

Range Tenure on the Northern Plains

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WHEN I was asked to give this talk at our annual meeting here in Denver, I had no notion as to what tenure is. So, when I started preparations, I got a land economics textbook and found that a few of the simpler things included under the term "land tenure" are land credit, land taxation, police power, eminent domain and other social controls. It then became obvious that the "Tenure" word in my title is complicated and perhaps I shouldn't say very much about it. Actually, however, it should be easy for me to talk about tenure on the Northern Great Plains for I have lived there all my life. I wonder though if it is easy, even for a person who has never lived anywhere else, to have a plains viewpoint. Not long ago one of my teen-age daughters who has never been farther east than Montana said, "I would like to go *out* to Chicago some day." Everyone present laughed, including some who were born in Montana. Everyone knows that we don't say *out* when we go east. We say *back*. If I were going to Chicago, I would say, I am going *back* east.

Perhaps a better title for this dissertation would have been "Emotionalism and Folklore on the Northern Great Plains." However, that would get me into the field of psychology and I can't even find a textbook on that subject.

Now, if I talked very little about tenure and could get rid of the "Northern Plains" portion of my subject, I would be about free of restrictions. But a little thought indicates that it might be wise for me to retain the Northern Plains portion of the title. If I venture out from under that protective canopy I might become

involved with the Forest Service and then drawn into the quarrel between the Neo-Malthusians and Time magazine.

The grasslands are an essential in the economy of the Northern Great Plains. This is an area of transition from intense cultivation in the cornbelt to straight grazing operations on portions of the range area. For this reason the grasslands are variable. The proportion of the economy which rests on them varies widely in different areas of the region.

It seems pretty obvious that control of the grasslands is a matter of most concern to those who try to earn their living and social security from them. Furthermore, it seems that those whose livelihood depends in largest part directly on these grasslands should be more concerned than those whose livelihood comes largely from other sources.

During the years in which the livestock industry spread over the plains, there was no legitimate mechanism by which an individual operator could secure possession or control of enough land to engage in the industry with any assurance of safety and profit (8). The only law ever designed to dispose of land to stockmen was the 640-acre Homestead Act of 1916. Life for the grazing homesteader must have been pretty tough. Walter Webb has said, "It has been reported that a species of lizard which evolved on the Great Plains lived for thirty years in a western Texas corner stone. No one has asserted that he enjoyed his experience; yet his life must have been a round of pleasure as compared with that of the grazing homesteader in the arid region, had the latter complied with the law" (10).

At the time the Homestead Act of 1916 was passed there were, in the community in which I live, several small cattlemen living on their 320-acre homesteads. The other 320's in the sections were government land which the cattlemen and others used without control. Under the act, these men had a preference in filing on the additional 320's adjoining their original homesteads. They all made their proper filings but were turned down on the grounds that there was too much farm land on their original homesteads. There was no cash crop farmland on their original homesteads. This is proved by experience before and since. Later on other men, living miles from the land, some of whom did have wheat land, filed on the same land and their filings were allowed.

The Homestead Act of 1916 was no good and the administration of it was worse. It is of interest to us now only because it is the only act passed by Congress designed to dispose of land to stockmen. Paul Sears has pointed out that, "Had it been possible to allot as permanent holdings sufficient areas to individual cattlemen, there is reason to think that the quality of the range might have been conserved. . . . The chief responsibility of the cattle industry was to grow the thing that was to be sold. This meant attention to sources of supply for food and water. The cattleman soon learned that a badly overloaded range meant inferior pasture in succeeding years" (8).

The first land disposal law under our present constitution was passed in 1796. It applied to certain lands in what is now the state of Ohio. Sale was at public auction, the minimum price was \$2.00 per acre, and the smallest tract of land that could be sold was 640 acres. This law was a failure; the terms were too hard, it was not only more land than the farmer could pay for, it was more land than he could utilize.

Beginning in 1801, preemption laws were passed which gave a preference to actual settlers or tillers of the land. The preemption law of 1832 allowed purchase of a tract of government land as small as 40 acres at a price of \$1.25 per acre. Since a preemption is a recognition of an accomplished fact, it reflects the settler's desire and need, which was 40 acres. Throughout the period, larger amounts could be purchased but it was the minimum that was of interest to the settler. He didn't want more than he could use (10). These settlers were trespassers on the public land, just as the stockmen at a later date were trespassers on the plains.

It was natural for a stockman settler along a stream in the West to run a fence out from the stream to enclose his accustomed range. This was done in western Montana in 1876 where timber was readily available for fencing. It was not until 1883, after barbed wire became available, that the Governor of the Territory of Wyoming reported to the Secretary of the Interior as follows: "In building a fence to enclose his tract, the settler was induced to run it out upon the plains as far as the middle of the uplands, dividing the stream upon which he had settled from the one running next to it—in some places a distance of miles. He reasoned that no other settler could wish to take up the waterless highlands he thereby enclosed, as a range for his stock, and that in time the government might afford him some lawful means of gaining possession of it" (5).

At a still later date, Wyoming experienced the Johnson County War and the Cattlemen-sheepmen feuds. Struthers Burt wrote, "Back of it all, responsible for it all, more deadly than any machine gun ever invented was the land policy of the United States Government, . . . often the murder has been merely the slow one of starvation . . . cattleman and cowboy

murdered sheepman and herder, nor were the sheepmen slow to retaliate (1). Edward N. Wentworth put about the same thoughts into these words, "The man who was on the ground was limited, in the amount of land and grazing he might acquire, by absurd regulations based on a productivity equal to the Mississippi Valley. . . . The eastern incompetents whose policies permitted late-comers to encroach on the economic units essential to business operations never appeared in the public eye, but their hands were just as bloody as those of 'Diamondfield Jack' and Herbert Brink" (11). There are still residents of Wyoming who get excited when one mentions public land.

So now the "Emotionalism" which I mentioned in my introductory statement becomes more obvious. From the days of "The Cattle Kingdom" down to the present time, emotions and prejudices have been the controlling factors affecting tenure on the plains.

As Walter Webb writes, "The Easterner, with his background of forest and farm, could not always understand the man of the cattle kingdom. . . . yet the man of the timber and the town made the law for the man of the plain; the plainsman, finding this law unsuited to his needs, broke it, and was called lawless. The cattle kingdom was not sovereign, but subject. Eventually, it ceased to be a kingdom and became a province" (10).

Webb's thesis as developed in, "The Great Plains" has been disputed, but generally those familiar with the plains find merit in the work and it is the only thing I can find that gives me an understandable clue as to how many of the things which I have experienced, on the plains, came about.

That the cattle kingdom was not sovereign and was subject to emotional attack during Teddy Roosevelt's ranching days is suggested by the following sentence

from one of his books: "Anything more foolish than the demagogic outcry against 'cattle kings' it would be difficult to imagine" (7).

In broad outline, we had a meeting of two cultures on the plains. We had the semi-arid culture that had spread over the area from the South, and the humid culture moving from the East. In the same book by Roosevelt, "The most successful ranchmen are those, usually Southwesterners, who have been bred to the business and have grown up with it" (7). The broad pattern of settlement of the United States has in general, however, been a movement from east to west. This was a movement of people with a humid environmental background, both in the eastern United States and in western Europe. The meeting, on the plains, of the unadapted humid culture moving from east to west, with the adapted culture which had come into the area from the south, is the background and basic cause of the emotionalism and prejudice which still is an important factor affecting land tenure on the plains.

But this broad basic cause hides a number of crosscurrents and whirlpools. Even those stockmen who came from the Southwest had only a generation of semi-arid environmental experience behind them. In other words, the culture which came into the area from the south and which I, a moment ago, called adapted, was not fully adapted; it had a large portion of humid environmental background behind it. I still say, "I'm going *back* east", if I am going to travel any place east of Montana.

It was in 1878 that the famous Powell report was submitted to the Secretary of Interior and by him transmitted to Congress. This report contained three broad proposals: Classification of the public domain, a change in the system of survey, and a modification of the homestead system to fit the environment. Congress then created a Commission on Public Lands

which spent the summer of 1879 in all of the western states and territories interviewing the farmers and stockmen and trying to ascertain their desires. The stockmen were divided in their opinions. Probably the most definite answer that the Commission received was, "Beat the land grab". Proposed changes in the land laws were opposed by the Montana legislature and by the Montana delegate in Congress. The Wyoming Stockgrower's Association adopted this resolution: "(Resolved) That in our opinion the question of whether grass will not disappear from the ranges with constant feeding is still unsettled, and that the stock business will not warrant the investment of so large a per cent of capital as one-sixth in what may, in a few years, be barren and worthless property" (5). Then, as now, a stockman who opposed private ownership of grazing lands was not necessarily a conservationist.

In 1879, ranching was still a pioneer, low-capital enterprise. Uncontrolled Federal land became the base of the frenzied boom in cattle companies in the eighties. "The phrases, 'cattle barons' and 'cattle kings' . . . neither coined in the west nor graciously accepted by it . . . inflated the popular notions of range profits and prosperity. These became the magic words which tempted small investors . . . and which unlocked the money chests of eastern and European capitalists" (6).

In 1900, the National Cattlemen's Association was urging passage of a Federal leasing bill through Congress. Representatives of this association appeared at the Montana Stockgrower's Convention and urged passage of a resolution in support of the proposed leasing bill. They found little support; the Montana convention passed a resolution opposing the leasing bill (3).

Generally, it has been the "get-rich-quick-and-go-back-home" stockmen who

have opposed ownership or leasing. The conserving homemaking stockmen have supported private ownership and control.

So what now is the popular opinion about conservative stockmen who believe there still is a place in the American way of life for private ownership? I believe that the following quotation from a popular magazine expresses popular opinion: "These designing stockmen have gotten altogether too big for their britches. It is time to drag them into the open, bare their plotting, expose their tactics, prove how small a fragment of the livestock industry they embrace. It is time to set them in their proper place. They are totally intoxicated with the idea of their own importance and they're ripe for being given 'The Cure'.—They hope to get—title to the land—at SIXTY CENTS PER ACRE! They actually could acquire title and total control, by paying the 10 per cent down payment—SIX CENTS PER ACRE. Fantastic? It's fabulous. It's idiotic" (2).

Obviously, this quotation is emotional. Also obvious, is its appeal to the prejudices of those with a humid cultural background. Purchase of humid crop land at sixty cents per acre would be a great bargain, of course, but those who are familiar with grazing lands in the West know that some of it is worth no more than 60 cents per acre. I know of land on the Northern Plains which the Northern Pacific Railway Company, in recent years, sold not for a down payment of six cents per acre, but for a total purchase price of five cents per acre. If the author of the statement above knew the facts when he wrote, as seems likely, it makes him guilty of willful perversion of fact. The August 16, 1948 issue of USDA approves of this author and his emotional writings. USDA states, "He knows his subject and he minces no words." USDA is published fortnightly for distribution to

employees only, by direction of the Secretary of Agriculture, and with the approval of the Director of the Budget, as containing administrative information required for proper transaction of the public business.

I have another quotation of recent date which I find very interesting. It deals with ranchers as landowners, not as federal tenants. By inference it admits its source in the pulp fiction, and it specifically refers to all ranchers both rich and poor. It appeared in a magazine of national circulation in December, 1948. "There may be isolated instances where fishermen have proved themselves careless and destructive, but that this applies to all fishermen is something that cannot reasonably be said to be a fact. It is obvious that the ranchers (and I believe most of these landowners are ranchers), have seized upon this alleged vandalism and destructiveness,—as a pretext for posting their lands. Ranchers, whether great or small, have always felt that they owned heaven, hell and earth and that they occupy a special position in the human scale of things, meaning that everyone should bow to them and yield to their wishes, no matter how arbitrary they are. They carried on in the past like a bunch of racketeers and gangsters and pulp fiction and the movies reek with their doings, which only adds to the stink they have created. Now in a cheap, one-track-mind way they have seen how they can get at someone to show how all-powerful they are, so they post their streams" (4).

E. H. Taylor, Associate Editor of the *Country Gentleman*, has recently been made an honorary member of the Soil Conservation Society of America for his work in advancing conservation policies. About a year ago, he pointed out that we have never had a national land policy, that we have no present policy to which

we are changing and suggests that it may be time that we had such a policy. Among a list of five obstacles to be overcome he includes, "the 'parlor conservationists' who would go to extremes as in their present war on the range cattlemen" (9).

So the question is, How can we overcome this emotional obstacle? To me it seems that objective study, thought and research are needed. If we wait for the layman, the man in the street, the public in general, to work out the problem alone, progress will be unnecessarily slow. We need assistance from the professional, the man trained in science, the researcher. It takes a brave scientist to be objective in the face of public opinion, as Galileo and others found out the hard way.

How many of you are familiar with Walter Webb's *Great Plains*? How many of you condemn this work because of the stories your father has told you of experiences *back* east or in the old country or wherever he, or his father, came from?

Do you talk glibly of sub-marginal land and multi-use lands without any clear or logical concept or criteria in your minds as to what you are talking about? Most of the privately owned land in the nation receives rain and hence has watershed value. Most of the privately owned land is important to wildlife. Should all crop land and grazing land be federally owned or should it all be privately owned, or how would you define the line between?

How about the stockman who is a tenant on the federal lands? Is he entitled to the principles of sound landlordship that the Federal Government itself urges upon private landlords in agriculture? Does he deserve stability, security and reasonable freedom from interference like anybody else?

How many of you call attention to the difficulties of governmental agencies in administering grazing areas, which include scattered tracts of non-government owned

land? And how often do you call attention to the difficulties of the rancher operating on land he owns with intermingled tracts of government land administered by two or more agencies? The governmental agencies are always at war with one another, but they generally agree on one principle—the stockman needs more regulation, or even better, he should be done away with to make room for more “family-type” farms on the eastern pattern.

It is very difficult for one not to be emotional on this subject. I am humble and fully realize that I am asking a truly great favor when I ask you as scientific workers to be scientific, be objective, and divest yourself of your cloak of humid cultural folklore.

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