

# The Best Land Act

## Hope and despair at Merton

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**Jennifer McNeice** is a local and family historian: writing, providing consultancy advice and conducting workshops for other researchers. She is a member of the Genealogical Society of Victoria and the Society of Australian Genealogists, and holds a Bachelor of Science (University of Melbourne) and Diploma in Family Historical Studies. She has recently written a history of Koonung Cottage. In her spare time, Jennifer is a volunteer biographer at Eastern Palliative Care and occasionally writes cryptic crosswords.

Author email: mcneicejen@gmail.com

### Abstract

**A large group of selectors met at Merton in April 1898 to discuss their concerns with Sections 32 and 42 of *The Land Act 1884*. Selectors had to pay the same price for land, £1 per acre, regardless of its quality. The Land Act also required selectors to make improvements but selectors of poor land could not make enough income to pay for the improvements. Robert Best, minister for lands, set about reform in 1898. He consulted selectors extensively and attended community meetings throughout Victoria. Although he did not visit Merton, his consultative approach created widespread hope. Land selection files held at Public Record Office Victoria include firsthand accounts of the difficulties that landholders faced. This article explores the experience of some of the families in the Merton district to discuss the issues associated with land selection and why the Best Land Act did not always deliver the hope it had promised.**

### Introduction

In April 1898, Victoria was emerging from the deep financial depression of the 1890s and in the midst of a serious drought. The government intended to reform *The Land Act 1884*. At Merton in the foothills of the Strathbogie Ranges in north-eastern Victoria, landholders met to discuss their concerns with the existing Act. James Hoare roused the assembled group with his claim that 'some of its [the present Land Act's] clauses were extremely ridiculous as it parted with the cream of the land in the colony at £1 per acre, and yet compelled latter day selectors who had taken up inferior land to pay the same price'.<sup>[1]</sup> Hoare was attacking the provisions of the Land Act under which premium land was sold at the same price as poor land. The Land Act also required selectors to make improvements to the land, but many selectors of poor land could not make enough income to pay for such improvements.

The Victorian government had been adjusting and revising various land acts since the *Sale of Crown Lands Act 1860* (known as the Nicholson Act). Early land acts in Victoria were often referred to by the name of the politician who created them, for example, the *Sale and Occupation of Crown Lands Act 1862* was known as the Duffy Land Act 1862. In 1898, Minister for Lands Robert Best consulted widely with landholders before the *Best Land Act 1898* introduced closer settlement<sup>[2]</sup> and a new concept of land classification.

At the time of the Merton meeting, Best had recently travelled through Gippsland and the north-eastern districts to determine how the Land Act should be reformed.<sup>[3]</sup> The minister did not visit Merton. However, the Merton landholders decided to express their views by sending a copy of the meeting's resolutions to Best with their 'heartly thanks ... for the energetic effort he was making to prepare a satisfactory Land Act'.<sup>[4]</sup> The minister's approach to reform created hope.

The Merton landholders were primarily concerned with reforms to Sections 32 and 42 of *The Land Act 1884*. These sections referred to grazing areas and agricultural allotments, respectively. The concept of land classification introduced in the Best Land Act was intended to address those concerns. Correspondence in the Public Record Office Victoria (PROV) (VPRS 626 P0, Selection Files) reveals both the problems that made reform necessary and the problems with reform that led to despair.

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## Legislative background

Section 32 of *The Land Act 1884* allowed a grazing lease of up to 1,000 acres at an annual rent between 2d and 4d per acre. This land could not be purchased and would revert to the Crown by 29 December 1898. Grazing leases were available to anyone aged 18 years or older. Conditions included fencing, destruction of vermin and restrictions on cutting timber.[5]

Section 42 of *The Land Act 1884* was a later version of Sections 19 and 20 of *The Land Act 1869*, as amended by *The Land Act 1878*. Through land legislation, the Victorian government tried to break up large squatting runs and allow more people to hold moderate sized farms. A selector could apply for a licence to occupy an area of land subject to certain conditions and payment of rent. When the licence expired, the selector could apply for a lease and, after paying a total of £1 (20s) per acre, the selector could apply for a Crown grant—that is, land held by the Crown could be granted to the selector as the new owner.

The Land Act 1869 allowed the selection of up to 320 acres, including unsurveyed land, via the process of licensing, leasing and grants. The licence could be issued for three years at an annual rent of 2s per acre paid half yearly in advance. After that, the selector could apply for a seven-year lease at the same rent. After paying a total of £1 (20s) per acre, the selector could apply for a Crown grant.[6]

Bernard Nolan was a very early resident and one of the earliest selectors at Merton under these provisions.[7] He selected 238 acres on the Merton Creek in May 1873, applied for a lease in June 1876 and received the Crown grant in January 1883.[8] His son, Henry Peter Nolan, was probably the H Nolan who attended the landholders' meeting at Merton in April 1898.

The 1878 amendment doubled licence and lease terms to six and 14 years, respectively. Correspondingly, the annual rent was halved to 1s per acre. Conditions of agricultural licences included fencing, cultivation, destroying vermin, occupancy and improvements. Agricultural allotments were available to anyone 18 years or older, except married women.[9]

## Application of Section 32

### Conditions of lease

Lessees of grazing areas were required to destroy all vermin within three years, enclose the land with fencing within three years and not remove timber except for use on the selection (see Figure 1).[10] John Hewish already had an agricultural licence when, in January 1886, he obtained a grazing lease for 400 acres in Garratanbunell, the parish immediately west of Merton.[11] Hewish and his neighbour Arthur Viney are probably the J Hewish and A Viney who attended the 1898 landholders meeting at Merton. In March 1890, Viney wrote to the minister for lands, requesting 'permission to split [timber] on John Hewish[s] Leased Land'; he added that Hewish had 'no objection to my splitting if you grant me permission'.[12]

The suppression of rabbits took up so much of Hewish's time that, in 1891, he was allowed a six-month extension to complete his fencing of the land. The fencing was completed; however, by January 1894, he owed three rents amounting to £7 10s. In response to a letter requesting payment, Hewish wrote: 'I will pay two rents on or before the first of March if that will do. I've been short of cash since the banks went into reconstruction'.[13]

Hewish held on to the land for a while longer; however, in November 1897, five months before the landholders' meeting, the lease was revoked for non-payment of rent. [14] In January 1898, John's eldest child, John Edward Hewish, died of typhoid. It was reported as 'the first case of typhoid fever in this district for many years'. [15] Typhoid claimed more young lives soon after. It seems that the drought exacerbated the effect of contaminants in the water supply.[16]

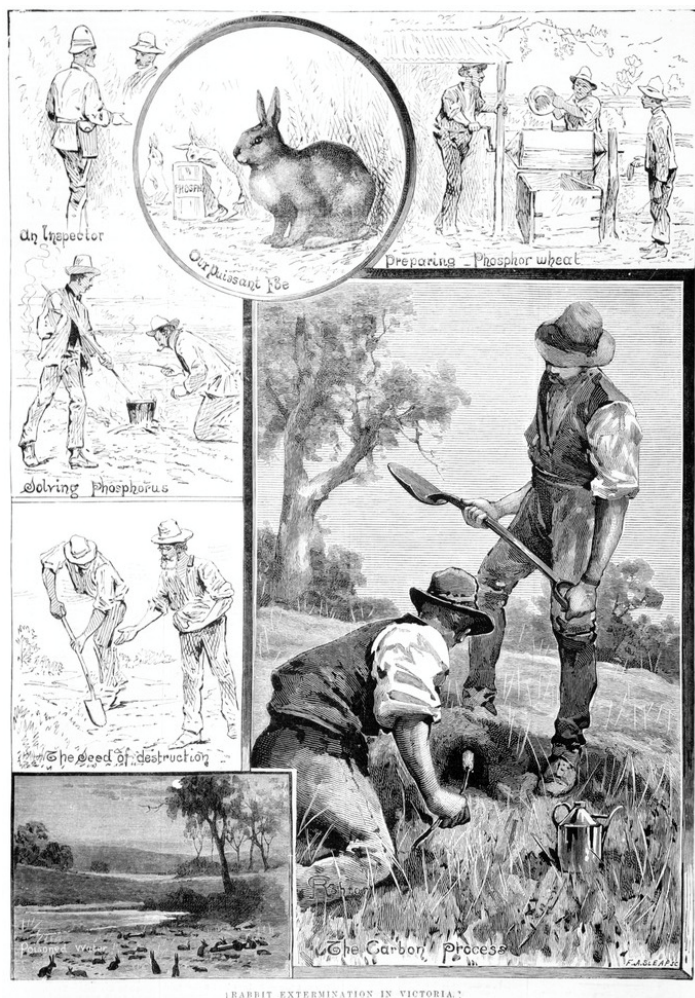


Figure 1: Samuel Calvert, 'Rabbit extermination in Victoria', *Illustrated Australian News*, 18 March 1885, available at <http://handle.slv.vic.gov.au/10381/253534>, accessed 21 May 2018.

### Married women

Married women were permitted to hold a grazing lease under Section 32, but not an agricultural licence under Section 42. Unmarried women could hold a licence under Section 32 or Section 42. In 1887, an unmarried woman, Maria Elizabeth Drought, selected a grazing area of 99 acres in Merton under Section 32. In March 1892, she appeared before the Land Board at Alexandra to have the licence transferred to Section 42 of the *Land Act 1890*. [17] The licence was granted, but Drought married Dugald McIntyre in April—before the licence was issued in her maiden name in July 1892. [18] Maria McIntyre applied for the lease in 1898; however, a file note records that, 'as she married prior to the date of the license, she was not eligible to hold such license and consequently the lease must be refused'. [19] Duncan McIntyre requested

assistance from the member for Anglesey, Mr MK McKenzie, on behalf of his sister-in-law. The land had been improved with a five-roomed house, kitchen, orchard, garden and water race. Part of it was cultivated and all rents had been paid. In November 1898, a lease for 14 years was recommended. [20]

### Application of Section 42

Licencees of agricultural selections were required to destroy all vermin within two years, fence the land within six years, cultivate at least 1 acre in 10 during the licence period, occupy the land for at least five years and make improvements to the value of £1 per acre within six years. If these conditions were met, they could apply for a lease or Crown grant.

### Public or mining purposes

Licence holders were specifically barred from mining their selections under Section 20 of *The Land Act 1869*. There were also ongoing provisions to prevent Crown grants of land required for public or mining purposes. [21] John Hewish worked as a boundary rider at Faithfull's Creek station before selecting agricultural land in August 1883. [22] He selected 289 acres of unsurveyed land in Garratanbunell. His father, James Hewish, selected 319 acres of adjoining land. There was some delay in obtaining the licences and both men wrote several times to the secretary for lands in Melbourne:

Would you be so kind as to inform me how my occupation license was rejected as my selection of 289 acres of land in the parish of Garratanbunell is not within half a mile of Bismark Creek the creek the Diggers wants Reserved. I saw the Merton diggers and they told me they had no objection to me getting my selection. [23]

The licence was finally approved on 3 November 1884. [24]

### Cultivation and improvements

When John Hewish applied for a lease in 1890, the cultivation requirement was not met because the land was unfit. The family lived on the selection in a four-room slot and iron house and, in addition to fencing, burning, scrubbing and clearing, John built a dairy and stockyard. Rents repeatedly fell into arrears in the early 1890s. [25]



In July 1878, Frederick Howell from Geelong applied for a licence on 319 acres in Wondoomarook, the parish immediately north of Merton. His brother, Richard, and father, William Stephens Howell, applied for adjacent lots. When applying for a lease in 1884, Frederick explained why the cultivation requirement had not been met:

My land is extremely rough, hilly and stony, and quite unsuitable for cultivation, it is a perfect harbour for wombats and wallabies, even if fit for cultivation, it would only be throwing money away as they would destroy it like they did my brothers. He cropped his three years ago and only took one small crop of about 8 cwt [hundredweight] of hay per acre off of it ... You will see our improvements are considerable, permanent and far in excess of the requirements of the Act.[26]

The lease was transferred to his father in 1891.

The McIntyre siblings, Dugald, Duncan, John and Katherine, lived and worked together to develop their selections.[27] D McIntyre and J McIntyre were recorded at the 1898 landholders meeting at Merton. When applying for a lease in 1889, Duncan wrote:

We cannot afford to live separately on our selections yet because we have lost so much by death in horses, cattle and sheep, and have to do all our own labour. We have improved the selection we are residing on the most (Dugald's) as it is the most central and the most accessible [sic] by road. We will improve and cultivate all we can on the others, but before we can cultivate on them, we must cut sidings and make crossings and bridges over steep gullies, owing to the rugged nature of our selections.[28]

## Occupation

Licence holders were required to occupy the land for at least five years. *The Land Act 1878* made provision to apply for an absence of up to three months per year.[29] William Hoare explained that he was not able to fully comply with the occupation requirement because he had four young children at school and there was no school within six miles of his selection.[30]

Other factors also affected occupation. Struggling to make ends meet, some farmers sought employment elsewhere. In 1895, John McIntyre wrote:

This land is very poor and heavily timbered and will not grow crops of any kind. It is very mountainous stony land and takes three acres of it to carry one sheep and they are poorly fed at that. I could not make a living on the land at all but for having other employment in a butter factory for a few months in every year.[31]

The requirement to control the rabbit population also affected occupation. As Dugald McIntyre wrote in March 1898, one month before the landholders' meeting:

I have always done my level best to keep rents paid, but failed of late years. Rabbits are a continual drag. If I leave to earn money, the rabbit inspector will have me. It would be hard to have the land forfeited after all I have spent on it.[32]

## Rents

The selection files at PROV reveal the constant financial pressure the farmers faced. As we saw earlier, John Hewish's grazing lease was revoked for non-payment of rent five months before the landholders' meeting. In 1897, Frederick Howell had seven rents due, at a total of £56. [33] Joseph Stephen Barns, who obtained a transferred lease on 320 acres at Wondoomarook in 1894, owed £56 in 1896.[34] Standard requests for payment softened during 1896 and 1897 but became sterner in 1898 (see Figure 2).

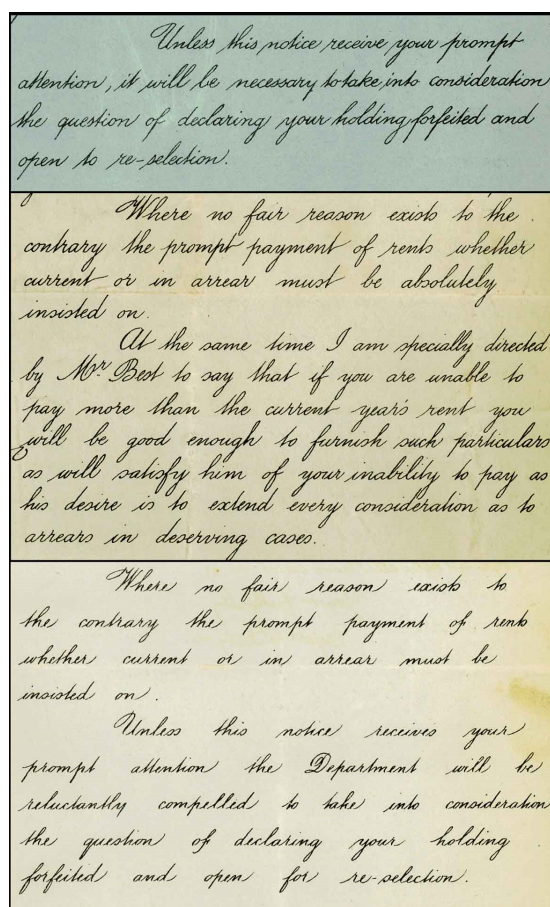


Figure 2: Standard requests for payment of rent in January 1895, January 1897 and February 1898, PROV, VPRS 626/P0, Unit 602, Item 16823; PROV, VPRS 626/P0, Unit 611, Item 17280; PROV, VPRS 626/P0, Unit 611, Item 17278.

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### **Limit of holdings**

The Hoare family came from Point Henry, Geelong. In 1882, William Hoare and his two eldest sons, James and John Joseph, each selected 320 acres at Wondoomarook. [35] Hoare's daughters, Bridget and Ellen, also held land temporarily.[36] James Hoare convened the 1898 Merton landholders' meeting and occupied the chair. His brother, John Joseph Hoare, was appointed secretary.[37]

Like other selectors, the Hoares were not always up to date with their rents. As William Hoare explained, they:

Had very bad luck with wild dogs worrying the sheep the disease got amongst the cattle also four of our best Horses dying the first and second year and native animals destroying the crops [and] should never have been able to carry it out had I given up my farm at Leopold.[38]

However, James Hoare was extraordinarily successful. No-one could hold a licence for more than 320 acres of agricultural land. James was able to increase his landholding by buying leases from other selectors.

Thomas Kipping was one of the original Merton purchasers at the Crown land sales in 1858.[39] His son, Thomas, obtained an agricultural licence for a further 208 acres in 1876 and lease in 1880. Unable to pay his rent in 1884, Thomas jnr wrote: 'Failure of my crop two years running and sickness in family and also death of my aged father has left me very short of money until I can get my corn threshed and into market.'[40] He appealed again in April 1893, explaining that:

I am sorry to say I have not been able to pay my rent owing to the bad season of last winter, losses of stock and dullness of trade this summer has thrown me behind. As I expect to have a sum of money shortly I will pay all off if possible, thanking you for your past patience and hoping you will not press me for a while longer. [41]

Three months later, James Hoare wrote to the secretary for lands:

Please oblige by advising me as to the exact amount of rents paid on T. Kipping selection ... also when the last rent was paid and when it was due as I am about purchasing same and would like to know the exact liabilities on it to the Crown.[42]

Thomas Kipping's lease for Merton Lot 46 was transferred to James Hoare on 7 September 1893; he obtained the Crown grant in 1895.

In 1883, John Mills applied for 166 acres next to John Hewish in Garratanbunell and 160 acres in Wondoomarook. When he was unable to pay his rent in 1896, Mills explained:

I cannot pay any rent to government simply because I have not got a pound to call my own. I can scarcely get enough food and clothing for my wife and family. The land is very poor and I have got to keep the land instead of the land keeping me in fact I would be better if I had never seen the land.[43]

Both leases were transferred to James Hoare in March 1897.

### **The Best approach**

At the end of September 1897, Best gave a wide-ranging re-election speech at Fitzroy. He discussed trade tariffs; minimum wages; the one man, one vote principle; export trade; federation; and the need for land reform. Three years earlier, he had become the minister of lands and commissioner of customs. During his speech, he declared that 'the Government was prepared to be judged by its performance as a Liberal one. A leading plank of Liberalism was that of protection.'[44]

Grazing leases were due to expire in 1898. The question was whether to renew the leases or put the land up for sale. Best acknowledged that the fixed selection area of 320 acres did not allow for different classes of land. The area was too large in some districts and too small in others. He noted the large arrears of rent in the colony—amounting to £776,456—and affirmed his intention to maintain a fair and liberal approach. Best also announced his intention to personally investigate land issues by visiting some of the districts (see Figure 3). He began a tour of the Mallee within a month and, by late March 1898, it was reported that, 'for several months past, he has been travelling in all directions ... to make himself thoroughly acquainted with his subject'.[45] Best received many representations about Sections 32 and 42, including meetings at Heathcote, Puckapunyal and Maffra. Land classification was a continuing theme and it was alleged 'that some land around Puckapunyal was too poor to keep rabbits alive'.[46]

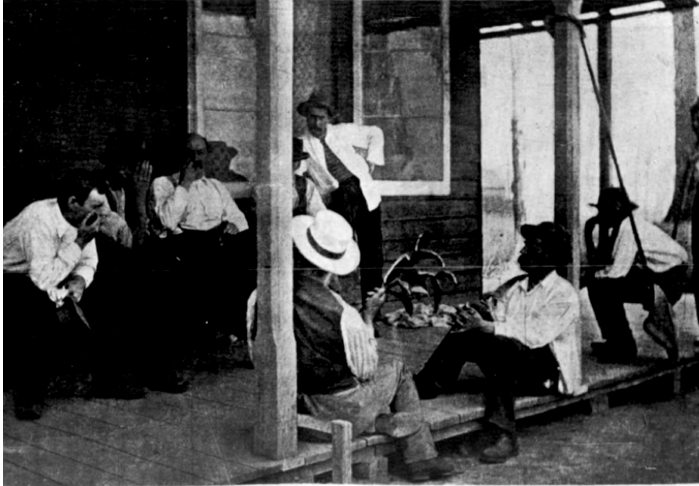


Figure 3: 'Minister of lands on tour', Australasian, 1 October 1898, p. 26.

### Merton landholders' meeting

Best did not visit Merton. However, the Merton landholders added their voices to those calling for reform. John Joseph Hoare, secretary of the Merton landholders meeting, was instructed to send a copy of their resolutions to Best, and members of the Legislative Assembly, JH Graves, MK McKenzie and JT Brown.[47]

For agricultural leases under Section 42, the Merton meeting resolved to ask that all land be reclassified on a sliding scale from 5s to 20s per acre, and that selectors who had already paid 10s or more in rent be entitled to a Crown grant. For grazing leases under Section 32 they resolved that:

- the annual rent be reduced to 1d per acre[48]
- all rents paid on grazing areas be credited as purchase money on agricultural selections
- selectors be allowed to excise up to 640 acres as an agricultural allotment[49]
- the term of grazing leases be extended for 21 years[50]
- married women with grazing leases be allowed to select an agricultural allotment from her grazing area.[51]

### The Best Land Act 1898

Some of the Merton landholders' requests were adopted in the new legislation, probably providing new hope for the future. Provision was made for agricultural and grazing land to be classified as first, second or third class. Up to

200 acres of first class land, 320 acres of second class land or 640 acres of third class land could be selected as an agricultural allotment, at annual rents of 1s, 9d and 6d per acre, respectively. The restriction on married women holding agricultural allotments was removed.[52]

The term of current grazing leases was extended by one year and provision was made for further leases for terms up to 21 years. However, the permitted area was changed to 200 acres of first class land, 640 acres of second class land or 1,280 acres of third class land. The annual rents for grazing leases were set at 3d per acre for first class land, 2d per acre for second class land and 1d per acre for third class land.[53]

Best had invested time and energy in the Land Act. It dealt with many other aspects of land administration including closer settlement, the Mallee, swamp lands and village settlements. He ordered the compilation of an explanatory handbook in which he claimed that his Land Act 'virtually constitutes the last chapter in Victorian legislation dealing with the settlement of the Crown lands of the colony'.[54] Yet, it was still claimed that 'there are many hundreds of landowners and others interested in Mr. Best's splendid Act who cannot grasp even his explanations'.[55]

### Bushfire

The district was prone to bushfire (see Figure 4). While working to understand the new legislation, Merton landholders suffered another major setback. The drought of the late 1890s created dangerous bushfire conditions. In late December 1899, several major bushfires broke out around Victoria. A serious fire started at Gooram and split into three fronts that headed to Strathbogie, Ruffy and Merton.[56] In April 1900, John and Eliza Hewish wrote to the minister of lands:

We are sorry to inform you we cannot pay the whole amount of rent due on our holdings, on account of sickness and deaths in family, and on Xmas day having had all our fences and grass burnt through the bushfires. We have paid one years rent on our holdings this month. Hoping this will satisfy the department.[57]

The Lands Department issued grants on the Hewish Garratanbunell properties in April 1904.[58]



In the 1899 bushfire, James Hoare lost 1,600 acres of grass and five miles of fencing; his seven outbuildings and all their contents, including a wool press, milk wagon, dray, reaping machine and farm implements; and crops and an orchard that had taken 15 years to develop. [59] The scale of his loss is indicative of the scale of his farming operation. Hoare was an eminent member of the community and he was elected to the Euroa Shire Council in 1901.[60]



Figure 4: 'Disastrous fire in the Strathbogie Ranges', *Illustrated Australian News*, 22 February 1882, available at <http://handle.slv.vic.gov.au/10381/252380>, accessed 21 May 2018.

### Sickness and death

After John Joseph Hoare's first wife died in 1905 (aged 35), he married Bernard Nolan's youngest daughter, Jessie May. At around the same time, he received Crown grants on several properties, including his original selection and the selections of his father William and sister Ellen.[61]

In 1904, Maria McIntyre (nee Drought) wrote to the secretary for lands, explaining that she had 'only just completed payment of doctors and undertakers accounts and at present am entirely without means'.[62] Maria's youngest daughter, Julia, had died of marasmus (malnutrition) in 1903, aged 14 months.[63]

John McIntyre died of pneumonia at the age of 36 years in 1900. His widow, Isabella, had further trouble to contend with. On 16 March 1904 she wrote: 'I have been away from Merton for nine months as my two children have been very ill and each has gone through an operation, besides I have been under treatment by Dr. Kent Hughes myself for my eyes'.[64] It was noted on her file that 'the

lease having expired on 31st January 1903, she now has no title to the land and the amount due must be paid in order that a grant may be issued. Allow till 15th June next for payment.'[65] The payment was made and Isabella received the Crown grant.[66]

### Rent

The Best Land Act included a concession for existing agricultural leaseholders who were not able to pay arrears of rent. Rents due when the Act was passed could be postponed until the end of the lease, without interest, and the lease term could be extended by the amount of time for which arrears were due. The leaseholder had to make an application within 12 months of the passage of the Act. [67] Although this concession appeared generous, many leaseholders continued to struggle with arrears.

Frederick and Katherine Howell (nee McIntyre) invested in Mildura and lived there for eight years, but lost their entire fruit crop in three consecutive years. They were unable to sell the land and had to abandon it. Katherine also tried to sell her Merton land, but it was infested with rabbits and considered worthless. In January 1905, the overdue rents at Merton amounted to £52 4s 8p.[68]

William Howell struggled to pay overdue rents in Wondoomarook. In 1900, he observed that, under the present Land Act, his land 'would be only 3rd class'. In April 1901, with a rent debt of £74 4s 10p, he advised that he had been too ill over the previous six months to attend to his renewal notice and was not much better now.[69] He died six months later.[70]

Joseph Barns also continued to struggle under the new Land Act. He asserted:

I find it impossible to pay 4 years Rent as requested as this Block of Land is very rough. I have spent a large amount of money on it and last Summer a fire broke out in Gooram Gong and spread in a few hours over thousands of acres and destroyed nearly all my fence. Therefore I could not afford to Fence the Land again and continue paying the Rents as requested and I think under the Circumstances it would not be unreasonable for me to ask you to bring this land under the new act and allow me to pay £8 per year instead of £16.[71]

By 1902, Barns had 19 overdue rents, amounting to £152. [72]

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Early in 1904, James Hoare obtained Crown grants on several allotments, including his original selection and the land originally selected by his sister Bridget and by John Mills in Wondoomarook and Garratanbunell.[73] During 1904 and 1905, Hoare also obtained lease transfers and Crown grants on the land held by Katherine Howell, William Howell and Joseph Barns.[74]

### **Land classification**

The 1898 landholders' meeting had resolved that selectors who had already paid 10s or more in rent be entitled to a Crown grant. Eleven years later, Duncan McIntyre asked if he could obtain the Crown grant on the amount he had already paid on it 'as several of our neighbours have received their Crown Grants on payment of 10/- per acre—and better land than mine, and near the town of Merton'.[75] A file note records that 'his request [could] not be complied with as the Act under which he selected requires that rents equivalent to £1 per acre be paid' before a Crown grant could be issued. Duncan McIntyre had selected land under *The Land Act 1869*, as amended by *The Land Act 1878*. The Best Land Act allowed existing licence holders under previous land acts to apply to have their land classified under the new scheme.[76] However, this provision did not extend to those who had already obtained their agricultural lease.

Angus McIntyre was too young to select land at the same time as his older siblings. He obtained a grazing lease in September 1889 and surrendered the lease in August 1893 to obtain an agricultural licence. Therefore, he was eligible to have the land reclassified, but he did not do so. In January 1900, he obtained an agricultural lease. Four years later, he realised his mistake: 'I should have applied to have this land reclassified but I was [too] late in giving thought to it'.[77] One year later, the land was reclassified as second class land. Still struggling to pay rent, three years later, Angus wrote: 'I am far from being satisfied with the re-classification of the land and [its] value is about 10/ per acre, those adjoining have had their land classed as 3rd or 4th class, while mine is termed 2nd class and if anything, is worse than the rest'.[78] There was no power to alter the classification. In October 1914, Angus was ambivalent:

The greatest mistake in my life was to select that Block and in [one] way you would do me an extreme kindness with forfeiture as my expense would come to an end ... however I am prepared to pay up arrears in hopes that I may get something for it in the future.[79]

He obtained the Crown grant two months later.[80]

### **Hardship**

One year after the Merton meeting, Dugald McIntyre wrote with feeling:

I have been in Gippsland for some months trying to earn by labour what would pay or reduce my debt to the State (as it is hard for me to see the amount accumulating) but have got nothing permanent to do and very little pay for what I did ... I wish to hold the land if possible. I have worked very hard for it, and will still do so, and be carefull [sic]. What more can a Scotchman do?[81]

In 1904, McIntyre was in a dire position:

I will have to submit myself to be dealt with by a land board according to the wording of this circular for my arrears of rent, which I cannot yet pay. If I can reduce it any before the 1st of March I will most willingly do so. I am well aware of my obligations to the Lands department; but I cannot help it as I have done my best, and cannot blame myself for anything.[82]

The official reply was swift:

I beg to state that your lease having expired on 28 February '03 you now have no title to the land. You should therefore pay the amount due in order that a Crown grant may be issued. I may add that you will be allowed until 15th June next for payment. [83]

As the June deadline approached, Dugald appealed to Thomas Hunt MLA to do whatever was in his powers to obtain grace.[84] Hunt inquired on Dugald's behalf and the secretary for lands responded 'that if one rent further be paid by 1st September '04, the balance will be allowed to stand over until after next harvest'.[85] Unable to pay the balance after harvest, Dugald wrote again to Hunt. There had been sickness in the family and another bushfire in January had destroyed nearly all his fencing, grass and buildings: 'Could you save me for a time from the humiliating position of being interrogated by a land board?'[86]



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Dugald obtained his Crown grant in April 1906.[87] His brother, Duncan McIntyre, explained some of the difficulties involved in making payments: 'I took some stock to a sale on the 6th of this month, but not getting nearly sufficient to pay this amount [four rents], I have to borrow the balance and pay interest on it. For this purpose I have to go to Yea.'[88] Duncan asked to be excused from appearing before the Land Board at Benalla, as 'it will save me a ride of 60 miles or more and other expenses'. [89] The second bushfire also affected Duncan. He wrote in 1905: 'Owing to being burnt out last year it has crippled me, having no insurance. I am struggling along with a young family of four, and on poor land it is hard to make ends meet, in fact it can't be done on this land.'[90] Worn down 'after over 25 years of hard work and wasted energy', Duncan declared: 'it is slavery to rear my family on [the land]'. [91] His Crown grant was eventually issued in September 1909.

## Conclusion

Correspondence in the selection files conveys the fortitude of the Merton selectors and their desire to hold onto their land at all costs. At the time of the Best Land Act they had already endured rabbit, wombat and wallaby pests, the hardship caused by steep rocky ground that defied cultivation, drought and the deep depression of the 1890s. Potential reform of the Land Act gave them hope and they sought active involvement in the reforms. Led by James Hoare, who showed a keen political interest as well as astute farm management, the Merton landholders outlined the reforms they believed were necessary.

Some of their suggestions were implemented. However, many landholders remained bound by the initial terms of their selections and the new system of land classification did not help them. This was a source of grievance in Merton and more broadly throughout the colony including Rushworth, Heytesbury Forest (near Cobden), Forrest (via Birregurra), Kaanglang and Yarck. [92] 'A 30 years' selector' from Yarck wrote:

I could point out hundreds of selections in the rough parts of Anglesey and Delatite which have been taken up under the £1 an acre valuation, and it is simply cruel for the Government to exact such a price for the land ... It is no wonder selectors are in arrears, because the land was never worth the money. A retort to Mr. Best by one of the members during the debate about extending the classification to the lessees, as well as the licensees, was very apt, viz., 'You recognize the justice of the claim, but you cannot afford to be just.' [93]

Two serious bushfires had a further crippling effect. The selectors' letters reveal their physical and emotional trials. Merton selectors endured the pain of loss, frustration and humiliation at their predicament. Some were forced to cut their losses and abandon the land while others held on against seemingly impossible odds.

## Endnotes

[1] 'Meeting of landholders', *Euroa Advertiser*, 29 April 1898, p. 3.

[2] Closer settlement allowed the Land Board to purchase private land for subdivision into smaller allotments to be offered to small farmers. VPRS 5714 contains selection files relating to closer settlement and soldier settlement schemes.

[3] 'Ministerial visit to Yackandandah', *Ovens and Murray Advertiser*, 26 March 1898, p. 6; 'New land legislation', *Argus*, 4 April 1898, p. 7.

[4] 'Meeting of landholders'.

[5] Victoria, *The Land Act 1884* (48 Victoria no. 812), Government Printer, Melbourne, 1885.

[6] Victoria, *The Land Act 1869* (33 Victoria no. 360), Government Printer, Melbourne, 1869.

[7] In 1838, at 14 years of age, Bernard Nolan was held at Dublin's Kilmainham Prison for the 'felony of handkerchiefs' (pickpocketing) and sentenced to seven years transportation to Australia. He obtained a ticket of leave in 1843 and is recorded as a shoemaker in annual musters before becoming a publican at Merton. In 1868, he and his wife were highly respected and had been many years in Merton. Dublin Kilmainham Prison General Register 1836–1840, Book 1/10/30, Item 3, via findmypast.com; PROV, VPRS 110, Convict Register 1842–1854, pp. 43, 71, 160, 183 via findmypast.com; 'Country News', Age, 5 March 1868, p. 6.

[8] PROV, VPRS 625/P0, Unit 433, Item 31870, Lots 32a and 32b.

[9] *The Land Act 1869*, Sections 38, 32, 44, 43. *The Land Act 1878* (42 Victoria no. 634), Government Printer, Melbourne, 1878.

[10] *The Land Act 1884*, Section 38.

[11] PROV, VPRS 440/P0, Unit 13, Item 2469, application, 8 January 1886.

[12] PROV, VPRS 440/P0, Unit 13, Item 2469, letter from A Viney to minister of lands, registered 25 March 1890. A mounted constable reported that Mr Viney wished to split rails for the Yea to Mansfield railway. The timber was of poor quality and unsuitable for any other purpose.

[13] PROV, VPRS 440/P0, Unit 13, Item 2469, letter from John Hewish to JJ Blundell, 1 February 1894.

[14] PROV, VPRS 440/P0, Unit 13, Item 2469, notice from secretary for lands, 19 November 1897.

[15] 'Typhoid', *Euroa Advertiser*, 21 January 1898, p. 2.

[16] 'Occasional Notes', *Euroa Advertiser*, 18 March 1898, p. 2.

[17] Section 42 of the *Land Act 1890* had the same provisions as Section 42 of *The Land Act 1884*.

[18] PROV, VPRS 440/P0, Unit 4, Item 457, licence issue, 1 July 1892.

[19] PROV, VPRS 440/P0, Unit 4, Item 457, file note, 5 September 1898.

[20] PROV, VPRS 440/P0, Unit 4, Item 457, lease recommendation, 11 November 1898.

[21] *The Land Act 1869*, Section 31; *The Land Act 1878*, Section 10; *The Land Act 1884*, Section 44(7).

[22] PROV, VPRS 625/P0, Unit 67, Item 3531.

[23] PROV, VPRS 626/P0, Unit 54, Item 3747, letter from John Hewish to secretary of lands, April 1884.

[24] PROV, VPRS 626/P0, Unit 54, Item 3747, licence approval, 3 November 1884.

[25] PROV, VPRS 626/P0, Unit 54, Item 3747, letter from John Hewish to secretary for lands, 18 December 1893; PROV, VPRS 626/P0, Unit 54, Item 3747, arrears notice, 29 January 1895.

[26] PROV, VPRS 626/P0, Unit 496, Item 10776. Cwt is an abbreviation for the hundredweight. In North America, a 'short' hundredweight was 100 pounds and in England a 'long' hundredweight was 112 pounds.

[27] The family of Angus McIntyre, a farmer at Mt Moriac in the Geelong district, was linked to the Howell family. His daughters, Katherine and Julia, married brothers Frederick and Richard Howell. His sons, Dugald, Duncan and John, applied for approximately 320 acres each in Wondoomarook in May 1882; Katherine applied for 134 acres in February 1884. John was 18 years of age at the time of his selection and had to produce a birth certificate. PROV, VPRS 626/P0, Unit 611, Items 17278, 17279 and 17280; PROV, VPRS 626/P0, Unit 643, Item 19222.

[28] PROV, VPRS 626/P0, Unit 611, Item 17279, letter from Duncan McIntyre with lease application, 25 February 1889.

[29] *The Land Act 1878*, Section 9.

[30] PROV, VPRS 626/P0, Unit 602, Item 16819, letter from William Hoare to president of board of land and works, 1 July 1889.

[31] PROV, VPRS 626/P0, Unit 611, Item 17280, letter from John McIntyre to secretary for lands, 28 May 1895.

[32] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from Dugald McIntyre, 4 March 1898.

[33] PROV, VPRS 626/P0, Unit 496, Item 10776, arrears notice, 29 January 1897.

[34] PROV, VPRS 626/P0, Unit 586, Item 16150. Jessie Sutherland Tait Calder Barns was a widow in 1883 when she applied for an agricultural licence on 320 acres in Wondoomarook. She died in 1888 and the licence was transferred to her eldest son, James Larking Barns. He successfully applied for a lease in 1889 and transferred the lease to his younger brother, Joseph Stephens Barns, in 1894.

[35] PROV, VPRS 626/P0, Unit 602, Items 16819, 16820 and 16823.

[36] In 1883, William's daughter Bridget, a dressmaker, obtained a licence for 159 acres in Wondoomarook. Bridget's power of attorney was transferred to her brother, James, in 1891. In 1887, the next daughter, Ellen, selected 390 acres in Garratanbunell. She held 320 acres under Section 42 and 70 acres under Section 32. Her grazing lease was transferred to her brother John Joseph Hoare, dairyman, grazier and fruitgrower, in 1897. PROV, VPRS 626/P0, Unit 636, Item 18737; PROV, VPRS 440/P0, Unit 11, Item 2376. Lot 50 is also shown as lot 10A and 10B of Section B.

[37] 'Meeting of landholders'.

[38] PROV, VPRS 626/P0, Unit 602, Item 16819, letter from William Hoare to president of board of land and works, 1 July 1889.

[39] PROV, VPRS 873, P1, Unit 23. See also PROV, VPRS 11862, P1, Unit 5, pp. 150–151 for 1854 auction.

[40] PROV, VPRS 626, P0, Unit 7, Item 465, letter from Thomas Kipping to secretary for lands, 4 February 1884.

[41] PROV, VPRS 626, P0, Unit 7, Item 465, letter dated 21 April 1893.

[42] PROV, VPRS 626/P0, Unit 7, Item 465, letter from James Hoare to secretary for lands, 29 July 1893.

[43] PROV, VPRS 626/P0, Unit 58, Item 4101, letter from John Mills to Mr Markham, 9 March 1896.

[44] 'The general elections', *Age*, 1 October 1897, p. 5.

[45] 'Mr Best's land policy', *Weekly Times*, 26 March 1898, p. 20.

[46] 'Agricultural news', *Leader*, 18 September 1897, p. 9; 'The minister of lands on tour', *Age*, 2 March 1898, p. 5; 'Mr Best in Gippsland', *Argus*, 18 April 1898, p. 7.

[47] 'Meeting of landholders'.

[48] The annual rent was between 2d and 4d under Section 37, *The Land Act 1884*.

[49] The limit was 320 acres under Section 33, *The Land Act 1884*.

[50] The leases were due to expire at 29 December 1898 under Section 32, *The Land Act 1884*.

[51] Married women could hold grazing licences but were not allowed to hold agricultural allotments under Section 43, *The Land Act 1884*.

[52] Sections 44, 45 and 59, *Land Act 1898*. The landholders referred to total purchase prices. The annual rents equated to purchase prices of £1, 15s and 10s per acre for first, second and third class land, respectively.

[53] *Land Act 1898*, Sections 28, 29 and 36.

[54] RW Best, 21 March 1899, 'Preface', in Victoria, *Handbook of the Land Act 1898, and other land acts*, Victorian Government Agricultural Department Offices, Melbourne, 1899.

[55] 'The new Land Act', *Alexandra and Yea Standard*, 19 May 1899, p. 2.

[56] 'Bush fires', *Argus*, 27 December 1899, p. 7.

[57] PROV, VPRS 626/P0, Unit 54, Item 3746, letter from John and Eliza Hewish to minister for lands, 9 April 1900.

[58] PROV, VPRS 626/P0, Unit 54, Items 3746 and 3747, grants, 26 April 1904.

[59] VPRS 626/P0, Unit 636, Item 18737, letter from James Hoare to JH Graves, 17 January 1900.

[60] 'Shire elections', *Euroa Advertiser*, 23 August 1901, p. 3.

[61] PROV, VPRS 626/P0, Unit 602, Items 16819 and 16823; PROV, VPRS 440/P0, Unit 11, Item 2376.

[62] PROV, VPRS 440/P0, Unit 4, Item 457, letter from ME McIntyre to secretary for lands, 9 February 1904.

[63] 'Deaths', *Argus*, 29 September 1903, p. 1.

[64] PROV, VPRS 626/P0, Unit 611, Item 17280, letter from Isabella McIntyre to secretary for lands, 16 March 1904.

[65] PROV, VPRS 626/P0, Unit 611, Item 17280, file note, 28 March 1904.

[66] PROV, VPRS 626/P0, Unit 611, Item 17280, grant, 28 June 1905.

[67] *Land Act 1898*, Section 53.

[68] PROV, VPRS 626/P0, Unit 643, Item 19222, letter from Mrs FW Howell to secretary of lands, 19 February 1896.

[69] PROV, VPRS 626/P0, Unit 496, Item 10776, letters from WS Howell to secretary for lands, 20 March 1900 and 8 April 1901.

[70] PROV, VPRS 28/P2, Unit 604, Item 81/970.

[71] PROV, VPRS 626/P0, Unit 586, Item 16150, letter from Joseph Stevens Barns to secretary for lands, 9 June 1900.

[72] PROV, VPRS 626/P0, Unit 586, Item 16150, arrears notice, 15 May 1902.

[73] PROV, VPRS 626/P0, Unit 602, Item 16820; PROV, VPRS 626/P0, Unit 636, Item 18737; PROV, VPRS 626/P0, Unit 641, Item 19065; PROV, VPRS 626/P0, Unit 58, Item 4101.

[74] PROV, VPRS 626/P0, Unit 643, Item 19222; PROV, VPRS 626/P0, Unit 496, Item 10776; PROV, VPRS 626/P0, Unit 586, Item 16150.

[75] PROV, VPRS 626, P0, Unit 611, Item 17279, letter from Duncan McIntyre to secretary for lands, 2 August 1909.

[76] *Land Act 1898*, Section 51.

[77] PROV, VPRS 5357/P0, Unit 1206, Item 2633, letter from Angus McIntyre to secretary for lands, 16 February 1904.

[78] PROV, VPRS 5357/P0, Unit 1206, Item 2633, letter from Angus McIntyre to secretary for lands, 15 January 1908.

[79] PROV, VPRS 5357/P0, Unit 1206, Item 2633, letter from Angus McIntyre to land officer, Benalla, 19 October 1914.

[80] PROV, VPRS 5357/P0, Unit 1206, Item 2633, grant, 18 December 1914.

[81] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from Dugald McIntyre to secretary for lands, 3 March 1899.

[82] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from Dugald McIntyre to secretary for lands, 9 February 1904.



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[83] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from secretary for lands to Dugald McIntyre, 24 February 1904.

[84] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from Dugald McIntyre to Thomas Hunt, 10 June 1904.

[85] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from secretary for lands to Thomas Hunt, 22 June 1904.

[86] PROV, VPRS 626/P0, Unit 611, Item 17278, letter from Dugald McIntyre to Thomas Hunt, date unclear.

[87] PROV, VPRS 626/P0, Unit 611, Item 17278, grant, 5 April 1906.

[88] PROV, VPRS 626/P0, Unit 611, Item 17279, letter from Duncan McIntyre to secretary for lands, 17 April 1899.

[89] Ibid.

[90] PROV, VPRS 626/P0, Unit 611, Item 17279, letter from Duncan McIntyre to secretary for lands, 6 April 1905.

[91] PROV, VPRS 626/P0, Unit 611, Item 17279, letter from Duncan McIntyre to secretary for lands, 2 August 1909.

[92] 'Lessees' grievance', *Maffra Spectator*, 19 July 1900, p. 3; 'The Land Act', *Weekly Times*, 11 August 1900, p. 40; 'Land classification', *Leader*, 6 October 1900, p. 8; 'Land classification', *Leader*, 1 September 1900, p. 8.

[93] 'The land laws', *Leader*, 1 September 1900, p. 8.  
The parish of Merton is immediately north-east of the parish of Yarck and spans part of the border between the counties of Anglesey and Delatite.