres.121

Another example illustrated the loophole of lack of control over transfer and agistment.
Miss Naughton, aged eighteen, had purchased land near Ivanhoe with money provided
by her father, who ‘had interests’ in several properties and a family company. Because
she held no land, the purchase had to be approved under Buttenshaw’s legislation. It
was found, however, that the father planned to agist stock on the property. On the face
of it, this was a ‘flagrant example of dummying’, Sheahan said.122 The Minister (and his
officials) would now be able to control this. Another example illustrated weakness in
dealing with companies and shareholders. Buttenshaw’s Act of 1934 had stated that the
word ‘holder’ included a company, and that shareholder information would be used to

118 Section 18G (1) said: ‘...no, conveyance, assignment or mortgage of, or other such dealing with a lease
applied for after the commencement of the ...Act of 1934, ...or a lease extended to a lease in perpetuity,
or a leases issued under the provisions of Section CCC of this Act, or any portion thereof, shall be effected
unless the consent thereto of the Minister has been first obtained.’
119 NSWPD, 19 October 1949, 4279.
120 The examples are given in NSWPD, 20 October 1949, 4429-4432.
121 It is possible that the leases resulting from subdivisions did not have such controls. Though the 1918
legislation stipulated that no new conditions be placed into them, and this remained in the legislation until
1942, (Section 41), thereafter, it was possible that new ones could be placed in them ‘as may be agreed
upon between the Minister and the lessee’. It is not possible to say what happened if the lessee did not
agree.
122 NSWPD, 20 October 1949, 4331.
check landholdings of shareholders for the purposes of allotment of additionals and applications for perpetuity. Sheahan cited the case of Moolbong Pty Ltd which had held no land until it purchased the holding known as Moolbong. The company then wanted to sell Moolbong to the Walkers, but the Walkers already held a home maintenance area, so knowing this would not be approved, all the shares in Moolbong Pty Ltd were simply sold to the Walkers. On the title cards held by the Commission, the registered holder would still simply be ‘Moolbong Pty. Ltd.’, but the Walkers in fact held the Moolbong land as well as that held by them as the Walkers. Sheahan said this would not have arisen but for the ‘weakness’ of the law. His concern, however, did not translate into changed law, as no amendment was proposed, but it is likely that the policy regarding family companies, which developed after this time, was designed to meet such cases. It disallowed transfers to public companies but permitted them to family companies. The shareholders needed to be acceptable to the Minister, the Articles of Association had to state that the company would not be converted into a public company, and any issue, transfer or transmission of shares required Ministerial approval. It was also expected that a member of the company would reside on and work the land. As the next chapter shows, it is likely that it was developed after the time of Sheahan and Commissioner Cronin, as it did not discriminate against women.

Sheahan also introduced the injunction against overstocking into legislation. Henceforth it would apply to all leases, not just those issued after 1935, and the wording was elaborated (see next chapter). He also extended the 1945 price control provisions placed by Tully in the Act in 1945 to cover most leases. Tully had presented price control as an extension of National Security Regulations designed to curb speculation, stabilize prices and discourage uneconomic land use, but particularly to stop people ‘unloading and making a profit on what the Crown has done for them’. Sheahan now applied this to all leases. If the Minister believed the sale price of a holding exceeded the ‘fair market value’ by more than 10 per cent, he was required to decline the transfer. There was now, in effect, a controlled market for most leases, instead of as previously, a free market in old leases and a controlled market in new ones. The

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123 The clause said that when it became necessary to find out whether a company held land in excess of a home maintenance area, if two companies had substantially the same shareholders, they would be regarded as one. Section 18E (13) (a)-(c) in Western Lands Act of 1934, and Western Lands Act of 1949.
125 NEP, 14 March 1945, 2640.
126 Section 18G (1A) of the 1945 and 1949 Acts.
Country Party’s S.D. Dickson accused Sheahan, ‘or the Western Lands Commissioner’, of being ‘power-drunk’.  

How some of these controls were exercised in relation to home grown ‘capitalists’ will be illustrated in the next chapter. The old enemies, however, the ‘overseas’ capitalists, went quietly, at least as shown in the AML&F’s case. By the early 1950s, it had lost to closer settlers, or sold, or subdivided and sold, seventeen of the twenty four properties it had held in the Division in 1904. It now held seven (six if Pan Ban and Arumpo is regarded as one). The Australian General Manager told London that this ‘arbitrary action’ of the NSW government would mean writing off £51,457 and reducing their leases’ carrying capacity in the Division from 92,500 to 28,000 sheep. Their 379,044 acres would be reduced to 23,620 acres of lease in perpetuity and 49,480 acres of leases expiring in 1973. Legal advice was not encouraging, and the Review of 16 August 1950 seemed to settle the matter when it reported Chief Justice Street’s reserved judgment that ‘the State has plenary powers in respect of all land within its borders and there is no constitutional prohibition against the resumption or acquisition…of any land belonging to a private owner…[the State] could, if it thought fit…resume such land without payment of any compensation’. ‘Just terms’, it seemed, applied only to the Commonwealth Government.

The AML&F’s adaptive response was to secure the wool and stock commission business of new settlers, some of whom were amongst its 143 station employees and some were the children of older clients. Staff were appointed to new offices at Brewarrina and Bourke, and were directed to attend ballots to ‘help and advise’ successful applicants, help them obtain finance, and advise them to buy and sell stock through the Company. Strategies to co-opt new settlers as clients included ‘endorsing’ their applications for land and providing a reference. Head office in Sydney kept in contact with the Western Lands Commission regarding ‘policy’ and found other opportunities. The Sydney manager wrote to the Walgett manager about this. Leases held by returned men Boggs and Murray had been forfeited, he wrote, but the

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127 NSWPD, 1 November 1949, 4742.
128 Angledool, Llanillo, Arumpo, Pan Ban. Charlton. Milroy and Mossgiel. For the 1904 listing, see Bailey, A Hundred Years, Map 4, Folder.
Commission was tolerant of their breach of conditions, and they would be encouraged to sell and the forfeiture would be reversed. A new purchaser had to be found within three months and had to be an ex-serviceman with the requisite certificate. Staff should locate suitable buyers acceptable as Crown tenants who could also be a ‘client of the company’. The Sydney manager stressed that the Commission had told him that each case was different: for instance, a settler near Cobar who had sold stock under mortgage to the Crown without prior consent would be shown no such tolerance. Such cases were of less interest to the AML&F, as the forfeited lease would be advertised and become subject to the marble or allotment by government.

The AML&F’s Report for 1968 said discussions were proceeding regarding the sale of Angledool in four blocks to neighbouring landholders whose areas were ‘uneconomically small’. The CSIRO’s finding ten years later, that between 1970 and 1975, 44 per cent of paid employees in the Division lost their jobs due to the ‘rising prices and poor returns’, ignored the shedding of employees by pastoral companies which had commenced in response to the 1949 legislation.

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132 Local AML&F staff interested in applying for land were discouraged from competing against sons of the Company’s clients.
133 Report of the General Manager for the year to 30 June 1968, NBAC, AMLF, 162/101, 8.
CHAPTER EIGHT

Controlling for Uniformity and the Natural Resource

The 1950s revealed that the threats to Sheahan’s desired uniformity derived as much from home grown lessees perceived to be too large or desirous of becoming so as from the old alien enemies. Some creative policy development, targeting women, seen as a source of policy subversion, occurred. The implementation of this policy could have provided another chapter in Ann Curthoys’ and John Merritt’s collection of studies of post-war ‘conservatism’. These studies outlined the forces at work: promotion of the ideology of home and family, the cultural division between men and women’s activities, the approval of the male as sole breadwinner with the wife economically dependent, the emphasis on threats to Australia’s security from the north, and the emphasis on male mateship.¹ When these combined with the goal of uniformity in landholding and a particular zealouslyness in combating threats to policy, the actions of officials in relation to some lessees in the 1950s and later becomes more comprehensible, though not always more rational. Not only should the Division be occupied in home maintenance areas, each with a discrete family (or potential family) with a male head, (with his flock of breeding sheep), the title cards in the Commission’s office should also reflect this.

This chapter shows how a zealous application of the policy to control the private sector dealings in land, including inheritance and sale, worked itself out for some landholders, and it shows that the removal of married women from the workforce after the war and the discouragement of women possessing independent capital, usually addressed as an urban phenomenon, had its rural pastoral equivalent. It also addresses the natural resource concerns of Labor ministers and administrators after 1949, their introduction of legislative clauses purporting to control ‘overstocking’, and suggests that the tools they used, designed for closer settlement, were ineffective for the purpose of conserving the natural resource.

Soon after Sheahan became Minister in May 1947, a solicitor acquaintance wrote to him sympathising with his reputed unhappiness with the lethargic Department of Lands and bureaucratic obstacles to soldier and other settlement. He advised, though, that there

was at least one ‘human dynamo’ in it: ‘Joseph Cronin Esquire’. Cronin had already
been appointed Western Lands Commissioner in April 1946 before Tully left the
portfolio. His time as Commissioner spanned five Ministers for Lands: Tully, Sheahan,
Renshaw, Hawkins, and Nott, all, like him, Catholics except Nott. When he retired in
1957, his colleagues paid respectful tributes to his outstanding administrative ability and
efforts on behalf of soldier settlers. Cronin also applied his dynamism to his faith: staff
knew him to attend mass daily when in Sydney, and he was an active member of the
Knights of the Southern Cross, the secretive organization of upwardly aspiring Catholic
public servants and business and professional men formed to support co-religionists’
career opportunities and defend them from Protestant and Masonic discrimination. Five years after the Knights formed in 1919, the New South Wales Protestant
Federation’s election cartoon depicted the Department of Lands as one of the prominent
institutions falling prey to the octopus of Catholicism. Strong in the police force (Cronin’s father was a policeman) and the public service, the Knights were not
composed of ‘society’ Catholics. Cronin was one who, even before the 1950s, the time
when Catholics have been seen as attaining new social mobility, had broken out of
earlier ‘inner suburban Irish working-class ghettoes’. Active in charitable work with
the St Vincent de Paul Society, his staff found that his charity did not dent his respect
for hierarchy, as they were required to stand when he entered their work area.

As can be seen in the cases outlined here, Cronin and Sheahan’s implementation of the
Ministerial discretion given by the Act merged policy and law. The cases are
representative of others at the time. In December 1950, Cronin earmarked the cases of
the Leckies and the Loughnans for special attention in a minute to Sheahan’s successor,
J.B. Renshaw. They were, for him, examples of how existing sub-lease, agistment
and stock partnership arrangements endangered the success of the home maintenance
area policy. Though the Crown Solicitor had advised that legal agreements of sub-
leasing and stock partnerships entered into prior to the 1949 legislation, could not now
be made subject to Ministerial approval retrospectively, Cronin told Renshaw that he

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3 Pers. comm., with the late Barry Hayes, Secretary to the Commission, 6 April 1985. Patrick O’Farrell,
The Catholic Church and Community in Australia: A History, Thomas Nelson (Australia) Limited, West
Melbourne, 380.
5 ibid., 119.
6 Stephen Alomes, Mark Dober and Donna Hellier, ‘The social context of postwar conservatism’, in Ann
Curthoys and John Merritt, eds., Australia’s First Cold War, 21.
7 Pers. comm., with the late Barry Hayes, 6 April 1985.
had already circularised lessees telling them of these amendments and many had already applied for approval. This therefore could be taken as acceptance in principle of Ministerial control and applications could be considered on their merits. He was clearly not going to act on a legal interpretation when lessees were prepared to cooperate with him and a cooperative Minister. In the examples, women on title as daughters or known to be stock partners were symptomatic of practices which bureaucrats dubbed ‘objectionable’.

Robert Leckie’s estate trustees, it will be recalled, had eventually won conversion of his leases to perpetuity in 1935. Robert had transferred a lease of 44,000 acres, Coona Coona, to his son Albert which Albert worked with The Avenue. To the northwest, he had established his son Cecil, on Oakvale, 37,500 acres. His will envisaged that The Avenue would be managed by his trustees just as he had managed it with the trustees at liberty to employ his sons or others as managers. But the ultimate beneficiaries of his estate after legacies were settled and his wife provided for, were Albert and Cecil, with 6/16 each, and four daughters with 1/16 each. By 1937, the daughters were married and not resident on The Avenue with Albert and his wife, and one daughter had sold her interest to Albert. The remaining three had entered into a stock partnership with the brothers in 1941. This was a means of meeting Robert’s will and of continuing his admired management as before, their solicitor explained. The five children were, however, all still on the title cards of each of the six leases composing The Avenue.8

In August 1950, one of the newly appointed Pastoral Inspectors reported that Coona Coona had an ‘eaten out appearance’ and that a stock partnership was involved. Cronin wrote to Albert appealing to him to stock moderately, to which Albert’s solicitor responded that floods had prevented removal of cattle. More censoriously, Cronin asked Albert under what authority his land was being used by others under a stock partnership and why was he not using it for his ‘own exclusive benefit’?9 His solicitor wrote outlining the will, pointing out that the stock partnership had been created before the Act was amended making stock partnerships subject to Ministerial approval. This prompted the Commissioner to urge the need for further amendment: ‘Partnership arrangements vary in type and condition’ he advised the Minister, but the Leckie case was particularly ‘objectionable’. He referred to a recent Women’s Weekly article which

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8 The information for this case has been taken from Back Files WLL 497 and WLL 1341.
9 Back File WLL 1341.
showed ‘how a partnership arrangement with members of the family allowed one individual to take control of property capable of carrying from 15,000 to 17,000 sheep, an area very substantially excessive...while the title holder or holders (took) no active part in the working of the property’.10 Albert would undoubtedly have been surprised at such a description of himself. The article described a trip made by a Staff Reporter and two Deaconesses from Wilcannia to White Cliffs and at The Avenue, they were shown plans for a big new homestead with roomy staff quarters.

Cronin persuaded Albert and Cecil and the sisters to dissolve the stock partnership and re-arrange themselves on the title cards to look more like separate families. On the face of it this would require a subdivision of leases and new fencing. Albert visited Sydney to talk with the Commissioner, a reliable sign that a western lessee was worried. Cronin afterwards reported that Albert had agreed to work his land exclusively for his own benefit on the one hand, and Cecil and the sisters would be on title for other land. But there was an element of shadow boxing about all this. In June 1954, Albert’s solicitor wrote, possibly tongue in cheek, saying that the stock partnership would soon be dissolved and he would be obliged if the Commissioner could provide a sketch or plan showing ‘where the new dividing fences or fence is to be located...or the advisability of agreeing, subject to your concurrence, to using existing boundary fences as boundaries’.11 The reply, if any, is not known.

Elaine Loughnan, a single woman, came up against the policy tool of Ministerial control of transfer by sale.12 Like the Leckies, the Loughnans were successful products of the homestead lease period, and had expanded through private purchase of uncontrolled term leases to become relatively large holders of such leases. Local historian A.K.Ross titled his brief biographical account ‘Loughnan: Adversity was a Keen Taskmaster’, their widowed mother having sold the family silver in order to finance the emigration of herself and her Irish born sons Harry and Joseph, in 1870.13 After staying with a relation at Swan Hill, the boys gained experience droving for the Meins’ manager at Boorooma, and in the late 1880s, all three were allotted homestead leases near Brewarrina. By 1914, the two sons had fifteen children including ten boys and had acquired land in Queensland as well as in New South Wales. Two of Joseph’s five

10 ibid.
11 ibid.
12 The information for this case is contained in Back File WLL 578.
sons, William and Roy, and William’s daughter Elaine, found it necessary to argue the case for the purchase of a property by Elaine before the Brewarrina Land Board. Single women had long been treated with special care by the Department of Lands, suspected of being manipulated by fathers and of lacking bona fide, and their applications were referred to the Boards as a matter of policy. Particular care was evident in this case.

The two elderly Staggs sisters, whose forebears had also taken up homestead lessees, applied to sell their perpetual leases known as Yambacoona to Elaine after a Brewarrina garage owner had lost an option to purchase, failing to obtain finance. Their application to transfer to Elaine in 1949 disturbed the Commissioner. Her father had given her £10,000 as the deposit. William and his wife held leases in Queensland near Dirranbandi totalling about 35,000 acres, due to expire in the 1960s. Roy and his wife also held land in Queensland near St George, and Roy held some 20,000 acres of term leases known as Wolkara, adjoining Yambacoona, purchased at public auction from the Loughnan family estate. The brothers had also purchased a group of leases known as Oakleigh, adjoining Yambacoona to the south, also from the family estate, in 1936.

At the time of the purchase of Oakleigh, a Deed of Settlement was drawn up making Elaine’s older sister Shirley, then 11 years old, and Roy’s 8 month old son, John, the ultimate owners of the land on their reaching the age of 25 years. In the meantime, the brothers and solicitor Biddulph were trustees, and William and Roy sub-leased the land from the Trust (in effect from themselves). Reviewing these arrangements, Cronin told the Minister that it was unfortunate that in 1936 the law was not strong enough to stop this. It was objectionable that Shirley Loughnan had turned twenty five and not been given her half share of the Oakleigh leases, and a close reading of the Deed led him to believe that she had no right to demand it. The brothers’ continued control and use of the land disturbed him.

Advising on the transfer application, Senior Clerk Swan wrote that though Elaine was twenty two and old enough to legally hold land, Minister Sheahan had recently laid down guidelines about single women.¹⁴ Though not opposed in principle to transfers to them, Minister Sheahan had required careful investigation to establish whether they were solely in their interests, and had also directed that if young single women could

¹⁴ Though Swan refers constantly to the policies of ‘Minister Sheahan’, it is possible, as is often expected of senior officials, that policies were proposed by them and agreed by Sheahan.
not show sufficient capacity and experience to warrant a Local Board permitting them to enter a ballot for an ‘original holding’, they should not be permitted an ‘easy road’ to land ownership through purchase. Assistant Commissioner Spencer, a Land Board Chairman, soon settled that particular question, acting alone. If Elaine Loughnan’s application came before him for inclusion in a ballot for an original block, he advised from his office in Sydney, he would not approve it. The application was refused on the grounds of Elaine’s age, her ‘grazing experience’, and the extent to which her financial arrangements were dependent on her father.\textsuperscript{15} This latter reason contrasted with the attitude to fathers’ assistance for sons, invariably ‘meritorious’.

Solicitor G.R.W. McDonald, company director, former MLA and MLC, sought a meeting with Renshaw on behalf of Elaine. Though he felt it ‘impossible to anticipate all the things that a Minister might feel he should know in administering the law’, as a lawyer he took the simple stand that she possessed full statutory right to buy and hold land and the help from her father should be viewed as meritorious.\textsuperscript{16} Anticipating a sticking point, he said that the assistance William gave to Shirley could hardly be relevant to this case ‘except in so far as it bears on the bona fides of the transaction now under consideration’.\textsuperscript{17} Renshaw at first declined to meet McDonald, but later agreed to an interview, which resulted in referral of the case to the Brewarrina Board. The terms of reference given the Board included assessment of Miss Loughnan’s grazing experience, her intentions to use Yambacoona for her own use and benefit, whether her father’s assistance to Shirley could be said to confer beneficial ownership of the land to Shirley, and whether there was doubt about the bona fides of the proposed transfer.\textsuperscript{18}

Secretary to the Commission, E.C. Grieg, gave evidence on behalf of the Crown and cross-examined the Loughnans, represented by McDonald. Elaine’s description of the jobs she had done or observed on her father’s or uncle’s properties was submitted in evidence. She had spent all her life on the land except for six years at the prestigious Abbotsleigh Ladies College, plus a short period at a Teacher’s College undertaking a Physical Culture Course, uncompleted. She believed she knew more about the grazing

\textsuperscript{15} The officials may also have been unimpressed by a description of Elaine in the \textit{Daily Mirror} of 21 September 1951 as a ‘race-enthusiast’ attending the Spring race meeting in Sydney. Her picture and the brief report was cut out and placed on file.

\textsuperscript{16} Back File WLL 578. Letter, McDonald to Western Lands Commissioner, 6 October 1950.

\textsuperscript{17} ibid.

\textsuperscript{18} The record of the Board proceedings of 6–9 February 1951, the decision of the Board, and the Commissioner’s recommendation of refusal of 27 February 1951, is contained in Back File WLL 578.
business than most other settlers, and that women had as much right to hold land as
men. The questions asked her were unusually detailed, including: ‘When did you last
carry the tar pot into the shed?’; ‘How do you know that Yambacoona is one sheep to
six acres?’ and ‘What would you use to drench?’ Her lack of recent knowledge of
Yambacoona itself did not impress, though her father explained that floods had
prevented her inspecting the property recently, and in any event, her uncle had known it
for years. His daughters had helped him on the property, he said, and he considered
them as good as two boys, and was:

...quite satisfied that either one of them could run my property...\nWhen Elaine left school, I thought that I would like to do something for her
to equal her up to Shirley...\nThe purchase of (of Yambacoona) cropped up...she is land-minded.

The Board found that Elaine’s bona fide was not in question, but her experience was
insufficient to enable her to work the leases satisfactorily and she would ‘lean heavily’
on her uncle; therefore her ownership would be ‘more nominal than actual’. It also
concluded that the evidence of the Oakleigh leases threw doubt on the bona-fide of the
proposed transfer, as Shirley, now twenty six years old, had not received her half share
of Oakleigh and the rent paid by the trustees to the children was too low. The gift of
£10,000 to Elaine was ‘inconsistent’ with the way Shirley had been treated.

McDonald had intended calling Shirley Williams nee Loughnan, but with a three week
old child, travel from Forbes was thought inadvisable. The Trust Deed had envisaged
that income would be used for the education and advancement of the children, but
though William protested that he had spent generously for this purpose for Shirley, the
Board was unmoved. William said he and Roy had discussed the division of the
property but had not been in a hurry to decide for he wanted to see how Shirley’s
marriage turned out. McDonald wrote to Renshaw soon after, saying that Elaine was
now engaged to the son of a prominent Walgett businessman and that the couple would
take up residence on Yambacoona if the transfer was approved. The brothers had also
arranged for John’s half interest in Oakleigh to be transferred to Shirley, the property
not being big enough for two, and her husband would resign his public service position
to take up residence and spend six months at Woolerilla with his father-in-law to gain
experience. A new house would be provided. McDonald argued that this should
remove any suspicion of improper dealing with land by any of the Loughnan family,
outstanding hard-working successful settlers in the locality for over half a century and people of ‘the highest possible repute’. 19

The Minister approved the solution as regards Shirley Williams who became the sole title holder of Oakleigh. For the moment, the Commissioner could rest content that a new primary family and a new house should be seen in the Division — a closer ‘fit’ between primary families and home maintenance areas. Elaine Denning, nee Loughnan, did not, after all, purchase Yambacoona. Perhaps the elderly Staggs sisters were the biggest losers as they failed to sell at that time, and in 1975, a relative of one of the sisters held the Yambacoona lease. Clearly, policy controlled the market for western leases.

The Loughnans raised the spectre of aggregation using daughters, but other cases involving women as wives, did not. The aim was to stop them entering into title to land or stock. The concept of a ‘single unit holding’ was used to justify this, as the McKay family found. Although a widow had had no problem selling her two leases to her son and his wife in 1945, 20 in September 1951 when Mr and Mrs McKay tried to do the same for their daughter and her fiancé, they were stopped. They applied to sell their three perpetual leases known as The Cliffs to their daughter, Joan McKay, nearly 18 and her fiancé Hughy Pippin, aged 21. 21 The Cliffs’ 51,118 acres had been acquired over time, through inheritance (devise) and purchase in 1937, and afterwards by allotment of additions in 1943 and 1945 to make up a home maintenance area. It seemed straightforward: wanting to retire, the Mckays wished to set the young couple up on the land. The future son-in-law had worked on this father’s WLL 2164 for eight years and daughter Joan had ‘helped’ her parents on The Cliffs for four years. Hughy would contribute £5,000 of his own or his parents’ money for stock, and Joan a similar amount for the purchase of the land, and the young couple would mortgage to the McKays for £15,000, the amount agreed as the debt. The arrangement appeared to be one of mutual advantage, unthreatening to the bureaucrats.

Senior Clerk Swan advised that the transfer was opposed to departmental policy regarding ‘single unit’ holdings, a policy which Sheahan told the Soldier Settlers

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19 Letter, McDonald to Minister for Lands, 30 March 1951.
20 John Daley’s widow transferred her lease 2572 to her son and his wife which was approved by the Minister in August 1945, before Cronin’s appointment as Commissioner. See Back file WLL 2572.
21 The information for this case is to be found in Back Files WLL 5317, 5318 and 5684.
conference in 1947 was ‘favoured’ by New South Wales and not disagreed with by the Commonwealth. The McKays could, Swan recommended, be invited to apply for a transfer to Hughy Pippin only. The reply to the McKay’s Wentworth solicitor, Desmond Sykes, was less gender biased: ‘Departmental policy’, Cronin wrote, ‘is opposed to the transfer of leases not substantially in excess of home maintenance requirements to more than one person’. When the proposed transferees were married, he added, further application could be made to transfer the leases to either H.W. Pippin or J.E Pippin, and would be considered ‘on its merits’. Sykes soon advised that the young couple were married, and argued that they should both be on title, for three reasons: first, because the leases had previously been held in the joint names of Mr and Mrs McKay; second, because though he was aware of the argument about transfer to one person, he knew of no cases which had prevented transfer to a husband and wife, and third, the whole tenor of the Act and regulations treated husband and wife as one person, for example, in the way it required particulars of land held by a spouse to be taken into account in estimating a home maintenance area. Had he pursued an action for ultra vires, it would have been an interesting case, but he didn’t. Instead he wrote to W.E. Wattison MLA, who referred it to Renshaw. The Commissioner replied, telling Wattison that the law, which had previously allowed ‘dual ownership’, had been amended, and it was now considered desirable to avoid repetition of this. This was less than the truth. In 1945, transfer to a son and his wife had been approved, and the law had not, since then, been changed other than to apply Ministerial control to all transfers. As Cronin told Renshaw, the Minister now had discretion to ‘implement government policy regarding the status of owners of Western Lands Leases.’ There was no mention of ‘dual ownership’ or a ‘single unit holding’ in the Western Lands Act, nor had parliament discussed the matter. Policy was presented as law.

Cronin told Renshaw that the real motivation of the McKays and Pippins was to minimize taxation. With good seasons and high wool prices, many lessees had sought this lately. Though income tax was collected by the Federal authorities it was the State’s main source of revenue under the uniform tax system and, in his view, New

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22 Reveille, 1 October 1947, 24-5.
24 Minute, Commissioner Cronin to Minister Renshaw, ‘Application for Consent to Transfer - WLLs Nos. 5317, 5318 and 5648 from Evandale McKay and Edith Nellie McKay to Hughy William Pippin and Joan Edith Pippin’, approved by the Minister on 23 November 1951.
South Wales was equally a party with the Federal Government in the matter.\textsuperscript{25} Cronin was gratuitously assisting his federal colleagues in the implementation of federal tax law. Solicitor Sykes was told that if Mrs Pippin or Mr Pippin wished to secure their respective contributions, there were other ways of doing this, for example, by becoming mortgagees of the other. The choice was left up to them.

Sykes wrote that he would ‘take every possible step to raise the matter in another place’, but Cronin saw this merely as showing pique at not getting his own way. However he took the precaution of gathering arguments together to ensure that the Minister did not stray from the policy path. To allow Mrs Pippin on title, he advised, would create a dangerous precedent, and using extraordinary logic, he said that to ‘countenance a policy of bringing two owners on to such a type of property’, would ‘start building up evidence that the holding is excessively large’, and ‘once we allow husband and wife as joint owners…we will then perhaps later have to allow two brothers and two sisters, and this may ultimately result in subdivisions…insufficient for home maintenance when less prosperous times return…’. It could also give rise to overstocking, he thought.

Minister Renshaw remained firm, and an application for transfer to Hughy Pippin only duly arrived and was approved. Joan Pippin was, in effect, disinherited by Commissioner Cronin and Minister Sheahan. Cronin achieved similar results in other contexts, advising fathers about wills, and/or refusing transfer to a beneficiary when the land held by the beneficiary and her spouse would bring the holding above a home maintenance area, even though part of that ‘area’ was not likely to be land, but money.\textsuperscript{26}

The Commissioner also dealt with an older Pippin couple, A.E. and N.E.J. Pippin, both aged over forty, with adult children. Sykes wrote in August 1951 applying for permission for them to enter into a stock partnership in relation to lease 3122 which the husband had purchased in 1943 with the financial help of his wife’s uncle.\textsuperscript{27} He explained that Mrs Pippin had come into a legacy and her husband wished her to have a share as she wanted to use the money for purchase of stock and plant on the property. Mutual wills had been made, he said, and he stressed that no dual title \textit{to the land} was

\textsuperscript{25} WLL Back File 5317
\textsuperscript{26} This was not always gender biased, according to Maxine Withers, who recalls Cronin insisting that a father not will his land to his three sons, but rather to one. Pers. comm., 8 September 1959. Ruth Murray nee Smiles transferred her interest to her brother when Cronin refused transfer to her as a beneficiary because that would mean her and her husband’s land would exceed a home maintenance area. See Back Files WLL 4398, 5318, 5684. @@@@@
\textsuperscript{27} The information for this case is contained in Back File WLL 3122.
sought, an indication that this policy was becoming well known. Senior Clerk Swan
advised Cronin that the previous Minister had ‘laid it down’ that a stock partnership,
just like a partnership in land, was a form of ‘dual ownership’. Sykes was told that as a
Western lands lease conveyed only a ‘grazing right’ to land, a stock partnership was in
fact a form of dual land ownership. This argument was patently specious: term leases
and certainly perpetual leases, which 3122 was, had been bought and sold acquiring
capital values, albeit in a controlled market. The title of lease in perpetuity had been
introduced specifically to provide a better security for financiers and increase the capital
and market value of perpetual leases, and soldier settlers, as we have seen, had been
proudly exhibited as having increased their wealth by ‘improving’ their leases. Cronin
himself was an acknowledged expert on ‘market value’. Swan reminded Cronin that
Sheahan had ‘laid down’ that it was a man’s legal obligation to maintain his wife, an
observation that Cronin passed on to the Pippin’s solicitor. He did not pass on
Sheahan’s other argument, that ‘mere possession of independent capital should not
allow a wife to be introduced as a principle into the proceeds of a property, thus
allowing her to acquire a status of ownership denied other less fortunate wives’.28 Thus,
when wives sought shared title to leases they were told this was against the single unit
policy, and when they sought shared ownership of stock, they were told this was a form
of dual land ownership. It was a ‘heads I win, tails you lose’ argument that older
women today can recall in various contexts.

The ‘single unit’ policy, though targeting women, could affect others inhumanely. W.
B. McCulloch’s experience was a case in point and also showed how the price control
provision could be wielded inhumanely, and inefficiently. McCulloch wished to sell
Lake Meremely in 1957 and was having some difficulty as many landholders in the
region already held a home maintenance area.29 He applied to sell to a young married
couple, Mr and Mrs Swann, both experienced on the land and with no land of their own,
but was refused due to the ‘single unit’ policy.30 Concerned by McCulloch’s situation,
Surveyor Wolstenholme tried to sway the centre. McCulloch was sixty seven years old,
he advised, a widower with no dependents, a returned soldier of the 1914-18 war, who
had purchased his leases in 1921. During the depression, Goldsborough Mort had taken
‘adverse action’ (taken possession), and he had spent many years buying back the
property (paying off the mortgage). Given his age and the scarcity of labour, he had

28 Minute, Swan to Acting Secretary and Commissioner, 16 November 1951, Back File WLL 3122.
29 The information for this case is contained in Back File WLL 1049.
30 ibid. Minute, Senior Clerk Spongberg to the Secretary and Commissioner, 7 June 1957.
ceased to run sheep and turned to cattle, but was tired and physically incapable of carrying on, quite a pathetic figure, Wolstenhome thought, living alone in Balranald, with his land not being fully utilised.

The Swanns had contracted with McCulloch for £40,000, but this was regarded by the Commission’s Valuation Officer as greater than 10 per cent above its fair market value. Cronin told the clerk not to tell McCulloch this, so the refusal letter merely cited the Minister’s opposition to transfer to more than one person. He found a second prospective purchaser, but by this time was concerned about possible refusal on the basis of price, which he found ‘inconvenient and embarrassing to both parties’. Believing that the Commissioner was unaware of the special features of the property (Surveyor Wolstenholme thought it had not been inspected for sixteen years), he asked for an inspection. The special feature was that it was being flooded regularly with water from the Murrumbidgee, water that he had paid for and for which he had constructed channels and reticulation equipment. The Surveyor was asked to inspect and report, and when he did so, the ‘fair market value’ was raised to approximately the price offered by the Swanns, not exceeding the ‘fair market price’ by anything like 10 per cent. A second proposed buyer failed to proceed, and a third or fourth prospective buyer was approved in late 1959, a family man who sought title in his own name only, and who offered a price slightly higher than that offered by the Swanns. McCulloch was by now in hospital suffering a severe haemorrhage, Wolstenholme reported.

Where did this ‘single unit’ holding policy come from? It was associated with post-war soldier settlement and with Sheahan, though he may not have been the initiator. By 1953, 136 ex-soldiers were said to be ‘in occupation’ in the Division, 165 by 1954, 204 by 1958 and 214 by the end of the decade. The numbers of ‘civilians’ placed was rarely mentioned and were significantly less in number, possibly bringing the total of new settlers during the decade to 300. Cronin’s personal efforts regarding soldier settlement were well known and acknowledged by some soldier settlers themselves. But the rationality of applying the policy to wives, who could be joint tenants with husbands without dividing land title, and how this could benefit returned soldiers, is hard to detect.

32 ‘Trusting you are in good health and not worried to death by your soldiers’, R. Judd of Leonora Downs wrote in 1949. See Back File WLL 5995.
It is tempting to see Vincent Buckley's account of modes of Catholic thought at this time as influencing Cronin's zeal. Buckley saw the thought as 'united...[by] a thread of obsessiveness...sin was never far away...deferential Catholics had a habit of inferring, deducing, or intuiting the wishes of superiors such as bishops...the characteristic Catholic public style was debating...freedom of thought could never be affirmed' and 'there were legalistic and opportunistic attitudes to the question: how far can you go?'.

Cronin went too far in seeing wives as threats to the reified home maintenance area and a reified Western Lands Act, for his successor quickly changed the policies, opposed for some time by the Pasture Protection Boards. Commissioner Spencer found that women could hold title as joint tenants and a husband and wife could be regarded as one unit in terms of land settlement. He advised Minister Nott that dual ownership of land and stock existed rather extensively in the Central and Eastern Divisions and he could see no reason for retaining the anomaly. Regarding tax minimisation, he said, land holding in the Division was a business like any other so lessees should share in whatever minimisation applied to other businesses, and the federal Taxation Commissioner had remedies of his own if he suspected taxation was being unreasonably avoided. The next year, Commissioner Greig noted the cordial relationships now existing between lessees and the administration, and attributed this to his frequent visits to the Division, a less than full explanation, as local historian and lessee, Maxine Withers' account of local perceptions of Cronin as despotic, attests.

Though wives were to a degree accommodated, daughters and sisters remained discriminated against: sons could hold leases as the subject of a trust (so long as they lived and worked on the property), but daughters could not, a source of complaint from fathers without sons. And daughters and sisters remained excluded from stock partnerships. It was not until 1966, under Minister Lewis, that Grieg announced that

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Minister, Commissioner Spencer to Minister Nott, ‘Western Lands lease No. 6865 - Proposed Transfer from W.F. Houghton to W.F. Houghton and Spouse’, 2 September 1957.


In 1958, the Commissioner advised Messrs. C.C and R.N Clapham, Taxation Consultants and Values of Walgett, that the Minister would regard stock partnerships favourably when the members were as listed. Sisters and daughters did not appear on the list but sons and brothers were included in a partnership but would be expected to reside on and help work the holding. See letter of late 1958, Back File WLL 3306.
settlers welcomed the relaxation of policy to allow ‘any’ dependent family member to be a stock partner ‘irrespective of age or sex.’ It has to be noted, however, that the Ministerial power to approve, or not, transfers of perpetual leases to beneficiaries was introduced legislatively under Country Party Minister Buttenshaw in 1934. Ministers did not act alone. Underlying them were the bureaucrats who created the policy instruments of closer settlement and were able to prevail on ministers to use their ‘discretion’ one way or the other.

Sheahan’s amendments also addressed the natural resource, again, applying ‘uniformity’. Henceforth, all lessees would be subject to a legislative injunction against overstocking, whether they were large or small, outgoing or incoming, not just those who had found this in the Gazette and lease documents issued since 1935. No effort was being spared, he told parliament, to inculcate into new lessees an appreciation of ‘prudent’ stocking practices. New returned soldier and other lessees were also required to fence an area of up to 640 acres around the homestead and keep it free of stock except for domestic purposes so that they would have a ‘demonstration area’ showing how the country could be restored. Though he doubted lessees would voluntarily implement a ‘wise land use policy’ if it restricted their immediate income, ‘gradual education’, he thought, would have satisfactory results in the long run. He announced the appointment of additional field staff, Pastoral Inspectors who would police the new condition and assist settlers with advice.

Sheahan and others may have been influenced by the appearance, in 1948, of The Vegetation and Pastures of Western New South Wales: with Special Reference to Soil Erosion, by N.C.W. Beadle, issued under the authority of the Minister for Conservation, George Weir, M.L.A. As Research Officer and Botanist for the fledgling Soil Conservation Service, Beadle had spent six years studying the vegetation of ‘western’ NSW, which included part of the Central, as well as all the Western, Division. Though he could not map or quantify erosion, only having a car to travel in, he provided evidence of scalded areas where lack of vegetation had left land exposed to the forces of wind and water, removing topsoil and exposing the underlying unproductive clay or stones and gibbers. He viewed erosion as the end of a process caused partly by removal of trees, and partly by removal of the original palatable perennial shrubs and grasses by

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39 NSWPD, 20 October 1949, 4335.
40 ibid.
stock and rabbits, so as to leave, in extreme cases, only annual plants or unpalatable perennials. Drought was a secondary factor, he thought, given the lack of erosion in timbered areas after the 1944-45 drought.\textsuperscript{41} His numerous tables indicating how various vegetation types had moved from the palatable and perennial, to the annual or unpalatable, under ‘light’, ‘medium’ and ‘heavy’ stocking, with ‘heavy’ stocking leaving ‘degenerate’ pasture and potential for erosion, conveyed a clear message that heavy stocking was most responsible for the process of degeneration. He developed the tables based on observations of differentially grazed areas of country, sometimes comparing stock routes and paddocks, though he did not provide great detail about his empirical methods.\textsuperscript{42} Though he thought much perennial Mitchell grass and saltbush had probably been lost early in the century, he said that in many cases pasture deterioration was continuing and erosion was increasing.\textsuperscript{43} Sheet erosion caused by water running off barely covered ground had ‘greatly reduced the value of ‘a very large area of country’ between Condobolin (in the Central Division) and Bourke.\textsuperscript{44} Minister Weir’s foreword reflected Beadle’s view that large areas of country would have to be ‘enclosed’ against stock before any improvement in the condition of the pasture could be expected. Weir wrote that removal of all stock for a limited period and the eradication of rabbits, was needed to allow mother nature to exercise her beneficent influence, but as this drastic prospect would entail the temporary sacrifice ‘of a pioneering and reasonably successful rural economy’, he had accepted the advice of his senior advisors that it was possible to both maintain the industry and also improve the vegetative cover.\textsuperscript{45} It would be necessary to disseminate knowledge about erosion (such as Beadle had provided), control rabbits, and practice ‘judicious stocking’. Weir was not the first to use the words ‘judicious stocking’ and nor was he the first to fail to elucidate the concept. Beadle’s practical suggestion about stocking, however, was to

\textsuperscript{41} N.C.W. Beadle, \textit{Vegetation and Pastures of Western New South Wales: with Special Reference to Soil Erosion}, Department of Conservation of New South Wales, 1948, 77. However, he found that water erosion occurred in timbered country and that removal of timber to promote grass and low groundcovers would aid in sheet erosion. See page 70.

\textsuperscript{42} I thank Adjunct Associate Professor Wal Whalley, University of New England, for the observation that Beadle adopted the internationally influential successional theory of F.E. Clements that plant communities pass through a series of stages from mosses to a final stable climax community in which some plants are dominant. If disturbed, for instance by grazing, the plant community was thought to revert back through the stages. Beadle’s lists of plants signifying degeneration and possible erosion included Bassia burr species, Dillon bush, cotton bush, saffron thistle, native annuals such as the paper daisies and buttons, and members of the Cruciferae such as Hutchinsia and Lepidium. ibid. His listings of the effect of light, medium and heavy grazing in each section on each plant community are at 120-21, 130, 132, 146, 213, and throughout.

\textsuperscript{43} ibid., 81.

\textsuperscript{44} ibid., 70.

\textsuperscript{45} ibid., Foreword. For Beadle’s statement, see 81.
establishing ‘correct’ carrying capacities (stocking rates) by using as a model, the
stocking rates of the best preserved properties, as the maximum carrying capacity.\textsuperscript{46}

Sheahan’s amended Act now said that if the Minister directed, the lessee would prevent
the use by stock of any land for as long as the Minister considered necessary to permit
natural seeding and regeneration of vegetation, and would erect fencing as required,
and:

\begin{quote}
A lessee shall not overstock or permit or allow to be overstocked the
said land, and the decision of the Commissioner as to what constitutes
overstocking shall be final, and the lessee shall comply with any
directions of the Commissioner to prevent or discontinue
overstocking.\textsuperscript{47}
\end{quote}

The Commissioner looked powerful, but the clause was not debated in the Assembly.
In the Council, Downing refused to accept an amendment put by the United Australia
Party supporter Hector Clayton, which would have removed the reference to the
Commissioner’s decision on overstocking being ‘final’ and provided appeal to a court.
Downing did not accept this on the grounds that during the time taken to hear an appeal,
further damage could occur. He thus envisaged the need for urgent action by officials.\textsuperscript{48}

Though little notice was taken of the clause dealing with overstocking, the general issue
of overstocking was debated, in a relatively bi-partisan fashion compared to the past.
By 1949, Kidman, Horsington and Davidson were dead, but Horsington had, in 1945,
recanted about Kidman and large companies,\textsuperscript{49} and now the new Labor member for
Cobar, Ernest Wetherell, former miner and editor of Broken Hill’s \textit{Barrier Daily Truth},
cast Kidman in a revisionist light. While not believing that Kidman had had any ‘actual
right’ to his vast possessions in the far west, he had learnt that Kidman ‘was an expert in
dealing with land’.\textsuperscript{50} By ‘dealing’, he did not mean buying and selling, which Kidman
was also good at, but how he treated the land, spelling it to preserve its productivity. In
cutting up the land, he said, past governments had failed to recognize the principle
‘successfully applied by the late Cattle King’. ‘Popular thought’, he said, had

\textsuperscript{46} ibid., 81
\textsuperscript{47} Clause 18D, iv to vi. A lessee also now had to use iron or steel posts for the erection or repair of all
fencing, except where the Commissioner permitted the use of other posts. The concern was for
preservation of trees, but the shortage of materials after the war sometimes meant this was not pursued.
\textsuperscript{48} \textit{NSWPD}, 9 November 1949, 4869.
\textsuperscript{49} ibid., 14 March 1945, 2648-49. The large companies, he said, had been the real friends of small settlers
by carrying them through difficult periods, costing the government nothing. Kidman had always rested
‘one station’ and in dry times some of the small holders and others ‘camped on Kidman’s land’.
\textsuperscript{50} ibid., 27 October 1949, 4574.
misinterpreted Kidman’s practice of ‘locking away’ the land: it was not to deny it to others or keep profits down.\textsuperscript{51} Some large holders had failed to follow Kidman’s example and smaller men had been forced, by pressure of circumstances, to destroy the carrying capacity of their land. Though disliking boards and controls, he wanted control in the interests of the Division’s ‘great heritage’, including its saltbush and bluebush, as the deterioration over the last thirty years was due to ‘insufficient authority…exercised over it’.\textsuperscript{52}

Former Minister for Mines and for Forests, Country Party’s Roy Vincent, welcomed Wetherell’s contribution, and made a passionate appeal for stocking rates based on ‘the greatest number…that an area will carry through the most protracted drought.’\textsuperscript{53} This meant a very small number—like the number Ratcliffe had recommended. Vincent believed small lessees were the worst offenders. He invited the Minister to set him down blindfolded on the fringes of Urisino near Wanaaring, remove the covering from his eyes, and he would tell him where the land of the large lessee was and where the land of those settled under ‘purported closer settlement schemes’ was: the former would be covered by vegetation, the latter would be bare soil and gibbers.\textsuperscript{54} Labor’s Reg Downing agreed, saying that not only scientists but experienced graziers freely admitted that continuous overstocking as well as rabbits, had caused destruction of the pastures.\textsuperscript{55}

The legislation now forbade overstocking on pain of forfeiture. As we have seen, in the nineteenth century and later, the forfeiture power was designed to dispense with unsuccessful or apathetic new lessees or people who were perhaps speculators or dummies, or people who were non-payers of rent or other money due. It was a tool which enabled officials to keep land occupied in the way perceived to be desirable and enable the Minister to dispossess an unsatisfactory tenant and offer the land to someone who might do better. Often the recalcitrant lessee was on probation and had shown little interest in proceeding anyway. Forfeiture for overstocking, however, was a very different kind of ‘breach’—overuse, possibly by well established landholders that the Commission had already encouraged to stay by providing additions. It remained to be seen how Commission staff would measure, argue it and prove it. It was not like non-payment of rent, failure to build up a flock, failure to construct a house, a fence, or

\textsuperscript{51} ibid.
\textsuperscript{52} ibid., 27 October 1949, 4575.
\textsuperscript{53} ibid., 28 October 1949, 4588.
\textsuperscript{54} ibid.
\textsuperscript{55} ibid., 9 November, 1949, 4864.
maintain improvements. An old closer settlement tool of command and control was relied on for a different kind of purpose.

The Commission showed its concern, both privately and publicly, in a number of ways. In 1946, Commissioner Cronin took the highly unusual step of personally drawing the attention of returned soldier, Aubrey N. Slack-Smith, to it, when he applied for a block off Quantambone. Cronin would have known this prominent Central Division Coonamble family.\(^{56}\) In view of ‘the gradual deterioration of country throughout the Western Division’, he ‘strongly urged’ Slack-Smith to make a detailed inspection of the land to satisfy himself that it was suitable for his requirements, also drawing his attention to the Gazette condition regarding overstocking.\(^{57}\) Cronin’s view that the Division was gradually deteriorating and that overstocking was implicated was never expressed in the Commission’s public reports.

The Commission also showed its concern by responding to complaints of overstocking from lessees, but it showed an inability to argue the case independently of lessee argument. After returned soldier James Junk arrived to occupy his lease, taken off Toorale, he wrote drawing the Commissioner’s attention to a matter ‘of grave importance to all connected with the West’. He had found the grass had been pulled out by the roots due to overstocking by the outgoing ‘large holders’, an opinion of ‘many others in the district’. Cronin wrote sternly to the Berawinnia Pastoral Company, a home grown company of three major partners who had purchased old pastoral leases, including from Kidman, repeating the complaint and asking for details of stocking. If the complaint was correct, his letter said, the leases of the Toorale ‘residue’ (the land left after withdrawals) became ‘liable to forfeiture’. J.W. Stalley replied with scorn: the rainfall figures, he said, told their ‘own story’—the whole country had been ‘scourged’ by drought, but after a few good falls it would grow as much feed as it had done before. He supplied stock figures and times, 3,000 ewes from July 1943 to March 1944, when only 2,000 remained, 1,500 ewes from September 1944 to January 1945, when 1,200 were removed in low condition, and since then, only 200 stragglers from adjoining paddocks. Cronin wrote to Junks saying that given the information supplied by Mr

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\(^{56}\) Aubrey’s father held Wingadec in the Central Division near Coonamble.

\(^{57}\) Back File WLL 5838.
Stalley, 'the only deduction that can be drawn is that the state of the country when taken over by you was due to the ravages of drought and not to excessive stocking'.

The Commission’s concern about overstocking was also shown when dealing with requests for agistment. There were many reasons that lessees asked for approval to agist stock on their land, and there were many requests in the 1940s and later. Landholders were often approached by stock holders wanting agistment, though application had to be made by landholders. There were always people with sheep wanting somewhere to put them whether they already held land or not. Some pleaders were unsuccessful applicants for land who said that if they could put their sheep on somebody’s land, this might provide the chance to make enough money to become landholders through private purchase. The need to find a refuge for sheep from dryness or flood, was argued by others. ‘The dingo menace’ was also a reason given, near Louth in 1950, a long way south east of the Dog Fence. Tall rank grass following floods, was another reason, when cattle were a useful grazer to reduce it in size and allow new growth for sheep and reduce the risk of fire in summer. The need to keep rams healthy, ‘better fitted to do their job’, was another pressing argument. Yet another, related to natural resource sustainability, was to keep country free of stock after rain and allow new growth time to establish, or to keep it free of stock for a period to allow desirable grass to shed seed. In itself, therefore, agistment was neutral in terms of both bona fide and pasture maintenance, not intrinsically ‘bad’ and possibly a positive management tool. Whatever the case, a written exhortation not to overstock accompanied all approvals of agistment.

Control over agistment or sub-letting was, initially, a tool designed to encourage ‘bona fide’ settlement, the settlers acquisition of his own flock being one indicator of bona fide. Tully had exhibited this aspect of it in the 1940s, at first being very wary of approving agistment and refusing to permit it even for some new soldier settlers when they had not yet been released from the forces. He referred to this as ‘my policy’, and once told officials that he would approve it if the agister was a small holder rather than a

58 Back File WLL 5549.
59 See, for instance, Mr J. B. Scott’s request to Elizabeth Smiles for agistment in 1951, Back File WLL 4398.
61 Back File WLL 5548.
62 ibid.
company or a large holder.  

Officials appeared disconcerted by his zeal, Commissioner Britton advising him that it was usually a minor matter in low rainfall areas (meaning the whole of the Division), not usually opposed. However, if permission was refused and this was defied, it was important to act decisively to save the administration of Crown lands from 'universal contempt'.  

This advice was in the context of dealing with soldier settler F.H.C. McMahon's requests for continued agistment, a case which required 'the spot light of a public inquiry by the Local Land Board' in order to disclose the true position: that is, was he merely going to use his lease for income from agistment. His lease was forfeited, just as some soldier settlers' leases had been after the 1914-18 war.  

But Tully was prepared to make allowances in dry times. In late 1944, he had at first been reluctant to continue to approve monthly extensions of agistment for the Loughnan brothers' sheep on the lease allotted to the not yet released soldier settler, N.J. Harris. At the end of summer in March 1945, however, under the watchful eye of officials, he phoned the Loughnans' agents to let them know he was willing to consider a further application 'if seasonal conditions' had not improved.  

From the point of view of the natural resource, this was the time that he should not express willingness to consider the matter. How did he know the grass would not be pulled out by the roots?

Under Cronin, the agistment procedure was revamped and a new questionnaire had to be filled out by the lessee and the stock holder. It required details of stock already on the holding, the present state of feed and water, the time period required, details of the proposed stock owners (were they 'dealers', for instance) and lessees were required to advise when the stock were removed.  

If the stock to be agisted were cattle, the consent of adjoining lessees was needed, as standard fencing requirements related to sheep. It must have been a cumbersome process for some, but the exhortation not to overstock which accompanied each approval, certainly made the Commission's concern well known. It is likely that the later perception that the need to obtain approval for agistment was a natural resource protection measure derived from this time.

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63 ibid.
64 This advice was in the context of soldier F.H.C. McMahon's failure to comply with non-approval.
65 Back File WLL 5543.
66 Back File WLL 5542.
67 For the new Schedule, see Back File WLL 4398.
Commissioner Cronin showed a more comprehensive concern in about 1950 in a letter intended for all lessees. It was possibly the first time that a Western Lands Commissioner formally advised lessees about grazing management. It may have been a preparation for a testing of the forfeiture power, for few if any judges would find it possible to agree that a lessee should lose his lease(s) without due advice and warning. It began by asserting that for long term protection of the natural resource, with stocking needing to be manipulated in good seasons to permit reseeding and establishment, not just in dry times going into drought. It focussed on management within the boundaries of a holding rather than on the general need for transport to remove stock in dry times. ‘Recent seasons’ had made it unnecessary for most lessees ‘to use the whole of their lands’, it said, and there was opportunity ‘to rest some of it’. Appealing to the idea that a western lease was a heritage ‘to be handed on to…future generations’, it suggested ways of ‘dealing systematically’ with the land: the lessee might lock up an area for two or three years, then another; or he might subdivide and provide more watering points so as to ‘lighten the strain on any particular area’; or he might use ‘power plant’ on scalded or eroded land; or plant natural grasses and edible shrubs. These things were already being practiced by some lessees and were ‘encouraged’, and valuable taxation rebates were available. The preservation of NSW’s lands was very important to the Commission and the nation it continued, and drew attention to the recent amendment which made Ministerial control of stocking apply to all grazing leases. Surely lessees were alive to the necessity of protecting their own assets, it concluded, offering the assistance of field officers of the Department of Lands and the Conservation Department and inviting lessees to advise what steps they were taking to ‘cope with the problem’. Only one response has been identified. In September 1951, unhappy with the allotment of additionals at Wentworth in 1936, Sydney Wakefield wrote regarding ‘the suggestion of locking up some of my paddocks’. He would need more land to be able to do so and could not make a living otherwise, he said.

A 1955 court case suggested that the Commission and its five new Pastoral Inspectors had not thought through the matter of proving overstocking. The case came before the LVC on appeal from the Brewarrina Board. The Minister had referred the matter to the Board after the Inspector found soldier settler J.F. Read, a successful applicant in 1946,
showing continued signs of failing to build up his own flock. 70 ‘Overstocking’ was also one of a list of alleged breaches examined by the Land Board in November 1954. Read had difficulty keeping his wife and child, after some twelve months living in a tent with him, on the lease. The Inspector thought this might be attributable to the fact that they had married while overseas — she was ‘British’. Read was thereafter suspected of living too often in Colloroy with his wife, of being too fond of agistment and, of buying and selling sheep, rather than developing his own flock. Regarding overstocking, Inspector Baker’s evidence lacked specificity as well as details of advice being given to the lessee. It only briefly mentioned excessive stock numbers despite the fact that Read’s solicitors, Biddulph and Salenger, had asked for details in September 1954: if it was alleged that Read had overstocked the land, they asked, when and to what extent, and what direction or directions had the Commissioner given to Mr Read to prevent or discontinue overstocking with which he had not complied? 71 Read was, however, found guilty of breaches, and he appealed to the Land and Valuation Court. 72

Cronin’s Inspector appeared unprepared for the kind of evidence required by a court, merely listing facts as he found them, but making no argument. Given the Inspector’s reliance on evidence of travelling stock permits for sheep travelling to and from his lease, it seemed Read was suspected of dealing in sheep, which was not illegal. Judge Hardie was also unimpressed by the report that 5,000 sheep were on the lease at one point, well in excess of the 3,500 sheep carrying capacity assessed by the Commission, but there was also evidence of 3,000 sheep and 4,000 sheep given for other years. There was no evidence of repeated checking or of direction being given to remove stock and the only mention of concern about the state of the vegetation related to one paddock and others were said to be in fair to good condition — hardly convincing evidence about overstocking, as the judge pointed out. 73

Focusing on the vegetation as a criterion regarding overstocking seemed alien to the Commission and its staff. The new Inspectors, like Inspector Baker normally recruited from the industry, were former jackeroos, overseers, managers, or employees of companies, and had not been trained in this new area or the type of evidence required. Though on paper the forfeiture power looked impressive, the process was in fact

70 The information regarding Read is taken from Back File WLL 5834.
71 ibid. Letter, Biddulph & Salenger to Western Lands Commissioner, 15 September 1954.
73 ibid., 28, 31.
convoluted and subject to ‘buck passing’ should an individual, including the Commissioner and the Minister, not wish to be blamed for putting someone off a lease. Though the 1949 amendment looked powerful in parliament, the Commissioner could, and did, refer the matter to the Boards, in which case its decision was final unless appealed or referred to the Land and Valuation Court.74 Andrew Lang’s 1973 *Crown Land in New South Wales* commented on the case. There was, he wrote, a ‘heavy onus’ to establish breaches, which must be ‘strictly proved’.75 In addition, a Minister would, he noted, be subject to the control of prerogative writs, and would therefore probably face appeal to a court. As his book mentioned no other overstocking cases, it can be assumed none went to court between 1955 and 1973. The Commissioner’s or Minister’s ‘final’ decision was not, in fact, final, as the Act maintained.76 Notwithstanding this case, Cronin reported in 1956 that the Inspectors, previously busy assisting surveyors with survey work, were now fully engaged on supervising conditions, including those designed to prevent ‘overstocking and other abuses of the country’.77

The Commissioners’ Report for 1950 said that the number of sheep and cattle carried in the Division was ‘substantially in excess’ of the average for the past forty-eight years. Subsequent reports showed no particular concern about this but in 1958, after wool prices had declined, Commissioner Spencer noted that drought conditions had led to many requests for agistment on blocks in ‘more favoured’ areas in the Division.78 A sympathetic policy had prevailed but care had been taken to prevent ‘undue agistment’ which would have overtaxed the land. The fall in wool prices, he thought, ‘would have’ encouraged many settlers to seek other means of raising additional income, and this ‘would have’ risked overstocking, ‘spoliation’ of the soil, and erosion. His use of hypothetical language suggested this was not actually happening due to the work of his staff. In 1959, Commissioner Grieg found increasing numbers of lessees growing fodder crops where irrigation was possible, with some experimenting with introduced buffel and other grasses.79 The search for an introduced drought resistant groundcover feed continued.

74 *Western Lands (Amendment) Act No. 29, Section 4 (c).*
76 Ibid.
77 ‘Annual Report’ for 1956, 34.
The late 1950s saw the emergence of further threats to the productivity of the natural resource. As in the 1880s, the spread of inedible scrub again became a prominent concern. In 1960, an inter-departmental committee discussed ‘the regeneration of pine and growth of non-edible scrubs’ in a big area around Cobar, and the CSIRO commenced research.\(^{80}\) Dense growth was lowering ‘the grazing value of the land’, in other words edible vegetation was giving way to inedible vegetation. Officials attributed the regrowth to the run of good seasons from 1950 to 1956 and the eradication of rabbits by the myxomatosis virus. Thus rainfall, that endlessly sought after commodity in the Division, was a cause of the inedible scrub problem, and the scourge of the Division, the rabbit, now had the desirable quality of eating inedible scrub regrowth. The possibility that domestic stock had grazed edible feed so as to reduce its regenerative capacity and create bare ground, allowing pine and other inedible and unpalatable species to germinate and dominate, was not countenanced.\(^{81}\) Until research indicated another approach, restrictions on the destruction of white cypress pine, one of the inedibles but regarded as a commercially valuable timber to be managed by the Crown, were lifted, subject to conditions. Other threats considered external to man’s own activity, ‘noxious weeds’, were found to be spreading alarmingly at this time. In some parts of the Division, however, good seasons had produced ‘abundant grasses and herbages’.\(^{82}\)

Excessive kangaroo numbers posed another threat. In 1959, a deputation from the Western Division Pasture Protection Boards asked the Chief Secretary for help in controlling the animal, which had become a competitor with sheep for green feed, particularly the fresh green shoots both preferred.\(^{83}\) Kangaroos had become a ‘pest’, like feral pigs, foxes, and wild dogs.\(^{84}\) The official understanding was that the growth in the kangaroo population was due in large part to the spread of watering points which settlers had made.\(^{85}\) The government response was not entirely to the graziers’ liking. ‘Open seasons’ for shooting had been granted since 1952 and were continuous after

\(^{80}\) ‘Annual Report’ for 1960, 2.
\(^{81}\) The other widely reported reason for the spread of inedible scrub, put forward by scientists also, is the cessation of Aboriginal burning practices. This however is hardly an explanation for the spread of inedible scrub in the twentieth century.
\(^{82}\) ‘Annual Report’ for 1960, 2.
\(^{83}\) J.J. Lynch and G. Alexander have written that sheep graze closer to the ground and remove more of the plant than cattle, that leaf is selected rather than stem, young material rather than old, green material rather than dry. See their ‘Animal Behaviour and the Pastoral Industry’, in G. Alexander and O.B. Williams, eds., The Pastoral Industries of Australia: Practice and Technology of Sheep, Cattle, Goat and Deer Production, Sydney University Press, 1986, revised edition, 308.
\(^{84}\) Review, 18 June 1959, 639.
\(^{85}\) ‘Annual Report’ for 1962, 44.
1955, but had had no great impact. In the late 1960s, open seasons were replaced by
the establishment, through the National Parks and Wildlife Service (NPWS), of a
commercial culling program, designed to cull, not exterminate, kangaroos, and to
develop a market for meat and skins. Politicians had to juggle the perception of
kangaroos as a national icon and the graziers’ perception of them as a pest. Graziers
asserted that kangaroos made the ‘resting’ of land from stock after rain of no benefit,
because the native animals jumped fences easily and converged on the green pick after
rain, getting it instead of their sheep. The creation of professional licensed kangaroo
shooters did not, for them, solve the problem, and the scheme’s administration by the
NPWS, a body viewed with suspicion, did not create confidence. Feral goats also
emerged as competitors of sheep for feed, but tended to escape approbrium. Though
goats also competed with stock for feed, being browsers, they ate more of the woody
shrubs and could be harvested by graziers themselves to produce income, whereas in the
case of kangaroos, the income went to licensed kangaroo shooters who worked under
standards established by government. By the 1970s, graziers’ sons were amongst the
applicants for kangaroo shooters’ licences.

The Commission had become aware of the desire the Fauna Protection Panel (later to be
absorbed into the NPWS) to increase faunal reserves in the Division (later called nature
reserves). One member, Allen Strom, had learnt of an imminent surrender of a lease in
mallee country and after years of ‘haggling’, was able to secure it as a faunal reserve for
mallee fowl in the late 1950s. The Panel’s appetite was whetted when it learnt that a
number of large leases would be expiring in the late 1960s and early 1970s, but the
young Allen Strom discovered the Commission’s need for scarce land the hard way. He
had pondered long about how to ‘assault the bastion’ of the ‘king of the West’. He
prepared an argument which sought to marry the idea of a network of reserves with a
stricter control system for kangaroos. Commissioner Grieg told him he was a case for
the lunatic asylum, and if he wanted to save kangaroos and open spaces, why not go
where land was not wanted, to Queensland or the Northern Territory? A crestfallen
Strom soon retreated from the king’s office.

86 ibid.
87 Allen Strom, ‘Nature Conservation in the Western Division’, National Parks Journal, Vol. 27, No. 6,
December 1983, 23.
88 ibid.
By 1966, it became clear that forfeiture for overstocking was unlikely to occur. Drought and low wool prices worried officials in 1961, low prices having encouraged lessees to increase flock numbers despite the adverse seasonal conditions. Increased stock numbers obviously occurred in poor seasons, as well as good seasons, and this, Grieg wrote, ‘raised the problem’ of overstocking ‘with all its attendant dangers’. However he said that when the ‘dangers’ were brought to the attention of lessees, most ‘readily co-operated and lightened off their numbers’ though in some cases it was necessary ‘to enforce the restrictive conditions of the leases and compel lessees to drastically reduce numbers, even to the extent of excluding stock from certain paddocks’. The recent extension of local government, with former municipal councils now also taking in the rural hinterland (except in the far west of the Division) had helped to provide roadworks which facilitating removal of stock, thus preventing the ‘severe losses’ (death) that would otherwise have occurred if stock routes (and drovers) had been relied on. The following year, 1962, ‘continued vigilance’ was required to check overstocking, reduce numbers and spell paddocks. According to the official statistics, stock numbers for the twentieth century peaked in 1963 (Figure 23). In 1966, after two years of drought in the northern part of the Division, ‘the worst in its history’ Grieg wrote, he admitted to resistance at a time when stock numbers had already been reduced according to official statistics. Since the drought of the early 1940s, he said, numerous watering points and subdivisional fencing had been completed and many landholders believed that more efficient pasture utilisation and the successful control of rabbits, enabled them to carry ‘far greater numbers of stock…without causing degeneration of pastures’. The greater numbers had however by then dropped, according to official statistics. In 1966 Grieg found it difficult to convince some to stock with a view to ‘the long term’. A more ‘scientific approach’ was necessary, he said, so arrangements had been made for the Soil Conservation Service to carry out land classification and erosion surveys, with the aim of arriving at a ‘reasonably safe average carrying capacity for each property’ (making reasonable allowance for both good and bad seasons), and then control it.

The authority of science was sought. Just how this would be used for future control was not clear, but the Soil Conservation Service looked well equipped to

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90. Ibid.
91. 'Annual Report' for 1962, 43.
93. Ibid.
Figure 23.* Stock Graph, 1907-1966.

* The stock numbers are those given in the Annual Reports of the Western Lands Board/Commission and include both cattle and sheep. During the period, one head of large stock, cattle or horses, was treated as equivalent to six sheep. In 1967 one head of large stock began to be treated as equivalent to eight sheep. This table therefore ceases at the year 1966. Though not stated in the Reports, the figures were supplied by the annual returns made by lessees to the Pasture Protection Boards. Scientists have described this graph as showing ‘stability’, influenced by a broad view and the higher stock numbers in the early 1890s.
assist. Following Beadle’s work, it had commenced ‘erosion’ surveys in 1949, aimed at assessing how severely eroded country, often described as ‘scalded’ country, could be reclaimed or recovered with vegetation, using mechanical measures. Its Senior Soil Conservationist, R.W.(Dick) Condon, and Research Officer and Botanist, M.E. Stannard, published articles in the 1950s leaving no doubt that erosion was a matter of continuing concern, and that leaving stock on country during drought or allowing them back too soon after rain, was a major cause. Erosion usually followed pasture degeneration where stock had eaten out the perennial plants, plants with deep roots most likely to be able to stay alive in the soil, provide protection from wind, and retain rainfall, minimising run off and sheet erosion. Condon wrote that though the deterioration caused in local places by heavy concentrations of stock in the 1880s and 1890s (around watering points and woolsheds etc) was no longer occurring because of more even distribution of animals, progressive deterioration of a different kind would continue unless particular soil types were protected from overgrazing during and coming out of drought.\(^\text{94}\) It was the slightly higher red-brown earths’ that were most erodible, and unfortunately, the most palatable plants, the most productive from a stock point of view, often grew on this country and were favoured by stock. So Condon recommended the fencing off of these land types and exclusion of stock during drought, confining them to the less erodible lower lying clays. He though it unfortunate that many graziers still based their decision about whether a paddock should be spelled on the condition of the stock (which did not lose condition for some time after the pastures gave out), rather than the condition of the pastures. Unless his suggestions were applied, this more erodible country would become ‘virtually useless’.\(^\text{95}\) What sounded like active stock management, ‘specialised management of certain types of country’, would do less damage to productivity than ‘spreading stock evenly over the whole property’.\(^\text{96}\) He recognised the problem graziers saw with the advice: kangaroos, no respecters of fences, could get a green pick first if paddocks were left unstocked.

In 1968, Condon’s contribution to a CSIRO and UNESCO supported symposium took a different tack. The soil conservationist gave way to the land bureaucrat relying on


\(^{95}\) ibid., 92-93, 98, 101-02.

\(^{96}\) ibid., 98.
numbers of stock. Promoted as Assistant Western Lands Commissioner that year, his contribution now seemed influenced by this. The damage to soils and pastures in the arid interior resulted, he now wrote, from the ignorance of landholders in the late 1880s about what constituted ‘a reasonable level of stocking’. Knowledge about this was needed. He described the work done by the SCS and the CSIRO to measure this level ‘objectively’ in the Northern Territory and western NSW, using rating scales based on property characteristics. Known later in NSW as the ‘Western Lands Lease Management Planning Scheme’ it included the establishment (‘determination’) of a ‘safe’ carrying capacity for each property or paddock and its inclusion in a management plan. The numbers, it should be noted were regarded as safe for only twelve months going into a drought, without supplying a means of assessing the beginning point of a drought. He now thought government should control these ‘reasonable’ levels once they were set, and back them up with ‘adequate legislative authority and administrative procedures’. Referring to another of his imminent responsibilities, the allotment of land from the remaining expiring leases, he thought the carrying capacities developed by the SCS would be useful for land administrators when they made land available to settlers on an ‘equitable basis’. The soil conservationist should advise land administrators and landholders on ‘satisfactory levels of grazing’ (stock numbers) but also on the most suitable methods of land management. He did not elaborate on the latter, his interest in soil types and the fencing off of some, and managing stock for drought, seemed to have decreased in favour of his interest in carrying capacity (whether safe, reasonable or satisfactory, all words used at times). It remained to be seen how he would use the legislative authority and administrative procedures available to him as the land administrator.

98 A starting point, the ‘base value’ was a land type where grazing capacity was known and agreed on, then ratings were used as multipliers, either up or down, on the basis of soil type, topography, tree density, availability of drought forage, pasture, ‘condition’, rainfall, and ‘barren areas’. Out of this computation came a stock figure which was recommended as reasonable or ‘safe’ but (my emphasis), only for twelve months into a drought, after which reduction in numbers should occur.
101 ibid., 114.
CHAPTER NINE

The Tough Road to Change

Various actions tried to influence land management in the Division in the 1970s and 1980s that were part of a broad rethinking about 'the environment' that occurred also outside Australia from the late 1960s. The lengthy internal recruitment land policy in the Division ensured that attitudes there were not in the habit of changing, and exposure to outside thinking was rare. The rural press was not in the habit of challenging time honoured attitudes and practices, tending to tell landholders what they wanted to hear, and, as I found at Bourke in the 1970s, few people sought access to metropolitan newspapers. Staunghly held attitudes and beliefs could safely be passed on, with isolated westerners normally talking mainly to each other. The daughter of a sheep man a little east of the Division suggested this when she wrote that such men were confident in 'mouthing' their convictions, by the fireplace at least, and their 'cunning' was that of the old ram unable to see the gate. As this chapter shows, influences from outside were seen as unwelcome intrusions by ignorant outsiders or impractical academics, a stance also adopted by the Western Lands Commissioner. He quickly assumed that querying land management meant querying his administration, the relevance of the Western Lands Act and the staff it had produced.

Much has been written about responses to threat that regulatory bodies tend to make, including denial and the co-option of their clients into advisory roles. In our case, co-option was unnecessary, for the Commissioner and his best known clients were already in harmony. However denial was strongly evident. They drew together to create a home grown narrative to prove that the concerns of outside interests were not only misguided but unnecessary. They fought an unwelcome prospective policy paradigm by working

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2 Former federal Minister for Primary Industry, John Kerin, a farmer in the 1950s and 1960s, later noted this characteristic of the rural press. See John C. Kerin, 'The 1999 Review of the Western Division of New South Wales', Rangeland Journal, Vol. 23, No 1, 2001, 37. While living at Bourke after 1975, I found that a special order had to be made to obtain the Sydney Morning Herald from the newsgency and that few such orders were made.
mainly at Hall’s third level—that of concepts and assumptions—but at the same time they created an historical narrative showing themselves in such a positive light that no change was needed. It placed the current generation of lessees at the apex of a story of improvement of the land. This chapter argues that it was an ‘inspiring narrative’ of the kind Inga Clendinnen has identified, though in this case it was desired not by a Prime Minister but by a bureaucrat and political representatives of his client lessees. The thinking they fought with this narrative failed to achieve much, in part because the proponents of the new were themselves trapped in some of the old concepts and tools of closer settlement. This did not mean, however, that the defensive narrative presented by the bureaucrat and lessees triumphed: it was a lose-lose situation, to borrow terms from conflict resolution theory. The contest certainly showed a total breakdown in the research-extension model of science, a model resembling what Libby Robin has called ‘settler society’s science’, where science is government managed and ‘applied’ or economically driven. It also confirmed Hall’s view that advocates of different paradigms rarely agree on a common body of data, including scientific data.

Some scientists responded to new thinking of the 1960s with a research focussed analysis, frustrating in its ambivalence though compelling in its message. When Ray Perry, President of the Ecological Society of Australia and head of CSIRO’s Rangeland Research Unit at Canberra, Alice Springs and Deniliquin, addressed the Society’s conference in 1967, he painted a depressing picture of Australia’s ‘rangelands’. His picture sought to encourage and attract resources for research. Because the cropping and pasture improvement practiced further east was not a possible or viable in the dry rangelands, he said, maintenance of the natural vegetation resource was necessary for long term grazing production. He didn’t see this happening. He also believed the land to be virtually impossible to re-vegetate once seriously degraded: some destocked land had not recovered after forty years, and revegetation was not only slow but costly. Generalising, he used a rough graph which showed the enormous stock numbers in the later nineteenth century, the subsequent crash, and then what he called relative stability in the twentieth century. This view of the twentieth century can be questioned. As Figure 23 which excludes the late nineteenth century’s idiosyncratic circumstances shows, there was an increase over time to the late 1960s. Perry saw his ‘stability’ as

due to the increase in watering points and the increased amount of land grazed; but, he said, acre for acre, the natural productivity and carrying capacity had declined because the original vegetation had been destroyed. He thought western NSW one of the worst areas, due to lengthier white settlement, and that some 80,000 square miles there had been eroded beyond economic restoration. Further decline would occur unless management ‘on conservation principles’ was adopted. The present level of stocking may have to be decreased.

Though he concluded that ‘stocking pressure’ had caused a decline in carrying capacity, Perry saw movement of animals into or out of pastures as only a weak tool, offering limited management opportunity. Research was needed, he said, to provide a basis for establishing ‘safe management practices’ and defining range ‘condition’ and ‘trends’. In 1967, over sixty staff at Deniliquin were redirected to work mainly on NSW rangelands.

Ten years later Perry told the Royal Society in London that CSIRO had commenced applied research but the challenge for the near future was to assess the condition and trend in the condition of Australian rangelands and apply this to its management, which should be based on a long term productivity goal rather than ‘short term profits or stock condition’. He was alluding to the rather frequent statements in the Australian literature that graziers did not act to move stock in drought until the stock started to show loss of condition, and this was too late for the pastures. He told his London audience that the degree of degeneration in Australian rangelands was debatable and perhaps due mainly to the excess stocking of the 1890s. Describing what he believed to be the common management practice in Australia’s rangelands, he said that apart from inspection of water supplies, managers left sheep and cattle to fend for themselves for most of the year, distribution being controlled by fences and watering points, not, as in the past, by herders (shepherds). They mustered for shearing, crutching and lamb marking and controlled breeding by putting rams into the flocks for a few months. His sketch made management seem a passive affair, and this fitted well with the

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8 ibid., 6.
9 ibid., 11.
10 Pers. comm. with Ken Hodgkinson, former member of the Deniliquin Rangeland Research Unit, 7 April 2010.
12 ibid., 61.
Commission's view of management in the Division six years later.\textsuperscript{13} His description of research already being done to establish 'safe carrying capacities' smacked of the same, involving averages, ratings and mathematics.\textsuperscript{14} Though he asserted that a carrying capacity for 'drought' periods as well as 'normal' periods was also worked out in Australia, there was no NSW evidence to back this.\textsuperscript{15} But Perry was not, in any case, totally at ease with the carrying capacity concept, believing it could become an inflexible measure, but, he said, 'administering agencies' wanted it 'for various purposes.'\textsuperscript{16} Other management practices, however, needed to be developed based on the condition and trend of the vegetation. Australia had only lately accepted the American notion that trend should be measured in the light of original botanical condition, but research into the 'resource inventory', trend and condition, safe carrying capacities and drought management strategies, had begun.

In the 1970s scientists were reaching out to pastoral landholders in a way that suggested dissatisfaction with the research-extension model suited to 'settler science'. It was a top-down, government driven, production oriented model. Scientific knowledge would disseminate down from universities or the CSIRO, through industry bodies or state agricultural or soil conservation bodies (the 'agencies'), to landholders through the 'extension' activities of state officials, or through new technology.\textsuperscript{17} It was hierarchical and linear, difficult to implement in a federal system even if the top echelon was firmly in agreement. Certainly, in the Division there were no formal techniques or policy instruments established to ensure the process.\textsuperscript{18} The model, however, sat well with a 'utilitarian' philosophy of land use similar to that holding sway in nineteenth century America and associated with colonization, when natural resources were regarded as only to be used for the growth of the economy and people's material well being.\textsuperscript{19}

\footnote{Western Lands Commission, Submission 11 to the Joint Select Committee of the Legislative Council and Legislative Assembly to Enquire into the Western Division of New South Wales, (JSCWD), Minutes of Evidence, Vol. 3, 2059, which said that sheep were run on the 'open-range' system, with mustering limited as much as possible to shearing and crutching.}
\footnote{Perry, The Evaluation, op. cit., 63-64.}
\footnote{He said capacities were worked out for the first, second, third and fourth year of a drought.}
\footnote{Ibid.}
\footnote{CSIRO's Rural Research in CSIRO journal, though seeking to disseminate knowledge to a wider audience, nevertheless said its target audience was agencies, not landholders, Rural Research in CSIRO, No. 69, March 1970, frontispiece.}
\footnote{As one scientist of the time explained, formal structures were not needed as they all knew each other, by which he meant scientists and scientific officials, not landholders and scientists. Pers. comm. with L. Mullham, 8 June 2009.}
The CSIRO and NSW agencies appear to have conformed to this model after World War II. The NSW Department of Agriculture, tasked with ‘extension’ so far as cultivated agriculture was concerned, did not place an agronomist, as opposed to veterinary staff, in the Division until 1968. He found it took him years to ‘see’ the western country, and by 1977 he had found ‘few recommendations’ available to him about range management, due, he thought, to ‘the long term nature of rangeland research’. He observed that graziers did not notice slow change in groundcovers though large changes like scrub invasion were noticed. Leaving Bourke in 1980, he hoped that ‘one day’, research would provide recommendations enabling the grazier to maximize livestock production while being sure of improving or maintaining range condition; but for the time being, the best manager was the observant grazier who considered the effects of decisions on both ‘his country and his stock’.

Though Perry’s presentation to his rangeland colleagues in 1974 stressed the need for research into condition and trend like his London talk did, and both noted that Australia was behind America in such research, in 1974 he saw the need for current intervention and influence and acknowledged the evidence for a continuing downward trend in condition in the twentieth century. It was axiomatic that healthy vegetation meant healthy animals, and as he showed, soil. There was a need to work now, with what was there, and improve it, starting with relatively simple condition standards that pastoral inspectors could apply in their districts, using such criteria as amount of plant cover and plant vigour, age structures of plants, weed species, litter accumulation, and evidence of soil erosion. The scientists who formed the Australian Rangeland Society in 1975, however, sought direct communication with graziers, state staff (the ‘agencies), extension workers, administrators, educators and all people involved with rangelands, not just pastoral inspectors. Its Journal aimed to foster a ‘philosophy of rangeland use attuned to Australian needs both social and environmental’ and hoped not to become one written ‘by range scientists for range scientists’. Given its strictures regarding manuscripts this goal largely failed, but its Newsletter and conferences earnestly sought landholder input with some success though not enough for satisfaction. CSIRO’s

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20 Western Division Newsletter, February 1977.
21 ibid., April 1980.
23 ibid.
Graham Harrington stressed that scientists must reach beyond their esoteric circle, avoid specialist language, and build a bridge with graziers.\textsuperscript{25} The word ‘range’ won out over the old ‘pastoral’, and linked all arid and semi-arid grazing country throughout Australia and elsewhere.\textsuperscript{26} It suggested American influence, one that worried the University of New England’s R.D.B Whalley at the time, positing as it did an original or ‘pristine’ condition of pastures as a possible and desirable goal (at least in theory). He believed this should be rejected as unsuitable in Australian conditions.\textsuperscript{27} He also queried the first proposed title for the newsletter, \textit{Range Assessment Newsletter}, arguing that this was too narrow: assessment should only be a means to the end of ‘attainable management goals’, somewhat different to Perry’s long term concepts.\textsuperscript{28} The title ‘\textit{Range Management Newsletter}’ won the day. Unlike Perry who favoured ‘year long conservative stocking’,\textsuperscript{29} Whalley argued that ‘management’ should not be seen as a matter of manipulation of stock numbers (he added also ‘classes of stock’, eg. cattle or sheep), it was also a matter of \textit{grazing} control so as to favour desirable, as against undesirable species in any particular area. It was an active and goal oriented approach for the land manager and the scientist, suggesting stock grazing (movement on and off) could be used to bring about pasture improvement.

Though no ‘pastoral inspectors’ seem to have attended the Society’s western NSW conferences, some landholders did, and gained insights about scientists and their concerns. They found scientists did not always agree, that deciding what was coming down the line could be unclear, and that scientific language was hard to understand.\textsuperscript{30} Scientists were even obliged to respond to robust questioning about their accountability.\textsuperscript{31} The Society’s link with similar societies overseas provided opportunity for debate about different management systems. This was the case with the challenge, at international conferences, that Allan Savory, a private consultant commencing operations in Texas after leaving Zimbabwe, presented. At the first International Rangeland Congress in Colorado in 1978, which some eight Australian scientific and CSIRO personnel attended, he challenged the notion that ‘safe carrying capacities’ and

\textsuperscript{25} \textit{Range Assessment Newsletter}, May 1975, 2.

\textsuperscript{26} ‘Pastoral’ was rejected partly because of its European connotations of nymphs and shepherds.

\textsuperscript{27} \textit{Range Assessment Newsletter}, November 1974, 3.

\textsuperscript{28} ibid.

\textsuperscript{29} op. cit., 152.

\textsuperscript{30} At the July 1977 Broken Hill Conference, landholders made it known that they found it very difficult to extract any practical message from the papers in the \textit{Journal}, so abstracts with ‘potential management implications’ were decided upon for the future. \textit{Journal}, Vol. 1, No. 2, 1978, 83.

\textsuperscript{31} A fulsome reply to such criticism was published in the \textit{Newsletter} of March 1978.
'conservative stocking rates' under a set stocking regime were optimum solutions to productivity. In his later book, he argued that these notions, widespread outside Australia as well, derived from humid agricultural areas in which agricultural science had its roots, and were unsuitable for low rainfall areas; that quick movement of bunched stock through small paddocks during the growing season was needed to make the most of photosynthesis and growth; that the bunching of stock in small paddocks made them eat less selectively; that leaving animals free to return to return to eat off the green leaf regrowth again and again resulted in the overgrazing of some, and overresting of otherplants, and that long rests were required to allow plants to recover from a single graze. Conservative set stocking had resulted both in overgrazing of some plants and overresting of others, providing the opportunity for 'brush' to spread (equivalent to inedible shrubs in Australia). Like Australian scientists, he was concerned about the restoration or maintenance of perennial plants and their benefits of their roots for the soil. Like some of them, his father in Zimbabwe had believed that scattering stock evenly by increasing the number of watering points was the solution to degradation of pastures, but his son didn’t see it happen. Ten years later, Savory would reveal his thinking more comprehensively, calling it 'holistic management', which encouraged the landholder family to place themselves centre stage in the planning of their enterprise making decisions based on knowledge of all tools available them, including 'cell grazing'.

Australian scientists had once shown interest in managing the grazing of stock in ways that preserved perennial native grasses and shrubs. In the 1920s, Professor Osborn of the University of Adelaide studied ways of managing stock grazing so as to preserve native pastures in arid country. He made recommendations about removal of stock at important times for the growth of speargrass and bladder saltbush. The effect of

34 Ibid.
grazing, he said, was that the most valuable or palatable plants were eaten out or destroyed first, and thereafter less palatable plants become more abundant. Practical men knew this, but did not always recognise its significance. At the 1928 Australian Association for the Advancement of Science conference, he urged the need for research into the life processes and reproductive methods of native plants with fodder value. His finding about saltbush around a watering point was compatible with Savory’s beliefs that heavy, but intermittent, grazing was best. CSIR had also shown interest in the maintenance of arid zone native pastures through grazing management in the early 1940s. At Gilruth Plains near Cunnamulla, researchers compared the effect of rotation of sheep in summer or winter, as compared to continuous grazing, on the maintenance of Mitchell grass. They concluded that the current practice of heavy grazing for a lengthy period in summer when growth occurred, and indeed any grazing after rain in summer, was killing it. However, its interest in rotational grazing for the sake of pastures waned after 1949, the year it became the CSIRO and the year its Annual Report said that seasonal conditions rather than stocking practice, was the dominant influence in Mitchell grass pasture regeneration. After the war, interest in introduced grasses sown as ‘improved pastures’, which could also be fertilized, overwhelmed interest in native species.

Loss of interest in grazing management for the sake of native pastures was evident elsewhere in CSIRO publications. Western landholders could not be expected to read its Bulletins and Reports, but they may have read the *Handbook for Woolgrowers* issued by the Australian Wool Board, to which CSIR/CSIRO personnel contributed. In 1950, one of the Gilruth Plains researchers and another contributed a section entitled ‘Australian Sheep Pastures’. It was the second last section, after many others discussing stock disease, just before the final one on poisonous plants. It acknowledged that

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37 Observing the health of saltbush plants around a watering point and the effect of heavy grazing and trampling nearest the water, far away, and in between, he found that the moderately heavily grazed zone beyond the trampled and overgrazed zone close to water was in better health/vigour than the barely grazed shrubs in the most distant lightly grazed area. He attributed the healthy intermediate zone to removal of dead bushes by trampling and the pruning effect of buds being eaten by stock. Heavy but intermittent stocking was beneficial because, ‘it prunes the bushes, tramples out the weakly ones, plants seed which has time to germinate and form established plants before the next stocking period.’ T.G.B. Osborn et al, ‘On the growth and Reaction’, 401.
managing for the benefit of stock sometimes conflicted with managing for the benefit of pastures, but urged that ‘overgrazing’ was the commonest cause of the decline of native pastures (both annuals and perennials), and would impact on stock in the end. It explained why perennials were valuable as compared to annuals: they put out green growth more quickly after rain (as they grew from the butt rather than seed), they deterred weed invasion by providing long term groundcover, and they lived longer than annuals. It gave a biological explanation for plant death: continual removal of green leaf meant no photosynthesis, hence no sending of carbohydrates to the roots, hence the plant was forced to draw on food stored in the roots in order to put forth new leaf. If required to do this again and again, and if no green leaf matter produced new food for the plant, it would die. The effect of continual grazing, plant death, was made clear. They pointed out that ‘perennials’ did not live forever and should be allowed to seed at least once in three years. Short lived annuals relied on seed for species continuance, had weak root systems, and did not benefit the soil like perennials. Research into rotational grazing had been inconclusive and the flush of growth for two to three months in Australian pastures made ‘regular rotation’ of doubtful advantage. They advised: ‘graze conservatively’, but they did suggest how this should be calculated.

The section reappeared in the 1954 edition of the Handbook but was omitted from the 1961 edition and did not reappear. By 1972, pastures were just ‘food’, ‘overgrazing’ had become ‘overstocking’, and the only mention of grazing management in the arid zone was a warning that ‘continuous overstocking’ would in some circumstances eliminate productive plants and leave bare eroded surfaces. By 1972, CSIRO had decided that further funding for research into rotational grazing methods, which had been conducted mainly with the aim of measuring outcomes for animal productivity, not pastures, was not justified because no clear benefit for its aims (animal productivity) had been shown as compared to set stocking. Some disputed this on the grounds that in the Australian trials, movement of stock had been based on rigid time based criteria rather than the intelligence and experience that the ‘real grazier’ might use to decide when to move flocks from one paddock to the next. By 1986, CSIRO was still

41 ibid., 138.
42 ibid., 141.
43 ibid., 139.
44 Handbook for Woolgrowers, Edited by the late Dr. G.R. Moule, Australian Wool Board, Melbourne 1972, 190.
46 ibid.
disinterested in systems of ‘intermittent grazing’ practiced overseas, because there was little evidence that it raised productivity per animal.\(^{47}\)

Savory’s methods, or at least the methods developed in South Africa and promoted by him in America, were highly controversial there because he claimed stock numbers could be increased using his system while at the same time improving the spread and composition of pastures. They attracted similar controversy in Australia in the late 1970s. Government scientists seemed trapped in a logical bind. On the one hand, they agreed that pasture degradation using conventional methods had occurred widely because of selective grazing, but on the other, they were unwilling to embrace a model, or even trial it, which claimed to be able to improve pasture and stock productivity at the same time. The debate went on for well over a decade. In the *Range Management Newsletter* of March 1977, CSIRO’s Vic Squires, recently returned from South Africa, described the methods and suggested that Australian trials of rotational grazing had not been a true test of them, lacking their essential features of short duration grazing during the growing season and stock movement to prevent favoured plants being eaten down too far and too continually. The methods (variously called multi-camp, short duration grazing, later cell grazing and other names) avoided, he said, two serious deficiencies of conventional continuous systems, species selective grazing and area selective grazing.\(^{48}\)

A Deniliquin colleague argued they were not economically practicable: they would result in lost usage of annuals/ephemerals while they were green and nutritious (in rested paddocks) hence lost stock productivity, and that the fencing costs in arid rangeland would be prohibitive.\(^{49}\) This reflected CSIRO’s traditional concern for short term economic productivity. But the concepts would not go away; there were urgings that Savory’s methods should make Australian scientists ‘question’ the use of year long grazing systems *anywhere* in pastoral areas\(^{50}\), but others, such as a senior research official in the NSW Department of Agriculture, opposed the methods because the ‘vast weight of Australian research showed that ‘stocking rate’ (number of animals over time per unit of area), was overwhelmingly important for animal productivity, exactly as CSIRO had concluded in 1972. Less stock meant higher productivity per animal. On

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the other hand, the official said, overseas studies had shown that short term grazing methods were positive for ‘pasture response’, and he could not point to Australian research on this matter.\textsuperscript{51} Australian Rangeland science was sounding very much like the ‘false consensus’ existing within academic disciplines, which a former CSIRO employee later criticized for defining and limiting the research questions asked.\textsuperscript{52}

A landholder reaction to the Rangeland Society’s concerns was evident at the Broken Hill conference in 1977. Alan Bartholomaeus, whose forbears had purchased leases from a subdivided pastoral lease near Broken Hill early in the century, told the scientists that they could help landholders by correcting the biased views on conservation fed to the public and governments. He also told them that advice about conservative stocking rates would not be taken by landholders unless financial pressures were eased and some positive incentive to treat the land more gently was provided. He thought a deal would be difficult, but might just be possible.\textsuperscript{53}

Meanwhile, governments called on scientists in their bureaucracies for their measurement skills. During 1975-78 the Commonwealth and the states carried out a ‘collaborative study’ of ‘land degradation and soil conservation’. Anticipating Commonwealth funding, it used existing information collected from soil conservation authorities and the CSIRO. The findings were introduced by the comment that the ‘attitude’ towards land was changing from a ‘European’ view of freedom to use as one wished, to that of ‘stewardship’ which recognized that Australia’s top soil was relatively fragile, slow to reform if lost, and should be used with future generations in mind.\textsuperscript{54} The statistical results suggested that NSW’s arid zone (largely the Division) was particularly degraded compared to elsewhere: over 45 per cent was affected by vegetation degradation and ‘substantial or severe’ erosion, as compared to 23 per cent in Queensland, 19 per cent in South Australia, and 23 per cent in Australia as a whole.\textsuperscript{55} This looked bad even though it was later admitted that the ‘collaboration’ had not been


\textsuperscript{53} Range Management Newsletter, September 1977, 4.


totally successful—there were ‘inconsistencies and problems of interpretation of data amongst the jurisdictions’.\textsuperscript{56}

It created no concern at all for Dick Condon, Western Lands Commissioner since 1974. His Annual Reports for 1975-77 presented a picture of above average rainfall producing rank speargrass east of the Darling, lightning strike bush fires, higher stock numbers (almost equal to the twentieth century record of 1964), and floods, and the grass was expected to provide adequate protection for the soil ‘for a long time’.\textsuperscript{57} Annual Report time scales of one year contrasted with the scientific view that degradation in arid country was not rapid enough to cause concern until it was far advanced, like the proverbial frog in hot water. Condon did see beyond one year, because he told his readers (politicians perhaps) that lessees would need to watch ‘the feed situation’ as dry times advanced and use road transport to move stock when the ‘inevitable time’(drought) came. His idea of movement of stock was like that of his predecessors, limited to taking some off as drought advanced. Whether this happened, he wrote blithely, would depend on ‘economic conditions at the time’, not on the regulatory powers he had seen as important in 1968.\textsuperscript{58} Mr. Condon had arrived.

The 1981 publication of \textit{Plants of Western New South Wales (Plants)} created a ripple of keen interest amongst western lessees.\textsuperscript{59} Premier Wran’s foreword described it as the outcome of the lengthy work of four officers from the SCS and CSIRO in western NSW and of their ‘deep desire’ that future generations would not be faced with the ‘same problem’ that prompted its publication. As preservation of the land depended on our ‘ability to manage the vegetation’, this ability was obviously the ‘problem’. \textit{Plants} acknowledged tension between different ‘values’, and that productivity was not the only value to be considered; but whether the vegetation was viewed from an agricultural, pastoral, recreational or conservation viewpoint, \textit{knowledge} was a prerequisite to managing it. Interchange of ideas and practices aimed at maintaining a situation

\textsuperscript{56} E.L. Woods, \textit{Land Degradation}, 2.

\textsuperscript{57} 'Annual Report' for 1976, 42.

\textsuperscript{58} ibid.

\textsuperscript{59} G.M. Cunningham, W.E. Mulham, P.L. Milthorpe and J.H. Leigh, \textit{Plants of Western New South Wales, (Plants)} N.S.W. Government Printing Office in association with the Soil Conservation of New South Wales, 1981. The area covered took in land to the east of the Division, the Deniliquin based authors not being particularly conscious of the Western Division’s official boundary. The area took in land east of the Division border south of Walgett, as far east as Gulgambone, Tullamore, Grong Grong and Echuca, the additional area being about one third of the Division’s area.
beneficial to all was very important. One obstacle to this had been lack of consensus about plants’ common names, so from the numerous common names that locals, Aboriginal and otherwise, had devised, it suggested one for preference, as well as giving the botanical name and often beautiful photographs. Its focus on individual plants meant grazing management advice could only be given for each plant, a difficult thing, as a range of plants was common in semi-arid natural pastures. Light or heavy stocking might be recommended at different times of the plants development, or continuous stocking advised against, with frequent mention that a plant increased its spread following removal of other plants through ‘overgrazing, flooding or trampling’. Bladder saltbush, the plant which almost certainly made Ophara a ‘heavenly country’ for Peter Waite when he first saw it, had been eliminated by overgrazing and fire and flood from many areas, to be replaced by less desirable plants. Sometimes the plant’s ability to withstand grazing was noted. Flowering times were given, useful for a reader interested in seeding times, and though lifespans were sometimes tentatively noted, most plants were either ‘perennial’ or ‘annual’, or ‘variably perennial’. If persistently grazed so that they could not form or shed seed, perennials would gradually decline in prevalence. Given the book’s massive size, landholders asked for a small version they could use easily in a vehicle.

Bartholomaeus was far from alone in his views about conservationists. In early 1982, they vigorously opposed a South Australian proposal to convert term pastoral leases to leases in perpetuity. They argued that government power to renew term leases periodically gave it the opportunity to assess land condition and negotiate change in management, if necessary, before granting renewal. M. Thomas of Broken Hill was prompted to write to the _Land_. Who was running the country, she asked, and what right did they have to argue about matters they could not even begin to understand? To understand the arid zone you had to have lived there a lifetime ‘as most of us have’, and

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60 G.M. Cunningham et al, _Plants_, ibid., 9.
61 ibid., 246.
62 For example, bladder saltbush, so highly regarded on Ophara at the turn of the century, was a ‘perennial’ that was ‘relatively long-lived’, perhaps with a life of twenty to thirty years, but another ‘perennial’, grey copperburr, was not ‘long-lived’, rarely lasting more than four or five years. _Plants_, 246, 251. The term is defined roughly by biologists and botanists as a plant that lived for more than one year: in other words its lifespan was not indicated other than it was _not_ an annual (a plant living for less than one year and dependent on seed for continued reproduction). In their _Australian Dictionary of Biology_, John and Peter Child had defined ‘perennial’ in 1971 as ‘A plant which continues growing for an indefinite number of years’. Landsdowne Press Pty Ltd, Melbourne, 70.
63 A ‘glove box guide’ appeared nineteen years later. Greg Brooke and Lori McWhirter, comps., _The Glove Box Guide to Plants of the NSW Rangelands_, NSW Agriculture, (now NSW Department of Primary Industry), 1998. The compilers stressed that no updating of information in _Plants_ had been undertaken.
‘most of us’ were the ‘true’ conservationists, just doing ‘what came naturally’, dependent for livelihood ‘on conservation of every kind all of the time’. Condon wrote to the paper soon after, expressing approval of her points ‘on the question of conservationists’ and enlarging on the thought that landholders were the best conservationists. He offered ‘facts’ deriving from his knowledge of the west. There, perpetual leases introduced after 1932 had offered security of tenure and ended the situation when insecure tenure had meant inability to borrow for fencing and watering points, an inability which had contributed to the devastation of the 1890s. It was only after perpetual leases were introduced after 1932 that improvement in the condition of the land had commenced in the Division. This improvement was also shown by the increased stock numbers over the last thirty years, he said.

Annual Reports for the thirty years 1952-82 did show an increase in average stock numbers as compared the thirty years 1905-34, eight million as compared to six and a half million, but it was not until the mid-1950s, long after the title was introduced, that the figures showed a common enough occurrence of eight or nine million to push the average up and reach a peak of nearly ten million in 1976. The exceptional rainfall of the 1950s and the 1970s could equally be put forward as the reason for this, and was, by Condon himself. Perpetual leases, his letter continued, like term leases, had covenants (conditions) attached to them to safeguard the environment and ‘other matters which the Government may feel responsible for’. Secure tenure and ‘sensible administration’, he concluded, would encourage ‘responsible land use in the future’.

Condon would have been aware of an imminent unprecedented event. The Australian Conservation Foundation (ACF) was about to hold a conference at Broken Hill focusing on ‘the future of Australia’s arid lands’. A non-government lobbying and campaigning body, composed of people dissatisfied with government capacity to conserve natural resources without the input of concerned and expert independent people operating outside government, was showing concern. Founded by Ratcliffe and senior personnel in science, government, business and community spheres in 1964, with the Chief Justice of the High Court, Sir Garfield Barwick as its first president, its campaigns had focussed

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64 Land, 8 April 1982, 6.
65 A former Assistant Western Lands Commissioner, later lecturer at Macquarie University, wrote to this effect in response to a lessees’ published repetition of the Condon argument about good management. John Pickard, ‘Western New South Wales – Increased Rainfall, not a miracle, leads to Recovery’, Australian Journal of Soil and Water Conservation, Vol. 6, No. 4, November 1993, 4-9.
on the Victorian Mallee, rainforests, the Great Barrier Reef and Lake Pedder, but it now turned its attention to Australia’s arid country.\(^{67}\) In May 1982, its Director, Dr Geoff Mosely, told his Broken Hill audience that he was surprised and pleased so many people had attended, though he thought the large group of ‘land scientists’ defensive about the issue of ‘land degradation’, perhaps because of a fear the issue would be over-simplified or feeling a need to defend their ‘clients’.\(^{68}\)

Though focussing on all arid lands in Australia and on issues other than pastoral land use, the conference’s location naturally drew attention to the Division’s pastoral land use.\(^{69}\) The local Barrier Environment Group, worried by lack of regeneration of mulga and the prevalence of uncontrolled goats, had helped to organize it.\(^{70}\) The Mayor welcomed the 230 or so attendees, including about twenty two landholders or their representatives, and people who had never met before and who harboured stereotypes about each other, met. During a bus tour of nearby properties, Judy Messer, Chair of the Nature Conservation Council, found herself seated beside an official of the West Darling Pastoralist’s Association and thought him greatly surprised to learn that she was a daughter of a Western Australian farmer, a wife of a scientist, and a mother of three children.\(^{71}\) Landholders feared being stereotyped as land degraders. Messer also met Marie Fisher, MLC, recently appointed Chair of a Joint Parliamentary Select Committee to inquire into problems in the Division.

Landholders had been put on their guard by the wording of the printed program, which said that years of ‘pastoral abuse’ had left a legacy of damage and ‘continuing degradation’. Landholders and administrators, the Land’s Peter Austin wrote, were ready with their arguments.\(^{72}\) Conflict broke after a bus tour of nearby properties, Austin said, though some scientists saw this later as ‘a spirited exchange’ not detracting from a spirit of genuine enquiry.\(^{73}\) Austin attempted a balanced role, saying that though landholder’s claims to be the ‘real conservationists’ were never-ending, instances of


\(^{69}\) Papers were presented on tourism, Aboriginal land, mining, and reserves.


\(^{71}\) Pers. comm. with Judy Messer, 6 April 2007.

\(^{72}\) *Land*, 3 June 1982, 8.

over-exploitation were not ‘hard to find’.

The Land did not repeat this stance. CSIRO and agency staff seemed uncomfortably placed: as a former soil conservationist who had worked with CSIRO in the Northern Territory, Condon had been their respected colleague, and some had rejoiced when he became Commissioner in 1974, thinking that with one of their own kind in the position as opposed to a Lands Department official, their concerns about overgrazing and closer settlement in the Division would be addressed. They had been disappointed. However, like Condon, they were wary of emotional or inexperienced responses from people exposed to the Division during drought, and drought was there at the time.

Condon and others gave the conference additional reasons that land condition in the Division had improved since 1950. Exceptional rainfall in the 1950s and mid 1970s and the relative disappearance of the rabbit through myxomatosis (a victory for science’s job of combating pests) were now two major additional causes. The wool price boom of the early 1950s was another, enabling lessees to finance more watering points and fencing. Another was closer settlement since the 1950s. Though closer settlement had had a negative side in the past when large holders of expiring leases overstocked as the expiry date approached, the closer settlement of the 1950s, with new settlers producing smaller flock sizes and spreading stock more evenly with watering points, changed the situation remarkably. Large flocks watering on few watering points, trampling their perimeters by walking away to feed and back for water, or massed around shearing sheds at shearing time, or on stock routes, were no longer. Yet another reason was the advent of the motor truck, which could take stock away quickly in a drought and stop stock routes becoming sites of trampling. Finally, drought relief measures had helped by providing financial assistance for transport and tax exemptions on sale of drought affected stock. All this added up to improved management, with stock numbers more closely attuned to availability of feed. The Land reported the presentation of a ‘string’ of convincing ‘before’ and ‘after’ colour slides.

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74 Land, 3 June 1982, 8.
76 R.W. Condon, ‘Pastoralism’, in John Messer and Geoff Mosely, What Future, 54-60. Other contributions made by landholders, such as a slide show, were not reported in the Proceedings, but the Land reported that administrators other than Condon put similar views to his; if so, they were almost certainly state officials.
77 Land, 3 June 1982, 8.
CSIRO and SCS contributions were unsatisfying for others seeking certainty. Harrington admitted that the ‘experts’ had disappointed people by their inability to describe the resource and its ‘status’ confidently.\textsuperscript{78} Sounding very much like Ray Perry five years before, R.J. Stanley concluded that there was a ‘pressing need’ for basic soil and plant ecological research so that methods of assessing ‘rangeland condition and trend’ as the basis for ‘long-term management’ could be developed.\textsuperscript{79} SCS’s P.J. Walker reported on progress in assessing change in ‘range condition’ as a result of land use, the aim being to detect signs of permanent change early, so that usage levels could be adjusted and degradation prevented. Monitoring was not yet in place, hampered by lack of staff and funding, but some progress had been made in mapping land and vegetation types on properties, and in scientifically assessing ‘safe’ stocking rates, that is, the number of stock that could be safely carried twelve months into a drought.\textsuperscript{80} He did not explain how the \textit{beginning} of the twelve months could be established. The maps showing soil and vegetation types, also areas susceptible to erosion and areas of shrub invasion, were incorporated into ‘property management plans’ and provided to the Western Lands Commission. They sometimes recommended the by now traditional reclamation measures: contour furrowing, waterponding, tyne pitting and so on, ‘after the event’ actions some landholders had been using as early as 1937.\textsuperscript{81} But costs, Walker said, were making these less attractive, so government assistance might be appropriate given that most degradation ‘probably’ occurred prior to the tenure of present lessees.\textsuperscript{82} This sat well with Condon’s argument that degradation was in the past.

CSIRO’s Ken Hodgkinson urged commencement of controlled burning as a management tool for killing inedible shrubs so that pasture might regenerate. Like the soil conservation techniques, it was a rehabilitation measure aimed at bringing pasture back. CSIRO’s research on burning in the Division had commenced in the late 1960s following requests for help from graziers’ associations near Cobar in the hard red ridgy

\textsuperscript{78} \textit{Range Management Newsletter}, August 1982, 16.
\textsuperscript{81} See Macdonald Holmes, \textit{The Erosion-Pastoral Problem of the Western Division of New South Wales—Australia’, Part I: An Estimate of the Western Division after Sixty Years}, University of Sydney Publications in Geography, Geography Department, University of Sydney, New South Wales, c1938, 32. Holmes provides a photo of contour furrowing at Meenamurti (sic) near Wilcannia.
\textsuperscript{82} P.J. Walker, ‘Soils and Vegetation’, op. cit., 52.
country, at Enngonia to the north, and Louth to the west. It fell squarely into Robin's 'settler science', aiming at higher productivity in response to producers' felt economic needs: inedible shrubs were taking over previous grasslands. Though research was not complete, Hodgkinson said, agency staff should apply current knowledge now.

Burning should be a regular feature of land management and grazing pressures would 'need to be reduced'. It was not clear whether by 'reduced', he meant so as to grow grass sufficient to provide fuel for a burn, or reduced so that stock did not destroy the new grass growth too soon after a burn. He probably meant the former, as CSIRO readily accepted the argument that had been adopted by Condon and an Inter-Departmental Committee on Scrub and Timber Regrowth in the Cobar-Byrock District in 1969, that a significant cause of scrub domination was the lack of Aboriginal burning in the landscape since European occupation.

The Conference workshops concluded that: although some areas of rangelands were resilient, others were deteriorating in the long term; that perennial trees and shrubs were dying out due to grazing by sheep and rabbits; that irreversible vegetation change was occurring in many regions, and that stocking pressure during drought was in some areas unsustainable. Lack of control over the cropping of marginal land in the Division was also a concern. A draft 'Strategy' for arid lands (for the ACF) was developed, recommending: better education of land managers on conservation ideals and land management procedures; education of banks and stock agents; a series of penalties for breaching lease conditions rather than just forfeiture; and economic (financial) incentives. Regarding incentives and who should pay, the strategy doubted that all damage was historical, saying that though the wider community should carry responsibility for repairing past damage, funds for repair should not go to landholders who caused damage, and after past damage was repaired by the government (the community), future responsibility should lie with the landholders.

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85 ibid., 47-49.
Despite Condon’s argument that good management had already arrived, many conference participants were unconvinced. According to one, the conference had not addressed what ‘good management’ actually was. Brian Chatterton, formerly Minister for Agriculture, Fisheries and Forests in the South Australian Dunstan Government, asked what about other aspects of management: for instance, was it better to set stock or to rotationally graze?\textsuperscript{88} He was interested in how stock were managed in the paddocks on the property, not just the broad brush influences as outlined by Condon. Condon revealed his view of the conference soon afterwards at the Pastures Protection Boards and Graziers Conference at Hillston. Adopting the role of protector of inarticulate clients unable to defend themselves, he said that people who said the land was degraded didn’t know what they were talking about: they had hardly spent any time in the Division, or were academics with no practical experience now imposing their ideas on an unsuspecting public through a receptive and misguided media.\textsuperscript{89} He and the landholders knew that bare land would quickly recover after rain.

Wran’s return to power in September 1981 with an increased majority was not welcome for some lessees. He had courted the bush, but his rural policy speech promising to establish a ‘joint parliamentary select committee’ to enquire into ‘the problems’ of the Division, (henceforth Committee), was not clearly part of this.\textsuperscript{90} Indeed, the Land did not even comment on the proposed Committee at the time. Now owned more broadly than its 1911 creator, the Farmers and Settlers Association, it remained an advocate for the Livestock and Grain Producers Association (LGPA) and the Country Party (now National Country Party), it focussed instead on Minister Lin Gordon’s moves further east to stop the conversion of leasehold land to conditional purchase when there was ‘no prudent use other than scenic and catchment area protection, timber production, recreation or nature and habitat conservation.’\textsuperscript{91} For the Land and the National Country Party, this roused old memories of a Labor desire for ‘socialization’ through retention of leasehold title.\textsuperscript{92}

\textsuperscript{88} ibid., 195.
\textsuperscript{89} Land, 17 June 1982, 12.
\textsuperscript{90} Brian Dale, Ascent to Power: Wran and the Media, Allen and Unwin Australia Pty. Ltd., Sydney, 1985, 35.
\textsuperscript{91} Land, 10 September 1981, 8.
\textsuperscript{92} ibid. This was confirmed, at least for the Land, by the 1980 Labor Party Conference’s confirmation of a policy of a ‘flexible, family unit, home maintenance area leasehold title’.
Wran’s government posed a newer threat, accepting that input into decision making about land use could be open to non-government conservation bodies and the public, not just rural producers. His Minister for Environment and Planning, Paul Landa, accepted advice from non-government environmental groups.⑨3 The 1979 Environmental and Planning Assessment Act (EP&A Act), the Heritage Act, and a revamped Land and Environment Court, reflected this to a degree and heralded the start of environmental planning on a broad basis, at state, regional and local government levels (though some were striving towards a catchment concept). Moreover, public input into development applications was allowed for. A top down dissemination of policy and vision, with which lower levels in a hierarchy would be expected to align their activities and plans was envisaged, providing parameters within which development applications would be assessed.⑨4 The relevance of this to rural NSW and the Division was unclear, but concern was shown in the Commission. Its Condobolin based Pastoral Inspector told his fellow Inspectors they should become increasingly aware of public attitudes, environmental matters, and the EP&A Act, but they must also get a ‘correct’ picture of what was happening from ‘the people’ (landholders), so as to be in a position to counter, with ‘facts’, the ‘fantasies’ that often appeared in the media.⑨5 These words, and others, would soon be used by the Commissioner and, after another name change in 1982, National Party personnel. They shared a vocabulary.

Almost coinciding with the start of the Committee’s work, An Economic Study of the Western Division of New South Wales (Study) was completed in 1982.⑨6 Largely funded by the Wool Research Trust Fund associated with the Australian Wool Corporation (an industry body funded by woolgrowers and the Commonwealth), it was carried out by agricultural consultants Hassall and Associates, with official assistance. Hassall’s Graham Peart, son of a former Division lessee, and other staff, were assisted by the Department of Agriculture, the CSIRO’s Mike Young, and Commissioner Condon. The Study fulsomely acknowledged the Commissioner’s impressive knowledge and his

⑨3 Pers. comm, with Judy Messer and Allan Stewart, 4 April 2008, who advised that Wran took a personal interest in environmental matters, influenced at times by his wife Jill and their friendship with Vincent Serventy, well known naturalist and popular writer, and by the passion and politically strategic skill of Milo Dunphy, Director of the Total Environment Centre. Stewart recalled Paul Landa with admiration.


⑨5 Western Division Newsletter, August 1982.

involvement ‘at all stages’. 97 This included the conclusions and recommendation stage, for the document summarizing these was published with the Commissioner’s comments already included, sometimes questioning the validity of conclusions and recommendations. 98 Condon’s introduction said that for ‘land settlement policies for the 1980s’ to be soundly based, economic information was essential, particularly regarding the size of enterprise. 99 ‘Land settlement’ policies in the 1980s? There was hardly any of it left to do. His stance, however, could be justified by the necessity for sales to be officially approved.

The Land publicised the Study even before it was presented to the Commission, saying that its brief had been to provide information on the effects of the cost-price squeeze on the viability of western lessees. Its findings, it said, were that half the holdings in the Division were non-viable with many lessees reduced almost to a ‘peasant existence’ and that the cost price squeeze was driving them to overstock, neglect improvements, and leave suppliers in local towns saddled with debt. 100 This was a colourful account of what the Study actually concluded. 101 The Land reported Peart as saying that if controls over natural market forces were lifted, the badly needed restructuring necessary to return holdings to an economic footing would result. 102 This was a somewhat inaccurate account, as the Study’s recommendations retained a place for control of the market, for instance, by recommending that only the larger properties should be open to sale to ‘newcomers’ (presumably to leave the small ones for those already there), and by wanting transfer control which encouraged sale to neighbours. 103 It also wanted encouragement of ‘exchanges’ of land to enable lessees to have less fragmented

97 ibid., i.
99 ibid., ‘A Note From the Western Lands Commissioner’, the first page of the document.
100 Land, 1 April 1982, 3.
101 The Summary gave data for three years net incomes, 1978-1980, for the survey population of 922. Averaging these and converting to percentages, some 14 per cent had negative net incomes and 50 per cent had net incomes of less than $25,000 (page 24). The authors believed a net income of $17,000 was an acceptable figure (page 24). They also found that the data, when compared with the Bureau of Agricultural Economics’ data on ‘farm performance’ for the pastoral zones in NSW and Australia, was ‘relatively consistent’ (page 21). The Department of Agriculture told the Committee the Study was overly pessimistic. Regarding overstocking, the authors drew on evidence that the stock carried exceeded the ‘rated carrying capacity’ (the Commission’s carrying capacities used for rental purposes), significantly on the smaller holdings. Condon disagreed, saying that actual stock numbers always exceeded the rated capacity by 10 per cent at least and that the term ‘overstocking’ should only be used relative to seasonal conditions, (page 16) which showed that he shared the view of overstocking taken by the Royal Commission of 1901, the SCS, and CSIRO, that retention of stock going into a drought was the major concern. Debt levels were given, but without comparative data. However ‘family debt’ was ‘surprisingly high’ (page 20).
102 ibid.
holdings, but this was not new: Cronin had encouraged this in the 1940s and 1950s. It wanted the home maintenance area ‘policy’ abandoned, but it was not clear what difference this would make given the ‘two home maintenance area’ policy existing since 1968 and the fact that the Act’s references to it applied to functions now completed (withdrawals, conversion to perpetuity, and allotment of additional). It wanted price control lifted, something Condon thought ill considered, though he did not say why.\textsuperscript{104} It firmly promoted the need for ‘adjustment’, for properties to become larger, pointing out that the size of properties in NSW was far below those in South Australia and Western Australia, and it recommended special funding for it.\textsuperscript{105} Now fully conscious of the Parliamentary Committee, the Land thought it would ‘probably be a good thing’ if the Hassall recommendations ‘pre-empted’ the Committee’s findings and allayed fears that it had been set up to serve a ‘political philosophy’ rather than ‘the future’.\textsuperscript{106} All this before the Committee even began taking evidence.

It was an inauspicious time for the conduct of an inquiry by a committee of politicians. The 1983 Aboriginal Land Rights Bill confirmed lessee fears about Wran and Fisher. It made vacant Crown land not needed for ‘public purposes’ open to claim by Aboriginal Land Council, and provided funds for the purpose, as well as for the purchase of land.\textsuperscript{107} The Commonwealth had commenced funding Aboriginal groups for the purchase of properties in 1976,\textsuperscript{108} so the latter was no innovation, but lessees were now confronted with the possibility that when the few remaining term leases expired, or when a lease was forfeited, the land could become ‘vacant Crown land’ open to Aboriginal claim. It was also possible that when leases were offered for sale, government funded Aboriginal groups would be able to offer more money than other prospective buyers. Another threat was felt by some lessees east of the Darling, when the Australian army started searching, in the early 1980s, for a site for large scale manoeuvre exercises in the Cobar region, creating insecurity and fears of lowered land values.\textsuperscript{109}

\textsuperscript{104} ibid., 14. His comment was that many other factors needed to be considered other than those addressed by the study but he did not say what they were.
\textsuperscript{105} ibid., 2, 7.
\textsuperscript{106} Land, 1 April 1982, 6.
\textsuperscript{107} NSWPD, 24 March 1983, 5093.
\textsuperscript{108} Tucki near Angledool was one of the first, purchased by Bohda Ltd., from Peter Prentice. As Area Officer for the Department of Aboriginal Affairs at the time, I did the paperwork.
\textsuperscript{109} Land, 21 March 1985, 6; 6 December 1984, 8.
Fisher’s initiative had brought the Committee about. Soon after obtaining her degree and secondary teaching qualification, she had taught in Cobar and Bourke. In 1960 she married local landholder, Dugald Fisher of Galambo, between Bourke and Cobar. Dugald’s forebears were no strangers to the Division, but by the late 1970s, the Galambo Fishers, like others, were finding the going tough. The wool boom years had long ended, and in the 1960s when three children were born, average or below average rainfall was prevalent and interest rates continued rising. Like others nearby, the Fishers were relying on off-farm employment to keep food on the table and were looking to sell. Though uneasy about enthusiasm shown by South Australian and Victorian purchasers believed to be intent on clearing land and growing wheat, they were glad to have people to sell to, by which time Marie had entered the first democratically elected Legislative Council in 1978. She found a receptive response from the Premier’s office and other government officials to her proposal for a thorough examination of the Division’s economic and social issues. In 1979, she was equivocal about the Western Lands Commission during debate; on the one hand she welcomed a bill intended to empower the Commission, with the involvement of the SCS, to control clearing and cropping in the Division; on the other, she referred to the decline in the Division’s productivity and the preoccupation of the Commission, since 1902, with ‘what ought to be stocking rates’. Land degradation, she said, was now of ‘appalling magnitude’. Soon after the Committee’s creation, she told the Land she was a ‘third generation Laborite’, an ironic reference to the fondness landholders had of describing themselves in this way in relation to landholding. The Land said she was ‘little known’ outside Bourke, which suggested that neither she nor her husband were known to the Pasture Protection Boards and Livestock and Grain Producers Association and Country Party networks, long developed and maintained by males. It reported apprehensiveness about her— there were ‘rumblings’—about National Parks, Aboriginal land rights, and a dismantling of the Western Lands Commission. Both

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110 His great uncle had purchased Coronga Peak pastoral lease north east of Cobar after World War I, and had helped his father, a teamster, purchase Glenelg on the Bogan in 1925. In 1950, his father had leased Galambo from a retired lessee and in 1960, obtained the Commission’s approval for its purchase from the beneficiaries and its transfer to Dugald, who borrowed for the purpose. Pers. comm. with Dugald Fisher, 13 April 2008

111 ibid.

112 Marie Fisher said that the local joke doing the rounds around Bourke-Cobar in the 1960s was ‘Who’s the profitable grazier? Answer: He’s got a schoolteacher for a wife’, but in the 1970s, the wife was a nurse. Pers. comm. with Marie Fisher, 30 May 2007.

113 *NSWPD*, 28 November 1979, 4003-05.

114 *Land*, 10 June 1982, 8.

115 ibid.

116 ibid.
she and conservation bodies suspected that the control over clearing and cultivation
evisaged by the 1979 legislation was not being enforced, a suspicion confirmed by the
Committee’s findings.  

The Committee resembled the 1901 Commission in some ways (extensive travel, local
sittings etc.) but there were significant differences. All ten members were now
politicians and party lines were clearer, with Labor having a majority of members.
Unlike its earl model, members voted on recommendations.  

There was no senior
bureaucrat like C.J. McMaster to guide the process: indeed Condon’s desire to act as
guide was not taken up, a source of complaint from him and the LGPA. He and his staff
were interviewed and he submitted not only twenty five lengthy submissions, but an
unsolicited commentary on their First Report. Private financiers were not interviewed,
though the Rural Assistance Board was. There were now many formal organizations to
consult: the political organizations of lessees (the West Darling Pastoralists Association,
still affiliated with the South Australian organization, and the LGPA east of the
Darling), the Shires, and Pasture Protection Boards being amongst them. The written
submissions of most of these were similar and repetitive, accounts of progress like that
put by Condon, expressing satisfaction with the Commission.  

There were now more
State government authorities to consult: the Soil Conservation Service, the National
Parks and Wildlife Service, the Environment and Planning Authority and the
Herbarium. There was also the CSIRO, plus the new non-government conservation
bodies.  

Several scientific personnel, including Mike Young of CSIRO’s Rangelands
Research Unit, writer of articles about administration of rangelands, were appointed to
assist.  

The terms of reference now took in the Division as a whole, rather than just
landholders, and embraced, in the view of one rueful Committee member disconcerted
by the time absent from his electorate, ‘almost everything under the western sun’.  

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117 Joint Select Committee of the Legislative Council and Legislative Assembly to Enquire into the
118 Apart from the chair, the members were: J.E Akister, M.P., W.H. Beckroge, M.P., J.J Doohan, M.L.C,
Stewart, M.P., B.H. Vaughan, M.L.C. Six were ALP members. The votes were published in the Reports.
119 Walgett Shire was something of an exception, but much of its coverage is east of the Western Division
boundary.
120 This listing refers only to land use matters. There were numerous other organisations interviewed
relating to other social issues.
121 For example, M.D. Young, ‘Influencing land use in pastoral Australia’, Journal of Arid Environments,
Vol. 2, 1979, 279-88, and Differences between States in Arid land Administration, Land Resource
Management Series No. 4, CSIRO Division of Land Resources Management, 1979, ‘Resource
122 NSWPD, 24 September 1985, 8850. J.J. Schipp coined the phrase.
Fisher said it was concerned with ‘the eighty five percent who lived in towns, not the fifteen percent who lived out of them’. But landholder issues would dominate.

The Committee’s First Report identified issues arising from submissions and interviews. Condon’s unsolicited critical commentary on it rebutted basic points, only a few being noted here. It was not true, he wrote, that many soil types were highly susceptible to erosion (despite his 1961 view that five out of nine soil types were); there was no real evidence that smaller properties were being overstocked and economic pressures drove them to do so; it was not true that graziers responded to the condition of stock rather than the condition of pastures (a view he held himself in 1961); there was no need for de-stocking orders and forfeitures, which were lacking because the land was improving and deterioration occurred only in the past. There was no need for ‘objective monitoring’ and review of stocking policies, which appeared aimed at setting up an unemployment relief scheme for young environmental science graduates. In any case, he said, monitoring research had shown no outcome so far, and would require an army of staff and resources which could be better used to encourage ‘certain departments’ to concentrate on developing sound management practices to increase or maintain productivity without depleting the range resource. This was, clearly, not his job in his view, as some scientists had imagined. He added, however, that if citizens saw what they thought were conditions not being adhered to, it was their duty to bring this to the notice of the ‘appropriate authority’. What appropriate authority, he did not say.

According to the Committee, certain departments including the Department of Agriculture had been refused input to policy-making in the Division in their areas of expertise, or in the case of the Soil Conservation Service, were frustrated by lack of

123 ibid., 2398.
124 Western Lands Commission, Western Division Select Committee : Commentaries on the First report by the Western Lands Commission, in New South Wales Parliamentary Archives (NSWPA), PRS 307. L.C., Joint Select Committee of Enquiry into the Western Division of NSW (JSCWD), Doohan Papers, Box 47.
125 ibid. The page numbering of this document was not carried out as anticipated in its Content’s page, and is confusing. References here are therefore to the page numbers and paragraphs of the Report as identified in the Contents page. The comments above are included in the comments made on pages 36 to 90 of the First Report, roughly pages 5 to 21 of the document though not numbered as such. Condon’s earlier view that landholders relied on the condition of their stock rather than pastures, is in J.C. Newman and R.W. Condon, ‘Land Use and Present Condition’, in R.O. Slatyer and R.A. Perry, eds., Arid Lands in Australia, Australian National University Press, Canberra, 1969, 109.
126 Western Lands Commission, op. cit., comment on page 165, paragraphs 1 and 2, of the Report.
127 ibid., comment on page 164, paragraph 5, of the Report.
128 ibid., comment on page 89, paragraph 4, of the Report.
response to their advice and the lack of use of the management plans.\textsuperscript{129} This issue remained murky. Exclusivity was not Condon’s public stance in 1976, and the Department of Agriculture admitted its past lack of confidence about ‘range management’ to the Committee and its unwillingness to resource it until recently. Given that its new confidence was inspired by a desire to take over the Commission, it is not surprising the issue was blurred.\textsuperscript{130} Condon told the Committee he knew where its views about overstocking on smaller properties came from: ‘a young economist who had never spent more than…two weeks in the Western Division…probably influenced by another economist/sociologist who works for a Commonwealth Government institution serving the…Division’, neither of whom were qualified to make the assessment.\textsuperscript{131} He was referring to Mike Young and Dean Graetz, official personnel, not ‘conservationists’. His passionate arguments, sometimes extremely difficult to follow, showed one thing clearly: the research-extension model was, indeed, smashed.

Graetz and Young were working out of the CSIRO’s Rangelands Research Unit at Deniliquin in the Central Division. Young had recently researched an article showing that on smaller properties in the Western Division, bladder saltbush had been killed and depleted through overgrazing,\textsuperscript{132} and Graetz had been working in South Australia and the Division for some eleven years, on the ground and more recently from the air. On the ground, Graetz was assessing plant type and frequency and soil condition, and in the air was working with Landsat imagery and property boundary data to assess groundcover condition over time. He appealed to the public in the early 1980s. The third episode of his Heartlands ABC television series showed scenes of bare overgrazed land on one side of a property boundary fence and saltbush on the other, and swirling dust arising from bare ground. Drought, kangaroos and rabbits, he told viewers, were not responsible for the contrast: it was man made.\textsuperscript{133} Closer settlement, he believed, had destroyed the flexibility practiced by Aboriginal people, native animals, and the likes of

\textsuperscript{129} JSCWD, Second Report, 1983-84, 42.
\textsuperscript{130} In 1976 Condon wrote that ways of increasing productivity included ‘making maximum use of the advisory services of the Department of Agriculture and the Soil Conservation Service.’ See R.W. Condon, ‘The Pastoral Industry’, Agricultural Gazette of New South Wales, June 1976, 27. In a letter to the Committee, the Director-General of the Department of Agriculture said that the Department’s lack of presence in the Division focusing on range management or dryland agronomy was due to lack of expertise and priorities, matters which had been reversed in the last two years. It now felt confident enough to be able to absorb the Commission. This letter (copy in the possession of the author) was leaked by the time Bird carried out his forums and was referred to in his Report.
\textsuperscript{131} Western Lands Commission, op. cit., Comment on page 45, last paragraph, of the Report.
\textsuperscript{133} Heartlands by Dean Graetz, the third in the series, titled ‘Arid’ is referred to here, transmitted on 8 February, 1984. The series was repeated in 1986 and 1987. Held in ABC Archives.
Kidman. Wally Snelson, near Cobar, agreed that inedible scrub was replacing what had once been grasslands. But, Graetz said, landholders were not entirely to blame: government had created properties that were too small. After WWII, Snelson had been prohibited by a Land Board from purchasing additional land which would have meant he exceeded the maximum number of sheep areas allowed by four hundred sheep, condemning him to a low standard of living (this obviously before Minister Lewis’s 1968 policy change).\(^{134}\) Graetz appealed to ‘us’, also to blame, for allowing state governments to be such bad landlords.\(^{135}\) A 1980s scientist was expressing views similar to Ratcliffe’s in the late 1930s. In the 1980s, it was a bit late to complain and ask for flexibility, and the ‘rigid barriers’ Graetz complained of had already largely been removed by Minister Lewis in 1968.

Graetz and his co-workers’ findings were written up in 1983 but not published until 1986.\(^{136}\) As though responding to Condon, they said it was not the case that overgrazing occurred only in the past. Their data from 1972 to 1980 showed that in the region of Broken Hill some properties had improved in groundcover and others had declined, due to the ‘management factor’.\(^{137}\) They believed the data to be sufficiently reliable to support ‘action by agencies’.\(^{138}\) Graetz had hosted a plane trip for the Committee at Broken Hill, his briefing stressing that there were great differences in management by individual landholders, and by state jurisdictions.\(^{139}\) When he attended the Committee with Department of Agriculture and SCS officials, the Department’s Director-General said that Western Australia had purchased the system Graetz referred to, and other states could tailor it to their needs.\(^{140}\)

After the Committee’s Second and Third Reports were tabled in March 1984, the LGPA made its opposition known to the most fundamental recommendation: that a new Western Lands Management Authority should be created with aims focussed on the

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\(^{134}\) Snelson gave no date for this refusal, but remarked that it was unlikely that someone would find an additional piece of land to buy, which was just the right size for 3,000 sheep.

\(^{135}\) ‘Heartlands’, op. cit.


\(^{137}\) ibid., 72-73.

\(^{138}\) ibid., 73-75.


natural resource.\textsuperscript{141} Government needed to behave as a land manager, the \textit{Committee} had said, whereas the Western Lands Act was basically a closer settlement act with staff qualified only in those functions, as seen in its structure and staff titles. The \textit{Committee} went so far as to see closer settlement \textit{per se} as inappropriate in the Division since 1900.\textsuperscript{142} After the final Fourth Report was tabled in August and the \textit{Committee} disbanded, a minority report was released by three former members, two Nationals and a Liberal, saying that the Committee’s major recommendations were based on the wrong assumptions that land was still degrading and there was a need for a new authority.\textsuperscript{143} Wran had asked the Minister for Natural Resources, Janice Crosio, to convene meetings in the Division and have an independent person chair them, assess feeling and seek a degree of consensus, or as one \textit{Committee} member put it, ‘hose the fires’.\textsuperscript{144} Retired former Valuer-General, Frank Bird, carried out this task in July-August 1984, action which Fisher said was the outcome of the LGPA and the National Party ‘drumming up’ a campaign of misinformation about the Second and Third reports in preparation for a federal election, aided by ‘the defamatory ravings of a discredited self-appointed guru on land conditions in the Division [Condon].’\textsuperscript{145} Schipp, former \textit{Committee} member and one of the minority report members, agreed that all wisdom should not be seen to lie in ‘one quarter’.\textsuperscript{146}

At nine ‘forums’ attended by lessees, LGPA members, agents, lawyers and few conservationists, Bird went through the recommendations affecting landholders one by one.\textsuperscript{147} He found no opposition to the recommendation that an Act should have the ‘clear aims’ of the maintenance and improvement of the long-term condition of the vegetation, the stability of the soils, and the use of land within the bounds of its ‘inherent capabilities’. He found strong objection to a new ‘Western Lands Management Authority’ and its proposed functions of drawing up ‘strategy plans’ containing policies relevant to five zones, and in consultation with lessees, of approving property management plans consistent with the strategy plans, and of defining the nature of lease conditions and covenants applying to all leases in the zones. Fisher

\textsuperscript{141} \textit{Land}, 5 April 1984, 15.
\textsuperscript{142} JSCWJD, \textit{Second Report}, 1983-84, 11, 16.
\textsuperscript{143} \textit{Report on the Western Division Select Committee of Enquiry by a Minority Group}, n.d., NSWPA, JSCWJD, PRS 397. L.C., Doohan Papers, Box 49. The three were Sir Adrian Solomons, J. J. Schipp, and J. J. Doohan.
\textsuperscript{144} \textit{NSWPD}, 29 October 1985, 8842.
\textsuperscript{145} ibid., 24 October 1985, 2401.
\textsuperscript{146} ibid., 24 September 1985, 8842.
appealed to the model of the Environmental Planning and Assessment Act (EP&A Act). This Act used the ‘management by objectives’ framework popular in organization theory at the time, in which goals are broadly established for the whole organisation, then its lower levels make plans and strategies consistent with achieving broad objectives. In the Division’s case, landholders would be obliged to make their property plans and actions consistent. Properties would also be placed in five hierarchical categories according to their ‘condition’, and inspected regularly. A process of improvement through the five categories was envisaged with regular review of conditions.\textsuperscript{148} This was seen as unwarranted interference in day to day management by a top-heavy bureaucracy.\textsuperscript{149} It offended, Bird said, lessees’ ‘self image as pioneers and their proprietorial feelings as family landholders over several generations’, and they wanted current ‘consultative and cooperative’ arrangements to continue.\textsuperscript{150} This reaction was understandable given no past experience of such things as property management plans and total lack of trust. The plans prepared by the SCS, still not completed for all properties, had involved no discussion or performance commitment between lessees and government: the SCS simply sent them to the Western Lands Commission which mailed them to lessees. The initial impetus for the plans, Grieg’s concern about overstocking and his appeal to science in 1966, was nullified, it became clear, by the fact that the ‘safe’ stock figure developed by the SCS, seen by the CSIRO and once Condon himself as a major need in grazing management, was removed from the plans by the Commission before being forwarded on to lessees.\textsuperscript{151}

Regarding overstocking, Condon told the \textit{Committee} that he would not take action under the Act as the penalty of forfeiture was too harsh, a message which lessees had no doubt already received, even in Grieg’s time. Some agency staff had received it from Condon when they brought examples of degraded paddocks or properties to his attention.\textsuperscript{152} The \textit{Committee} recommended the introduction of fines for overstocking offences, for example for refusing to obey a destocking order, leaving forfeiture as a last resort, with appeal against an administrative decision going to a district court, then to the (by now) Land and Environment Court. Bird found no strong opposition to this,
though lessees believed the existing situation adequate, which overlooked in Bird’s view, the fact that de-stocking orders were not enforceable.\textsuperscript{153} What angered lessees most, he thought, was their perception that the Committee was branding all landholders in the Western Division as in need of control, whereas, ‘perhaps identification of a small minority would have been more accurate and convincing.’\textsuperscript{154} The Committee, in fact, had said that some land was improving and some was deteriorating, that property boundaries seen from the air showed some well managed properties in good condition next to properties in bad condition, in scrub country the carrying capacity had been halved.\textsuperscript{155} Areas of agreement were lost amongst the passions.

Though some recommendations envisaged a model of continuous improvement, others were squarely within the command and control model of the Act. The Director of the proposed Authority should be ‘required’ to order destocking of an area under threat of permanent damage.\textsuperscript{156} Failure to comply with a destocking order could render the lease ‘liable to mustering by contract under police supervision’, a recommendation which was ‘sharply resented’.\textsuperscript{157} The Authority would set carrying capacities, issue destocking orders, control agistment, and receive annual reports of stock numbers with power to check them. One recommendation, that the state of the pastures, not the number of stock, would be the ‘sole’ basis for any order to destock, sat oddly with another saying that providing incorrect information about stock numbers would result in the property being placed in the lowest category of land condition (Category 1). If the state of the pastures was the sole criterion for an order to destock, why did ‘correct’ stock numbers matter? Lessees saw elements of confrontation in the Reports.

Bird must have been pleased to find that landholders applauded the recommendations on research and extension services.\textsuperscript{158} These were that priority be given to: management guidelines to prevent degradation; to ‘optimum grazing strategies’; and to methods of controlling shrub increase ‘through examination of the whole eco-system [sic] involved’.\textsuperscript{159} The Committee had not questioned lessee witnesses about their grazing management, and no evidence was offered about what a born and bred western

\textsuperscript{154} ibid., 6.
\textsuperscript{156} ibid., Recommendation 15 (iii), 17.
\textsuperscript{157} Frank Bird, \textit{Report}, 11.
\textsuperscript{158} ibid., 8.
\textsuperscript{159} ibid.
‘conservationist’ did. Nor did it receive advice other than the SCS’s stress on removing stock early in a drought and waiting for plant re-establishment before restocking. Its recommendations did not include what Environmental Lawyer John Braden called for shortly afterwards: it was necessary to do more than provide information and ‘demonstrations’, he said: it was necessary to create dialogue and adopt ‘adult education’ principles.\textsuperscript{160} The Committee, however, remained within the research-extension model with landholders receiving information and guidance from officials.

In November 1984, Condon either retired or was not re-appointed (his ten year term expired).\textsuperscript{161} He immediately wrote a series of articles in the Land rebutting parts of the Reports.\textsuperscript{162} At this time, all NSW parliamentarians were sent two letters, one from the Chairman of the Western Division Council of the Livestock and Grain Producers Association (LGPA), Les Le Lievre, whose forebear Constable Le Lievre had been allotted land off Winbar in 1913, and one from its Secretary, Howard Moxham, descendant of an early MLA for Parramatta ‘with pastoral interests in the Bourke district’.\textsuperscript{163} Marie Fisher also received them, and must have been less than amused to read, ‘You will be aware that the Western Division, at great cost to the taxpayer, has been subjected to a Joint Parliamentary Select Committee of Inquiry (sic)’.\textsuperscript{164} The crux of the letters was that the Committee had ignored the LGPA’s evidence that since the 1940s landholders and the Western Lands Commission had improved the condition of the land and that perpetual lease title and good management had restored the devastation typical of earlier times. Government policy on land tenure had caused the massive abuse up until the 1950s. The Committee, or as Le Lievre’s letter said, its more ‘purposeful members’, a phrase used also by Condon and the National Party’s new Judy Jakins in the Council, had steadfastly refused to recognize that fencing and watering points made by recent generations, plus conservative management, had uniformly restored the devastation of earlier times.\textsuperscript{165} The recommendations, Le Lievre claimed, would ‘erode the whole basis of land tenure’ and create a ‘monolithic bureaucracy’

\textsuperscript{161} This was five years before compulsory retirement.
\textsuperscript{162} See the Land, 20 December 1984, 10 January 1985, 7 February 1985, 7 March 1985.
\textsuperscript{164} Copies of the letter, LeLievre to Fisher, 2 November 1984, and Howard Moxham, Secretary, to the Hon. R. D. Dyer M.L.C, 8 February 1984 (sic) are available from the author. The latter date was meant to be 1985.
\textsuperscript{165} For Jakins’s use of the phrase, see \textit{NSWPD}, 31 October 1985, 9082.
grasping management out of the hands of landholders who had nurtured their land to its present excellent condition. They were ‘objectionable socialistic’ ones belonging in ‘the garbage can’, he told the *Land*, and the government should accept the results of the forums as the true reflection of the wishes of people, not the Fisher Reports.¹⁶⁶ In response, Fisher wrote to all parliamentarians saying that the letter writers did not appear to have read the reports or recommendations, so wide of the mark, even ‘paranoid’, were their allegations and pointing out that retention of perpetual lease title had been recommended.¹⁶⁷

In January 1985 Condon addressed a meeting of the ‘Fighters for Survival’ at Cobar, in the heartland of the scrub dominated region where he had focussed effort in funding programs aimed at restoring viability through clearing and cultivation, and where CSIRO experiments in controlled burning had commenced. He gave free reign to his anger. The Reports were, he said, a mixture of ‘Four F’s - FACT, FANTASY, FALLACY and FARCE’ (capitalization in the original), a ‘conglomeration’ amounting to ‘a hoax on the people of the west, the general public and the government’, caused by the ‘less purposeful’ members on the left hand side of the political spectrum swamping those on the right hand side.¹⁶⁸ The *Committee* was unable to recognize what had happened ‘as a result of *your* development and *your* management...’, he said, its Reports needed to be challenged, the record put straight, so that the media, people in the towns, even students doing their assignments, would not be left with an incorrect view. The conservation movement would use the Reports, he concluded, ‘to advance their cause and to destroy yours’; indeed there was already evidence of people using the Reports to attack lessees—an Aboriginal Land Council had taken out an injunction to prevent the Minister making the Winbar expiring lease available as additional and had referred to the widespread degradation of land in the Division ‘as reported by the *Committee*.¹⁶⁹

Fisher had recently told parliament that Les LeLievre’s statement to the Conference of Livestock and Grain Producers Association (LGPA), later renamed the NSW National Farmers Federation (NSWNFF), that Aboriginal land claims ‘struck at the heart of our Australian way of life’, had been responded to by three Aboriginal people in a letter to

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¹⁶⁶ *Land*, 10 January 1985, 8.
¹⁶⁸ ‘Comments on the Reports and Recommendations of the Western Division Select Committee: being an address by Mr. R. W. Condon, former Western Lands Commissioner, to a meeting at Cobar on 16th January, 1985, called by the Fighters for Survival’, 1. NSWPA, PRS 397. L.C., Doohan Papers, Box 49.
¹⁶⁹ ibid., 6.
the *Western Herald* which revealed that LeLievre was an applicant for additional land off Winbar’s expiring leases, the property from which his forebear had been allotted land in 1913.\(^{170}\)

Regardless of the responses of lessee representatives, there were systemic problems with a model of management by objectives in the Division, no doubt elsewhere in rural regions. It had been developed in America for large business organizations, not for self employed businessmen. As applied in the EP&A Act, local government had a significant role, but in the Division, local government (shire) had only recently encompassed rural hinterlands and their staff skills focused, as one western shire general manager put it, on rates, rubbish and roads. In addition, a large area west of the Darling remained unincorporated with no local government. Finally, landholders were not, in the main, developers of the kind that the Act had in mind, except as regards clearing and cultivation, and despite the emotions surrounding cultivation, most land in the Division was a grazing proposition.

The recommendations were weak in the area of financial incentives. The ACF conference’s approval of them, without detail, bore little fruit. One carefully crafted recommendation sought redesign of drought relief funds so as to encourage early destocking and later restocking, a significant recommendation in the light of its variance from Condon’s view that drought relief subsidies enabled landholders to remove stock quickly in response to rainfall conditions.\(^{171}\) Evidence to the *Committee* had suggested that landholders *waited* for drought relief and its transport concessions before removing stock, therefore having the opposite effect. But beyond this, no financial incentives were mentioned. The *Committee* recommended that price control be removed from all grazing leases (Bird found about half in favour at the forums), but instead, it recommended a potentially administratively complex requirement that prospective purchasers submit a budget demonstrating that liabilities could be met without overstocking or otherwise damaging the land.\(^{172}\) Condon’s spirited defence of price control had been another example of how a tool designed for an old purpose could be espoused as one for conservation. He told the *Committee* that naïve newcomers to the Division, influenced by a good season or relatively low land prices, were protected from

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\(^{170}\) *NSWPD*, 24 October 1984, 2396.  
paying unrealistic prices which would later drive them to overstock.\textsuperscript{173} Evidence before the Committee, however, was that vendors, purchasers, and their solicitors easily devised ways to make up the difference between the Commission’s price and the agreed price (when a difference occurred), and that price control was something of a joke.\textsuperscript{174} It was, some said, most desired by fathers wishing to purchase for their sons. Jack Doohan, former Committee member and like Fisher a former western lessee who had entered the Council in 1978, told parliament that experienced lessees saw the Commission as able to look after them through price control: inexperienced outsiders might outbid them, but ‘fortunately the Western Lands Commission has always kept an eye on that matter.’\textsuperscript{175} He believed the Commission used the control to protect those already there (and their sons) something that would have contributed to the Commission’s popularity. For Condon, it may have been a remnant power attaching to transfer control, a part of the Act which protected the roles of senior staff qualified as valuers who supervised field staff who were also paid more if possessing a valuer’s qualification.

Faced with all these (and more) complexities, Wran’s government did not see its way clear to do more than legislate to make overstocking and clearing offences attracting fines, with forfeiture a last resort, and with appeal to a court. The Nationals attempted unsuccessfully to retain a role for Local Land Boards in this process. In 1967, a coalition government had changed their composition to consist of an Assistant Commissioner, and two locally appointed members. The latter were by now normally landholders, nominated locally and recommended by the local MP.\textsuperscript{176} No other legislative change was proposed by the Wran government. No new aim for the Western Lands Act and no new Authority was proposed. An Advisory Council, to be introduced administratively, would advise the Commissioner. Its composition, as recommended by the Committee, was heavily based on bureaucratic representatives, but parliament made it consist instead of nominees of the WDPA, the LGPA, the Nature Conservation Council and an Aboriginal representative: ‘de-bureaucratised’ but politicised. The Nationals attempted, unsuccessfully, to have a Pasture Protection Board representative replace the Aboriginal representative, arguing that Aboriginal people had only ‘passed through’ the region until white people brought water there, ‘stabilized’ them, and

\textsuperscript{173} JSCWD, \textit{Minutes of Evidence}, Volume 3, 2031. He said that the real object of price control was to protect the land from the fool who pays too much. 
\textsuperscript{175} NSWPD, 28 November, 1979, 4013. 
\textsuperscript{176} Pers. comm. with Doug Campbell, formerly of the Western Lands Commission, 6 April 2009.
Armstrong said, ‘made the west’. A new ‘Rangeland Branch’, employing differently qualified people would be created administratively, but it only had the old tools to work with plus the polished up fines before forfeiture for overstocking, and unauthorized clearing. First order change in Hall’s terms? Hardly even that when the old tools were the only ones to work with.

Fisher was philosophical by the time the resulting Bill was debated. Much depended, she said, on ‘whatever expert one wishes to consult’, but her money was on ‘the authors of The Plants of Western New South Wales, the Herbarium, CSIRO and the soil conservation services…’ She could have been more confronting had she wished, for the CSIRO’s Division of Wildlife Research had told the Committee that the Division’s ‘eco-systems’ were ‘grossly disturbed and in decay’, and its Rangelands Research Group had told it that ‘major land deterioration’ had occurred on individual properties and in whole regions, and that controls were ineffective.

In 1984, CSIRO’s Division of Wildlife and Ecology published Management of Australia’s Rangelands, announcing that Australian rangeland science had ‘come of age’. Only in the last ten years, it said, had work been done making it possible to confidently outline ‘the factors’ influencing rangeland management. Like Ratcliffe, it believed closer settlement had created an unfortunate legacy and like Holmes, that a new philosophy unlike that applying to the agricultural regions was needed. The control available to the agricultural manager further east, it said, was precluded by the ‘grossly unpredictable’ rainfall and changeable conditions: a rangeland manager might not experience the same conditions twice in a lifetime. The manager and government should therefore adopt a long term view, giving equal weight to resource maintenance and immediate productivity. Short term animal production was a poor measure of the state of the land, as animals could switch to less palatable plants, which, if removed, could produce a ‘crash’ to a lower level of production through removal of all palatable plant life and plant roots from the soil. Plant matter and roots which retained rainfall in

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177 NSWPD, 29 October 1985, 8864.
178 NSWPD, 30 October, 1985, 8931.
179 Submission No 75, PRS.397.LC, Legislative Council, Records of the Joint Select Committee on the Western Division of NSW, 1982-1984, Submissions 1 – 130, Box 19.
180 ibid., Submission No. 32.
182 ibid., ix.
the soil were necessary for providing moisture and sustenance for soil dwelling creatures necessary for nutrient recycling and soil health. Annual/ephemeral plants with short lived shallow roots were less important for soil health than the perennials with longer lived and deeper roots. Perennials, therefore, should be managed for renewal, not eaten down too far so as to weaken their root system and make them less likely to survive drought.\textsuperscript{183} It acknowledged, yet again, the scientific view that continuous set stocking had been responsible for loss of perennials, either through selective grazing or by leaving stock to graze too far into a drought and softened opposition to short duration grazing systems: indeed grazing systems which moved stock continually within a property could ‘favour’ perennial species.\textsuperscript{184} Some authors doubted there was any ‘safe’ way to graze ‘less resilient’ rangelands given the grazing pressure from increased numbers of kangaroos and feral goats.\textsuperscript{185}

The book also addressed landholders, policy and administration. Generalising for Australia, it thought the landholders ‘rugged pioneering image’ to be ‘uniquely Australian’.\textsuperscript{186} As Weaver’s analysis of other colonial settler societies shows, similarities on different colonial frontiers were great, including attitudes and rivalries, so the uniqueness can be questioned.\textsuperscript{187} Though empathizing with the image, CSIRO wanted it replaced by an ‘ethical’ one regarding future generations.\textsuperscript{188} Mike Young’s chapter accepted that government should use the power of term lease renewal to influence management, but the relevance of this in the Western Division, given its perpetual leases, seemed problematic. His recommendations regarding regional objectives, periodic review of objectives, strategy plans and lease covenants, with covenants quantifying performance standards, penalties applying to covenant breaches, appeals to a court, and statutes removing the guarantee of continuous grazing rights, sounded remarkably like the major recommendations of the Committee.\textsuperscript{189}

Historian Inga Clendinnen has written that one of the jobs of an historian is ‘to inquire into what the myth-makers are up to’.\textsuperscript{190} Condon’s narrative can be revisited in the light

\textsuperscript{183} ibid., 9-11.
\textsuperscript{184} ibid., 134. CSIRO used the generic term ‘grazing systems’ to denote movement of stock from one paddock to another according to some system as opposed to continuous set stocking.
\textsuperscript{185} ibid., 37-38.
\textsuperscript{186} ibid., 9.
\textsuperscript{187} John C. Weaver, The Great Land Rush, 46-87.
\textsuperscript{188} G.M. Harrington, A.D. Wilson, and M.D. Young, op. cit., 9-10.
\textsuperscript{189} ibid., 169.
of this. His claim that lack of borrowing power in the 1880s or 1890s stopped improvements of water and fencing and caused degradation ignored the great debt lessees accumulated at the time, debt which the Western Lands Act had insisted on writing down. It also ignored the effect of the drastic resumption of half the pastoral holdings by government in 1885, action which could only have contributed to the concentration of stock around existing watering points. His argument that ‘companies’ were responsible for early degradation also overlooked the fact that most of the early lessees were families until the mortgagee actions of the 1890s. A consensus view about the ‘Land Companies’ that became prominent in the twentieth century as mortgagees in possession, as expressed in a series of articles in the Land in 1998, was that they were conservative stockers. Peart said that following ‘the agonies of closer settlement’, there was now a recognition that the companies ‘had the right idea in terms of their scale of operations’, a view that had been put publicly in 1962 by ANU economist Neville Cain, who thought the management of a number of stations under one management permitted a ‘more effective relationship’ between the enterprise and the arid environment.191 Moving stock was part of this relationship. Condon’s view that perpetual lease tenure, higher stock numbers after 1950, and greater borrowing for fencing and watering points after 1950 added up to ‘better management’ overlooked the CSIRO view that increased stock numbers may have signified no more than the more constant use of all pasture following the greater spread of fencing and watering points. This was consistent with Condon’s statement that good management after 1950 required ‘no conscious effort’ on the part of landholders.192 In other words, they did what their fathers, grandfathers, and the industry did. Whether they used the technology for the benefit of the pasture and soil, remained a question. Another question was why parliamentary concern about overstocking became most evident and legislatively recognized, in 1949, at the same time that the demise of large holdings was forced and the final closer settlement push started.

Condon’s crowning argument, put by lessees also, was the evidence of their eyes. For the Committee, he wrote a separate ‘Commentary’ outlining specific areas which showed the improvement that had occurred since 1950, perhaps the areas he would have

taken them to.\textsuperscript{193} He later added or subtracted to these and detailed them in his 2003 book, designed to put ‘the record straight’.\textsuperscript{194} They were areas known to him or landholders in the 1940s, examples of past ‘catastrophic’ erosion, which had since improved. Some were areas where the SCS had established contour furrowing and waterponding, some were around public watering places where a lot of trampling could be expected, some were on travelling stock routes or old roads, one was near a railway siding, one was a SCS demonstration site, and a couple were sites of early homestead lease occupation on rivers. They were areas of particular and sometimes public use that could be expected to ‘improve’ when no longer used that way, or when the SCS’s rehabilitation work finally showed results.

Condon’s narrative of improvement was thus based on the feet of stock, and their numbers (more feet), rather than on what they did with their teeth when they were \textit{not} congregating around these areas.\textsuperscript{195} The evidence of his practical eyes was absent when he referred to the \textit{rest} of the land, the paddocks generally. This, he wrote, could be \textit{assumed} to have improved because the ‘catastrophically’ eroded areas had improved, \textit{except in the scrub encroached areas}. His knowledge about the paddocks generally was, in fact, as lacking as that of his impractical foes, arguably more so given Graetz’s eyes from on high. As for lessees’ eyes, his later book weakened his and their argument. Managers of large areas, he wrote, tended to have an insular outlook about management because the constraints of distance and time meant that many of the five or six adjoining properties were ‘a complete mystery’.\textsuperscript{196} How then, it has to be asked, did they \textit{know} Division land was uniformly improving? Written in the more tranquil times of his retirement, Condon welcomed the Landcare groups which had emerged, providing as they did opportunities for landholders to meet in the field and discuss things ‘other than the price of wool’, like projects aimed at ‘improving the landscape.’\textsuperscript{197}

\textsuperscript{193} Western Lands Commission, \textit{Commentary on the First Report of the Joint Parliamentary Select Committee of Enquiry into the Western Division: in respect of Improvement in Rangeland Condition in the Western Division}, NSWPA, PRS. 397. L.C., Doohan Papers, Box 47.


\textsuperscript{195} Condon identified these areas throughout the Commentary cited at footnote 186, and in \textit{Out of the West}, 360-376.

\textsuperscript{196} Dick Condon, \textit{Out of the West}, 386.

\textsuperscript{197} Ibid.
CHAPTER TEN

Paradigm Change

The Enquiry exposed schisms: within the State bureaucracy, between scientists and lessees, between conservationists and lessees, or at least lessee representatives. Lessees defended themselves by constructing a favourable self image. They and their predecessors had attracted many images since 1884, images often imposed by outsiders, bureaucrats and politicians who had mind sets influenced by the politics and ideologies surrounding closer settlement. Large holders had variously been: pioneers for the empire and civilisation; wealthy alien competitors for NSW resources and business; wealthy overseas companies draining away Australian resources; careless and wasteful large holders unable to put all their land to its best use; conservative managers able to manage grazing well through stock movement during drought; and stingy land companies looking after shareholders rather than spending on improvements. Large holders were no longer available as negative, or more rarely positive, targets in an argument.

Small holders had been: pioneers of the working class; people with special knowledge of the western land and adapted to it; people whose capitalist tendencies needed control; productive hard working bona fide family holders; Australians and sons of Australians claiming their rightful heritage; passive landholders following a leisurely set routine of stock management and husbandry while ignoring the natural resource; war heroes; latter day pioneers; people who looked at and cared for their stock more than their pastures; overstockers; born and bred conservationists; poverty stricken battlers; inarticulate people needing protection from impractical outsiders and conservationists, and managers with the right attitude using modern technology to attune stock numbers to available feed.

Images hide the diversity of reality. What landholders actually did to warrant the images was rarely revealed. Certainly what they did to warrant the recent image of ‘born and bred conservationists’ or managers with the right attitudes was not revealed, despite the lengthy Enquiry.¹ Thirteen years later, the Kerin Review found lessees still concerned about their identity, some even seeing the Western Lands Act as needed for

¹ The Minutes of Evidence reveal no questioning of lessees about their management.
The search for a less contested, more confident, image, less reliant on appeals to the past, less defensive and more accepting of conservationist values, would continue for over ten years. Paradigm change, when it came on a broader stage, relied on a new image.

In the introduction to this thesis, I suggested that closer pastoral settlement in the Division could best be understood as a policy paradigm of the kind outlined by Peter Hall. His model of how paradigm change occurs applies in the Division, but takes us outside it. The deep change needed to install a new paradigm could not happen within the Division alone, or even within the State alone. The Commonwealth government, and non-government scientists, were needed. When it occurred, it showed the features of Hall’s ‘third order’ change: a radical shift in goals; a new ideology based on fundamentally different conceptions; a change in discourse; wide debate outside bureaucratic circles involving non-government scientists; involvement of the media; societal debate bound up in electoral politics; the offer of a simple solution to dilemmas and policy failures, and a shift in authority from pre-existing bureaucracies with supporters of the new paradigm securing leading roles in new structures. In our case, it also involved a change in the image of landholders.

The bureaucratic descendents of the Western Lands Commission could not achieve third order change. Their actions were at first characteristic of Hall’s first and second order change. They tinkered with existing tools, attempted to use old tools for new goals, and finally jettisoned old tools. The Commissioner following Condon, ex-Agriculture official Doug Pearson, understandably anxious to follow the legislature’s recent lead, was thought to be a stickler for the Act and its new tools of fines for overstocking. He even took a lessee to court for non-payment of rent. His comprehensive Discussion Paper of late 1985 argued for lifting the limit of two home maintenance areas to three and for the lifting of price control, the latter being needed to free up field staff from

4 Pers. comm. with Peter Davey, former Western Lands Commissioner, 22 July 2009.
valuation inspections for tasks more ‘directly related to land management’. It favoured attracting risk capital and sophisticated management, and even made the surprising (but honest) suggestion that the overstocking damage of the late nineteenth century may have been caused as much by ‘land administration policies’ (the 1884 Act presumably), as by company ownership. To the surprise of some lessees, his new Rangeland Management Branch staff issued de-stocking orders, for a while.

Eventually, like Grieg before him, he sought help from science. How, he asked CSIRO, could he require a lessee to destock and not restock until permitted so that it would stand up in court? It was a gauntlet thrown down, a CSIRO scientist recalled, which needed ‘further research as well as overcoming difficulties in practical application’. Graetz’s tool of scientific support was regarded as either too difficult, too expensive, too broad brush, or all of these.

The Discussion Paper’s stated desire to exert the Commission’s direct controls, monitoring, compliance with lease conditions, regional management plans and protection of the Crown estate, appeared to wane as time progressed. When one of the new Rangeland Management Officers raised concern about overstocking in the Walgett North district, Commissioner Pearson asked an inter-departmental group to take a bus trip to inspect and make a recommendation—hardly the forthright action of a Commissioner newly empowered by the Act. The subsequent decision was that as the condition of the land on the property was similar to a number of nearby properties, it was not desirable to take action affecting a whole region.

Failure at the intersection of science and government quietly continued, but the case of remote Delalah Downs, west of the Paroo, in March 1990, exposed this publicly. The ABC TV’s 7.30 Report highlighted death of cattle and land degradation due to lack of

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6 Western Lands Commission, Department of Lands, Review of the Statutes and Policies affecting Rural Land Ownership and Settlement in the Western Division of New South Wales, Discussion Paper, 1985, 24.
7 ibid., 35.
8 Pers. comm. with Mike Maher, Rangeland Management Officer at the time, 10 April 2008, who told me instructions about destocking were greeted with amasement by lessees.
10 Pers. comm. with the Western Lands Commission staff involved, 10 April 2008. Another reason given was that there was a green tinge appearing, just the time that sheep should be kept off to enable root establishment.
removal of stock at Delalah Downs on the Queensland border. The landholders lived on their property at Narromine in the Central Division, and had employed no resident manager for the past four years. The alert rural press noted a change of emphasis in the publicity: this time poverty was not put forward as a mitigating factor, stock death was not inevitable but rather a result of no management, land degradation was highlighted as much as stock death, and sympathy for the landholders was lacking. It contrasted with earlier customary drought images of grim faced western landholders compassionately pulling a near dead ewe out of a muddy ground tank and declaring determination to hang on and never leave, with the problems all being external to the landholder. The Delalah Downs management failures were, the RSPCA's Director said, inexcusable and they included having breeding cows on country that should be used only opportunistically. The RSPCA had alerted the Commission to the situation, which proved, the ACF said, that the self regulation demanded by farmer organisations was not working and more monitoring was needed. CSIRO's Ken Hodgkinson said the incident highlighted lack of basic research in rangeland management: research which was needed to come up with better ways of assessing the state of the resource and reacting quickly. Commissioner Pearson pleaded lack of staff, issued a destocking order for part of the property, and asked the landholders to fence some watering points and re-position holding yards. The ACF described the failure as 'a structural reluctance to front up to landholders' and convince them to change their behaviour, a view that was supported later by a former Assistant Western Lands Commissioner. Landholder representatives said it was a special case, caused by isolation and large property size, and most landholders should not be tarred with the same brush.

The next Commissioner, ex-Agriculture, was not interested in applying the Act. Peter Davey came from an 'extension' background, but was rethinking the research-extension model to encompass adult learning theory, theory being used widely in workplace

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12 This may have been influenced by the landholders' treatment of the RSPCA staff who were ordered off 'private property'.
14 Australian Rural Times, op. cit.
15 John Pickard, former Assistant Western Lands Commissioner during Pearson's Commissionship described the inaction of range administrators in Australia as the result of 'operational difficulties and a long history and entrenched culture of doing nothing'. See 'Safe Carrying Capacity and Sustainable Grazing: How much have we learnt in semi-arid Australia in the last 170 years?', in A.J. Conacher, ed., Land Degradation, Kluwer Academic Publishers, the Netherlands, 2001, 275.
16 Pers. comm. with Peter Davey, 7 September 2009.
training elsewhere in industry. The Commission had become part of the Department of Conservation and Land Management, with more input from varied staff, and Davey was simultaneously Regional Director for the Department. At the time of his appointment, crisis was again seen to be visiting western lessees The SMH highlighted poverty, overstocking, and further spread of inedible scrub now said to be covering 70 per cent of the Division ‘as a consequence of overgrazing’. Technology and drought relief schemes had not prevented recurrent stock death, and a drought survival method not mentioned by Condon was reported by the SMH but which had been reported twelve years earlier in 1980. A Bourke stock and station agent, the SMH said, advocated that though the old solution in drought, selling half the stock, opening all the gates and letting the other half take their chances, and waiting for rain was costly, it would all end with rain. ‘Nonsense’, responded Bourke based Soil Conservationist Dave Robson and Rangeland Liaison Officer Mike Maher: the country needed not only rain but a change in management. Maher recommended a return to nomadic use and said it would take fifty to 500 years to return degraded areas to sustainable pasture. Mike Young said poor people could not be expected to manage for the long term. That year (1992), the Commonwealth introduced the Exceptional Circumstances Relief Payment, the first drought-associated personal income support payment for farmers and graziers and related businesses, comparable with Centrelink’s Newstart Allowance, but without the activity test(actively seeking work). Arguably, this would help to soften the rhetoric of some landholders and their organisations, and also the ‘city-bush’ divide.

Davey found western lessees over-protected, wanting the Commissioner to ‘go into bat’ for them with the outside world. In his view change could only be achieved by seeing landholders not as the problem but as ‘an integral part of the environment and the solution’, as equal partners with government in defining and solving problems. This

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18 Asa Wahlquist, ‘Dirt poor’, SMH, Spectrum, 13 June, 1992, 35. The photo of the family in front of a shack concealed the fact that it was not their home.

19 ibid.

20 ibid.

21 ibid.

22 See http://www.rurallaw.org.au/handbook/xml.ch06s33s22.php, accessed on 15 November 2010. Until this time, drought relief schemes were overwhelmingly subsidies for aspects of the farm business.

23 Pers. comm. with Peter Davey, 7 September 2009.
dented the image of landholders as childish or grateful recipients of research.\textsuperscript{24} He embarked on a ‘Search Conference’ of representative bodies, government departments, catchment bodies, CSIRO, ACF, universities and others, followed by community consultations. People were asked to envisage a future for the Division, with landholders treated as citizens rather than business units and encouraged to think about diversification and alternative enterprises. The Conference’s analysis of lessees’ situations, however, was all too familiar: debt levels had risen, NSW Agriculture (the former Department) found that sheep and cattle losses in 1990 and 1991 had averaged 41 per cent, reaching 90 per cent in some areas, reflecting deaths and forced sales. ‘Rural adjustment’ in the form of enlargement of holdings was not occurring as lessees either could not, or did not want, to leave. By this time, some 8,000 sheep areas were believed to be required for longer term viability.\textsuperscript{25}

Robson put a radical proposal to the 1994 Rangeland Society meeting at Katherine. He had found that landholders re-introduced stock too soon after shrub treatment by burning, thus nullifying the government effort to encourage burning as a management tool for regeneration of pasture. These areas were so unviable, he said, that the government should purchase them \textit{voluntarily} and establish their future multiple uses, within their capabilities, under a land title of ‘multiple use reserves’, with landholders possibly employed in various roles.\textsuperscript{26} ‘Intermittent grazing’ would be one use. Western NSW lessees were unimpressed.\textsuperscript{27}

Meanwhile, old bureaucratic tools were being jettisoned. In 1987, the price control strictures were legislatively removed for grazing leases.\textsuperscript{28} In 1989, all reference to the home maintenance area (including But tenshaw’s formula) was removed from the Act, though a 1990 official publication said that the Minister retained the discretion to prevent small subdivisions and to ‘block excessive land grabs’.\textsuperscript{29} Transfer control was sometimes used to prevent a breakdown of property size, but later it became

\textsuperscript{24} Document authored by Peter Davey commenting on the \textit{SMH} article of 14 June 1992 and provided by him to the author. In possession of the author.
\textsuperscript{26} A.D. Robson, Department of Conservation and Land Management, Bourke, NSW, ‘The Case for Multiple Use Reserves in Woody Weed Country’, Australian Rangeland Society, 8\textsuperscript{th} Biennial Conference, 1994, Katherine, NT, \textit{Working Papers}.
\textsuperscript{27} Pers. comm. with Dave Robson, 7 September 2008. On his return to Bourke, Robson found news of his proposal had spread.
\textsuperscript{28} Schedule 4 of the Act, and Section 28BB.
\textsuperscript{29} Western lands Commission and Department of Lands, \textit{Western Lands}, Department of Lands, 1990, 5.
predominantly a policy free clerical operation, though one that could still be invoked when some form of compliance was sought. No significant policy applied to prospective purchasers.

Yet another inquiry commenced in 1998, not dealt with here in detail. It involved six ‘independent’ consultancies and was headed by John Kerin, former farmer and Commonwealth Minister for Primary Industry. It initially roused the ire of some landholders, perhaps those whom Kerin, borrowing from Henry Lawson, referred to as ‘the influentials’. He found that farmers’ organisations tended to perpetuate clichéd beliefs which many of the better farmers did not hold. His recommendations were fully discussed with lessees, who complained, with justification, that they had been ‘consulted, committeed and enquired out.’ One of the consultancies noted that land title issues were still a top priority for many lessees, hardly surprising as a native title case under Commonwealth legislation had commenced in April 1998. It also reported that the new Western Catchment’s Strategy document believed a major issue was the maintenance of perennial plants and soil and vegetation degradation.

The next Commissioner, Geoff Wise, described legislative change after the Kerin Inquiry as the most ‘historic’ since 1901, removing ‘cumbersome and restrictive legislation’. The necessity to obtain approval for agistment and sub-leasing was jettisoned, though sub-leasing still had to be notified to the Commission and be consistent with the purpose of the head lease from the Crown. Agistment had recently been described as an ‘important new industry’ in the Division, so control had apparently already been administratively discarded. The way some rents were established was changed, decoupling rent from supposed sheep numbers (areas) and purportedly making

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30 Lessees were asked to provide documentation to enable a system of legal access roads to properties to be established. Non responders were recently reminded that legal access should be in place before any consent to transfer will be granted. See Western Division Newsletter, Number 132, May–June 2010, 3.
31 John Kerin, ‘Farming and sustainability: dispelling a few shibboleths’, Dissent, Summer 2007–2008, 25. The example he gave was the NSW NFF’s recent assertion that ‘habitat had no part to play in modern farming.’
33 H.J Aslin, M.R Martin, and D.M. Fenton, op. cit., 40. The native title case decided that on the basis of parliament’s 1932 intentions in creating leases in perpetuity, native title was extinguished on western leases in perpetuity.
34 NSW Department of Land and Water Conservation, Amendments to the Western Lands Act: improving legislation for the Western Division of NSW, September 2002, (pages not numbered, but page 1.) See also the Minister’s second reading speech, NSWPD, 4 June 2002, 2481.
35 Western Division Newsletter, March–April 2000, 18.
rental calculation a tool for environmental purposes.\textsuperscript{36} This tool applied mainly to cultivation situations, however, and was subsequently limited in effect through rebates of rent. Though rents had long been regarded as low or concessional, rental income had exceeded the Commission's administration costs for a lengthy period to 1979. Arrears had increased fairly consistently since then.\textsuperscript{37} Rebates of rent of 50 per cent were granted in 1994 and waivers of 100 per cent rent were consistently made after 2002, nullifying their impact as a tool. A new objective for the Act was adopted but was bureaucratically focussed: 'the effective integration of land administration and natural resource management in the Western Division'. It was also inapplicable to grazing as such, instead focussing on cultivation.\textsuperscript{38}

In the late 1980s, developments in Canberra espoused community involvement in rural land use issues. Minister for Resources Senator Peter Cook brought together Rick Farley of the National Farmers Federation, Philip Toyne of the Australian Conservation Foundation, and Senator John Button, to advise him.\textsuperscript{39} A 'Government and community partnership' emerged which provided funding from the National Heritage Trust (NHT) to structures which would implement a National Landcare Program and a 'Decade of Landcare'. The federal government wanted landholders and conservationists to work together. The NHT used river 'catchments' as a natural basis for planning (not local government as in the EP&A Act), and established Catchment Committees, later Boards, composed of landholders, state officials, local government, conservation, and Aboriginal representatives. Their job was to develop Catchment plans, strategies and actions, to be funded. The Boards remained largely voluntary and part-time, separate from the state departments though supported by them. They were able to receive funding to support training for landholders, offered by a range of training providers including, significantly, private ones. One was the Brisbane based Resource Consulting Services (RCS), established in 1990 by Terry McCosker, one or a number of people keen to introduce, trial, and promote Allan Savory's grazing management methods. He

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\item\textsuperscript{36} NSW Department of Land and Water Conservation, op. cit.
\item\textsuperscript{37} These comments derive from the evidence of the 'Finance and Expenditure' table provided in each Annual Report for the years to 1985.
\item\textsuperscript{38} A search for such integration in the Act revealed two instances only, both relating to non-grazing leases. Schedule 4, section 3, clause 3,of the Act No 70 (reprinted and in force as at 18 November 2003) said that the Minister may refuse to grant an application for transfer (sale) 'unless satisfied that the continued use of the land...is ecologically sustainable'. This Schedule, however, applied only to non-grazing leases, leases for mixed farming, irrigation, and agriculture, even town business such as motels. Part 4 said that the necessity to prove ecological sustainability also applied to 'sale' of land by the Minister, that is, to its freeholding, now permitted for agricultural leases. Official material says that some 5 per cent of the Division is held under leases permitting cultivation.
\item\textsuperscript{39} Australian Rural Times, 24 May-30 May 1988, 25.
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had met strong opposition in government circles when he sought to bring Savory to Australia for an educational visit.40 Savory’s visits between 1994 and 2002, one being supported by the NSW government, were partly training sessions for those wishing to become fully skilled training providers. They provoked strong reactions both in academia and government.41

Commissioners Davey and Wise worked to set up ‘West 2000’ which commenced grants to landholders in the Division with Commonwealth funding. This looked like a new policy instrument. At first, it involved a dollar for dollar contribution by landholders, for projects reflecting familiar approaches, and bureaucrats managed the program.42 Wise attracted continued funding for ‘West 2000 Plus’, and staff from outside were contracted to it. For reasons that can’t be explored here, it took on more of a natural resource emphasis, possibly due to a Commonwealth requirement for something more innovative.

Non-government scientists in particular were meanwhile rethinking theory affecting grazing management, seeing old theory as an obstacle to desirable change. Old American theory, they said, underlay the belief that ‘stocking rate’ (numbers of stock) was overwhelmingly important for resource maintenance and productivity. At the 1984 International Rangeland Congress in Adelaide, they applauded ANU scientist Ian Noble’s argument that the Clementsian theory of plant succession developed in the US since 1916 was unsuitable for Australian conditions.43 The theory had a Darwinian flavour. It supposed that in the absence of stock grazing (by white men’s stock) a given rangeland evolved through a series of stages to a persistent stable climax community with some plants finally dominant. Domestic stock grazing pressure produced changes in the opposite direction to the successional tendency, pushing the plant community back to earlier stages, with high stocking rates driving plant composition back to a poor state. Grazing pressure, therefore, should be made equal and opposite to the

40 Pers. comm. with Terry McCosker, 22 June 2009. The active opposition involved threats to his business as a training provider and on this occasion finance was provided by the Cattlemen’s Association. Professor Wal Whalley has explained some of this opposition in terms of Savory’s confronting debating style at public meetings, seen by them as touting for business for his associates’ training courses by belittling Australian science and scientists. Pers. comm. with Professor Whalley, 27 April 2010.
41 Pers. comm. with Bruce Ward of Holistic Results, Bowral, 15 November 2010.
42 The grants reported in Western Division Newsletter, November-December 1998, 12, were for property build up, debt reconstruction, re-establishment, rabbit ripping, pitting artesian bores (a program already commenced throughout the Great Artesian Basin), woody weed treatment, training for things such as safety, and specific skills like chain saw use or obtaining licenses for such use.
successional tendency in order to produce an equilibrium in the vegetation at a set stocking rate, and the main object of management was to choose the stocking rate. This underlay CSIRO’s mission of measuring ‘trend’ and ‘condition’. Noble now said inertia and unpredictable events associated with rainfall were dominant matters, especially in arid rangelands, and models should be chosen for ‘their appropriateness to the task’. In 1989, Westoby, Walker and Noy-Meir, university and CSIRO scientists, urged that Clementsian theory had produced a passive approach to grazing management through notions of stocking rate, carrying capacity and equilibrium. They cited examples where reality defied the theory, including that removing stock did not always see a progression up the ladder towards a climax community. Attempts to establish equilibrium had been unnecessarily conservative at times, and too high at other times. Instead, opportunities should be seized and hazards evaded. They called for ‘administrative reform’, and noted a contrasting approach: the recent work on rotational grazing systems organised around actual plant growth.

Though inappropriate theory perhaps explained some SCIRO approaches, it has to be noted that the notion of carrying capacity existed well before 1916 and before Clements. It did not rely on theory but rather on consensus born of the practice of closer settlement. It was a measuring tool for land redistribution used by the surveyors, who relied, in turn, on ‘local knowledge’ and the practice of landholders themselves. Land bureaucrats accepted the surveyor’s and Land Board estimates because they were handing out land for ‘home maintenance areas’. If this account of the genesis of ‘carrying capacity’ is correct, there was now no need for it and scientific thinking could change. Even the SCS’s ‘safe’ carrying capacity concept was based not on theory but on benchmarking and empirical observation, and was advisable only for twelve months going into a drought. Tracing the concepts over time, Dr. John Pickard, the first commissioner to hold a post graduate qualification, concluded that the concept of a ‘safe

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47 ibid., 271.
48 The work of F.E. Clements was developed by US government agencies as a system of classifying rangelands and was later adopted in textbooks.
carrying capacity’ in Australian rangelands had been a ‘chimera’.\textsuperscript{49} I would add that it was a closer settlement tool used to measure the ‘home maintenance area’.

In 1996, the \textit{Rangeland Journal} reported the results of a trial of cell grazing along Savory’s lines, carried out by PhD students at Whalley’s University of New England. It showed improvement in the condition of perennial grasses under cell grazing as compared with continuous set stocking.\textsuperscript{50} In the early 1990s, in the face of declining terms of trade and low pasture resowing rates in the high rainfall regions of eastern Australia, Meat and Livestock Australia (an industry body) initiated a highly co-ordinated research program across more than twenty sites, testing whether and how management of grazing could maintain and restore perennial pastures. The propositions that Savory had put for a ‘brittle’ environment (dry and lacking humidity), that conservative set stocking was damaging to plant productivity, and that Whalley had also put in 1974, that actively managed stock grazing could be used as a tool for changing plant composition for the better and maintaining perennial grasses, were at issue. The research concluded that grazing management was important, that the maintenance of ‘a higher average herbage mass throughout the year’ (about double the amount found in the surveys) was required to achieve more sustainable perennial pastures, and that continuous grazing, even of moderate pressure, had a detrimental effect on perennial grasses.\textsuperscript{51} Ironically, though arid rangelands had served as an argument for rethinking, the research was carried out in rainfall zones greater that 660 mm.

Some landholders in the Division responded to privately provided training and became more demanding of government advisers. In 1999, NSW Agriculture’s Ron Hacker was obliged to respond to a lessee, who had undertaken RCS training, who asked for some ‘simple recipes’ for grazing management.\textsuperscript{52} Hacker thought it didn’t matter whether a cell grazing system or a more conventional method was used, like reducing the stocking

\textsuperscript{49} John Pickard, ‘Safe Carrying Capacity and Sustainable Grazing’, op. cit., 283-84. Pickard writes as though ‘safe carrying capacity’ was once legislated for in NSW but this is not the case for the Western Division. He sees the concept as similar to ‘sustainable grazing’ in the recent Native Vegetation Conservation Act (not dealt with here), which defined it in terms of the ‘level of grazing’ that will not modify the structure etc of the vegetation, a Clementsian view, I must admit. For degraded country, it can and has been argued, modification is exactly what is needed.


\textsuperscript{52} \textit{Western Division Newsletter}, January-February 1999, 6.
rate, so long as plants were not eaten down too far. He referred to Ken Hodgkinson’s recent research results near Cobar which showed that death of perennials during drought was increased by grazing going into a drought. In 2000, his Department published a *Glove Box Guide to Tactical Grazing Management for the semi-arid woodlands*, with contributions from CSIRO and others.\(^{53}\) It tried to blend the old and the new, but they sat rather oddly together at times.

New thinking was evident in the way it passed on measuring and assessment tools, developed by scientists, to *landholders* to use to monitor the health of their plants and soils.\(^{54}\) Regarding grazing management, it spoke of the need to make decisions on an ongoing basis, to ‘exploit opportunities and avoid hazards’, to establish plans or objectives for paddocks, and remove stock from paddocks before more than 30 per cent of ‘key species’ (perennial grasses) had been eaten down, so that their root systems would be bigger, enabling them to find more water and better survive drought.\(^{55}\) The illustrative material suggesting that stock should not eat down more than 30 per cent of perennial plants was less ecologically telling than that used by cell grazing advocates, which showed the roots of plants kept defoliated at various levels (Figure 24). The *Guide* provided a method of measuring how long a given number of stock should be able to graze in a paddock given the amount of ‘standing dry matter’, from which ‘forage’ could be deduced by dividing by five. The photographs which provided a guide for estimating dry matter included the kind of country that Robson may well have seen as needing rehabilitation, or no more than intermittent grazing (Figure 25).

Reflecting the old, it spoke of ‘adjustment’ in stock numbers, assuming the continued presence of stock *after* adjustment, and it described stocking rate as ‘the most important variable in any management system for viability and sustainability’.\(^{56}\) Advocates of cell grazing argue grazing management involving movement of stock in accordance with the growth rate of plants as the most important variable. It provided a mathematical formula for working out the stocking rate for a paddock which relied on the stock and/or goat and kangaroo numbers there during the past twelve months, that is, *what was already*. Almost as an afterthought, it had to say that this ‘most important’ calculation was irrelevant if the paddock should be left *unstocked*. Soon after, the Department


\(^{54}\) These included CSIRO’s tools associated with ‘landscape function analysis’ developed largely by David Tongway.


\(^{56}\) Ibid., 7.
contradicted its emphasis on stocking rate by saying ‘it was now widely accepted that maintenance or restoration of rangeland productivity cannot be achieved under prolonged continuous grazing, even at moderate stocking rates’: ‘adjustment’, apparently, was not enough.  

By this time, Premier Carr was puzzling greatly about natural resource management in the State. Natural resource departments were confused about their roles, there was inter-agency competition, low morale and lack of coordination. The main issues were rivers and the clearing of native trees. Conflict escalated when native vegetation legislation was introduced to limit clearing of native trees. By 2002, it was found to be unsuccessful. This concerned the World Wildlife Fund for Nature (WWF), an independent global body, originally established by businessmen, scientists and government. It employed Peter Cosier, a graduate of the University of New England in science and regional planning, to address the issue. Having spent time on the staff of the ‘Wentworth Group of Concerned Scientists’ (TWG). Prominent amongst them was Peter Cullen, a teacher and academic whose impressive commitment and communication skills inspired both landholders and fellow scientists. Cosier invited environmental journalists to the meeting. After publicity, Premier Carr contacted the TWG inviting discussion. He wanted to solve the intractable problems of unchecked clearing and the deep divide between ‘farmers’ and ‘environmentalists’. ‘Ask science!’ they told him. Carr said he had, but found communication too difficult.

The TWG negotiated, or purported to do so, with the two sides of the divide and came up with apparently agreed propositions. Land clearing would stop, it said, if the local community including landholders, replaced the control of bureaucrats. It recommended that community control be legislated for, and that legislated Catchment structures be funded. By the time A New Model for Landscape Conservation in New South Wales was printed, Carr had accepted its proposals and made the cessation of clearing an election promise. This was Hall’s third order change: intensified debate, action by

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59 Auditor-General’s Report, Performance Audit: Regulating the Clearing of Native Vegetation, Audit Office of New South Wales, August 2000, 47.
60 Pers. comm. with Peter Cosier, 6 August, 2009. Cosier said that when the TWG group told Carr that he should ask scientists for the solution, he responded, ‘they don’t speak English’.
Figure 24. *Grazing Pressure and Plant Roots

*The top image is taken from ‘Tac’ Campbell & Ron Hacker, The Gove Box Guide to Tactical Grazing Management for the semi-arid woodlands, NSW Agriculture, 2000, 33. The original has four more levels of greater utilisation to 90 per cent. The 30 per cent utilisation level is recommended as the maximum usage likely to enable a plant to survive drought. The bottom image is illustrative of the message sent by teachers of cell grazing (time control grazing or intermittent grazing). See for example http://grazingmanagement.blogspot.com/ and http://www.environmentbusiness.com.au/pdf/BioCCS-rangeland-management.pdf, accessed on 10 October 2010.
Figure 25*  Standing dry matter standards

50 – 100 kg/ha

100 – 300 kg/ha

* Taken from ‘Tae’ Campbell & Ron Hacker, *The Glove Box Guide to Tactical Grazing Management*, 24. These are the lowest two categories. There are eight categories in all, the two highest ones being 1500 – 2000 kg/ha, and greater than 2000 kg/ha.
scientists outside bureaucracies, media involvement, an apparent solution to a
government’s dilemmas, electoral appeal, and most importantly, and in our case, a new
image for landholders. The Model began:

There are moments in history when the opportunity presents itself for a
fundamental overhaul of existing institutions to unleash a new
paradigm...such a moment exists today...there are thousands of farmers
who want to restore our damaged rivers and landscapes...[they] have
energy and commitment and ideas, but they lack resources and scientific
advice and are disempowered by the existing bureaucratic environment. 61

Allan Savory would have agreed, but pasture management was not a priority
for the TWG, river management was. But landholders were now people of
commitment and ideas, hindered by a stultifying bureaucracy and not benefiting
from the research-extension model or ‘settler science’ born in the context of
empire.

Basic to the Model’s propositions was that economic growth and conservation could go
hand in hand, overturning the belief that the two were in conflict, or at least that short
term gain and conservation were in conflict. TWG urged that farmers should be paid to
be conservationists within a framework of standards set at State and Catchment levels,
for a lengthy period—some fifteen years—time for a deal to be implemented. At the
State level, standards would be set by a Natural Resources Commission with
responsibility for auditing outcomes and ensuring the input of the ‘best’ science.
Catchment Authorities would draw up catchment plans based on State standards, and
landholders who were below the Catchment standard would be paid to provide the
additional service ‘on our behalf’, ‘our’ being the non-landholders. 62 One
recommendation was similar to Robson’s already outlined: the purchase of degraded
unviable properties and their return onto the market after environmental plans were built
into them, presumably meaning ‘covenanted’, so that future transferees were bound to
maintain the management contained in the plans.

The TWG and the Fisher Committee shared similar objectives, but their tools, the place
of landholders in the process, and the financial incentives, were very different.
Catchment Authorities would be headed by a legislated Board of landholders and
others, with a bureaucrat as their General Manager. There would be opportunities for
locals as well as scientific staff dislodged from departments to become staff members of

62 ibid., 8.
the Catchments.\textsuperscript{63} Office holders of representative bodies had no automatic right of appointment, which would be made on the basis of a range of knowledge, experience and skill. The process was not only de-bureaucratised but de-politicised. However, a legislative preference for Catchment residents on the Boards, a measure sought by the NFF, excluded the old \textit{bête noire}, the Sydney conservationists. As it turned out in the Division, the two major Catchment Authorities were and are almost wholly composed of landholders.

Hall’s third order change was also reflected in the ‘positional advantage’ gained by those holding the new vision. Peter Cosier was recruited to the new Department of Infrastructure, Planning and Natural Resources, to oversee the transfer of staff to the Catchment Authorities and recruitment of other staff. Another TWG member, Dr John Williams, became head of the new Natural Resources Commission formed to oversight the Catchments, very lightly. There was also a solution to Condon’s perception of his clients as inarticulate in the face of conservationists. The process of applying for funding within the standards set for ‘water quality’, ‘salinity’, ‘biodiversity’ and ‘soil conservation’ would not only require a familiarity with the language but a demonstration of how landholders receiving funding would work towards the standards. Carrots rather than sticks, and natural resource outcomes were brought directly in touch with landholders rather than being mediated through a bureaucracy. Catchments grasped the opportunity to subsidise attendance at courses focussing on natural resource conservation, and by this time, many Division landholders were using computers and had received assistance for this. Their world was becoming wider.\textsuperscript{64}

By the time RCS’s courses were held in the Division it had captured a committed following further east in NSW and Queensland.\textsuperscript{65} Like the TWG, RCS espoused the belief that improvement of pastures and soil health went hand in hand with profitability. The first part of its seven day ‘Grazing for Profit’ course, which I attended in June 2009, dealt with financial management and planning by the landholder family, most definitely including wives, who featured as drivers of change. The family was centre stage in planning. The rigour of this part of the course removed any doubt that it was not ‘practical’ from a business management point of view. The second part dealt with

\textsuperscript{63} The two major Catchment Boards in the Division are almost totally composed of landholders.

\textsuperscript{64} Through West 2000 or West 2000 Plus.

\textsuperscript{65} In 2008 I attended an RCS promotional breakfast at Goulburn and the commitment to the training process and networking made available by RCS was very evident.
'ecology' and 'grazing management'. Fast movement of stock through paddocks during the growing season, making the most of the top feed only and not eating down so as to remove green leaf and making the most of free sunlight (photosynthesis), was central to grazing management. One participant was prompted to exclaim, 'Good grief, born again shepherds!' Movement of stock through paddocks was dictated by the state of the pasture in paddocks, and a grazing chart for all paddocks, provided by RCS, assisted in the decision to move stock. The chart, which incorporates rainfall over time, therefore soil moisture, provides a basis to decide to move stock off. This can result in higher prices for early sellers before laggards flood the market. I have no doubt that course participants understood the relationship between photosynthesis, plant growth, overgrazing, plant roots, soil health, and soil carbon.\(^{66}\) 'Adult learning' principles were fully applied, and follow up networking offered. Some participants, drawn to the training by concern about degraded country as well as financial concerns, described it as 'life changing'.

From about 1998, western lessees started speaking out about land in the Division as individuals, not as political representatives. Kym Andrews told the *Newsletter* that his three sons could not become landholders in the Division because they could not find a property not overgrazed and dominated by woody weed.\(^{67}\) Tara Homfray, at Fairmount near Wilcannia, recently taken over by her husband from his father, said that all her life she had 'identified with the land' and believed it was degrading, but had had no way of 'voicing it or consciously addressing it until now'.\(^{68}\) The RCS course had provided tools to enable them to start fixing problems by running stock in a different way, and the grazing chart's early warning system reduced the stress of decision making going into drought.\(^{69}\) Angus Whyte discarded the old ideal of breeding up a flock of wool sheep and hanging on to a 'core' of breeders during drought. 'We have got rid of breeding stock during drought and are under no illusion that sheep bred by others are not good enough—there is no need for sentimental attachment to breeding stock', he said.\(^{70}\) Merinos, with their capacity to keep on producing wool while starving, were giving way

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\(^{66}\) When I raised doubts about the practicality of movement of stock in the Division, doubts that landholders had previously expressed to me (kangaroos will eat the green pick first, fencing and mustering is too expensive), I felt the need to plead being a 'devil's advocate'. Examples of how these problems had been, or could be, overcome, were given by participants. Another told me, 'it will come', as though it was almost as inevitable as the march of technology. All supported the 'principles'.

\(^{67}\) *Western Division Newsletter*, July-August 2003, 11.

\(^{68}\) ibid., May-June 2002, 7.

\(^{69}\) ibid., 6-7.

\(^{70}\) Pers. comm. with Angus Whyte, 10 October 2007.
to lower cost enterprises like meat sheep, and freely supplied goats, with more emphasis on buying and selling: the ‘dealing’ once so distrusted. Whyte hoped for more support for landholders who suppressed their ‘male ego’ and ‘faced up to the reality of the effect of settlement and grazing on the natural resource.’ \(^{71}\) These lessees were not naïve short term academic visitors and they did not agree with Condon that the land had improved since 1950, not the land they knew. Nor did they agree that being a conservationist meant doing what came naturally, being technologically blessed, being able to borrow more, or spread stock more evenly over the land. It meant moving stock for the pastures’ sake. This was Hall’s third order change from below: a landholder self-image which could leave ‘pioneering’ behind. Once seen as an ideal, full-time grazing as an exclusive occupation, long supported by allotment of additionals, was losing power and off-farm income or on-farm business activity other than grazing no longer shows lack of serious intent. According to John Kerin, this diversification was a general trend. \(^{72}\)

A paradigm change process requiring behaviour change cannot be expected to work evenly though a population. A survey would probably find younger landholders responding most (McCosker has said it could take five years to reorganise a property and the work for cell grazing therefore older landholders are less likely to respond). Some broad pictures emerge, though there are no neat categories.

One is that of no active grazing management and land degradation. Unlike Delalah Downs, Nullawa abuts the Castlereagh Highway north of Lightning Ridge, a tourist route, in the traditionally well regarded and rainfall favoured Walgett North region. Figure 26 shows the outcomes, for it, of closer settlement and lack of grazing management for the pastures. J.T. Sherwin’s well grassed country of 1905 of which he was so proud has been greatly affected by visible wind and water erosion. Drought had long since passed by the time the 2010 photos were taken, ‘above average’ rainfall having been experienced for nearly a year. \(^{73}\) Sheep were present on the land both in 2006 and 2010, walking quickly in search of food, and the landholder lives nearby. In 2008, the Western Lands Commissioner publicised some indicators that staff would use as pointers to overgrazing (overstocking) including: fence line effects, practically no edible vegetation remaining in a paddock, perennial grass butts eaten down to the

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\(^{71}\) ibid.


ground, visible erosion (wind or water), and animals dying. Such triggers for action, and the appearance of properties such as Nullawa, suggest these triggers are too late, perhaps many years too late.

Another picture anticipates properties will get big and the ‘companies’ may return, a view expressed to me by some lessees. ‘Home no more as graziers get big or get out’, said the SMH in December 2009, referring to the sale of retired soldier settler Bob Pratten’s Wongalara near Broken Hill. He sold to his neighbour in 1986 when he retired, and now it was being sold, along with the neighbour’s two adjoining properties, to a syndicate of local graziers unlikely to use any of the three empty homesteads as more than a ‘crash pad’. Once a social hub for twenty or more neighbours and their ‘gangs of kids’, the Wongalara homestead was quietly decaying. The SMH thought this a ‘brutal’ process known as ‘aggregation’, but it was in fact no more than market operation to provide additions for a cooperative local group (perhaps with family ties), something anticipated by Condon in 1982. Elders’ manager said half the properties he had sold went to ‘pastoral corporations’ whose managers come and go. Other reports say family holdings are being aggregated by ‘superranuation funds and big agriculture’. Officials advise company purchasers that they must keep the Western Lands Commissioner (by now based at Broken Hill and head of the Department of Lands’ Western Region) advised of the contact details of the company secretary. Officials have difficulty locating absentee lessees, and caretakers or kangaroo shooters live on some properties, with stock dying through lack of care. Embarrassingly, Curranalpa, was found to be being ‘managed’ by purchasers who posed as hunters but were later found to be conducting terrorist training on the property.

Another part of this picture is young people leaving for the city, something Kerin’s consultants found people ‘acutely aware of’. Another is the feeling of loss felt by adult sons of landholders, who recall how in their youth the school bus picked up many children, but now there are hardly any. Their old schoolmates, mature men, work in

74 Western Division Newsletter, July-August 2008, 7; July-August 2010, 24-25.
76 ‘Inquirer Special, the Drought Breaks’, 2, in Weekend Australian, 13-14 November, 2010
77 NSW Department of Lands, Transfer of a Western Lands Lease, July 2007.
79 Bureau of Rural Sciences, Study C commissioned by the Western Lands review, Revaluing the West: Attitudes and values of stakeholders in the Western Division’s future, 31.
The above photos above were taken standing in the middle of the Castlereagh Highway facing north in July 2006 after good rain. The top photo taken of the property on the left hand side of the highway, Nullawa, shows degraded bare country with recently shorn sheep on it. Inedible ‘woody weed’ species of shrubs (budda) are evident. The vegetation in the foreground is roadside vegetation. In July 1910, also after good rain and over six months since drought breaking rains, sheep were still evident on this paddock and elsewhere. The bottom photo, taken of Mehi on the right hand side of the highway directly opposite looks well covered and shows little sign of inedible shrubs. To check whether the roadside paddock of Nullawa was a special holding paddock and therefore atypical, I flew over it in July 2010. The photos on the following two pages show that the majority of the property is in a similar condition. Wind and water erosion are clearly evident. Sheep were seen moving quickly in search of food. Photos are held by the author.
Figure 26 (cont.)

Nullawa
town or are contracting. Dad’s promise when they worked on the property for no pay, was that one day it would all be theirs, but this proved an empty promise, either because the property was not big enough for all, or because Dad had had to sell in order to ‘retire’, or because he declined to hand over.\(^{80}\) Perhaps he thought additions would always be there.

As against these pictures, there are the new thinkers. In contrast to the past when native grasses and shrubs were ‘feed’ or ‘scrub’, native plants are a focus for discussion (they may even know their names). Unlike the past where landholders rarely saw country beyond their own properties, gatherings are likely to be found at field days, eyes firmly fixed on the ground and the plants, with knowledge and practice being shared. At Bokhara Plains, Graham and Kathy Finlayson have held several such days and also run a farm stay enterprise. They responded to RCS training and to funding through West 2000 Plus. Impatient with the past emphasis on ‘overstocking’ as opposed to ‘overgrazing’, Graham applied the methods while sceptical others watched and waited. Intent on bringing back Mitchell grass using electric fencing to facilitate stock movement, he recently won a young farmers’ Nuffield award which took him, amongst other places, to a retired Savory in Zimbabwe. Under the heading ‘Change in thinking’, the *Western Magazine* reported his view that droughts weren’t necessarily a disaster, ‘our decisions made them the disaster’.\(^{81}\) In 2009, he had destocked four times since 2001: it was ‘fairly dramatic’ at first, but became ‘just a management tool’. When he won the ‘Carbon Cocky’ award given by the Western Catchment, the *Western Herald* reported the judges had used as criteria of achievement: maximising groundcover and increasing plant root depth.\(^{82}\) As well as using short grazing and long resting, with some temporary paddocks as small as 150 acres, he used bunched cattle for ‘herd effect’ on the soil, Savory’s controversial method for stimulating new growth. It was ironic that sheep and cattle, instead of being villains, could be tools to regenerate country, he said.\(^{83}\) Overturning another old idea, he believed it more economic to *improve* country, rather than buy more. He hoped that improvement of land through grazing management would eventually result in more people living in the Division, building up communities


\(^{81}\) *Western Magazine*, Week commencing Monday, November 2, 2009, 1. The Magazine is a weekly insert in local papers.

\(^{82}\) *Western Herald*, Bourke, 29 October 2009.

\(^{83}\) Ibid. His views were shared by other western landholders attending a conference in 2008 and reported by the *Western Division Newsletter*, March-April 2009, 14-15.
again. Figure 27 gives an impression of the changing character of landholders over time, including these most recent changes.

This overturning of the meaning of ‘improvement’ is a true historic change. When such landholders say they are ‘improving’ their country, they do not mean more fencing, watering points, spreading stock evenly, success with buffel grass, waterponding, though these may be part of it. They may mean using recent techniques like self-mustering yards and gates, or means of turning water on and off at watering points so that animal movement (either goats, kangaroos or stock) can be controlled. They certainly mean things like our grasses are responding more quickly after rest and rain, our Mitchell grass or best grass is spreading, our feed grows for longer because the root systems are healthier, or we see a greater diversity of groundcover. They know that this is due to their grazing management and they know why. When the land is even more fully improved, their belief that this will convert into greater economic success may materialise, with or without carbon credits. The NSW government could perhaps reward them on our behalf, perhaps with freehold title, recognising their understanding of the need for natural resource sustainability and their knowledge of how to graze sustainably and capture and retain carbon in the soil with the roots of plants.

In conclusion, the experience of closer settlement outlined in this study makes it possible to respond to Davison and Brodie’s call for history which throws light on the roots of the early twentieth century rural ‘crisis’. First, the politicians and bureaucrats who maintained the policy paradigm of closer settlement for so long surely contributed to it. The allotment of additional land created the expectation that additional land was the solution to loss of natural resource productivity and lack of viability, instead of management based on the imperative of maintaining the plant and soil resource. The end of the availability of land for ‘additionals’ in a State (and nation) committed to capitalist production, exposed the inevitable reality of the previous artificially low costs of entry and expansion and the new reality of full exposure to market costs. The tool of the ‘home maintenance area’, utilized after the early 1930s not only to limit size of allotments but also the purchase of land, further restricted market operations and exacerbated the problem of properties found to be too small when productivity (and at times prices) declined. It also discouraged landholder initiative and responsibility.

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84 For other examples of enthusiasm see *Western Division Newsletters* for September-October 2000, 12; May-June 2001, 10; January-February 2002, 3; March-April 2002, 3; May-June 2002, 6-7, 12-13.
The Darling River Picnic Race Club Committee at Bourke, 1928. The distinguished gentleman at centre front, patron of the Club, is Malcolm Robertson mentioned in Chapter Five, a former pastoral lessee. Other families mentioned in the text are represented by C.D. Ridge, E.B. Davis, and H. Staggs. As was usual with such committees, the local doctor is present and prominent town businessmen. The *Western Herald* reproduced the photo on 16 July 2009 under the heading ‘Bourke – a once booming race town.’

Landholders observe the results of an SCS demonstration area (water ponding – the creation of shallow ponds by using a grader to form a boundary) near the eastern border of the Division at a field day, probably 1980s. From Dick Condon, *Out of the West*, 380.
Male landholders at the back, female conservationists at the front, later 1980s. Photo courtesy of Jane Elix.

In the field on Bokhara Plains, about 2006. Photo courtesy of Graham Finlayson.
The closer settlement policy paradigm and the politics surrounding it delayed and repulsed honest and scientific evaluations of the effect of many settlers’ occupation and management. This was the elephant in the room, overlooked by land bureaucrats except when concern and doubt prompted them to try to refashion one of the tools of closer settlement as a tool for conservation of the resource, a tool which presented a public image of conservation goals which hid a different reality. Though the tool of forfeiture was polished up as a tool for conservation in 1949, the underlying bureaucratic awareness of shared responsibility for the pattern of landholding and of the benefits they had derived from it, plus the status of some ‘settlers’ as war heroes, plus the inadequacy of the techniques and specifications of the tool, made it ineffective. Its recent polishing with fines and its current status as a tool of last resort which noone believes will be invoked does not change this ineffectiveness.

For many years, the closer settlement paradigm’s bureaucratic implementers distanced science from landholders, ensuring mediation (or not) of science through a land bureaucracy. Scientists’ own model of operation, research-extension, mirrored the closer settlement paradigm in being top-down and bureaucratic for many years.
Speculating, it is not too fanciful to suggest that the core tool of the surveyors/land bureaucrats, mathematical measurement, came to be adopted too readily by scientists who also relied heavily on the numbers of stock rather than on their management in the interests of the pastures. By the early 1980s also, Hassall & Associates, as well as scientists and officials, had decided that land in the Division had been over-allocated by government, rather like the way that others were deciding that the water in the rivers of the Murray-Darling Basin had been over-allocated. Landseekers in the Division had helped by creating constant ‘demand’ which a laissez-faire government responded to by allotting additional to those who had speculatively privately purchased small areas. Though Labor’s legislation of 1949 carries the pride and burden of delivering the ‘coup de grace’ which placed several hundred new landholders in the Division, nobody then spoke up for the resource, and Powell’s ‘official-popular’ enterprise of closer settlement continued undaunted. Democracy of this kind, pleasing ‘your’ people by giving them part of a finite land resource which needed understanding and particular management, was likely to cause problems unless ways were found to put back into the resource what was taken out. That this could occur through the roots of plants was long known but its importance repressed.

In the early 1980s, Hassall’s found that there were 1190 properties rated to carry more than 2000 sheep. They excluded as ‘sub-economic’ a further 219 properties rated to carry 1,000 – 2,000 sheep and those relying on cultivated agriculture. The 1190 properties represented four times the number of 1884 properties, but this was not an adequate measure of the success of closer settlement policy, as 43 per cent of these properties (512) were rated to carry less than 4,000 sheep at a time when 4,000 to 6,000 sheep was the accepted maintenance area, and of these, 13 per cent (155) were rated to carry 2000 to 3,000 sheep, near or well below even the maintenance standards of the 1920s. Hassalls compared the NSW outcomes unfavourably with those in South and Western Australia.

There are positive outcomes of Davison’s ‘rural crisis’. It forced the collapse of the outmoded, overly bureaucratic, self regarding policy paradigm of the past, and forced the beginnings of a more mature, responsible, intelligent and positive one. Its tools are still developing, and beginning to display a new scientist-landholder-official activity.

85 The figures and comment are taken from Hassall & Associates, Summary, Conclusions and Recommendations, 4, 7, and Economic Study, 9.
remains to be seen, in NSW, whether governments will grasp the nettle and deal with casualties of the past paradigm, like Nullawa, where business, is, well, as usual.
Appendix 1.

Ann Magee’s mortgage to Willis, 24 March 1890. Registrar General’s Office, Number 272 Book 440, in plain words.¹

Ann Magee, widow, became the lessee of HL 620 of 7,670 acres and applied to Willis (the mortgagee) to advance her (the mortgagor) £846 on the security of the lease. To increase the certainty that the mortgagee would be repaid, Magee agreed that Willis could sign and enter Judgment against her in the Supreme Court for the sum of £846, which shall be collateral security and only put into effect as noted later. The mortgage document, [not Magee] acknowledges receipt of £864 paid to Magee by Willis, and Magee promises (covenants) that she will pay £846 to Willis on 24 March 1896, or at an earlier time agreed as later outlined, plus 10 per cent. Magee assigns and transfers the land to Willis as part of this agreement and provided that if Magee pays as agreed, Willis will reassign the lease to her. Magee shall pay interest quarterly and do all necessary things required by the Crown Lands Act of 1884. If default occurs, or if Magee attempts to bring her estate under bankruptcy law, or defaults so as to make her property liable to sequestration, or has a writ issued against her for over twenty pounds, or leaves the Colony, or fails to comply with Crown Lands Act, or refuses to sign documents necessary for continuance of lease...it is lawful for Willis without notice to enter seize and take possession of the property, and to sell the land, and the purchaser(s) shall not be bound to inquire whether the above has happened or whether default has been made...and the purchase moneys shall be applied to reimburse any costs of the mortgagee incurred by the sale, then applied to the debt, then the surplus, if any, goes to Magee. It is lawful for Willis to employ people to carry this out and he will not be accountable for their actions. Willis shall keep balances of account and Magee shall pay at the time and manner noted later. Payable 24 June, September, December, March each year. If default is made, it shall be lawful for Willis to enter and hold the premises and receive rents and profits...and Magee will, when required by Willis, transfer the land in accordance with the Acts and regulations to the mortgagee.

While there are moneys remaining on the security, Magee will for six months each year for

¹ See also Client documents relating to Goolring Station (Lack Bros.), NBAC, 2/507/3. I have highlighted the areas where 'intent' that the land be transferred absolutely to the mortgagee or another is agreed or anticipated. It can be noted that the mortgage document in itself did not prove that Magee had received any money and it was signed by her attorney, Willis.
five years continuously reside, and build a substantial six wire fence on the boundary, and shall pay rent. If she defaults on rent, it shall be lawful but not incumbent upon the mortgagee to pay rent and add it to the principal debt and attract interest at 10%...and it shall be lawful for Willis to use force without being liable for any action of trespass. In the case of the death of the mortgagor before money is repaid, the mortgagee shall be at liberty to enter and take possession and act as in the case of default.

If a demand by the mortgagee is made for payment in writing and if default is made in payment of the principal and interest or any other advances, the mortgagee may sue upon the covenant contained here, or may proceed to a sale, or put into execution the Judgment referred to above, or all these, and it is agreed that it shall not be compulsory for the mortgagee to receive payment of the principal sum and any further advances until 24 March 1896. The mortgagee may give a months notice demanding payment. Non-payment is default, and the mortgagee may proceed as if 24 March 1896 had passed and the principal sum not paid. It is agreed that judgment number three of 2\textsuperscript{nd} term 1890 now entered at the suit of the mortgagee against the mortgagor shall stand as security, and if any default or failure in covenants contained here occurs, then the Judgment may be executed and a writ Fieri:Facias issued. It is here declared that ‘I the said mortgagor’ do hereby appoint the mortgagee my true and lawful attorney’, irrevocable by me...only to terminate on the payment of the moneys secured.

Willis signs Ann Magee’s name at the end of the mortgage document. Ann Magee appears to have written her name into the mortgage only at its very beginning, at least it is not Willis’s handwriting.
Appendix 2. Schedule A of the Bill, introduced into the Legislative Assembly, 27 November 1901.

His Majesty the King doth hereby lease to A.B., of ...[address] all that...[land] to be held until the thirtieth day of June one thousand nine hundred and forty three, at the yearly rent of..., to be paid in advance on the...day of...commencing the...day of... one thousand nine hundred..., and at a further rent of five pounds per centum per annum on any rent in arrear, subject to the covenants, conditions, and reservations stated below:—

(a) To pay rent annually in advance

(b) To take, within a specified time, such steps and measures to destroy rabbits, dogs, and other vermin as the Commissioners shall from time to time direct, and to keep the lease free of vermin during the currency of the lease to the satisfaction of the commissioners.

(c) Not at any time to keep or pasture on the lease or any part thereof more than a specified number of sheep, and to agree and submit to any modification or alteration in such specified number as may be notified by the commissioners from time to time.

(d) To destroy such noxious weeds as the Commissioners may from time to time direct.

(e) Except for the purpose of building, fencing, or for firewood, not to destroy, or permit the destruction of any timber on the lease without the written consent of the Commissioners.

(f) To destroy such useless scrub and undergrowth as the Commissioners may from time to time direct.

(g) Not to obstruct or interfere with any reserves, roads or tracks, or the use thereof by any person.

(h) To observe and comply with all or any regulations under the Western Lands Act for the time being in force.

(i) To foster and cultivate such edible shrubs and plants, and to take such steps in this respect as the Commissioners may from time to time direct.

(j) To effect such improvements as the Commissioners may direct.

(k) To furnish such returns or statements as the Commissioners may from time to time require in connection with any lease or license, or freeholds or conditional
purchases in the Western Division, or worked in conjunction with any lease or license in the Western Division.

(l) To furnish such returns or statements as the Commissioners may from time to time require in connection with any sheep or large stock, details of accounts, account sales, plant, cost of improvements, working expenses, or any other matter relative to any holding in the Western Division, or to any of the matters herein mentioned in connection with any property worked in conjunction with any lease or license in the Western Division.

(m) To permit the Commissioners and all persons authorised by the Minister or the commissioners to enter and view the whole or any part of the lease or buildings or other improvements thereon.

(n) To repair, and keep in repair all improvements on the lease.

In addition to the foregoing covenants, the following exceptions and reservations in favour of the Crown—

(o) All minerals, metals, gems, precious stones, coal, mineral oils, together with all rights necessary for ingress, search, prosecution, and removal, and all incidental rights and powers.

(p) The unrestricted right to proclaim travelling stock, camping, or other reserves.

(q) The unrestricted right to withdraw any travelling stock, camping or other reserve or part thereof from lease or license.

(r) The right, if the rent or license fee be not paid on the due date, to impose a penalty not exceeding ten per cent. p

(s) A proviso that if the rent shall be in arrear for more than three months after the due date or if there has been a breach or non-performance of any of the lease's covenants or conditions the Minister may cancel the lease.

(t) Provisions for revaluation, resumption of lands for mining purposes, townships, or any public purpose under the provisions of the crown Lands Acts; for increasing the rent upon reappraisement and for compensation for resumption.

(u) The lease shall also contain all such exceptions and reservations in favour of the Crown, the Minister, the Commissioners, and other public authorities, the aborigines of the state, and other persons necessary or proper for giving effect to any Act or regulation for the time being in force or not inconsistent therewith, as may be prescribed or as the Minister or Commissioners may require.

(v) All the above to be expressed in such form as may be prescribed.
### Classification of Tenures, Areas of Lands in the Western Division as at 30 June 1919

#### Holdings formerly under the Crown lands Acts now held under the Western Lands Act

<table>
<thead>
<tr>
<th>Area</th>
<th>Total (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pastoral Leases</td>
<td>40,311,375</td>
</tr>
<tr>
<td>Homestead leases</td>
<td>10,369,888</td>
</tr>
<tr>
<td>Improvement Leases</td>
<td>1,950,875</td>
</tr>
<tr>
<td>Scrub Leases</td>
<td>17,431</td>
</tr>
<tr>
<td>Inferior Lands leases</td>
<td>209,950</td>
</tr>
<tr>
<td>Artesian Well leases</td>
<td>327,351</td>
</tr>
<tr>
<td>Settlement Leases</td>
<td>40,050</td>
</tr>
<tr>
<td>Special Leases</td>
<td>9,366</td>
</tr>
<tr>
<td>Homestead selections and grants</td>
<td>24,788</td>
</tr>
<tr>
<td>Conditional leases</td>
<td>109,922</td>
</tr>
<tr>
<td>Occupation licenses</td>
<td>6,923,913</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>60,294,909</strong></td>
</tr>
</tbody>
</table>

#### New Leases issued under the Western Lands Act

<table>
<thead>
<tr>
<th>Area</th>
<th>Total (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Leases (part VII) (a)</td>
<td>10,263,570</td>
</tr>
<tr>
<td>New leases (Additional areas) (b)</td>
<td>2,801,947</td>
</tr>
<tr>
<td>New leases (New special) (c)</td>
<td>521,248</td>
</tr>
<tr>
<td>Preferential Occupation Leases (d)</td>
<td>11,908</td>
</tr>
<tr>
<td>New leases (part VII) being issued (e)</td>
<td>405,284</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>14,003,957</strong></td>
</tr>
</tbody>
</table>

#### Holdings still under the Crown Lands Acts

<table>
<thead>
<tr>
<th>Area</th>
<th>Total (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homestead leases</td>
<td>51,074</td>
</tr>
<tr>
<td>Improvement lease</td>
<td>20,448</td>
</tr>
<tr>
<td>Special leases</td>
<td>486</td>
</tr>
<tr>
<td>Occupation licenses</td>
<td>112,679</td>
</tr>
<tr>
<td>Homestead grants</td>
<td>1,118</td>
</tr>
<tr>
<td>Conditional leases</td>
<td>99,600</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>285,405</strong></td>
</tr>
</tbody>
</table>

#### Balance of land consists of:

- Alienated or in course of alienation
  - 2,034,592
- Permissive Occupancies (f)
  - 939,243
- Unoccupied Lands (g)
  - 1,798,242
- Other Lands (h)
  - 932,254

<table>
<thead>
<tr>
<th>Area</th>
<th>Total (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total</strong></td>
<td><strong>80,318,708</strong></td>
</tr>
</tbody>
</table>

(a) Comprising 5,327,556 acres formerly held as occupation licenses; 2,499,049 acres formerly unoccupied Crown lands; 1,565,950 acres withdrawn from Western Lands leases under Section 17 of the Western Lands Act 1901; 677,740 acres formerly held as pastoral leases under the Crown Lands Acts; and 193,275 acres formerly held as Homestead leases and Artesian well leases under the Crown Lands Acts.

(b) Comprising 565,361 acres formerly held as attached resumed areas and pastoral leases; 1,886,573 formerly held as occupation licenses; and 350,012 acres formerly unoccupied Crown lands.

(c) Unoccupied Crown lands, lands formerly held as occupation licenses and lands withdrawn under Section 17 of the Western Lands Act 1901.

(d) Lands withdrawn from Western Lands leases under Section 17 of the Western Lands Act of 1901 to provide small holdings.

(e) Comprising 93,991 acres formerly held as occupation licenses; 14,845 acres formerly unoccupied crown land; 277,295 acres formerly held as pastoral leases under the Crown Lands Acts; and 19,144 acres formerly held as homestead leases under the Crown Lands Acts.

(f) Unoccupied Crown lands under temporary tenures

(g) Chiefly low grade country which may eventually be brought under occupation

(h) Comprises unalienated town and suburban lands, beds of rivers, commonages etc.

- Slightly adapted from the original. Schedule I was repeated annually after 1905. As can be seen, it is not possible to confidently arrive at the area taken as one eighths, though a), c), and d) notes refer to them as land withdrawn under Section 17. NSWPP, Vol. 1, 1919, 197.
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