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6. PROBLEMS IN LAND SETTLEMENT: CROWN LANDS AND CONTINGENT LEGISLATION, 1895-1906

DRY SEASONS AND THE RABBIT PROBLEM: CROWN LANDS ACT, 1895: CONDITIONAL PURCHASERS' RELIEF ACT, 1896: CROWN LANDS ACT, 1898: CROWN LANDS ACT, 1899: LAND TAXATION, 1895: PASTURES PROTECTION ACT, 1902: LOCAL GOVERNMENT ACT, 1906: ROADS: PUBLIC PARKS: SMALL HOLDINGS.

DRY SEASONS AND THE RABBIT PROBLEM

When Mr. (later Sir) Joseph Carruthers, afterwards the author of the slogan, "A million farms for a million farmers," became for the first time Minister for Lands in 1894, he assured Parliament that the facts relating to land settlement "had barely a ray of sunlight in them." Small settlement had declined, whereas there were 327 estates each exceeding 20,000 acres, and of these, 137 contained eleven million acres of freehold and immense tracts of leasehold land. Yet there were continuing difficulties with land settlement, for already the rabbit had become still a further complicating factor in lands administration.[87]

In 1883 an attempt had been made to exterminate the rabbit pest. The Chief Inspector of Stock was appointed also Chief Inspector for the extermination of rabbits, and inspectors were stationed at many centres, including Conargo, Hay, Hillston, Wilcannia, Swan Hill, Booligal and Balranald. An important section of the enabling enactment provided that "all costs, charges and expenses incurred by an inspector or any person authorised in clearing private land of rabbits . . . shall be a first charge upon such land and shall take precedence of all mortgages or other charges whatsoever upon such land." A special tax

[87] The origin of the rabbit as a pest may be traced to 1859 when the Black Ball clipper "Lightning" arrived in Hobson's Bay with twenty-four wild rabbits consigned to a Mr. Thomas Austin of Barwon Park near Geelong. The rabbits were soon established on the property, so much so that as early as three years later they were reported as "becoming a pest." Rabbits spread rapidly over the face of inland Victoria from this original home. Towards the end of the seventies they had spread northwards, north-east and to the west, crossing the Murray River into the Riverina, where they were also soon entrenched. Within a further few years of their crossing the Murray, rabbits had traversed thousands of square miles in New South Wales and crossed into Queensland. The basic factor contributing to the rapid spread of the rabbit over the western country of New South Wales was, curiously enough, a geological one, namely, the wide strip of practically continuous alluvial red loamy or sandy soil running up through the Western Division of the State, in which the rabbit finds its ideal stronghold. Once established in the country, the rabbit rapidly invaded every district in New South Wales, as well as a large part of Queensland, the whole of Victoria, South Australia, and a considerable part of Western Australia.

In 1879 appears the first mention of the rabbit problem in New South Wales official reports, when it was stated that rabbits were fast spreading on the lower Murray and had even obtained a footing on the Murrumbidgee as far up as Yanco Creek.

The first Act passed in New South Wales directed to the protection of pastures was the Pastures and Stock Protection Act, assented to on 13th July, 1880—"An Act to protect the Pastures and Live Stock of the Colony from the depredations of certain noxious animals" (44 V. No. 11). In this Act of 1880, rabbits were for the first time referred to as "noxious animals," following official reports that they were spreading in the Riverina, the other noxious animals mentioned being native dogs (defined as including any dingo or native dog or any dog whatever which has become wild) and marsupials.

The "Rabbit Nuisance Act of 1883" (46 V. No. 14) was the first Act to be primarily directed against the pest.

assessment was levied on all owners of 200 horses or cattle or 1,000 sheep or more, yet notwithstanding that the tax upon stock-owners yielded £831,457 and land-owners and occupiers contributed £207,864, the funds so raised proved inadequate, and from May, 1883 to 30th June, 1890, were supplemented by £303,786 from Consolidated Revenue. There was universal criticism, for "during the period of this administration, hundreds of thousands of pounds were paid out for rabbit scalps —a disastrously wasteful and useless expenditure as it turned out. In seven years (1883-90) the total expenditure by the Government was not less than £1,543,000. A sum of £917,000 was paid out for scalps alone from 1883 to 1887."[88]

In 1886 at a conference of country delegates from the various Sheep Boards, the question of rabbit infestation of Crown lands raised serious problems for the government. As one delegate explained the position:—

> "Adjoining his own holding were 500,000 acres of unoccupied Government land which, to his own knowledge, were thoroughly overrun with rabbits. That was an immense difficulty. He confessed that the matter was beyond him as to how to deal with the unoccupied country. If the destruction of the rabbits on it was to cost at the rate of £1 per acre, it would mean an outlay of half a million sterling, and the expenditure might readily run into millions . . . . He had given the matter an immense amount of consideration, but he was utterly unable to deal with it. It was absurd to think that at the existing rents (which were said to be so reasonable) this immense amount of unoccupied territory could be taken up. He instanced a case in which an occupation licensee applied for certain land, not knowing that it was rabbit infested, and when he (Mr. Brown) informed him of the fact, he was absolutely appalled. Such country, with rabbits on it, was not worth having gratis . . . . The rents and rabbits were inseparably mixed up. The question was beyond any doubt the most important that had been brought before the conference. Immense areas in the Western Division would undoubtedly and most certainly be abandoned for ever unless they received fair treatment in that respect."[89]

The contribution of another delegate to the discussions referred to Victorian experience with the pest:

> "All the north-western part of Victoria, or nearly all, would become so infested that it would be utterly abandoned; vast stretches of it had been so for many years, and it was now literally swarming with nothing but native dogs and rabbits. The State found that it was absolutely necessary to take action. They did not actually undertake to destroy the rabbits—they knew better, realizing that it was impossible or at all events extremely difficult. They did not pay for the animals directly, but they let out the land at such terms that it practically amounted to the same thing. In other circumstances they would never have dreamed of letting out the land . ."[90]

Early in 1888 the increasing seriousness of the rabbit problem had become so obvious that the Parkes government in New South Wales invited the governments of Victoria, South Australia, Queensland, Tasmania and Western Australia and the "Colony of New Zealand" to join in an extensive scientific enquiry. Subsequently a Royal Commission (1889) was appointed and at the same time the Government of New South Wales offered a reward of £25,000 for any method of effective rabbit extermination not previously known. The Commission considered altogether about 1,400 separate schemes of extermination, conducted a full series of scientific experiments concerning the claims of

[88] D. G. Stead: *The Rabbit Menace in New South Wales* (Sydney, 1928). *See also* The Pastures Protection Act, 1902.

[89] *Report of the Proceedings of a Conference Respecting the Rabbit Pest in New South Wales* (Govt. Printer, Sydney, 1886), pp. 38 *et seq.*

[90] *Ibid.*

Louis Pasteur in respect of Chicken Cholera and certain other claims, and finally came to the important conclusions, *inter alia*:

"(1) That the responsibility for the destruction of rabbits whether on freehold or on leasehold land, must rest upon the landholder. That with respect to unoccupied Crown lands, the State must accept similar responsibility.

(2) That the rabbit pest has made the continuance of the system of annual leases of Crown lands impossible.

(3) That no finality in rabbit destruction will be obtained without making the erection of rabbit-proof fences compulsory.

(4) That there are very large areas of land so poor that the erection of rabbit-proof fences around individual holdings might cause financial failure . . . . That in dealing with land of very poor carrying capacity, the State should show special consideration to the lessees in respect of tenure.

. . . .

. . . .

(7) That the system of compulsory trapping with professional trappers and State bonuses is radically bad . . . ."[91]

The Minister for Lands, Mr. (later Sir) Joseph Carruthers was later to state (in 1897) in addressing a representative meeting of stockowners that:

". . . . It has been the chief aim of the Lands Department to secure the reoccupation of the abandoned areas of the colony on any terms, provided that the destruction of the rabbits was made compulsory . . . . Some 164 improvement leases have already been let on this class of country, covering an area of 1,861,828 acres, on all of which the compulsory killing of rabbits is one of the conditions. Then again, in addition to this, large tracts of country which have been merely breeding grounds for the rabbit have been dealt with on special terms. On the West Bogan one of the conditions is the destruction of rabbits, and the same applies to the Pilliga Scrub, which has been surveyed and thrown open for tender under improvement leases, and is slowly being taken up . . . . It is hoped that some 3,000,000 acres of these waste lands will be taken up in the next two years, on the whole of which the compulsory killing of rabbits will be a condition . . . . When it is considered that the State controls over 240,000,000 acres (it) will have to provide a large sum for dealing with the pest . . ."[92]

In the Crown Lands Act of 1889 the central object of the new law had been to attempt to bring about an armistice in the land conflict by limiting free selection and providing security for the pastoralist. The pastoralist was still the backbone of the State's economic system, and the wisdom of any law which imperilled the chief industry was thus open to question.

[91] 1889. *New South Wales Royal Commission of Inquiry into Schemes for Extermination of Rabbits in Australasia*: Progress Report, Minutes of Proceedings, Minutes of Evidence and Appendices (Govt. Printer, Sydney, 1890). (Mitchell Library.) The members of this Commission as originally appointed were: H. N. MacLaurin, M.D.; W. C. Wilkinson, M.D., M.P.; and Edward Quin (N.S.W.); H. B. Allen, M.D., E. H. Lascelles and A. N. Pearson, F. R. Met. Soc., F.C.S., A.I.C. (Victoria); A. D. Bell (New Zealand); E. C. Stirling, M.D., and A. S. Paterson, M.D. (South Australia); Joseph Bancroft, M.D. (Queensland); and T. A. Tabart (Tasmania). The first president was Dr. MacLaurin from Sydney University, but he was afterwards succeeded by Professor Allen of Melbourne. Early in the Commission's proceedings, Henry Tryon was appointed an additional member, representing Queensland.

[92] *Report of the Proceedings of a Conference respecting the Rabbit Pest in New South Wales* (J. H. Carruthers, Minister for Lands), (Govt. Printer, Sydney, 1897). (Mitchell Library.)

CROWN LANDS ACT OF 1895

Thus also in the important Crown Lands Act of 1895 (58 Vic. No. 18), no attempt was made to interfere with the squatters already beset with the problems of bad seasons, falling prices, large debts and rabbit control, save that there were restored to them those resumed parts of their runs until such time as they were actually required for settlement. Under Section 9, power was given to pastoral tenants of the Crown to apply for reappraisement, as well as for an extension of time and other concessions. But of these claims for concessions, a contemporary recorded:—

> "The banking corporations own more than three-quarters of the holdings. The occupiers of the land are very small in number compared with the banking institutions who have control of the properties. The cause of their disaster has been the very high rates of interest they have had to pay, having bought their runs in good seasons at high prices; and, when they were overstocked, the pinch came and the banks foreclosed. And now the wail comes from the banking institutions."

In introducing the Act, the Minister explained that the case of the small settler was his main concern; and this was to be met by making available, on liberal terms under new tenures, land which had been carefully classified according to its value and potentialities. In this, very great departures were made from preceding principles, and the 1895 Act was to be the forerunner of a number of enactments introducing new tenures and a system of land classification involving the setting apart of selected land in blocks for specific tenures. The terms of the runs in the Central Division had in many cases expired, and a large amount of land had therefore devolved upon the Crown. To these was applied for the first time in New South Wales, though not in Australian, land history, the principle of *classification of lands* and *"survey before selection"*—not as previously, *"selection before survey."*

Up till 1895 the Conditional Purchase and its associated Conditional Lease had been the principal means of selection and settlement of the Crown estates, but now, because of special circumstances, new tenures were to be introduced. The Minister's own words may be quoted as to the character of past settlement and the necessity for reform. He said:—

> "There is no escape from the conclusion that our laws, designed as they have been for a good purpose, have not been entirely used for that purpose; and we have had more alienation and less settlement than we should have had. The design of the framers of these laws was above reproach, and far be it from me to say or to insinuate anything which would cast a reflection upon those great and noble men, the authors of our land system, the men who fought the battle of free selection before survey. I admit the worth of the services of those men—I admit that their design was good; but I say that the design has failed because human nature has failed too, because to break down the design we have had coming in the cupidity, the avarice, the hostility of all classes and all those things which have tended in practice to frustrate the operation of a good principle. I need not dilate on the history of the past with its record of blackmailing, its record of dummying, its record of litigation bringing ruin and financial disaster to the country".
>
> (*Parliamentary Debates*, 1895.)

The 1895 Act aimed at the classification of land—quite a new principle in the law. Two of the new tenures which it introduced—the *Homestead Selection* and the *Settlement Lease*—were both obtainable

only out of areas specially made available for the purpose. The Minister stated that this classification of lands would prevent the disastrous rivalries and conflicts of the past and secure to each holder in the future a freedom from the invasion of adverse occupiers. As to the two new tenures he said this:—

> "I introduce a new principle, the principle of *Homestead Selection,* a principle which will enable a man to acquire a homestead in surveyed and subdivided areas which are found suitable for the purpose on terms which will not cripple his resources in the early stages . . . I cannot go so far as some of my friends and use the term 'perpetual leasehold', but I will tell you what I do. I give them perpetual leasehold in all its incidents, in perpetual rent, which must be paid year by year. I give them the incidents and obligations of a leasehold tenure. Always having the Crown as the landlord, I preserve the old title of freehold . . . . The homestead selection marks a new departure in legislation, the cardinal principle of which will be the acquisition of land under easy terms, but stringent residential conditions. A selector henceforth will be in a position to obtain land in fee-simple, and establish a home without the dread of being weighted down by financial difficulties at the start . . . . The only improvement that I enforce upon a homestead selection is a dwelling house . . . . If he likes to stay on the land and does not improve it, he will starve, and have to go. I leave it to his own interests to make other improvements . . . The next portion of the Bill, still dealing with the classified and subdivided lands, provides that those who do not wish to become the immediate holders of freeholds—who have no desire to take up small blocks of land for agriculture; but who desire to combine agriculture with grazing, or to work small grazing farms—may take up *Settlement Leases* of land up to 1,280 acres—that is, land which will afterwards become suitable for agricultural purposes—or of grazing land up to 10,240 acres, the actual size of the block being regulated according to its capability of supporting one family . . . The tenure of the lease will be twenty-eight years . . . ."

Thus the Homestead Selection and Settlement Lease came into being. With regard to the former, it carried perpetual residence, a rental of $1\frac{1}{4}$ per cent of the capital value of the block until the issue of the Grant, and thereafter $2\frac{1}{2}$ per cent. The Grant, which was to issue after a certificate of fulfilment of conditions had been obtained from the Local Land Board, would contain provisions for the annual payment for ever of a perpetual rent, the performance for ever of residence on the selection, and forfeiture to the Crown of the lands granted in case the obligation to live on the land or to pay any sums due as rent was not carried out. The Settlement Lease was a lease for a term of 28 years, with an annual rent of $1\frac{1}{4}$ per cent of the capital value of the farm, and carrying a condition of residence for the full term of the lease. The same Act made provision whereby the holder of the lease might obtain a Homestead Selection out of such land.

An *Improvement Lease* tenure was also created by this Act, and, subject to certain conditions, holders of certain leases, *Scrub Lease, Inferior Land Lease* and *Improvement Lease,* were allowed to convert portion thereof to *Homestead Grant.*

Provision was also made in the Act for the exchange and surrender of lands. In this 1895 Act, Section 24 provided that the standard of each farm set apart for Settlement Lease should be that the lessee, by agriculture, or by agriculture combined with any other ordinary pursuit, should be able to establish and maintain a home thereon by the use of the land. In other words, the farm had to comprise a "home maintenance area." It was provided also that "the lessee shall not assign

or sublet without the Minister's consent." (On and after 1st February, 1909 in the case of such leases taken up, five years residence was required by the lessee before transfer could be approved, and transfer could not be made to any person already owning land if the land owned and the land sought to be acquired substantially exceeded a home maintenance area.) Generally, Settlement Leases turned out to be very profitable holdings for the selector.

In all these cases the residence term was very considerably extended. Up to this time the residence term had been five years; on homestead selections, perpetual residence was now required, and on settlement leases, residence for the full term of twenty-eight years. On conditional purchases, the old term of five years was extended to ten years. (In 1917, however, the residence term on all residential tenures was brought back to the original period of five years.)

There are still large numbers of Settlement Leases in existence (1,082 at 30th June, 1955), although land is not now made available for such tenures. They have, however, played a very important part in rural development.

In this Act also (1895) the principle of *"one man one selection"* was introduced. Originally selectors had had the right to select again upon fulfilment of conditions attaching to the first holding. The 1895 Act provided that if a man once selected he was not eligible to apply again; but power was reserved to the Minister to grant consent to a man compelled to abandon or surrender his first holding on account of adverse circumstances.

Then in order to prevent dummying, the further principle of *"good faith"* was for the first time inserted in the law. Every selection was required to be taken up in good faith and held in good faith. This has had the beneficial effect of almost entirely eliminating "dummying" (collusive selection), because of the legal redress reserved to the Crown.[93]

[93] In this matter of good faith (bona fides) it has been held that a son may be assisted by his father, even to the point of establishment of a family holding, which may be fenced in a common enclosure, with the reservation, however, that each member of the family shall remain the sole owner of his particular area of land. The Legislature has thus placed parents and children in quite a different position to outside individuals, by permitting a parent to supply practically every penny to advance or support his children, to fence in their lands with his and to use them together, and for the children to reside on the parent homestead. Where parties work their lands together, the proceeds being paid into one banking account, the parties must carefully observe that each one has a separate interest in the lands embraced by the "pool." In summary, where a father assists a son, the sole ban or safeguard is that the advancement must be for the benefit of the son and not of the father, and thus, if land is taken up by a son with money advanced by the father, a resulting trust in favour of the father is not created. (*Re* Manchee 9 L.V.R. 153, Hynes *re* Sullivan 2 L.V.R. 35, *re* Curtin, 3 L.V.R. 30, *re* Mason and ors. 10 L.V.R.1, Cousins v. Peters, 17 W.N. 61, 9 L.C.C. 203, 10 L.C.C. 82.)

The Court has lent considerable countenance to the practice of selectors who cannot make a living on their holdings, taking work elsewhere to support them, if their *bona fides* are proved in other respects. (*Re* Chant, 6 L.C.C. 134.) In ascertaining whether the *place of residence* is within a reasonable working distance of a holding, the Act contemplates that the holding will be worked by the holder himself.

The introduction of the homestead selection and settlement lease tenures gave a new stimulus to the demand for land at the turn of the century.

The particular attraction of the homestead selection and settlement lease was in the low rate of interest imposed. In the case of a settlement lease, for example, which could be given for a block of large size, the annual rent for twenty-eight years was fixed at only 1¼ per cent of the capital value of the land, with no reappraisement within this period. With such a low rental, "a holding of this class offer(ed) a temptation to many persons if only for speculative purposes."[94] The original intention of charging a low rate of interest had arisen from a desire to promote occupation, the argument being that the State would benefit, "not directly in rent but in other ways". The difficulty, however, was that "the low rate of interest offer(ed) a large margin of profit to the original lessee, who can sell out at a considerable advance and by this largely deprive his successor of the advantages which the Act was intended to confer . . . At least from a dry financial point of view, it can safely be said that the State is receiving a much less revenue than would be possible were the rents determined under different conditions".

In 1901, over 1,000,000 acres were thrown open for homestead selection and settlement lease alone—203,873 acres for homestead selection and 851,916 acres for settlement lease, compared with 139,427 acres and 329,314 acres respectively for 1900.

All told, from 1895 to the end of 1902, 2,432,000 acres were disposed of as homestead selections. However, in this same period no less than 6,600,000 acres were disposed of, also, by the Crown by way of conditional purchases and conditional leases, carrying with them the right of purchase at any time during the period of their tenure.

1896.—In 1896, and in the wake of the 1893 crisis, another Act was passed entitled the *Conditional Purchasers' Relief Act.* If a man could prove himself unable to pay his instalments of purchase money, they were reduced from 1s. to 9d. per acre, and where conditions allowed the full payment to be completed in sixty-six years, they were reduced to 6d. per acre. The holders of conditional purchases were also permitted to convert into homestead selections, the payments on which were considerably less than on conditional purchases.

1898.—The Act of 1898 further altered the law regarding the appraisement of the value of improvements on selected land. Up to that time the selector had been compelled to pay for improvements whether they were of any value to him or not. He had had to pay, also, for the additional value they gave to the land. If, for instance, ringbarking had been effected at a cost of, say, 1s. per acre, the added value given to the land by the operation of nature might perhaps be 3s. or even 5s. per acre. The incoming tenant had been required to pay this latter value, although the runholder had probably obtained payment in the extra use he got out of the land.

[94] *Annual Report of the Department of Lands,* 1901, pp. 1, 2.

The 1898 Act provided that when the value of improvements had to be determined, the value was to be appraised thus:—

(*a*) Their value to the incoming tenant;

(*b*) Their value at the date of his title to the land;

(*c*) Not to exceed the cost of making the improvements; and

(*d*) Not to include any added value due to nature.

For instance, if there were an existing tank of 4,000 cubic yards, and 2,000 yards were sufficient for the requirements of the incoming tenant, under this Act he would pay only for the 2,000 yards.

1899.—The Crown Lands (Amendment) Act, 1899, allowed holders of *Conditional Purchases, Conditional Leases, Homestead Selections* and *Settlement Leases* to apply for appraisement of the capital value of their holdings, but under the regulations that right was limited to two years.

The Act imposed a considerable responsibility upon the Department of Lands in reappraisement, the area involved being about 5,886,900 acres. The individual properties had to be inspected and reported upon and the value determined in open Court. The Department, moreover, was embarrassed by the long period of two years which was given for applicants to apply, the result being that a very large proportion of landholders deliberately held back until the last minute before applying. In the event the landholders benefited considerably at the expense of the Crown—the value of conditional purchases being reduced by 39 per cent, that of homestead selections by about 31 per cent, that of conditional leases by about 49 per cent, and that of settlement leases by about 26 per cent, whilst the rental value of conditional leases was reduced by 29 per cent.

Conditional Purchases, Homestead Selections, Conditional Leases and Settlement Leases—Capital Value Determined and Appraised under the "Crown Lands (Amendment) Act, 1899".

	No. of Cases Appraised	Area Appraised	Original Capital Value	Capital Value as now Appraised	Loss in Capital Value
		Acres	£	£	£
Conditional Purchases	5,098	749,817	840,611	511,905	328,706
Homestead Selections ...	552	292,050	473,580	324,982	148,598
Conditional Leases	1,333	860,750	860,750	441,484	419,266
Settlement Leases	107	635,487	4,371	3,224	1,147
		Rental Value			
Conditional Leases	440	509,967	5,457	3,856	1,601

(From *Annual Reports of the Department of Lands*, 1900, 1901.)

1895: LAND TAXATION

Income and land taxation were first introduced by the Reid government in 1895 by the Land and Income Tax Assessment Act of 1895 (59 Vict. No. 15), the Land Tax Act of 1895 (59 Vict. No. 16) and the Income Tax Act of 1895 (59 Vict. No. 17). The purpose of both taxes was to produce revenue to meet the increasing expenses of government and to substitute for customs duties which had been repealed. The two taxes were intended to be complementary—income tax, with exemptions, being imposed at a rate of 6d. in the pound on all incomes exceeding two hundred pounds (£200) per annum (except those derived directly from the ownership, use or cultivation of freehold lands), while land tax of one penny in the pound of the unimproved value of land was also imposed.

In the first reading of this bill (4th June, 1895) the Premier and Colonial Treasurer (Mr. Reid) proposed in addition to the base tax of one penny in the pound on the unimproved value of the property, an additional tax of twenty pounds for every hundred pounds in the case of absentees. In the second reading he explained:—

> ". . . I have been the subject of a great deal of abuse in many parts, not of the country, but of the monopolistic area, because I introduced this bill. It has been considered by some people as grossly unfair to the owners of land, inasmuch as the tax is imposed irrespective of the profit or loss derived from land, while the income tax rests upon a somewhat different footing. I am rather astonished that the hon. gentlemen opposite do not see that the main expense of governing the country is caused by the fact that the area of the colony is so large. If the value of our land were converted into cash we could govern the space required to house that money on very economical terms, and I think £2,000 or £3,000 a year would protect the value of our land if converted into cash. It is because this colony has an area as large as the great countries of England and France combined that the expense of government here is so large. We hear it constantly said that it is outrageous to have an expenditure here of £8-million or £9-million a year in a country containing 1,250,000 inhabitants. But that is not the way to put it. The way to put it is that to govern a country with a territory as large as the territories of two great European nations combined, requires between eight or nine millions pounds a year . . ."
>
> (*Parliamentary Debates*, 1895.)

From 1896 to the end of 1904 these taxes earned respectively:—

Year	Income Tax (No. of Taxpayers)	Net Yield	Land Tax Yield
Year ended 30th June—		£	£
1896	22,101	27,657	.....
1897	20,812	279,801	139,031
1898	22,034	144,236	364,163
1899	21,387	171,498	253,273
1900	21,379	166,170	286,224
1901	22,141	205,304	288,368
1902	22,519	190,315	301,933
1903	22,266	199,160	314,102
1904	23,572	193,240	322,246

In the later debates on closer settlement in New South Wales, there were many who advocated steeply graded, progressive land taxes as being the surest means of enforcing the subdivision of the large estates. Such a measure was four times rejected in South Australia, and once in Victoria (1909), but the Labour Party insistently demanded it as the only serviceable method. In the 1909 Commonwealth elections the Labour Party was successful, and the following year (1910) introduced the Federal Land Tax.

In 1906, with the passage of the Local Government Act, the taxation of land no longer became operative in New South Wales, with the exception of certain freeholds in the Western Division to which the Local Government Act did not apply.

1952.—In 1952 the Commonwealth withdrew from the land tax field. All States other than New South Wales either had existing land tax legislation on the statute book or took such action within the year or two following. It was inevitable that sooner or later New South Wales would be unable to resist this source of proven revenue, thus following the example of the other States.

1956.—In 1956 there was introduced into the New South Wales Parliament a "Land Tax Management Bill", and its purposes and machinery were outlined in the explanations given by the Premier (Hon. J. J. Cahill) to the House:—

> "The Commonwealth Government withdrew from the land tax field in 1952, and the opportunity for the State to impose its own land taxes has thus been available for the past four years. We have refrained from imposing a State land tax until this Budget year, although all other States in varying degrees have relied upon revenue from this source to meet their budget expenditures . . . I do not propose to traverse ground . . . already covered . . . , in which I explained why we had at last been compelled to adopt this tax . . . (We) have been unable to obtain a reasonable share of income taxation, and . . . so far have been unsuccessful in obtaining relief from pay-roll tax, which adds heavily to our transport costs.
>
> "The Government is aware that this measure is unpopular, and we do not seek to gloss over the fact that it will impose additional burdens on the people of this State . . . Sheer necessity has compelled us to act. In drawing up this measure, regard has been had to the Commonwealth land tax legislation and to similar legislation in other States. Certain principles were found to be common in almost all their land tax measures: the tax was based on ownership of land at a particular point of time; all land owned by one person was aggregated; the tax was levied on the unimproved value of the land; and the tax itself was on a progressive scale. These principles have been incorporated in the (present) bills . . . Furthermore, wherever practicable, the details of the Commonwealth Act has been followed . . . The first year of tax will commence on 18th November, 1956 . . .
>
> ". . . This principle of aggregation was followed by the Commonwealth and is applied in all States . . . However, no common principle seems to have been adopted in granting general exemptions. The Commonwealth, for example, had a flat deduction of £8,750 for residents and none for non-residents. Victoria has an exemption of £3,000 for rural land and £1,000 for other land, the former cutting out at £6,000 and the latter at £1,200. South Australia has no general exemption. Queensland has an exemption of £1,900 reducing to £700 for rural land where the land is worked personally by the owner, and a flat deduction of £700 for all other land, except land owned by companies or non-residents, where no exemption is granted.

". . . The Government in this bill, has provided exemptions much higher than those in other States. The owner of land used for primary production, provided he owns no other land, will be completely exempt where the unimproved value is £10,000 or less . . . In the case of an owner of other land, it is proposed that the exemption will be £5,000 . . . The rate of tax is progressive but it never quite reaches 8d. in the £ . . .

"The unimproved values of land for taxation purposes will be those determined by the Valuer-General in areas covered by him, or those used by councils for rating purposes in areas not covered by the Valuer-General. The Western Lands Commissioner will value lands in the Western Division of the State . . . leaseholds will not be troubled by the bill unless they are leases in perpetuity or conditional purchases. Other leases will not be subject to the measure.

". . . The introduction of this tax will require the repeal as from 31st October, 1956, of the land tax imposed under the Land Tax Act of 1895 that is still levied in respect of freehold land in the unincorporated areas of the Western Division . . ."

(*Parliamentary Debates*, Second-reading Speech, 4th October, 1956.)

THE PASTURES PROTECTION ACT, 1902

The Pastures Protection Act, 1902, from which is derived the present legislation in New South Wales (Pastures Protection Act, 1934-51), is an historic measure which consolidated various elements derived from three separate Acts operative at that time, namely, the Rabbit Act 1902; the Native Dogs and Poisoned Baits Act, 1902; and the Stock Act, 1901. It introduced for the first time the local Pastures Protection Board system of administration which for a period of more than fifty years has functioned continuously throughout the country areas of New South Wales. These forerunners of the 1902 Act may themselves be traced back to the first attempts in the early settlement to eradicate scab in sheep, and control native dogs, rabbits and other pests.

The first serious disease in stock of which there is any record in Australia is scab in sheep (*Sarcoptes scabiei*, var. *ovis*). There is little doubt that this disease was introduced with the very first importations of stock made. King, who sailed for Norfolk Island from Sydney on 14th February, 1788, was already familiar with it, for he recorded in his diary: "Died one of the ewes. Three only remain, the rest being destroyed by the scab". Atkinson (1826), in his account of the state of agriculture in New South Wales states that "scab is present". Cunningham, "Two years in New South Wales" (1827), refers to the fact that "scab is the most common disease". The ill-starred Dawson, first agent of the Australian Agricultural Company, reported in 1830, "Scab and footrot are common among sheep throughout the colony".[95] A series of Acts directed to the control of scab in sheep commenced with the "Act for preventing the extension of scab amongst sheep" (3 Wm. IV, No. 5, 1832). This Act was to operate for two years but it was made perpetual in 1834, amended in 1835 and extended by later Acts.

In 1864, a decentralized scheme of control was set up for the first time, providing for the creation of "Scab Districts", and for the direction of scab disease control and prevention in these districts to be placed in the hands of local stockowners, electing directors to a district board of management. Subject to the approval of the Governor, the directors

[95] C. J. King, *The First Fifty Years of Agriculture in New South Wales, op. cit.*

were empowered to appoint an Inspector or Inspectors who would work under the control of the Government appointed Chief Inspector (Alexander Bruce). Scab was to be a notifiable disease and its presence reported. The Act further provided that the expenses involved in scab disease control were to be partly a charge against the local stock-owners, who would be assessed at the rate of £1 for every 1,000 sheep owned, this tax to be paid into Consolidated Revenue, and no owner of 500 sheep or less being required to contribute.

These "Scab Districts" and "Sheep Directors" are the direct antecedents of the "Pastures Protection Board districts" and "P.P. Board directors" of the present day.

In 1898, some thirty-four years later, there was introduced the *Pastures and Stock Protection Act.* This was a consolidating measure, the object of which was to be the protection of pastures and livestock from the depredations of noxious animals, chiefly the dingo or native dog. "Sheep Districts" which had been formed for "Scab" disease control purposes only in the first place, were taken as districts for the purposes of the new Act, and boards of directors were constituted for each district where necessary. The boards consisted of the sheep directors for each district, representing owners of sheep, and in addition three representatives of large stock-owners for the same district to be elected annually. It was the business of the board to see to the destruction of noxious animals; this duty being placed upon the owner in the first instance, with powers given to the board to prosecute owners who neglected these obligations, and to employ inspectors armed with authority from it to destroy animals upon the lands of another. To provide funds for the purposes of the Act, rates were leviable by the board upon the stock on runs and also upon unstocked runs in its district, whilst there was further provision for the payment of bonuses for the scalps of noxious animals. At the date of commencement, rabbits were not within the scope of the Act, but the pest was afterwards for a time brought within the jurisdiction of the boards by the Pastures and Stock Protection (Rabbit) Act, 1900, repealed by the later Rabbit Act, 1901.

In 1866, previously, "An Act to provide for the Registration of Brands" had been passed, the responsibility for maintaining this register being at first placed with the Registrar-General. By an amending Act of 1874, there was a transfer of duties and powers from the Registrar-General to the Chief Inspector of Stock. In 1901, with the introduction of the *Stock Act,* there was a consolidation of the whole of the legislation then in force relating to diseases in sheep, scab, influenza and catarrh, the registration of brands, travelling stock, imported stock, and cattle export. This Act, being simply a re-enactment in consolidated form of a number of statutes passed at considerable intervals and with different objects, was very heterogeneous.

Prior to the passage of the Rabbit Act, 1901, the rabbit pest had been dealt with chiefly under the Rabbit Act, 1890, but a short time before, the lands of the Crown held under lease in the Western Division had been placed under the management of the Western Lands Commissioners. At the same time, the rabbit was also declared a noxious animal within the jurisdiction of the Pastures Protection Boards.

In the Rabbit Act, 1901, a new departure was made in the creation of "Rabbit Districts", "boards of directors" for rabbit control, and the assessment of rates to finance control. The Rabbit Board in a district was to consist of four elected members and a chairman appointed by the Governor. Liability to assessment for rates was to be a charge upon the owner or occupier who had ten head or more of large stock or 100 sheep or more. The amounts to be levied by a board were to be "determined by the board in respect of the holdings within the district", and provision was made for the rating of unstocked or partially stocked land as in the Pastures Protection Act.

Thus, after 1st May, 1902 (the date of commencement of the Rabbit Act, 1901), there were three different Acts in force in New South Wales, under which three separate local boards were to govern pastoral districts on kindred matters, each within its own jurisdiction, namely, disease control, rabbits, and noxious animals. If the districts were not already identical they could be made so by proclamation, and elections, rates and separate jurisdictions had been multiplied unreasonably. To overcome this complicated and rather ridiculous state of affairs, the Pastures Protection Act No. 111 of 1902 was passed, repealing the Pastures and Stock Protection Act, 1898, and the Rabbit Act, 1901.

When passed, the Act was at first administered by the Stock Branch of the Mines Department, and, in part, by the Rabbit Branch of the Lands Department. The Act of 1902, after being amended in 1904 and 1906, was itself consolidated by the Pastures Protection Act, 1912.

Travelling Stock Routes and Reserves

Section 34 of the Crown Lands Consolidation Act (1913) deals with the definition and setting apart of travelling stock routes and camping places within leases and licences and provides that while the Minister may by notification in the Gazette define and set apart such routes and camping places, it is necessary, in the first instance, that they be determined by the Local Land Board. The object of this provision is to prevent the lessee or licensee taking action for trespass or from interfering with the use of such route or camping place by bona fide travelling stock or from impounding any stock which bona fide travellers, teamsters or others may reasonably require for the purpose of their journey or business, while such stock keep within the boundaries of the route or camping places. The Section provides that a route shall not exceed (and may therefore be less than) a mile in width and that a camping place shall not exceed a square mile; also that a reduction of the rent or licence fee by reason of the setting apart of the route or camping place may be made.

Regulation 331 lays down the procedure to be adopted by the District Surveyor for giving publicity to a proposal under Section 34. It further provides that the Local Land Board "shall hear all persons who have lodged objections within the time specified and shall thereafter make a report to the Minister".

On the matter of the width of stock routes, it can be noted that his Honour Mr. Justice Pike *in re Roper and Another* (8 L.V.R. at page 121) made the observation that "there are decisions of the Court, in which I concur, in which it has been held that five chains is a minimum for any stock route". In his judgment in that case he stated: "It is suggested by the grounds of appeal that the reserve should be reduced to one chain wide. Although this reserve is very little used at the present time, owing to its bad state and want of water, I am of opinion that any stock route only one chain wide is practically worse than useless". In the case of *re Walgett Pastures Protection Board* (13 L.V.R. 22) his Honour dealt with the need for wide routes, saying, "stock do not use these drift-ways or stock routes like vehicles; the idea is that stock travelling along them should have some opportunity of getting a spread out and getting a feed, whereas if they are confined for miles to these narrow drift-ways, it has a very serious effect on them".

From the earliest days of settlement, substantial provision had been made by the Crown for stock routes and reserves throughout the State, in 1940 the aggregate area reserved for travelling stock standing at about 5¼ million acres. In time, however, the opening up of new lines of railway (providing for the movement of stock by rail rather than road), the development of motor transport and the stock-carrying road train, the occupation of land for agricultural purposes rather than grazing, and similar changes which time and development bring about, have inevitably affected the question of the extent and location of stock routes. Concurrently, there has been considerable agitation for the separation of stock routes from main highways, affording relief to both motorists and travelling stock, and for the whittling down of the Crown reserves in the interests of closer settlement and food production.

Until 1934 when the Act was further amended, Pastures Protection Boards were permitted to administer travelling stock routes and reserves under written approval from the Minister for Lands. However, political reasons in the early 1930's had prompted a Labour Government not to grant such renewals, in which event the stock routes and reserves reverted to the Crown. To remedy this condition of affairs the Stevens Government in 1934 introduced the *Pastures Protection Act, No.* 34, being:—

> "An Act to provide for the protection of pastures; to provide for the constitution of pastures protection boards, and dingo destruction boards; to amend the law relating to the branding and earmarking of sheep, travelling stock reserves, public watering places, the destruction of noxious animals and certain other matters; to validate certain matters; to amend the Local Government Act, 1919, and certain other Acts; to repeal the Pastures Protection Act, 1912, and the Acts amending the same, and the Public Watering-places Act, 1900 . . ."

In introducing this bill the Minister for Agriculture (Hon. J. M. Main) stated its purpose to concern a number of important matters:

> "The present Act relating to pastures protection has been in operation for twenty-one years, during which time a number of anomalies have been discovered in it . . . the necessary amendments are so numerous that it has been considered necessary to recast the whole measure. For that purpose the present Pastures Protection Act is being repealed and an entirely remodelled measure brought in . . ."

The more important amendments incorporated in the newly remodelled Act comprised those giving boards powers over reserves and public watering places. Dealing with these matters the Minister said:—

> "With regard to travelling-stock routes, there will be a very vital change . . . Under the present Act the controlling authority is the Minister for Lands . . . in the past we have had the peculiar happening that when the five years' leases given to the pastures protection boards of their various reserves fell in, it was for the Minister for Lands to say whether the boards should be given renewals, or whether the land should be taken away from them altogether . . . in the last Administration (the Minister) . . . made a point of not renewing any lease or reserves which expired during his regime . . . The reserves will be handed over to the pastures protection boards . . . If the Minister for Lands thinks that any of these stock routes or reserves are unnecessary for travelling stock, he can bring the matter before Parliament . . . and by resolution of both Houses the reserves can be revoked . . . all proceeds from the travelling stock rate are to be paid into a reserves improvement fund, so that there will be no chance, without the sanction of the Minister of money obtained from travelling stock being used for the ordinary purposes of a board . . . A new proviso will be that the boards may modify or waive travelling stock rates. At present no matter what the conditions are, the boards have not power to either modify or waive rates. No rates will be charged in the Western Division . . .
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> "Another vital change is in regard to public watering places . . . In the Central and Eastern Divisions public watering places will be taken over from the shire councils, except in the case of town water supplies . . . These watering places were not constructed by the shires but were handed over to them by the Public Works Department in 1906 . . . In the Western Division, the pastures protection boards will be the controlling authority . . . (but) as there are no travelling stock rates . . . the operation of the public watering places will have to be as in the past a charge on the Consolidated Revenue . . . "

By the 1934 Act, also, dingo destruction boards were to be constituted, with power given to boards to make a levy on land not to exceed ¼d. per acre in the district concerned, such funds to be used for dingo destruction only. Such districts would not be proclaimed in the Western Division since dingo destruction would come under the control of the Western Lands Commissioner. Then in connection with the control of rabbits and other noxious animals, the intentions of the Act were stated by the Minister to be:—

> "The first function of boards is to control locally the destruction and suppression of rabbits and noxious animals, taking action against owners and occupiers who fail to take reasonable steps in that direction . . . The Rural Bank, occupiers of public watering places, caretakers and local shire and municipal councils will be subject to the conditions governing the destruction of noxious animals, including the rabbit . . . "

Thus under the amended Pastures Protection Act, 1934, which came into force on the 29th March, 1935, very vital changes in the law relating to the administration of reserves were made. Formerly, under the Pastures Protection Act, 1912, the Minister for Lands had had power to place reserves under the control of a local Pastures Protection Board for limited periods, but the 1934 Act altered this to provide that reserves would be placed under Board control in perpetuity. All reserves under control of Pastures Protection Boards at the commencement of the Act, and any reserve subsequently placed under control were to remain under control forever, unless the Pastures Protection

Board were to consent to withdrawal or both Houses of Parliament by reservation were to approve of the withdrawal. (An exception however reserved power to the Minister for Lands to arbitrarily withdraw any lands required as sites for towns or villages or for any public purpose other than settlement under the Crown Lands Act.)

The Pastures Protection (Amendment) Act, No. 39, 1951

In 1950 and 1951 disagreement arose between the government and certain Pasture Protection Boards in connection with the surrender of surplus land no longer essentially required for stock route and reserve purposes. Failing an amendment of the Act, a board remained legally protected from being obliged to surrender lands against its wishes. To overcome this deadlock, the government in 1951 amended the Pastures Protection Act.

The significant clause in the 1951 Act occurs in relation to the control of reserves. Under Section 42 (1) the new provision in the Act permitted the Minister for Lands, upon the recommendation of the Minister for Agriculture, to withdraw any reserve or part thereof from the control of a board. Even though the Minister for Lands might refer an issue concerning such reserve to a local land board, the Minister would yet remain free to accept or reject any report made to him and such report could not be made a subject of reference to the Land and Valuation Courts.

In his explanations as to the purpose of these 1951 amendments, the Minister for Agriculture (Hon. E. H. Graham) made reference to the following:—

> "It is believed that in the last twenty years or so a position had developed whereby lands are being retained as travelling stock reserves though they are no longer needed for the purpose and could be better used for private settlement . . . Before 1934, reserves were under the control of the Minister for Lands. A survey was then made of the reserves, as it was considered that many of them should have been discontinued because the development of land had altered the stock routes . . . The survey was carried out by the technical officers of the Lands Department. This survey determined which reserves were required by the boards . . . After the passage of the 1934 Act, those reserves were placed under the control of the boards, which were empowered to collect rates to be used on the improvement of stock routes and reserves. The boards were to attend to ringbarking, eradication of noxious weeds and the extermination of noxious animals . . . The Act provided that reserves could be taken over with the consent of pasture protection boards or without their consent if the Minister obtains approval of both Houses of Parliament . . . Land has been taken over for soldier settlement in a similar way . . ."

THE LOCAL GOVERNMENT ACT, 1906

A Brief Summary of the Principal Features

New South Wales was the first colony in Australia to introduce a rudimentary elective form of municipal government in 1839, when commissioners were appointed to control the Sydney and Melbourne markets. Three years later, in 1842, Sydney and Melbourne were incorporated as Cities. Provision for district Councils made that year marked the first endeavour to establish a State-wide system of local government.

The system failed, however, and was abandoned. The first Acts creating effective municipal systems were passed in Victoria in 1854, New South Wales and Tasmania in 1858, South Australia in 1861, Queensland in 1864, and Western Australia in 1871. Progress has been more rapid in some States than in others, but generally there has been a steady development in all.

For land administration purposes, New South Wales is divided into three divisions—the Coastal Division, the Central Division, and the Western Division. The Coastal and Central Divisions (184,026 square miles) have been brought under local government. In the Western Division (125,402 square miles) local government bodies have been established only in the cases of a few incorporated towns, including the City of Broken Hill, and the Shires of Balranald, Brewarrina, Darling and Wentworth. There is no provision for the administration of local affairs in the Western Division except in the towns and shires referred to, but certain services are in fact provided by the Central Government.

In New South Wales, local government expresses itself through city, municipal, shire and county councils. There are 17 Cities, 80 Municipalities, 133 Shires and 49 County Districts.

The principal legislation is as follows:—

1832-1835.—From the establishment of the colony at the landing of Governor Phillip in 1788, up to 1832, there was no form of local government. All public works, including roads and bridges, were constructed and maintained under the direction of the central government, which sometimes established toll bars and collected tolls. In 1832 an Act was passed under which the Governor was authorised to establish toll gates at various places, and to collect tolls.

Then in the "Improvement of Roads Act, 1833," the Governor was authorised to proclaim new roads and to decide whether they were to be maintained at Government or Parish expense. This provided for the opening of roads through freehold or alienated land. These roads were described as Parish roads in the Act, which stipulated that they were to be surveyed and delineated on a plan. They are now known generally as *confirmed roads*.

In 1835, it was enacted that half the householders of any Parish in the County of Cumberland were given the right to apply to the Court of Petty Sessions to have a road or bridge repaired; the Court could inquire into the application, report what scale of tolls was necessary, fix a place for a toll bar to be erected, and appoint a collector of tolls.

1840.—Under the Parish Roads Act of 1840 one-third of the proprietors of land through which, or within three miles of which, a parish road passed, were authorised to requisition the Magistrates in Petty Sessions for authority to elect *Trustees*. The Magistrates then called a public meeting. If that meeting decided that Trustees should be appointed, the magistrates then decided how many, and called another public meeting for the purpose of electing them. Any person who owned £200 worth of property was entitled to vote at the election of the Trustees. The Trustees held office for three years and had power to levy a rate not exceeding 6d. per acre; to appoint road surveyors; to establish toll

bars and collect tolls; to borrow money; and to make and repair the roads. In 1850 the Trustees were empowered to repair branch roads within half a mile of a main parish road, as well as the main parish road itself.

1842.—City of Sydney Incorporated. (The City of Sydney functioned under its own Act as a separate unit outside the general local government structure of the State until 1948, when it was reconstituted and reorganised upon union with a number of adjoining municipalities. The City of Sydney, as so reconstituted, now functions under the Local Government Act, 1919, in common with all local authorities in the State.)

1842.—In 1842 the Governor was authorised by the District Councils Act of that year to incorporate *District Councils* for any part of the State. During 1843 there were 18 District Councils incorporated but many of these did not take advantage of the incorporation as in 1844 there were only eight actually working. The number of members of each District Council was to be in proportion to the population ranging from 9 up to 21. Any male person 21 years of age owning land of a yearly value of £100 was eligible for office as Councillor. The electoral franchise was granted to persons possessed of land of the value of £200, and to householders occupying dwelling houses which were each of the clear value of £20 per annum. Aliens were disqualified. The Chairman of the District Council was appointed by the Governor, with the title of Warden. The Councillors were elected for three years. The Act required that the District Council must employ a surveyor who had passed a suitable examination before a competent tribunal. It also required the Council to submit accounts to the Governor each year. The functions of these District Councils were the provision and care of roads and streets, public buildings, and public schools; and there was a further duty laid upon them of providing means for defraying such expenses connected with the administration of justice and police as the law required to be defrayed by the districts.

For example, the law required each district to defray one-half the cost of the police in the district (excluding the police attached to the convict establishment)—the other half being borne by the Central Government. The revenue of the District Councils was derived from rates and tolls, and from penalties for breaches of the by-laws. The Act was put into force in 1843. In 1844 there were eight District Councils in existence: and these together with the Municipal Council of Sydney, and the Road Trusts, constituted the whole of the Local Government system up to the year 1858.

1848.—In 1848 the system of road trusts was extended by the enactment of the Sydney Suburban Roads Act, 1848, which empowered the Governor to appoint Commissioners to maintain certain roads in the suburbs of Sydney which had previously been cared for by the Trusts. The Commissioners were empowered to take over the toll bars and collect the tolls. The system of tolls and Commissioners and Trusts continued side by side with the Municipal system more or less up to the year 1890 when it was abolished.

1858.—In 1858 a new Municipal code became law in the form of the Municipalities Act, 1858. This repealed the previous Act of 1842 relating to the District Councils. It provided that any City, Town, Hamlet, or Rural District, might be proclaimed a *Municipality* on the petition of fifty householders. If the population was less than a thousand the Municipality could be divided into two wards returning three Councillors each; if a thousand or over, three wards returning three Councillors each. The qualification for an elector or a Councillor was that he should be a "ratepayer." The Chairman was elected by the Councillors. One-third of the Council retired each year, so that the Councillors individually held office for three years, but there were annual elections. The functions allotted to the Municipal Councils were the provision and maintenance of streets, bridges, ferries, wharves, jetties, cemeteries, water supplies, street lighting, sewerage, public hospitals, asylums for destitute children, public gardens, and public libraries. The Municipal revenues were derived from tolls, and a general rate not exceeding one shilling in the £ on the assesed annual value; and special rates might be levied for sewerage, water supply and street lighting. The Councils were empowered to borrow sums not exceeding the amount of three years' revenues.

Under this Act, thirty-five Municipal Councils or boroughs were incorporated. Where the Councils were constituted, they became responsible for the maintenance and construction of the roads within their boundaries.

1867.—The Municipalities Act of 1867 repealed the 1858 Act and introduced new features. The Municipalities then existing were created *Boroughs,* and power was given to incorporate new Boroughs, and also to incorporate a new unit of Local Government under the name of "Municipal Districts". It was provided that a Borough might consist of any "City or Town", with or without its suburbs or country immediately adjacent thereto; or any "suburb of the metropolis" as then incorporated; or "any populous district". It was necessary for the locality to have a population of at least a thousand persons, and upon its first incorporation to contain not more than 9 square miles, and to be so compact that no point in it should be more than 6 miles distant from any other point. A *Municipal District* might consist of any part of the Colony not containing a Borough or an existing Municipality. Its area upon first incorporation could not exceed ten square miles, and no one point should be more than 20 miles distant from any other point: while the population must not be less than 500 persons. Both Boroughs and Municipal Districts were comprised within the term "Municipality". A Municipality could be constituted on the petition of fifty ratepayers. Every person over 21 who was liable to be rated was entitled to enrolment as an elector, and every male elector was eligible to be elected a member of the Council (or Alderman). *Plural voting was* provided for, an elector assessed at under £25 having one vote, £25 to £75 two votes, £150 three votes, and over £150 four votes. The Act allotted to these Councils the same functions as the Act of 1858, and added to the list public baths, infant schools, free libraries, the power to license public vehicles, and the power to compel the destruction of noxious weeds. The general rate was limited to one shilling in the £ on the assessed annual value: special

rates were authorised for sewerage, street lighting, libraries, and free infant schools; but the total amount of all rates was not to exceed 2s. in the £ on the assessed annual value. The Council's borrowing powers were increased from the equivalent of three years' rates up to five years' rates.

1897.—In 1897 the Municipalities Act of 1867 and the various amending Acts were consolidated in the Municipalities Act, 1897, and the system continued without structural change until the end of 1906, when it was superseded. By that time there were in existence seventy-eight Boroughs and 113 Municipal Districts. The population of the State at that time was 1,498,609, and of these only 839,570 were included in the areas incorporated under the Municipalities Act, 1897. The remainder of the population of the State were either in the City of Sydney or outside the incorporated suburbs and towns. Outside the Boroughs and Municipalities and the City of Sydney, the whole of the local works, etc., were the charge of officers of the Central State Government through its Public Works Department.

Further legislation dealing with roads from 1833 to 1897 was dealt with in the various Crown Lands (Amendment) Acts of 1861, 1875, 1880, 1884, 1895, and was later consolidated in the Crown Lands Consolidation Act, 1913.

Hand in hand with the expansion of settlement, an extensive system of roads was developed as each selection was provided with access by roads left in the subdivision of the Crown estate.

The Public Roads Act of 1897 was replaced later by the Public Roads Act, 1902, which is still in force and is extensively used.

1902.—The Public Roads Act, 1902, provides a method whereby land can be resumed from any lands which are not Crown lands. After resumption land is vested in the Crown unless it is dedicated. If it is *dedicated,* the fee simple is vested in the local Council, which then takes control of it as a public road, as laid down in the Local Government Act, 1919. (*Note.*—The word "resumption" is not used when speaking of land that has not left the estate of the Crown; "withdraw" means to draw from land which is still Crown land but is held under lease.)

1905-6.—During 1905-6 Parliament decided to make a radical change and to introduce a much wider system of Local Government. In 1905 the first measure to carry out the new policy was passed, a measure to constitute as Shires the whole of the State excepting the areas already incorporated as Municipalities and excluding the "Western" division of the State. Then in 1906 Parliament passed another measure, complementary and supplementary to the Shires Act of 1905. This second measure made further provision respecting the establishment of Shire Councils, and their powers. It also provided for the entire reorganisation of the Municipal system. When these two measures were law Parliament immediately consolidated them in the "Local Government Act, 1906".

The permissive system of incorporation which had been provided under the 1858 Act proved on experience unsatisfactory for two reasons:—

(1) A number of municipalities were constituted which were too small to provide the services expected of them.

(2) It failed to provide for local government in large sections of the State—approximately one per cent only of the State was incorporated for local government purposes.

The principal features of the new system provided by the Act of 1906 were:—

(1) Permissive incorporation was abolished in favour of a compulsory system. This resulted in the whole of the State (except the sparsely settled part of the Western Division) being divided into shires and municipalities. In the Western Division, municipalities only were provided for.

(2) Provision was made for the designation of municipalities as cities in appropriate cases.

(3) Plural voting was abolished and all occupiers of ratable property were given the right to vote.

(4) Rating on the unimproved capital value was introduced.

In succeeding years the framework of the 1906 legislation was enlarged until in 1919 the Consolidated Local Government Act was passed.

1919.—This Act (1919 Local Government Act) provides, with the many additions, amendments and related measures which have been enacted from time to time, the basic charter for local government in New South Wales, and a complete code in respect of matters relating to the constitution of local government areas and their councils, and local government finance and administration.

The Local Government Act, 1919, retains the core of the system of local government developed in 1905 and 1906, namely, the constitution of Shires and Municipalities. Certain conditions are prescribed by the Act for the constitution of new municipalities. A new municipality cannot be constituted unless—

(*a*) it contains a population of at least 3,000 inhabitants;

(*b*) it has an average density of at least one inhabitant per acre; and

(*c*) the unimproved capital value of all ratable land in the area is at least £240,000.

Cities are merely municipalities which have been proclaimed by the Governor as cities. The conditions precedent to the proclamation of a municipality as a city are:—

The municipality must—

(*a*) during the five years immediately preceding the proclamation have had an average population of at least 15,000 persons;

(*b*) during such period have had an average gross income of at least £20,000;

(*c*) be an independent centre of population and must not be a suburb, whether residential, industrial, commercial or maritime of any other municipality or centre of population.

The designation of municipalities as cities carries a certain prestige, but the city councils have no greater powers than municipal councils.

There are certain local government services which for economic reasons must, in many cases, be dealt with on a district or regional basis. Prior to 1919, there was no machinery whereby local government could provide these services on such a basis. The Act of 1919 made provision for the constitution of a larger unit of government than a municipality or shire, namely, the *county district*. Briefly, the Act permits groups of municipalities or shires to be constituted as a county district for local government purposes. There is a *county council* for each county district, which is composed of delegates from and elected by the constituent councils: and the county council exercises only those specific powers which are delegated to it with the consent of a majority of the constituent councils. These special provisions have been an outstanding success and no fewer than 49 of such councils have been constituted. Amongst their functions are electricity supply, water supply, town planning, coal mining, flood control and eradication of noxious plants.

1932-34.—The whole of the law relating to the City of Sydney was consolidated in 1932 by the Sydney Corporation Act, 1932, and in 1934 an amending Act was passed which brought the law in the City up to date and conferred upon the City Council a number of powers enjoyed by the Councils of local government areas, but not possessed by the City.

1948.—The need for altering the structure of local government in the County of Cumberland (Sydney inner and outer metropolitan districts) so as to meet the requirements of present-day conditions was the consideration which led to the Government's legislating in 1948 for the union of groups of local government areas. The unsatisfactory state of the local government structure in the metropolis had been apparent for over half a century. The system of permissive incorporation which obtained until the early part of the present century had allowed the constitution of many adjoining municipalities which were too small to provide the services expected of them. The councils of the areas were either unable or unwilling to meet the growing needs of the County of Cumberland as a whole. A Royal Commission appointed to inquire into the position reported that the boundaries of the areas then existing, which had been fixed without any preview of the great developments in transport and communications which were to take place, were illogical when applied to present-day conditions. It recommended that certain areas should be grouped with the City of Sydney to form a new City and that the boundaries of the surrounding municipalities and shires be readjusted to provide for larger areas. The number of local government areas in the County were in consequence reduced from 66 to 39.

Municipalities and Shires are governed by Councils, the smallest of which has six members, and the largest 21. These members are called "President" and "Councillors" in a Shire and "Mayor" and "Aldermen" in a Municipality. The franchise is a wide but simple one: owners and ratepaying lessees of rateable land, occupiers and persons who are on the electoral roll. The members hold office for three year, and all go out of office at the one time so that there is a general election for Shires and Municipalities on one day all over the State, each three years.

The fundamental distinction between Municipalities and Shires under the New South Wales system is simply that between "town" and "country" local authorities. The Municipalities are incorporated towns: the Shires are incorporated areas of countryside (together with small towns and villages embraced in them which have not set up separate local-government housekeeping as Municipalities). The "County Districts" are voluntary associations of several Municipalities and Shires to form a larger local governing body to serve some special local government need.

The powers of these Councils are to care for the roads and streets, open new roads, provide water supply and sewerage systems, supervise public health and enforce the various Public Health Acts; regulate erection of buildings, and subdivision of land; prepare town planning schemes, provide public recreation reserves, parks, gardens, public baths; regulate beach bathing, provide public libraries, gymnasia; acquire and preserve places of historical interest or of scenic attraction; provide gas and electricity works; provide and manage public wharves; grant franchises for public utilities such as electricity, gas, etc.; provide public pounds; provide and control public markets and public abattoirs; compel the destruction of noxious weeds; control and manage commons; regulate public vehicles; build and sell houses; provide, establish and manage bush fire brigades; carry out dredging in and reclaim areas in tidal waters; provide medical and nursing attendance for sparsely settled country districts; regulate advertisement hoardings and advertisements, and so on.

Municipal and Shire Councils are financed by rates on the unimproved capital value of land. The Councils have power to place some of the rates on the improved capital value, but the general system in force in New South Wales is rating on the U.C.V. of land. The Shire Councils are assisted by Government endowments and both Municipalities and Shires are largely assisted by Government special grants for roads, bridges, recreation reserves, tourist resorts, and other purposes. There is also the usual financing by means of loans, but these have to be repaid from rates, so that it is a reasonable general statement that the local authorities are principally financed by rates on the U.C.V. of land. Those Councils which have trading undertakings, such as electricity works, may make profits but the law does not allow profits to be made for the purpose of using them in relief of rates. If there are any profits in excess of necessary reserves they must be used to repay the loan capital earlier than was at first intended, or for reducing the charges to the public.

Councils are empowered to acquire land within or outside their areas by lease, purchase, appropriation or resumption. Councils may also sell, exchange or lease any land or building or other real or personal property vested in or belonging to the Council.

The amount of rates to be levied is left to the discretion of individual councils, since there are no limits imposed in New South Wales. Crown lands are exempt from rating, except where they are leased or used for industrial purposes. Cemeteries, hospital, church and university lands and lands owned by public benevolent institutions or charities and used for the purpose thereof are also exempt.

There are no "income" taxes levied by local authorities in New South Wales as against the practice in some parts of America and Europe.

For each county district there is a county council comprised of delegates elected by and from the councils of the municipalities and shires concerned in the county district. The functions of the county council are those delegated by the councils of these municipalities or shires. The county council may obtain its finances by means of rates, charges or by levy upon the councils in the district. The type of agency determines how its expenses are financed, e.g., a county council for water supply would make its own rate, a county council for electricity would make charges for electricity sold, and a county council for town planning would make a levy upon the councils.

The local governing bodies are the councils of areas, viz. the cities, municipalities and shires constituted under the Local Government Act, 1919. The councils are charged with the local government of their areas and have the general control of the business and working of such local government. Local government areas may be altered, divided into different areas, united or converted as a shire or municipality as the case may require, by proclamation by the Governor. Action in this regard may be initiated by the council of any area affected, fifty or not less than one-third of the electors of the area or part affected, or by an officer of the Minister. Where objections to the proposal are lodged, the matter is referred to a person appointed by the Minister for inquiry.

Shires are divided into *ridings* and municipalities may be divided into *wards*. Wards and ridings are provided for electoral purposes.

Each council is entitled to appoint from time to time such servants as it may require and to remove or reappoint them. The appointment by a municipal or shire council of a Town or Shire Clerk is compulsory, as is the appointment to a shire council of a Shire Engineer. In the case of municipal councils, the appointment of a Civil Engineer is compulsory only in certain circumstances. This condition applies also to the appointment by either municipal or shire councils of Electrical and Gas Engineers, Health Inspectors, and Town and Country Planners. The Clerk is the chief administrative officer of the council.

Under the Valuation of Land Act, 1916, a Valuer-General is appointed by the Central Government, and he is charged with the function of valuing all land within the State. The Valuer-General has not yet, however, completed the valuation of the State as a whole and in those

areas which have not yet been valued by the Valuer-General, the council is empowered to appoint its own certificated valuer to carry out the valuation of the area.

One feature of the development of local government is the fact that it has beome increasingly more "democratic". The franchise, limited to ratepayers, and the principle of plural voting have given way to a franchise as wide as the parliamentary franchise, and plural voting has disappeared. Since 1947 voting at local government elections has been compulsory.

ROADS

The Public Roads Act, 1902, deals with the opening and closing of roads, re-marking of roads, alignments and such matters. Within the Department of Lands it is the responsibility of the Roads Branch to give effect to its provisions.

On the 31st December, 1906, the day before the Local Government Act (1906) came into effect, a long list of main roads covering the main arteries of the State was gazetted. The following day, 1st January, 1907, local Councils gained control of these roads, which at that time embraced the main roads of the State and the principal arterial highways.

In 1924, however, the *Main Roads Act,* a new measure, transferred control of the gazetted main roads to the Department of Main Roads. For a few years, Main Roads affairs functioned under a Board, but they are now under the control of a Commission.

Some of the roads thus acquired were proclaimed State Highways, but there are a large number of main roads which are not State Highways. However, all have the status of main roads under the control of the Department of Main Roads, although the fee simple of the land they comprise is still vested in the Local Councils.

After 1907, to summarize, and up to 1924, the Councils, except in the Western Division were looking after the public roads; after 1924, the Department of Main Roads gradually took over the main roads as they were gazetted under the Main Roads Act. Since 1924, the Shire Councils have been relieved of the responsibility of the main roads of the State.

PUBLIC PARKS

The earliest trusts constituted by the Crown in respect of public parks and recreation grounds were created under the Public Parks Act of 1854 (18 Vic. No. 33). That Act provided for the dedication of lands for purposes of recreation, convenience, health and enjoyment of the inhabitants of any city, town or place. The Public Parks Act of 1854 and the Public Parks Act of 1884 which succeeded it, were administered by the Department of the Chief Secretary until 1886, when control was transferred to the Department of Mines, passing in 1888 to the Department of Lands.

SMALL HOLDINGS

The Local Government (Small Holdings) Amendment Act, 1932 (Act No. 61, 1932)[95A]

In 1932, in the depths of the depression, the Stevens Government, acting on a suggestion from the Shires Association of New South Wales, introduced a Small Holdings bill, having as its objective "to allow work to be substituted for the dole," by enabling local authorities to provide

[95A] In Great Britain the practice of providing allotments or small plots of land for agricultural or horticultural purposes appears to have originated in the Poor Law Act of 1601, with the desire to give employment. Prior to 1887, all allotments were provided as incidental to the administration of the Poor Law. In 1887, under the Allotments Act, local authorities, both urban and rural, were placed under the obligation to provide allotments, and if unable to obtain them by agreement, they could petition the County Councils, who were authorised to acquire the necessary land compulsorily if need be. These allotments came under the heading of "Peasant Proprietorship."

Some system, however, was needed which on a substantial scale would provide a scheme of settlement intermediate between "peasant proprietorship" and "ordinary farming." In 1892 such an Act was passed, "to facilitate the acquisition of small agricultural holdings." The English law with regard to both allotments and holdings has been amended on a number of occasions, and in 1932, at the time the Local Government (Small Holdings) Amendment Act was passed in New South Wales, the English law was practically comprised in the "Small Holdings and Allotments Act, 1908-1926."

The English practice provided for small holdings varying in size from one to 15 acres, or of an annual value not exceeding £100. These might be provided by County or Borough Councils, or by Borough, Urban District and Parish Councils as agents for the County Councils. A County Council was required to provide holdings if satisfied there was a demand for them, but if a loss was likely to be incurred, such provision lay in its discretion. The Ministry for Agriculture and Fisheries, to which the proposals had to be compulsorily submitted where a loss would be incurred, was given power to contribute towards the cost of carrying out the proposal in any case where the contribution would not exceed 75 per cent. of the amount of loss in any year.

In Great Britain, the small holdings are let to persons who cultivate them for agricultural or horticultural purposes, or for breeding stock, keeping bees or poultry, or for growing fruit and vegetables. Every County Council must have a Small Holdings and Allotments Committee, to which are referred all matters respecting small holdings and allotments. The County Council has power to sell or let one or more small holdings to persons working on a co-operative system and, with the Minister's consent, it may sell or let one or more small holdings to an association formed to promote the creation of small holdings and constituted so that the division of profits among the members of the association is restricted.

At the end of 1927, the Councils were the largest landholders in the United Kingdom. Under various schemes, they owned 450,000 acres, occupied by some 30,000 small holders. In the inter-war period, these small holdings exercised an appreciable effect upon the course of agricultural settlement in Great Britain. In a paper read before the Public Works, Road and Transport Congress in England in November, 1931, this statement was made:

> "One cannot too strongly emphasize the fact that the personal equation counts for more than any other factor, and numerous instances could be given where, after one tenant has failed, his successor, on the same holding, has been an unequalled success and made the holding profitable, and also where on two similar adjacent holdings, the results attained in the two cases have been entirely different. This shows, therefore, that it is not so much the land or equipment which contributes most to the success as the ability and energy of the tenant.

small blocks of land for men who were out of work or following seasonal occupations, so that they might find permanent work in some channel of rural activity. Municipal and Shire Councils, under the Act,

> "It cannot be denied that the creation of small holdings, especially since the war, has involved the expenditure of large sums of money, on only part of which will interest, by way of rent, be received. Critics usually declare the whole scheme uneconomical, but they forget that the equipment of large farms with houses, buildings, etc., and also the erection of nearly all dwelling houses, is equally so . . .
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> "On the whole, I think it can be claimed that the expenditure on small holdings has been a successful venture and has helped considerably to prevent the exodus of the best type of agricultural labourer to the towns, and has also enabled the number of persons obtaining a living from the land to be increased; in fact, it will generally be found that the creation of small holdings doubles the resident and the working population on the same land. . . ."

In a report also about this time, the Ministry for Agriculture and Fisheries issued the following assessment of the provision and cultivation of holdings and allotments under the auspices of public authorities:

> "From reports received from the Ministries and Commissions, it is apparent that, generally speaking, small holders have so far weathered the present agricultural depression in a remarkable way, and that in all parts of the country they have been 'doing better' than the large farmers . . . Amongst the reasons advanced for the small holder's greater resistance to low prices are: fewer payments for labour, etc.; fewer creditors to embarrass him when values fall; rarity of mortgage burdens; easier change of farming plans; and self-consumption of much of his own produce. Although some counties are experiencing difficulty in collecting rents, in general the proportion of rents collected has been surprisingly high and debt-payments have been small. In one of the largest small holdings counties, no less than 82 per cent. of the statutory small holders had a clean slate with regard to rent. There are indications, however, in several parts of the country, that small holders will be severely tried if the present low prices continue much longer . . . Reports show that the greatest difficulties have generally been experienced on urban holdings, especially in districts where, from the nature of the soil and climate, it has been difficult to change to other types of farming . . . The recovery in potato prices has come as a partial relief to many small holders, while dairy and poultry holdings have generally done relatively well . . ."

In 1931, in line with the English practice, a small scheme had been put into operation in Stratford, New Zealand, by the Unemployment Committee. This Committee obtained the right to use vacant land in areas from one-quarter acre to three acres. The Committee provided seed and lent tools, whilst a horticulturist gave his advice and overlooked the work. Out of 77 unemployed married men in Stratford at the time, no less than 70 worked on these allotments. Later this scheme was taken up as a general one by the Government for unemployment relief, and was known as the "Ten-acre Scheme," although the allotments varied in size from five to ten acres.

In the New Zealand scheme, already-established farmers handed over to unemployed families areas of ten acres, on which the Government erected shacks of the type used in Public Works camps. Each settler was given a cow and permission to borrow the farmer's implements. In return, the settler did a certain amount of work for the farmer, and he might also accept work from other farmers in the district. In addition, he received £1 per week from the Unemployment Board. Freedom was given the small settler to use his holding as he liked, and at the end of five years he was given the right to purchase his land outright.

In other countries also, in the depression, various devices were tried to assist unemployed men and their families to acquire small areas of land upon which they might attempt to grow food.

would be empowered to settle selected people on small agricultural holdings which could be worked as small mixed farms. The concept was both "idealistic and visionary," and pre-supposed that there were sufficiently large areas of land lying unused which could be developed at small cost; and secondly, that Councils were peculiarly well adapted to deal with the problem of taking over and subdividing such lands into small blocks and settling people on them.

In introducing the bill, the Minister (Hon. J. Jackson) gave these explanations:

> " . . . We have had a run of good seasons and comparatively good days. We have borrowed well and spent well, but, in the vernacular, we are now 'up against it.' We are forced to find a road out, and that road is, I believe, through small settlement removed from the metropolitan area. We talk of placing men on the land, with substantial areas to give them a good living. It is not given to all men to be able to conduct a substantial holding, but it is given to all men to handle a small land job, and the (present bill) . . . will in my opinion be remembered longer than any other Act passed in this or any other session of the present Parliament. The duty of Parliament . . . is to try to connect unemployed citizens with opportunity. We have in my view a great opportunity. Throughout the State, we have a group of Municipal and Shire Councils which are ready to play a part in rehabilitating New South Wales . . . I believe that after this bill is made law, Councils will be able to build up around many of our country towns a prosperous citizenship. We are looking forward to the day when settlement will solve all our problems . . . My idea is not that we shall have men building homes at a cost of hundreds of pounds; the scheme must start in a humble way. I do not expect that every town will find men of public spirit who will organise into activity groups of small holdings, but I believe that there will soon be instances in evidence and that those will be built upon . . .
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> "This is not any new idea. History takes us back to the seventeenth century in England, when a similar method of settlement was adopted . . . The history of settlement throughout the world is the history of small holdings . . . If we can get those who depend upon their weekly wages into small enterprises for themselves . . . we shall make this country more prosperous . . . Nothing but hard work and enthusiasm can enable such an enterprise to succeed . . . Members who are inclined to deride it will live to see the day when there are men settled on small blocks of land with comfortable little homes and making a decent living . . ."

The Act provided that Councils could acquire land for the purposes of such settlement by way of gift, agreement, purchase or lease, or by resumption, if necessary.

Having acquired the land, Councils could subdivide it into suitable allotments, and before selling or leasing as small holdings, were empowered to adapt the land for that purpose by the provision of services, fencing and road-building, and by the erection of dwellings and other necessary buildings. A small holding was defined as "an agricultural holding which does not exceed 50 acres in area, or if exceeding 50 acres, is at the date of sale or lease by the Council, of an unimproved capital value not exceeding £500." A Council was required to advertise its intention to provide small holdings and to invite applications for the holdings. The Council would choose the successful applicants, but not more than one holding could be allowed to any one person. More than one holding could be allowed to a group of persons working on a co-operative system approved by the Council, or an association of persons formed to promote the creation of small holdings or to relieve unemployment. A Council might also provide tools, agricultural implements and livestock upon such conditions of purchase or hire as it might see fit.

In the accounts of the debates in Parliament, there is nowhere evident any real confidence as to the success of the experiment, for a natural distrust has always surrounded attempts at "peasant" and "subsistence" farming under Australian conditions, and there remains from the earliest period a long and involved history of trouble and failure in regard to marginal farming settlement in New South Wales.

Favourable references were made to the "one-acre blocks" on which virtually destitute unemployed were at the time growing vegetables and food for themselves and families at Hammondville near Liverpool. It was agreed that the bill was not a closer settlement measure, but "rather one to give people a reasonable chance to make good upon small areas." In the Counties of Cumberland and Northumberland, there were a number of persons who intensively farmed small areas as market gardens, operating on a small scale, and who supplied the cities of Sydney and Newcastle, but beyond this, New South Wales had no large number of people living on small areas which were practically supporting them, and there was no considerable peasant, yeoman or petty farmer population in Australia. New South Wales, with an area of 198 million acres, supported 6,500 fewer small landholders—men with 100 acres or less—than Victoria, with an area of 56 million acres. There were numbers of boys and girls in the country who had nothing to do, but under the small holdings system they would have a chance of getting a start in life. Stated one member in the debates of this time: "If they produced sufficient to provide every member in the family with the type of food that is obtained on a farm where the food is of the highest quality available, that is of more importance than anything else." (*Parliamentary Debates, 1st December,* 1932.)

But on the other hand, there were those who questioned why land settlement of the type described should be the responsibility of the Government. It was really a "pious gesture." It would accomplish nothing unless the Government provided the necessary funds. To the member for Newtown, it appeared that the Government was going "to establish a system of Chinamen's gardens." The trouble in the past had been that men were placed upon blocks too small, with insufficient capital, and they had come to the Government for money to fence, stock and cultivate their holdings, and to build homes. The State had been the "wet nurse for the settlers." However, the immediate difficulty, as pointed out by Mr. J. T. Lang, the Leader of the Labour Opposition, was finance. How were Councils in financial straits going to resume land for settlement? During the term of the previous Labour Government, settlers throughout the State had been in arrears to the Crown to the extent of £2,500,000. The resumption of eight estates between 1927 and 1930 had been a losing proposition, and settlers who had taken up blocks had applied for reappraisement, which meant writing down the capital value of the land, and thus additional loss to the State. Continued Mr. Lang: "What justification, in the face of these facts, was there then for believing that the Government could place a new class of settler on the land?" The scheme was an idealistic one, relieved only by the fact that the new class of settler would be drawn mostly from the unemployed, who, "because of their poverty, misery and helplessness, should receive all the assistance (possible)." The experience of small land subdivision had been unfortunate, emphasized other

members. At Blacktown, for example, the Shire had been forced to sell for rates blocks of land at from 5s. to £5 each—blocks which had been originally cut up and sold by speculators. Most of the blocks around Riverstone had been cut up by private enterprise to serve the very purpose of the present bill. People had been induced to buy these blocks, "with dreams of five acres, a cow, poultry and a garden," but they had never got the chance of settling on the property and had lost their money. The land speculators had got away with their profits, and the Shire Council could not obtain its rates. It was foolish to undertake settlement unless the land was suitable for agriculture, there was a permanent and abundant water supply, and, finally, convenient markets for the products grown by the settlers. Moreover, land to be acquired must be adjacent to a town—"It was no use putting a man on a 50-acre block twelve or twenty miles from a town."

A safety clause inserted in the Act as finally assented to on 22nd December, 1932, was the provision that, "before acquiring or using any land for the purpose of this (Act) the Council shall obtain a certificate signed by the Minister for Agriculture that the land is suitable for cultivation and for use as small holdings, or can be made suitable at reasonable expense."

In the event, no Local Authority in New South Wales took advantage of the Act and provided small holdings.

In 1952, interest was reawakened in "Small Holdings." At this time, public attention was being focused upon the serious lag in food production in Australia. In New South Wales, the co-operation of Local Authorities was sought by the Government in the campaign for greater food production. Councils were invited to examine their areas with a view to determining what lands might be available, suitable for more intensive production and the application of the Small Holdings provisions of the Local Government Act.

In 1953 a Small Holdings scheme was undertaken by the Mittagong Shire, embracing one area of 190 acres which had been out of production for a number of years and which was improved and made available as a dairy farm; a second area of 41 acres of good land serviced by the town water supply was made available as a mixed farm; and a third holding of 100 acres was developed for the production of poultry and the rearing and fattening of calves. In its advisings, the Department of Agriculture warned of possible misconceptions in regard to Small Holdings and Home Maintenance Areas, and pointed out that in the three cases upon which it had been asked to advise, the intentions of the Council were in each case that the property thrown open for settlement should fully support a family. This had not been the original conception of the scheme.

No Local Authority other than the Mittagong Shire has promoted Small Holdings in New South Wales.

County of Cumberland Planning Scheme

(a) Five-acre Requirement in Respect of Dwellings in the Rural and Green Belt Zones.

The County of Cumberland Planning Scheme provides that county dwellings, that is to say, dwellings which may be erected in the rural

and green belt zones, must have an area of five acres or such other area as may be fixed by the Governor, by proclamation, within the curtilage.

Clause 52 of the Scheme Ordinance provides that the Governor on the application of the Cumberland County Council may, by proclamation, amend the definition of county dwelling by substituting for the area of five acres mentioned in the definition an area other than five acres.

The rural areas under the County Planning Scheme were defined as having the character of country as distinct from town, of space as opposed to intensive land use, and of a natural as opposed to a man-made environment. The rural zones were not intended to apply only to land used for primary production, but were regarded as a background and an integral part of an urban region to provide not only sources of food, but also space for the many institutions which needed rural surroundings, or large water supply catchment areas, military reserves and areas of parklands.

The retention of the rural areas and the exclusion of unplanned urban development were intended to be achieved on the administrative level by placing a lower limit on the size of sub-division blocks. The Cumberland County Council adopted an area of two-and-one-half acres as a minimum which was considered to represent on an average the smallest area from which a livelihood could be obtained by full agricultural development. To achieve its full purpose, this limit was to have been accompanied by a minimum frontage limit to discourage ribbon development along arterial roads. It was considered that blocks with relatively small frontages to the road whilst achieving the prescribed minimum area would defeat the objectives of rural zoning besides creating traffic problems associated with ribbon development.

The two-and-one-half acre limit was increased by the Department of Local Government to five acres as being more in line with an average sized small holding.

The green belt was intended by the Cumberland County Council to serve three main functions:—

(i) recreation space for urban population;

(ii) a barrier to unplanned urban expansion; and

(iii) an area subject to close control for the purpose of preserving and developing the beauty of the countryside surrounding the built-up urban core.

Similar restrictions as to minimum acreage apply in relation to a green belt.

It was the intention of the Cumberland County Council to plan the rural zones and the green belt zones in detail, and it was anticipated that the County Council would in some cases have increased the acreage limit beyond five acres and in many cases where the land was close to urban development, reduced the acreage.

(*b*) *Local Government Subdivisions.*

In South Australia and Western Australia, legislation exists prohibiting the subdivision of land or the sale of land in allotments without the approval, firstly, of the Council in whose area the land is situated, and secondly, of the central Town Planning Authority or the Minister concerned.

In New South Wales, the Local Government Act likewise requires the approval of the Council to the subdivision of land, but the Council in considering whether or not to give approval, is interested only in the size and shape of allotments and in similar matters, and is not concerned with the fact that a proposed subdivision may contemplate an entirely new use of allotments in the subdivision.

Under the County of Cumberland Planning Scheme, the subdivision of land in the rural and green belt zones is restricted (the minimum size of an allotment under a subdivision being five acres). However, this five-acre limitation in respect of an allotment of land in the green belt and rural zones has not proved satisfactory in practice. Subdivisions have been made in which minimum area allotments of land which are not suitable for rural production purposes have been sold as "farmlets." Large-scale uncontrolled subdivisions have resulted in hundreds of small allotments being advertised and sold as farmlets, most of them being worthless for agriculture, and often without electricity, city water or suitable sites for dams. In very many cases, inexperienced purchasers have lost money.

It is clearly evident that in order to prevent properties suitable only for large-scale grazing or similar purposes being subdivided into allotments which are entirely unsuitable for any alternative type of rural production, some better control of subdivisions is required. Such a control would be possible in that the County of Cumberland Planning Scheme already make provision whereby the Governor may prescribe a greater area than five acres in respect of individual allotments, and the sale of unsuitable areas for farming purposes would be prevented.

Community or Group Settlement

Complex political and social influences have from time immemorial been associated with the ownership and use of the land. Life on the land has been esteemed for various reasons, principally because of the security and independence which it provides for the individual. In modern times, Sorokin and Zimmerman have attempted in their monumental *Rural-Urban Sociology* to establish scientifically the thesis that the farm is the natural habitat of the family. Translated to Australian conditions, however, the concept of peasant or subsistence farming wherever it has been tried, has struck stony ground, principally because of the all too obvious physical and economic factors involved. There are no villages in Australia in the European sense, and there are likewise no peasant farms, the success of any small holding used for farming purposes depending upon its water supply, topography, fertility, nearness to and profitable market outlets, ability of the owner or tenant-operator, relative frequency of good seasons, and not least of all, the amount of money available for capital improvement.

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The history of "marginal" farming in Australia has been universally one of failure.

In the historical sequence, one of the more interesting attempts at community group settlement was the short-lived and ill-starred New Australia Co-operative Settlement Association which was formed in the 1890's by William Lane, the founder of the *Queensland Worker* newspaper. The professed objective of this Association was to build up a social order based on the twin ideals of the brotherhood of man and the virtues of simple living. Failing to gain any support for this scheme in Australia, a group of Lane's supporters emigrated from Sydney in July, 1893, to Paraguay. The new settlers were given a large grant of good land by the Paraguay government, but from the first, no real unity existed amongst them and the scheme degenerated itno a "veritable haven for the misfits, failures and malcontents of the Left Wing of Australian democracy." There were no later attempts to resurrect similar schemes under the same auspices.

In the last few years, however, renewed interest has been taken in privately-sponsored rural settlement, including the settlement of European migrant communities, but without any marked development in New South Wales.

In a separate category from the foregoing have been two interesting experiments in "rural housing." In one such settlement, at Wagga (San Isidore), some 85 five-acre blocks of land have been organised as a community housing settlement, whilst at Maryknoll, near Gippsland in Victoria, a similar type of scheme has also been commenced. In the Wagga project, finance for the erection of homes is provided by the settlement's own building society and homes have been built to the individual design of the owners. In both these instances, the emphasis is upon the social and spiritual advantages of community living. The blocks are not intended to provide farms or even farmlets, but a means of emancipating individuals from the monotony of repetitive machine work and allowing an opportunity whereby men may be enabled to possibly augment their wages and better provide for their families with home grown produce. As such, these schemes are unique in their conception under Australian conditions.