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CHAPTER VIII.

CROWN LANDS LEGISLATION.


The land code of the session of 1860, so enthusiastically eulogised by Sir George Bowen in his despatch to the Secretary of State, unfortunately by no means settled the complex questions involved in the management of public lands extending over 15 degrees of longitude and 18 degrees of latitude. Indeed, to-day the land laws are probably as complicated as ever they were in the history of Queensland, notwithstanding the desire of the Legislature to make them as simple as possible, and to meet the wants of every description of settler, whether he be a homestead selector with his 320 acres, a grazing farmer with his 20,000 acres, or a pastoral lessee with his 1,000 square miles.

During the first decade several Land Acts, amending the Acts of 1860, were passed; but by the advent of the year 1867 it was found that the facilities offered for settlement were inadequate, and that new methods, especially in the direction of mixed farming adapted to the country and climate, and demanding holdings of increased area, were indispensable if there was to be close settlement on a more extensive scale than that contemplated by the pastoralist. Among the members of the Assembly in 1867-8 was Mr. Archibald Archer, of Gracemere, then member for Rockhampton, who earnestly voiced the popular contention that the upset price of £1 per acre was excessive, and that the holdings permitted to the settler by law were too restricted in area. In October, 1867, the Minister for Lands was Mr. E. W. Lamb, an old-time New South Wales land office official, and then a Peak Downs squatter. He introduced a Crown Lands Alienation Bill, which, after discussions showing its futility, was, on the motion of Mr. Macalister, then in opposition, referred to a Select Committee comprising the Minister and Messrs. Archer and Fitzgerald, the latter member for Kennedy. In the next session a new bill was introduced, giving effect to the recommendations of the Select Committee, which provided for the
resumption of the halves of all runs within the Settled Districts, and for
making available such resumed areas wherever required for settlement.
The bill also provided for the opening of these areas to free selection before
other than a feature survey had been made. This land was to be classified
as (1) agricultural, in areas not exceeding 640 acres and at 15s. per acre;
(2) first-class pastoral, in areas not exceeding 2,560 acres, at 10s. per acre;
and (3) second-class pastoral, in areas not exceeding 7,680 acres, at 5s. per acre.
The purchase was to be conditional upon actual occupation and
improvement, the payment being spread over ten annual instalments, called
rents, of 1s. 6d., 1s., and 6d. per acre respectively. Provision was also
made for homestead selections not to exceed 80 acres of agricultural land
or 160 acres of pastoral land, at a yearly rental for five years of 9d. an acre
in the case of agricultural land and 6d. an acre for pastoral country. This
measure, having become law, caused a tremendous rush for land, and in
some cases, no doubt, too large areas were taken up, regarded from the
standpoint of the public interest, the abuse partly arising from faulty
classification by the Government Commissioners. By at least one of these
officers it was held, for example, that land, no matter how accessible or
good its quality, was only second-class pastoral if destitute of surface
water. But, whatever abuses crept in, there can be no doubt that the Act
of 1868 was the first legislation to place the people on the land in areas of
such extent, of such quality, and at such prices as were then deemed
requisite for successful occupation. Many of the most prosperous farmers
of to-day, or their parents, settled under the 1868 Act, and now form most
valuable members of the community.

In 1869 the Pastoral Leases Act was passed by the Lilley Government,
and gave the lessees in the unsettled districts a better tenure than they had
before enjoyed—21 years in respect of new country and renewed leases,
and 14 years in the case of existing leases, with septennial automatic
reappraisements of rent in all instances. The Liberal members of the
Assembly assented to a pre-emptive purchase clause in this Act by which:
and during the same year endeavoured to sweep away the privilege by new
legislation. Parliament, however, refused to repeal the provision, and
would only consent to withhold the privilege of pre-emption in respect of
leases acquired after the passage of the Land Act of 1884. Altogether 363
pre-emptive selections in respect of as many runs were made. By the Act
of 1868 the pastoral lessees in the settled districts had also been granted ten
years' leases for the unresumed halves of their runs; but in both cases the
Minister was empowered to resume part of any run on giving six months' notice.
The Homestead Areas Act of 1872 provided for the setting apart of
special areas as “homestead areas,” to be exclusively settled as homestead
selections, or selections taken up by virtue of land orders issued under the
Immigration Act of 1869. A departure from the generally accepted
principle of “homestead” settlement—that the land is granted at a nominal
price in consideration of the selector personally residing on it—was made in
providing for increased areas up to 320 acres at conditional purchase
prices. This anomaly was corrected by the Act of 1876, which styled such
larger homesteads “Conditional purchases in homestead areas.”

In 1876 Mr. Douglas, as Mr. Thorn's Minister for Lands, introduced
an amending and consolidating Land Bill, repealing all existing alienation
Acts. Extended powers were given to Land Commissioners to expedite
settlement. Monthly Commissioners' Courts were provided for, but no
decision of a Commissioner's Court, except in case of certificates of
performance of conditions, was to be final until confirmed by the Minister.
The most noteworthy provision reduced the maximum area that one person
might select. The area conditionally selectable by one person was made not
less than 40 acres nor more than 5,120 acres. The Act declared all leased
land reverting to the Crown on the Darling Downs to be homestead areas,
and empowered the Government to establish such areas elsewhere. Within
these areas conditional purchase selections were restricted to 1,280 acres
and homesteads to 80 acres. Personal and continuous residence by the
selector was made compulsory, and, before the fee-simple could be acquired,
permanent improvements to the value of 10s. per acre were required
and homesteads to 80 acres. Personal and continuous residence by the
selector was made compulsory, and, before the fee-simple could be acquired,
permanent improvements to the value of 10s. per acre were required
to be made. A homestead was protected against claims for debt. A
Settled Districts Pastoral Leases Bill also became law this year, providing
that on the expiration of the ten years' leases then held runs should be
offered at auction on a five years' lease at a rental of not less than £2 per
square mile, an outgoing lessee being allowed six months' grace in which
to remove his stock. In 1882 the Act of 1876 was amended so as to
abolish the sale of runs by auction unless when there was no application for re-lease by the existing lessee, and lessees under the Act of 1876 were given the right to an extension of their leases for a period of ten years instead of five years. The rent, however, was to be subject to appraise-ment.

The next great land measure was the Griffith-Dutton Act of 1884. Its main features were the abolition of the pre-emptive rights of pastoral lessees; the creation of a Land Board consisting of two members—an independent tribunal acting like Judges of the Supreme Court, and, like the Judges, holding office during good behaviour; and the introduction of the leasehold tenure in connection with grazing and agricultural farms. The object of the Government was to bring about close settlement. As it was recognised that it was not feasible at that time to devote the lands of Western Queensland to agriculture, provision was made for the gradual substitution of a smaller class of graziers for the pastoral lessees with their many hundreds of square miles of territory. Accordingly inducements, by way of fixity of tenure and compensation for improvements, were offered to pastoral tenants to surrender their existing leases and bring their holdings under the Act. The Crown was thereupon entitled to resume one-half, one-third, or one-fourth of such holdings, the proportion varying inversely with the length of time the leases had to run. These resumed areas were then divided into smaller holdings called "grazing farms," the maximum area being 20,000 acres, which were to be opened to selection on a thirty years' lease, with periodical reappraisements of rent by the Land Board. It was believed that the lessees of these smaller holdings would so improve the country that its carrying capacity would be greatly increased, and the Crown would derive a larger revenue from its pastoral lands, whilst at the expiration of the leases agricultural settlement might be possible. The success of the grazing farm system has amply justified the expectations of the framers of the Act. The leasehold principle was also applied to agricultural farms, the maximum area of which was fixed at 1,280 acres, with a fifty years' tenure, but the selector was given the right to acquire a freehold after ten years' (later reduced to five years) personal occupation. Although dropping the name of "homestead," the Act maintained the homestead principle by providing for the freeholding of agricultural farms not exceeding 160 acres in area at 2s. 6d. per acre after five years' personal residence by the selector. The Act, which practically superseded the Pastoral Leases Act of 1869, continued the right of pastoral lessees to depasture their stock on the resumed areas until they were
required for closer settlement. It also repealed existing alienation Acts, and provided for all the contingencies which might be expected to arise. Among the repealed Acts were two which had given rise to much party contention in previous Parliaments—the Western Railway Act and the Railway Reserves Act, to which allusion is made in the parts of this work dealing with "Public Finance" and "Fifty Years of Legislation."

Amending Acts were passed in 1885, 1886, 1889, 1891, 1892, 1894, and 1895, but these do not call for mention except to say that the Act of 1891 introduced a new mode of selection called "unconditional," providing for selections up to 1,280 acres at prices one-third greater than those for agricultural farms, and payable in twenty annual instalments.

In 1890 an Act was passed providing for a five years' extension of leases held under the 1869 Act and not affected by the Act of 1884. In 1892 an Act (extended in 1894, 1895, 1897, and 1898) was passed giving a seven years' extension of term to pastoral lessees, and an extension of five years (afterwards increased to seven years) to the lessees of grazing farms selected before the introduction of the bill and situated in the southern part of the State, who should enclose their holdings with rabbit-proof fences.

In 1893 the Co-operative Communities Land Settlement Act was passed at a time of stress, with a view to enabling men of good character but without capital to settle on the land with the aid of Government advances. In all, twelve "self-governing communities" were formed with a total adult male membership of 485. In no case did the venture prove successful, and by an amending Act passed in 1895 the several communities were dissolved, the members thereof were absolved from all liability to the Government for advances made, and the land and assets were suitably apportioned among the remaining members of the dissolved groups, to the number of 88. They were assigned an area aggregating 13,491 acres to be held on a five years' tenure at a rental of 3/4d. per acre per annum, subject to a condition of personal residence and to the purchase of the land during the fifth year at 2s. 6d. an acre. Only three-fourths of these 88 settlers brought their selections to freehold, and the last transaction was not closed till ten years had elapsed, instead of five, from the dissolution of the groups. Consequent on another period of depression, Parliament in 1905 authorised another experiment by way of Government assistance to would-be settlers without means, but the communal element is not so prominent in the new measure, and the "self-government" principle is excluded. Only one settlement has been formed under the Act of 1905, and it is under Government control. While holding out some promises of
success, these are not so tangible as to lead to further ventures of the sort. Indeed, the need for them has disappeared with the return of prosperity.

The last comprehensive Act, extending over 101 pages of the Statute-book, was passed in 1897, and it still remains the principal Land Act, upon which all subsequent amending measures have been grafted.

It is fitting to set out briefly what are the modes by which it is sought to secure settlement on the public lands of the State after half a century of legislation. There is, first, the agricultural farm, in areas up to 1,280 acres on a tenure of twenty years and paying an annual rental of one-fortieth part of the purchasing price, such rentals being actually instalments of the price, and leaving only one-half of the price to be paid at the end of the term. The price cannot be lower than 10s. per acre, and there are conditions of occupation and improvement to be performed. There is the agricultural homestead in areas ranging up to 640 acres, the area varying inversely with the quality of the land. This form of settlement is subject to conditions of personal residence and improvement. The homesteads are capable of being converted into freeholds after five years and up to ten years for a total price of 2s. 6d. per acre, payable at the rate of 3d. per acre per annum. There is the unconditional selection in areas up to 1,280 acres, with no conditions to perform but the payment of rent during twenty years at the rate of 5 per cent. of the purchasing price each year, the purchasing price being one-third higher than that at which the land was available for agricultural farm selection. There are the grazing selections in the remoter districts in areas up to 60,000 acres. These selections are not capable of being made freehold, but are held on leasehold tenures of 14, 21, or 28 years, at rentals ranging from ½d. to 6d. per acre per annum, and subject to conditions of occupation and fencing. There are the scrub selections not exceeding 10,000 acres each, intended to secure the destruction of useless scrub in the remoter districts and the conversion of the land into good pasture. The tenure is purely leasehold, with a term of thirty years and at a peppercorn rental for a period having relation to the extent of scrub to be destroyed. Leasehold tenures are preferred for the remoter lands, and they have the advantage of leaving the settler's capital free for the development of his land. In case any should prefer a leasehold tenure in the more closely settled districts, the law now provides for the substitution of "perpetual leases" for the agricultural farm tenure.

The rapid spread of the prickly pear in some parts of the State has been a peremptory call for the occupation of the threatened country on any
FOREST SCENE NEAR WOOMBYE, NORTH COAST RAILWAY
The Closer Settlement Act of 1906 superseded the Agricultural Lands Purchase Acts, 1894 to 1901. These statutes provide for the acquisition by the Government of private estates for the purpose of subdivision and sale in areas adapted for closer settlement, payments being extended over twenty-five years. The principle is not quite impervious to criticism, for unless great prudence is exercised the acquisition of these large estates has a tendency to raise the value of agricultural land; but a few figures showing the settlement which has taken place furnish convincing proof that the primary object of the Legislature has been achieved, and that rich arable lands, which previously produced nothing but natural grasses for the sustenance of sheep and cattle, have become the homes of many hundreds of thriving yeomen farmers and the support of numerous rising townships. Since the passage of the first of these Acts in 1894, a total area of 537,449 acres has been repurchased at a cost of £1,490,489. Of this area 456,742 acres had been surrendered by the former owners at the close of 1908. By the same date 364,334 acres had been selected at an aggregate price of £1,050,864, and 10,677 acres, with the improvements thereon, had realised £70,727 at auction, the purchasing price of the whole area disposed of amounting to £1,144,081. The area remaining in the hands of the Government, after deducting roads and reserves, was 78,781 acres, valued at £264,200, almost entirely consisting of land only recently acquired and not yet offered for settlement. On 31st December last, no less than 1,654 agricultural selectors, the majority with families, and holding among them 1,909 selections, were settled upon what but a few years ago were twenty-six sheep and cattle stations, with a mere handful of employees.

It has been mentioned that the Alienation of Crown Lands Act of 1860 provided for granting to any immigrant who had paid his passage-money, or to any other person by whom it had been paid, an £18 land order on arrival, and a further land order for £12 after he had resided two years in the colony. These land orders were made receivable as cash at any Crown land sale, and they led to a large traffic, as the fact that land orders could be bought from immigrants at a discount stimulated the demand for land, especially for town lots. At first these instruments could be bought at very low prices, but after a time the £18 land order had become of the recognised market value of £15 to £16 cash, and could be readily purchased at those prices from agents in Queen-street, Brisbane. But the effect upon land sales revenue alarmed the Government, and after a time they refused to receive land orders as payment in lieu of cash at sales of other than country land. In 1864 an Immigration Act was passed providing for the appointment of an Agent-General for Emigration.
in London, and for the repeal of the land-order sections of the 1860 Land Act. A new provision was made by which the Agent-General was empowered to issue to an approved passenger in London who had paid his passage-money a land-order warrant for £30. On arrival in the colony the passenger was granted in exchange for the warrant a non-transferable land order receivable as cash at face value at sales of suburban and country lands only. These restrictions lowered the market price of the instrument, although by means of a power of attorney the non-transferable provision was for a time evaded. Eventually, however, the restrictions were made so severe that for market purposes the land order was worth little, and immigrants who had come out and failed to settle on the land found themselves in possession of a document of no practicable value. The extent to which the land-order traffic prevailed will be understood when it is mentioned that, in 1865, of £218,431, the total revenue from land sales, only £59,461 was cash, the remainder being represented by land orders. By 1875 the system had become discredited, and was abolished by legislation, but outstanding land orders were still used. In 1883-4 the amount so received had fallen to £16, while the cash receipts for sales were £378,637. The total value of land orders received as cash between 1861 and 1883-4 was £853,583. Some public men have contended that, if the initial practice of receiving the land order at face value in payment for any Crown land sold at auction had been continued, the Treasury would have been recouped by the larger demand and higher prices realised, but obviously a system which stimulated speculation in land was not good for the country, besides which it encouraged dummying. In 1886 the Griffith Government determined to give the system a further trial, and in the Crown Lands Act Amendment Act of that year power was given to the Agent-General to issue land-order warrants to persons paying their own passages to Queensland. Each member of a family of twelve years of age and upwards was entitled to a £20 land order, and each child between the ages of one and twelve entitled the parent to a land order for £10. The land orders were not transferable, except in case of death, and were available for ten years for the payment of rent of Crown lands acquired by the immigrant. The Act authorising the issue of these land orders was repealed in 1894. The value of land orders issued under the Act amounted to £62,140, and of this sum only £8,956 was utilised. The great majority of the immigrants who received the orders had no desire to go on the land, and as the orders were not transferable they lapsed at the expiration of their currency to the extent of 85 per cent. of the whole.