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1. THE COMMENCEMENT OF SETTLEMENT (1788-1831)

PREVIEW: THE FIRST GRANTS: MACQUARIE'S LAND POLICIES, 1809-1821: CAPITALIST SETTLEMENT, 1821: PROGRESS OF SETTLEMENT, 1826: FIRST FREEHOLD SALES, 1824: THE AUSTRALIAN AGRICULTURAL COMPANY, 1824: THE NINETEEN COUNTIES, 1829: IMPERIAL LAND ACT, 1831.

PREVIEW

"The British statesmen of the seventeen eighties had wished, somewhat half-heartedly, for a remote convict settlement. Unknowingly they had acquired a continent three-fourths of the size of all Europe, including Russia. For some decades they would probably have been thankful to give away large portions of it to any respectable government which had asked for them, and it was long before any notion of controlling so vast an area presented itself to them. All colonies, they believed, were a source of trouble, and they had enough troubles of their own at home. And soon there were Benthamites and Radicals in plenty to assure them that to do nothing was of itself a major virtue. Yet the wealth of the new continent grew with startling rapidity. Much of its soil was as rich as any in the world, and it was an unopened treasure-house of precious metals. Mr. Mothercountry might be in the mood to do as little as possible, but he could not help doing something. For after the explorers came the squatters and their sheep, and the value of the wool exported increased about thirty-fold in the thirty years after 1826. Wool made Sydney, and then Melbourne and Adelaide, into great seaports. Between the seaports and the squatters an expanding belt of farmland grew the food-stuffs for the mounting population. But who owned the land, and by what title? It was a fundamental question, but for long there was no answer. Or rather there were too many answers. John Batman of Victoria had claimed to hold his acres by virtue of twin parchments inscribed with a lawyer's rigmarole of livery and seisin, and 'signed' by the 'mark' of aboriginal black-fellows. For less imaginative squatters it was sufficient to maintain that all Australia belonged to the existing colonists, and that he who chose to appropriate unclaimed land was its rightful owner in perpetuity. Governors had assumed the right to give away great tracts for nothing. As for the British Government, when forced to reflect upon the problem, it preferred the ancient feudal doctrine that all land belongs to the Crown. 'The waste lands of the vast Colonial possessions of the British Empire,' wrote Lord Grey in 1852, 'are held by the Crown, as Trustee for the inhabitants of the Empire at large, and not for the inhabitants of the particular province . . . . . in which any such waste land happens to be situate.' This in itself, however, solved no problems; the land might be Crown land, and held in Trusteeship, but the Crown was not likely to till or mine it; how then was it to be disposed of?"[1]

To the early governors, equipped with almost autocratic powers in a territory which might expand into an empire or remain a desert, the principal problem was to govern or reclaim as best they might the population under their charge. Thus they encouraged such ambitious individuals as the military officers who were willing to take up agricultural and pastoral enterprises and others also who might be willing to share in the labour of building up the settlement's resources. For, apart from the convicts, the only available material for colonisation was the "free population," composed of military men who could return home when their term of service expired, and "camp followers" actuated by various motives, and wholly obliged to depend upon their own resources for a return passage to England. These men were the

[1] Lord Elton *Imperial Commonwealth* (London: Collins, 1945), pp. 299-300.

The Threshing Machine at work—December, 1905.
(Photo: N.S.W. Government Printer.)

original settlers—retired military and commissariat officers, the clergy, the merchants who were attracted to the settlement by the commissariat expenditure, and the residue of a handful of free persons who from personal or patriotic motives co-operated with the Governor in enforcing discipline among the convicts or in providing food for their maintenance.

The land itself was looked upon as of little value, and grants were made only as an inducement to prevent "respectable people from shipping themselves off again." The Eastern Farms granted by Governor King to veterans on the Parramatta River at Kissing Point—the nucleus of the oldest village in Australia—were a failure, as with few exceptions they were all bartered for rum. So also the majority of the early farmers failed because of difficulties which they could not have been expected to overcome.

On the other hand, the free grants to the Blaxlands were in an entirely different category, for the Blaxlands were wealthy men in their own right. They had sold their estates in Kent and had voluntarily emigrated to the colony, "with a capital which would have been a fortune for any unambitious man (in order) to undergo the privations and perils of a new career in an infant settlement composed of the dregs of the old society which they had abandoned, from the vague apprehension that the old society was to go to wreck through the Corsican usurper."

(*Southern Cross*, 21st April, 1860.)

The second period of land settlement commences from the time when the convicts first began to be freed from servitude. The Governors did not know how best to dispose of these men, whose return was not wanted in England. To make their labour profitable to the settlement, they were set to work to grow grain on the fertile lands of the Hawkesbury flats. The grants were small, most of them containing a reservation of timber for naval purposes, since England was then engaged in the emergency of a European war.

The policy of Macquarie was to elevate the emancipist class and this he tried to do with benevolence and justice, inevitably encountering obstruction from the local "aristocracy." The traditional view of these times was that a criminal was a wicked person who deliberately and perversely chose evil rather than good, and who therefore could expect no sympathy. The law was thus used by the governing class without mercy against all those who might attempt to interfere with the established order of things affecting the rights of property and the conditions of labour. Macquarie, when he called the convicts "children of misfortune," anticipated by almost a century the science of sociology and was therefore in advance of his age, taking his place with John Howard, Jeremy Bentham and others of the developing reform movement.[2]

Fortuitously, the interests of the large landholders coincided with the larger interests of Great Britain at this time, and Macquarie's policies were foredoomed to failure. Lord Bathurst, then a "red-tapist of nearly thirty years' standing", could not agree with the viewpoint of Macquarie that "convicted felons" should be allowed to become "landed proprietors". Commissioner Bigge suggested the way out of the problem and was able to prove that many of the emancipists, "the sharks and vultures" of Macquarie times, had in fact, by money-lending, sharp business practices and "highly reprehensible means" already acquired considerable fortunes and landed estates.

In these various groupings at the close of the Macquarie period occur the names of men such as ex-officials like Wentworth, Macarthur and Piper; free immigrants like Robert Campbell and the Blaxlands, and ex-convicts such as Simeon Lord and Redfern. The expansion of farming, whaling and wool-growing was to find its capitalists in the Macarthurs, Marsdens, Wentworths, Blaxlands, Blaxcells and Lords of these times.

The third period commences with Governor Brisbane. Henceforward the migration of free settlers was to be encouraged and grants of land were made to those emigrating to New South Wales who could prove their ability to provide rations for the maintenance of a set number of

[2] *cf.* C. H. Currey, "The Influence of the English Law Reformers of the Early Nineteenth Century on the Law of New South Wales," *Journ. and Proc., R.A.H.S.*, Vol. XXIII, Part IV, 1938; J. Dennis, "Bigge versus Macquarie," *Journ. and Proc., R.A.H.S.*, Vol. XXIII, Part VI, 1938.

convict servants. Even though precautions were taken to insert into these grants a clause of forfeiture for non-observance of the conditions, there is no evidence of any of these grants being so cancelled. Numbers of the settlers of the 1820's proved an "industrious, persevering, hardy and independent race of men", whose descendants made lasting impact on the State. Brisbane's "Scottish settlers", who were both farmers and graziers, figure prominently in the early records and laid the foundations of many towns in the outback.

A country family—Wagga Wagga Show, 1911.
(Photo: N.S.W. Government Printer.)

The fourth period begins with the system of grants by purchase introduced in 1831, and which was the result of "a new theory of London politicians and savants (e.g., Wakefield) according to which by a process of germination . . . certain seed in the shape of capital and labour, with an infusion of red tape and patronage was to be sown broadcast in the Australian bush, and to spring up at once into fine, healthy, well developed communities."

(*Southern Cross*, 5th May, 1860.)

The appearance of the Australian Agricultural Company in 1826 and an inflow of British capital coincided with a short-lived pastoral boom which ended in financial crisis in 1826 and a more prolonged depression from 1828 to 1830. The lifting of this depression after 1830 was followed by the great pastoral boom of the next ten years. Financed in the main by a rising flood of British capital, there developed a mad scramble for land to occupy at a trivial licence fee. Official limits of settlement were swept aside as the squatters occupied half a continent

within a short space of ten years. Labour was the prime need, and the proceeds of the sale of lands were used to support various schemes of assisted immigration.

The slump which was to follow in 1841-43 was as severe as the boom had been extreme. Prices, wages, land values fell abruptly; land sales and capital imports became negligible; assisted immigration was suspended; unemployment on a large scale appeared for the first time in Australian history, and finally there had to take place a sober reckoning of debts and a protracted and painful clearing away of insolvencies. Through it all, however, the output of wool received no check and continued to rise.

In this, the first serious economic depression in New South Wales, much dead wood was cut away. In the late thirties, as in later times, the buoyant condition of the pastoral industry combined with the influx of immigrants and English capital to produce a land boom. When to this was added the lavish facilities offered by the banks to attract business, there was induced a wild orgy of business speculation and a fictitious prosperity. In the later reckoning, it was revealed that more than two-thirds of the assets of the banks in 1841 were discounted bills, many of them of doubtful value. The onset of severe drought conditions, the collapse of the wool market, and the cessation of transportation quickly pricked the bubble, and laid bare the unsoundness of the existing credit structure. The failure of two English Loan and Mortgage Companies precipitated the whole community into bankruptcy. Six of the fourteen banks failed to survive the crisis, and the crash demolished many commercial and industrial concerns whose stability had been previously unquestioned.

This depression is of further interest in that, of the measures used to reform the credit foundations of the pastoral industry, one of the more important was the *Lien on Wool and Mortgage of Live Stock Act of 1843,* introduced by W. C. Wentworth. The pastoralists, who were hard pressed by the stoppage of credit, held their runs on lease or licence. They could not therefore further pledge or mortgage their holdings, nor until this Act could they mortgage their stock. Wentworth's bill legalised the mortgaging of wool and stock—a practice hitherto not acceptable in English law. Lord Stanley, Secretary of State, was opposed to Wentworth's bill and characterised it as "irreconcilably opposed to the principles of legislation immemorially recognized in England". Nevertheless the Act was approved by the Imperial authorities, and the principles originally introduced in Wentworth's Act have since remained an integral part of the pastoral credit structure in Australia.[3]

The period of recovery from the depression of the 1840's merges into the period of the gold rushes and then self-government, building up to create yet a new problem in the late 1850's—closer settlement.[4]

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[3] F. A. Bland, "Commerce and Industry in Australia", in *The Story of Australia Past and Present, ed.* James Colwell (Sydney, S. F. Clarke Publishing Company, 1925), Vol. IV, pp. 166-7.

[4] *cf.* C. J. King, "The First Fifty Years of Agriculture in New South Wales", this *Review,* Vol. 16, No. 8, Aug. 1948, to Vol. 17, No. 4, Dec., 1949.

THE FIRST GRANTS

1788-89.—Ninety per cent of the first convicts sent to Botany Bay were short-term prisoners, and to assist in their social regeneration and give them an interest in staying away from England at the expiration of their sentence, Phillip was instructed to make them grants of land. They were to receive 30 acres if single, 50 if married, and an additional 10 acres for every child living with them at the time the grant was made. The grants were free of any payments for the first ten years, but thereafter, in common with all other grants, were to be subject to a small quit rent.[4A]

[4A] *Quit Rents.*—When in 1788 Phillip took possession of all land in Eastern Australia on behalf of the Crown, he was also authorised to make grants. The grants were subject to certain conditions, on the observance of which the Crown agreed to quit its right to possession and allow the grantee to use the land as his own personal domain. These conditions in some instances required the performance of services such as maintaining a number of convicts, while all grants required the payment of an annual rent forever. In some cases the performance of services was commuted to an annual rent, which became known as "Quit Rents".

Until about 1840 the collection of quit rents was carelessly administered and arrears of rents had accumulated to a figure of about £12,000. In 1840 Gipps proceeded to make a concentrated effort to collect both arrears and annual rents and did average for a time about £10,000 per annum from both sources. In this he was the first, and in fact, the only Governor to make such an effort in what was a thankless and unpopular field.

On 9th October, 1846, regulations were promulgated by Fitzroy to the following effect:

"(1) All those who had paid Quit Rents for 20 years were discharged from further payments. Those who had paid rents for more than 20 years were to have the excess refunded to them.

(2) Those who had not paid 20 years' rent were to be free from further charges when they should have done so.

(3) Those who paid immediately could do so at 10 years' purchase."

In 1849 the offer for the redemption of unpaid Quit Rents was extended. Any grantee or subsequent holder who did not take advantage of these concessions was required to pay an aggregate of twenty years' Quit Rent to redeem the grant. Provision was also made for the payment of proportionate Quit Rent where part of the original area had been subdivided.

After the granting of Constitutional Government to New South Wales, Parliament in 1863 published a list of grants upon which Quit Rent had been redeemed. A further list was published setting out the amounts of Quit Rents outstanding. Based on this list the Colonial Treasurer then compiled a Register (1862) showing these amounts outstanding—totalling £45,826.

Coghlan recorded in 1897-98 (*The Wealth and Progress of New South Wales*) that "The system of granting land upon the payment of an annual Quit Rent was at all times subject to many difficulties and the collection of these dues appears to have been carried out in a very perfunctory manner: These difficulties led the Government in later years to offer special inducements for the redemption of Quit Rents".

In 1905 the Apportionment Act gave a discretionary power to release from further Quit Rent any area of a grant on which Quit Rent had been redeemed, although rent had not been paid on the whole area of the grant. This Act subsequently was incorporated in the Conveyancing Act, 1919.

In 1950 it was estimated that Quit Rents which had become due totalled £50,000, but of this, from 1863 to 1950, £43,000 had been paid, leaving an estimated sum of £7,000 still outstanding.

In the course of its history, the Quit Rents system has been a complicating feature of Crown lands administration and conveyancing practice, and proposals have been made that it should be now abolished.

(*Unpublished information by courtesy of Department of Lands and Mr. B. Harvey, Mitchell Library.*)

In a despatch of 9th July, 1788, Phillip reported to the Under Secretary for State that a county described as being bounded by Carmarthen and Lansdowne Hills (later known as the Blue Mountains) to the westward, by the northern parts of Broken Bay to the northward, and the southernmost part of Botany Bay to the southward, had been named "Cumberland". By later government order of 24th March, 1804, there is a mention of the "County of Northumberland". The limits of the county were not defined, and the only indication of its whereabouts was that the division between the Counties of Northumberland and Cumberland was to be parallel to 33° 30′ south latitude.

The infant settlement had a precarious existence and was in danger of obliteration by starvation till clearances beyond Parramatta and upon the Hawkesbury lands were effected. Hence arose the first land problem. The convicts proved incapable as farmers and Phillip, reiterating his demand for free settlers of experience, requested permission to provide for them. His additional instructions of 1789 recognising the force of this argument, authorised Phillip to grant land without payment to free settlers and such non-commissioned officers and marines who desired to remain in the Colony. The maximum was 130 acres to free settlers, and 80 acres to marines, with an additional 20 acres if married and 10 acres for each child. In return the new settlers were to maintain and provision a certain number of convicts, and to pay quit rents on the lands after five years' occupation.

Precautions were taken by the Governor against any monopolising of the best lands by fixing the frontages which might be granted along river banks. Crown reserves were retained between each grant, and other reserves set apart for the Established Church and for school purposes. (The reserves were soon replaced by commons, but many of the latter were not revoked for more than 100 years.)

The first emancipist settler, James Ruse, entered upon his grant in November, 1789.

Subsequently Phillip's instructions permitted the Governor to make grants to superior officers in the forces. Upon his successor, Lieutenant Grose, of the New South Wales Corps, developed their administration. Grose promptly made grants to his fellow officers, but ignored the condition that they were to be contingent upon settlement. By this intrusion of the military officers into land-owning was occasioned much of the later administrative troubles of the settlement, although otherwise having incalculable advantages through the sheep-breeding experiments of Macarthur. In three years Grose and his successor, Paterson, granted over 15,000 acres; yet the actual number of settlers had diminished. Bona-fide settlement was not the primary object of the officers, and the limitation upon areas was circumvented by buying from other grantees. In this way commenced the second major problem in Crown lands administration, namely, the building up of large estates surrounding townships, thus hindering intensive rural settlement on a systematic pattern.

1793.—The first five free settlers arrived in January, 1793. They were each guaranteed two years' provisions and had assigned to them

convict labour free of expense, with one year's clothing and two years' rations for each convict. The married men were granted 80 acres of land, and the single men 60 acres.

1804.—Already by 1804 many of those to whom grants had been made were feeling the need for larger areas of grazing land so as to provide for the wants of their increasing flocks and herds. This difficulty was overcome by Governor King proclaiming "commons". This was, in effect, no more than an extension of the principle of setting aside grazing lands for the community use of settlers in a particular area, the *Gazette* notice of the time stating that "these common lands . . . were to be held and used by the inhabitants of the respective districts, as common lands are held and used in that part of Great Britain called England".[5]

1806.—By 1806 the "settlement districts" had increased to twenty-two (22) in the County of Cumberland and were named Northern Boundaries, Liberty Plains, Banks Town, Parramatta, Petersham, Bulanaming, Sydney, Hunter's Hill, Eastern Farms, Field of Mars, Ponds, Toongabbe, Prospect, Richmond Hill, Green Hills, Philip, Nelson, Castle Hill, Nepean, Bringelly, Cabramatta and Castlereagh.

1806-1809.—By the beginning of the nineteenth century, the food supply position was assured, but the future of agriculture was continuously threatened by the absence of markets. Indeed it was this factor, allied to a shortage of suitable fertile and safe agricultural land, that changed the emphasis from the beginning from agriculture to wool growing. Exports were problematical other than for wool which benefited from the urgent demand for wool in England and a market assured by the Industrial Revolution which was then surging onwards.

The period of Bligh and of the military interregnum which preceded Macquarie's advent is important only because of the arrival of capitalist farmers like the Blaxlands who obtained grants of 8,000 acres contingent upon their spending £6,000, the return of John Macarthur (the wool pioneer) with Imperial approval to select 5,000 acres at Camden, and the short supremacy and final destruction of the military clique.[6]

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[5] W. Epps, *Land Systems of Australasia* (London, 1894), p. 10.

[6] John Macarthur was only 23 years of age on joining the settlement in June, 1790, as a member of the New South Wales Corps. Soon after arrival he was appointed Commandant at Parramatta, where he acquired a grant of 100 acres. A little later (April, 1794), Macarthur's grant was increased to 200 acres, the second 100 acres being a prize offered to the first man who should clear and cultivate 50 acres. Upon this grant was erected a "very excellent brick building" and the property was named "Elizabeth Farm", in honour of Mrs. Macarthur. Macarthur's next appointment was to the position of Superintendent of Public Works, but from 1794 onwards he was concentrating his efforts increasingly on farming, in which he had had brief previous experience on the borders of Devon and Cornwall. His first experiments in sheep-breeding were in crossing British rams and Indian sheep that had been imported in 1793. In 1796 when the ships "Supply" and "Reliance" were sent to the Cape for supplies, Captains Henry Waterhouse and John Kent were commissioned to buy any fine-wooled sheep obtainable. Twenty-six Spanish Merinos were purchased from the widow of Colonel Gordon at £4 4s. per head. Nearly all the thirteen taken by Kent died during the voyage and Waterhouse also lost some. When the ships arrived in Sydney in 1797, Macarthur offered £15 per head for the few remaining sheep. This offer was refused, but eventually Macarthur did obtain three rams and five ewes from Waterhouse, and these were mixed with his existing stock. Waterhouse himself kept his flock pure, and when he left for England in 1810 he sold

The transition to pastoral pursuits heralded a new problem, that of expansion beyond the narrow coastal strip.

MACQUARIE'S LAND POLICIES, 1809-1821

The most damaging accusation against Macquarie at the time of the Bigge commission was that he was a humanitarian. But this was no more than an excuse behind which to hide the real cause of the enmity which his land policies had provoked among the "aristocrats." "Macquarie," wrote Walter Davidson, one-time conjoint occupier of the Cowpastures with Macarthur, "is certainly humane, liberal, and of most courteous and gentlemanly manners, but (he) is not . . . . endowed with talents to govern this singularly constructed society."[7]

From the beginning Macquarie had seen that the land which had been alienated was already aggregating into big estates, with the owners clamouring for more. He had been supported by Bathurst in his opposition to a land monopoly in the hands of capitalist settlers preoccupied with their sheep and their cattle and incapable of thinking beyond their own interests.[8] The Governor had judged that it was better for the people to be settled on small farms of their own than to work for hire on large estates. It was his further fear that the lavish granting of large areas would hinder genuine settlers by compelling new men to go further out. Finally, Macquarie was a man of ideals and vision, and he had always before him the dream of a heritage which should be preserved for future generations and not be lightly given away.

For all these weighty reasons, which the Governor looked at pragmatically, as was his custom, and not from any sentimental preference to convicts or ex-convicts or hostility to free settlers, Macquarie decided upon a policy of closer setttlement.

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a further five ewes and one ram to Macarthur. By 1800 the improvement in Macarthur's sheep was so marked that Governor King wrote of a prosperous future being assured the woolgrowing industry.

From 1802-1804 Macarthur was on an enforced stay in England, but it was during these years that he was able to raise the interest of the English textile industry, although receiving little encouragement from Sir Joseph Banks. In 1804 he made an important purchase of seven rams and one ewe of the Negretti strain of Merino from the flocks of George III. It was as a reward for the work he had done, and to enable him to expand his efforts, that Macarthur was granted 5,000 acres of grazing land which he selected on his return to Sydney in 1805. In 1808 a bale of Macarthur's wool was sold in London, exciting a keen interest and demand from buyers, and from 1808 to the present day the market for Australian wool has kept pace with the rapidly increasing supply.

An instructive sidelight is the fact that the highest price ever paid for Australian wool until 1948-49 was 16s. 4d. per lb. in 1827, for a bale of Macarthur's wool. The highest figure so far obtained in Australia for Merino fleece wool stands at 475d. per lb., realised in January, 1957, while lamb's wool in the 1953-54 season sold at up to 570d. per lb.

(*cf.* M. H. Ellis, *John Macarthur*; also Goldsbrough Mort & Co., *Wool and the Nation*, 1955; M. H. Ellis, *Lachlan Macquarie* [Sydney, Angus & Robertson].)

[7] Macarthur papers, quoted Ellis, *Lachlan Macquarie*, op. cit. p. 452.

[8] *cf.* S. H. Roberts, *History of Australian Land Settlement (1788-1920)*, (Melbourne, Macmillan & Co. Ltd., 1924).

During the entire period of his governorship, he was never at any time wholly free from the fear of the public stores, from which practically the whole of the ragged little population needed to be fed, exhausting their supplies and the whole settlement starving. And when after 1816 and in the aftermath of the Napoleonic wars, ship followed ship laden with convicts, each year throwing a greater burden on the Colony's power to feed the rationed population, his preoccupation with the problem of food became more marked. Macquarie was irritated by the fact that for those of the convicts who were mechanics and artisans he was plagued with requests from importunate settlers, but for no other class of prisoner did any demand exist, and these remained the Governor's responsibility.

This explains, as no other reason explains, Macquarie's encouragement of small land settlement by ex-convict farmers who would grow food to supply the Colony's requirements. Thereby he hoped that they would achieve a sturdy independence and redemption from their "wickedness." However, this was the secondary consideration, for potatoes and wheat were the first.

If this was the first plank of his policy, the second principle was that like Washington he believed that in order to encourage "orderly" rural development, he should create townships which would form the bases for further colonisation and to which permanent settlement would attach itself. Roads and amenities should keep pace with the spread of occupation, and farmers would have buyers for their produce in the people gathered together in these townships. Such a township would provide a local market, a magistrate, a doctor, a church, and companionship in the outer wilds, and in general have a civilising influence. But in this also Macquarie encountered the opposition of the large landholders, who would have liked a rapid expansion of settlement, thus giving them further pastures for their flocks and herds.

It is to Macquarie's credit that by the time he left the colony he had entirely rebuilt Sydney's main buildings, all upon a somewhat grand scale, and the same thing at Parramatta. He had created the townships or stations of Windsor, Liverpool, Richmond, Pitt Town, Wilberforce, Penrith, Emu Plains, Springwood, Bathurst, Campbelltown, Newcastle and Port Macquarie—most of them out of the wilderness; he had formed group settlements in the newly opened districts around Bathurst and Goulburn and on the Hunter; he had also rebuilt Hobart and Launceston; he had put up about 200 major buildings, from cottages to a barracks which would hold 1,000 men, and left New South Wales with 300 miles of turnpike and carriage road, its first paved streets, a lighthouse, fountain, and obelisks, "But withal," states Ellis, "in a turmoil of protest, obstruction, dishonesty; hampered at every turn by the British Government, obsessed by the need of reducing the expenses of the Mother Country, and criticised by the exclusives for the extravagance involved in so much grandeur, especially the extravagance in cheap convict labour which would, they believed, have been better devoted to their own enrichment and the promotion of their own efforts. And of a different sort were the struggles of the Governor with the

fiery little Greenway, his architect, whose ambitions ranged to Doric collonades, a Gothic cathedral, castled palaces and towering ramparts."[9]

On Macquarie's first arrival in the colony he had welcomed the policy of free settlement and was prepared to foster all those whose industry he believed would turn them into a sturdy yeomanry. To the free settlers he gave considerable grants of land, in individual cases up to 3,000 acres, in order that they might have scope for their capital and enterprise, allowing them also convict servants, sometimes as many as a hundred instead of the one or two assigned to the small settlers. All in all, he had no rooted objections to settlers of any kind, capitalist, small or middling, rich or poor, free or ex-convict, so long as they were bona fides. But what above all else he did object to in the half-hearted, tentative, free emigration policy of the Home Government, was the granting of large areas of land to wasters and adventurers whose capital often proved to be fictitious, and who sometimes became a burden to the Government, and who made themselves a nuisance by their constant complaints.[10] Macquarie was not altogether opposed to the granting of larger estates, provided only that they would be developed. He regularly had made land grants to officers, according to established custom and Home Government policy, and many, including young William Charles Wentworth, were generously endowed. Certain types of "gentlemen settlers," he discovered, after securing all the favours and indulgences to which orders from home entitled them, often set up as merchants without cultivating a single acre of their lands, which they sold immediately in defiance of the condition of their grants.[11] His problems included the "grasping landlord" and this type of lazy and privileged free settler.

In an important statement, the Governor had at one time thus defined the two classes of settlers with which he was called upon to deal:

> "Gentlemen Settlers were Persons whose former Habits placed them either above or out of the line of Farming Concerns, and whose Pride or mistaken Ideas of the Colony led them to Imagine Themselves Intitled to Degrees of Indulgences beyond those Extended to the Ordinary Rank of persons getting farms for culture . . . such are the Persons designated Gentlemen Settlers, in Contradistinction to those of the Lower Class Whose early and laborious Habits render them useful to the Colony, and constitute them properly speaking, the Yeomanry of their Country, they being the real Improvers and Cultivators of the Soil."[12]

Repeatedly Macquarie refers to the latter as "a very great acquisition to the Colony". He believed that, "The encouragement of this description of persons called 'Gentlemen Settlers' by extraordinary concessions in their favour has not heretofore contributed to the advancement of Agriculture in this Colony." The favoured grantees had become "unreasonable and troublesome". At another time he complained, "It was now becoming almost a constant practice for persons who wished to get rid of some troublesome connections to obtain permission at the Secretary of State's Office for their being allowed to come out here." And by this means there had fallen upon the Colony "the weight of a most

[9] Ellis, *Lachlan Macquarie, op. cit.*, p. 418.
[10] H. R. A. I 7, p. 598, *Macquarie to Liverpool*, 17th November, 1812.
[11] *Macquarie to Liverpool*, 12th November, 1812.
[12] *Macquarie to Bathurst*, 7th October, 1814.

troublesome and useless sort of persons". This was in 1812. Just a few years later he had cause to complain of the new race of "poor settlers" that had come out as such—mostly "decayed tradesmen and merchants and idle profligate adventurers". The moment the colony ceased to feed them and provide them with indulgences, they managed "in some underhand way to sell their farms and take to lawless pursuits, keeping low public-houses or becoming itinerant merchants, hawkers and pedlars."

And so it was that by sheer necessity, added to by his temperament, Macquarie was forced to turn to the emancipated convict as being the most reliable description of settler, and upon whom indulgences given might be expected to have the best effect—ungrateful, useless and unreliable as the majority of them may have been. Otherwise, those with whom he had to deal were an arrogant set of exclusive officers, greedy and fraudulent Commissariat employees, whining remittance men, and a clergy whom he could not trust. He looked in vain for "respectable moneyed men, who would support themselves, set an example in industry, and take six to eight convicts off the shoulders of the Commissariat, whereby the expenses of the Colony would be greatly reduced".[13]

Inevitably such a position as taken by the Governor engendered the most bitter opposition of the gentry. These were the "aristocrats", to use Lang's phrase, or as they were at other times called, the "gentlemen", "pure Merinos", "upper class", "plutocracy". Governor Bourke called them "the emigrants", and W. C. Wentworth in his earlier days, "the fraction", or "the faction". On the small scale they were a replica of the ruling class in the England of the times, motivated by the same instincts of preservation against the herd, and by a common understanding, the convicts were looked upon as material resources to serve their own ends, supplying cheap unpaid labour, and as consumers of meat, providing a market for livestock if fed by the Government. Macquarie, on the contrary, looked upon these men as the unfortunate product of the social evils of the time, and hoped to make new men of them and turn them into useful citizens. But he had no preconceived ideas in their favour, no illusions. He found them troublesome and hard to manage—more often than not, ungrateful. It was in fact altogether a disagreeable, complex situation for the Governor, and in his day to day administration, wrote Wentworth, Macquarie "fought every species of calumny to which unbridled and vituperative ingenuity could give birth, and in the teeth of all discouragements and obloquy which the indefatigable rancorous malignity of his enemies continued to throw in his way, he had continued his course with the undeviating inflexibility of a man who knew that he was pursuing the path of honour and duty".[14]

The truth of the matter was of course the irreconcilable differences of outlook between the Governor and the malcontents and "exclusives" who resented the check on their monopolies and other forms of exploitation, and Macquarie's choice of emancipists to fill some of the higher civil offices. On the one hand, the Governor never fully grasped the importance of the pastoral industry in this its early stages, and because of this was opposed to rich settlers like the Blaxlands who turned "their

[13] *Macquarie to Liverpool*, 12th November, 1812.
[14] Dennis, *op. cit.*, p. 417.

whole attention to the lazy job of the rearing of cattle", and thus violated the implicit contract which they had formed with the Governor in taking grants. Gregory Blaxland, for example, had wanted to settle on commons and had offended the Governor by false estimates of property so that he could obtain additional lands.[15] But to Macarthur and men of his thinking, Macquarie's policies were unwise to the point of foolishness. In the early years no great objection had been taken to the policy which had given the emancipated convict 30 acres of land, a cow and some other help in starting life afresh. But when in the later years free convict labour was scarce and opportunities for pastoral development became further evident, the "exclusives" openly clashed with the Governor, and he with them. Disraeli once described the aristocracy of his day as an "organised hyprocrisy", and there were its imitators in plenty in the newly formed Colony of New South Wales.

In fairness to the Governor, no self-respecting man could possibly have agreed to all the demands made on him. There was, for example, the case of Ellis Bent, the Judge Advocate, who received large grants for himself and his two infant sons, and who illegally disposed of the land even before the grant was issued. (Macquarie to Bathurst, 24.2.1815.) Bent had importuned the Governor for an estate, and soon after arrival Macquarie had conferred on him "a very liberal and favourably circumstanced grant of land"—1,260 acres. The deed was issued on 1st January, 1811. The land was on the right bank of the Nepean River, the grant carrying reservations, inter alia, that the land should not be sold for five years. Ignoring the covenants, Bent did sell the land, and even went so far, Macquarie in due course discovered, "as to sell also the grant which I had made to him for the benefit of his two sons, although he had not even got the Deed of Grant from the Office".[16]

In some of Macquarie's early land grants are to be found the first "conditional" endorsements.[17] In order to keep a close control upon speculators and "poor settlers" (that is, those without sufficient capital or wherewithal), one of Macquarie's first actions was to insert a clause in each grant made, forbidding sale until five years had elapsed (1812). He had found as a very prevalent practice "the obtaining of grants for the sole purpose of selling them". At the same time, a cultivation clause—the first general proviso of its kind—was added, although there had been one isolated case before, when Paterson qualified a grant to J. Handle (1st November, 1809) by giving it only "on condition of cultivating the same immediately and not to be deposed of for five years." Quit rents had to be paid on lands which were granted, a disagreement arising in 1814 between Macquarie on the one hand, who thought that the rents had gone too high, and Lord Bathurst, on the other, the latter holding that where "Indifferent Forest and Brush Wood Lands" were worth from 3s. to 5s. an acre, and where "Rich Flooded Lands" brought up to £6, an insistence on the Crown's rights was necessary in the interests of the community. By 1817 the Macquarie land policy in general had developed into one based on no encouragements "beyond a grant of land and some assistance of convict labour".

[15] Ellis, *op. cit.* (Macquarie), p. 483, *et seq.*
[16] *Ibid.* (*cf.* various references to Ellis Bent.)
[17] H.R.A. Series I, Vol. II, pp. 626-7. *See also* Roberts, *op. cit.*; C. J. King, *op. cit.*

On the debit side, one of the more serious legacies of the Macquarie administration was in the looseness with which land matters were conducted. For over nine years Macquarie forwarded to England no returns of land grants (Under-Secretary Goulburn-Macquarie, 15th March, 1821)[18] To add to the confusion, a large number of *"permissive occupancies"* were given out, that is, persons were allowed to improve and sell lands, with the approval of the Governor, without any title. Even thirty years later, lands promised by Macquarie were still in dispute.

In 1820 Commissioner Bigge found that in the Colony 324,251 acres had been granted and, of this, convicts held more than a quarter (83,502 acres).[19] Thousands of blocks in the country and nearly four-fifths of the houses in Parramatta and Sydney were held without title. The settlers had preceded the surveyors, of whom there were too few but who were otherwise occupied with Admiralty and other work, so that they had had time to map very few farms. The surveyors were poorly paid and had no incentive to keep pace with the progress of occupation, since the profit did not work out at more than 2s. 6d. a farm. In any case there was inevitably a long delay in completing the deed, because the registration fee scarcely paid for the parchment. There was further neglect so that the restrictive clauses remained a dead letter, a test case (*Jones v. Knopwood*) deciding in 1821 that the Crown could do nothing until a Commission of Escheat was established. Finally, in regard to quit rents, no attempt had been made to collect them from 1809 onwards, even though a special officer appointed in 1814 had given no other reason than "want of time" for his failure to do so. Through lapse of control and sheer neglect, the survey and land branches of the Government had been allowed to run down into a state of chaos.

The recommendations of the Commissioner comprised the continuation of emancipist small farmer settlement only in special circumstances and favourable situations, and the revival of a system of public agriculture in new convict establishments to the north. Further grants, recommended the Commissioner, should be based upon the prospect of capitalist investment in the Colony. The emancipist class could not form the backbone of the Colonial population and the Colony should therefore be opened to and encouragement given free settlers, preferably those well enough equipped with resources of their own to undertake farming and pastoral enterprises with some hope of success.

Macquarie's importance, however, does not lie in his lands administration so much as in the vigour with which he pushed ahead with developmental works, especially roads, of which the pastoralists took full advantage. With Macquarie's encouragement of exploration, the Blue Mountains, which had formed a useful prison wall for the convicts, were

[18] Roberts, *op. cit.*, p. 23.

[19] J. T. Bigge, *Report on the State of Agriculture and Trade in the Colony of New South Wales* (1823). (Three reports are bound together dealing with the Colony, its Agriculture and Trade and Judicial Establishments. Sometimes these are referred to as Reports I, II and III.)

See also: J. T. Bigge, *Transcripts of Evidence.* These are handwritten copies of the original manuscript records of evidence. They are boxed at the Mitchell Library, Sydney, and suitably indexed.

penetrated west, south and north. The discovery of the vast Bathurst Plains opened up new land problems for the Governor, for hard upon the tracks of Blaxland, Lawson and Wentworth went the flocks to the west, others later following the further tracks of Hume to the south and Oxley to the north. This movement could not be withstood.

In February, 1818, the first free settlers (ten), half of them Australian born, were sent across the Blue Mountains to take up land at Bathurst. Their names were William Lee, George Cheshire, James and John Blackman, Richard Mills, John Abbott, John Navill, Thomas Thite, Thomas Swanbrooke and John Godden. They went each endowed with a grant of fifty acres of wheat land, two acres of township land, a cow, rations from the King's store and four bushels of seed wheat for sowing. The names of half of them were to later rank high in pastoral history, especially that of William Lee, whose red Shorthorns were in after years famous "on every stock-route in Australia."

CAPITALIST SETTLEMENT, 1821

In the two Bigge reports published in 1822-3, there is an unforgettable picture of New South Wales at the close of the Macquarie era.[20] In 1820 only 2,802 of the 23,927 inhabitants of New South Wales were free from convict taint, and the position of the emancipists posed difficulties. The problem of giving useful employment to the convicts, each costing £24 per annum to maintain, was more pressing. Agriculture was in a thoroughly depressed condition owing to marketing difficulties and production deficiencies, while the demand for cattle was purely local. The wool industry had been established on a firm basis, but the Government coal mine at Newcastle was being worked at a loss. What, then, was the best method of utilising the resources of the Colony? The distance of Bathurst and the Hunter rendered colonists disinclined to leave the vicinity of Sydney, for there lay their markets. Bigge recommended that material encouragements and incentives should be given to free settler immigrants of the better types. The plan was that men with a moderate amount of capital would be granted blocks of land which would be varied in size in proportion to the amount of money they could spend on development.

To the British Government a policy of Crown grants on this basis seemed at once the cheapest and most sensible stimulus that could be provided. There was an unlimited area of Crown land available and so there was no need for more than ordinary caution in the disposal of it.

Stimulated by the cessation of the war with Napoleon, by the publication of Bigge's reports and Wentworth's book, both of which painted a glowing picture of the new country, a quicker trickle of free settlers commenced from England.[21] The main stream, however, then flowed, as now, across the Atlantic to America. But a few capitalists saw opportunities for the lucrative employment of their money in the

[20] *Ibid.*

[21] Wentworth's book was published in 1820, i.e., *A Statistical, Historical and Political Description of the Colony of New South Wales* (London, 1820).

south, and, in the case of the middle and poorer classes, opportunities which were scanty in England. Out of this awakened interest grew the projects of the first Joint Stock Companies to exploit Australia—the Australian Agricultural Company and the Van Diemen's Land Company, the former numbering amongst its shareholders many of the most influential public men in England.

PROGRESS OF SETTLEMENT, 1826

By 1826, settlement was established in four areas outside the sandstone highlands encircling the Cumberland Plain: in the Hunter River Valley; on the western side of the Blue Mountains to the north and north-west of Bathurst; on the Southern Highlands; and on the Coastal plain of Illawarra-Shoalhaven.[22]

Beyond the sandstone highlands, to the north, there was the Hunter Valley containing extensive alluvial flats and undulating hill country extending towards the Liverpool, Mount Royal and Barrington Ranges. To the west of the Blue Mountains there were extensive areas of gently undulating plains separated by low hilly ridges. The plains were for the most part originally clear of timber, while the stonier ridges bore a light cover of eucalypt woodland. To the south-west of the Cumberland Plain, beyond the Cow Pastures, there was the broken, rugged, heavily timbered country of the Bargo Brush, then the Mittagong Range, and the grassy woodlands on either side of the Wingecarribee River which became known as Sutton Forest. Beyond this again lay the Wombat Brush, Eden Forest on the upper Wollondilly, and the extensive treeless plains of Goulburn and Bredalbane, with their rather tufty grasses and, in places, swampy soils. Further south were Lake George, the Molonglo and Limestone Plains (present site of Canberra) and the higher grasslands of Monaro while to the south-west were the Yass Plains. To the immediate south of Sydney, extended the narrow coastal plain of Illawarra, at its widest (only eight miles) at Lake Illawarra and narrowing again to the south.

With the departure of Macquarie and the arrival of Brisbane, the restrictions on the settlement of the country beyond the Blue Mountains were lifted, and to make the Hunter Valley available to settlers, the convicts at Newcastle were removed at the end of 1822 to Port Macquarie. Where before 1821 the actual amount of settlement had been very slight, the settlement spread rapidly over large areas between 1821 and 1826, but it was widely diffused in some districts.

In 1819 there were only seven or eight settlers at Bathurst, and though all those who applied for permission to graze livestock west of the mountains received it, there were only twenty-four flocks of sheep and about 1,400 head of cattle on the Bathurst plains. Ten of the flocks belonged to William Cox and the remainder to seven other individuals, while more than half the cattle belonged to the government and the greater part of the remainder to five persons. The owners of stock were given permission to graze their stock on this land, but had no other

[22] T. M. Perry, "The Spread of Rural Settlement in New South Wales, 1788-1826," *Historical Studies, Australia and New Zealand,* Vol. 6, No. 24 (May, 1955), pp. 376-395. See also C. J. King, *op. cit.*

title to it whatsoever. Later this permission became regularised in a *ticket-of-occupation,* which could be obtained upon payment of a small fee, and which gave the holder permission to graze flocks or herds anywhere within two miles of a named locality, subject to six months notice to quit, and allowing no more timber to be cut than was needed to build stockyards and huts for the stockmen or shepherds. By 1822 isolated runs had been established as far north of Bathurst as the Cudgegong River, and were spreading along the Macquarie to Wellington Valley. By 1826 the number of runs within this area had increased considerably, most under ticket-of-occupation permit, but a few by grant.[23]

Loading Wheat at Coolamon Railway Station, 1915.
(Photo: N.S.W. Government Printer.)

[23] Some of the more prominent of the colony's pastoralists and graziers who had thus sent their surplus stock across the mountains were William Cox, William Lawson, Rowland Hassall, John Wylde, G. T. Palmer and Samuel Marsden. Cox, former paymaster of the N.S.W. Corps, had a large property near Windsor, was principal magistrate for the Hawkesbury, and had supervised the making of the road across the mountains. Lawson became Commandant at Bathurst in 1819, but had for some years farmed a grant he had received for his part in the first crossing of the mountains. His stock, which were moved to Bathurst in July, 1815, were the first privately owned cattle to cross the mountains. Hassall was Superintendent of Government Stock, and also owned stock grazing at Bathurst. Wylde was judge-advocate, Palmer a son of the Commissary General and a free settler, and Marsden, Principal Chaplain, a magistrate, farmer and breeder of sheep. In 1821 the population stood at 287, excluding the military establishment, 210 of whom were convicts working on the government stock or agricultural establishment, or as assigned servants to the settlers. In 1822 the total population west of the mountains was 392; 708 in 1823 and 1,193 in 1825, including 84 at Wellington Valley.

In the Hunter Valley, as in the County of Cumberland, the areas of alluvial soil were the first important areas of settlement. The largest of the alluvial flats on the Hunter were at the junction of the Hunter and Paterson Rivers, an area which became known as Wallis' and Paterson's Plains, and in the middle Hunter, where they were known as Patrick's Plains. Grazing began on Patrick's Plains in 1820, when John Howe, their discoverer, obtained permission to take some of his cattle there, and in 1822 a number of families came overland from Windsor, soon establishing themselves. In 1822 the surveying of land grants on the Hunter was begun by Assistant Surveyor Henry Dangar who worked along the river, commencing at Newcastle.[24] By 1826 all the land with a river frontage as far up the Hunter as Pages River and the lower parts of the Williams and Paterson Rivers had been alienated or reserved for villages or church and school estates. The

[24] *Henry Dangar* (born 18th November, 1796 in Cornwall) was trained as a surveyor. Possibly due to the advice of ex-Governor Bligh, Dangar emigrated to New South Wales, where he arrived in 1821. His energy and activity impressed Surveyor-General Oxley, and Dangar was appointed an Assistant Surveyor as from 1st July, 1821, at a salary of 6s. per day. His first task (1821) was to survey the district of Bargo. Four years later Dangar was again in the southern districts, surveying in the County of Camden. Otherwise Dangar's work as Assistant Surveyor was centred in the Hunter River Valley. (It may be noted, however, that an area of 700 acres in the Cowpastures district was measured by Surveyor Harper in January, 1822, for a grant to Henry Dangar, the property to be known as Neotsfield.) The township of Newcastle was surveyed and laid out by Dangar in 1823. From Newcastle he checked and surveyed the boundaries of the grants of some of the pioneer settlers on the Hunter—George Mitchell, Patrick Riley, John Smith, W. Eckford, John Allen, Thomas Bradman and Pat Maloney. On Dangar's reports, the gradual settlement of the upper parts of the Hunter Valley became possible as the number of free settlers increased. In 1826, Dangar and Robert Dawson (the first agent for the Australian Agricultural Company) inspected the Port Stephens area as the site for the Company's grant and, surprisingly chose it without inspecting either of Oxley's two alternative sites, the Liverpool Plains or the Head of the Hastings. In 1827-28 an unfortunate dispute with Governor Darling led to Dangar's dismissal. Dangar visited England to appeal (unsuccessfully) against Darling's judgment, and while at sea compiled a book—"Index and Directory to the Hunter River and Emigrants' Guide". Whilst in England Dangar was commissioned as surveyor by Sir Edward Parry of the Australian Agricultural Company, and joined Parry's staff. On the Company's behalf, Dangar made a full survey of the Upper Hastings between the Coast and Dividing Range, as an alternative site for the Company's activities, and in 1831 commenced the survey of the Liverpool Plains, substantial areas of which were afterwards granted to the Company (1833) in substitution for its surrendered grant at Port Stephens (Warrah 240,000 acres; Goonoo Goonoo 360,000 acres).

After three years with the A.A. Company, Dangar became a grazier and squatter, taking up residence on his property, Neotsfield, near Singleton. His explorations and squatting activities were extensive, notwithstanding serious financial difficulties in the economic depression years of the late thirties and early forties. When the new squatting regulations of 1849 were gazetted, Henry Dangar applied for licences for a number of runs and a total of just over 300,000 acres was registered in his name in the New England. These were Gostwyck, 48,000 acres; Paradise Creek, 32,000 acres; Bald Hills, 19,200 acres; Moonbi, 25,000 acres; Bulleroi, 64,000 acres; Karee, 64,000 acres; and Myall Creek, 48,000 acres. In 1859 he acquired, also, the Yallaroi run from J. B. Rundle.

Amongst his other activities, Dangar embarked upon the establishment in 1848 of a meat-preserving works at Newcastle, of which Charles Gedye was the manager. Dangar secured an agreement by which practically the whole output was consigned to London to the contractor for the Royal Navy. He also experimented at this time with the tinning of meat, but the lack of demand caused

Hunter River was the most closely settled and intensely utilised area outside the County of Cumberland in 1826, notwithstanding that the deeds for many of the grants had not been issued and many of the properties had not been occupied.[25]

The third direction in which settlement moved was to the south-west beyond the Cow Pastures—the northern part of the Southern Highlands, known for a time as "The New Country," and later as Argyleshire, eventually becoming the County of Argyle.

The first to move into the country beyond the Cow Pastures were John Oxley and a Mr. Moore who already had cattle on the northern side of the Bargo Brush in 1815. Charles Throsby was located on a grant at Bong Bong on the Wingecarribee in late 1819, which Macquarie had given him in recognition of his considerable explorations. During 1819 Hannibal Macarthur and several others obtained promises of grants in the newly discovered areas which were executed in the succeeding years. One great advantage of the "New Country" was that it was closer to the settled area of Cumberland than Bathurst, the journey from Liverpool to Wingecarribee taking four or five full days for loaded carts in good weather, compared to as much as eighteen days over the mountains to Bathurst. However, the amount of good land was small and thus the distance and the diversity of the country continued to retard the settlement of the south-western districts. By 1821, wheatgrowing on small farms without a nearby market had proved a failure. At Bong Bong, Throsby had a herd of some 800 cattle in the charge of an overseer, and to the south-west, cattle and sheep

this venture to be abandoned. Apart from his interest in pastoral activities, Dangar was at one stage also a hotel proprietor, owning inns at Pages River and St. Aubins and erecting a hotel at Murrurundi. He set up his younger brother Richard Cary (arrived in Sydney 1836) as a storekeeper at Muswellbrook (from this beginning has sprung the firm of Dangar, Gedye and Malloch), thus adding to his already wide commercial interests. In 1845 Dangar was elected to the Legislative Council for the Northumberland County seat, remaining a member until the dissolution of the Council in 1851. He died in Sydney on 2nd March, 1861, aged 64 years, after an extremely eventful and versatile career.

(*cf.* Miscellaneous References to Henry Dangar [Mitchell Library], also E. C. Rowlands, "The Life and Times of Henry Dangar," *Journ. and Proc., R.A.H.S.*, Vol. XXXIX, Parts I and II, June-July, 1953.)

[25] In 1825 the population totalled 1,673, which though only 4½ per cent of the colony's total population, was greater than that of any district settled at that time except the County of Cumberland. The Valley also contained more cultivated land than any other outlying district, having 2,552 cultivated acres, of which 1,558 were under wheat. The number of sheep rose from 376 in 1821 to 8,919 in 1826, cattle from 236 to 4,449 head. Between March, 1822 and November, 1826, 372,141 acres of land in the Hunter Valley were appropriated to settlers.

The holdings comprised the 40 to 100 acre crop farms of the small settlers, who were almost all ex-convicts situated on Wallis', Paterson's and the western end of Patrick's Plains. Second, and most numerous, were the farms of the "gentlemen settlers", measured in thousands of acres, and which were mostly stock-and-crop farms—"Some of the more notable of these properties were Lieutenant E. C. Close's 'Morpeth' estate, the notorious James Mudie's 'Castle Forbes,' and the farms of George Brown and George Forbes, the Chief Justice's brother." The third group was made up of grazing and pastoral runs used by absentee proprietors, who were among the colony's greatest stockowners. These were more often purchased than granted, and most of them were situated in the middle Hunter, back from the river or on the upper Hunter. The settlers in the Hunter Valley had a great trading advantage in that they were able to transport their produce to Newcastle by river and thence to Sydney by sea, thus avoiding expensive land carriage.

were being grazed at isolated places between Wingecarribee and Lake George. A few miles west of Bong Bong was "Oldbury," owned by James Atkinson, formerly chief clerk in the Colonial Secretary's Office, and afterwards a noteworthy historian.

In the five years to 1826, runs were established on the Limestone, Bredalbane and Yass plains. The cattle and sheep were generally driven slowly to farms near Sydney where they were fattened and held till the market was favourable. In 1825, only about 400 acres of wheat were grown in the whole of Argyle, and little more than 100 acres of other crops. The population of the whole suoth-western country in 1825 was only 601, most of whom were the overseers and stockmen in charge of flocks belonging to County of Cumberland settlers, or the assigned servants of the few resident settlers.[28]

In the Illawarra-Shoalhaven, Charles Throsby, John Oxley and Samuel Terry owned the greater part of the cattle in the district during the first years of its settlement. In 1817, Macquarie made the first grants of land to "a few settlers possessing numerous flocks and herds." In 1819 cedar cutting began in the district, whilst in 1822 Alexander Berry and his partner, Edward Wollstonecroft, who had arrived in 1819 and had established a business in Sydney, had occupied some 14,000 acres on either side of the mouth of the Shoalhaven and were engaged in agriculture and grazing on an extensive scale.

Overall, the settled district in 1826 extended about 250 miles from the upper Hunter Valley in the north to the Limestone Plains in the south, and east and west slightly more than 150 miles at its widest point from Newcastle to Wellington Valley—"At the centre of this area, the Cumberland Plain, which measured about twenty miles east to west (Parramatta to the Nepean) and scarcely forty miles from north to south (Windsor to Appin) and the town of Sydney on its

[28] A description of the road opening up this route to Goulburn in the south as it was a few years later is of interest:

> ". . . . . the ancient tracks and camps are still as near to my memory as when I first began the strenuous work of carrying to Sydney (from Goulburn). The old Southern road of the early thirties, which ran through Lockyersleigh, Paddy's River, and Wombat Bush, had no acquaintance with metalling in any shape or form till we reached Lansdowne's bridge, over Orphan School Creek, three miles on the Sydney side of Liverpool; and the only piece of macadamising there, was over what might be called the approaches to the bridge. There was a toll-bar at the bridge, where we paid 2d. per head as road dues for the bullocks, and 4d. for the dray. A man named Bob Bridle kept this toll-bar, and it was about as easy to drive a camel through the eye of a needle as to try to dodge Mr. Bridle's dues at the toll-bar. This impossibility was never tried that I know of. In bad weather there were some real 'solid' quagmires on this old line of road, and in some stretches, as for instance, from Liverpool to the foot of Razorback, we often thought we did well to make two miles a day. But the track through Bargo Brush in bad weather was a terror to saints and angels and evildoers alike . . . How the Old Camps come back to one! Lockyersleigh; Paddy's River; Black Bob's Creek; the head of Mittagong Range; Chalker's Flat; the Bargo Hotel . . .; the foot of Razorback; then on to the Cowpasture bridge (outside Oxley's fence at Kirkham) . . . . Our ninth night's camp would often be at the Crossroads—some four miles from Liverpool . . . .".
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> Chas. MacAlister, *Old Pioneering Days in the Sunny South* (Goulburn, 1907), pp. 33-34.

eastern edge, contained 71 per cent of the population, while the remainder of the area supported less than 10 per cent. The penal settlements and the 'unaccounted for' section of the population (the majority of whom would have been in the Sydney-Cumberland area) constituted the other 19 per cent."

FIRST FREEHOLD SALES, 1824

Notwithstanding that generous grants were available to settlers with capital from the time of Macquarie's departure, the quit rent system was a continuous source of annoyance to landholders. Quit rents were attached to all grants but they were varied, and because there was no real valuation of the land, no owner could know precisely what his obligations to the Government really were. Prior to 1824 the quit rents were raised to 3s. for every 20 acres, and then fixed at 5 per cent. upon the supposed valuation of the land. No attempt, as previously noted, had been made by Macquarie from 1809 to 1821 to collect these rents. But in addition to a quit rent the new system from 1822 required also that each grantee was obliged to keep and clothe a prisoner-servant for every 100 acres. This was intended to relieve the Treasury of a considerable part of its expenses and the order was not cancelled until 15th March, 1826. Worst of all, the order of 24th December, 1824, required the holder of 100 acres to maintain five convicts, and he who held a grant for 2,000 acres, even though it was natural pasture land, had to keep thirty convicts and cultivate 120 acres. Moreover, the grass lease attached to a grant holding was only secure for six months, and the run was limited to two miles in any direction from the owner's stockyard. The grants were thus by no means as generous as they at first appeared.[27]

The demand for both labour and land was incessant. Pastoral pursuits required abundant labour, for the flocks had to be protected from the ravages of wild dogs and natives, and the absence of fences made it easy for stock to stray. The labour problem was perennial but the more immediate difficulty was to satisfy the land hunger. The maximum area principles previously applied were tried and abandoned, since several thousand acres were needed for one thousand sheep.

Macquarie had adopted the experiment on the coastal strip of a system of licences to graze, but grazing land on the plains was so plentiful that flocks merely followed the pasturage, and all the forces of authority could not confine the stockmen to a particular spot. Finally the system of land grants was itself beginning to be questioned as unsuitable for an era of free settlers and pastoral pursuits. Upon what principle was the new land to be disposed of? By the favour of the Crown, by personal merit, possession of capital, the number of convicts taken off the hands of the State? All had their influence but none made for certainty. Grants proportionate to the number of convicts taken were becoming entirely anomalous when the supply of labour fell short of the demand. Hence emerged the idea of land sales (1823-5)

[27] Bonwick, *Romance of the Wool Trade* (Sydney, 1887), p. 106.
Epps, *op. cit.*, p. 11.
Roberts, *op. cit.*, pp. 33-109.

as the only remedy for the fortuitous character of the grant system. But sales to be effective depended upon two preliminary factors—a detailed survey, and a systematic classification and valuation of land.

In 1824 Governor Brisbane agreed to sell land at 5s. per acre; but in order to retain some hold by the State he still subjected the purchasers to the payment of a quit rent of 2s. per annum per 100 acres. Nevertheless, the demand for land on these terms was so great that the Government felt compelled to withdraw the concessions after six months of trial.

AUSTRALIAN AGRICULTURAL COMPANY, 1824

In April, 1824, in London, at the instigation of Mr. John Macarthur, son of Captain John Macarthur of New South Wales, a meeting of interested principals, comprising Mr. Macarthur; Sir Robert Farquhar, Bart.; James Brogden, M.P.; Stewart Majoribanks, M.P.; William Ward; Richard Mee Parkes; J. H. Palmer; G. G. de Hochpied Larpent; Thomas Tooke; George Brown and Donald Maclean, "frankly concerned for their own welfare, decided to form a company".[28] It was decided to submit the following proposals to the Government:

"(1) The capital was to be £1,000,000 with 100 shares.

(2) The establishment of the company would prove beneficial in the following ways:

- (*a*) it would foster products now foreign in origin;
- (*b*) it would employ many convicts and save the cost to the government;
- (*c*) it would probably improve the morals of convicts because of the improved conditions;
- (*d*) it would assist the immigration of German, Swiss and French experts to tend the flocks, vines and olives;
- (*e*) Quakers, Moravians and females would be assisted.

(3) A grant of a million acres was asked.

(4) The company should be incorporated by letters patent or Act of Parliament.

(5) To solicit that no rival company should be permitted for 20 years ('although exclusive privileges are not to be expected.')"

The negotiations were conducted with Lord Bathurst, who described the formation of the company as "the happiest event that could have befallen the colony"—sentiments, however, which were not shared by the colonists themselves.

On 21st June, 1824, was passed an Imperial Act (Act 5 Geo. IV cap. LXXXVI):

> "for granting certain powers and authorities to the company to be incorporated by charter and to be called the Australian Agricultural Company for the cultivation and improvement of waste lands in the Colony of New South Wales and for other purposes relating thereto."

[28] The shareholders included Brougham, Wilberforce, Chief Justice Forbes, Macqueen, Bigge, Oxley, and eight of the Macarthur family, and no less than twenty-seven Members of Parliament. From the first suggestion to the passage of the enabling Act and grant of the charter was only a matter of five months, which indicates the influence which the company was able to exercise. (*cf.* Roberts, *op. cit.*, p. 52; J. F. Campbell, *Journ. R.A.H.S.*, Vol. 9, 1923, p. 118.)

By Section VI of the Act, the Company was not to exercise any of its powers until three-quarters of the capital had been subscribed for (i.e., applied for, not necessarily paid up). To control speculation, it was further laid down that the directors were to continue in office for five years and no shares were to be transferred before that time; none of the 500,000 acres in fee simple (the rest was held *in mortmain*) was to be alienated until £10,000 had been spent on improvements, when the company would be eligible to dispose of 50,000 acres.[29]

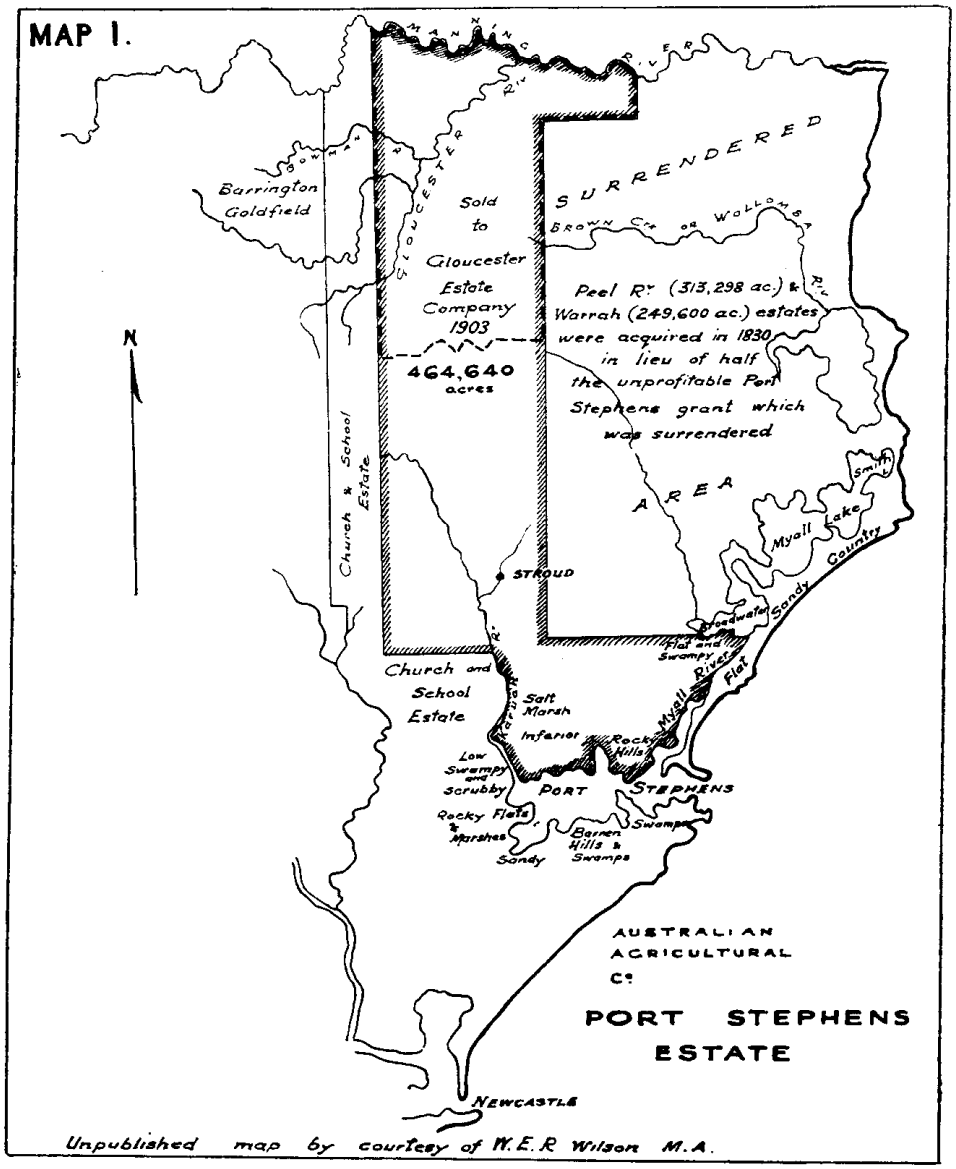

Fig. 1.—Map showing the Australian Agricultural Company's Port Stephens Estate.

[29] *Mortmain in New South Wales.*—Under the English Feudal System, the King, as Lord Paramount, was the technical owner of all land in the Realm. His subjects were let into possession of land only on terms of rendering some service for it. A direct tenant of the King (known as a tenant in capite) could in turn

The land was to be valued at 1s. 6d. per acre paying a quit rent of 30s. per £100. No quit rent was to be charged for the first five years, and the whole of it was to be redeemable at twenty years' purchase. If £100,000 was saved to the government for the maintenance of convicts, in twenty years all quit rent payments were to cease.

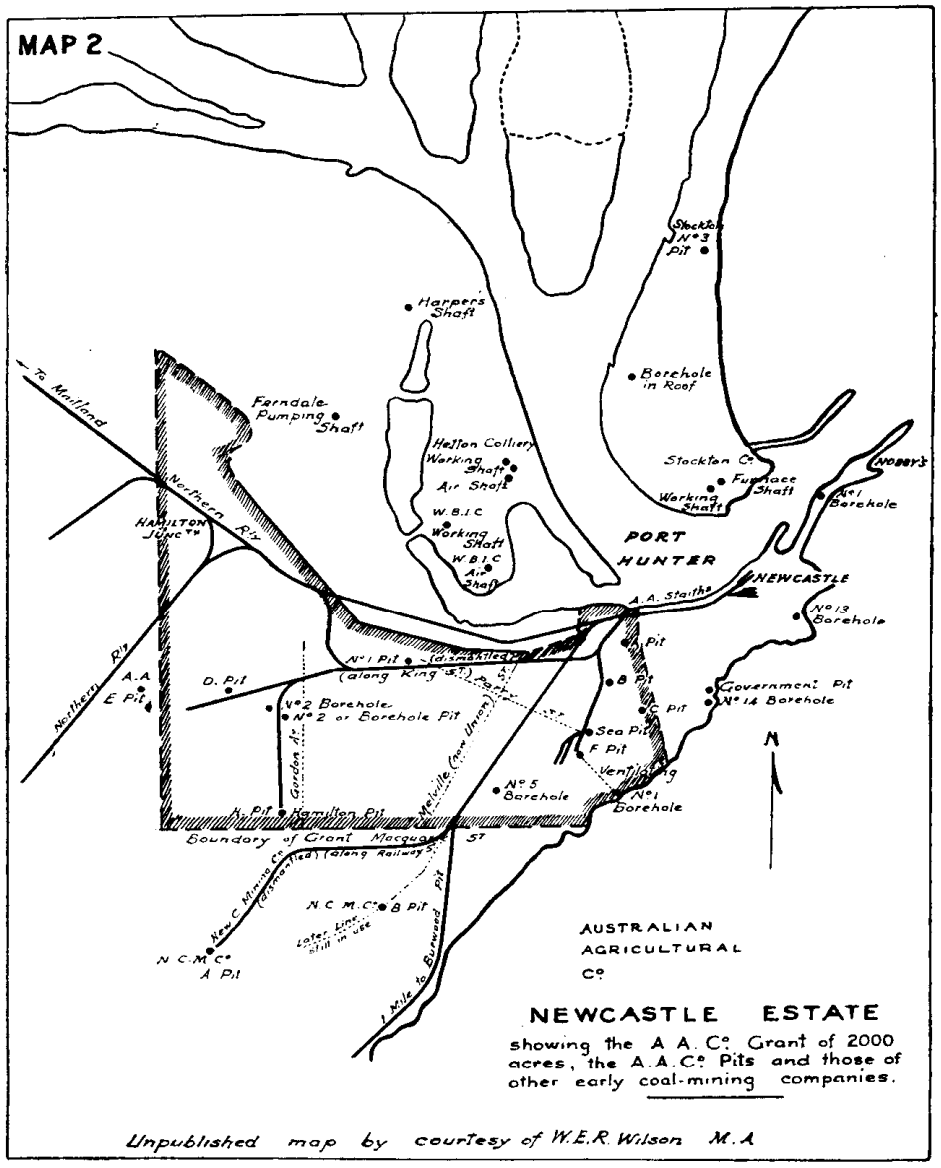

Fig. 2.—Map showing the Australian Agricultural Company's Newcastle Estate.

create sub-tenancies, and the sub-tenants would then hold, in terms of rendering service to their immediate lord, the tenant in capite. This sub-letting (or sub-infeudation as it was known) could descend indefinitely, each tenant in turn becoming liable for services to his immediate overlord, and thus ultimately to the King.

The services to be rendered were usually of some military value to the King, or of some monetary value to the immediate lord. The most common form of

The local directors of the company, after rejecting alternative sites for a grant on the Liverpool Plains, Hastings River and Bathurst, because of inaccessibility or inconvenience, finally fell back on Surveyor-General John Oxley's remaining alternative, Port Stephens. The actual selection of the site was done hurriedly by Robert Dawson, the company's first manager, between 1st January, 1826, when the inspection party left Sydney, and 23rd February, when approval was registered. Before the end of the year, the whole of the establishment of the "Million Acre" Company had been moved to Port Stephens (Fig. 1). In 1826, also, the Home Government offered to the Company the Newcastle Colliery, then being run at a loss by the Colonial government (Fig. 2). After various hitches, the company eventually accepted

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service was that known as Knight's Service, which bound the tenant to perform military duties for a given number of days in each years, with, sometimes, an obligation to provide and equip a given number of men-at-arms. There was also a service known as Frankalmoign (free alms) which was peculiar to religious bodies, and which involved only spiritual and charitable duties such as the saying of masses and the giving of alms to the poor.

Attached to each of the non-spiritual tenures there were various profitable perquisites apart from the direct rendering of service. For example, on the death of a tenant in fee, the heir who succeeded to the ownership of his ancestors' land was required to pay a fine to the lord. If a tenant died without leaving an heir, all of his land reverted to the lord by way of escheat. If the heir was an infant, the lord became guardian both of his person and his lands. He enjoyed the rents and profits of the lands until the ward attained the age of 21, in addition to charging a fine of a half-year's profit before letting him into possession. The lord could sell his ward in marriage.

From the point of view of the King and of any of his mesne lords, a tenure in Frankalmoign, which carried none of the above perquisites, was completely unprofitable. Moreover, most religious bodies were corporations, such as the "Abbot and Convent of Ely"; the "Dean and Chapter of Lincoln"; the "Bishop of Winchester". So that every acre of land which passed from a lay tenant to one of these corporations meant a loss of profit to some lord, as a corporation having perpetual succession cannot die without heirs; nor can it be an infant; nor is it capable of being sold in marriage.

To the natural flow of land from charitably disposed laymen who wished to endow some religious or eleemosynary corporation, there was added an unnatural flow which would to-day be described as a "racket". By a collusive arrangement between a landholder and some religious order—the Templars and Hospitallers figure prominently in this business—land would be conveyed back to the owner, but freed from the services due to his erstwhile lord, and from all the irksome incidents of tenure.

The barons became alarmed at this loss of revenue, and from the time of Magna Carta onwards there was a stream of legislation aimed at preventing land from falling into the "dead hands" of corporations. The legislation became known in each case as a "Statute of Mortmain". The Church was its principal victim, not so much because the legislation was inspired by anti-clerical motives, but because there were practically no mediaeval property-owning corporations outside the religious houses. The trading corporations of Elizabethan and Stuart times were still centuries away.

In the reign of Charles II practically all of the feudal services attached to land were abolished, and the statutes of mortmain thereby lost the principal ground for their existence; but the statutes were not repealed. The reason for their continuance is, at this distance of time, obscure.

(*Definition by courtesy of Mr. John Baalman, Senior Examiner of Titles, Department of the Registrar-General, N.S.W.*)

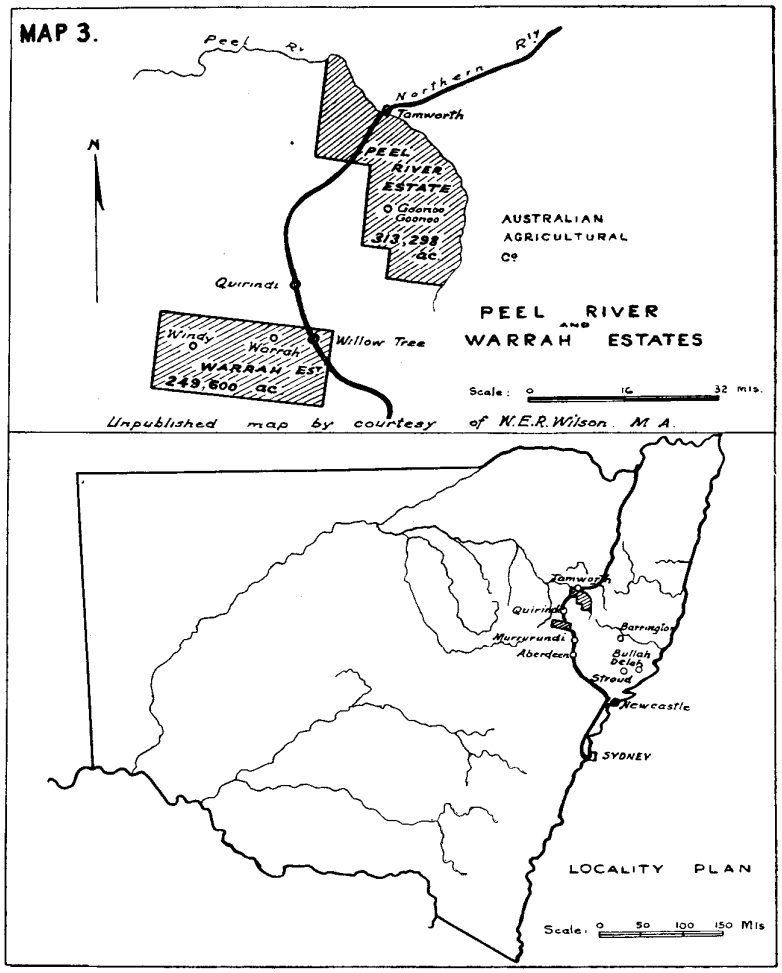

Fig. 3.—Map showing the Australian Agricultural Company's Peel River and Warrah Estates and Locality Plan.

the colliery and what was to be an extremely valuable further grant of 2,000 acres in the heart of Newcastle, providing the company with a virtual monopoly of the coal trade for many years.[30]

[30] *Australian Agricultural Company.*—Further landmarks in the Company's history may be here briefly noted. Four years after the establishment at Port Stephens (1830), the directors of the Company were forced to seek approval to relinquish half their unprofitable Port Stephens grant and to select an equivalent area elsewhere. Sir Edward Parry, the Arctic explorer, on behalf of the Company, with Henry Dangar as his surveyor, after a search which took two years to complete, finally selected the Warrah and Goonoo Goonoo estates at Tamworth. The application to take up these estates was strongly opposed by Governor Bourke, Surveyor-General Sir Thomas Mitchell and Assistant Surveyor-General Perry, but was finally approved by the Imperial authorities who overrode the colonial objections. When first occupied, the head station of the Warrah

holding was situated in a position which later became Tamworth, but in 1841 it was moved some 15 miles to Goonoo Goonoo. In 1846 the whole of the Company's grants were freed from restrictions and became its absolute property. These then comprised three principal land grants—464,000 acres of its original holding from the Manning to Port Stephens (the Gloucester Estate); 249,000 acres at Warrah; and 313,298 acres on the left bank of the Peel so chosen as to give the company control of the rugged lands stretching back to the New England highlands. In effect, this meant agricultural control of all the land of the Liverpool Plains. (Fig. 3.)

In the early gold rush period, 1850-51, the Peel River Estate was conceived to be a likely rich field, but it was decided by the company that rather than sell it or enter into the expense and trouble of working a doubtful investment, it should be handed over to a new company to be formed of the same shareholders. Accordingly in 1852 the Peel River Land and Mineral Company was registered and took over some 300,000 acres of the Goonoo Goonoo estate, leaving the parent company with the remaining 700,000 acres. In 1853 the capital of the A.A. Company was correspondingly reduced to £500,000 by Act of Parliament. In the formation of the Peel River Company the capital was fixed at £600,000 in £5 shares. Of this capital £500,000 was to be paid to the A.A. Company for the estate and the remainder was to constitute the working capital. A total of 100,000 shares was offered to the shareholders of the A.A. Company on the basis of ten £5 shares for every £100 share held in the older company. The parent company had at this time a paid up capital of £350,000.

In March, 1859, following an extraordinary meeting of dissatisfied shareholders, a special committee of enquiry reported that the A.A. Company then had 600,702 acres (private selling of company lands had been proceeding since 1846), yet far from any profit having been made, "the loss was equivalent to several thousand pounds".

In the 1860's, under Superintendent Merewether, it was at last decided to develop Warrah as a sheep station and to concentrate company efforts on this development. A few years previously (1857) all the remaining sheep at Port Stephens were sold and the stores and manufacturing branch closed. The sum of £30,000 was allotted to the immediate development of Warrah and this was provided by a call of 30s. per share. However, owing to drought and disease (scab) it was 1864 before a start could be made. At the end of that year, 13,799 sheep averaged $2\frac{3}{4}$ lb. of washed wool. This result surpassed expectations, and Warrah was henceforth used as a breeding and fattening station, the building of the northern line to Tamworth and through the property in 1875 adding greatly to the value of the holding, since it greatly simplified the disposal of stock.

In 1900 the company was running 177,088 sheep and 17,290 cattle at Warrah and Gloucester—incidentally also mining 436,621 tons of coal from its pits.

In 1901 because of the failure of its No. 2 pit at Hamilton, the Company decided to purchase the "Hebburn" estate, a new mine. In 1903, in order to provide the necessary capital, the Gloucester holding of about 200,000 acres was sold to a syndicate, the Gloucester Estate Company, which cut up and readily sold the subdivision in small blocks at a substantial profit to itself. In 1889 the Company had offered its Port Stephens estate to the Government at 10s. an acre, an offer which was renewed in 1902. When it was refused much of Port Stephens was sold (1902) as a refuge for starving stock because of the continuance of the severe drought in the inland—111,843 acres at less than 9s. per acre, and the Gloucester Estate (1903) disposed of at 12s. 6d. per acre. (By 1931, almost the whole of the original (1846) Port Stephens grant had been sold—a total of 493,086 acres.)

In 1900 this new policy of selling the Company lands had been initiated when almost 8,000 acres of Warrah were sold. It was intended to sell another 45,000 acres, but this was prevented by a proclamation under the Closer Settlement Act, a similar proclamation holding up the subdivision of West Warrah. Nevertheless, the sale of the East Warrah Subdivision in 1914 lessened the estate by 40,000 acres and by then 131,022 acres all told had been sold. The Company having divested itself of most of its land holdings in New South Wales, it then purchased four less developed properties in Queensland—Corona in 1911, Bladensburg and Highfields in 1915, and Headingley in 1916.

THE CONCEPT OF THE "LIMITS OF LOCATION"—THE NINETEEN COUNTIES, 1829

In Governor Darling's order of 5th September, 1826, and with the object of keeping some check on the selection of land, an area known as the "Limits of Location" was established.[31] Only within the old

The name of the Company has throughout been rather a misnomer, since its interests have not been "agricultural", but almost wholly pastoral—a field which supplied fertile ground for ingenious critics of the Company from 1826 until the turn of the century.

(The chief reference for these notes is a hitherto unpublished study of the Company by Mr. W. E. R. Wilson, M.A. [1932]. *See also*: K. Dawson, *Statement of Services as Chief Agent of the Australian Agricultural Company* [1829]; V. Gregson, *Australian Agricultural Company*, 1824-1874.)

[31] Up to Brisbane's time (1822) there had been no regular survey, but on 18th May, 1825, instructions were received from the Secretary of State that the Colony was to be divided into counties, hundreds and parishes. On 10th January, 1826, three Land Commissioners were appointed to give effect to these instructions. The division of the central coastal area into nineteen (19) counties was completed by 6th May, 1830. Descriptions of the boundaries of the following seventeen (17) of these counties were published in *Government Gazette*, 28th November, 1835, viz., Counties of Argyle, Hunter, King, Murray, Northumberland, Phillip, Roxburgh, St. Vincent, Wellington and Westmoreland. The County of Cumberland was gazetted on 27th May, 1835, but the County of Gloucester was not gazetted till 1843, and then for electoral purposes only. Another batch of counties was published in 1843, and a further number in 1848, which completed the undertaking. In all, the Colony was subdivided into one hundred and forty-one (141) counties which exist to-day.

The English concept of "Hundreds" as a subdivision of county or shire was never adopted in New South Wales and notification of the hundreds was revoked in *Government Gazette* of 21st January, 1888.

By 1831 Mitchell, then Surveyor-General, had prepared the first map of the Colony made from a trigonometrical survey and had apportioned the whole Colony into counties and parishes. Oxley commenced and Mitchell finished this monumental task of systematic survey and subdivision from which was developed the famous "Nineteen Counties", the official limit of settlement.

The *Parish Map* records particulars of all surveys made under the provisions of the various Acts administered by the Department of Lands—all titles and tenures created by such Acts, and details of population, area, reserves, dedications, special and classified areas and other notifications made. It also shows particulars of reserves, gold and other mining fields, and other areas notified under the Mining Acts, National and State forests and reserves proclaimed or notified under the Forestry Act. A Parish Map may be superseded by a later edition of the map, but the old map is not destroyed, being always retained for reference purposes. On the Parish Map is shown also the name of the Parish, County, Land District, Division, Shire or Municipal Council and Pastures Protection District. A symbol indicates the direction of the north magnetic point. The number of the edition of the map is shown and the scale. No map or diagram is complete unless the direction of the north point and scale are shown. The fee simple of public roads is vested in local councils and is also shown on Parish Maps.

For land administration purposes, New South Wales is divided into three divisions—the Coastal Division, the Central Division and the Western Division. The Coastal and Central Divisions have been brought under local government. In the Western Division local government bodies have been established only in the case of a few towns, the city of Broken Hill and the Shires of Darling and Brewarrina. Local affairs in the Western Division (except in the incorporated towns) are still administered by the central government.

In New South Wales, local government expresses itself through city, municipal, shire and county councils. There are 17 cities, 80 municipalities, 133 shires and 49 county districts.

Since 1st January, 1907, under the provisions of the "Local Government Act, 1906", the whole of the Eastern and Central Divisions of the State have been covered either by municipalities or shires.

settled districts circumscribed by the "Limits of Location" would settlers be permitted to take up land, since official opinion held that the area so defined provided amply for all reasonable requirements of settlement. Beyond the boundaries of the "Limits" land was to be "neither sold nor let". This area, situated in the Central Coastal region of the Colony, from the Manning River in the north, to the Moruya River in the south, and extending inland to embrace the tablelands, was defined by description in the order.

By further Government order of 14th October, 1829, the boundaries adopted in 1826 were varied and there were described and defined *Nineteen Counties* as comprising the limits of approved settlement, comprising an area of 34,505 square miles, the County of Macquarie also being added in the following year (1830). (See figures 4 and 5.)

In the order of 1829, Governor Darling divided eastern Australia into two regions, the settled and the unsettled, and gave legal sanction to a meaningless line that was to affect the entire course of settlement for decades. The imaginary line of 1829 divided two different worlds. Within, land could be alienated, settlement was officially encouraged, police protection was provided, roads were made and provision existed for local justice and the like; but, without, no land could be granted or sold, occupation was positively prohibited, and any man who dared to trespass had to rely entirely on himself. The Government not only refused to aid such transgression—they severely punished it, and the squatter who went beyond had to view any official as an enemy. The theory was that settlement was to take place only in the Nineteen Counties, but already by then there were stockowners on the Liverpool Ranges to the north, and on the Murrumbidgee past Jugiong to the south, and the continuing emphasis was wholly on expansion and not the already outmoded *"concentration of settlement"*. The economy was essentially pastoral and not agricultural, obviously destined to continue to be based on extensive grazing and not intensive cultivation.

The problem of "squatting" as it arose in the next fifteen years chiefly concerned the final disposition of lands which were "illegally" occupied outside the permitted "Limits of Location". For some years this famous order of 1829 and the Nineteen Counties concept was of a paramount significance in successive official attempts to control the spread of settlement.

IMPERIAL LAND ACT, 1831

In August, 1831, the first Land Act (Act of 1831, 2 Wm. IV., 1831) affecting the colony was passed by the British Government. In the early years of the colony, free immigration had been definitely discouraged, but even in the 1820's it had been feeble, for up to 1830, only 6,843 persons all told had emigrated to Tasmania and the mainland. This was due partly to the lack of facilities, for a Committee of Emigration set up especially in London to assist emigration would consider only "that part of the community which may be considered to be in a state of permanent pauperism."

The Wakefield theorists were able to show a practical means of conveying useful emigrants to the colonies. Colonial funds obtained from the sale of Crown lands were to be used to promote and assist selected emigration to Australia.

The 1831 Act of the Earl of Ripon was largely formulated on Wakefieldian lines, including the appropriation of the land revenues to emigration. Stressing the scarcity of labour and the need for a well-balanced population, the principle was laid down that "the funds derived from this source (the sale of Crown lands) should be looked upon not as forming a part of the income of the colony and available for the purpose of meeting the annual expenses, but as capital which should not be permanently sunk, but invested so as to produce a profitable return." The most profitable return was held to be the establishment of a "Land Fund" and appropriating this to emigration. The utilisation of this "Land Fund" subsequently was to be one of the most troublesome points for the next twenty years.[32]

The 1831 Act provided for the sale of land at a minimum upset (reserve) price of 5s. per acre with a peppercorn quit rent, and all rights to mines of coal and precious metals were reserved.

With the commencement of sales by auction, the old method of free grants with the payment of quit rents, ceased. The new system was to be based on the sale of Crown lands in small contiguous areas, at a high fixed price termed the "sufficient price"—so bringing about a comparatively closely-populated community. It was intended that the money to be derived from these sales would be devoted to bringing out from Great Britain agricultural labourers who would be able to obtain small areas of land and engage in working the farms of the larger owners as at home. Thus "there was to be gradually reproduced in the new land the old class distinctions and class interests, with their accompanying benefits—and evils—from which in reality many of the colonists had already fled."

Accordingly, the colonial executive officers were directed to cut up portions of the available land within the old settled districts in small conterminous parallelograms, to be sold for cash.[33]

From 1831, land within the boundaries of location might also be leased annually from the Crown, at auction, from a minimum rent of £1 per section of 640 acres. (In 1840 the minimum upset price at auction was increased to £5 per section, a price more in conformity with existing land values. In 1841 the government substituted annual licences for leases within the boundaries, but this was a mere change of form, designed to eliminate expense in drawing up leases. Yet in 1843 only 237 leases were issued, for a total area of 184,000 acres.)

[32] From 1831 to 1841 the Land Fund was sufficient for these purposes, but in 1841 it became necessary to borrow, the first loan raised internally in Australia being a debenture loan of £49,000 notified in the Gazette of 28 December, 1841. Between 1842 and 1855 ten loans, amounting in the aggregate to £705,200, were floated, the proceeds being spent on immigration, part of these loans ultimately becoming incorporated in the public debt. This latter stood at £14,903,000 in 1880, £48,343,000 in 1890, and £65,332,000 in 1900.

(*Cyclopedia of New South Wales* [Sydney, 1907], pp. 133-145.)

[33] Epps, *op. cit.*, pp. 12-15.

The Act also provided that "any purchaser who within ten years of his purchase shall, by the employment and maintenance of convicts, have relieved the public from a charge equal to ten times the amount of purchase, will have the purchase money returned, but without interest. It is computed that for each convict employed and wholly maintained by the purchaser for twelve months, £12 will have been saved by the public." [34] By the accompanying regulations, the upset price of the land fixed for the towns ranged from £2 an acre in the small outlying centres to £20 in such towns as Liverpool and Parramatta, while at Double Bay, a suburb of Sydney, it was fixed at £40 and in Sydney itself at £1,000 an acre.

The new sales regulations at first aroused little comment in New South Wales, and within five years there were notable results.

In the first year under the new conditions (1832), 20,861 acres were sold; in the following year (1833), 29,001 acres; and during the years ending 31st August, 1834 and 1835, the areas disposed of increased to 91,339 and 271,945 acres respectively, whilst in the first six months of 1836, there was a large-scale sale of 170,014 acres. During these four and a half years, the total receipts amounted to £202,638, which largely helped to more than double the public revenue. A considerable proportion of this revenue from land was devoted to bringing immigrants to the colony, chiefly females, thus adding appreciably to the population of the colony, which on 5th July, 1836, numbered 77,000 persons—27,000 convicts and 50,000 free settlers and their children. (This predominance of free settlers even so early led to public sentiment in New South Wales becoming strongly adverse to the continuance of the convict system. The assignment of convicts to free settlers ceased in 1838 and the transportation of convicts to New South Wales, in 1840.)

The large revenue produced by the land sales stimulated immigration, so that labour was more abundant and there was an appreciable balance from the land fund for other governmental purposes. Nevertheless, the change-over from grants to sales had not secured that concentration within the settled districts which had been sought. If anything, it had stimulated dispersion.

To the theorists outside the colonies, the reason for this dispersion seemed clearly to be the low price of 5s. A higher price should be effective in forcing the settlers to concentrate on small areas which could be efficiently worked. Accordingly, in 1838-39 the South Australian rate of 12s. per acre was substituted, and a still higher price mooted. The theory was plainly at variance with the facts of the pastoral industry. The later thirties saw a much-increased flow of immigrants and general prosperity produced an inevitable boom period. On this fictitious data, the Imperial authorities decided, in defiance of local advice, to increase the minimum price of land to 20s. per acre in 1840.

In New South Wales, sales immediately fell off, and a period of depression was ushered in; but this was probably due as much to reaction from the previous feverish speculation as to the abrupt rise in

[34] *Ibid.*

price. In Port Phillip and Portland Bay the new minimum did not prevent the auction sales resulting in much higher rates being obtained. Everywhere, however, the increase excited criticism, and to meet this and achieve a measure of finality in land matters throughout Australia, the Imperial Land Sales Act of 1842 fixed auction as the only method of selling lands, subject to a minimum price of 20s. per acre. Of the resulting proceeds, 50 per cent. was to be devoted to immigration and 15 per cent. to the care of aborigines. This did not allay criticism, and the constitutionalists were not slow to raise the question of "taxation without representation," as the land fund was administered under Imperial direction. There the position stood until the Waste Lands Act of 1846 and the Orders-in-Council of 1847 conceded the pastoralists their demands for security of tenure. Immediately they detached themselves from the clamour for reduction, as a high price for land now became the key of their tenure.

The upset price of £1 per acre became the standard in all the Australian colonies, and the main portions of the large areas alienated throughout Australia have been sold at this figure. The price of £1 per acre remained the upset price in New South Wales also until 1895, when the first provision for classification of Crown lands, other than for a minor enactment in 1884, came into existence.[34A]

[34A] *cf.* K. Buckley, "E. G. Wakefield and the Alienation of Crown Land in New South Wales to 1847," *The Economic Record,* Vol. XXXIII, No. 64 (April, 1957), pp. 80-96.

"In essence," states Buckley, "Wakefield's view of colonization was that it was necessary to create and maintain a colonial proletariat." The big landowners and squatters generally stressed the importance of labour as against "those political economists who worship capital." It was frankly said, "The best man for the squatter was he who went into the town, and spent his money as fast as he earned it, for he had then to come back again either to his former master, or to someone else."

Small grants, whether to ex-convicts or free immigrants, had almost ceased by 1828 (in that year, only ten persons received grants of less than 100 acres each; eight received grants of 100-500 acres each; and seventy-eight obtained grants of more than 500 acres each). On the other hand, the scale of grants to immigrants in proportion to capital ranged from 640 acres for £500 capital to 2,560 acres for £3,000, the minimum being 320 acres for £250 capital. In these cases the grant itself cost the settler nothing apart from legal fees, so that his capital was still available to him for productive purposes. Administration was lax, and favouritism, corruption and fraud prevalent.

Of the Crown land which was sold before the Ripon regulations came into effect, by far the greater part was sold by Governor Brisbane in 1824-25, when warrants for the sale of 358,110 acres were issued. Apart from this, in 1831, according to Surveyor-General Mitchell, "about 250,000 acres of the best of the vacant land (was) held . . . without any benefit to the revenue."

From 1831, Crown country land was generally sold in sections of 640 acres. However, it seems that surveying methods in the 1830's generally made lots larger than 640 acres. M. W. Lewis, an architect and surveyor, told a New South Wales special committee in 1841 that a so-called section of 640 acres, "from the rule of measuring the back broken section along with the quantity applied for, must always average half as much again, seldom less, but almost invariably more, so that if a party has funds sufficient to purchase a section, and applies for it, on the day of sale he finds himself totally unable to do so, from the excess of quantity measured."

"All the evidence indicates that it was largely the old, well-established settlers who bought Crown land in the 1830's. For example, T. Icely owned more than 40,000 acres by 1842, and L. Macalister spent more than £10,000 in buying Crown land". The land was bought chiefly by the older settlers with the view of completing, some, ten, some, fifteen or twenty thousand acres around their original grants.

During the years 1832-37, some 1,143,000 acres of Crown country land were sold at an average price of about 6s. 2d. per acre. The average price rose to 7s. 1d. for a total of 315,000 acres in 1838; 10s. 3d. for 283,000 acres in 1839; and £1 2s. 4d. for 184,000 acres in 1840. In 1840, of the substantial revenue of £324,072 derived from the sale of Crown land, £118,611 came from town allotments. This was the peak year of the land boom, but speculators had turned from the sale of country to the sale of town land.

During the depression of the 1840's there was a glut of private land on the market. Probably not much of it was sold, but a considerable amount was let on long lease to small farmers. Behind this new emphasis on leasing agricultural land was the landowners' conviction, supported by their experience of the depression years, that agriculture, by comparison with grazing, was too risky and unprofitable to be worth the investment of much capital. Beyond the boundaries there thus arose types of squatters and settlers who subsisted not primarily as graziers, but as farmers, carriers, labourers, storekeepers and followers of other occupations supplementary to grazing.

(*cf.* also Buckley, *op. cit.*).

. . . . . .

Writing from an historical point of view on the disposition of Crown revenues acquired through the sale of land, W. J. Campbell has this to say:

"Surveying in their financial outcome these successive eras of free grants, unlicensed settlement and benevolent land laws, it could never be claimed that the State has reaped a return from the alienation and occupation of Crown lands commensurate with their intrinsic worth. All the same, the lands have played an important part in the public finances. Now a declining item of revenue, in earlier years they contributed in substantial measure towards providing the means of government . . .

"How should receipts from sales of the public lands be dealt with in a budgetary sense? Are they properly available for the ordinary services of government, or should they be re-spent only in a way which ensures that the wastage to the public domain from land disposals is made good by the creation of new assets? . . .

"When the system of selling the lands first assumed prominence in the colony, the capital idea held sway. It was contended that land receipts should not be regarded as income, but that some part of them should be set aside and invested. As the most profitable form of investment was considered at the time to be the encouragement of immigration, the receipts were appropriated to a Land Fund, to be used, after meeting expenses of land administration, as to one-half on the general purposes of government, and as to the other half, on immigration of farm labourers . . .

"During the first half-century of responsible government, land revenues were expended on normal Consolidated Revenue Fund services. Although the leasehold system developed in importance, alienations continued to provide the greater part of the receipts and the Legislature, seeking a means by which the progressive wastage of the public estate might be made good, devised in 1906 a Public Works Fund, into which two-thirds of the annual land yield was to be paid. The expenditure purposes of this fund again gave a capital aspect to the re-spending of the land receipts. The equipment of State establishments, construction and renewal of public buildings, improvements to harbours and rivers and the acquisition of privately-owned lands for public purposes figured largely amongst these expenditures.

"The Public Works Fund lasted from 1906 until 1928. It was replaced by a Special Purposes (Revenue) Fund, but this fund, although it perpetuated the principle of hypothecating part of the land receipts, was in the nature of its expenditure services, little more than a division of the revenue fund. The Special Purposes (Revenue) Fund was short lived, and upon its termination the State reverted to the practice of treating the whole proceeds from the Crown lands as income. This practice has remained, and altogether it could be said that from the commencement of land sales to the present time, by far the greater proportion of the receipts has been so dealt with."

W. J. Campbell, *Australian State Public Finance* (Sydney, The Law Book Co. of Australasia Pty. Ltd., 1954) pp. 271-283.