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THE PROBLEMS FACED BY CROWN PASTORAL LEASEES IN THE TEVIOT REGION OF CENTRAL OTAGO 1970-1985

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The problems faced by crown pastoral leasees in the Teviot region of central Otago

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* TO EOIN GARDEN MY CO-COMMITTEE MEMBER AND COLLEAGUE.

* TO WARREN COOPER M.P. AND LATTERLY ROBIN GRAY M.P.

* TO MY WIFE JOAN, AND CHILDREN COTTON, RACHEL AND ANTONY FOR THEIR SUPPORT IN STICKING TO SUCH A LONG, DRAWN OUT, BATTLE FOR JUSTICE FOR A SMALL GROUP OF RUNHOLDERS WHO ARE NEIGHBOURS AND FRIENDS.

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CHAIRMAN TEVIOT LEASEES COMMITTEE.

ROSSLYN, P.O. BOX 29, ROXBURGH.

"THE PROBLEM IN A NUT SHELL"

BETWEEN 1973 AND 1975 FOUR LOCAL PASTORAL LEASEES APPLIED FOR AND WERE GRANTED RECLASSIFICATION OF THEIR LEASE TO CROWN RENEWABLE LEASE TENURE, WHICH ALLOWS THE LEASEE THE RIGHT TO PURCHASE THE FEE-SIMPLE (THE FREEHOLD TITLE).

THIS WAS FOLLOWED BY A DRAMATIC REVERSAL. THE LAND SETTLEMENT BOARD, BETWEEN 1975 AND 1977, DENIED THREE OFFICIAL APPLICATIONS. NUMEROUS VERBAL APPLICATIONS AND ENQUIRIES WERE MADE TO FIELD OFFICERS, BUT ALL WERE DISCOURAGED. THESE PASTORAL LEASEES WERE ADVISED TO FORGET FREEHOLDING, YOU'LL NEVER BE ALLOWED TO AND WERE ADVISED TO GET ON WITH FARMING.

ON 1ST AUGUST 1980 THE INCREDIBLE/THE UNBELIEVABLE OCCURED, ALL BUT THREE PASTORAL LEASEES BETWEEN BEAUMONT IN THE SOUTH AND THE KNOBBIES IN THE NORTH WERE MANDATORILY RECLASSIFIED!

THE PROBLEMS FACED BY CROWN PASTORAL LEASEES IN THE TEVIOT REGION OF CENTRAL OTAGO 1970-1985

PREFACE: INTRODUCTION TO THE DISTRICT.

This is not a history but a brief description of the Roxburgh/Millers Flat area.

This combined area known as Teviot is boundried by high mountain ranges to the west and east rising from 300 feet altitude at Roxburgh on the valley floor to Mt. Benger (3,784 feet) in the west and several ranges and tops to the east including Mt. Teviot at 3,203 feet.

The district is dissected by the Clutha River which is controlled to the north by the Roxburgh Hydro Scheme. The local areas surrounding the river are wide terraced flats and the valley floor. These are well suited for horticulture and a wide range of specialist diversified land uses. The Roxburgh valley is approximately twenty-five miles long.

The Teviot River is an integral part of the Central Otago Electric Power Authorities generating capacity having three generating stations at present and potential for at lease two more.

Lake Onslow has a very strong following of fishermen, as do other water courses in the district.

The area is well serviced by three towns Roxburgh - population 720; Millers Flat - population 194 and Ettrick - 150 . There are approximately 70 farms and an equal number of orchardists in the immediate area.

Following both world wars, efforts were made successfully, to settle returned servicemen. During 1924 the vast Teviot Station pastoral run was sub-divided and settled by ballot; many if not all the successful applicants were returned servicemen. Unfortunately the units were too small, the average property capable of 500 to 700 ewes and perhaps 1,000 wethers.

Much of the mid-altitude country had been and continued to be cropped, oats being the main crop. This resulted in the deterration of the soil structure and fertility.

Compounded by rabbit infestations of ruinous proportions on the lower country and the depression of the thirties, saw destocking and erosion problems emerge. This period was immediately followed by the second world war of 1939 - 1945.

Between 1946 and 1948 land values escalated as did product returns. However some of the first war veterans decided they'd had enough and sold. Men who had spent years away overseas returned and with Government assistance entered farming.

Whilst this was going on the Government and the Lands Department of the day had decided something had to be done to encourage the settlement of backward, less fertile, isolated and rabbit infested areas. This saw the 1948 Land Act and supposedly a better deal.

The majority of properties were at the time an amalgam of various titles (grazing leases, renewable leases, occupational licenses and freehold titles not to mention leases in perpetuity).

Apart from L.I.P.'s the run-holders were offered options;

1. Amalgamate the titles and buy the fee simple (freehold) or
2. Amalgamate the various titles and lease the property from the Crown. This to be known as a pastoral lease.

At the time money was scarce and although the difference between leasehold (Pastoral lease) and a freehold may have been $2,000 (One thousand pounds) most decided to lease their properties.

Apart from the increased capital necessary, the advisers to farmers at the time recommended the pastoral lease option. It is interesting to note that the rent at the time was 1/6 (18 cents) per 100 sheep in the better localities reducing to 1/- (10 cents) in less favoured areas.

The 1948 Act recognised many of the earlier problems and extended the lease period out to 33 years, without a rent review and guaranteed automatic right of renewal. However it removed the leasees rights to purchase the fee simple (Was this a trade-off). Thirty three years between rent reviews and the automatic guaranteed right of lease-renewal for no rights to purchase the fee-simple and the other well known restrictions imposed at the time on pastoral lease tenure. (limited stocking, restrictions on "burning", "cultivation", "tree planting")

This Teviot region like many hill and high country areas of the South Island had as its major sheep breeds, merino's or its stronger off types, half-breds and corriedales. The sheep breeds as with most aspects in the region changed during the seventies.

The sheep breeds changed to Romney-half-breds, Border Leister-coriedale crosses, Perendales, Coopworths and of course Romneys.

Large herds of breeding cows emerged during the nineteen seventies only to be disappated in the early years of the eighties.
The sheep scene on the other hand has seen wethers come and go and today they are being reintroduced to farm management systems (1986).

Breeding ewe numbers have increased maybe five times since the 1950's this aspect will come out more fully later.

The runholders involved in the following saga, were in the main, living back from the main roads servicing the area. This meant restricted services and still today may farmers do not enjoy an Education Board School bus run (providing their own), no rural delivery, no milk or paper deliveries.

The lack of services causes considerate inconvenience and added expense to these families. In any one year we may have 20-30 pupils at boarding schools outside the district.

CHRONOLOGICAL RECORD OF EVENTS

EARLY 70's

At a Combined Conservation Districts (Teviot and Mt Benger) meeting assembled runholders were informed by Mr Des. Gregan chief pastoral lands officer that the Teviot area was not pastoral land as defined under the Act, but farmland.

Farmer run-holders didn't appreciate that under Section 51 of the 1948 Land Act, the Land Settlement Board (of which the Minister of Lands is chairman) has the right to not only classify crown land but can reclassify any crown land previously classified under this section.

The power (section 51 paragraph 3) to reclassify pastoral lease land to farmland had never been understood by, pastoral leasees or their advisers (lawyers, accountants, stock firm managers, land salesmen and bank managers).

Subsequently it was a traumatic shock for manmy runholders to find that the crown (Land Settlement Board) could reclassify their leases from Pastoral Lease to Renewable Lease. This could occur at any time during the term of the lease.

1974

By 1974 four runholders, Wright Brothers, R.J. Johnstone, J.A.

Maunsell and R.L. Waters had appreciated the value of being able to have their pastoral leases reclassified and subsequently acquired the rights to purchase the fee-simple.

Pastoral leasees have no legal right to request a reclassification from a pastoral lease to a crown renewable lease (C.R.L.). The Act permits the L.S.B. to reclassify leases.

To its credit the Land Settlement Board through the Land Department were prepared to consider a request for reclassification from run-holders on pastoral lease tenure.

The important and often misunderstood point here is that crown renewable leasees (who pay a higher level of rent) have the inherent right to freehold at any time during their tenure, whereas no pastoral leasee has the legal right to purchase the fee-simple (freehold).

A pastoral lease title carries many restrictions which have been designed to protect the environment, water and soil values. The loss of freedom, i.e. to freehold, to burn, cultivate, plant trees etc. is compensated for by a lesser rental commitment by pastoral leasees as compared to crown renewable leasees.

A pastoral leasee will pay only one third, to a half of the annual rent of a crown renewable leasee with the identical rental value. This point will become more important as we get nearer to the period 1980.

POST 1974

The Teviot is by high country standards, closely settled. The Roxburgh/Millers Flat branch of Federated Farmers had been rejuvenated as a consequence of the roll over of a generation of run holders.

These two aspects ensured the rapid realisation that Pastoral Leases in our area were not locked in, we could request and be granted reclassification. After all we knew of four local properties, who had successfully been reclassified.

The experience gained by these four, highlighted the value of goodwill.

Goodwill was first introduced to the Land Act in 1970 and was designed to encourage crown leasees to to purchase the fee-simple. This policy has been very successful as can be seen from the following. In 1970 there were 13,000 crown renewable leases and by 1983 the figure had been reduced to 3,700.

Goodwill is the result of a complicated equation which basically is the result of capitalising the rent for the unexpired term of the lease not exceeding eleven years. From our experience a lease with eleven years to run before expiry, goodwill would reduce the cost of freeholding by 30% and maybe as high as 33%.

OCTOBER 23rd 1975

Mr Tom Pannett applied to have his run property reclassified. Nine months later on the 29th July 1976 the request was declined.

Mr Ian Moir applied in 1976 and received a negative response as did Mr George Wales.

Was this a change of policy? Why had the Lands Department turned down these applications? We were to establish later that there had been no change of policy by the Land Settlement Board or the Government

In fact the Catchment Board had had an input into the property reports prepared for the Land Settlement Board which had raised issues which the Lands Department had accepted without due consideration to the legislation.

For example, runholders were told their properties could not be considered because they were too high (suggesting an

altitude limitation), or that the properties had aspects which harvested water into either the Manorburn or Teviot River catchments.

None of these points had been raised in earlier reclassification applications, or if they had, they had not had any significant effect on the outcome of earlier applications.

In fact during a visit of a sub-committee of the Land Settlement Board to our district in April 1979 two of our leasees committee, Eoin Garden and John Rowley met Mr M. Conway (Chairman) of the National Water & Soil Division of the Ministry of Works. They were assured by Mr Conway that no such criteria existed and in fact if the water yielded was so important in a thirty inch rainfall area, then the building of dams was more appropriate.

Many Teviot runholders had believed that water and soil values on all land tenures including pastoral lease were fully protected from unwise land use and management systems, by the 1941 Water & Soil Conservation Act.

Interestingly the National Water and Soil Organisation which is referred to as N.W.A.S.C.O. and is the umbrella body covering local catchment boards made a strong case to the Clayton Committee for allowing South Island pastoral runs to be freeholded on the basis that their legislative powers were sufficient to protect all land from mismanagement.

One could be excused for concluding that during the period 1975-1979 Teviot pastoral leasees were subjected to a period of indecision caused by infighting between Land Department field officers wishing to protect their jobs and the Catchment Boards wishing to increase their sphere of influence. We were clearly disadvantaged during this period of increasing land values.

Mysteriously no reclassifications to our knowledge were made in our area between early 1975 and 1979. We still received newsletters from the Lands Department, for example issue No. 11,

March 1975, headed Pastoral Lands Policy with the second item on page one out lining the provisions of the Act as they apply to reclassification.

SEPTEMBER 1975

The Roxburgh/Millers Flat branch of Federated Farmers was asked to help four crown leasees whose leases were expiring. The new rentals are based on 4.5% of the current rental value (or L.E.I. which is land value exclusive of all improvements). One example of the increase was, old rent $99 per year, rising to $2,400 per year.

It was now all too evident that all crown leases were going to sky-rocket upon renewal. John Rowley the branch representative to the Otago Provincial District of Federated Farmers was reported in the Otago Farmer dated 8th September 1975 as saying and I quote "Some of the rentals on pastoral leases could go from $300 to between $5,000 and $8,000". (Indeed in 1986 we know that rentals of farmers pastoral leases in the range of $250-$300 are in the Teviot area now being renewed at levels of $7,500 to $10,000.

With this evidence (new high rentals and excalating land values) Teviot run holders could see their was only one solution - to freehold.

Eoin and Pat Garden of Avenal Station arranged a meeting with the Lands Department field officer from Alexandra Mr Pat Curry. At the meeting leasees were informed by field officer Curry that they would be wasting their time making applications for reclassifications as they would be declined. There was general acceptance that the whole area would be denied the opportunity to reclassify.. He said he had heard that Wrights' property had been reclassified early on. This apparently was seen as a period to right a wrong - the four should never have be reclassified!

Many farmers felt very annoyed. We held discussions; with Arthur Scaife member of the Land Settlement Board, Warren Cooper and Robin Gray both M.P.'s and Federated Farmers provincial personnel. Mr George Wales (whose application had been declined) wrote to the Minister of Lands Mr V. Young only to be informed that he felt the department had taken too much notice of the Otago Catchment Board. No reopening of the application - no action.

We lobbied hard to avoid the serious implications of a rental package which had pastoral leasees paying 3% of the rental value. The lobbying was co-ordinated via the South Island High Country Sections of Federated Farmers. If we were to be denied the opportunity to freehold, we certainly weren't going to pay extravagant rentals. The Government realised the predicament, as the following press statement clearly indicates.

JUNE 17 1978 - MINISTER OF LANDS - HON. V.S. YOUNG'S ANNOUNCEMENT

The essential part of the new rental package was that any property not a genuine pastoral lease had to be reclassified. To the Teviot runholders this signalled a 180 degrees about turn. Had the Government and the Land Settlement Board changed their policies again and would not this mean we could request reclassification and be successful as our four colleagues had been prior to 1975, four years earlier.

The balance of the package included in the Ministers statement although very progressive was not acceptable to the pastoral leasees as represented by the South Island High Country Committee.

Unfortunately the Inland Revenue Department reversed its initial acceptance of the 90% pre-payment of rental scheme on the grounds that infact instead of the payments being rent and therefore tax exempt, the scheme in fact was a means whereby leasees could freehold 90% of their properties and therefore the payments were taxable. This was regretable, because I believe this may have been the last opportunity for genuine high country pastoral leasees to achieve the status of being 90% freehold or if you prefer 90% rent free.

From the date of this announcement we waited for departmental action on the reclassification of the non-genuine pastoral-lease properties, especially the Teviots. Clearly we were not genuine pastoral leasees, runholders in our group once again agitated for action and made further applications to be reclassified.

The Government had signalled to the farming industry it wanted increased production by introducing the livestock incentive scheme and the Land development encouragement loan scheme. Land values were rising rapidly and leasees could appreciate, that their rentals or freeholding costs were according to comparable land sales, doubling every five years.

AUGUST 13, 1980 MANDATORY RECLASSIFICATION

By 1980 most farmers had accepted the earlier situation that we would never be reclassified. The Minister of Lands 1978 statement showed no signs of implementation. Then it happened in August 1980 the whole of the Teviot area except Beaumont Station in the south, were MANDATORILY reclassified.

The following leasees were advised that their leases could be reclassified immediately or if not accepted the Government would do so upon the expiry of the present 33 year term, MANDATORILY.

I.H. ARMITAGE	sold - 1981
I.R. CAMPBELL	sold - 1981
C. . DEVEREUX	pulled out - freeholded
R.G. & G.J. DILLON	
J.G. FERGUSON	pulled out - freeholded
W.A. FRAME	pulled out - freeholded
A.G. GARDEN	
E.R.H. & P.J. GARDEN	
S.T. HAUGHTON	pulled out - freeholded
S.T. KINASTON	sold - 1982
J.D. LUNN	pulled out - freeholded
I.H. McDONALD	
Estate A.E. MacNICOL	
I.V. MOIR	
T.A. PANNETT	pulled out - freeholded
C.L. PARKER	now Phillip
K.R. ROBB	pulled out - freeholded
J.C.F. ROWLEY	
G. SMITH	now Geoff
G.J. SWINNEY	sold - 1986
G.A. WALES	
Bros WOODHOUSE	sold - 1981

Also A.R. McNeish and D.H. Hamilton were initially reclassified however the L.S.B. changed its decision and within 6 months these two properties were accorded pastoral lease tenure.

By 1986 the ranks had diminished considerably.

Messrs Devereux, Robb and Frame were reclassified at the same time as the Teviot farmers, although their properties were on the South east faces of Mount Benger on the opposite side of the valley. These three were able to stay with our group until eventually the system wore them down and they were eventually forced to break away.

Those who sold, did so for many and varied reasons, but I'd suggest they did so because of the realisation that the very high land values allowed them an opportunity to leave high rentals, exhorbitant freeholding costs, and or irrigation charges escalating by a compounding 20% per annum for a freehold farm with a lesser debt and lower cost structure.

Those who pulled out of the group, did so because the area of pastoral reclasssified lease was a small part of their total land holdings, or else they found they needed a freehold title to diversify into horticulture or to purchase adjoining land for sons or whatever.

Those eight properties remaining are all either totally reclassified pastoral leases without any freehold or else they have a substantially pastoral lease property.

AUGUST/SEPTEMBER 1980 - FEDERATED FARMERS MEETINGS

It didn't take long before the issue came up at a local Roxburgh/Millers Flat Branch meeting. The affected leasees set up a small committee of Jack Norman (branch chairman) Eoin Garden and John Rowley (chairman of the committee).

Immediately the Ombudsman was informed of our situation, as were the provincial executive members of Federated Farmers.

AUGUST 7 1980

The Ombudsman was contacted because he was investigating a complaint from two of our branch members Messrs Graham and Ray Dillon of Millers Flat.

The Dillon Brothers had applied to be reclassified in 1978 but it had taken the Land Settlement Board 24 months to reach its decision (not to)? In view of the close relationship of the Dillon Brothers case and our groups, we decided the Ombudsman should appreciate, the Dillons were not an isolated case, that in fact, their were at least a further 21 affected leasees.

Of course one of the first letters written was to the Land Settlement Board objecting to the way in which the group had been disadvantaged by their inconsistent decisions. Our letter was placed before the Land Settlement Board in September. The subsequent reply noted our views and undertook to carry out an investigation into the whole question of the responsibility for survey costs, and the other points raised. (See appendix "A" at rear)

We were very surprised to find that the Crown would expect pastoral leasees to pay for the survey to establish the legal property boundary before a freehold title could be registered. A leasee could be reclassified to a C.R.L. and could even commence freeholding by paying for it on a D.P.L. (deferred payment licence) but he would not have a registered title to the land!

Others in our group found they were required to have a compiled plan made, to satisfy the Department. In some instances our leasees were asked to pay one or two hundred dollars for a compiled plan whereas others were quoted figures up to $5,000 for a full survey.

We made it very clear to Government and the L.S.B. that this system was unjust. For example, once your neighbours had completed their surveys, you by delaying, would find the costly field work had been completed and your costs greatly reduced.

We also pointed out to the Government and the L.S.B. that those leasees wishing to use the deferred payment licence provisions when freeholding, had to find a deposit of 15% in the early to mid seventies, but that those of us on the Teviot were now required to find a deposit of 20%.

By maintaining pressure on M.P.'s and L.S.B. members we have achieved 3% deposit provisions and the cost of surveys or compiled plans will be met by the Crown.

SPRING 1980

Eoin Garden and John Rowley travelled to Wellington to enlist the support of Federated Farmers National President, (Sir Allan Wright); Albert Fear Land Settlement Board member from the Rural Bank; Hamish McDonald and Mr Mander, assistant to and the Valuer General also a member of the L.S.B; George McMillan deputy director-general of Lands and Tom McKenzie also Land Department and L.S.B. member.

It was during discussions with George McMillan and Tom McKenzie that the idea of an embargo or freeze on the Teviot leasees applications to freehold came to light.

They recommended that our leasees accept reclassification and apply to purchase the fee simple forthwith and that they would effect a stay on proceedings providing the leasees object to their fee simple valuations.

This was all rather new to the leasees, but sounded reasonable, after all, we had to stop the L.S.B. proceeding with the applications to freehold. We felt strongly that we had been severely disadvantaged. We had to buy time to allow the Ombudsman to carry out his investigations.

Our meeting with Allan Wright (later Sir Allan), Rob McClaggan (Federated Farmers Chief Executive) and Ruth Richardson (legal advisor to Federated Farmers and later M.P. for Selwyn) were very supportive and offered us the services of the Federation's legal advisor. It was felt at the time that we were able to represent ourselves sufficiently well, and that if in the future we wanted the Presidents support it would be forthcoming.

Ruth Richardson was to become well acquainted with our problems and we thank her for her suppport. She advised us to accept reclassification and apply to freehold, but to object to the values, which would mean we wanted the values reaccessed by the Land Valuation Tribunal. Ruth had prepared

for us a document which released us from the rigidity of the contract to purchase the fee simple if a solution to our claims was better than the conditions in the contract. As of July 1986 we haven't been able to judge the effect of this document.

Our discussions with Albert Fear were promising and resulted in our writing to his Board requesting funds for deposits when freeholding. The R.B.F.C. were not lending any funds for deposits in 1980 although they had been in the mid and early seventies. The R.B.F.C. Board decided they would make funds available to those in our group who were already clients, and or where their was a particular need and merit because of develelopment or other special circumstances. In fact applicatons to the Otago branch of the Rural Bank met with arrogant dismissal. Fortunately the 3% deposit option, allowed later has retrieved the situation.

Our local M.P. Warren Cooper had requested the Lands Department investigate certain aspects of our claim that we had been disadvantaged. However he found the Department were slow and extremely unhelpful. Eoin Garden and John Rowley with Warren Coopers support met with the Hon. V. Young Minister of Lands. This meeting can best be judged by the telegram we received from Warren Cooper on the 5th December 1980. (appendix "B")

THE TELEGRAM CONFIRMED *THAT* OUR TEVIOT LEASEES HAD THEIR CONTRACTS TO PRUCHASE THE FEE SIMPLE "FROZEN" INDEFINATELY

Our local leasees farm survey was not considered to be sufficiently independant by the L.S.B. and so an independant survey was organised. This decision was arrived at, at a meeting of Teviot leasees, Lands Department personnel and Arthur Scaife a member of the L.S.B., at Mr Scaife's home in Wanaka. Leasees were becoming suspicious of the Government Department by now and it took a lot of persuasion before we acccepted the need for another survey. We persuaded the Department and L.S.B. that the survey team would have to contain an independent person in the form of Peter Bringans a senior farm advisory officer in Alexandra. Leasees asked that a copy of the survey be made available for our perusal, this was declined, but we were told we would be able to see our individual results.

The survey was completed early in the new year collated in the Dunedin office of the Lands Department and sent off to Wellington. Leasees to this day have never seen any aspect of the survey. No individual saw his or her input of the report. When confronted as to why, the Department and L.S.B. informed us their had been a misunderstanding on our part!

BY 31ST MARCH 1981, the Ombudsman had received confirmaton from the Director General of Lands that the issues arising from our complaint were under investigation. The Chief Ombudsman (Mr Laking) advised us that whilst the Department was carrying out their investigation he would hold his in obeyance. He went on to say in his letter that he had notified the Director General of Lands accordingly and he would await the outcome.

Then on the 24th June 1981, the Director General of Lands wrote to us conveying the L.S.B. appreciation of the time and effort the leasees had put into providing informatioonm on the econiomic aspects of your farming operations for the Boards recent investigation.

The letter went on and we quote "This has helped to clarify the issues and both the Boards and the Department will be awaiting the results of the Chief Ombusdsman's investigation with interest".

This was incredible the Ombudsman was waiting for the L.S.B. and the L.S.B. was waiting for the Chief Ombudsman! We believe this is indeed what happened because we didn't hear another word from either until the 14th December 1981 when the Chief Ombudsman wrote to us.

Crown land issues had become a major concern, for inflation was rampant, land values had risen by 15.06% in 1979, 23.22% in 1980 30.8% in 1981 but our product returns were very poor, 17.2% lower than in the 1975-76 season.

The Minister of Lands had called for a Commission of Inquiry into Leases in Perpetuity (L.I.P.) and Crown Pastoral Leases. The report from this body was to be known as the Clayton Committee Report.

The letter of 14th December 1981 from the Ombudsman informed us that having regard to the results of the L.S.B. investigation he felt our best recourse was through this Clayton commission. Mr G. Laking (Chief Ombudsman) went onto say "I do not feel that I can profitably pursue the investigation any further on behalf of the complainants which you represent".

Then on the 21ST JANUARY 1982 the L.S.B. wrote informing us that the investigation initiated by Warren Cooper had been overtaken by the Chief Ombudsman. But the letter continued, "The Board did consider that there were no grounds to consider a back dating of the reclassifications (and therefore the right to freehold) to 1975-76 and resolved to

on the merits, or otherwise, of your case the Board can go no further". The letter continued "As well the Board has agreed to a "freeze" on the Land Valuation Tribunal applications to contest the freeholding values until the result of the Chief Ombudsman's inquiry were known".

We had suggested to the L.S.B. that with the first of the leases due to expire in 1984 the L.S.B. should have a clear policy as to what they would do if no solution had emerged. We recommended the rents should be rolled over and continued at the present levels until a solution is found. After all, the leasees had indicated they wanted to purchase the fee simple, not pay new exhorbitant rentals.

In response to this point the letter continued, the matter is under continuous review and that if no finality has been reached closer to the date of expiry of the leases then the Board will consider the suggestion that the present level of rent be extended until a solution is established.

It is disappointing to note that by August 1986 the old rentals on the expired leases have not been simply rolled over. In fact the leasees have been advised that upon resolving the rental value problems leasees will be liable to pay for new higher rents back dated to the commencement of the leases - in some cases two years.

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FEBRUARY 1982

At the time of the Clayton Committee hearings John Rowley was the Chairman of the Otago High Country section of Federated Farmers. He was also appointed to assist the Dominion submission from Federated Farmers of New Zealand to the Clayton Committee hearing in Timaru. The Teviot leasees had their grievances heard, although the terms of reference were not sufficient for a fullscale submission, so they were included in with the Federations.

The farmers representatives at the Clayton Committee hearings maintained that Pastoral lease tenure had been promoted in 1948 as sacrosanct, it could never be reclassified. Due to isolation, low soil fertility, climatic limitations and the obvious limitations to land use (e.g. no horticultural opportunities) then a modest level of rent was reasonable. Pastoral leasees had never had their rents based on a valuation of any description so it had been a shock for them to learn that from as early as 1974 the Ministers of Lands had been recommending change. A change to a set % of L.E.I. with land values doubling every three to five years between 1975 and 1984 it was obvious rentals were going to get out of hand. Teviot leasees had maintained that they must either freehold (to avoid rentals doubling or trebling) or sell

out. Looking back those who sold out may well have been very wise.

The Clayton Report was finally published and mentioned the Teviot area.

See section 2.55 (page 25) where they instanced.

"TEVIOT PROPERTIES AS HAVING A JUSTIFIABLE COMPLAINT AT HAVING BEEN DENIED EARLIER REQUESTS TO ACQUIRE AND EXERCISE FREEHOLDING RIGHTS IN 1976-77".

The Teviot leasees committee had not expected much to benefit them from the Clayton Committee of Inquiry. The total crown pastoral lease scene was in a state of upheaval and it appeared a few reclasssified pastoral leasees were of little concern.

The National Party had won the election in 1981 which bought about a new Minister of Lands in Mr Jonathon Elworthy. The boundary changes prior to that election saw our area move away from Warren Coopers Otago electorate to Robin Grays South Otago electorate. Eoin Garden, John Rowley and others had kept a close relationship with both M.P.'s. Robin Gray visited the Teviot area and had long discussions with the leasees, in September 1983. Leasees were left in no doubt Robin Gray fully supported them, but it seemed obvious that the Ombudsman was the most likely source to provide a solution.

The Committee by now was reduced to Eoin Garden and John Rowley. Jack Norman was by then past chariman of the Millers Flat/Roxburgh branch of Federated Farmers and was a farmer of freehold land. The Committee had found over the years that even if we won the support of the Minister of Lands the Land Settlement Board found good reason not to support the Minister. That's how it appeared to us.

By November 1981 Teviot leasees were aware that L.E.I. values had nearly doubled in the past twelve months.

This had placed an unreal value on the frozen contracts we had with the Lands Department. One of our leasees was informed by his lawyer that we had no case legally to have our values frozen and advised freeholding immediately. So over the years our numbers have dwindled, some sold and re-established on freehold properties, while others with small areas of lease and larger areas of freehold, left also.

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TEVIOT INVESTIGATION: OMBUDSMAN DECISION

NOVEMBER 2, 1983.

The Ombudsman's decision was passed onto the Teviot leasees via a letter from Mr W.J.F. Bishop on behalf of the Director General of Lands.

The letter indicated the Ombudsman had clerly been ill advised because it claimed the L.S.B. was bound by its former more restrictive policy which was in reference to the reclassification applications being denied in 1975-76. This took absolutely no account of the four properties which had successfully reclassified several months earlier (1973-74). The letter went on that the L.S.B. was not aware that a more flexible policy would be implemented - that refers to the change in 1980. The Ombudsmans decision continues along the vein that our problems were caused by a change of policy. However he did point out to the Board that their new pastoral package where reclassification has been granted that in the matter of the deposit on deferred payments it is recognised that circumstances may justify a deposit of less than 20% and/or a maximum repayment term of up to 30 years.

The L.S.B. offered us the opportunity to make comments at the December meeting. We immediately wrote to the Ombudsman advising him we had this opportunity to comment on his report and would he send a copy of his full report. Although the Ombudsman's letter in reply was dated 14 November we did in fact receive it on the 22 November. On the 23 November we wrote a response to the Report for the L.S.B. December meeting.

1. We again reiterated the Clayton Committee reference that we had a justifiable complaint.

2. We re-stated our belief in back dating the L.E.I.'s to 1975.

3. Nobody had yet addressed the loss of six years goodwill.

4. We acknowledged the provision for a 3% deposit.

5. And because of several inaccurate statements and attitudes in the Ombudsmans decision we have no alternative but to go back to the Ombudsman for clarification.

6. We would request an opportunity to meet with the L.S.B. at their December 1983 meeting.

We were telephoned that an invitation to attend the L.S.B. meeting would not be forthcoming.

The Teviot leasees decided that it was time for Eoin Garden and John Rowley to go to Wellington and actively lobby, The Ombudsman and The Minister.
DECEMBER 16, 1983.

We met first with MP GEORGE LAKING, OMBUDSMAN.

Points raised included:

A. Lands Department information was not consistant with the facts when they compared the first four successful reclassifications with the declined group of 3, e.g. the earlier properties had been agreed to because it was clear no controls were necessary because,

Quote "1. In one situation there was no major snow risk and no longer any erosion risk.

2. One of the properties was low altitude country and was largely oversown and topdressed.

3. Another property had high performance figures, there was no snow risk and the land was stable".

We disagreed with this statement and requested the Ombudsman to come and look for himself.

The meeting with the Ombudsman was very thorough and covered every aspect of the Teviot leasees claims as well counterin the many inaccuracies in his report.

One of these stated that where a change of policy occurred it was unfortunate for us that we could not benefit. He believed their had been a change of policy between 1974 and 1975.

Further point concerned the economic study which had been undertaken by the L.S.B.,

1. On current costs, the incomes of the majority of the leasees could afford renewal rentals, based on 4.5% of current L.E.I.

2. Some leasees would have trouble meeting freeholding costs.

3. Values had doubled but not increased 5 to 10 times as had been thought originally.

4. The L.S.B. noted extremely high living expenses for some runs.

5. Schedules covered only one year 1991-92 which was considered to be a depressed year.

6. The status quo budgets covered the 1981-82 year and were set before S.M.P.'s (supplementary minimum prices) for meat and wool had been released.

7. The budgets were based on pre-tax income and not post-tax income.

The previous eight points were most unsatisfactory and in our opinion did not reflect well on either the leasees or the Lands Department staff who prepared the report.

THE OMBUDSMAN DID RECOMMEND HOWEVER, THAT WHERE RECLASSIFIED LEASEES HAVE SUBSTANTIAL FINANCIAL COMMITMENTS WHICH MIGHT PREJUDICE FUTURE DEVELOPMENT PROGRAMMES THE BOARD SHOULD EXERCISE ITS DISCRETION GENEROUSLY TO INCLUDE EITHER WAIVING THE DEPOSIT OR FIX IT AT A MINIMUM AMOUNT FOR A D.P.L., AND THAT WHERE RECLASSIFICATION IS BEING CONSIDERED A DECISION SHOULD BE GIVEN WITHIN THREE MONTHS.

Once again we discussed the loss of goodwill which the group had sustained and which no-one had taken on board in three years.

The Ombudsman was shown photographs and a map of the region which finally persuaded Mr Laking to re-open his investigations. It was made clear to us that whilst the Ombudsman was investigating our claims he wanted no other investigation to be undertaken by any outside body or organisation.

Following the Ombudsmans meeting we then met with the Minister of Lands, Mr Jonathon Elworthy. Suffice to say the Minister was very interested to understand on what grounds the case was being re-opened and agreed with us that an early solution was desireable.

An important point to emerge from the Ministers meeting was that the policy with regard to reclassification had remained the same but there had been a difference of interpretation in our area.

This clearly indicated to us that the Minister believed no policy change had occurred, although his Departmental people who had assisted in the Chief Ombudsmans investigation and subsequent report indicated their had been a change of policy.

The Teviot farmers believed their had been no official change of policy, although clearly their had been a change which had locally disadvantaged all those who were mandartorily reclassified in 1980. THE MINISTER OF LANDS HAD CLEARLY AND UNEQUIVOCALLY STATED THEIR WAS NO CHANGE OF POLICY. We very quickly wrote back to the Ombudsman and reported our conversation!

Our meeting with the Minister gave us considerable confidence, that we had at last cracked the hard nut of bureaucracy. The Minister was prepared to discuss possible solutions, showed considerable knowledge of our case and was sympathetic to the conclusion on page 25, clause 2.55 of The Clayton Committee Report.

The Minister indicated his preference for a political solution, stating that next session (of parliament) he anticipated legislation to tidy up other small items in the Land Act, including the removal of the reclassification clause, (Section 51, Part VI Clause 3). The Minister saw no difficulty in legislation to solve our problem, but was against providing increased discretionary powers to the L.S.B. (Land Settlement Board).

The two committee members flew home satisfied with the visit to Wellington.

Within a week the Minister wrote back confirming the moratorium on the 1980 values. Also, that any action to give effect to the renewal valuations, will however, be dependent on the final conclusions reached by the Chief Ombudsman. That is to say any farmer whose lease had or is due to expire will be given his new rental values but these will not be implemented until the Ombudsmans decision is reached. That was good news for we had already had two leases summonsed to prepare for a valuation tribunal hearing on their rental values.

What did disturb us though was the Ministers continued call for information to support our earlier claims arisng from the Ombudsmans report.

JANUARY 23, 1984

We could only write back and inform the Minister that we had given our word to the Chief Ombudsman that we would not carry out or encourage anyone else to carry out an investigation of our "Teviot farmers case" whilst the Ombudsman was so doing.

FEBRUARY 15, 1984.

The Chief Ombudsman wrote advising he had met with the Minister of Lands and they agreed that further study of our representations was warranted, and that the Land Settlement Board is the most appropriate forum to consider the matter. The letter went on requesting we provide the L.S.B. with detailed evidence in support of our case. This has been set down for the March meeting.

FEBRUARY 24, 1984

Correspondence from the Minister of Lands - Jonathon Elworthy.

The letter mentioned the meeting with the Ombudsman and noted several matters he (the Ombudsman) thought should be considered by the L.S.B.

The Minister again requested our detailed evidence. We had requested the Ministers approval to appear before the L.S.B. to support our evidence. The Ministers reply, "I am not in favour of this at present. As you will appreciate, the whole matter is complex and I would prefer, in the first instance, for the Board to familiarise itself fully with the issues at stake including the points raised by the Chief Ombudsman".

Although written on the 24th February, the Ministers letter didn't arrive in Roxburgh until the 29th and the L.S.B. meeting commenced on March 6th.

MARCH 2ND, 1984

We wrote to the L.S.B., had the letter typed by Federated Farmers staff, and then couriered to Wellington.

We outlined our case and exposed the L.S.B.'s reasons for allowing reclassification of the original four as being reasons why all Teviot leases should be treated the same. All four properties were intermingled with those that were declined on a representative and factual basis. The claim that in one situation there was no major snow risk and no longer any erosion risk;

two, one of the properties was low altitude country and was largely oversown and topdressed;

three, another property had high performance figures, there was no snow risk and the land was stable.

The above three quotes could relate to one property. All reclassified properties had a snow risk and all properties had erosion scars. One of the reclassified properties has some of the worst erosion in the district - not serious by North Island standards, but never the less more serious than on those declined during the 1970's.

The accompanying map will expose the myth that the first to be reclassified were somehow more suitable than those declined or those mandatorily reclassified in 1980.

Our letter covered the advice given to run-holders by Des Gregan (Chief Pastoral Lands Officer) and Pat Curry (local Lands Officer).

We mentioned the photographs and the map we had shown Mr Laking (Ombudsman).

We pointed out the statements made by the Minister in respect of "no policy change" during the 1970's and therefore because reclassifications continued in other areas but not in the Teviot, we had been treated significantly differently, at our expense.

We attacked the Ombudsman's report on the interpretation of the survey and the alleged high living expenses.
We pointed out that our request (for values and goodwill to be reinstated as of 1975 had been declined because it required legislation) did not hold true, since the Chairman of the L.S.B., the Minister, foresaw no difficulty in promoting legislation. Further, without back dating we had significantly lower levels of goodwill.

We concluded by restating the quotes taken from the Clayton Report.

"TEVIOT PROPERTIES AS HAVING A JUSTIFIABLE COMPLAINT AT HAVING BEEN DENIED EARLIER REQUESTS TO ACQUIRE AND EXERCISE FREEHOLDING RIGHTS IN 1976-77".

MARCH 14, 1984

The L.S.B. had made a decision previously on the Teviots. We didn't really hold much hope of a reversal of that decision unless we could be present. However the L.S.B. meeting did agree to offer us a DEPOSIT PROVISION WHICH AMOUNTED TO 3% DEPOSITS. The L.S.B. resolution as relayed to the Teviot Farmers committee was as follows; Quote:

"To receive the information, to note that the question of survey costs is now covered by the 1979 and 1982 amendments to the Land Act and taking into account the submissions made the Board, agrees to allow to the Teviot leasees a similar degree of flexibility in terms and deposit to that proposed in the new pastoral package for reclassification of parts of pastoral leases".

So quite clearly the Minister and Land Settlement Board had satisfied themselves that our case was concluded and that the moratorium on our Valuation Tribunal hearings would be lifted without so much as a delegation from the affected leasees.

We rang Arthur Scaife a retired runholder and high country member appointed by the Government to the Land Settlement Board to see if we could establish just what was going on. Arthur told us that our letter to the L.S.B. (dated 2nd March) had come up for discussion late in the day when only one private member of L.S.B. was present. The other three had gone to meet transport committments.

He also could not recall a letter on the agenda from the Chief Ombudsman which we were led to believe would be the case, in support of the Teviot Farmers. The other concern we had which we relayed back to the Minister of Lands along with the previous two points was that the Minister is Chairman of the L.S.B. and with an issue like ours involving himself, The L.S.B. and the Ombudsman why did he not chair that part of the meeting when this came up for discussion?

By this time we were becoming more aggressive and we wrote a pointed letter to the Minister (see Appendix "C") to which we were granted a meeting wtih the L.S.B. in April. We also wrote to Warren Cooper who also approached the Minister on our behalf.

Eoin Garden and John Rowley flew to Wellington to present the Teviot case before the L.S.B. However before attending the L.S.B. we visited the Chief Ombudsman and discussed the events since Christmas. Mr Laking even read to us the four main points he made in his letter to the Minister as Chairman of the L.S.B. The precise notes we recorded upon leaving the Chief Ombudsman's office are, "OMBUDSMAN ACCEPTS WE ARE A VERY SPECIAL CASE AND THAT HE WROTE TO THE MINISTER ON FEBRUARY 15TH SAYING SO. HE READ EXTRACTS FROM THE LETTER TO US, STATING WE HAD A SPECIAL CASE. NOTHING HAPPENED ON THE TEVIOT DURING THE 1970'S WHICH ALTERED OUR CIRCUMSTANCES. YET IN 1975 WE WERE DENIED ALL OPPORTUNITIES TO FREEHOLD. HE SAID THAT OUR CLAIMS ARE JUSTIFIED".

Further points to emerge from the meeting were;

1. There was no chance of a floodgate reaction in his opinion - but can the L.S.B. substantiate this claim. This related to the L.S.B. claim that if the Teviot Leasees are granted back dating of L.E.I.'s then a great number of other leasees will emerge looking for similar treatment.

2. We are a very special case. Nothing happened during the period (no change of policy 1974-79) to change our circumstances.

3. The fourth property reclassified voluntarily prior to 1975 was R.L. Waters run on Mount Benger.

4. Back dating legislation is an acceptable Government tool to right a wrong.

Whilst recording the events in the foyer of 163-165 The Terrace (Chief Ombudsman's office) we spoke with Mr Lakings assistant whom we had come to know from numerous meetings and telephone conversations. Mrs Brenda Cuttress is a lawyer whom we felt to be very astute. Mrs Cuttress left us with the following - that we have a good case and that she would

have enjoyed the opportunity to be our advocate. This made us feel we were right and gave us considerable confidence to go forth and do battle with the Minister and his Land Settlement Board.

We spent two hours presenting our case and answering questions. The minutes recorded during our visit to the L.S.B. took no fewer than fourteen pages, two pages of our submissions and then twelve of questions and answers.

"At the L.S.B. meeting we established that The Ombudsman's letter was not submitted to the members but a precise had been included in the agenda!

The majority of the discussion at the meeting revolved around whether or not the L.S.B. had changed its policy or if the interpretations complained about were not changes in interpretation as though interpretation and policy were the same.

Members of the Board made much of the fact that many leasees had sold or freeholded. We would defend those who freeholded on the basis they had relatively small blocks of leasehold run in conjunction with larger freehold blocks.

L.S.B. members believed the Ombudsman had been more forthcoming in his comments to us than the Board (minutes of L.S.B. 30th April). They believed their would be a flood gate reaction from other leasees if the L.S.B. recommended to The Minister that he use his discretionary powers as had been the case in 1979 when the NZE had sold 1,800 houses to its employees. As follows:

NATIONAL BUSINESS REVIEW SEPTEMBER 19TH 1979

For Sale: 1800 houses with buyers.

You will recall the N.Z.E.D. power workers strikes of 1978

Result: House values backdated 2 years
Department guarantees to repurchase.
20% deposit, prime rate 9% and 30 years suspensory loan to make up the deposit to a maximum of $8,000, which just happens to be 58% of the average price for a house at $13,889.

Clearly the L.S.B. had made two previous decisions re the TEVIOT LEASEES and with all the evidence in the world were not going to change. See also attached our letter to the L.S.B. dated 2nd May 1984. (See Appendix "D")

The Board members were very concerned about the criteria used

to assess the lands suitability for reclassification. We alleged that undue emphasis had been given to water harvesting. This was denied strenuously by the L.S.B. but we were able to confirm later that Wales' & Moirs' had been declined due to those poperties having run off in the direction of the upper Manorburn irrigation reservioir. (We established this using the freedom of information Act).

NEW ZEALAND PRESIDENT FEDERATED FARMERS.

The Teviot Farmers had been out manoevoured. We had known all along that the solution lay with the politicians. We couldn't find a politician who had the power and the fortitude to right a wrong and go it alone. I don't believe the L.S.B. has the power to make amends and the bureaucrats are not prepared to make recommendations to their political masters for fear of creating a precedent which they believe could in the passage of time be embarrassing to a Government with an insecure majority.

The affected runholders decided at a meeting to employ a lawyer and consider taking The Minister of Land to court. We also decided to approach the new National President of Federated Farmers - Peter Elworthy.

We wrote to the Federations legal adviser Ewan Chapman, following meetings, both Eoin Garden and John Rowley had had with Peter Elworthy and Ewan.

JUNE 19, 1984

Ewan Chapman wrote to the Teviot leasees committee outlining the case as he saw it and making several recommendations.

One recommendation was that the Minister and the Land Settlement Board had not done anything to justify a judicial review.

He went on to report that he had had discussions with the Ombudsman who had informally told Ewan "that while no action has been taken to date, the Minister is sympathetic to your case for backdating of L.E.I's and goodwill valuation".

This letter was followed by several meetings with Peter Elworthy in Wellington. The Federation at this stage agreed to take up the battle on behalf of the Teviot leasees.

Mr Elworthy came to the Teviot district on August 1, 1984 where he was flown over and around the district by helicopter and later we had a meeting with all the affected leasees. This was a very well attended meeting held in the Goldfields hotel lounge following a lunch provided for the Dominion President and his legal adviser.

SEPTEMBER 6, 1984

Peter Elworthy met with the new Minister of Lands Mr Koro Wetere and suggested that the Minister should as he had done visit the Teviot area in order to gain an appreciation of the problem. The Minister accepted Peter Elworthy's suggestion for an on-site inspection and agreed that a final solution to the problem was wanting.

SEPTEMBER 26TH, 1984

Minister invited again to visit the Teviot.

NOVEMBER 21ST, 1984

John Rowley received a telegram from Mr Wetere's office advising he will write shortly re visit.

FEBRUARY 8TH, 1985

Mr Wetere was again reminded of his agreement to visit the Teviot. As of August 1986 Mr Koro Wetere, Minister of Lands has not visited the Teviot.

MARCH 1ST 1985.

David Butcher M.P. and under secretary to the Minister of Lands was the keynote speaker at South Island High Country Field Day held that year at Avenal Station near Millers Flat.

With the long daylight hours and the limited time available we were lucky to have been able to fly Mr Butcher on a similar circuit of the Teviot as we had Mr Elworthy. Unfortunately there was no opportunity for local affected leasees to have discussions with the under secretary.

APRIL 2ND, 1985

The Dominion President of Federated Farmers, Peter Elworthy wrote to Mr Butcher outlining the history of the Teviot leasees grievance, pointing out that "ESSENTIALLY THE DEPARTMENT IS ASKING THE LEASEES TO BEAR THE COST OF EARLIER INCONSISTANT DECISIONS BY THE DEPARTMENT AND THE LAND SETTLEMENT BOARD. WE AS A FEDERATION DO NOT SUPPORT THIS APPROACH". A further quote, "THE FEDERATION SUPPORTS STRONGLY THE TEVIOT LEASEES CASE FOR COMPENSATION".

MAY 27TH, 1985

Mr David Butchers reply to the Dominion Presidents letter was typical of the treatment we have been subjected to for six years. For example, "leasees do not have any right in terms of the Land Act to make an application for reclassification; and our claim that leasees were advised not to waste the

Departments time in applying for reclassification in 1977 and 1978 was carefully examined by the L.S.B. and proved to be quite incorrect and finally the letter doubted the Ombudsman had supported "the finding that an injustice has occurred in the Teviot and has made a recommendation to the Chairman of the L.S.B. accordingly".

JUNE 6TH, 1985

Our reply to the above pointed out yet again that leasess have applied for reclassification but the L.S.B. has the power to accept or decline an application. This we had proved with four successful applications followed by three unsuccessful applications. We pointed out that at the L.S.B. meeting at which John Rowley and Eoin Garden attended on 30th April 1984 on page eleven of the minutes Tom McKenzie said " ..... the Board would accept a request from a leasee to investigate reclassification".

With regard to the claim in respect of wasting the Departments time applying for reclassification etc. "had proved to be quite incorrect". It is incredible that the Department should have reacted this way in view of the fact that the meeting between the Departments field officer Mr Pat Curry was at the invitation of Eoin Garden and was attended by himself and two brothers at Avenal Station, Millers Flat. This point was discussed with the under secretary (David Butcher) on 13th August 1986 by Eoin Garden, John Rowley, Peter Elworty & Ewan Champman (Federated Farmers legal adviser Wellington) where we believe the case, proven or unproven was clarified.

On Monday 30th April 1984 Mr Laking told us he accepts we are a very special case and that he wrote to the Chairman of the L.S.B. saying so. He read extracts stating we had a special case. Nothing had happened on the Teviot during the 1970's which altered our circumstances. Yet in 1975 we were denied all opportunities to freehold. He said that our claims are justified. (This paragraph appears word for word in the L.S.B. minutes of 30th April, foot of page 7 and the top of page 8). The Chief Ombudsman reopened investigations to our case twice, he wouldn't do that if he I didn't feel we had a case.

Interestingly the L.S.B. minutes also record the Chairman's comments whilst discussing our meeting with the Ombudsman and we quote "THE BOARD HAD IN A SENSE IDENTIFIED A CASE FOR SOME TYPE OF CONSIDERATION".

Our letter closed suggesting a "summit" meeting between Mr David Butcher, the Director-General of Lands, Peter Elworthy and the two Teviot leasees Eoin Garden and John Rowley.

JUNE 17TH, 1985

Peter Elworthy wrote a further letter to Mr Butcher to clarify the above points and concluded his correspondence with "We would suggest that the meeting will be productive only if those representing Government come to the meeting prepared to negotiate and resolve the problem at that meeting called for that specific purpose".

JUNE 24TH, 1985.

David Butcher responded saying "I do not believe it would be appropriate for me to agree to a meeting as you have proposed at this stage. I would rather have the opportunity to thoroughly familiarise myself with the background to this issue and then, if necessary, I will be happy to meet with you".

Nothing as far as the leasees are concerned happened for thirteen months.

AUGUST 13TH, 1986.

Finally we were advised that Mr David Butcher had set up a meeting to finalise a settlement for the compulsory reclassification of leasehold land in the Teviot area. The meeting which included the under-secretary, two staffers from the Lands Department, Peter Elworthy and Ewan Chapman (Dominion Office), Eoin Garden and John Rowley (Teviot leasees representatives) was less than satisfactory. The Under-secretary commenced by seeking a solution but ended up informing us that neither he nor the L.S.B. had the authority to compensate the affected leaseees. And to confuse the issue further he requested we provide a schedule showing what the delay in freeholding between 1976 and 1980 would cost the Government.

The following schedule was submitted to Mr David Butcher (Under-Secretary to the Minister of Lands). It shows clearly that the Teviot leasees have been disadvantaged by at least $650,000. (See schedule page 30)

During August and September the Government announced that the interest rates payable by leasees on deferred payment licences (D.P.L.) is to increase to 17.5% p.a. Again our leasees have been disadvantaged since the interest on D.P.L's in 1975 was 7.5%.

At the time of going to print this Teviot leasees case is awaiting the outcome of the 30th September 1986 Land Settlement Board meeting.

See Appendix "E" and Appendix "F".

SCHEDULE A

NAME	DESCRIPTION OF LEASE	L.E.I.[1] 1980	GOODWILL	L.E.I.[2] 1976	No. OF YEARS BEFORE RENEWAL	GOODWILL[3]	DIFFERENCE IN FREEHOLDING 1976 & 1980
PARKER		81,000	18,000	74,000	8	16,145	5,145
DILLON	RLF 1351	200,000	42,833	75,000	10	20,454	102,621
MOIR	RLF 1327	190,000	30,000	100,000	8	21,818	81,818
WALES	Run 199 I 262 H 2620 Teviot SD	145,000	21,748	70,000	8	15,272	68,980
GARDEN	RLF 1319	250,000	71,008	90,000	11	27,000	115,992
GARDEN A.	RLF 1320	90,000	20,463	50,000	10	13,636	33,173
SMITH	-	245,000	54,129	136,000	10	37,090	91,961
MacNICOL	RLF 1343	130,000	44,441	63.000	11	19,500	40,059
ROWLEY	RLF 1328	220,000	41,401	90,000	9	22,090	110,689
MacDONALD	The Knobbies						
TOTAL		1,551,000	344,014	750,000		193,005	649,982

Footnotes on Schedule A are attached overleaf.

NOTES ON SCHEDULE A

1. L.E.I. values have been officially frozen at these values pending the resolution of this issue.

2. L.E.I. values calculated at 1976 levels, based on Valuation Department information.

3. Approximation of the goodwill based on 1976 L.E.I. values. Calculations are based on the following factors:-
   - where 11 years remaining goodwill = 30% of L.E.I.
   - where 8 years remaining goodwill = 8/10 x 30 x L.E.I. value.

Federated Farmers of New Zealand (OTAGO PROVINCIAL DISTRICT) Inc.

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HARVEST COURT
218 George Street
DUNEDIN, N.Z.

APPENDIX 'A'

7th August 1980

The Ombudsman
Private Bag
WELLINGTON

Dear Sir

The Roxburgh/Millers Flat branch of Federated Farmers has elected a small committee to represent local run-holders who have recently been mandatorily reclassified from Pastoral Lease tenure to Crown Renewable Lease.

At present we represent fifteen leasees all on the east side of the Clutha River, but hasten to add we expect further reclassification on the west side.

We are writing to you Sir because of the extreme anguish and loss of confidence in the Lands Department such changes in policy produce. The effects of a change in rental from that set during the early fifties to one of 4½% of L.E.I upon renewal, will create the worst crisis this area has faced during the past 30 years.

The effects of these rentals on profitability, production of meat and wool and allied sociological problems were foreseen during the period 1973-75. During these years the Land Board Policy allowed the reclassification of at least three leases within the area east of the river. Then when Mr Tom Pannett applied on the 23rd October 1975 he finally received notice declining his application of the 29th July 1976. A further farmer Mr Ian Moir applied in 1976 and he also received a negative reply on the 23rd February 1977. Yet another, Mr George Wales applied and was turned down in April 1977.

It became obvious to many farmers that we were not to be reclassified and that the Land Board had reversed its policy. Because of the negative responses previous applicants had received from the Board other leasees generally accepted that it was a waste of time making an application. Even so the records will show applications for reclassifications continued, and many lodged as far back as 1978 have not received a decision from the Board, until this past month.

On Saturday 17th June 1978, the Otago Daily Times announced the Minister of Lands new rental policy for high country farmers leasing pastoral land. It is important that we quote a complete paragraph from this article (an explanation will follow the quote).

Quote: "The new rentals will only apply in the case of genuine pastoral leases. An essential part of the new rental policy is that any property not falling into this category has to be reclassified" End of quote.

Field officers to the Lands Department including Mr Gregan,

2/..

Chief Pastoral Lands Officer had been saying from as long as the mid-sixties that our areas was not genuine pastoral lease country. This confirmed that the policy regarding reclassification had been finally settled.

Was it not reasonable then for our local leasees to assume that they would be reclassified and since there are fewer than five hundred pastoral leases in New Zealand and acknowledging the previous unsuccessful applications why has it taken so long?

We strongly feel, disadvantaged by these aforementioned changes in policy for the following reasons:

1. The basis for accessing rentals has been changed from a system where rent was on carrying capacity to a system using land market values. We believe any change as dramatic as this should be introduced in such a way as not to unnecessarily disadvantage the leasee. We believe had the Board allowed reclassification to continue immediately following the June 1978 announcement using back dated L.E.I's to the 1974-75 levels, three main points would emerge.

   (A) Maximum goodwill would have been retained. Some properties now have only 4 years goodwill left.

   (B) The deposit for purchase of the fee simple at 15% (now 20%) was available from the Rural banking and Finance Corporation. the Otago Rural Bank Policy excludes lending for deposits.

   (C) Our Land Values have escalated 140-190% since 1975. (Tuapeka County valued 1975 and revalued 1980). A further serious distortion to the valuations is the effect of the Land Development Encouragement Scheme. This scheme has caused the L.E.I's to increase in value more significantly than in the past.

   For example following the auction sale of a local property with Land Development Encouragement Scheme prospects, the Valuation Department increased the L.E.I of neighbouring properties in the order of 22%, whilst the value of improvements rose only 15% and capital value 17%.

2. Property size and Production trends.

   The fifteen affected properties literally form a solid block covering an area 18 miles long as the crow flys interrupted by occasional freehold units. properties are small by normal pastoral lease standards. Many have insufficient winter country and range from a basic 500 feet up to 3000 feet, altitude.

   One half of the properties have less than 2,500 stock units and the balance up to 5,500 stock units. A typical example of increased production is a property with 1,400 stock units in 1958 now has 5,300 stock units.

3/..

Nearly all properties could with good years and a successful solution to our tenure problem further increase production significantly. Conversely an unsatisfactory solution will produce a general contraction of confidence and production, culminating in retrenchment and a stagnation within the local communities of Roxburgh and Millers Flat.

Some farmers on smaller less economic units have indicated the prospects will be so crippling that they will have to sell out.

The point here is that this area has witnessed a transformation similar to other progressive areas of New Zealand. The mere fact that the Land Board has seen fit to reclassify us illustrates conclusively that we have done our bit for New Zealand and brought into production land which was considered marginal in 1948-1955.

Our group of farmers have borrowed, some very heavily to carry out their development programmes. Servicing committments range from $3.00 per stock unit to $8.00. Whether some of us want to or not, freeholding or just paying rent is going to be the ultimate crisis unless the Government is prepared to grant run-holders a concession.

At this stage we would seek your forebearance and offer for your consideration the following possible solutions.

1. Backdate L.E.I's to 1974, when land Board blocked reclassifications in our area. This would allow runholders to purchase the fee simple at the cost applicable to that date. (The backdating could be a suspensory loan conditional upon non-sale outside of family)

2. Reinstate leasees goodwill relevant to 1974.

3. Rural Bank to make loans available for the 20% deposit.

4. All survey costs to be borne by the Crown.

These submissions are presented in good faith that they be considered in conjunction with the Dillon Brothers case which we believe is currently being investigated by your office.

The Ministry of Agriculture has agreed to conduct an economic and statistical survey of the affected properties to give an independant analysis of the problem.

Due to the seriousness of the situation we are prepared to follow up this submission with a visit to Wellington to more fully discuss this with you.

Yours faithfully

J. G. F. Rowley.

JACK G NORMAN
EOIN R H GARDEN

Appendix "S"

DATE STAMP

C111 125/118/2 GOVT FRANKED PARLIAMENT BUILDINGS 407p P3/18

MR JOHN ROWLEY
WRIGHTS ROAD
PHONE 48483
ROXBURGH

Rec'd By 5-02

Sent ..... Serial No.

To ..... Checked

By .....

INLAND TELEGRAM

142 3991A—40,000 pads/1/77D

LAND SETTLEMENT BOARD AT MEETING YESTERDAY DECIDED LESSEES WHO HAVE OR DO RECEIVE "NOTICES TO PURCHASE" AND WISH TO DISPUTE PRESCRIBED VALUATION SHOULD NOTIFY COMMISSIONER OF CROWN LAND DUNEDIN THEY WANT VALUATION TO BE DETERMINED BY THE LAND VALUATION TRIBUNAL PURSUANT TO S122(10) LAND ACT 1948 STOP BY THIS NOTIFICATION RUNHOLDERS ARE EFFECTIVELY APPEALING AGAINST PRESCRIBED VALUATION AN ACTION WHICH WILL HOLD PROCEEDINGS PENDING FULL INVESTIGATION OF CLAIM AS,PER REPRESENTATION TO MINISTER OF LANDS STOP THIS INVESTIGATION COULD TAKE SEVERAL MONTHS STOP RUNHOLDERS APART FROM NOTIFYING COMMISSIONER OF CROWN LANDS THEY WANT VALUE FIXED BY LAND VALUATION TRIBUNAL NEED TAKE NO FURTHER ACTION MEANTIME STOP

REGARDS

WARREN COOPER

Appendix "C"

COPY

"Rosslyn"
PO Box 29
ROXBURGH

23 March 1984

The Honorable J Elworthy
Minister of Lands
C/- Parliament Buildings
WELLINGTON

Dear Sir

It is now three years and nine months since we were mandatorily reclassified. At the time my colleagues felt a deep feeling of injustice at the way we had been treated by the Lands Department and the Land Settlement Board during the 1970's.

I cannot accept that you and your Department would have allowed the freeze on the Teviot properties values to continue for nearly four years if we didn't have a case and a pretty good case at that. Page twentyfive of the "Clayton Committee Report" paragraph 2 .55 seems to clearly establish that we have a justifiable complaint at having been denied the opportunity to exercise free-holding rights in 1976-77.

When my colleague Eoin Garden and I approached the Ombudsman in December 1983 we had no doubts at all that Mr Laking reopened the Teviot investigation because he considered we had a case.

Then again this week when I spoke to Mr Laking after having received your letter containing the L.S.B. resolution, he informed me he had told you "he thought we had a case".

Why should anyone expect us to accept that whilst land values more than doubled between 1975 and 1980, that a reduction in the levels of deposit should be adequate compensation. No one has yet addressed themselves to the fact that we have lost up to six years GOODWILL. This alone is very serious when it is realised maximum goodwill is eleven years and from now on with eleven year rent reviews, there will never again be this level of goodwill for those, whose leases come up for renewal before 1994.

2/..

From this we find a large group of crown leasees have been able to freehold during the final years of their 33 year leases and taking full advantage of maximum goodwill - but not us, not reclassified pastoral leasees

The resolution below and passed by the L.S.B at its March meeting offers us nothing that will not be available to pastoral leasees under the new policy package. The resolution, "To receive the information, to note that the question of survey costs is now covered by the 1979 and 1982 amendments to the Land Act and taking into account the submissions made by the Board, agrees to allow to the Teviot leasees a similar degree of flexibility in terms and deposit to that proposed in the new pastoral package for reclassification of parts of pastoral leases".

The proposal to grant leasees lower deposits and longer repayment periods is appreciated and is a positive step in the right direction. However the loss of goodwill cannot be compensated for merely by offering farmers lower deposits and longer terms.

Sir, in your letter of 24 February to me, you write, and I quote,

"I have also been told of your request to attend the March meeting of the Land Settlement Board. I am not in favour of this at present. As you will appreciate, the whole matter is complex and I would prefer in the first instance, for the Board to familiarise itself fully with the issues at stake including the points raised by the Chief Ombudsman. When the Board has done this it will no doubt, be in a position to decide on further action and it could by then see merit in personally meeting with you".

In this quote you say you want the Board to familiarise itself fully with the issues including the points raised by the Chief Ombudsman.

Why then Mr Elworthy was the Chief Ombudsmans letter to you (dated since February 15th) not placed before the Board along with ours?

Why also was this "complex" issue left so late in the day that only one private member was present?

Sir, I would have thought that in this instance where you had personally been involved with all three parties (Lands Department and Board; the Chief Ombudsman and ourselves), that you would have chaired the discussion.

3/..

When we discussed our problem with you in December you said you had a preference for a political solution rather than providing increased discretionary powers to the Land Settlement Board. How then can the L.S.B. be expected to make a political decision, (Which maybe construed as a precedent) or make a decision when it doesn't have the (discretionary) power to do so because of its terms of reference, or policy. Why should the L.S.B. make a decision without hearing from us in person or at least answering our latest letter to the Board dated 2 March? We believe we have done all that is possible to aid a fair and reasonable solution. We have avoided becoming emotive or going public. We are seeking a meeting with our local M.P. Robin Gray. As with Warren Cooper, I expect Robin will assist us if he believes in our case, not as a means to secure votes. I don't believe Warren would have helped us over the years if he didn't believe, we had been disadvantaged.

At the moment we feel we are being played along and not being taken seriously. We know we have a good case and we expect a fairer solution.

My colleagues and I look forward to your reply.

Yours sincerely

Signed in his absence:

J.C.F. Rowley Junior
CHAIRMAN TEVIOT FARMERS GROUP
EOIN GARDEN, COMMITTEE MEMBER

'Rosslyn'
PO Box 29
ROXBURGH

2 May 1984

The Chairman
Land Settlement Board
C/- Lands Department
WELLINGTON

Dear Sir

My colleague, Eoin Garden and I were most appreciative of the hearing your Board gave us as representatives of the Teviot farmers.

The list of farmers within our group as discussed at our meeting on Monday, is incomplete and we would like to submit the following as being the known members of our group;

Phillip Parker,
George Wales,
Ida McDonald,
Max Macnicol,
John Lunn,
Ian Moir,
John Rowley.

Graeme Swinney,
Geoff Smith,
E R H & P J Garden,
Allen Garden,
G J & R Dillon,
Bill Frame,

We would like to reiterate certain aspects of our case again. We seek back-dating of our L.E.I. values to 1975 and the reinstatement of the maximum goodwill of eleven years.

These could be achieved by your Board making a recommendation to the Minister. These concessions to be granted specifically to the Teviots and be either by (a) legislative amendment or (b) Ministerial directive.

The precedent for a Ministerial directive was set according to an article in the National Business Review of September 19th, 1979. Eighteen hundred houses were sold to the N.Z.E.D. workers following strike action. The result meant that the house values were back-dated two years; the Department guaranteed to repurchase; offered a 20% deposit, prime rate 9% and repayment period of 30 years; suspensory loan to make up the deposit to a maximum of $8,000, which just happened to be 58% of the average price for a house at $13,889.

2/..

The Board's decision to grant more flexible terms and deposit to Teviots mandatorily reclassified leases is quite inadequate. This takes no cognisance of the fact that we were mandatorily reclassified in 1980, having been denied the opportunity earlier. There is no similarity between us and those who in the future maybe offered voluntary reclassification. We must remember that if reclassification is not sought, pastoral leases rentals remain at 1.5%, however, ours if freeholding is declined, will be 4.5%. This offer to the Teviots Sir, on its own is quite inadequate.

Much of the discussion on Monday revolved around the Boards ability to accept that during the 1974-1976 period the only criteria for declining reclassification was in fact 'soil erosion'. If some members had doubts on suitability for reclassification on grounds other than this then those doubts must be discounted.

May I in closing make a request that you consider making available to me a copy of your Boards minutes which recorded our visit from 11.00 a.m. to the adjournment for lunch.

I thank you for your consideration of the above and assure you, The Minister and the Board of our co-operation and availability to further discuss these issues if necessary.

Yours faithfully

J C F Rowley
CHAIRMAN
TEVIOT FARMERS GROUP
ROXBURGH

(Signed in his absence)

M Finlay

Appendix "E"

FEDERATED FARMERS OF NEW ZEALAND (INC.)

HEAD OFFICE:
AGRICULTURE HOUSE, CNR. FEATHERSTON & JOHNSTON STREETS (ENTRANCE JOHNSTON STREET), WELLINGTON 1
NEW ZEALAND P.O. BOX 715 TELEPHONE: (04)737-269 TELEGRAMS: "FARMLANDS"

5 September 1986

COPY FOR YOUR INFORMATION

Hon K T Wetere
Minister of Lands
Parliament Buildings
WELLINGTON

Dear Mr Wetere

RE: TEVIOT LESSEES

At a recent meeting between the Under-Secretary to the Minister of Lands, representatives of the Teviot Lessees Group and Federated Farmers, it was agreed that the lessees should quantify their claim for compensation for referral back to the Land Settlement Board.

The lessees consider that the matter is based on the inconsistant reclassification decisions and the fact that the Board took into account irrelevant considerations in refusing reclassification under Section 51 of the Land Act 1948 (namely the water harvesting potential of the leasehold land). Lessees were also advised by the the local Pastoral Lands Officer, that they were wasting the Department's time in applying for reclassification.

The lessees are therefore claiming the difference between what it would have cost them to freehold in 1976, when applications were declined by the Board, and what it would cost them under the subsequent mandatory reclassification policy at values based on, and frozen at, 1980 L.E.I. values, less any goodwill.

Effectively, lessees were debarred from freeholding at a time when land values were significantly lower. Lessees recognised that their leasehold land no longer warranted the protection of a pastoral lease. They were guided not only by Departmental advice, but also from observing four local lessees successfully apply for reclassification. After this period when applications were readily approved, three consecutive applications were declined without any alteration to the need for erosion protection, altitude above sea-level or stock limitations.

The subsequent reclassification by the then Minister of Lands, reaffirmed that the lessees had been given incorrect signals from the Board and the Department, for which the State should be held responsible. The lessees see no reason why they should bear the loss.

Moreover, in dicussions with the Under-Secretary to the Minister of Lands it was submitted that lessees should have gone further to verify the advice of the Pastoral Lands Officer. I would suggest that the combined factors of the negative view of the Pastoral Lands Officer, who was the main point of contact between the lessees and the Department, and the Board's decision to decline applications on three consecutive occasions on water harvesting grounds were sufficient to dissuade any lessee that there would be any likelihood of change in the near future.

The reason for fixing the cut-off point for compensation in 1976, relates to the initial date when lessees applications to the Board were in fact declined. Mandatory reclassification was a consequence of a Ministerial announcement of June 1978. For the Teviot lessees, it took two more years until August 1980 for the Lands Department to complete the survey of pastoral leases, identify those to be reclassified, and then to provide notification to the lessees. The claim for compensation is, however, based on the fact that there was no marked difference in the type of land approved and declined by the Board during the 1972-77 period.

There was also no change to the Board's policy during this period and users could have reasonably expected that a consistant approach would have been adopted within the confines of the policy.

At present, freehold values are frozen at 1980 LEI values pending resolution of this greivance. The lessees apprehend that 1976 values should be determined as a percentage of the 1980 values based on representative values in order to avoid undue valuation costs by the department. Additionally, in all cases the goodwill will be determined at the same time as reclassification values are determined.

The attached schedule specifies the 1980 LEI values, the goodwill remaining on the leases, the 1976 values and corresponding goodwill and the resulting difference in freeholding costs, in satisfaction of this claim.

Total costs to the department are also set out at the bottom of page 4. The Board would, of course, not be responsible for paying the compensation directly to the lessees affected, rather the compensation would be by way of reduction in freeholding values. Such an offer would remain open to lessees for a limited period, would be non-appealable and would be irrecoverable if the lessee decided to remain on a renewable lease.

I trust this information will assist the Board and the Minister to find a final solution to this long held grievance.

Yours sincerely

Peter Elworthy
PRESIDENT

Appendix "F"

REF: 15826

Office of the Ombudsman
4th floor
163-165 The Terrace
Wellington

Telephone: 739 533
P.O. Box 10152
The Terrace, Wellington

4 September 1986

Mr E R H Garden and Mr J C F Rowley
Committee for Teviot Farmers Group
Federated Farmers of New Zealand
(Otago Provincial District) Inc.
PO Box 5242
DUNEDIN

Dear Mr Garden and Mr Rowley

I acknowledge receipt of your letter of 26 August concerning the investigation conducted by Sir George Laking into the complaint made by the Teviot lessees about the reclassification of their pastoral leases by the Land Settlement Board.

Mr John Robertson is the Ombudsman who now has responsibility for the investigation of complaints involving the Department of Lands and Survey and the Land Settlement Board. Mrs Cutress, the Investigating Officer who assisted Sir George with his investigation, resigned her position over 12 months ago. Accordingly, it will be necessary for another Investigating Officer to make an analysis of the file to enable Mr Robertson to consider how he might respond to your latest submissions.

Mr Robertson normally conducts the investigation of complaints involving the Department of Lands and Survey through his Auckland office and he may therefore decide that it would be appropriate to ask one of his Investigating Officers in that office to prepare the file analysis.

However, I shall refer the file together with your letter to Mr Robertson on his return to the office at the end of next week and he will advise you in due course what action he proposes to take in relation to your submissions. I am sending a copy of this letter to Mr Ewan Chapman.

Yours sincerely

S E Richards (Mrs)
First Assistant