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7. THE WESTERN LANDS ACT, 1901

INTRODUCTION: ROYAL COMMISSION INQUIRY, 1900: WESTERN LANDS ACT, 1901: THE WESTERN LEASEHOLD SYSTEM: DEPRESSION LEGISLATION: THE BUTTENSHAW ACT, 1934: WESTERN LANDS (AMENDMENT) ACT, 1942: WESTERN LANDS (AMENDMENT) ACT, 1949.

INTRODUCTION

For a period of ninety years or so, the Western Division land tenure position has been confused and the process of stabilising this low-rain-fall, marginal, grazing country, of variable worth and reliability, a lengthy one. Commencing with the Crick Act of 1901, there were successive amendments to Western Lands legislation in 1905, 1913, 1918, 1919, 1921, 1927, 1930, 1931 (twice), and 1932. But the legislation of which particular note should be taken in the present context, concerns only the 1901 Principal Act and the later amendments of 1930, 1934, 1941 (proposed), 1942 and 1949. In the debates in Parliament the Western Lands Act has been variously described as "the plaything of Governments" and "one of its biggest nuisances"; and the history of the division "a sorry one". But this does small justice to the very real settlement difficulties which have been encountered in these dry western areas or to the long term objectives which have been followed to stabilise the country and equitably divide its huge areas.

The principal effect of the 1884 Act, as applied to the western lands, was to cause the division of the existing leaseholds into two areas of approximately equal size, namely the "resumed" and the "leasehold" portions. The divisions were for survey and record purposes principally, since in effect an owner retained the use of the whole of his run, but one further unfortunate result was to bring to a complete stop all improvement work that had been proceeding on the "resumed" portions, since in these cases there was no longer any security of tenure or tenant right. Then in order to overcome the interference and annoyance of selectors, "fully sixty per cent of the areas were dummied in the interests of the existing lessees".

(J. M. Tully, *Parliamentary Debates*, 20th November, 1941.)

This "dummying" involved increased commitments which the lessees attempted to meet by overstocking; and since interest rates were high, borrowing was easy, prices were low, improvements expensive and seasons unfavourable, numbers of lessees were soon in difficulties, their properties heavily mortgaged or surrendered to banks and large pastoral investment companies. It has been this involvement of the "big companies" in long term, western Crown leaseholds—acquired in many cases in the 1880's and 1890's—which it has been the purpose of later "land reforms" to correct, by periodically withdrawing land from these companies and dividing it between existing small leaseholders with insufficient areas, and new settlers. And since capital investment on the large scale is a "*sine qua non*" of a far-western holding, in order to

provide the necessary improvements, and since, also, the effects of drought have been such as to bankrupt all but the larger landholders, the interests of the State have required a continuing oversight of the economics of ownership so as to prevent fresh aggregations, since "the possession of capital and the ownership of land have a natural attraction for each other."

ROYAL COMMISSION INQUIRY, 1900⁹⁸

The important Western Lands Act (1901, No. 70) was introduced by the See government following an inquiry by a Royal Commission into the "Condition of the Crown Tenants" in the Western Division. The Act followed the recommendations of the Commission and conformed to the suggestions of the western lessees by separating the administration of these particular leaseholds from other branches of lands administration. It was official recognition of the special problems surrounding land settlement in the dry western-fringe country. The Commission inquiry had been prompted by a profound depression in the pastoral industry and its terms of reference required that the causes of this depression and universal despondency in the western grazing industry should be investigated.

The Royal Commission Report as finally presented is a monument to a most extensive and thorough investigation. Its findings and recommendations were accepted by the government and they have an especial interest in the indications which they give to the course of subsequent western lands policies.

As to the *Causes* of the then existing depression and general unprofitableness of the pastoral industry in the Western Division, the Commission found the principal factors to be:—

(1) *Low Rainfall*: "The frequent subjection of the country to periods of drought may fairly be regarded as the primary and most constant cause of the difficulties which beset the western grazier".

In 1865, for example, Mr. D. F. Mackay, after travelling down the Darling with cattle, described the country as "a perfect desert" and from that year until 1870, "the seasons gradually got worse, resulting in (1870) in the most disastrous drought known since the colony became settled". There were further ruinous effects of drought from 1875 to 1878—the dry seasons which ushered in the eighties—a few more bad seasons from 1883 to 1886. In 1888 there was a further drought year but in 1889, 1890 and 1891 the rainfall on the Central Darling was respectively 22, 20 and 20 inches. "The river came down flooding far beyond its banks, thirty to fifty miles wide in parts. There were four floods in four years. In 1893 the rainy years were ended as with

⁹⁸ Report and Summary of Evidence—(Part I), *Royal Commission to enquire into the condition of the Crown Tenants—Western Division of New South Wales*. Appointed 11th August, 1900, Legislative Assembly of N.S.W. Report ordered to be printed 8th October, 1901.

Part II of the Report consisted of the Minutes of Evidence.

The members of the Royal Commission were: C. J. McMaster, President; James Ashton, M.P.; W. W. Davis, M.P.; W. J. Ferguson, M.P.; W. G. Spence, M.P.; R. R. Machattie; W. N. Willis.

a knife stroke, and (from 1893 to 1909 there was not another flood) instead there had been a series of years with an average rainfall of perhaps 12 inches and at least one stretch of seventeen months during which there fell less than one inch—88 points altogether” (C. E. W. Bean, *On the Wool Track*, 1909). Drought conditions became acutely manifest again in 1895 and the dry years continued, culminating in the great drought of 1902.

All this was evidence to show the Western Division to be essentially a country of almost “invariably low rainfall and inevitably recurring drought”. It was the Commission’s view that:

“ The story of our western country makes such a gloomy page in the history of the pastoral industry of the State (because) it is probably mainly due to the general failure in the past of those interested—under the seductive influence of a short run of good seasons—to recognize that drought is the predominant characteristic of the west, and not merely an enemy to be occasionally encountered. Fewer mistakes will be made in the future, and there will be less of shattered hope, if everyone concerned with the pastoral industry in our Western Division bears constantly in mind that the weather history of the next twenty or thirty years will in all human probability be very much like unto the history of the last twenty or thirty years”.

(2) *Rabbit Infestation*: It was the overrunning of a large portion of the Western Division by the rabbit which had done so much to “convert distress into disaster”, for over the greater portion of the Western Division the “pastoralist had been for many years under the unavoidable necessity of expending annually, in his attempt to cope with the pest, sums of money, which, unexpended, would in many instances have represented a substantial profit in a year’s operations”. These losses were “incalculable”.

(3) *Overstocking*: Closely associated with, and to a certain extent inseparable from, the rabbit question was overstocking, for “the opinion (is) very general that in the early days of settlement in the Western Division much too favourable a view was taken of the carrying capacity of the country.”

For the six years from 1879 to 1884 inclusive, the average number of sheep carried in the Western Division was about $9\frac{1}{2}$ millions, whilst for the 13 years from 1885 to 1897 inclusive, the average number carried was $13\frac{1}{2}$ millions, representing a 42 per cent increase in numbers, “notwithstanding that before 1884 the stock had the country to themselves whilst after 1884 they shared it with the rabbits”. Co-incident with the rabbit era had come also a decline in prices, which made the position still more desperate, and “further impelled many to embark on hazardous courses in the endeavour to avert the ruin that seemed to be impending.”

Yet “overstocking” in country far removed from railway facilities was difficult to control unless a grazier proved “omniscient”. On a given date a particular grazier might be carrying on his run a certain number of stock. Then:—

“The weather becomes dry; but according to precedent, based on limited experience, rain may be expected to fall soon. The rain holds off. To send his stock away means loss of profit—perhaps an increased overdraft.

He decides to wait a little longer. The expected rain fails to come. The run is then overstocked; and, owing to the condition of the stock routes rendering it impossible to get the sheep away, it remains 'overstocked' until the sheep die or the weather breaks."

Overstocking in the Western Division, due to circumstances such as these, was thus often "mitigated by extenuating circumstances". But whilst there might be such excuses in regard to individual cases, overall, a too heavy population of both stock and rabbits had had the effect of depreciating the carrying capacity of the country to an alarming extent.

(4) *Sandstorms*: In the seventies and eighties, pointed out the Report, the "pastoralist" had entered upon the western country in its virgin condition but by 1901 it had become "immensely depreciated" as the result of overstocking, the rabbits and drought.

The vegetation on the face of large areas of the drought-stricken country had been destroyed, causing "calamitous sandstorms", which had converted hundreds of thousands of acres of country into dust bowls. On Teryawynia Station at Wilcannia, 100,000 acres out of a total 460,000 acres were "as bare as a floor, in spite of (the) great rain which they have had". Elsewhere properties were "windswept barren wastes", and "nothing but sand and stone" upon which "nothing has grown after the rain on large areas of them". In one case, "almost the whole of one man's homestead lease had gone—it is just one bare patch; the soil is all blown away except the clay."

Rabbit-proof fences and sheep yards had been completely buried, in some instances, the second storey on an already buried fence being also covered. Most importantly of all, tanks and dams had been filled in and altogether a "new terror" had thus been added to the life of the western pastoralist by destroying valuable improvements and increasing enormously the cost of maintenance and upkeep.

But in addition to these major causes there were others: for example, the spread and growth of non-edible "shrubs" supplanting useful feeding stuffs; the fall in wool and stock prices, limiting the power of tenants to cope with the difficulties of the country; the problem of insufficient areas for small settlers; dingoes; and finally, high costs of marketing.

Because of all these factors the number of stock which in 1891 totalled 15,406,000 had been reduced to 5,704,000 in 1900, involving a decrease of almost 10,000,000 or nearly two-thirds of the number. Enormous sheep losses had been sustained on individual holdings, such as Tinapagee, 97,000; Winbar, 93,000; Toorale, 224,000; Dunlop, 186,000; Kallara, 150,000; Balalie, 79,000.

The further inevitable result had been a widespread depreciation in values so that properties were fetching on the open market only a fraction of the total amounts that had been spent on them. For example, in one case quoted, that of the New Zealand Land and Mercantile Agency Coy., six stations had been sold, realising a total of £10,527, yet on these stations no less than £103,017 had been previously spent by

the Company on improvements whilst a further £6,971 had been spent on the purchase of a few freehold grants within their boundaries, making the total outlay in capital investment, £110,888.

In all, the Commission found that more than five million acres of land had been abandoned in the Division, causing a problem of the first magnitude in "affording facilities for the multiplication of the rabbits". Rather than see land idle in this way, the lands should have been let to adjoining holders, on the single condition that they would destroy the vermin and scrub. Special tenures, however, would probably be necessary, since in the case of resumed areas on Paddington Station, in the Cobar district, land had been previously offered as improvement leases in blocks ranging from 11,000 to 20,000 acres at a nominal rental of from £2 15s. to £5 per year. Four only of the fifteen blocks had been taken up under these conditions; of these, two were afterwards abandoned, the sole reason why the other two blocks had not been abandoned probably being because they adjoined other land held by the improvement lessees.

Finally, in regard to *Recommendations*, the central idea put forward by the Commission was that a Board should be formed, similar, so far as its constitution and the scope of its work was concerned, to the parallel Pastoral Board of South Australia. In all matters affecting the Western Division, the Board would take over functions then exercised by the Local Land Boards and the Land Appeal Court. Into the hands of this Board would be placed the responsibility of assessing the rentals for the whole of the Division, and of determining whether the existing rentals were excessive. Since it was also being recommended that a system of classification should govern any future dealing with western lands, the question of extensions of lease should also be left for the Board to determine, the view of the Commission being that such extensions should range from a minimum fixed by the determining authority to a maximum of about twenty-five years.

Moreover, since the affairs of the Western Division had become critical, it was necessary that in order to "avoid disaster and put things on the best possible basis", the proposed Board should consist of men of the highest procurable ability, and they should be charged specially with the task of readjusting existing conditions. The Board would supersede an outmoded system whereby the Western Division had come under the control of no less than nineteen different Land Boards, three district surveyors, and, at certain periods, as many as a dozen run appraisers. "The special circumstances of the west, in our judgment", emphasized the Commission, "necessitate a departure from the rigid and formal method of Land Board administration, and require that those engaged in dealing with them should take a deeper personal concern in the problems than is likely to be the case where the work is as widely distributed as at present."

In connection with the difficult question of reappraisals, the Commission in an interesting analysis agreed that the objections of the lessees against frequent reappraisements should be substantially conceded, so that "the rents should be re-fixed as soon as practicable, . . . and the rental so determined should be made to apply to the whole of the remaining period of the lease, or about seventeen years".

As explained by the Commission:—

"The fact that most powerfully influences us in making this recommendation is our recognition of the force of the contention that there would be a greater sense of security amongst western tenants if the course suggested were adopted; and in our judgment the State will study its own interests best by doing everything in reason that can be done to revive throughout the Division that hope and confidence which is so essential to enterprise, but which, unfortunately, at the present time is almost dead."

As to the possibilities of closer settlement the categorical answers given were that:—

- (a) In no part of the Western Division could agriculture be followed, on a basis commercially profitable, except, perhaps, that pastoralists might in some seasons grow feed for the use of their own stock.
- (b) The principle of classification should be followed, both in regard to extensions of lease and to the size of holdings. "Overwhelming convincing evidence (showed) that the areas set apart for small settlements were of altogether too limited an area . . . and that past attempts to bring about a system of closer settlement on a permanently satisfactory basis had signally failed".
- (c) Wherever practicable, increased areas should be granted to homestead leases to enable not less than 4,000 sheep in the most favoured parts of the Division, and up to 6,000 to 8,000 sheep to be stocked in the more distant and inferior parts, in addition to an extension of the period of the leases held "bona fide" for the sole use and benefit of the lessees.⁹⁷

⁹⁷ Among the most unusual and therefore more interesting recommendations put before the Commission, two concerned rabbit control and stocking:—

- (a) *Rabbit Control*: In this W. Rodier of Tambua Station, Cobar, had suggested that an experimental station should be established in the west where various means of rabbit destruction should be tested. His own plan was to fence in a run with netting and catch the rabbits in traps. He then killed all the females and released the males. "The effect of this preponderance of males is to set up a system of prostitution, which renders the females sterile. The males also destroy the young rabbits." Rodier claimed to have practised the system for thirteen years and "to have had grass on his run when his neighbours had little."
- (b) *Wild Life Restocking*: C. A. Benbow in a contribution to the May, 1901, number of the *Agricultural Gazette N.S.W.*, advocated the introduction of the South African eland to the western districts of the State, his arguments being that:—

"There are apparently only two courses to resort to in dealing with this vast inland scrubby and dry belt. The scrub cannot be killed; then try to use it or leave it alone. Sink no more money trying to force the land to accommodate that for which Nature has not fitted it, either as to vegetation or by its rainfall This problem is a very important one, which concerns very closely the welfare of Federal Australia. It means, perhaps, the abandonment of a considerable area of the inland territory; if not, its occupation under difficulties so great that those who try are for ever wasting their energies for a bare existence, and that a painful one, each settler far from a neighbour and remote from civilisation How use it? By putting an animal on the scrub lands that will eat it, whose natural food it is, that will fatten on it, that requires not much water, and can travel for what it wants. Can such an animal be found?" Benbow suggested the *eland* (Cape Elk, Canna, or Imposso, the largest of the antelopes).

The commencement of the agitation towards a Royal Commission can with certainty be traced to a series of seven articles contributed to the *Sydney Morning Herald* by a Western Division leaseholder, Mr. E. D. Millen of Bourke, the first article being published on 23rd November, 1899. Millen had made a special tour of the West to investigate conditions. Taking Bourke as his starting point, he had covered a stretch of country embracing a huge area, roughly contained by the townships of Milparinka, Broken Hill, Menindee, Ivanhoe and Cobar. Familiar with the legislative and official history of the western areas, he had been able by means of this tour to collect abundant evidence from the accounts and experiences of the stationholders or their representatives of the desperate position in which so many of them were placed. He was able to show that after the era of lavish improvement, which had lasted into the eighties, legislation was introduced which had unfairly imposed substantially higher rents. The country, loaded as it was with interest on borrowed capital, was soon in difficulties. The rabbits "spread in a wave of ruin from the Murray to the Culgoa and the Barwon"; the series of fat years gave place to droughts; and pastoral products, especially wool, began the long fall to 1899 depression levels. The protests of the graziers had brought about the Act of 1889 (the main feature of which was reappraisal with an extended tenure of 21 years), but even so, the leeway in the pastoral industry had not been checked. And as a culmination to these troubles, there had been a series of the worst seasons that had ever been experienced. Millions of sheep had died, and thousands of pounds' worth of improvements in the shape of tanks, fences, homesteads, stock and plant had "absolutely vanished." Runs had been and were being abandoned. A disaster had occurred and a crisis as to the whole future of the West was near at hand.

Edwin Quin, David Brown, R. Barr Smith (part owner of "Momba," the largest station property in New South Wales), Philip Oakden (Chairman of the Cobar Crown Tenants' Association), T. Waddell, M.L.A., W. E. Abbott of Wingen, R. C. Webb of Kilfera, Tarburton Bossley of Willoh, Francis Bacon and J. P. Abbott were others who contributed to the *Herald* columns their separate views and suggestions in the weeks that followed, but all had emphasized the seriousness of the position which had arisen. Public and governmental interest was at last aroused and action was destined to follow.

In 1901, following the release of the Commission's report, the *Herald*, with some justifiable pride as to the role which it had played in causing the inquiry to be held, published this leader in its editorial columns, which it is of some interest to record:—

"Western Lands Commission"

"In August, 1900, the Government appointed a Royal Commission to 'make a diligent and full inquiry into the condition of the Crown tenants in the Western Division.' Two years ago, when the grievous situation of all classes of settlers in the West began to press itself upon attention, there was among the Crown tenants such a divergence of views as to the remedial measures required, and in Parliament and among the public generally so little consciousness of the very serious possibilities involved in neglect of the West, that a Royal Commission suggested itself as the best way of putting the real state of the case forcibly and impartially before Parliament. It took nearly a year to convince the then Premier that unless he was prepared with legislation the only acceptable alternative was to

investigate the grievances alleged. So this Commission was tardily appointed. It consisted of two high permanent officials of the Lands Administration, Mr. Brandis of the Land Court, and Mr. McMaster of the Department of Lands, and Mr. Machattie, a resident of Bathurst, who has had exceptional opportunities of acquainting himself with the condition of land settlement out back. Then there were five Western representatives in Parliament—Mr. W. W. Davis, of Kerribree, Bourke; Mr. W. N. Willis, of Tarrion, Brewarrina; Mr. James Ashton, whose knowledge of land legislation is admitted to be hardly less than that of any other member of the Legislature; Mr. Ferguson, of Broken Hill; and Mr. W. G. Spence, a Labour leader. Thus there was a fairly complete representation of the different interests concerned—the State, the large lessees, the homestead lessees, and western Labour. When it is observed that it took this very competent tribunal fourteen months to resolve the question into the modest compass of its report, we must remember the interruption to consecutive labour in the task committed to members. The Commission was nominated in the midst of a session of Parliament that lasted nearly to the end of last year. Then followed the Federal inauguration, the Federal elections, the Royal Visit, and the State elections, and these were all formidable obstacles to progress in the case of a body the majority of which consisted of members of the Legislature.

“So much having been said about the Commission itself, we may now turn to what is the chief matter of importance—its report. These eight gentlemen having visited the country in question, having taken much and various evidence, and having deliberated, find and place their finding upon record that the condition of things in the West which the *Herald* set forth on many occasions last year and in 1899 is not exaggerated. The Commission has reported, as we did earlier, the abandonment of large areas of pastoral leases, the diminution of flocks, the destruction of improvements, the increase of noxious vegetation and animals, the depreciation of the producing powers of the country, the impoverishment of settlers, and the decrease of the wages fund. Let us take two or three of these results which are capable of statement in figures. In 1891 the West depastured 15,406,000 stock; in 1900 the number was 5,704,000. The area of country abandoned from 1891 to this year is five million acres. Messrs. Goldsbrough, Mort and Co.’s representative stated that wages and other expenses paid by that firm in connection with certain properties in 1892 were £63,000; in 1900 the sum was £23,000. Momba, the largest station in New South Wales, paid its shearers £4,457 in 1891, and £1,261 in 1900; its general wages bill in the former year was £16,000, in 1899 it was £9,402, and lower still last year. We need not pursue the gloomy recapitulation. The main contentions advanced by Mr. Millen in his articles in the *Herald* two years ago and by ourselves in these columns are proved up to the hilt by the Royal Commission of 1900-1.

“What is the remedy for a state of things which menaces profitable occupation of this immense territory? The course suggested by the Commission is partly legislative, partly administrative. In its main features the scheme outlined in the report is this. There shall be a board of, say, three men, of the highest procurable ability, similar, so far as its constitution and the scope of its work is concerned, to the Pastoral Board of South Australia, to supersede in all matters appertaining to the Western Division the present administration of the Local Land Boards and the Land Appeal Court. Then the Parliament should authorise an immediate reappraisement of Western leases by the Board, the new rentals to prevail for the whole of the remaining period of the lease. The Commission would leave to the Board to say what extension of lease should be granted at the end of the present term, to see that satisfactory arrangements were come to in the case of lessees who had mortgaged so that such lessees should not be evicted or otherwise harshly dealt with by the mortgagees, to consider such questions as attachment of areas, and other detail of administration. The suggestion of a Pastoral Board is an excellent one. The system has been tried with success in South Australia, where they have an immense area of Crown lands even inferior to ours in the West. It provides a local, continuous and practically independent administration of the whole territory by a sort of trust, and in this way would be fulfilled a scheme indicated

in these columns for the non-political control of our public lands. The lessees do not get by the Commission's report all they have asked for. But they will get if Parliament and the Minister for Lands decide to legislate in terms of this report a substantial and an immediate instalment of relief under which they can proceed to work in reconstructing the shattered pastoral industry of the West."

WESTERN LANDS ACT, 1901

This Act took the control of the whole of the lands of the Western Division from the Lands Department and placed it in the Western Lands Commission. Otherwise the principal concession was to grant a forty-two years' extension of the existing leases so that they became due for expiry on 30th June, 1943. The Commission had not recommended such a long extension, but it is clear enough from the evidence that the "42 year extension of lease", the precedent for which existed in the parallel South Australian Act, was uppermost in the arguments of the larger companies with most at stake in their holdings, for, as it was said, "It is of no use out there to talk of acres; it is square miles you want to talk about."

The intentions of the government and the chief provisions of the Act were explained by the Minister for Lands (Hon. W. P. Crick) in his second-reading speech on the bill:—

"We have had forty years of legislation as affecting not only the Western Division, but the whole of New South Wales . . . (yet) it is rather a sad fact that after all this legislation, we find this large part of the colony embracing 80,000,000 acres in a worse state than it was twenty years ago. We have tried all kinds of legislation, with a view of inducing smaller settlement; starting with the smaller areas allowed by Sir John Robertson's Act, and proceeding until in the last Act (1895) we tried to induce closer settlement by granting areas of 10,240 acres. The whole experience has been unmistakably one of failure . . .

"The Act passed in 1884 increased the rentals in the Division . . . In 1879 the rental was 2.23d. per head for sheep—in 1900 the rental was 8.95d. per head. In 1884 there were 8,500,000 sheep in the Western Division. In 1887 there were 15,520,000. That was no doubt the result of over-stocking, which was rendered necessary in order to pay the heavy rentals due to the Act of 1884. The number of sheep kept up to about 14,000,000 until 1894. Then a decrease set in. In 1898 the number had fallen to 9,000,000. In 1899 it was 6,000,000, and in 1900, it was 5,000,000. There has since then been a large decrease and stock are still dying . . .

"Looking back at the past thirty or forty years, while that country came up to a certain summit of prosperity, so to speak, through over-stocking, brought about by heavy rentals, there has since been an absolute decline, and to-day we stand in a worse position than we did twenty-five or thirty years ago. Now what are we to do to make the Western Division attractive? . . . Millions and millions of money have been poured into this division. The people now are poorer than ever . . . it would be a hard thing to find ten solvent men in the whole division—that is, men relying upon pastoral pursuits . . . Can any member foresee anything whereby a great influx of population may take place? . . . At the present time a man can only hold one homestead lease, aggregating 10,240 acres. Experience has shown that except in the most favoured part . . . that area is too little.

"To bring the Western Division into a state to carry stock there must be money expended upon it, whether in water conservation, clearing or scrubbing, and if these men (the present settlers) have no money they must borrow to enable them to carry on. When a man lends money he naturally asks upon what security he is making the loan, and if the applicant can say, 'Here I have an absolute lease for forty-two years, and at the very most

I am assessed at 3 or 4 acres to a sheep, and no matter what Government comes in or what Parliament may be sitting, the greatest rental they can put upon me is 7d. per sheep,' then the man who contemplates lending the money can calculate the security. That is an absolute security, and the man who has money to lend knows what he is lending it upon. What is the good of a forty-two years' lease if it is in the power of the board to alter the rental hereafter . . .

"If anybody wishes to retain his lease under the present provisions of the law with the present tenant right he is at liberty to remain as he is. But the moment he comes under this bill, the old lease is wiped out, and a new lease is issued . . . Where he accepts this new lease all the improvements now on the lease become Crown property at the termination of the lease. The lessee forfeits to the Crown all his present improvements.

"I propose that the currency of the leases in this division shall be the same as that which has obtained for many years in South Australia, namely, forty-two years . . . there shall be an assessment to fix the rental value of the remainder of the present leases, which are 17 years and at the end of that period there shall be a reappraisal, and after a period of another 12½ years there shall be another reappraisal, and on each of those occasions the board may go 25 per cent. higher or lower than the amount of the rent previously fixed, but not more . . . We should adopt a rational basis on which to fix the rental value, that is to say, on the carrying capacity of the country. Working it out, I have fixed a maximum of 7d. per sheep and a minimum of 2d. per sheep . . .

"The main work of the Western Lands Board will be to classify the country . . . and what wider margin could I give than to say that they can go up to 7d. per sheep and down to 2d. . . . They will inspect the country, go over it and say what is its carrying capacity . . . I propose in addition that the Western Lands Board shall discharge the duties of the three land boards that now visit that territory.

"Concerning the terms of the leases . . . that is to be settled by Parliament and I cannot conceive that 42 or 52 years or any other number of years is a day too long. In fact, with proper power to take back land that is wanted for settlement, and assuming that we get a reasonable and proper value for our land, it seems to me immaterial whether the period is 40 years or 400 years, or a lease in perpetuity. We have the power if the land is required for settlement to take it back . . ."

Finally, referring to the rabbit question, the Minister had this to say:—

"I trust that a matter which will weigh with the board when they consider the rental value of the land will be the fact that there is this imperative condition on the lessee to destroy the rabbits on his run . . . When we consider the vast area for rabbit destruction taken off the hands of the Government—400 miles one way and over 300 miles the other—we must recognize that a great burden is taken off the shoulders of the Government and that a great saving is made to the Treasury . . . If we had to undertake the destruction of all rabbits in the colony it would pay us better to give up the whole of the land revenue, and leave the land alone, for that revenue would not be equal to the cost of destroying the rabbits on the Crown lands. We spent a million pounds one year in the destruction of rabbits, with the results that there were more rabbits in the Colony after we had spent that money than when we started to spend it . . ."

In the debate which ensued, Mr. Gormly, M.L.A., with experience of the Western Division, expressed the view that:—

"I know of men who went into the Western Division 20 or 25 years ago, and because they had sufficient money, and had not to mortgage their property, and resided on the holdings and supervised the work, they were successful, whilst other people owning millions of acres, who resided in London, Sydney, Melbourne, or somewhere else, and had managers on their properties, and who had not sufficient control either over the cheque-book or the general management of the property, in order to make the most out of their pastoral holdings, were unsuccessful. I believe that the successful

occupation of the Western division would be brought about more by resident occupiers than by anything else—by men who would see the work done and be there every day, and thus be able to judge of the whole circumstances around them.”

Other speakers referred to the “principal causes of trouble in the west as being the rabbits, the drought and the want of rapid communication.” The Western Country had some advantages, however, for, “After all, you have no country in the eastern parts of New South Wales that will fatten like the back country. You have no country as free from disease. There is no fluke there, no anthrax, no footrot . . . none of those things which the pastoralists in other parts of the country have to suffer.”

The causes of the pastoral depression were chiefly financial, as most speakers were prepared to admit, and there is this further commentary in the 1901 debates:—

“ . . . When the 1884 Act was passed, wool up to that time had been high, and people had an idea that the squatting business was a thing that everyone could make a fortune at. The result was a boom in station properties, and people bought properties for which they had to pay very high prices. Then when the subdivision of the runs came, in the case of properties that were over-capitalised to start with, there was only half the property left with which they could carry on. Even if the people had done the work for nothing, they could not have paid their interest bill. The banks made a mistake . . . and, as in every other walk of life, if people make bad bargains, a disastrous condition of affairs will come about, and we cannot help it. Unfortunately, the great bulk of these people are now wiped out of existence . . . ”

(*Parliamentary Debates*, 1901.)

Mr. Crick did not have things all his own way, and one member, in objecting to the length of the leases, thus forcibly stated his conviction: “I am not prepared to hand over to any financial institution any block of country up there, either one million or eighty million acres for 42 years or longer . . . ”

The crux of the concessions given in the Act were the 42-year leases, and since in connection with any leasehold the value depends upon the conditions, it is of some importance to briefly examine the leasehold position as it was at the time of the 1901 inquiry, and to mention the salient points of the later legislation.

THE WESTERN LEASEHOLD SYSTEM

In 1901, of the 80,359,517 acres embracing the Western Division the disposition of the land was as under:—

	Acres			
Held under Pastoral Lease	43,311,862			
Held under Occupation Licence	16,193,366			
Held under Homestead Lease	10,924,905			
Held under Improvement Lease	2,406,423			
Area of Unoccupied Land	3,762,176			
Area of Other Lands	3,760,785			
	<hr/>			
	80,359,517 ⁹⁸			

⁹⁸ *Royal Commission Report, op. cit.*, Part I, p. 166.

Under the 1884 Crown Lands Act the consolidated holdings of run-holders had been divided into two parts, as nearly equal in area as practicable—one half known as the *leasehold* area and the other half as the *resumed* area. The runholder on application had become entitled to a *pastoral lease* of the leasehold area and to an *occupation licence* of the resumed area, the division of a holding being determined by the Minister for Lands and subsequently gazetted. The original pastoral leases (1884 Act) had a tenure of fifteen years—the rents to be automatically increased by one-fourth for the second period of five years, and by one-half for the residue of the term, with a right of extension of five years on the expiration of the leases.

The Crown Lands Act (1889) extended the leases for a period of twenty-one (21) years with reappraisalment by the Local Land Board every seven years. The Act of 1895 gave a further extension of seven years, making all told a currency of twenty-eight years from 1890. The pastoral leases, except those which were not brought under the provisions of the Crown Lands Act of 1889, were all to expire in 1918.

Under the Crown Lands Act of 1884, also, *homestead leases* were taken up on resumed areas or on vacant Crown Lands, in areas not exceeding 10,240 acres, and not less than 5,760 acres, for a term of fifteen years. The lease for the first five years was appraised by the Local Land Board, and for the other two periods of five years provision was made to automatically increase in the same way as was provided in connection with pastoral leases. The applicant paid the cost of the survey of the land, and also paid the value of the improvements on the land, after appraisalment by the Local Land Board, before he entered into possession of the lease. Under the Crown Lands Act of 1889, the term of these leases was increased to 21 years and minimum area to 2,560 acres, whilst under the Act of 1895, a further extension of seven years (twenty-eight years in all) was granted so that all the homestead leases taken up in 1885 were to expire in 1913.

Finally, there were the scrub and inferior lands held under *improvement leases* securing the utilisation of country which would otherwise remain unoccupied and a refuge for vermin. The term in these cases was for twenty-eight years, the rent being determined in individual cases, the maximum area being 20,480 acres. The outgoing lessee possessed tenant right in his improvements, and was permitted in the last year of the term of his lease to convert into a homestead selection 640 acres, embracing the area on which his home was built.

In the distribution of these lands there were, at the one extreme, the large, now almost mythical million-acre leaseholds, on which such men as Sir Samuel Wilson, James Tyson, Sir Samuel McCaughey and others had made fortunes. The boundary riders on these huge areas, often on camels, used to take weeks to ride their sections of the fences and the loneliness was "immense". Of these leaseholds, mention may be made of some of the largest and better known estates such as:—

Albermarle and Victoria Lake (738,000 acres); Avoca (709,000 acres); Boulka Lake (741,000 acres); Canally (619,000 acres); Corona (1,653,000 acres); Cuthro (1,200,000 acres);

Dunlop (840,000 acres); Kallara (993,000 acres); Kilfera (824,000 acres); Kinchega (1,239,000 acres); Lake Victoria (1,404,000 acres); Momba (2,095,000 acres); Moorara (1,020,000 acres); Mount Gipps (837,000 acres); Nelyambo (831,000 acres); Netley (890,000 acres); Nocoleche (704,000 acres); Paddington (592,000 acres); Salisbury Downs (1,008,000 acres); Tapalin (543,000 acres); Tarella (717,000 acres); Teryawynia (920,000 acres); Thurloo Downs (407,000 acres); Tinapagee (799,000 acres); Tolarno (968,000 acres); Toorale and Dunlop (1,214,000 acres); Tupra (529,000 acres); Urisino (639,000 acres); Weilmoringle (431,000 acres); Weinteriga (698,000 acres); Willandra (347,000 acres); Winbar (556,000 acres); Yancannia (1,108,000 acres); Yantara (451,000 acres); and others.

(*cf. The Pastoral Possessions of New South Wales*, Sydney, 1889.)

But, at the other end of the scale, there were the small sub-marginal homestead leaseholders on holdings such as Billybingbone (15,910 acres, annual rent £99 8s. 9d.), Denman (14,810 acres, annual rent £123 8s. 4d.), East Bogan No. 17 Pastoral Holding (13,051 acres, annual rent £115 11s. 2d.) and others, scattered throughout the Division in no regular pattern and jammed into the interstices between the major leaseholds. There had been isolated small holdings in the Western Division prior to the 1884 Act, but, speaking generally, the passing of this Act marked the opening of the period during which much haphazard small settlement took place "without regard to the situation and quality of the land and heedless of ordinary canons of prudence". Dummying in this era was common, and even in the case of bona fide attempts at settlement the limited area of the selections most frequently resulted in the land reverting to the squatter by means of transfers from the bankrupt selectors. Unsound small settlement in this way was to remain a continuous source of trouble until, in later years, some of the more glaring anomalies could be rectified by means of additions and adjustments.

Among these Western leaseholds of the 1880's and 1890's, a particular mention may be made of those of Sir Samuel McCaughey. These were Dunlop, Toorale and Fort Bourke on the Darling and Nocoleche at the back of Dunlop on the Paroo River. They adjoined each other and made practically one enormous property of $3\frac{1}{4}$ million acres, extending along the winding bank of the Darling River for 280 miles. The Wanaaring Road ran through the group of properties for 127 miles. "There was one fence on Dunlop which extended for 43 miles in the same direction and if Nocoleche was counted in with Dunlop the fence ran for 90 miles".

In describing his huge holdings, McCaughey once said that if his stations were cut into strips one half mile wide, joined end to end, they would reach from Australia to England. And in referring in particular to his western leaseholds, explained that "it was there I made my money". On these stations McCaughey carried out far-reaching improvements. Altogether, thirty-nine bores were sunk on these great properties adding enormously to their safety and carrying capacity. In one year the astronomical total of 500,000 sheep was shorn on the group of

stations. Under McCaughey's ownership, Toorale was the first shearing shed in Australia to be installed with electric light and Dunlop the first place to undertake a complete shearing with machines.⁹⁹

⁹⁹ *Sir Samuel McCaughey*.—In 1860 McCaughey had been financed by his uncles John and Samuel Wilson into the purchase of a one-third share in Coonong in the Riverina, his other partners being his cousin David Wilson and John Cochrane. The property of 42,000 acres, freehold, was purchased for £26,000. Then the partners secured an interest in Singorimba, a property south of the Murrumbidgee, adjoining Goolgumbra. In 1864 McCaughey secured sole ownership of Coonong, and shortly afterwards acquired Singorimba (30,000 acres freehold), purchasing also the adjoining Goolgumbra (65,000 acres freehold) in 1872. By then he owned these three properties comprising 137,000 acres of freehold and was now well on the way to the control of the huge multiple holdings with which his name is associated.

In 1880, on the retirement to England of his uncle, Sir Samuel Wilson, who had already accumulated a large fortune, McCaughey took over Wilson's leasehold stations, Toorale and Dunlop, on the Darling, of combined area about 2,500,000 acres. The price was £400,000 to be paid in ten equal instalments of £40,000 without interest. In the following year (1881), McCaughey purchased from John Wilson "Coree", a huge Riverina freehold station of 150,000 acres.

A commodious homestead of twenty-two rooms was built on Dunlop in 1886, using sandstone cut on the property and in 1896 a homestead of similar size was put up on Toorale.

At various times McCaughey was owner or part owner of twelve stations in New South Wales and three in Queensland. Those in New South Wales were:—

Coonong, acquired in 1860.

Singorimba, acquired in the early 1860's.

Goolgumbra, acquired in 1872.

Dunlop, acquired in 1880.

Toorale, acquired in 1880.

Coree, acquired in 1881.

Yarrabee, acquired in 1897.

North Yanco, acquired in 1899.

Nariah, acquired in 1904.

Fort Bourke, acquired in 1905.

Oakhurst, acquired in 1906.

Nocoleche, acquired in 1909.

The Queensland properties were:—

Rockwood (442 square miles), acquired in 1889.

Barenia, acquired in 1897.

Bonus Downs, acquired in 1909.

The association of Sir Samuel McCaughey with North Yanco station, of about 100,000 acres, which he purchased from Sir Charles Douglas in 1899, is of an especial significance, for it was here that he carried out his first experiments in irrigation.

Towards the end of his long lifetime, McCaughey disposed of all his numerous holdings, so that by the time of his death he actually owned no land at all. In 1911, at the age of 77, he commenced to sell properties which up to this time he had personally controlled, and by 1919 they had all been dispersed.

Early in 1911, approximately 2,300 acres of North Yanco was sold to a syndicate and about 6,000 acres to individual owners. Later in the same year he sold the rest of North Yanco, about 68,000 acres, to the Government for £3 10s. p.a., preserving about 28,000 acres of this property, including the homestead, for his own use until his death. In 1911 also the lease of Barenia in Queensland was transferred to Alexander Hay, and in 1912 Rockwood was sold to the Rockwood Pastoral Coy. Toorale, Dunlop and Nocoleche were sold to Matthew Robinson and Thomas Vincent in 1912 for £250,000 on very generous terms, these two partners also taking over Bonus Downs in Queensland in 1918. Finally, Nariah was sold to W. Killen, Fort Bourke to T. Waddell and Goolgumbra and Singorimba to George Ernest Stuart in 1913, and it is recorded that for the latter two properties he received £146,916 for the land and £33,821 for the stock.

(cf. Patricia McCaughey, *Samuel McCaughey: A Biography* [Sydney, Ure Smith, 1955].)

DEPRESSION LEGISLATION

The 1930 (Ball) Act, introduced in the depths of the depression, and some sixteen years before the mean expiry date of the large western leases in 1943, extended the term of these leaseholds for a further period of twenty-five (25) years and provided only for "niggardly" areas to be withdrawn. No withdrawals in fact, except in the Walgett North Area, were to be made until 1938 and later. The argument put forward in support of the leasehold extensions was that since the leases had only another 16 years to run, this was not sufficient to enable adequate finance to be made available to the lessees. Lengthy extensions were necessary so that further investment would be encouraged. Some few years later it was said of this Act that it had been "a brazen attempt not only to conserve the interests of the large property holders, but also to make them a present of substantial benefits amounting to millions of pounds in value".

(J. M. Tully, *Parliamentary Debates*, 20th-21st August, 1941.)

Late in 1932 the Stevens Government introduced an Act for the extension of western leases to leases in perpetuity. As explained by Sir Henry Manning on 14th December, 1932, in the Legislative Council, the position had previously been that:

"Before the perpetual lease title was introduced into the Western Lands Act in 1932 the banks would not finance on the leases although they had many years to run The value of the improvements was regarded as the only tangible asset and this inability to obtain finance led to former Governments amending the Government Savings Bank Act about 1918 to permit that institution to make advances to Western Lands lessees The perpetual lease title has been introduced because it would offer an attractive security to financiers The object of the bill is to enable the owners of leases to convert them into perpetual leases with the idea of enabling holders to obtain the necessary finances to carry them on. At present as these are merely leases, it is impossible to obtain advances on them, but if they are converted into perpetual leases, advances will be made upon the security of the holding"

The Act did not deal specifically with the large holdings but it gave "tremendous benefits to certain holders whose lands, though not forming big stations, were nevertheless much in excess of reasonable home maintenance standards The provisions were too generous . . . and have given away far too much land under the perpetual lease title"

(J. M. Tully, *Parliamentary Debates*, 20th-21st August, 1941.)

WESTERN LANDS (AMENDMENT) ACT, 1934

In 1934, the position of the western lessees was again serious as a result of depression, drought and poor prices—"precisely as it had been in 1901". Starting in 1928-29, there had been a period of very dry seasons which had then merged into the years of the depression. In 1901, at a time also of drought and when "vermin including wild dogs and rabbits had overrun the division", the rents from the leases comprising 67,000,000 acres had amounted to £202,000. Yet after a further period of thirty years, the rents in 1932, of a larger area of 76,000,000 acres, only amounted to £117,000, indicating the way in which the rents had been

reduced as a result of the repeated concessions made. The overwhelming majority of the settlers—more than a thousand of them—held areas that were home maintenance or less but, on the other hand, 223 of the larger owners held 57 per cent of the country. These larger lessees under their existing titles held the right to uninterrupted possession for varying periods from 10 to 14 years, the majority being for 12 years, i.e., expiring in 1946.

In outlining to Parliament the controversial proposals which he had in mind, the Minister (Hon. E. A. Buttenshaw) pointed out that the serious position of the smaller settlers struggling to make do on insufficient areas, made it necessary that additional lands should be made available. It could be done by resumptions and the payment of compensation in cash representing the surrender value of the balance of the leases, but "this was out of the question". Some variation of the position was required but this could only be done by negotiation and bargaining if the leasehold contracts were not to be repudiated; and he had achieved "the best bargain he had been able to drive with the holders of western leases". It would therefore be necessary to seek alternative means so as to provide for the necessary withdrawal of substantial areas. He had it in mind that:

"The bill will provide for early withdrawals. Approximately six million acres will be available within six months if we can handle it. It all depends on prompt action being taken to acquire and allocate the land . . . with the first withdrawal sufficient land will be available to make up the areas of small settlers in the Walgett and Brewarrina districts and naturally we shall have to concentrate first on those districts that contain the best land . . . (In regard to) compensation we (the Stevens Government) propose to grant an extension of time for the balance of the lease; we propose reasonably to protect the large lessees in respect of the value of improvements on the areas that are being withdrawn. We propose also, to facilitate the subdivision of the remaining portion by the provision that a lease in perpetuity will be granted only if the large holdings are reduced to the size of a reasonable home-maintenance area. Accordingly we propose to encourage and assist private subdivision"

(*Parliamentary Debates*, 17th May, 1934.)

On the question of compensation it was argued against the proposed bill that:

"Under Section 44 of the Western Lands Act, the Government already has the power to reduce the size of holdings by paying the market value for the unexpired portions of the leases Most of these leases were due to expire (very soon) in 1943 On most of them improvements had not been carried out The Government should allow the leases to expire. (In fact) many of them should have been forfeited long ago, because the conditions had not been fulfilled In the 1901 Act conditions were attached to every lease without exception, binding the lessee under penalty of forfeiture to maintain all existing improvements to the satisfaction of the Minister"

In the Act as finally approved, the holders of the larger leaseholds were given the right to carry on with their existing leaseholds until the due expiry date, or to come under the provisions of the Act, by which they would be obliged to suffer the withdrawal in three stages of one-half of their holdings. In return, such leaseholders making voluntary surrenders would be granted extension of the terms of their residue leaseholds for periods of twenty years in the Walgett North district and twenty-five years elsewhere in the Western Division.

Of the large holdings in the Western Division, 78 per cent., embracing almost 24 million acres, were brought under the 1934 Act. Of the area that remained outside, more than half of it was held by the Kidman interests, amongst whom family differences arose. Deceased estates comprised most of the remainder.

The boundaries of the whole of the area withdrawable from any lease brought under the Act were to be determined by the Crown before any part of it could be taken. This was done in every case. In the first withdrawal of one-quarter, the land was disposed of mostly by way of additional holdings to small settlers, and partly by providing a number of blocks of home maintenance standard for new settlers.¹⁰⁰

WESTERN LANDS (AMENDMENT) ACT, 1942

In 1941 a newly-elected Labour (McKell) administration, pledged to Western Lands "reform," introduced a bill, the effect of which would have been the immediate compulsory withdrawal, without compensation, of those parcels of land which under the Buttenshaw Act were to become available in 1943 and 1948 by expiry of lease. Objections were taken to this bill in the Legislative Council on the grounds chiefly that no compensation was being given the lessees affected. An amendment by the Council proposed "actuarial calculation" instead of "Ministerial decision" in connection with extensions of lease and provision for appeals to the Land and Valuation Court. These amendments, however, were not acceptable to the government, and the 1941 proposals therefore lapsed.

The following year (1942) the bill was re-introduced substantially in its original form, but with the addition of clauses providing for lease extensions to be actuarially computed. This Act (1942) was passed, since in fact the lands were required in part for soldier settlement, the withdrawals of both the "1943" and "1948" areas at the same time enabling more effective subdivisions and allotments to be made.

As indicating the general background to these withdrawals and redistributions, it is relevant to quote from the speeches of the Minister (Hon. J. M. Tully) both in 1941 and 1942:

"To-day we have a form of settlement in the Western Division resembling a 'patchwork quilt'. Nearly half of this vast area is held in large properties by wealthy interests, and holdings are to be found that comprise hundreds of thousands of acres of the best grazing country, while, side by side with this state of affairs, are to be found small, inadequate holdings on which struggling settlers are barely able to subsist. The large holdings are excessively large, while a great many of the small ones are miserably small. Many of the small holdings comprise separated parcels of land involving much greater working costs and inconvenience . . . It is a wretched position . . .

¹⁰⁰ The withdrawals were authorised to be made as follows: One-quarter of the holding at any time after 24th February, 1935; one-eighth of the holding at any time after 24th August, 1943; and a further one-eighth of the holding at any time after 24th August, 1948. Prior to the 1934 Act, the mean date of expiry of the large leaseholds was 1946. However, large holders were granted extensions of twenty years in the Walgett North area, and twenty-five years elsewhere in the Division. They received as well, tenant rights for their improvements. By these provisos the mean date of expiry of these new leaseholds was extended to 1966 in the case of the Walgett North district, and to 1971 in the rest of the Division.

"The difficulties in the way of an outright repeal of the 1934 Buttenshaw Act are insuperable. For one thing such a course would involve the cancellation of allotments made to many deserving small men, and we certainly do not want to prejudice their position, since our concern is to improve their lot. Furthermore, some of the large holdings have been wholly transferred to other interests for cash considerations. Certain subdivisions also have been effected, resulting in parts of the land being transferred to other companies or individuals. Nevertheless the way is clear for steps to be taken to do the next best thing, namely, to bring about a better balance of the position as between the public interest and the interests of the larger holders than that which was created under the Buttenshaw Act . . . If the Buttenshaw Act had never been passed, all the leases within large holdings would have been due to expire and revert to the Crown between 1943 and 1948 . . . From the Crown's point of view, the possession of so much land in its hands, after date of expiry, would have enabled sound plans for reconstruction of uneconomic holdings in different parts of the division to be effected, the building up to reasonable living areas of inadequate holdings and the creation after a careful classification of the land of a considerable number of blocks of home maintenance standard for the promotion of new settlement. The most damaging thing that can be said against the Buttenshaw Act of 1934, is that it has put off for a generation, if not for all time, any comprehensive plan for the complete re-establishment of small settlement in that division, and any plan for promoting extensive new settlement in the most favoured localities in the Western Division must now, for the major part, remain a dream. . . .

"Returns show that throughout the Western Division there are 132 large holdings which embrace 29,645,000 acres . . . about 37 per cent of the Western Division comprises large properties. On the other hand, there are 2,049 small holdings, which, in the aggregate, embrace 50,290,000 acres, or about 63 per cent of the division. . . . Both large and small holdings are distributed here and there throughout the division. The average area of the small ones works out at 24,543 acres; the average area of the large holdings is 224,583 acres. . . . In the Walgett North district, there are nineteen large properties embracing 1,629,000 acres, which is 51 per cent of the area of that district. There are 197 small holdings embracing 1,563,000 acres or 49 per cent of the district. . . . The average area of the large holdings in the Walgett North district is 85,737 acres; that of the small ones is 7,934 acres. . . . Strange as it may seem, this uneven distribution is of Crown lands—not freehold lands of private landlords, but the land belonging to the public of this district. This unsatisfactory state of affairs stands a monument of discredit to past Governments. . . ."

(Parliamentary Debates, 14th August, 1941.)

The principal clause in the proposed bill, six only in all, authorised the Minister to withdraw at any time areas from large holdings noted for withdrawal under the Buttenshaw Act in 1943 and 1948, or the surplus areas arranged to be surrendered in certain lease-in-perpetuity cases in 1943.

Under the 1934 Buttenshaw Act, the boundaries of the maximum areas to be withdrawn had to be first determined before any part of the area was withdrawn. Consequently this action was taken in every case that came under the Act. The first withdrawal of one-quarter was completed between 1935 and 1938 and it was the balance of the land within the boundaries of the maximum withdrawal area which it was proposed should be withdrawn under the bill. Provision was made that where the land had changed ownership the new owner, nevertheless, was subject to the resumption provisions. Large holders would be given "tenant right" in their improvements automatically upon withdrawal and resumption, and retain the right to remain in occupation until lands to be withdrawn and resumed had been allotted to a new tenant.

In effect, under the proposed bill, some 5,000,000 acres would pass to the Crown, comprising numerous parcels of land varying in extent and distributed throughout the Division.

In further explanation of these particular clauses the Minister stated:

"The provisions for the extension of leases to perpetuity were enacted for the purpose of giving security of tenure to small deserving tenants and that policy accords with public interest generally; but, if the lease in perpetuity is allowed to become part, or to be used as part of a large holding, then the State's effort to promote closer settlement of a permanent character is completely nullified.

"The Government's lease policy will be to provide additional land wherever possible to necessitous small settlers. . . . The need for additional areas within a reasonable working distance of basal holdings will be the first concern of the Government, side by side, wherever practicable, with the consolidation of holdings at present comprising separate parcels of land. . . . it may be possible also to provide a considerable number of original blocks for new settlement . . . (particularly) in the eastern portion of the Division—notably the Walgett North, Brewarrina, part of the Bourke and part of the Hillston district."

In defending the conception of closer settlement, the Minister added:

"It is stated that the Western Division can carry only six or seven million sheep . . . (but) the Pastures Protection Boards' returns are not taken after a lambing season but in the summer months when the carrying capacity is generally at its lowest ebb. . . . Millions of acres on which those sheep graze, are not fully developed for the purpose. More water supply, more subdivision, and other necessary improvements, would render that land capable of carrying far greater numbers. . . . The small holdings are a living example of what improvement can be made in the pasture-growing capacity of the land . . . many large holdings, which have been in existence for years, have not been developed in a reasonable way . . . In the better parts of the Western Division the expressed views (of the settlers) in regard to a reasonable home maintenance area were: North Walgett, from 2,000 to 3,000 sheep; Brewarrina, from 3,000 to 3,500; Bourke, about 3,500 to 4,500; and increasing as you go out. It is generally recognized that 6,000 is the maximum number for a home maintenance area, and that everything over and above that number is extravagant."

The proposals were that of the areas then held the acreages required to be withdrawn were as follows:—

Walgett North District

Station	Area of Station	Area to be Withdrawn
Goondublui	163,000	61,922
Dunumbral	126,000	42,532
Angledool	129,000	39,248
Bangate	249,000	74,712
Gungahar	113,000	31,074
Gingie	76,000	24,845
Llanillo	76,000	21,053
Borrooma	256,000	69,344

Brewarrina District

Quantambone	295,000	90,259
Milroy	207,500	57,643
Charlton	138,000	42,376

Bourke District

Lissington, Corella and Warraweena	417,000	163,592
Toorale	846,000	250,405
Beemery	138,000	49,938
Belalie	168,000	46,060
Maranoa and Brindingabba	364,000	137,200

As to the question of compensation the Minister said:—

"... Under the Western Lands Act, the large leaseholders are obliged to comply with certain conditions. The leases were given to them at an infinitesimally small rental, and they were required to carry out certain improvements; all they have done has been to reduce the carrying capacity of the land from 13,000,000 sheep to 6,500,000, and, if the right thing had been done, the Government would have cancelled those leases because the lessees had not fulfilled their part of the contract. . . ."

(*Parliamentary Debates*, 14th August, 1941.)

In the following year (1942) on re-introducing the bill, these further explanations were given by the Minister:—

"... All that this Bill envisages is to provide authority to withdraw the land noted for withdrawal in 1943 and 1948 under the Buttenshaw Act . . . The first withdrawals of one-quarter of the holdings which were brought under the Act were duly made, and the land disposed of mostly by way of additional holdings to small settlers, and partly by providing a number of blocks of home maintenance standard for new settlement. The 'second' and 'third' of these withdrawals each of $\frac{1}{4}$ has yet to be made. So that in August, 1943, there should be coming back to the Crown $\frac{1}{4}$, a combination of the '1943-48' areas. The bill deals specifically with the areas noted for the 'second' and 'third' withdrawals. The bill is a straight-out proposal to merge the second and third withdrawals that is, to withdraw the '1948' areas at the same time as the '1943' areas. This differs from the Western Lands Bill in 1941. The earlier measure proposed to authorise withdrawal of the '1943' areas as well as the '1948' areas at a date earlier than 24 August, 1943. The present bill does not make any change in the date for the withdrawal of the '1943' areas, but is designed to authorise the withdrawal of the '1948' areas at an earlier date, that is, to withdraw the '1948' areas at the same time as the '1943' areas are withdrawn in 1943.

"... There is an urgent need for a large amount of Crown land to be made available throughout the Western Division, in order to build up the inadequate holdings of small settlers to a reasonable home maintenance standard. In various parts of the division, many small holders did not participate in the allotments made from the areas in the 'first' withdrawals from large holdings under the 1934 Act. These tenants have been waiting for years for further Crown land, and numbers of them cannot be satisfied out of the 'second' withdrawals, by reason of the distances separating their holdings from the '1943' areas, and, in some instances, by reason of the insufficiency of the '1943' areas to meet the needs of all the deserving small men in the vicinity. These difficulties could be greatly reduced and worthy tenants be more speedily assisted, if the '1948' areas were also available, in conjunction with the '1943' areas. There would be double the quantity of land, and, in many instances, the proximity of the '1948' areas to small holdings would enable tenants to participate, who otherwise would be debarred by excessive distances. In considering this aspect, the position of small holdings in the Central Division, adjacent to the Western Division, must also be kept in mind. . . . A number of the '1943' areas are insufficient to be designed into original holdings of reasonable standard."

Then as to the question of compensation, the Minister added:—

"... Operations under this measure will result in large holders losing the use of the 1948 areas for a period of five years where withdrawals are made next year, and for a lesser period where withdrawals are subsequently made. . . . Whilst the view of the Government remains unchanged in respect of the very generous treatment that was extended under the 1934 Act, it has included a provision to compensate large holders in an equitable way for the earlier withdrawal of the land. . . . Large holders

also will have the statutory right to remain in possession until the land is allowed to new tenants. . . . If all this is done, I feel sure that 'additional' will be made available at a reasonable distance from 'originals'. I do not think the distance will exceed 25 miles. . . . It will be a process of consolidation. . . . The large holder shall be entitled to *tenant right* in the improvements on the land withdrawn or resumed. . . . The boundaries of the residue leaseholds have been surveyed in many cases, and some large holders have already erected substantial fencing over those boundaries or renewed existing fencing. One thing is certain—operations under this bill will not confront large holders with any greater liability for expenditure on fencing of residue boundaries, or other improvements, than that which already confronts them under the 1934 Act. . . ."

(*Parliamentary Debates*, 1942.)

WESTERN LANDS (AMENDMENT) ACT, 1949

In the 1949 Act, the primary purpose was stated to be the need to provide more land for soldier settlers, and to complete the division of the western leasehold country into living areas. To this effect all lands surplus to two living areas, subject to certain reservations and exceptions in the case of stud properties, were resumed by the Crown. Only 44 properties were to lose land, including six owned by the A.M.L. and F. Company, five by the N.Z. and Aust. Land Co. Ltd., and four by Goldsbrough, Mort and Company. The area involved comprised between 7,000,000 and 8,000,000 acres which would be available for new holdings and as additions to existing ones.

From 1942 to 1949, by virtue of the withdrawals under the 1942 Act, 158 original grazing blocks had been granted in addition to 22 smaller irrigation blocks provided for horticulture along the Murray River. On these had been settled 110 ex-servicemen on grazing blocks and a further 22 on the horticultural farms. Enough land had also been available to permit the allotment of 440 *additional* blocks of an average area of 10,300 acres, thus permitting the building up of a large number of marginal and sub-marginal leaseholds to at least home maintenance standards.

Since the purpose of the withdrawals was closer settlement, it was intended that the withdrawals would be put in hand in those districts where the most satisfactory land was available, for new blocks or for the granting of "additional". Those who, prior to 1934, had been struggling on insufficient sized holdings had had their blocks built up to reasonable living areas, as far as practicable, but there were some who had not yet been provided for. No resumption of freehold areas was to be undertaken and if owners held freehold areas within their holdings they would be permitted to consolidate those areas into one block.

In introducing the bill, the Minister (Hon. W. F. Sheahan) gave this explanation of its further provisions, which from a policy point of view are of significance:—

"The main purposes of the bill are:—

- (a) To provide for the withdrawal from certain western lands leases of all land in excess of two home-maintenance areas, except in the case of leases used for stud purposes, where the withdrawal will be limited to all land in excess of three or four home-maintenance areas, depending on the area actually used for stud purposes;
- (b) To compensate the lessee for such withdrawal by giving him lease in perpetuity of two home-maintenance areas;

- (c) To grant the lessee tenant-right in the improvement on the land withdrawn;
- (d) To provide for periodic re-appraisal of rents of perpetual leases at intervals of 10 years;
- (e) To delete the provisions limiting rental determinations at 7d. per sheep area and restricting the variation re-appraisal to 25 per cent.
- (f) To provide for all rental determinations to be made on the basis of the productive capacity of the land under fair average seasons, prices and conditions, with a maximum of 1s. 6d. per sheep area and a minimum of 6d. per sheep area;
- (g) To apply to all western land leases certain conditions in the interest of soil preservation;
- (h) To provide that where a lease held for mixed farming, etc., together with other lands held, exceeds a home-maintenance area, conversion into conditional purchase will be restricted to so much of the lease as would not, together with such other lands, substantially exceed a home-maintenance area;
- (i) To provide for Ministerial control of transfers of all leases extended to perpetuity and to render certain leases liable to forfeiture where the lessees sublet or take stock on agistment or grant any grazing right over such leases. . . .

"The goodwill value of leases has been accentuated by the practice of capitalising the absurdly low rental, based on the out-dated figure of 7d. a sheep area, decided upon in 1931. This anomaly was recognised by the Stevens Government when in 1932 it amended the law to provide for rentals of perpetual leases being re-appraised in 1949, on what might be broadly termed a commercial basis without regard to the 7d. limit. . . . This was to be on a productivity basis. . . . Nobody then expected that there would (in fact) be such a great rise in the value of wool, wheat and sheep. . . . The realisation of what that meant has caused lessees to ask for some of the amendments that are incorporated in this measure. Valuers for financial institutions have in the past valued perpetual Western Land leases at a freehold level and have deducted therefrom the sum represented by a capitalisation of the absurdly low Crown rental. This gave a value substantially higher than the value of improvements. . . .

"The intentions were, added the Minister, that uniformity would be the keynote of any reforms in the Western Division. The grant of two home maintenance areas was in every instance to apply as compensation to those losing land by the resumptions so that 'in any future transaction in the Western Division the Crown would have to deal only in home maintenance areas for persons genuinely seeking land'."

In detail the figures of areas, carrying capacity and the number of holdings, which would be providing the withdrawals, were as follows:—

Administrative District	Area	Estimated Carrying Capacity (Sheep)	Number of Holdings
	Acres		
Brewarrina	789,819	134,150	8
Walgett North	848,080	205,700	12
Hillston	950,084	138,700	6
Bourke	1,437,194	139,000	6
Balranald	454,441	63,525	3
Broken Hill	968,563	64,530	3
Wilcannia	739,418	44,200	2
Wentworth	632,027	62,100	2
Wanaaring	445,682	24,700	1
Cobar	186,947	12,000	1
Totals	7,452,255	888,605	44

The A.M.L. and F. Coy.

Property	Area	Carrying Capacity (Sheep)	District
	Acres		
Charlton	74,769	13,200	Brewarrina
Milroy	135,113	18,200	Brewarrina
Cowga	22,153	5,000	Brewarrina
Angledool	75,011	16,600	Walgett North
Llanillo	50,891	11,300	Walgett North
Corcoran	18,757	3,000	Walgett North
Totals	376,694	67,300	

(representing 20-odd living areas)

The N.Z. Austrn. Land Co. Ltd.

Property	Area	Carrying Capacity (Sheep)	District
	Acres		
Weilmoringle	163,868	25,600	Brewarrina
Goodublui	103,191	31,900	Walgett North
Bangheet	137,457	26,000	Walgett North
Maranoa—Brindingabba ...	227,449	25,200	Bourke
Til Til	113,003	15,800	Balranald
Totals	744,968	124,500	

(representing 35-odd living areas)

Goldsbrough Mort and Co. Ltd.

Property	Area	Carrying Capacity (Sheep)	District
	Acres		
Dumble	61,404	10,200	Brewarrina
Manfred—Kilfera	423,030	52,870	Hillston
Eremeran	176,182	28,600	Hillston
Mullingawarrina	111,543	9,000	Hillston
Totals	772,159	100,670	

(representing 27-odd living areas)

In further explanation, the Minister stated:

"All that we want to do is to take in land that rightfully should have been available for returned soldier settlement this year (1949) had it not been for the 'duck shoving' that took place in 1934 to give these lessees long extensions fourteen years before the date of termination of the leases . . . The bill represents very generous compensation to the companies; for in addition to tenant right value in all improvements, they will also be granted two living areas under perpetual lease. A perpetual lease title in the Western Division is worth from 30 shillings to 50 shillings a sheep area. That really means in the vicinity of £7,500 for a living area, or £15,000 for the two perpetual leases. There are 19 registered studs in the Western Division. It is not proposed to interfere with stud properties except in so far as they will be catered for in accordance with the policy of the Government. Appeals against withdrawals of leases will be heard by a board comprising a member of the Western Lands Commission, a representative of the Graziers Association and a representative of the Returned Soldiers . . ."

Since professedly the purposes of the bill were to provide additional land for ex-servicemen, little opposition to its provisions was encountered in Parliament. There was no real conflict in principle between the Government and the Opposition, but concern only as to the compensation which would be given the Companies affected and further concern whether the proposed blocks would be large enough to support small settlement in the western areas. These matters were stressed by the Leader of the Opposition, Hon. M. F. Bruxner:

"We have always been ready and willing to support the Crown in resuming freehold or leasehold land that is required for soldier settlement or other purposes. That is a right that must always lie in the Crown and we make only one stipulation . . . that whatever resumption is necessary shall be made on *just terms*. A statutory provision requiring this to be done is not contained in the State Constitution though it is a feature of the Federal Constitution . . . Another principle that my colleagues and I have always followed in respect of the Western Division is to ensure that the settler is given sufficient area to *operate successfully on these lands of light carrying capacity*. In earlier legislation we fought strenuously for a minimum holding capable of carrying 3,500 sheep . . ."

The implementation of the 1949 Act has brought to a successful conclusion the programme commenced in 1934 to break up the large stations in the Western Division.

That part of the State has virtually been subdivided into "living areas" and practically all lessees now enjoy security of tenure under perpetual lease. Holdings have been designed on a reasonably generous scale, having regard to the severe climatic conditions and recurring droughts.

Provision has been made to guard against over-stocking, destruction of timber and other abuses of the land and to ensure as far as possible that the grazing operations will be conducted on a prudent basis.

One of the most encouraging developments has been the trend towards breeding a better class of merino, and this concentration on quality rather than quantity of sheep, combined with the highly improved state of the leases with additional watering places and subdivision into smaller paddocks, together with increasingly effective control of rabbits, should prove a tremendous help in combating the erosion menace.