

CROWN LAND DISPOSAL IN THE CAPE OF GOOD HOPE 1853—1914

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"The main asset of this Colony is its land".¹ So stated an editorial in the *Eastern Province Herald* in 1895, which might well have been written at any period during the nineteenth century, not only in the Cape of Good Hope but in many of the "New Lands" being colonized at the time.² The disposal of land to settlers was a conscious act of government, often for specific purposes. Rarely were objectives clearly perceived or pursued, with the result that the key issue of access to land was liable to abrupt reformulations.³ Conflicts of interest, speculation, and settlement disasters were the outcome of land policies in many countries throughout the last century, but the end result was the transfer of Crown and government land to private ownership on a scale without parallel before or since.

The Cape Colony was no exception to these observations. In the period between the attainment of representative government in 1853 and the First World War, the Cape Colony disposed of some 26,3 million hectares under a series of enactments primarily designed to promote settlement and raise revenue (Table 1).⁴ The rate of alienation varied according to the recurrence of drought, economic cycles, and political crises (Fig 1). However, the options open to the Cape government were limited by the poor physical environment and lack of agricultural immigrants. Added to this was the inheritance of past modes of operation which acted as a break upon the progress of legislation and settlement.

The Inheritance

One of the central problems for the government in its programme of Crown Land disposal was the poor physical endowment of the Colony.⁵ Little of the Cape was capable of being used for crop farming, without irrigation, and most of the better watered areas had been alienated by 1853. Thus the Surveyor-General's Office could generally only offer land with low rainfalls of under 400 mm per annum, and after the 1880s under 200 mm per annum. Such land was only suitable for grazing on an extensive scale. Furthermore, the Colony was afflicted by periodic droughts, which rendered large tracts virtually unusable for years at a time. In these circumstances the

Eastern Province Herald 17.7.1895.

2. G Ironside (ed.), *Frontier Settlement* (Edmonton 1974).
3. Numerous works have appeared on this subject. Two of the more comprehensive are P W Gates, *History of Public Land Law Development* (Washington 1968) and S H Roberts, *History of Australian Land Settlement 1788 - 1920* (Melbourne 1924).
4. Compiled by the author from the *Blue Books of the Colony* and the *Cape of Good Hope Government Gazette* (CGG) (1844 - 1874), and annual reports of the Surveyor-General (1875 - 1914) - Published in the Cape Printed and Parliamentary Papers (CPP) and South African Parliamentary Papers (SAPP). These reports supply most of the basic information on land alienation, although the volume of the material varies, and reference was necessary to the fuller unpublished reports held by the Library of Parliament in Cape Town. Incomplete returns were supplemented by reference to the records of the Surveyor-General's Office and the Deeds Office in Cape Town.
5. M M Cole, *South Africa* (London 1961).

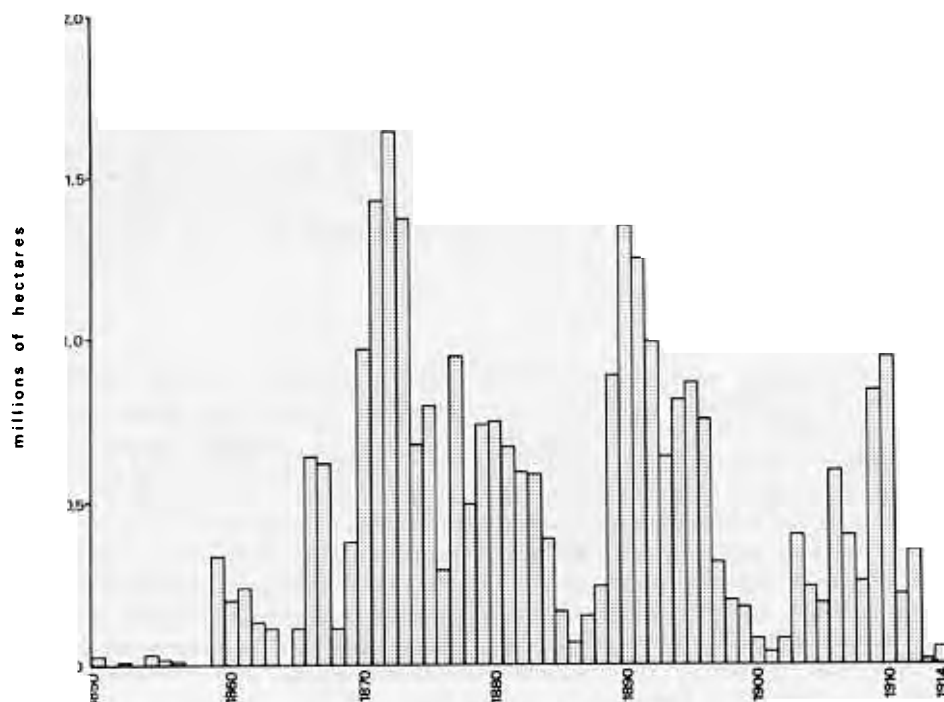


FIG. 1: Land disposal at the Cape of Good Hope 1850 - 1914

TABLE 1
CAPE LAND GRANTS 1844 - 1914

Period	Regulations governing disposal	Area (ha)
1844 - 1856	Regulation 1844	185,326
1859 - 1866	Crown Lands Act 1860**	1 375 367
1866 - 1878	Crown Lands Leasing Act 1864	7 929 462*
1878 - 1887	Crown Lands Act 1878	3 754 905
1888 - 1895	Crown Lands Act 1887	7 110 575
1896 - 1905	Crown Lands Act 1895*	2 555 381
1906 - 1914	Crown Lands Act 1895 & 1887	3 596 554
TOTAL		26 507 570

**Including limited area disposed of under preliminary regulations, pending the passing of the Crown Lands Act of 1860

* 10 387 191 ha were leased but only 7 929 462 ha were converted to perpetual quit-rent title

* Including a limited area disposed of under the Crown Lands Act of 1887

search for water was of continual concern to the grazier, resulting in forms of seasonal and longer-term transhumance (trekking). Permanency of occupation could only be effected over large parts of the Colony after technical innovations, more especially the

light metal windmill, enabled underground water supplies to be tapped.⁶

Within this environment the Cape administration had to devise a means of "making the Crown Lands of the Colony more profitable to the Revenue and accessible to the inhabitants".⁷ This was no easy task as the government could not act without reference to the past. Four strands of its inheritance bound its future actions. These were related to the indigenous population, the Cape-Dutch land policies of the eighteenth and early nineteenth centuries, the British Imperial experiment with Systematic Colonization, and the freedom from government action enjoyed in many areas of the Colony.

The Indigenous population

The Cape government was not faced with the major problem of acquiring land from the indigenous population, which in most of the Colony had been decimated by disease and warfare.⁸ Thus the Colony as defined in 1853 possessed approximately equal numbers of immigrants and indigenes.⁹ Occasionally governors had granted, and continued to grant, special lands for the protection of those groups still living independently of the White settlers. It was on the eastern and northern frontiers that organized Black societies vied with Whites for control of grazing grounds. A series of wars (1779–1878) resulted in the extension of colonial control over the eastern frontier peoples, where the government established a number of reserves for their protection.¹⁰ On the northern frontier similar groups were encountered but annexation was a more all embracing event, as the numbers involved were smaller and were considered of lesser importance than those on the eastern frontier.¹¹

In addition to the communally organized groups, there were those who had come into contact and occasionally intermarried with the White settlers. These groups of "Coloured" peoples adopted the ideas of the Cape Colony and acted as buffers between the indigenous Black population and the Colony.¹² Constitutional states were established beyond the colonial boundary, which, amongst other matters, granted land to their citizens. These grants, when the states were subsequently annexed by the Cape Colony, were usually recognized and reissued by the Crown.

However, the general legal approach had always been that land within the colonial boundary belonged to the Crown until a formal grant had been made. The reserves for the Black population were thus held in trust by the Crown, but this did not prevent inroads being made into the reserved land from time to time. White colonists took increasingly hostile attitudes towards the existence of Coloured and Black lands in the latter part of the nineteenth century. Several reserves were abolished as a result of conflict and the supposed demand for individual title. Land hunger associated with the closing of the colonial frontier in the 1890s was such that virtually all reserved land came under attack. For example, at Loeriesfontein the Civil Commissioner stated

6. R Wallace, *Farming Industries of Cape Colony* (London 1896).
CGG 28.9.1854.

8. R Elphick and H Giliomee, *The Shaping of South African Society 1652–1820* (Cape Town 1979).

9. CPP *Blue Book of the Colony*, 1853 Return of Population.

10. M Wilson and L M Thompson, *The Oxford History of South Africa*, vol 1 (Oxford 1969), 233–271.

11. T Strauss, *War along the Orange: The Koranna and the Northern Border Wars of 1868–9 and 1878–9* (Cape Town 1979).

12. R Ross, *Adam Kok's Griquas: A study of the development of stratification in South Africa* (Cambridge 1976).

of the Coloured inhabitants: "it would only be a mercy to themselves were they turned off the place, when they will be compelled to take service with the farmers".¹³ These ends were often achieved by the grant of freehold titles to the Coloured farmers who promptly sold their titles to Whites. The struggle for grazing land between Black and White was a highly unequal one, both militarily and legally.

The Cape-Dutch Inheritance

The initial settlement, founded by the Dutch East India Company at the Cape of Good Hope in 1652, had been intended to act as a refreshment station for ships voyaging between the Netherlands and the Dutch East Indies. As such, crop growing was central to the economy of the settlement, supplemented by cattle and sheep raising. The rapid growth of the Colony beyond the original intentions of the Company resulted in active land settlement in the south-western Cape and an extension of the livestock industry into the interior. By the early eighteenth century stock was being moved seasonally beyond the settled areas and soon the movement became permanent. At first livestock farming was viewed as a means of obtaining capital to establish a crop farm, later it became an end in itself and the graziers pushed further into the interior of the subcontinent in search of better grazing land.¹⁴

The administration in Cape Town sought to control and tax this movement by requiring each grazier to take out a licence for limited periods, usually fifteen years. A well developed system of appropriation was established, whereby the claimant of the grazing ground selected the midpoint (*ordonnantie*) of his farm and then walked or rode his horse for half an hour in several directions, marking the boundaries with beacons.¹⁵ The circular area enclosed approximately 2 500 ha, which became the standard area of a farm in southern Africa. Thus new claimants could only select land at least one hour's walk away from all their neighbours. Often they were further apart, leaving extensive intervening tracts of government land, which were illegally grazed. Farms obtained under this tenure were established across the Cape Colony as the colonists searched for new grazing grounds further and further from Cape Town.

In 1814 the British administration sought to stabilize the frontier by introducing perpetual leases subject to a quit-rent.¹⁶ In this manner the authorities hoped to restrain the graziers and tie them to one farm, encouraging them to invest with security in its improvement. Farms held under the earlier forms of tenure were converted to grants not exceeding 2 500 ha in extent, carrying a perpetual quit-rent. The farms were formally surveyed and the encroachments upon Crown Land determined. Within the coastal belt such a system worked reasonably well as the farms were close together and approximately the correct size. However, in the drier interior extensive tracts of Crown Land had been illegally appropriated to supplement the 2 500 ha unit. It was only after the financial scandal and reorganization of the Cape administration in the late 1820s that the problem of farm size in the interior was tackled. Farms in excess of 2 500 ha were made available upon payment of an assessed additional quit-rent for the

13. CPP *Selection from Correspondence relating to the settlement of Loeriesfontein*. G 10 '93 (1893).

14. L. Guelke, *The Early European Settlement of South Africa* (Unpub. PhD thesis, Univ. of Toronto 1974).

P J van der Merwe, *Trek, Studies oor die Mobiliteit van die Pioniersbevolking aan die Kaap* (Cape Town 1945).

16. L C Duly, *British land policy at the Cape 1795 - 1844: A study of administrative procedures in the Empire* (Durham 1968).

adjoining Crown Land. Thus by the 1830s the Surveyor-General and the Land Board had developed an efficient system for granting the Crown Land of the Colony. Land was surveyed for applicants and granted subject to a perpetual quit-rent. The number of grants increased and a more effective control of the interior was exercised.

British Imperial policy

Changing theories of Imperial development began to make themselves felt in the 1830s, when Systematic Colonization, based on the experience of the United States, permeated programmes of British overseas settlement. The theory held that a balance between land, labour, and capital could be achieved by fixing the price at which the Crown Lands were made available to settlers. This might have been applicable to the more populous and better endowed colonies, but at the Cape of Good Hope, land was plentiful, labour was mainly supplied by the non-White population, and capital was lacking. The three elements were thus very drastically out of balance and the colonial authorities in Cape Town ignored directives from London seeking to impose the Imperial system upon the Colony.

In 1839 the Colonial Land and Emigration Commissioners were appointed to oversee the disposal of Crown Lands and the passage of emigrants throughout the British Empire. The Commissioners provided the element of continuity in Imperial policy which had previously been lacking.¹⁷ Thus in 1840 on investigating the disposal of Crown Lands, it was found that the Cape Colony was out of step with the rest of the Empire. This they proceeded to rectify by forcing the Cape government to introduce sales by auction at a minimum upset price of 2s per acre (25p per ha). This was done for the sake of Imperial uniformity as:

“It was not anticipated that a large quantity of land could be sold, but the new regulations were framed in order that there might be some definite and known mode of proceeding for the guidance of the public; and that the Government might not be answerable for the land not being sold for want of an established system of sale; if there really were parties anxious to become purchasers.”¹⁸

The first sales, held in 1844, were unsuccessful as only 1,6 percent of the land put up for auction was sold.¹⁹ Nevertheless, the Colonial Land and Emigration Commissioners were gratified, claiming “complete success” for their policy.²⁰ The new policy brought land disposal, except for the processing of land already requested, virtually to a halt. An official peacocking, picking out, of the best areas of Crown Land, to the detriment of the remainder, was introduced. The Crown Forests, on the southern coastal belt and other select areas were all that could be offered with any degree of certainty that the costs of survey would be regained and a profit shown. Total sales were minimal. Between 1844 and 1856 only 185 000 ha were disposed of compared with the 788 000 ha offered.²¹ This compares with 1,2 million hectares per annum granted in the decade 1835 – 1844 (Fig 2).²² The result was the re-creation of

17. F H Hitchens, *The Colonial Land and Emigration Commissioners* (Philadelphia 1931).

18. British Parliamentary Papers (BPP) *Fourth Report of the Colonial Land and Emigration Commissioners*, 1844 (178), xxxi. 11, 18.

19. CGG 19.1.1844, 12.4.1844.

20. BPP *Fifth Report of the Colonial Land and Emigration Commissioners* 1845(617) xxvii.83, 22.

21. Compiled by the author from auction notices and sale returns published in CGG 1844 – 1856.

22. Compiled by the author from the returns published in the Cape of Good Hope, *Blue Books of the Colonv*. 1835 – 1844.

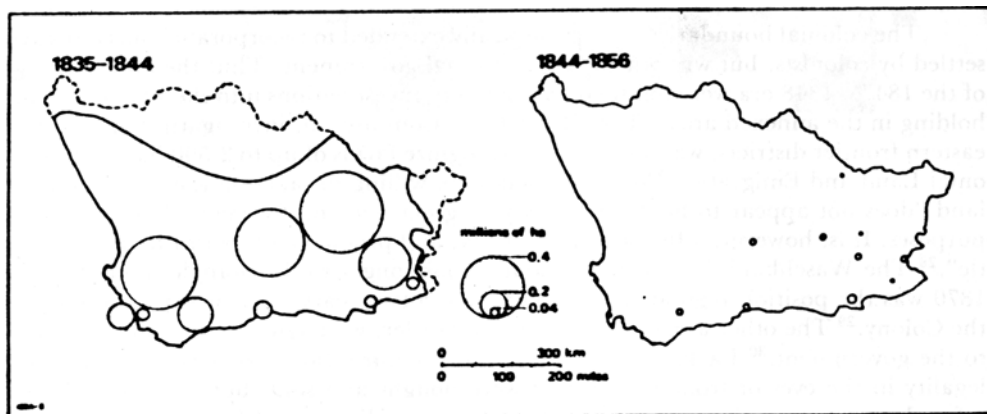


FIG. 2: Land disposal by district 1835–1844 (quit rent) and 1844–1856 (freehold).

the backlog of farm demands and with it illegal squatting on Crown Land. Imperial policy only offered problems for the Cape Colony. Indeed, as the Surveyor-General noted, Imperial policy had created “reserves for the uncontrolled use of hordes of nomadic squatters — gratis”.²³

The uncontrolled frontier

Squatting, that is the free use of Crown Land, was of some antiquity by the 1850s. In the eighteenth century preliminary testing of the land, before taking out a government licence was general. It has been estimated that in the eastern districts approximately one third of the graziers possessed any title to the land they used.²⁴ Only in the 1830s and 1840s was any real inroad made into this problem, but there remained a substantial body of settlers in advance of the legal frontier, and thus without title to the land they occupied. In addition, there existed the seasonal grazing grounds, which were temporarily in use. The imposition of the Imperial system aggravated the situation, as no consideration was given to these problems.

Settlers within the established areas, without title, were finally catered for in 1847 with the introduction of grazing licences, similar to those offered in New South Wales.²⁵ Land was offered for lease on an annual basis, at auction. The annual leases provided a means of raising revenue from the Crown Lands, and of exercising temporary control, and was used as an adjunct to the regular disposal system throughout the remainder of the nineteenth century. By 1870 there were over 1 000 farms, covering approximately four million hectares held under this form of title.²⁶ One variation was the introduction of lease by tender in the Colesberg Division in the early 1850s, but this was not followed by later administrations, which adhered to the auction system, despite its drawbacks.²⁷

23. CPP *Correspondence on the subject of modifying the upset price of lands offered for sale in certain parts of the Colony*, An-1854, memorandum by C Bell, Surveyor-General.

24. H A Reyburn, *Studies in Cape Frontier History*, *The Critic*, University of Cape Town Quarterly 3 (1934), 40–45, 41.

25. CPP *Return of extent of Crown Land, showing extent under annual leases*, An 60–1854.

26. Estimate derives from an examination of lists of farms offered for lease in CCG 1870.

27. CCG 26.9.1850.

The colonial boundaries were periodically extended to incorporate lands already settled by colonists, but without their own formal government. Thus the annexations of the 1847–1848 era were followed by a series of investigations into the state of land-holding in the annexed areas. The Albert Land Commission, investigating the north-eastern frontier districts, was instructed to recognize farms of up to 2 500 ha. The Colonial Land and Emigration Commissioners were willing to sanction the grants as the land “does not appear to hold forth any very great opening for general agricultural purposes. It is, however, a fine grazing country, and produces a superior breed of cattle”.²⁸ The Waschbank Lands, to the south, took longer to disentangle, and only in 1870 was the position regularized — some twenty-two years after incorporation into the Colony.²⁹ The other areas on the northern border, were ignored, despite petitions to the government.³⁰ Lacking any other form of tenure, farms achieved a degree of legality in the eyes of frontiersmen and were bought and sold, but the government refused to recognize them, and ultimately they were disposed of by auction.³¹

The remaining problem of the uncontrolled frontier was the regulation of the seasonal grazing grounds. These devolved into two sections. The first, the legplekken (winter grazing) of the Worcester and Tulbagh districts were used by neighbouring farmers on the uplands. By custom each area of grazing (5 000 ha apiece) was attached to a particular upland farm.³² Attempts to issue a more secure title in the 1850s failed, as the government considered that they would eventually be capable of more profitable use. Finally they were disposed of as ordinary Crown Lands and the seasonal graziers had no prior preferment. In all, some 200 farms were involved.³³ The second section included the TrekvelDEN and AchtervelDEN (backlands) of the interior of the Calvinia Division which were grazed seasonally by groups of graziers who moved in nomadic style from water point to water point.³⁴ Approximately five million hectares were involved. An unsuccessful attempt was made in 1848 to licence the livestock grazed on these lands, but the administrative problems proved insurmountable. By the 1860s as many as 600 000 sheep and goats were reported to be pastured on the lands.³⁵ This encouraged the Government to pass the Crown Pastures Licence Act of 1867 to licence livestock, rather than a specific location or person.³⁶ The precedent was unpopular and not renewed when the Act lapsed three years later. All the seasonal grazing lands were declared Crown Lands and were subject to the regular land disposal laws when the Crown was in a position to administer and dispose of them.

Influences on land policy

Against the background of tradition and experience the Cape government attempted to regulate the disposal of the Crown Lands in a manner best suited to its needs. Within this process there were several influences at work. The legislative process which now

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- 28. BPP *Eleventh Report of the Colonial Land and Emigration Commissioners*, 1851 (1883), xxii, 333.
 - 29. CPP *Report of the Select Committee on the Waschbank Lands in Aliwal North*, S C A8 – '69 (1869).
 - 30. CPP *Memorial of certain Burghers residing in the F.C. of Hope, District of Colesberg to receive grants*, An 43 1854.
 - 31. CPP *Blue Book of the Colony*, 1860, Report of the Civil Commissioner of Colesberg, JJ37.
 - 32. CPP *Report of the Select Committee on Legplekken*, SC 11 – '68 (1868).
 - 33. CGG 11.1.1870, 14.1.1870.
 - 34. CPP *Report of the Select Committee on Crown Lands*, SC 3 – '64 (1864), Q798.
 - 35. *Ibid* Q805.
 - 36. Library of Parliament, Cape Town, Legislative Assembly Debates, 22.5.1867.

controlled land legislation involved the electors, and through them the members of parliament, the governor, the Surveyor-General and his staff. Each person or group had their own interests to protect.

The Cape legislature was elected according to a qualified franchise based on the value of property owned or income received.³⁷ It was dominated by urban commercial and rural property interests, with the latter in the majority. Rural White society had become stratified with a considerable gap between the landed classes and those without land. The first priority in land policy was therefore to provide for the sons of established farmers, and secondly to make provision for the landless. Immigrants were not encouraged. There was a constant demand for land on the part of the rapidly expanding rural White population, which could not be ignored by its elected representatives. As an editorial of 1864 stated:

“there are young men on every South African homestead who from boyhood have been accumulating stock, who have their wagon, their span of oxen, and their plough. Land! is their demand and the demand is one which few of their parents can supply”.³⁸

Rural White society was and remained throughout the period, overwhelmingly locally born and predominantly Cape-Dutch (Afrikaner) in origin. In most of the frontier districts the Cape-Dutch constituted over ninety percent of the White rural population.³⁹ Furthermore, returns tend to suggest that the majority of men taking up land on the frontier travelled comparatively short distances to their new property.⁴⁰ Thus land was demanded by a particular interest group. After 1880 the Afrikaner Bond, the Cape-Dutch political party, dominated parliament, but rarely was the English-Dutch dichotomy an influence on land policy as immigration was not a practical proposition.⁴¹ The Afrikaner Bond made its position quite clear in the 1880s:

“We do not want agricultural emigrants from the Colony, we have to hand the best material for that line of industry. It would be impossible to get a class anywhere who could contend with the vicissitudes of this country as the Boers have done.”⁴²

Immigration schemes were therefore limited to smallholding ventures in the coastal belt, where the possibilities for stock raising were limited.

Political crises such as the Provincial separation controversy influenced many of the Divisional Councils in the Eastern Province to refuse to cooperate with the Surveyor-General, who was viewed as an agent of the central government. Their actions in leasing land on their own account were entirely illegal, as were those of the Albany Divisional Council, which in 1860 resolved to block all Crown Land sales in the area under its control until separation had been achieved.⁴³ Similarly at later dates the Divisional Councils proved to be difficult to deal with in the process of valuation of lands as they were “necessarily subject to local influence.”⁴⁴ Within parliament the Legislative Assembly and the Legislative Council were occasionally at loggerheads. The Council with its official, nominated members, prior to 1872, was more conscious

37. J L McCracken, *The Cape Parliament 1854 - 1910* (Oxford 1967).

38. *Eastern Province Herald* 10.6.1864.

39. CPP *Census 1865*, G 20 '66 (1866); SAPP *Census 1911*, UG 32 - 1912.

40. CGG 29.10.1858, 16.11.1858, Lists of successful applicants for land in British Kaffraria.

41. T R H Davenport, *The Afrikaner Bond* (Cape Town 1966).

42. *Cape Times* 20.8.1887.

43. CPP *Report of the Select Committee in Crown Lands*, SC 3 '64 (1864), Q400.

44. CPP *Report of the Surveyor-General for the year 1888*, G 31 '89 (1889), 8.

of practical problems and Imperial responsibilities than the Assembly, which reflected purely local ideas. Thus in 1859 the Crown Lands Bill was rejected by the Council as it made no provision for the introduction of immigrants.⁴⁵ Fortunately this opposition was overcome the following year. On occasion the enthusiastic proposals of the Assembly were lost in the more sedate progress of the Council.

Although the powers of the governors were much reduced by the 1853 constitution, they were still able to exert pressure, both on London and on the local government. Thus Sir George Cathcart offered farms as free grants in return for military duties in 1853 on the eastern border, despite the ruling that land should be available only at auction.⁴⁶ Charles Darling was able to persuade the Colonial Land and Emigration Commissioners in 1854 that the colonial proposals did not conflict with the Imperial prerogative and gained their acquiescence to the change in the law.⁴⁷ Sir George Grey assisted the legislators in the production of workable policies.⁴⁸ Later governors, such as Sir Henry Barkly, acted as constitutional rulers and did not influence the course of land policy, despite a long experience of Australian conditions.⁴⁹

The Cape of Good Hope, as a part of the British Empire, was subject to the influences of land policy within the English-speaking world.⁵⁰ The flow of information within the Empire was such that the legislators were aware of the progress of other colonies. Competition with them was occasionally felt and the policies of colonies such as Queensland were held up as models. However, the general reaction was that little could be gained from looking abroad where conditions were very different. At times this was expressed in distinctly nationalist terms — “we want no more Australian laws here”.⁵¹ The land laws of other colonies were examined but had far less influence on Cape policy than on its sister colony of Natal.⁵² This was so evident that the 1878 Crown Lands Bill was criticized as presenting “an entirely new tenure of land unheard of at the Cape and unheard of anywhere else as far as we are aware”.⁵³

Competition with the republics was a constant feature. The administration often encountered comments that farmers would go to the Orange Free State unless they were given a title, or that lack of security would encourage emigration northwards.⁵⁴ The farms offered in the republics, either virtually free or at low prices, certainly induced many Cape colonists of limited means to emigrate. In addition after 1890 the British South Africa Company, in opening up its lands in Bechuanaland (Botswana) and Rhodesia (Zimbabwe), looked to the farmers of the Cape Colony to populate them. This drew criticisms, especially when Cecil Rhodes as Chairman of the British South Africa Company acted against his responsibilities as Prime Minister of the Cape Colony, drawing the wrath of the *Eastern Province Herald*: “it is an extraordinary

45. Library of Parliament, Cape Town, Legislative Council Debates, 23.5.1859.

46. CPP *Report of the Special Commissioner on the granting and occupation of farms in the Divisions of Victoria and Queenstown*, G 33 - 1856.

47. CPP *Report of the Select Committee appointed to inquire into the system of selling Crown Lands*, SC 8 - 1855.

48. J Milne, *The Romance of a Pro-Consul* (London 1899).

49. M Macmillan, *Sir Henry Barkly: Mediator and Moderator, 1815 - 1898* (Cape Town 1970).

50. R Hyam, *Britain's Imperial Century 1815 - 1914* (London 1976).

51. CPP *Debates*, 1895, 73, Sir J Sievwright.

52. A J Christopher, “Colonial Land Policy in Natal,” *Annals, Association of American Geographers*, 61 (1971), 560 - 575.

53. *Standard and Mail* 8.8.1878.

54. CPP *Report of the Select Committee on the Waschbank Lands in Aliwal North*, SC 8 - '69 (1869), para 70.

thing that the Prime Minister of this Colony should be paying people to go out of it".⁵⁵ These lands only came into the market in the 1890s, and controlled colonization began just before the First World War, when the Cape frontier was exhausted.

The Legislative Programme

It is scarcely surprising that the Cape legislators were not highly innovative in their land policy. Their first investigation essentially revolved around the perceived option of either a return to the Cape-Dutch inheritance or the retention of the Imperial system.⁵⁶ The fixed price was rejected, as it was questionable whether even 6d per acre (6p per ha) might be too high.⁵⁷ Auctions were retained despite criticisms that they resulted in "bitterness and even exasperation, which ... a wise and paternal government should if possible avoid".⁵⁸ The Surveyor-General, Charles Bell, proposed the sale of farms at valuation, subject to a moderate quit-rent, as a means of overcoming the problem of speculation, but this approach only found favour forty years later.

The Legislative Assembly appointed a Select Committee, which concluded that "selling land in freehold is unsatisfactory as public property is alienated permanently with no return".⁵⁹ Thus quit-rents were reintroduced and auctions retained, with only the upset price and the rental determined officially. The newly created Divisional Councils were involved in the administrative process by acting as local land boards, to value and divide the land into suitable blocks. Local control thus implied not only colonial but also divisional control and hence the direct influence of the local frontiersmen who wanted the land. Although the Colonial Land and Emigration Commissioners expressed their reservations concerning such a major departure from Imperial policy, they did not veto it.⁶⁰ In 1860 the Crown Lands Act was passed incorporating the Select Committee's proposals.

The Crown Lands Act did not live up to expectations and sales were slow to materialize (Fig 3). In part this was due to the fulfillment of many of the forebodings of the Imperial government, particularly over local control. The Divisional Councils manipulated the upset prices with valuations often a tenth or twentieth of the land's real value.⁶¹ Fortunately the initial period of sales under the Act (1859–1863) coincided with a period of prosperity and auction realizations were much higher than valuations. In addition Divisional Councils supporting the administrative separation of the Eastern and Western Provinces obstructed the functioning of the Surveyor-General's Office. Thus the government sought to free itself from the obstructionism of the Divisional Councils but Parliament resisted what it regarded as an attack upon democratic rights.⁶² The political crisis over the separation issue resulted in the widen-

55. *Eastern Province Herald*, 20.2.1895.

56. *CPP Correspondence on the subject of modifying the upset price of lands offered for sale in certain parts of the Colony*, An 27 1854.

57. *Ibid.* Memorandum by J Rawsthorne, Civil Commissioner at Colesberg.

58. *Ibid.* Comments by C Bell, Surveyor-General.

59. *CPP Report from the Select Committee appointed to inquire into the system of selling Crown Lands*, A12 1854, para 1.

60. *CPP Report from the Select Committee appointed to inquire into the system of selling Crown Lands*, SC 8 1855, 9.

Figures compiled by the author from the auction notices in the CGG 1859–1866, and the land grants noted in the *Blue Book of the Colony* 1859–1868.

62. Library of Parliament, Cape Town, Legislative Assembly Debates 15.5.1863.

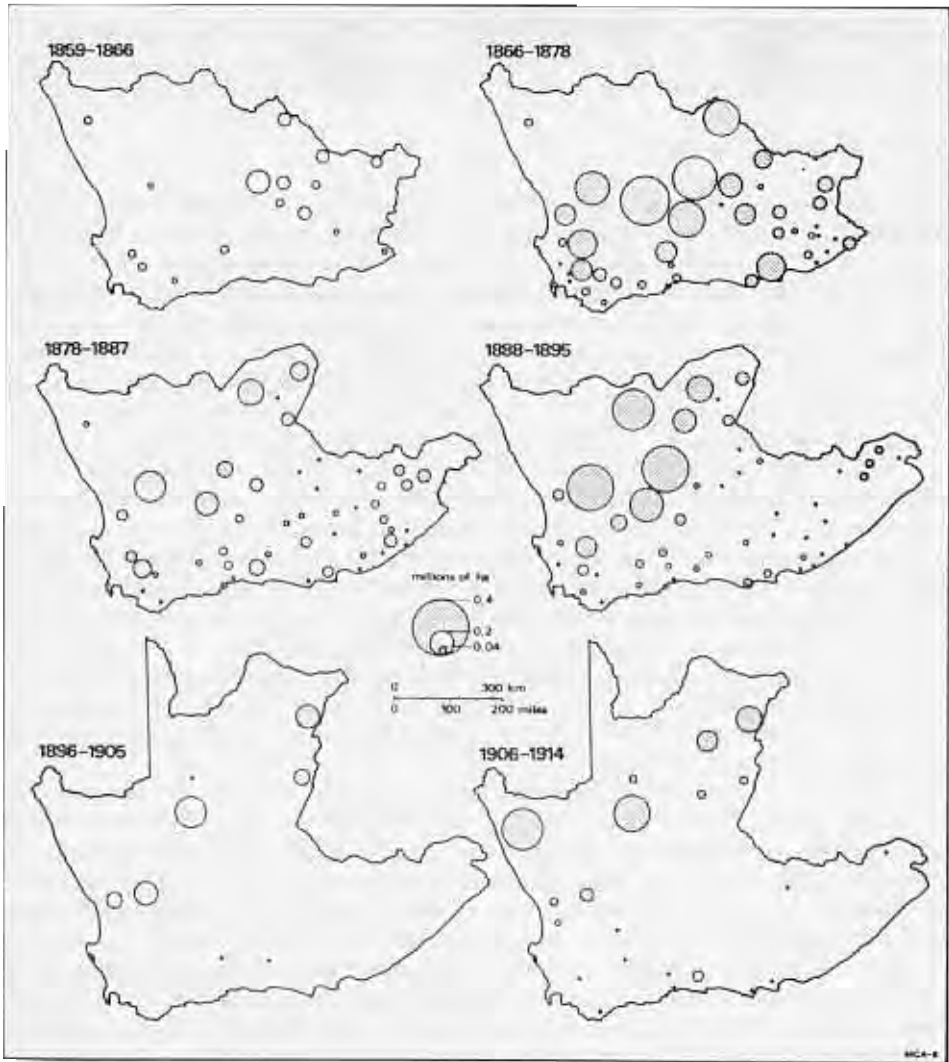


FIG. Land disposal by district 1859-1914.

ing of the debate on land matters as new modes of disposal were investigated. The benefits of leasing as opposed to sale were expounded, with the result that in 1864 the Crown Lands Leasing Act was passed, providing for the auction of Crown Land leases for up to twenty-one years. The object was to broaden the range of applicants for Crown Lands, by allowing the poorer frontiersmen, without capital to obtain a secure, if temporary title to land.

The Crown Lands Leasing Act passed through several teething problems before an effective means of disposing of land was evolved. The problem of compensation for an outgoing tenant's improvements delayed the first auctions for two years. The ques-

tion of the upset price also took several years to solve, as the Surveyor-General retained the power to determine the length of the lease according to the bid made at the auction. The opportunities for misunderstanding were evident and in 1870 the upset price was published, and in 1872 two prices, one for short term (5-year) and one for long term (21-year) leases.⁶³ One significant modification occurred in 1870 when pressure was brought to bear on the parliamentarians to allow leases to be converted to perpetual quit-rent tenure upon payment of a valuation for the farm.⁶⁴ Leasehold had always been considered an inferior form of tenure to a perpetual lease or freehold tenure. As with the 1860 Crown Lands Act the purchaser required a capital sum, so that the poorer graziers were unable to take advantage of this amendment to the law.

Thus by 1872 the Government possessed a workable and flexible land disposal system combining the elements of auction, leasehold and perpetual quit-rent. It worked well and there were expressions of satisfaction in official circles.⁶⁵ However, the desire for the poorer frontiersman to be able to secure land on a perpetual leasehold without payment of a capital sum, was reflected in the parliamentary debates of the 1870s. At the time of the constitutional crisis of 1878, when the Governor, Sir Bartle Frere, dismissed the Ministry headed by J C Molteno, the opportunity to act occurred.

The Crown Lands Act of 1878 provided for the auction of perpetual leases, without the payment of a capital sum. The Crown would thus obtain a high annual income unrelated to the cyclical turns of the economy. Herein lay the danger, as a rental offered and paid in a good year might be an impossible burden in a poor year. Further, bidding for an annual rental encouraged men to make excessive bids in order to obtain land they had been squatting on or paying a low annual rental for, when the opportunity of a secure title was offered. Stories of rash competitive bidding for land on which there were wild ostriches or valuable water points were common.⁶⁶

The depression which began in the early 1880s changed the mood of optimism in which the 1878 legislation had been passed to one of crisis. The principle of allowing men without capital, "men of straw", to purchase land was now abandoned.⁶⁷ A deposit of at least one fifth of the purchase price was suggested in the early stages of the debates on a new land policy and was incorporated into the final enactment in 1887. The key issue of the debates, which lasted for three years, was the retention of the auction as a means of disposal, as opposed to valuation and selection of applicants. A return to the freedom of the system in operation prior to 1844 was not considered practical as there were too many frontiersmen wanting land. The enforcement of personal occupation was not thought to be compatible with the auction system, so that the final legislation was remarkably conservative. Auction for a capital sum, but without a quit-rent was adopted as the final mode of disposal. One-fifth of the price was to be paid immediately and the remainder secured as a low interest mortgage to the Government. The Act remained on the statute book and formed the most important means of land disposal until the First World War. Satisfaction with the progress of land disposal was expressed by the Surveyor-General in 1891:

"this may be regarded as indicating that the farming population has confidence in the pastoral and other capabilities of farms in these Divisions, and intend set-

63. *CPP Report of the Surveyor-General for the year 1875*, G 30—'76 (1876).

64. *Eastern Province Herald* 18.3.1870, report on the Legislative Assembly debate 7.3.1870.

65. Library of Parliament, Cape Town, Legislative Assembly Debates 6.7.1877.

66. *Ibid.* 18.4.1882.

67. *CPP Debates*, 1877, pp 21—58.

ting there permanently, notwithstanding the inducements held out to acquire farms in the new opened country to the north.”⁶⁸

Despite the success of the 1887 legislation in bringing stability to the disposal of the Crown Lands of the Colony, it remained an unsatisfactory measure for the dry semi-desert interior on either side of the lower Orange River. Here the nomadic and squatter population which had been accustomed to the annual rental system sought to secure land without capital outlay. In 1878 leases for three years had been offered to provide greater security and in 1891 this was increased to five years. The object was to offer an initial testing period when the capabilities of the land could be investigated, and during which the land could be purchased at the upset price. Thus the possibility of being outbid at a future auction was eliminated, and improvements could be undertaken with security. The old annual lease system had militated against investment as it was so insecure for the Surveyor-General to suggest:

“this form of tenure acts badly on the farmers themselves. Generations of experience has taught them that to improve is to be robbed.”⁶⁹

It was only one step to abandon the auction system altogether in parts of the interior. In 1895 the principle of sale by valuation was accepted and auction abandoned for the dry areas. In addition parliamentary concern was directed towards the actual settlement of the land, so that a compulsory occupation clause was inserted into the Crown Lands Act. Thus farms were offered for sale and applicants were invited, who, if successful, leased the farm for five years. During this time the lessees had to occupy and improve the land. At the expiry of the lease a grant was made, with the five years rental credited towards the purchase price, the remainder being paid off over fifteen years. The general tone of the debates was summed up by one senior member, J X Merriman, who asked “did the honourable members not think that they ought to thank anyone who would go and take up 5 000 morgen of land and live upon it and improve it”.⁷⁰ The answer of the House would appear to have been yes!

One further refinement in 1908 permitted persons to take out licences to prospect for water, within a three-mile (4,8 km) radius for one year. The licencees used the opportunity mainly to retain control of the land and few successes were recorded. Approximately one-tenth of the applicants found water, and then only sufficient for domestic supply and not for their animals.⁷¹ The scheme was abandoned in 1912 in view of the abuses to which it was subject.

Progress in Land Disposal

The various policies pursued in the disposal of the Crown Lands of the Colony were successful in alienating permanently most of the land suitable for agricultural and pastoral purposes. An enquiry into land settlement possibilities in 1911 reported that “no land with really good pastoral or agricultural possibilities remains in the possession of the Crown”.⁷² Some 9,2 million hectares of Crown Land remained unclaimed at this stage but lack of water, and rugged terrain precluded its occupation. It may be con-

68. CPP *Report of the Surveyor-General for the year 1891*, G 29 - '92 (1892).

69. CPP *Report of the Surveyor-General for the year 1894*, G 6 - '95 (1895), 20.

70. CPP *Debates*, 1895, 72.

71. SAPP *Return of lands in Kenhardt and Gordonia*, Ann 156 - 1912.

72. SAPP *Report of the Select Committee on Closer Land Settlement*, Senate SC 6 10-11 (1911), Q254.

cluded that the legislators disposed of some 26,3 million hectares and assisted the rural White population to rise from 66 000 to 290 000 in the period 1855–1911. There were equally impressive increases in rural property values, livestock totals and pastoral exports.⁷⁴

The transfer of Crown Land to private ownership was a complex business, reflecting steady advances, static periods, and occasional retreats according to the financial capabilities of the frontiersmen and the cyclical droughts to which the Cape was subjected. There were few years in which there was no activity, while the limited administrative capacity of the Surveyor-General's Office tended to even out the peaks of demand. The detailed work of survey was crucial to the success of the whole operation. Unlike earlier precedents in the Dutch and early British periods of rule, no constraints were placed upon the size of holding. Thus traditional ideas were abandoned and detailed assessment of the land resulted in the survey of blocks considered capable of constituting a farm and providing a livelihood for a family. Thus farm sizes increased as surveyors worked into progressively drier lands. Farms in frontier districts reached an average size of over 14 400 ha in the Kenhardt district in the period 1903–1910, compared with only 2 600 ha in the Hope Town district in the period 1859–1866.⁷⁵ Attempts to reduce sizes were generally defeated either by farmers acquiring adjacent lots offered at auction, or by the failure of the Crown to dispose of 'small' (< 1 000 ha) lots. Thus the standardization of sizes which had been apparent under the Dutch and early British administrations gave way to a more flexible approach, although the range of sizes surveyed in each district tended to be small, as the capabilities of the land changed little over short distances.

Financially the disposal of the Crown Lands was of some importance to the colonial revenue. Much talk was expended in the Assembly on the monies to be derived from land sales and leases, and the relative merits of the two, but land revenue con-

TABLE 2
REVENUE FROM LAND SALES AND LEASES 1850–1909

	Land Revenue £	Land Sales	Total £	% of Total Colonial revenue
1850–1854	100 017	45 291	145 308	10,6
1855–1859	129 289	44 549	173 838	7,7
1860–1864	137 275	168 246	305 521	8,6
1865–1869	218 903	113 587	332 490	8,9
1870–1874	473 584	132 334	605 918	10,4
1875–1879	499 036	373 183	872 219	8,1
1880–1884	913 701	309 282	1 222 983	8,0
1885–1889	918 003	101 494	1 019 497	6,1
1890–1894	667 276	360 672	1 027 948	4,4
1895–1899	672 817	118 723	791 540	2,4
1900–1904	578 418	1 912	580 330	1,3
1905–1909	573 546		573 546	1,5

N.B. 1909 is the last year for which separate figures of revenue for the Cape are available.

CPP *Abstract of Population Returns 1855*, G 42 '57 (1857); SAPP *Census 1911*, UG 32–1912.
A J Christopher, The growth of landed wealth in the Cape Colony 1860–1910, *Historia* 22 (1977)
53–61.
CGG Sale notices 1859–1866 and 1903–1910.

stituted a declining portion of the colonial total (Table 2).⁷⁶ The peak period in the early 1870s reflected in part the success of the Crown Land Leasing Act of 1864, but also the small scale of the colonial economy. With the transformation of the South African economy attendant upon the mineral discoveries, land revenue ceased to have any importance in the colonial budget. Total land revenue declined after a peak in the early 1880s as the terms and conditions of sales and leases became easier for the settler. However, the average price of a farm rose from £400 to £1000 between 1853 and 1914, effectively limiting the class of potential owner.⁷⁷ It therefore tended to be the sons of landowners who acquired farms rather than the landless, whose position steadily deteriorated in the course of the period under review.

Cape Colonial land disposal legislation in the period 1853–1914 lacked many of the more spectacular features of its contemporaries. The bitter political struggles of Australia and the massive landscape transformations of the United States are absent. The Crown derived a moderate revenue from its land, but no more. Settlers were placed on the land, but they would probably have taken it in any case, or emigrated to other parts of southern Africa. Certainly no attempt was made to attract a flow of immigrants to settle upon the land, as colonization was the preserve of the existing Cape population. Given these limitations, the transfer was orderly and realistic in its assessment of the pastoral capabilities of the land. There were thus periods of distress as a result of drought but not spectacular retreats. Probably because policies were largely unspectacular, they were successful, and it is doubtful if alternative policies would have produced better results.

CPP *Blue Book of the Colony* (1850–1885) thereafter *Statistical Register of the Colony* (1886–1909).

CPP *Blue Book of the Colony*, 1851–1859; SAPP *Reports of the Surveyor-General*, 1910–1914.