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A DISSERTATION APPROVED FOR THE
DEPARTMENT OF GEOGRAPHY

BY

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Native Americans settled the eastern half of present-day Oklahoma decades before surveyors implemented the state-wide township and range surveys mainly in the 1880s. The traditional sections to be reserved for the support of schools – in Oklahoma sections thirteen, sixteen, thirty-three and thirty-six – were already in many cases occupied at the time of the surveys. Thus, officials gathered together blocks of "in lieu of" school lands in western Oklahoma and its Panhandle beginning in 1890, the year they created Oklahoma Territory. Approximately 30 percent of these "in lieu of" lands came to exist in Cimarron County, the most westerly of three counties that comprises the Panhandle.

In Cimarron County a ranching community evolved that depends in a critical way on the continued leasing of these lands. These ranchers have bonded with their ranches over four or more generations, and understandably, when the five-member Commissioners of the Land Office (CLO), created at statehood in 1907, periodically threaten to auction off school lands, misunderstanding and conflict emerge. The threat of land sales has loomed even larger since litigation in 1982. This conflict between Cimarron County ranchers and the CLO is my focus.

In this dissertation I trace the decisions affecting school lands since 1890, and I try to assess how these decisions impact Cimarron County ranchers. The story is

ongoing, and my contribution is to provide a more complete understanding of the issues involved. My insights are informed by archival and newspaper accounts, plus interviews and questionnaires conducted in Cimarron County in the mid to late 1990s.

Chapter 1

Introduction

Setting the Research Stage

The Oklahoma Panhandle extends west from the 100th meridian and is roughly one hundred sixty-eight miles long and a fraction over thirty-four miles wide. In the western third of the Panhandle is Cimarron County with its tenacious, proud, generous ranchers who possess a strong bond with the land and have a deep rooted sense of place. In 1890 this "no man's land" became part of the territory of Oklahoma, and statehood followed in 1907. To expedite settlement the township and range system provided a legal framework for eventual ownership. Built in to the system came federal land grants for support of public education to be disposed of for the benefit of its school children. Ranchers in Cimarron County have a long history of leasing these lands, and the arrangement has created a major conflict.

During the territorial era specific lands, sections sixteen and thirty six, were reserved for the benefit of schools. In each new territory, to oversee the administration of these lands and monies, a territorial, then eventually a state school lands commission was established. With each successive wave of settlement many school land sections were already occupied, resulting in the acquisition of replacement or "in lieu of lands." Replacement lands of equal amount were found within the original township or elsewhere. In the case of Cimarron County, being the least desirable land area of the state, many replacement acres were eventually accumulated. This trend of in lieu of land placement earned Cimarron County the dubious distinction of having today approximately 30 percent of all school lands within the state, providing the focus for analysis in this study.

Historically, under the auspices of the states school land commission, directed by the Commissioners of the Land Office (CLO), various land sales have occurred. Lands not sold were rented. Profits from the sale or rental of school lands contributed to a sacred trust fund; the interest/investment income today, as in the past, benefited Oklahoma common and higher educational institutions.

With the 1906 Enabling Act and statehood in 1907 came official United States recognition of these school lands. Besides these lands, the school land trust fund grew by an appropriated sum of five million dollars. These monies were given by the federal government to Oklahoma for sections sixteen and thirty-six owned by Indian tribes, or individual members of any tribe who could never be subjected by law for school land use. In 1907 approximately three million acres of school land were under the jurisdiction of the School Lands Commission.

Since their inception leased school lands were to generate the highest reasonable profit, providing the school land trust fund substantial growth through interest return and investment. Those that settled and rented the land were given generous treatment with reasonably fair but somewhat low interest rate loans and a chance to apply for equally reasonable first mortgage loans for other deeded lands. Lessees were generally granted "preference right" to re-lease their school lands for prescribed times, which found lessees in a tenuous, yet strong marriage to the land by promoting responsible stewardship. Farmers and ranchers were cajoled into a false sense of ownership.

In the ensuring years critics of the School Land Commission bristled at the practices of preference leasing, low interest mortgage loans, and low rental rates on these lands. In 1982 these critics sued the CLO, changing forever what were thought of as reasonable policies of school land management.

These policies are still evolving and will most certainly have an impact on Cimarron County, the Oklahoma Panhandle, and Oklahoma. The intent of this research is to access important temporal, cultural, legal, and political events impacting the ranching community of Cimarron County in regard to school land issues and policies. Equally important is the regional identity, perceptual and real, that shapes policies and fuels a strong sense of place in Cimarron County, an identity I plan to analyze. This dissertation is a regional geographic study of a place, from which understanding of contemporary issues will be developed.

Establishing a framework for research in Cimarron County and the various issues centering around ranching, the management of school lands and perceptions related to these issues, requires regional analysis. The various regional theories, interpretations, and models that have informed this research methodology need to be elaborated upon to establish the foundations and delimiting factors of this study.

Methodology: The Regional Concept

The concept of the region itself elicits certain processes that eventually form distinct patterns, not only represented by areal dimensions but also by cultural manifestations. It is the homogeneity or sameness of certain phenomena that illuminate an area and structure a noticeable regional cohesiveness. The boundaries of regions enclose areas that are either uniform or are the result of a connectedness to a singular focal point, providing a give-and-take functional movement. Hence, regions may be identified as uniform, or functional, or both. Although, opinions of the exact definition of a region are as many as the minds that ponder it, generally geographers recognize certain prominent regional characteristics: A region is unique, differing from all others; it has a dimensionality or length and breadth; it has similar associated features; its present character is derived from past conditions; its very nature is defined by criteria only inherent unto itself. Smaller regions may be subdivisions of larger regions. In a hierarchy of regions, higher ranking regions thus consist of aggregations of smaller regions.[1]

Central to the study of geography is the region. "All geography is regional geography," states Richard Nostrand in his succinct clarifying model of what geography encompasses, explaining "that a region is to geography what a period of time is to history" (1968: 16). To study a region in all of its emanating totality would be regarded as an impossibility by most. For decades geographers like Richard Hartshorne, Derwent Whittlesey, David Grigg and James McDonald have grappled with the logic, conception, design and limitations of just what a region and related research should consist of. "In many respects the idea that a region is susceptible to

[1] This condensed summary of the main characteristics of regionality was inspired by pages 37 and 38 in the James and Jones publication.

total definition has been an illusion which has led to a great deal of geographic nonsense" (McDonald 1966: 517).

In regard to a regions' totality, regional analysis has historically been dualistic, meaning both physical (earth) and human (societal) phenomena were studied. Prior to the late 19th century the natural earth science thread was prominent. Humanistic traditions flourished later and today more of a blending has occurred. "This form of dualism, like the separation of physical from human geography, has been treated historically by Hartshorne, and its place in the work of contemporary geographic study has been analyzed by Edward A. Ackerman. Both reach the conclusion that these two aspects of geographic study are not separable and that any attempt to insist on the possibility of separating them leads only to confusion of ideas and terms" (James and Jones 1965: 29-30).

Tantamount to area analysis is the mix of regional geography and topical geography (patterns and processes). "In regional geography, there would be an emphasis on patterns in the integration of topics in a given area, and conversely, where stress was placed on fewer topics over a large area, topical geography, the emphasis would be on processes. Because geography cannot be patterns without processes, it follows that geography cannot be regional without being topical or vise versa" (Nostrand, 1968: 16). In practice then regional studies, to be successful, depend upon the interrelationships between physical and human landscape, patterns and processes.

Successful understanding of a study area also includes potent meaningful criteria and certain grouped elements that differentiate a particular place on the earth's surface. Grigg, when writing about regional systems, states that all "places can be grouped into regions or areal classes" (1965: 472). Grigg recognized that the classification of any place is closely linked to the construction of a regional system. This is important to remember regarding this study. Western Cimarron County ranching (the place) is part of a broader hierarchy of regions: Cimarron County, the Oklahoma Panhandle, southwest cattle country and the Great Plains. The hierarchy creates a regional system all of which I elaborate on, at various times, for a richer understanding of ranching vs. school lands issues. The bulk of this research focuses more on issues (processes) than on patterns, although it is the very patterns that have created many of the issues relating to school land occupancy. The physical landscape predominates in setting the stage for many historic and current distortions of this region. So will the actions and reactions of both the ranchers of Cimarron County and others set the regional stage.

The idea of a region, its boundaries real and imagined, its activities natural and human, has been the basis for extensive American geographical research. As research methods evolve, regions evolve; hence, approaches and influences on these studies have changed considerably over the decades. The first momentous descriptive publication on regional geography that had widespread influence was Richard Hartshorne's *The Nature of Geography* (1939). Hartshorne emphasized regional study that focused on the uniqueness of an area in a descriptive academic framework, but did not actually connect to real world generalization and application. Hartshorne's *The Nature of Geography* "sought a logical rationale for geography as an academic study. But in doing so the work isolated geography with museum-like existence . . .. Hartshorne says similarly that the regional concept exists 'only in our thoughts' with regions being 'not inherent in the world'" (Peet, 1998:17) disconnecting the region from other associations. Although this publication would provide a solid systematic approach, stressing the interrelationships within a region, a more widely accepted dynamic regional study occurred in 1954. That year *American Geography: Inventory and Prospect*, a landmark study involving many prominent geographers, outlined in Chapter Two what was to become the definitive view of regional concepts and methods for years to come.

The Threads of Methodology

By its very disposition geography is dynamic, and so regions are forever changing in dimensions and content. With this process in mind, four significant approaches to regional investigation have biased this project: Carl Sauer's morphological landscape model, Edward Relph and Yi-Fu Tuan's works on phenomenology, D. W. Meinig's ten descriptive elements of a landscape, and the structuration influences of Torsten Hagerstrand and Anthony Giddens. All four of these models will clarify the sense of history, the sense of place, and the grip of institution within Cimarron County, Oklahoma.

Morphological Applications

Sauer emphasized a developmental sequencing of a region's structural elements. His field studies and research included the restructuring of both the natural and cultural landscapes[2] in a historical framework. The natural landscape (climate, landforms, soils, vegetation) was the stage through time that man, the agent, interacted with. Hence, this interaction created various evolving cultural landscapes. "Culture is the agent, the natural area is the medium, the cultural landscape the result" (Leighly 1963: 343). To Sauer the selection and classifying of regional ingredients -- that is, identifying step by step the structures of physical and human systems, although in reality regarded as an art, must still acknowledge certain scientific attributes in its scope. "As a science it [geography] must accept all feasible means for the regimentation of its data. If geography is to be systematic and not idiosyncratic, there must be increasing agreement as to the items of observation" (Leighly 1963: 331).

Sauer was quite complete with the general factors that needed to be considered when partaking in area analysis (Figures 1:1 and 1:2.) He was a master at understanding a cultural landscape through its physical nature in a temporal context; he was a meticulous historical geographer. To Sauer, historical geography is a series of events that shape a particular landscape. A series of events that shaped the Oklahoma Panhandle's past events facilitate a meaningful understanding of the

[2] To Sauer the term region was synonymous with landscape and area defined "as an area made up of distinct association of forms, both physical and cultural" (Leighly, 1963: 321).

FACTORS
Geognostic
Climatic
Vegetational
X

— TIME ⟶

FORMS
Climate
Land
surface
soil
drainage
mineral resource
Sea and Coast
Vegetation

NATURAL LANDSCAPE

Figure 1.1
Sauer's Diagrammatic Representation of the Morphology of the *Natural Landscape*
(Leighly 1963: 337 and 343)

FACTOR

Culture ⟶ Time ⟶

MEDIUM

Natural Landscape ⟶

FORMS
Population
density
mobility
Housing
plan
structure
Production
Communication
XX

CULTURAL LANDSCAPE

Figure 1.2
Sauer's Diagrammatic Representation of the Morphology of the *Cultural Landscape*
(Leighly 1963: 337 and 343)

present cultural landscape, keeping in mind that the landscape both naturally and culturally is continually unfolding. Sauer suggested that research using this morphological model on a particular region might become one's life long pursuit. He encouraged complete expertise if possible.

Sauer's methods provide the systematic thread that is woven through this study. He valued extensive fieldwork, stressed that the physical landscape is important to understand, especially its past usage, and realized that all regions are something akin to an organism that changes in nature due to the agency of man. In studying Cimarron County ranching one must look at historical landscapes, both physical and cultural, for comprehension of today's issues. As Sauer writes, "The historical geographer . . . must not only know the region as it appears today; he must know its lineaments so well that he can find in it traces of the past . . . one might say that he needs the ability to see the land with the eyes of its former occupants" (Leighly 1963: 362). Thus, I reviewed the Native American influence and economy, the Spanish imprint on this region, and in more detail the growth of the range cattle industry and ranching. Finally, the settlement and pre-statehood landscape analysis provide the backdrop for the eventual conflict with the state School Lands Commission.

Phenomenology and the Identity of Place

The blending of past sound regional methodology with current geographical phenomenology lends depth to understanding Cimarron County ranching not just as a region but as a place. The "humanization" of a region that establishes its identity, as many phenomenologists would concur, involves understanding the concept of place: its individuality, concerns, appearance, sense of community, activities, ideas, and consciousness. The observation, description and record of these individual and community experiences are the essence of phenomenological humanistic geography. "Place is redefined as 'center of meaning or a focus of human emotional attachment' rather than a mere physical point in space" (Peet 1998: 35). In a sense these observed phenomena give existential meaning to the traditional model of regional studies. Geographic phenomenology[3] provides another look at the lived-in lived-upon world, understanding that objectivity isn't the only avenue for explanation of various happenings. Phenomenologists often speak of affection, spirit and personality in the meaning of place. Yi-Fu Tuan states that "personality suggests the unique: places, like human beings, acquire unique signatures in the course of time." He adds that "loosely speaking, the personality of a place is a composite of natural endowment [the physique of the land] and the modifications wrought by successive generations of human beings" (1973: 235).[4]

Edward Relph, a second important phenomenologist, when dealing with the identify of a place, maintains that four important factors should be considered: "first,

[3] From this point on, as part of the discussion "geographic phenomenology" will be called phenomenology, it will be assumed that it is being related to the field of geography. The word literally means the summary of, or study of some phenomena and involves an account of things as one experiences them. Phenomenology originated in the mid-nineteenth century as a reaction to Galilean scientific techniques, that emphasized mathematical, measurable relationships aimed at discovering the laws of nature.

[4] Noticeable ingredients of phenomenology are indicative in many geographic research undertakings. The concept, although never strongly articulated in geographic literature until the mid 1970's, was integral to other branches of scientific studies, mainly physics, sociology, biology, ethnology, anthropology, psychology, and theology. It is interesting to note, that Sauer in his historical regional studies had strong phenomenological tendencies, due to his methodological thoroughness.

the constituent components of the identity of places; second, forms and levels of outsideness and insideness, or identity with places; and third, the links between the individual, group, and mass images of places and the identities of those places; and finally, the ways in which identities develop, are maintained and change" (1976: 46). "Constituent components" are defined as properties observed, such as the major physical features (literally), ranging from landforms and climate, to what has been built or created. The "insideness and outsideness" of a locality can be compared to a longtime resident really knowing the place, or the opposite, a tourist, never fully knowing the true essence of that environment. I interpret "individual, group and mass images," as one's personal view woven with group views of a locale. Both interact with a commonly agreed upon public identity which becomes the mass image. Lastly, according to Relph, "where an identity has developed through experience in communion or in community [place uniqueness] will endure for as long as the symbols and significances of that place retain their meanings" (1976: 60).

Many expressions of phenomenology including the concept of insideness and outsideness are helpful to clarify the deep-rooted sense of place as experienced by the Panhandle ranching community. This form of sophisticated abstraction is the root of insideness and outsideness, as Relph puts it, giving substance and meaning to a community, individually and collectively. How others perceive the Panhandle ranchers, how the ranchers of Cimarron County perceive themselves and others, provides the basis for many actions and policies that have occurred. Spatially these perceptions are the basis for cognitive maps, a facet of phenomenology which provide a powerful tool in shaping a region's identity. Vernacular regions, as they are called, permeate our thinking about the mention of any place. The very singular word "Panhandle" for most elicits an immediate cognitive map filled with positive and negative imagery.

"Cognitive mapping is an abstraction covering those cognitive or mental abilities that enable us to collect, organize, store, recall, and manipulate information about the spatial environment. These abilities change with age (or development) and use (or learning)" (Downs and Stea 1977: 6). This kind of mental construct helps simplify the many forms of input we experience when trying to portray a specific place. It involves a variety of stimuli real or imagined, and although it may not be accurate, the importance of this image is that it "reflects the world as some person believes it to be" (ibid). Mental imagery and perceptions have in part influenced the development of ranching, settlement patterns, territorial government, and have caused misunderstandings with a politically appointed School Lands Commission.

Meinig's Elements

In analyzing a particular region, D. W. Meinig suggests that ten elements be considered in describing a landscape completely. Meinig explains that a region must be looked at from different perspectives for understanding, and that a combination of a few or many of the following perspectives add depth to landscape analysis. The ten elements/perspectives are: landscape as nature, habitat, artifact, system, problem, wealth, ideology, history, place, and aesthetic quality. I plan to expand upon these perspectives to add depth to the methodology and to provide insight to the rancher and CLO relationship and to the insider-outsider perspective.

Structuration: Institutions and People

The last methodological thread, to a somewhat lesser but still important degree, is structuration theory. To provide insight to structuration theory, one should look at its precepts from a generalized big-picture perspective.[5] Structuration theory acknowledges that all human actions are seen as a perpetual flow through time and space. Those actions happen within places that have a variety of structures (social, home, work, governmental), and as a result of these structures a person may be hampered, or be given opportunities, for growth through time. "Locales structure people's life paths in space and time, place constraints on their interaction possibilities, provide the main arenas of interaction (and thus are sites of conflict), provide the activity structure of daily routines, are major sites of socialization processes and so on" (Peet, 1998: 150). When particular locales overlap within a regional framework, the region becomes an even wider arena for conflict. In this type of regional overlap each particular locale with its own identity is a major cause of many disunifying issues that plague the ranchers and CLO relationship today. To some, structurist theory is lacking without a Marxist deterministic social action emphasis, and to others the functions of time and space are more paramount. A

[5] This theory by its very nature helps a researcher doing field work, to understand everyday conscious and unconscious activities of people when various structures interact with their life in a particular place.

commonality to all structuralists is that these patterns of structure and actions are always replicated in various ways through time.

Torsten Hagerstrand's ideas of "time-geography help clarify a major segment of structurationist theory. Time-geography formulated by Hagerstrand stress a closer look at people at a location situated in time. People on any landscape (space) start at a particular locale (a station) and travel on a time continuum (their path) experiencing various changing structures (domain). As a person's life-path-trip evolves it at times will be grouped with the paths of others. The convergence of paths is called a "bundle" by Hagerstrand, (Figure 1.3.). To Hagerstrand the bundling restrains one's

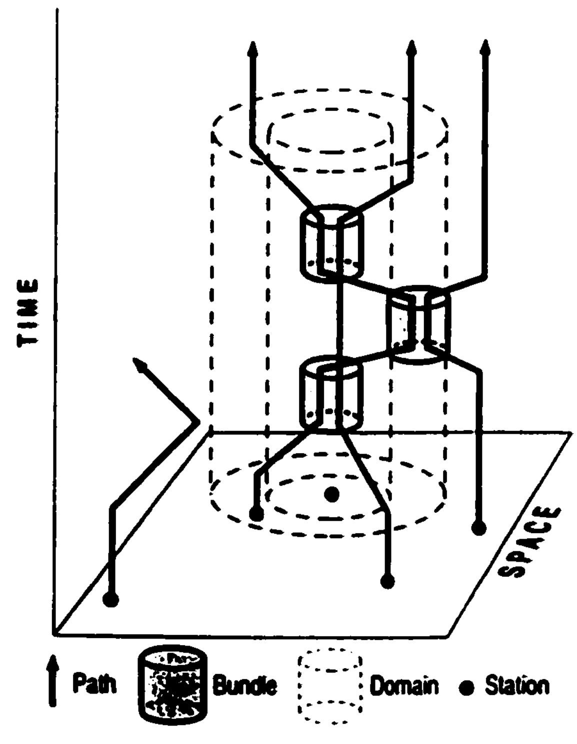

Figure 1:3
Hagerstrand's model of time-geography.
This is a web model (derived from demography) in which space and time are resources drawn on by individuals realizing projects.
Reproduced from Johnston, Gregory, Smith (1994: 625)

movement which he calls a "coupling constraint." Two other constraints are recognized as detriments to a life-path: "capability constraints," how physically fit one is to carry on at various stages of life, and "authority constraints," which are represented in a hierarchy of domains consisting of institutional or individual power. The dichotomy of institution's causing actions (structure and human agency) is a hallmark of the structurist school of thought and is quite relevant to Cimarron County ranching. The most overbearing life-path structure is the School Lands Commission. This of course is not to suggest only a one way flow of events, for clearly human agency may very well precipitate structural change.

Anthony Giddens refined structuration theory and is given credit with this obvious rejection between the dichotomy of structure and agency.

> Structuration theory attempts to supersede these deficiencies by showing how social structures are both constituted by human agency, and yet at the same time are the very medium of this constitution. This is what is meant by 'duality of structure,' the central concept in Gidden's structuration theory, and the means by which he seeks to avoid a dualism of agency and structure (Hutchinson 1977, in Bryant and Jary 1991: 7).

Besides acknowledging the strong interrelationship between agency and structure, Giddens also accentuates the capacity of people to be fully conscious of their actions, having intentions and rationalizing their conduct in whatever overall plans or projects[6] they pursue. Coping with everyday home and societal structures, the typical school land rancher is constantly dealing with personal and group strategies to cope with or

[6] "Projects" refers to a specific set of actions, conscious or unconscious, that any individual activates to achieve a particular goal.

change a perceived dilemma as a lessee, in regard to the proposed future sale of his ranch, or portions of it. In applying the theory of structuration in field work, one must focus on casual conversations and formal interviews to clarify how a structure is interacting with a person or a group of people on that particular landscape. In this study I give much attention to this process.

Blending Methods: Zelinsky's Cultural Scheme

Methodologically, I weave all three conceptual ideas, the morphological landscape model, the theory of phenomenology, and structuration theory through this research. All three build upon one another and add to the needed depth in understanding the Oklahoma Panhandle as a unique cultural landscape. Ironically all three models have themselves evolved through time, building on refining and clarifying regional research. Sauer influenced regional traditions in geography during the 1950s and 1960s with his morphological approach. Both phenomenology and structuration emerged during the 1970s when space and place began to influence regional pursuits in humanistic geography.

By their nature geographers are landscape detectives who strive to investigate in regional studies all of the obvious and not-so-obvious cultural and natural interrelationships that have created that special place in time. In the geographical "toolbox" I use many different methods in different ways for different research situations. Favorite tools over time will possibly change. Other geographers using different methods may come to the same conclusions in defining the same place.

Interestingly enough, Wilbur Zelinsky, in striving to shed light on what meaningful characteristics represent a total cultural system or landscape, designed a three-dimensional diagram which incorporates the closest blending of my own study's focus. Although on the surface the natural-biological landscape doesn't seem clearly represented in his chart, the very term Zelinsky coins for his "intrinsic components" of a cultural system, "mentifact(s)," is in fact footnoted. It means the evolution of both the cultural and biological traits of a landscape. Zelinsky refers to the total cultural process to establish that "many of the elements of the inanimate and the biotic environment are emphatically relevant[7]" (1992: 76). Zelinsky's schematic has three dimensions and each represents various cultural components (Figure 1.4.).

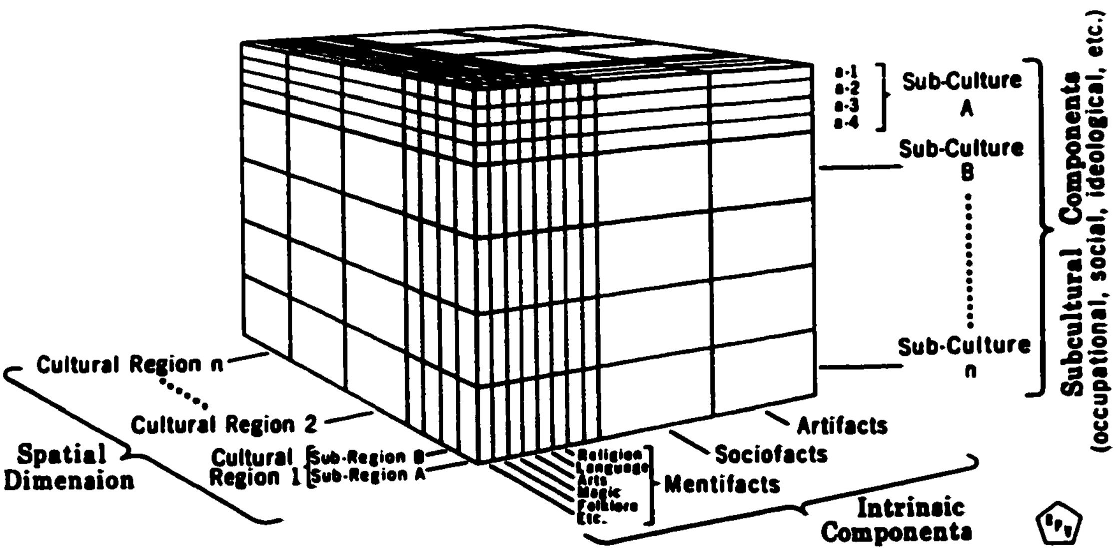

Figure 1.4
Zelinsky's Cultural System Schematic
Reproduced from Zelinsky (1992: 73)

[7] Zelinsky does recognize the importance of time in his representation of cultural systems, but confesses it goes beyond his main focus. "Further dimensions -- especially time -- might be added to this scheme, but not without transcending the possibilities of graphic representation" (1992: 73).

The spatial dimension is represented by the cultural region or regions, including sub-regions within this given space. Diagrammatically, other cultural regions may exist, depending upon the vastness of an area. Another dimension includes various "occupational, social, ideological, etc." subcultures (Zelinsky 1992: 73) within the main cultural system. The last dimension addresses all of the intrinsic components which Zelinsky calls artifacts, sociofacts and mentifacts. Briefly, artifacts include necessary items for livelihood, supplying goods and services, including property holding and land-use systems.[8] Sociofacts are concerned with humans and their relations with others, which incorporate social etiquette, and partaking in voluntary organizations. Mentifacts are abstract structures, psychological and attitudinal in nature, which encompass music, customs, folklore and other value systems.

Zelinsky's cultural system framework is important when one considers the hierarchy of regions that will be addressed in this study, keeping in mind that each region represents a special individualistic cultural system. Zelinsky's schematic will aide in the understanding of the Great Plains, cattle ranching, and the Panhandle regions in the pages that follow.

Four Guiding Research Questions

With the combined methodological arsenal at hand I attempted to answer four basic questions. First, are these Western Cimarron County lands and people different? Is this landscape physically and culturally, also realistically and perceptually, unique?

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[8] In giving examples from Zelinsky's model, emphasis will be on cultural characteristics that specifically relate to this study.

Secondly, if unique, due to their special set of circumstances, are these people and lands prey to downstate[9] agency and institutional policies? Thirdly, will all or the vast majority of school lands be sold off? Lastly, if sold, what consequence will sales have on the immediate locale and the state?

Relevant Research: Other School Land Studies

Little exists by way of recent research on Cimarron County ranchers, the population most affected by School Land Commission policies. However, three earlier studies that directly relate to the School Land Office and its functions are notable: John T. Butcher in 1928 wrote a M.S. Education thesis at the University of Oklahoma entitled "The Administration of the Common School Endowment of the State of Oklahoma." He focused on the historical establishment of the CLO[10] and reviewed its administration, structure, and policies. A focus of this study dealt with the legislative laws, Commission rules, and first sales of CLO lands. Butcher's motive, interestingly, was to research the CLO's perceived incognito operations which control and distribute a sizable amount of revenue for the State of Oklahoma. In 1937 Oliver Hodge[11] completed a study for a Ph.D. in Education at the University of Oklahoma on "The Administration and Development of the Oklahoma School Land Department." Hodge emphasized the various funds, acres leased, and the bureaucratic workings of the

[9] Downstate is a common colloquial term used by many Panhandle people to refer to the rest of the State.
[10] The state School Lands Commission, or the Commissioners of the Land Office as they are commonly called today, will be as mentioned earlier, referred to as the CLO, throughout this study.
[11] It should be mentioned that the Oliver Hodge Building, at the Oklahoma State Capitol Complex, which houses our State's administrative educational braintrust, was dedicated to the author of this dissertation.

Commission. In particular his thorough accounting of each individual CLO Trust Fund, its acreage and monetary worth, were invaluable to this study. He proposed that better financial records be maintained (some monies had been misplaced), that the administration be streamlined by the consolidation of staff, and that in the final analysis, all of the state's remaining school lands be sold, so as to increase state revenues.[12] Rachel Butler wrote a third most important study, "Oklahoma School Land Management Policy and Practice, 1889-1980: A geographical Perspective (M.A. Thesis, Geography, University of Oklahoma, 1980). Her study centered on the various geographic patterns that emerged on Oklahoma's western landscape owed to historic CLO practices and policies, of land acquisition and the leasing and sale of schools lands. Butler's review of early history and management practices of the CLO added depth and clarification to this study. A strong theme that surfaces in her study is the land management practices of the CLO in regard to land conservation policies. Butler alerts the reader to the many discrepancies, misunderstandings, and lack of concern of the CLO historically in dealing with land stewardship and conservation strategies.

None of these studies concentrates on the unprecedented amount of school land that is located in Cimarron County or the implications that any substantial sale of these lands will have on that country or region. Although various quantities of school land have been offered for sale since territorial days, not until the 1982 mandate that changed CLO policies did sales become a constant threat.

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[12] Even in 1937 the idea to sell school lands, which is currently being labored over by the CLO (due to the 1982 lawsuit), is not a new idea today as one would think.

Two other research manuscripts should be mentioned: J. R. Forbes, "An Analysis of School Land Sales in the Oklahoma Panhandle," (M.S. Thesis, Oklahoma State University, 1968), wrote a purely agricultural economic determination of land pricing policies in the Panhandle. Charles B. Lewis, in "The Development of Cimarron County," (M. A. Thesis, University of Oklahoma, 1939), emphasized the historical evolution of the county's political, settlement, education and cultural growth. School land sales were mentioned only briefly.

Chapter Overview: Focus on Research Questions

The chapters that follow elaborate and clarify issues relating to the tensions and possible effect of school land sales within Cimarron County. Each chapter addresses a mix of various sequential topics that in effect build a "case" for the eventual clash of two familiar opponents, the CLO and the ranching community of Cimarron County. In this study I ask a series of questions. First, what is the setting for the action to come? What were Cimarron County's beginnings and how did the natural and physical morphology shape its identity? In Chapter 2 I explore early impressions of the landscape and the development of its identity prior to statehood. The significance of the Spanish frontier, and the difficulties in establishing a foothold on northern lands, is a preview of events to come regarding Cimarron County and its struggles. In Chapter 3, I discuss the transition from bison to a beef economy and how the cowboy-rancher culture had developed. Special attention is placed upon the importance of the evolving ranch and the eventual legacy of range life and cattle drives. Chapter 4 explains pre-territorial and territorial land practices and patterns. The early mix of squatters, cattlemen, and speculators yielding to homesteaders and ranchers on public domain lands will be elaborated on, as will the birth and operation of the School Land Commission. In this chapter I address the early controversy over the sale of CLO lands that helps set the stage for future actions. A look at both the physical and human landscape of Cimarron County forms the core of Chapter 5. This chapter validates the uniqueness of this region and how the real and perceptual elements of this landscape form its current identity. Although difficult to quantify, it is the rancher's sense of place, discussed in Chapter 5 that adds depth in comprehending CLO relations and future actions. Chapter 6 investigates CLO operations, funding structure, and the history of land sales. Scrutiny of the CLO, its practices and land management policies, which inevitably lead to litigation are elucidated on in this chapter, as well as Judge Cannon's decisions and impact of the 1982 lawsuit. Finally, in Chapter 7 I reassess this study's original four questions: Are these lands unique? Are the people victims of agency? Will all lands be sold? And if so, what local, state repercussions will that have? Woven through this analysis is a formal business and ranching community survey, and CLO plans for the future. Lastly, I conclude with the strengths and weaknesses of this study.

Much of this research is based on invaluable primary source materials: personal interviews; minutes, reports, information packets from the CLO; and the University of Oklahoma's Western History Collection manuscripts, letters, and notes.

Chapter 2

Early Peoples, Early Imprints

For centuries, lands encompassing the Oklahoma Panhandle were a resource for many, and home to few. Not until the late 1800s was this land called home with any sustaining permanence, a time when ranchers and settlers staked their claims. Prior to this permanence, archaeological records of early peoples, American Aborigines, indicates that this area (the Texas and Oklahoma Panhandles) has apparently been a crossroads for civilization for at least 10,000 years, and time may prove much longer. Basketmakers, cave dwellers, other hunting and gathering cultures (Folsom, Clovis, Plainview) relied on the resources of this terrain for survival (Jackson 1982: 84). The early forerunner of the Plains Indians roamed this place in quest of game for survival, in an area that was abundant in vegetation and well watered via the tributaries of the Arkansas, Cimarron, Canadian and Pecos rivers. The Kiowa, Apache, Comanche, Arapaho, and to some extent the Cheyenne Indian followed the buffalo over these lands[1] for food shelter, and clothing (Figure 2.1).

Soon European exploration and exploits further molded these lands. The Spanish in their empire building extended their influence well into this area through exploration, missionary contact and trade with native peoples. The French established themselves primarily as traders, with Coureurs De Bois, young men who

[1] "These lands" (this area, domain, region, place, etc., in future usage) refers to the study area, mainly the Oklahoma Panhandle, Cimarron County and any historical impact on them. Also in Figure 2.1 Carl Kraenzer's location of Indian tribes in the Great Plains details the extent of the Great Plains via two irregular vertical lines, representing his view as to its boundaries.

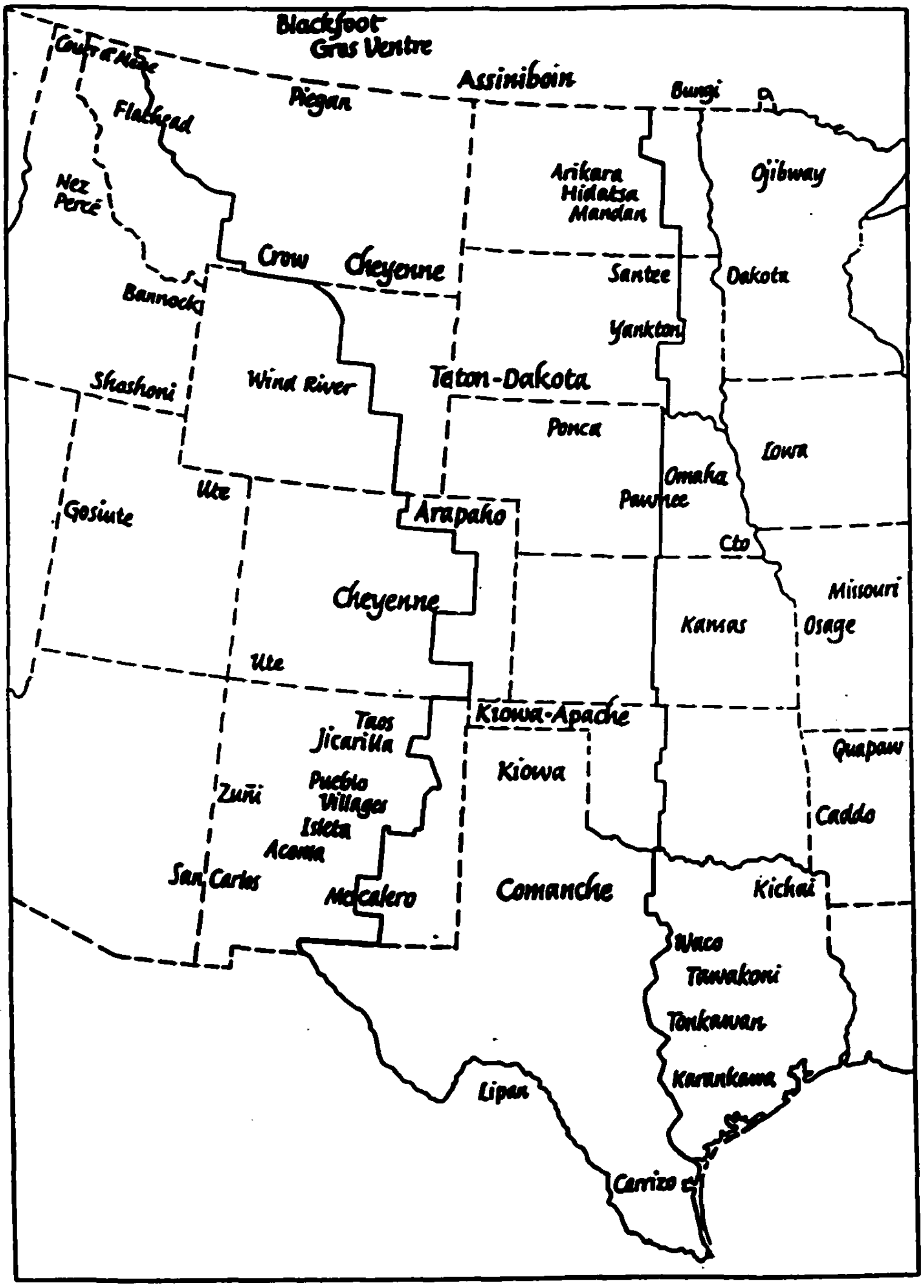

Figure 2.1
Original Location of Indian Tribes in the Great Plains
Reproduced from Kranzel (1955: 74)

exchanged various items (guns, tools, blankets, beads) for buffalo and deer hides. The independent nation of Mexico carried on Spain's legacy, expanded Santa Fe trade opportunities and encouraged settlement in their northern frontier. Soon American exploration was encouraged by the Louisiana Purchase, which contributed even more to a developing regional identity. Ironically, many of the same frustrations of establishing a cultural identity, an imprint on the Plains landscape, were common to all peoples who came to these lands.

<u>Grasslands and Buffalo</u>

Of great importance to the Plains Indian was the bison, it was his very culture. The food he consumed, the clothes he wore, the tipis he constructed, the economy, his recreational, ceremonial and religious life, all depended on the buffalo. Plains tribes followed the bison, and its migratory movements (Figure 2.2). Where the Plains Tribes flourished buffalo abounded and vice versa. This is an area of grasslands dominated by the "plains grasses" or shorter varieties typified mainly by grama, buffalo, and blue stem grasses.

"Two major climatic gradients occur in the Great Plains: a temperature gradient running north-south, which is more pronounced in winter than in summer; and a moisture gradient running east-west, which is created by the rain shadow of the Rocky Mountains. This rain shadow has had a pronounced influence upon the evolutionary development of these vast interior grassland" (Lawson and Baker 1979: 142). These geographical fluctuations have created different varieties of grasses from north to south, and east to west, and have also provided for the seasonal migration of the buffalo during Indian predominance on the steppe. Historically, much is said about the buffalo and the migratory patterns of the Kiowa, Apache, Comanche, and other area tribes, but scant attention is paid to the underlying determinant -- climatic variations of grasses -- influencing movement of vast herds of bison.

The emergence of grasslands associated with this vast region, later to become ranching country, can be traced back to the later Pliocene epoch during the Tertiary period of the Cenozoic era. The ancient great plains that formed were from the remnants of Rocky Mountain streams spreading their eastward alluvial deposits, in conjunction with pronounced climatic change. Different forms of vegetation were occurring during "Tertiary time, which was largely a period of increasing continentality of climates. New plant forms then arose, specialized to succeed in sun-drenched and rain-poor habitats. The earliest nonprimitive nonhygrophilous grasses known are from the Tertiary of our Great Plains" (Leighly 1963:216). It was the exceptional mix of climate, blowing stream bed sand, volcanic ash in shallow developing soils, that today's relatives of these ancient grasses have been born and thrive. If one compares a vegetation diagram of the United States (Figure 2.3) with the bison area (Figure 2.2), it becomes apparent that knowledge of distinctive regional physical characteristics will help one to understand the extent of the Plains Indian culture. The Plains Indian region is the buffalo region, is the grassland region, and is the core of the Great Plains region, as we know it today. The sustainability and modification of these high steppe grasses provide a glimpse as to what future landscapes will dominate cattle country and ranching country.

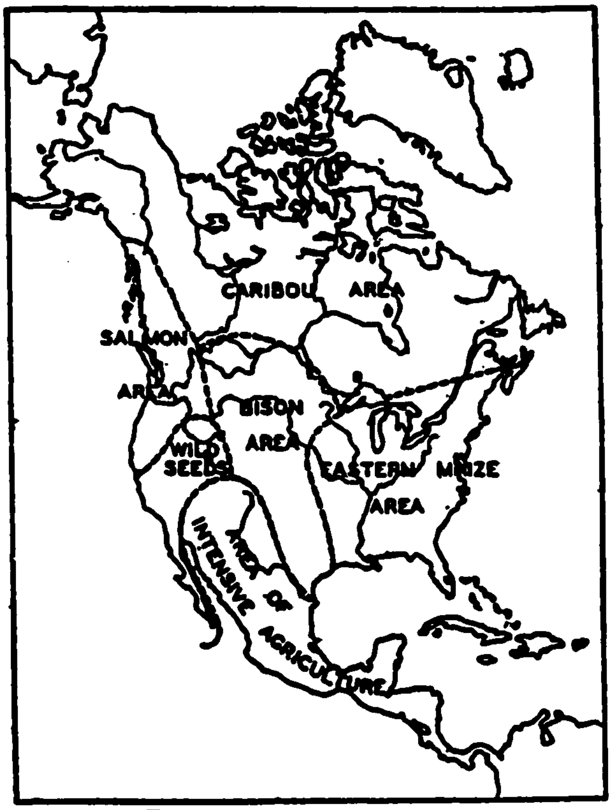

Figure 2.2
Food areas of the American Indian
Reproduced from Webb (1931: 50)

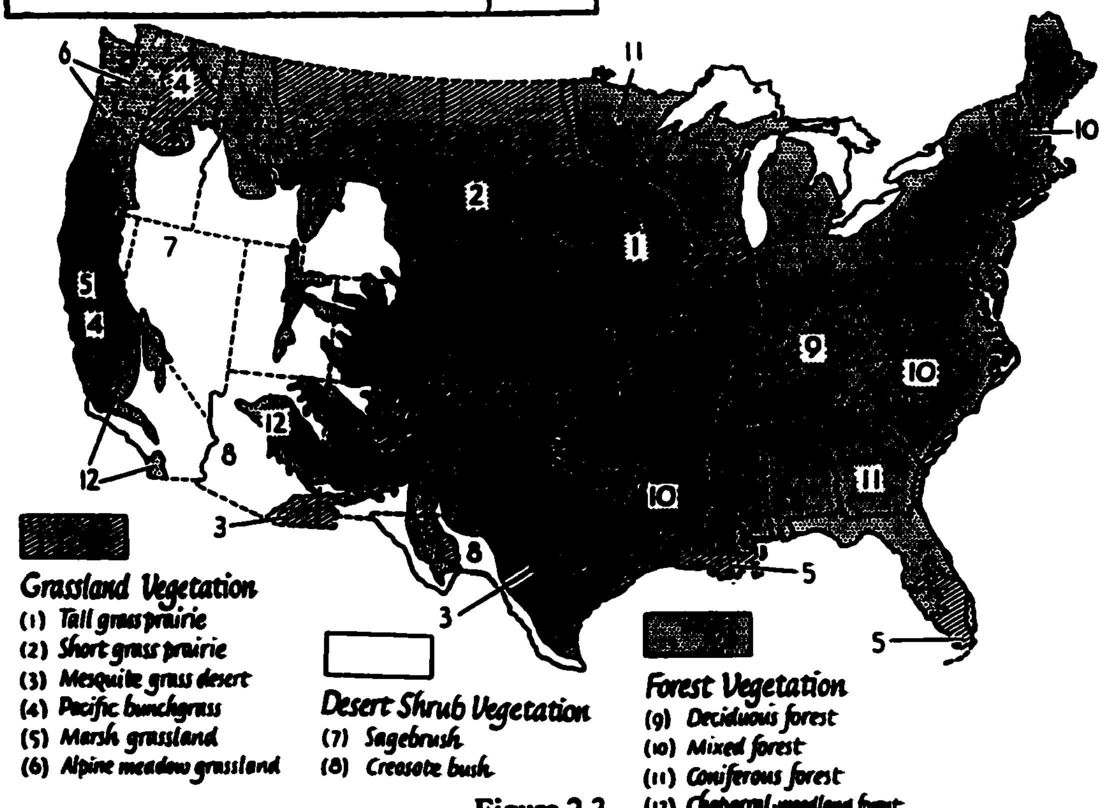

Figure 2.3
Natural Vegetation of United States
Reproduced from Kranzel (1955: 29)

The Spanish Frontier: A Difficult Domain

The experiences that the Spanish encountered in establishing settlements and trade, hoping to leave a lasting cultural imprint, were in large part complicated by the very environment they desired to control. A few recurring factors that impact Spanish-Mexican settlement and economic policies also emerge again historically when American ranching and settlement issues surface. Some, if not all, of the following factors will provide the gist of many conflicts and frustrations that are unique to this area and the people who inhabit it:

1. Perceiving that lands were more bountiful than they actually were (i.e., mineral resources, agrarian expectations, water).
2. Not adapting early settlement patterns/goals with the natural landscape in perspective (a corollary to number 1).
3. Not fully recognizing the ramifications of distant decision makers, representing cultural, governmental, and economic cores (i.e., a capital city) in relation to a remote settlement/entity.
4. Interfacing with antagonistic peoples (natives, the lawless element, enforced non-realistic government policies).
5. Having a weak infrastructure with marginal proximity to various transportation/trade routes and markets.

Keeping these elements in mind, a brief summarization of Spanish-Mexican institutions is in order.

The Spanish presence on the frontier was one of hope, failure, and adjustment: hope that forging a new empire in a new world would be a lasting one; failure in not recognizing that previous policies and institutions in the Old World couldn't be completely exported to such a vast new territory; and adjustment in having to reassess and retreat from original aspirations. The outcome became a modified legacy through an independent Mexico to shape this vast domain.

Establishing a foothold in the empire building process required conquering, settlement, economic survival, protection and the civilizing of natives. Economic survival was anticipated with the operations of the encomienda. To the Spanish, the conquistador paved the way for economic development and settlement. With the granting of land by way of encomiendas and future empresarios, theoretically territories would eventually become secure. Encomiendas were literally an award of natives, a labor force to benefit the encomendero. The encomienda lands were granted through patronage and generated a profit from native peoples working the land, the wealth shared with the king. Empresarios were later granted to establish forward settlements, and were also intended to expand the territorial boundaries of New Spain. An empresario was an individual who was given a particular grant of land. Complementing these institutions was the mission, which provided the civilizing and anticipated conversion of the conquered. Spanish success regarding these institutions was at times marginal. However, the impact of these institutions on the fabric of the Great Plains and in particular the Oklahoma Panhandle has been important.

Coronado's Quest

The early Spanish explorer-conquistadors were ingrained with legends of great cities of wealth to be found in the West or the New World. Historically, this was the "age of discovery" where myth, spirituality, and geographic exploration became one, the potential for wealth being great. This mix of fact and fable, a desire for precious treasures emanated from medieval journeys to the east and the Mongol Empire for spices and gold. The personification of this individualist quest, providing honor to oneself and ones country, was embodied in Coronado. "Coronado's search for the Seven Cities of Gold and the fabulous land of Quivira had its origins in a medieval legend" (Vigil, Kaye, Wunder 1994:27), a legend that would motivate him to lead an expedition through the Oklahoma Panhandle and Cimarron County in looking for the famed Cibola[2]. Coronado's journey was considered somewhat of a failure as no gold was found at Cibola. He pushed north to Quivira and found only villages on the Arkansas River inhabited by Wichita Indians living in grass huts. What is important is that Coronado's party provided an early glimpse as to the landscape that is now part of the Oklahoma Panhandle.[3] A small excerpt taken from "Jaramillo," one of Coronado's captains, describes the regions wealth of land and

[2] A predominate "legend of the late Middle Ages related that when King Roderic lost Spain to the Arabs in 711, the Archbishop of Porto and six other bishops sailed westward with many people for the Island of Antillia. There they built seven [fabulous] cities." (IBID).
[3]It appears that some research reveals that in fact Coronado or his party of explorers have left "their mark" in Cimarron County. The inscription "Coronado-1541" many believe, was carved into Castle Rock by one of two Italian soldiers traveling with him at the time. Castle Rock is on the Cimarron River, the date 1541 was when Coronado's party was at the Indian village of Tiguex (*Oklahoma Today*, Spring 1975: 36).

bison, explaining that the area "presents a very fine appearance, that which I have not seen a better in all our Spain nor Italy nor a part of France . . . for it is not very rough country, but is made up of hillocks and plains, and very fine appearing rivers and streams . . . indeed, there is profit in the cattle ready to the hand, from the quantity of them" (Webb 1931: 107). This account chronicles one of the earliest identity building descriptions of this region. Interestingly however, the failure of Coronado's expedition did not quench the thirst for further northern explorations in search of wealth in these northern lands.

The Encomiendas

Concerning the success of the encomienda it appears for logical reasons to have thrived only in and near the mesa central (called the plateau of Mexico north of today's Mexico City), Mexico's agricultural and cultural heartland. These bountiful lands nurtured by native Indians were the first to be divided into encomiendas placing the local populace in bondage. This system of conquering and claiming land was devised from early conquests to hold and control lands that would benefit New Spain economically. The "captured" native peoples were under control of a trustee, or the encomendero, who was responsible for them. By original intention this was a benevolent institution, the "encomendero, as he was called, was strictly charged by the sovereign, as a condition of his grant, to provide for the protection, the conversion, and the civilization of the Aborigines . . . to provide the spiritual instruction and to conduct schools for the natives . . . the encomenderos were required to support the necessary friars, by whom the instruction was given" (Salsbury 1975:

44), thus, in effect, establishing a mission in or near this tract of land. Attempts at establishing encomiendas further north in the short (steppe) grasslands were futile. The Plains Indians weren't settled agrarians, and had few crops; climatically the lands were more arid, and further away from any governmental central authority. Hence, these factors thwarted any serious advance of Spanish territorial claim in this area (Figure 2.4). Not many future colonists would be willing to attempt to civilize such wild tribes; this responsibility would be left in the hands of the missionary. These factors in conjunction with the unpredictable relationship with the Plains Indians, who were known by many as ruthless migrating warriors, prevented both New Spain[4] and Mexico from achieving few if any permanent settlements in the Plains region. For the Spanish, the Apache and Comanche were "the two tribes that held, first and last, the southern end of the Great Plains region and that brought terror to all and ruin to most of the Spanish settlements" (Webb 1931: 116).

By the mid-1700s it was becoming clear that the expansive Spanish frontier was in jeopardy, from California to Texas and north to the southern Great Plains, also known as the Llano Estacado or the High Plains. Due to the climate and culture two dramatic frontier exceptions were the outpost villas of Santa Fe and San Antonio which were vibrant trading, governmental, and defense villas on either side of the Llano Estacado[5] (Figure 2.5). By 1766 Spain had decided to take stock of its

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[4]Before Mexico claimed its independence form Spain in 1821 this area was regarded as New Spain.
[5]The Llano Estacado stretching roughly from the Pecos to the Canadian rivers is a vast treeless grassland typifying true high plains terrain. This expansive arid environment overwhelmed the Spanish by its immensity, huge buffalo herds, and lack of any permanent settlement. It was always thought of as impossible to navigate due to its seemingly repetitive landscape and later no doubt, the presence of the Apache and Comanche.

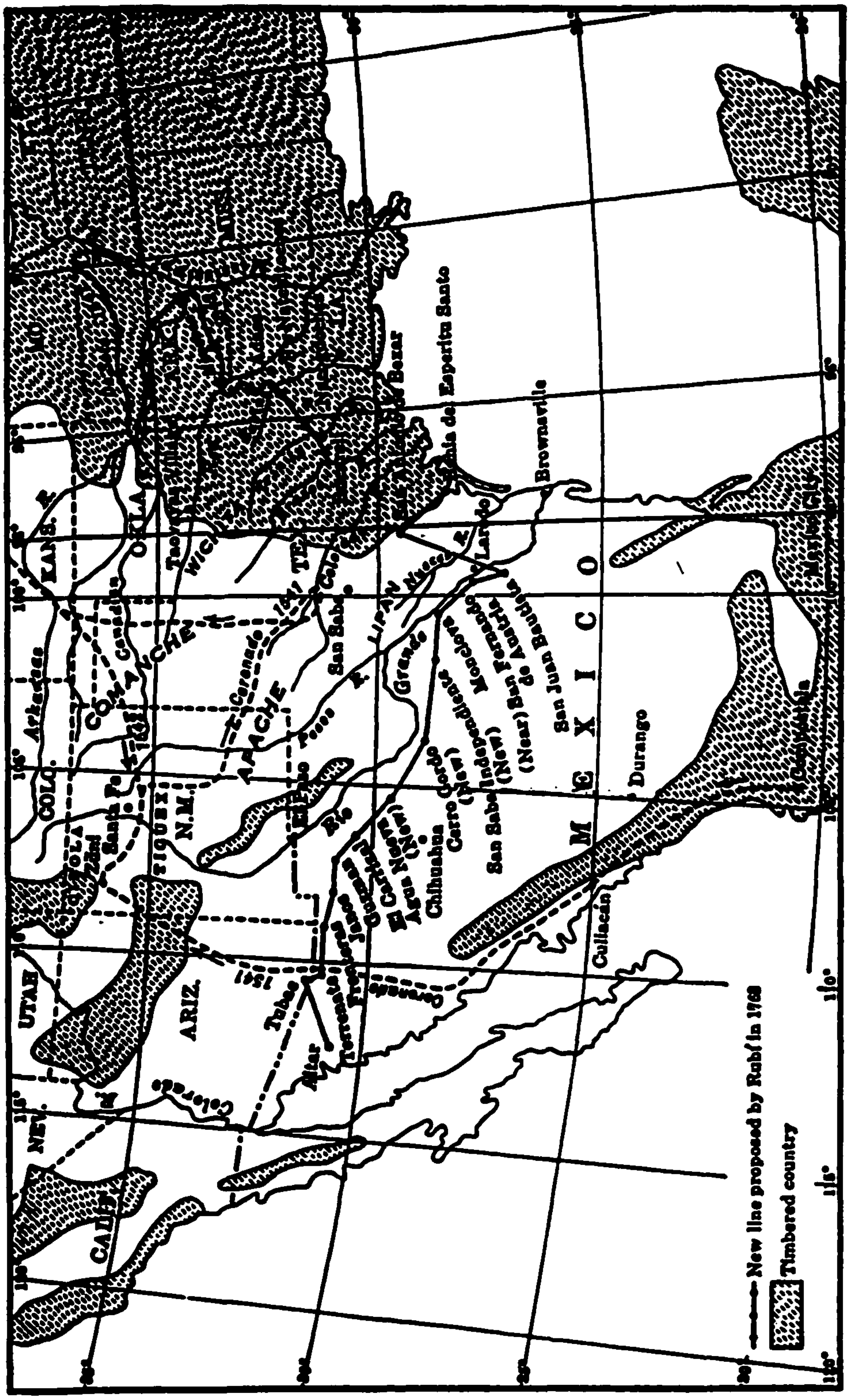


Figure 2.4
The Northern Spanish Frontier Forts
Reproduced from Webb (1931: 118)

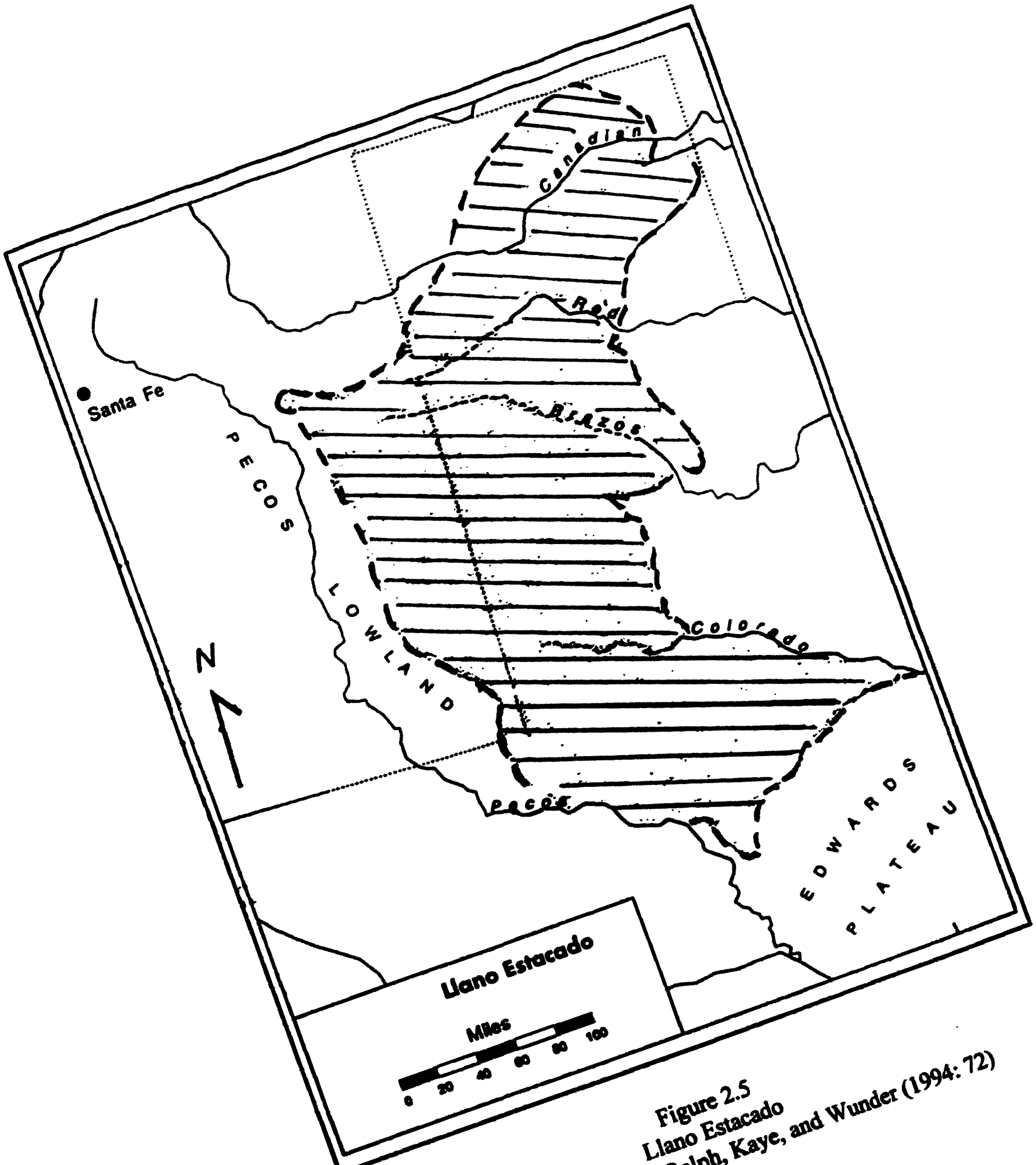


Figure 2.5
Llano Estacado
Reproduced from Vigil, Ralph, Kaye, and Wunder (1994: 72)

holdings, having in 1762 by the Treaty of Fontainebleau obtained the Louisiana Territory from France. The Marquis de Rubi toured the frontier from Louisiana to California making recommendations in 1772, known as the "New Regulation of Presidios"[6] which strongly recommended that the wishful frontier of the north be moved south to a more realistic maintainable line of demarcation. Besides being spread too thin, Rubi proposed that a line of fifteen forts establish a new solid frontier line (Figure 2.4), indicating that the previous policies and institutions needed adjustments. The Marquis's suggestions became law by royal order soon after the report was completed. Although Oklahoma's Panhandle was regarded as northern frontier and was never formally included in any large rancherias (ranches) or encomiendas at that time, the result of this new policy by 1826, when Mexico was independent, helped add an important link in establishing its identity by way of the Mexican empresario grant.

Oklahoma's Empresarios

In 1800 Louisiana Purchase territory returned to French control after Napoleon Bonaparte pressured Spain to relinquish these holdings back to France in the Treaty of San Ildefonso. Within three years, desperate for cash, due to his empire building, Napoleon relinquished the entire province to a young United States for fifteen million dollars. By 1819 the western borders of this purchase were defined by the United States and Spain in the Adams-Onis Treaty (Figure 2.6), marking the 100 meridian as its boundary, including the entire Panhandle within Spain's jurisdiction.

[6] A presidio is a fort.

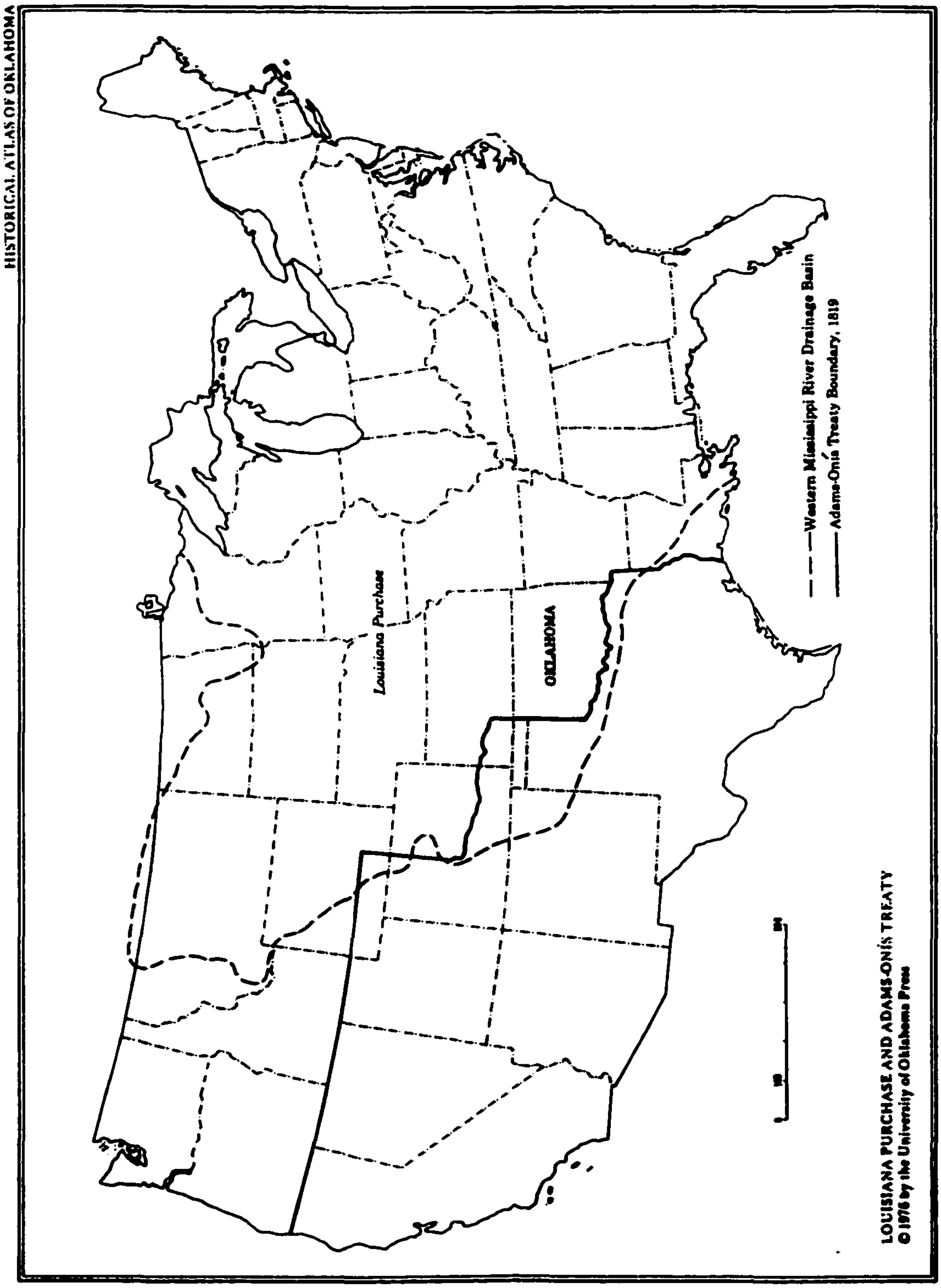


Figure 2.6
Adams-Onis Treaty Boundary
Reproduced from Morris (1976: 15)

Only two more years would pass before the Panhandle would become part of the Mexican State of Texas.

To facilitate future territorial integrity and growth, a modified remnant of the old Spanish encomienda system, the empresario, encouraged colonization in Mexico's northern frontier. Seeking to expand and protect its tenuous northeastern and northern lands, and because the granting of land was left up to individual Mexican states, on "March 24, 1825 . . . the State of Coahuila and Texas authorized the governor to accept proposals from empresarios to settle a certain number of families within stipulated limits, in the term of six years" (Wardell 1929:69). The liberal nature of these grants and the enormous tracts of land that were granted clearly indicated the desperation of the Mexican government to secure these northern lands as soon as possible. "Within less than ten years after the passage of this law [Law of 1825] the whole state of Texas was covered with empresario grants" (Wardell 1929: 70). Many of these transactions were given to Mexican citizens and also a sizable number of Europeans and Americans (Stephen F. Austin being one).

Only five years after Mexico won its independence from Spain, in the spring of 1826, the Mexican state of Coahuila y Texas conveyed to a North Carolinian an empresario title to an immense area. This grant included all of Cimarron County and the extreme western side of Texas County" (Estep 1958-59: 358), its northern boundary established by the Arkansas River. From 1826 until 1890 various failed efforts to colonize this land were primarily in the hands of two parties, Stephen Julian Wilson and Dr. John Charles Beals (Figure 2.7).

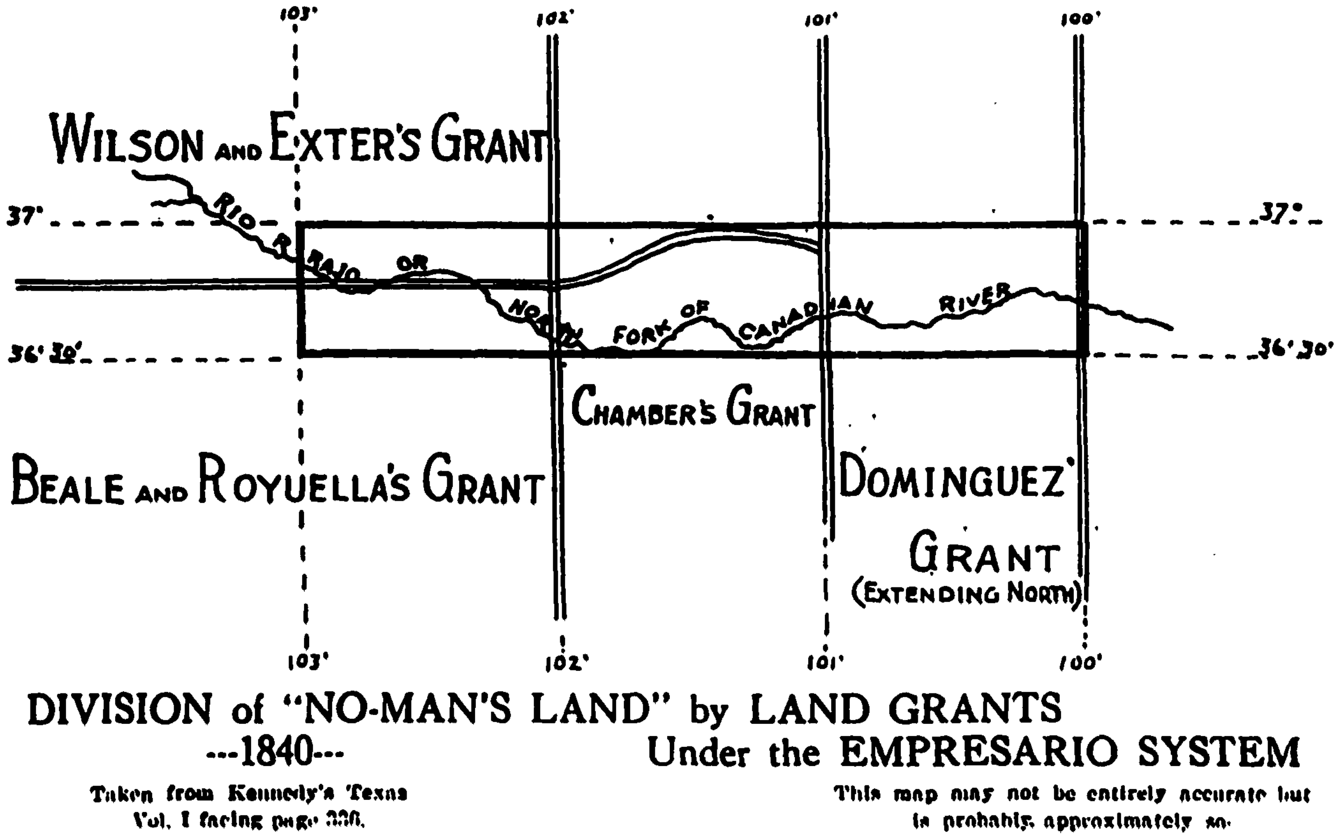


Figure 2.7
Map of Wilson, Exters and Royuella Grant
Reproduced from Wardell (1921: 73)

This grant is important for two reasons: Officials surveyed it both in 1826 and 1832, making this area the first to be plotted by any governmental or private entity. Numerous field notes describe these lands in a far more favorable context than do American expeditions traveling near the Panhandle in the early to mid-1800s. Survey field notes written about the Cimarron County area reflect such comments as: "good land and well situated; mostly prairie. We encamped on a small stream of fine water S.E., some of the hunters killed four buffaloes and one deer . . . we crossed a creek ten or fifteen yards wide, running S.E., with a good bottom of land, timbered with oak, hackberry, and cottonwood" (Wardell 1929: 72-73). This particular survey conducted in September 1832 made no mention of the aridity of the climate, the soils or lack of vegetation. In fact very few of the Spanish-Mexican expedition-exploration accounts mention the harsh nature of these lands, unlike many early American accounts.

Americans on the Plains

Until the early 1800s the Oklahoma Panhandle was relatively untouched except by natives whose economy and culture centered around the bison. Its serenity was occasionally punctuated by a trickle of Spanish explorers, attempts at colonization, nearby missionaries, and a sizable number of French traders or buffalo hunters, establishing agreements with Santa Fe authorities or Plains Indians for economic gain. Although other expeditions were launched prior to the Louisiana Purchase in exploring this vast region, it was this purchase that inspired Thomas

Jefferson to desire a closer "scientific"[7] look at these nearly acquired lands, their topography, flora, fauna, climate, soils and people. Soon vivid first hand impressions of these new lands, thanks to journal accounts, would influence many as to the value and beauty of these holdings. One of the best known early expeditions, the Lewis and Clark Expedition, gave Americans a first introductory glimpse as to the nature of the Great Plains.

"The journals of the expedition offer much information about drought in the Plains, measured by the seared nature of the vegetation and the poor condition of the native animals" (Kraenzel 1955: 59). Other United States government expeditions followed. However, none would shape the Great Plains and Oklahoma as dramatically as the Major Long expedition of 1820. During this venture the headwaters of the Red River were located and explored. Unfortunately, when continuing south from the Arkansas, Long assumed he was on the Red River. Instead, his party explored the Canadian. Not meeting its goal, the Long Expedition "confirmed a general impression that the Southern Plains were a sandy wasteland unsuitable for general agriculture. Thereafter, maps of the American West usually labeled the area as 'the Great American Desert'"(Goble 1994: 93). The area was portrayed to be suitable only for rugged frontiersmen willing to face adversity. The earliest Pike expedition of 1806-07 seems to summarize the impressions of the time stating this is "a domain only for the Indian – not for the agriculturists, who were

[7]Many of the expeditions were dubbed scientific taking along botanists who classified plants, animals and described terrain.

advised to stay on the east sides of the Mississippi and of the Missouri" (Kraenzel 1955:60).[8]

Santa Fe and the Cimarron Cut-Off

These new purchased lands elicited landscape curiosity with each series of investigations and the routes of the explorer were transformed into the routes of the adventurer, settler, and entrepreneur. Three distinct western thoroughfares emerged as arteries of transport: the Missouri River, Oregon Trail and the Santa Fe Trail (Figure 2.8). The Santa Fe Trail became the major interstate of the Southwest. Santa Fe was an established trade center and was the northern terminus for both Spanish and Mexican sovereignty. Accounts of earlier excursions to Santa Fe from St. Louis date to 1739 when the French Mallet Brothers plied this route along the Arkansas River trading pelts for other commodities.

"The founder of the Santa Fe Trade and the father of the Santa Fe Trail was William Becknell of Missouri. As early as 1811 he was trading with the Comanche Indians on the Western Plains. In 1813 he [became] determined to go to Santa Fe and trade with the New Mexicans of that country" (Wardell 1929: 75). Eager to establish a trade link with Santa Fe, in 1821 Becknell became the first American to negotiate officially a trade agreement with Mexican authorities. The trail that he pioneered cut across Cimarron County, later to become the Cimarron cut off of the Santa Fe Trail.[9]

[8]This was probably the best advice, however as the future of the Plains unfolds and the wave of settlement penetrates prairie lands, many of the original five factors previously mentioned will later come to fruition.

[9]Much scholarly debate has also asserted that this so called "cut off" was in truth the original Santa Fe Trail, and was in fact used just as equally or more than the longer northern route of the trail. Many argue that the reason for Fort Nichols was due to the volume of traffic on the cut off. Ft. Nichols was

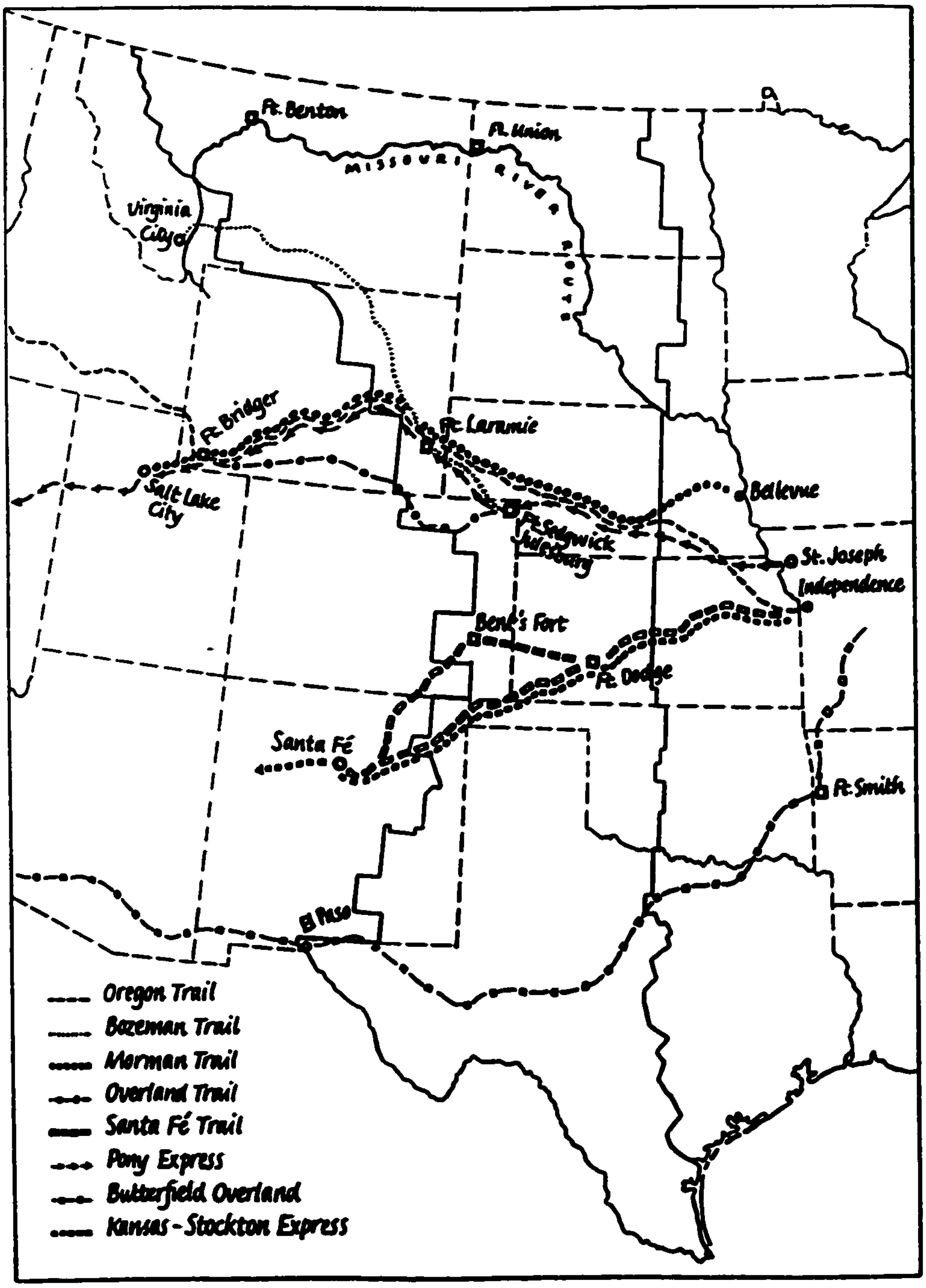


Figure 2.8
Nineteenth Century Avenues of Travel
Reproduced from Kranzel (1955: 90)

established in Cimarron County to abate the Plains Indian attacks on wagons traveling over this stretch of the trail.

Becknell, on this first "official" trip, decided at one juncture to veer from the established "Arkansas River to Taos" route and cut across the Cimarron County of today, saving many days on the journey to Santa Fe. Not knowing this region well enough he was forced to turn back to the more established route. In 1823, with a Mr. Braxton Cooper, he did prove that a shorter "watered" way through Cimarron County could be found to Santa Fe (Figure 2.9). Becknell's 1823

> Journey is of historic importance in that it was the first which led directly to San Miguel by way of the Cimarron River instead of following the Arkansas to the mountains; and it was the first that made use of wagons in the Santa Fe trade. To William Becknell, therefore, belongs the credit of having made the first regular trading expedition from the Missouri to Santa Fe; of being the first to follow the route direct to San Miguel instead of by the way of Taos; and the first to introduce the use of wagons in the trade (Wardell 1929: 76).

Even though this region was known as the "Cimarron Desert" to many early traders, this Oklahoma cut-off proved to be their most traveled route.

Figure 2.9
The Cimarron Cut Off
Reproduced from Wardell (1921: 77)

Chapter 3

Seeds of Identity: Cowboys and Cattle

Indians, cowboys, ranchers, and farmers brought on dramatic changes as the Great Plains and the Oklahoma Panhandle evolved beyond Spanish-Mexican times. The cattle industry, although short-lived, left a lingering cultural influence even today. As an industry that clashed with homesteads and settlement, it left a volatile legacy. Superimpose this incongruent mix on an unorganized, unrecognized human landscape seeking political recognition and you have the beginnings of the Panhandle's and Cimarron County's uniqueness.

Bison to Beef

Prior to the Civil War the Great Plains was home to the indigenous buffalo, an animal that for centuries defined and dominated the region (Figure 2.2). Bison attracted attention for their enormity and numbers. Many believe that Cortez was the first Spanish European to see a bison possibly in 1521, English settlers made contact as early as 1612 and the French encountered the buffalo in the Great Lakes area in 1679.[1] Although herds extended over vast territory, the grasslands of the prairie was its domicile. "Upward of five million buffalo made this immediate region their summer and winter home, grazing northward as the grass greened in the spring, grazing back to the Texas Panhandle as the cold winds blew out of the frigid northland" (Chrisman 1998:15). The bison were indispensable to the subsistence of

[1]A review of these citings may be located in Webb's book, *The Great Plains*, pages 42-43.

Plains Indians; however, contact with commercial and later "sport" buffalo hunters[2] eventually distinguished that culture. From the Arkansas River south to the Canadian River buffalo abounded and so did the early hunters. This entire region was generally called Cimarron Country, it was given its name by the earliest Mexican traders and travelers for the many wild cattle, the Cimarrones, which they found grazing along the streams (Chrisman ibid). The name "Cimarron Country" was commonly used for describing both the Texas and Oklahoma panhandles eastward to the Rocky Mountain foothills as well.

The decline of the bison started well before the Civil War. Frenchman Jean-Baptiste de la Harpe established trade agreements with the Oklahoma Wichitas and Osages in 1719. La Harpe's expedition in Oklahoma was the beginning of the commercial bartering for buffalo trade. Other French expeditions[3] followed this pattern establishing trade links with Plains Indians, soon settlements in New Mexico flourished, using Oklahoma's waterways as corridors to the Mississippi. Much of the French trading was curtailed in 1763 when Spain gained jurisdiction over the Louisiana Territory; nevertheless, a strong network of both individual and corporate buffalo trade continued to expand. With the emergence of American fur trading companies in the early 1800s the supply of pelts including bison were in great demand. Indians themselves became hunters not for just food but for profit too. "In 1845 General John C. Fremont gave out some figures of the American Fur Company,

[2]From this point on buffalo hunters, early hunters, etc. refers to other than the original hunters, the Plains Indians.
[3]Pierre and Paul Mallet and Fabry de la Bruyere also traded and traveled in this area.

showing that the Indians on the Upper Missouri alone had been selling 90,000 robes annually, for a decade" (Rister 1938:7). Cincinnati, Chicago, and St. Louis in the early 1860s were the starting points for railway excursions to the Great Plains to hunt bison from rail cars. From subsistence to sport, by the 1870s the big buffalo hunt would become a memory. In one decade (1870 to 1880) approximately 7,500,000 buffaloes were slaughtered on the southern Plains. By 1879, there was only a small remnant of the great herds grazing the area south of the Brazos, and after the passing of a few years the herd was entirely gone (Rister, 1939: 11). Ironically, it would be this same area south and west of the Brazos River (in Texas) that a new kingdom, cattle kingdom would be born. With the loss of the buffalo Plains Indians became dependent wards of the United States, corralled on to reservations, leaving vacant huge grasslands without any large herds of animals to occupy them.

Transitional Times and Texas Trails

Well before Texas longhorn cattle dominated the Great Plains, in the mid-1500s, Spanish conquistadors and later

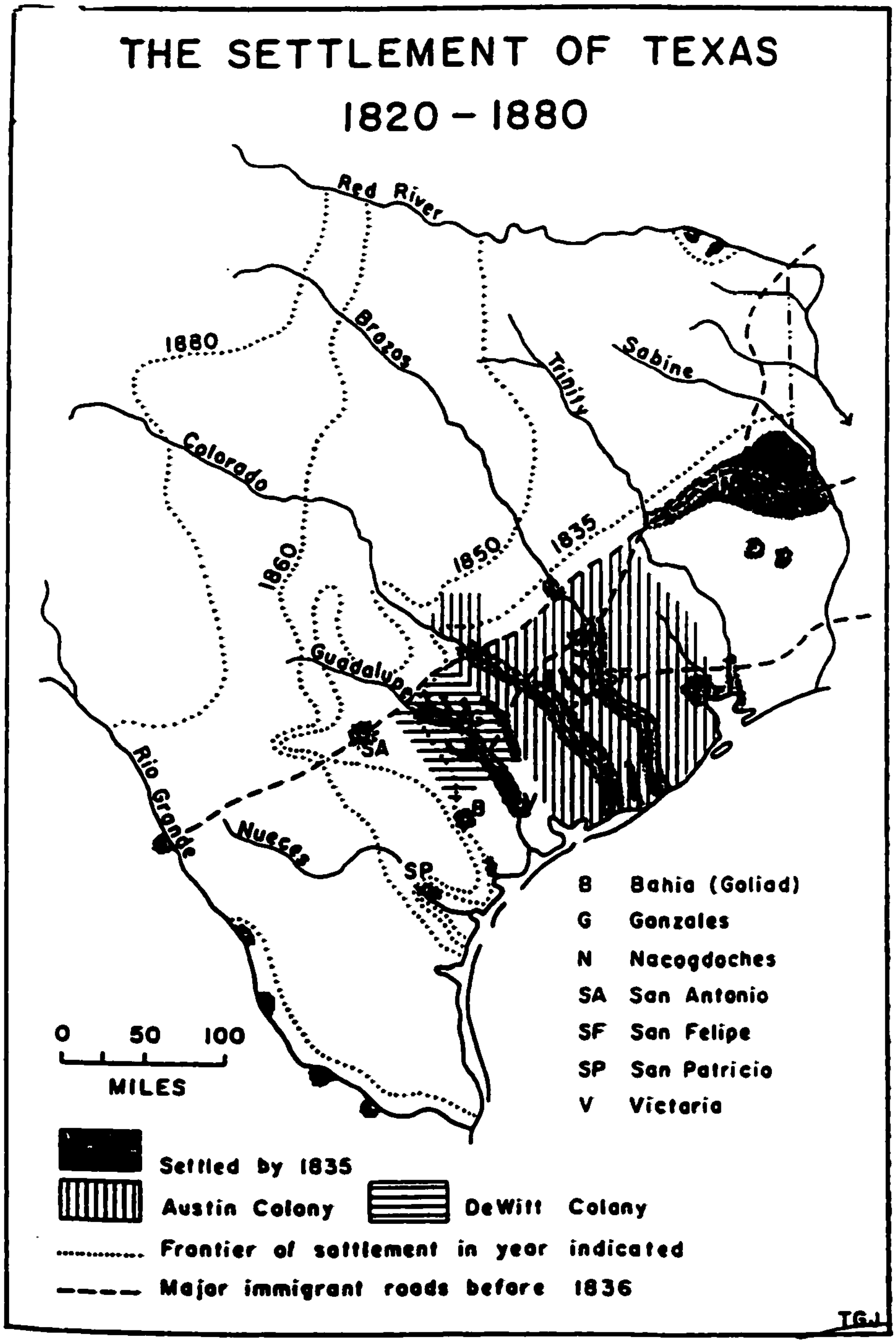
> the first Spanish colonists brought in cattle – lean, long-horned animals of the type raised by the Moors for centuries on the Plains of Andalasia. These increased amazingly and later mixed with the cattle of North European breeds brought in by the early American settlers. The result was an animal larger and heavier than the early Spanish cattle, yet sufficiently hardy to live and thrive throughout the year upon the open range (Dale 1965:24).

The emerging cattle-hearth area in Texas would be a combination of early American empresario settlements in the 1820s and further western Mexican ranchero grants located in the Nueces Valley and further north. The two most successful empresario grants, Stephen Austin's and Green de Witt's colonies, provided large numbers of

Anglo-Americans and their stock a Texas home (Figure 3.1). With these growing settlements and an ever increasing squatter population, friction soon developed into conflict in the Texas Revolution of 1836. "By the end of the Mexican period, there were probably about 30,000 Americans in Texas, most of them in the Austin and DeWitt colonies" (Jordan 1966:25).

Texas independence left Mexican rancheros north of the Rio Grande abandoned and roving herds were soon declared public property, ushering in the beginnings of a cattle industry. Cattle drives north were soon to add new images and words to already developing stereotypes of the West. Spanish and Mexican ranchero traditions mixed with Texan tenacity and technique would fuel a lasting fascination with this region. "From 1853 to 1855 about 100,000 southwestern beef cattle reached Kansas City. About two-thirds of these were from Texas and almost exclusively Longhorns" (Egan and Agogino Fall 1965). Irregular cattle drives and range cattle continued to multiply until the Civil War, which temporarily halted the expansion of the cattle business. It was estimated that by 1860 there were over four million head of cattle in Texas, providing for early scattered attempts in marketing to places such as Ohio, Chicago, Missouri, California, Arizona, New Mexico, and to New Orleans continuing on to Cuba.[4]

[4]Much of the early cattle drive information is summarized in Webb's book, where on pages 211 and 212 he summarizes the "Statistics of Agriculture" section within the Tenth Census.



The Settlement of Texas
Figure 3.1
Reproduced from Jordan (1966: 22)

Indian Territory

Before and after the Civil War most Plains Indians, along with other tribes in the West, were forced on to reservation lands. They were dependent on the United States for food, reducing Indian outsiders to become assimilated or remain fragmented roving segments of past tribes. East of the Great Plains one solution to the encroachment of white settlers on tentatively sovereign Indian lands was the creation of a new home for displaced natives, Indian Territory. In the 1820s the settlement of Indian Territory (Oklahoma) by the southeastern "Trail of Tears" tribes[5] and in the 1880s by other tribes created for future cattlemen a strange situation. White farming and settlement were prohibited in Indian Territory. However, due to the mobility and transient nature of the cattle business, grazing and herding presented a unique exception. "On Indian reservations there were additional complications . . . trespass upon Indians lands was forbidden by law . . . cattlemen, often made arrangements with the Indian agent and the tribesmen themselves to pasture herds on the reservation . . . offering compensation . . . in the form of beef or money" illegally (Dale 1965: 73). By 1858 Oklahoma was home to five southeastern Indian tribes with more to follow, it became a crossroads for cattle trails and four major stage/wagon routes. The California Road started by emigrants during the gold rush times, followed the Canadian River; the Texas Road which provided a route for settlers and a trade link between Missouri, Kansas, and Texas; the Butterfield Stage

[5]These were the so called "Civilized Tribes," forced to adopt white government and ways and forced to settle in Oklahoma. These particular tribes, the Creek, Choctaw, Chickasaw, Cherokee, and Seminole came from Mississippi, Alabama, Georgia, Florida, and parts of Tennessee and North Carolina.

route providing more sophisticated travel and mail delivery in Oklahoma parallel to the Texas Road, eventually turning west; and finally the Santa Fe Trail provided northern connections with Independence and St. Louis, Missouri (Figure 3.2). All created an emerging transit region. Indian Territory, and the Panhandle because of their central location, were becoming everyone's territory. What was not clear to most tribes was that once again their new lands were tentative and not permanent "as long as the rivers flow" or the grass grows. This landscape would provide quite a blending of cultures as Oklahoma became by its destiny the crossroads of the Indian, cattlemen and settler alike.

Trails North

The blossoming of the cattle industry and the cowboy after the Civil War is attributed to a mix of factors and circumstances. Besides the establishment of western reservations, Colorado, Wyoming and Montana mining operations, and the use of the fertile grazing lands in Indian Territory, many important ingredients added to the explosion of the cattle culture. With the war over, returning soldiers particularly in this region created a burgeoning labor force ready to operate and support a large scale cattle industry. During the Civil War period, while Texas livestock became fat, mature and numerous, the ravages of conflict decimated much of the cattle in the East, creating a market for Texas beef. In fact, millions of cattle were consumed or destroyed east of the Mississippi River, especially in the South. "There are no adequate statistics for the livestock business prior to the census of 1840; but grazing as distinct from livestock feeding was of greater importance in the

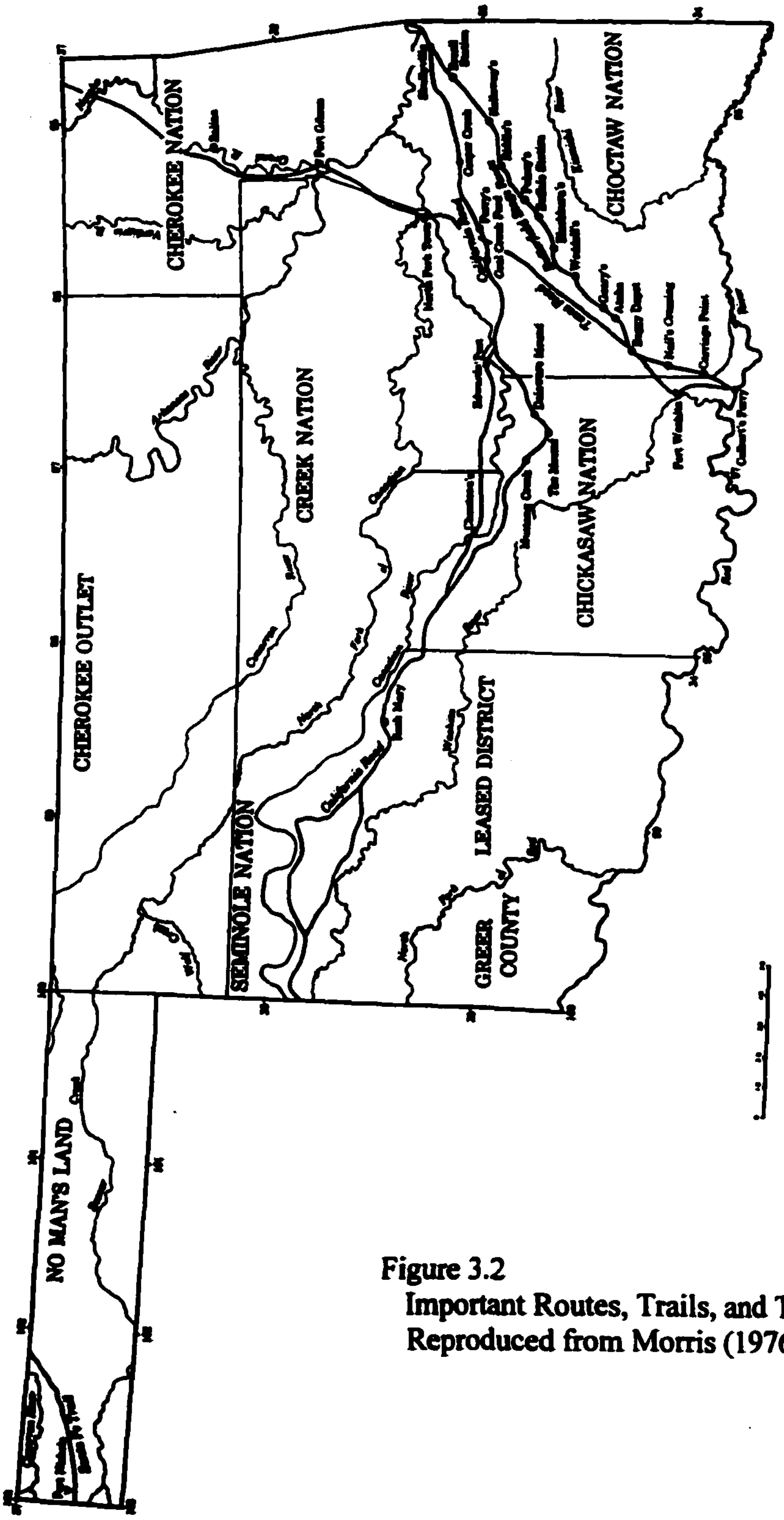


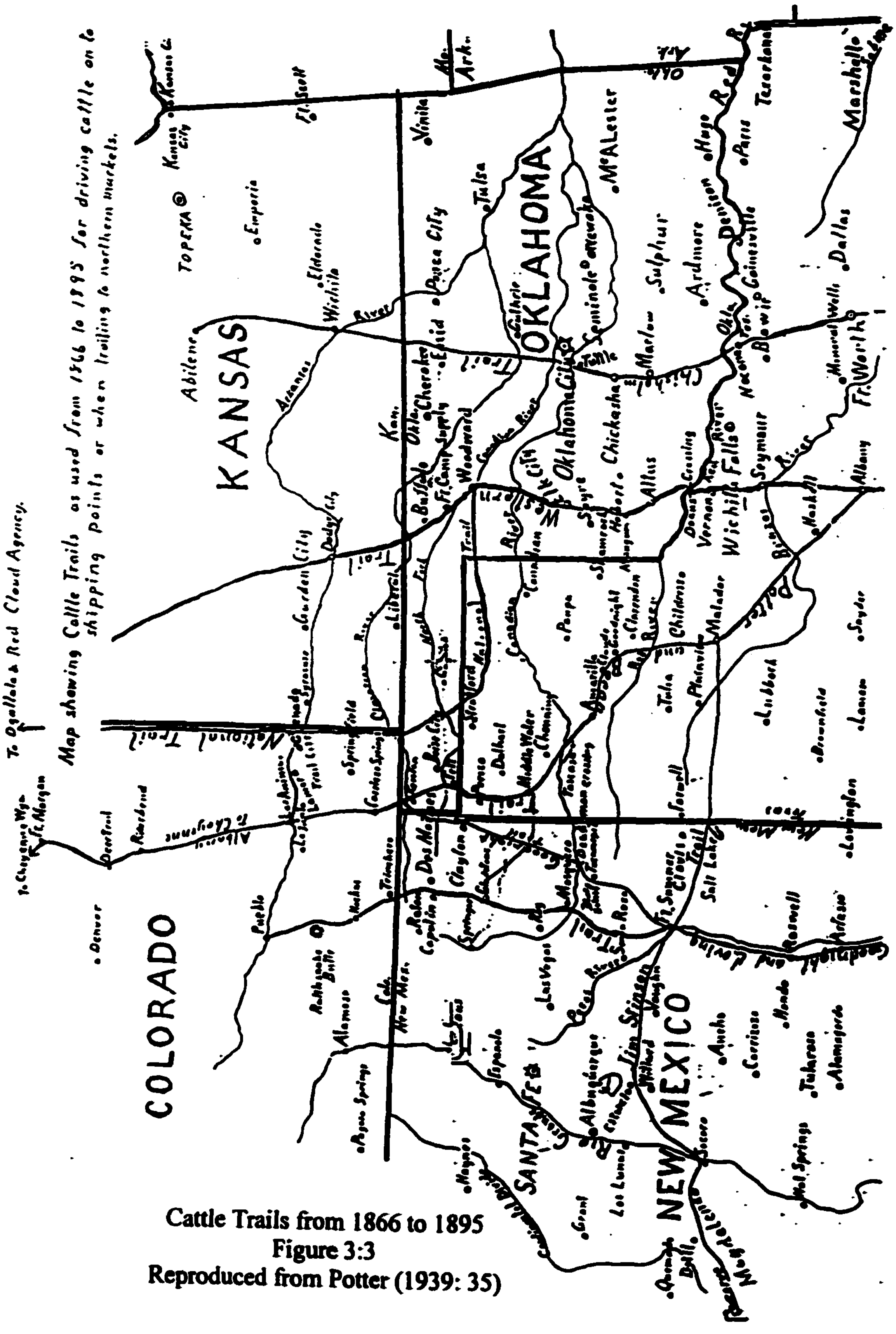
Figure 3.2
Important Routes, Trails, and Tribes
Reproduced from Morris (1976: 23)

ante-bellum south than in any other part of the United States. Indeed, the south produced a larger number of mules, swine and beef cattle in proportion to population than any section until 1860" (Salsbury 1975: 300).

After the war too, rail connections pushed west with settlement and economic activity, soon creating Kansas cow towns as rail shipping points to markets further north and east. The Corn Belt of the Midwest, and the grasslands of the Near West all provided support for a cattle feeding district unparalleled to none. Kansas and especially Oklahoma were central to the breeding grounds of Texas and the feeding grounds of the Midwest and North, hastening the establishment of trails that drove thousands of cattle through Oklahoma.

First Sedalia, next Kansas City, than Abilene and Wichita, and finally Dodge City became railhead destinations for successive cattle drives. As the frontier moved west, so did the cattle and trails, on their march northward.[6] The majority of the trails passed through Indian Territory and the Panhandle (Figures 3:3 and 3:4). Each trail established its own personality and variance. Some routes strayed for miles, depending on grazing, water and human interference – that is, government agents, off-limits Indian tribal lands, settlers, or occasional marauding outlaws or Indians. "Many cattle trails, where the thirsty animals walked unattended to their favorite watering places on streams and rivers or fresh water lakes, were a labyrinth of single

[6]Other reasons as to the west orientation of many cattle trails were due to better grazing lands, and avoiding the hassle with various tribal governments. Sedalia was the first destination for a major organized effort at cattle transport, however, the Texas fever scare, vicious outlaws and dealing with the fringes of a timber terrain, this 1866 journey became a disaster, hastening more Western routes.



Cattle Trails from 1866 to 1895
Figure 3:3
Reproduced from Potter (1939: 35)

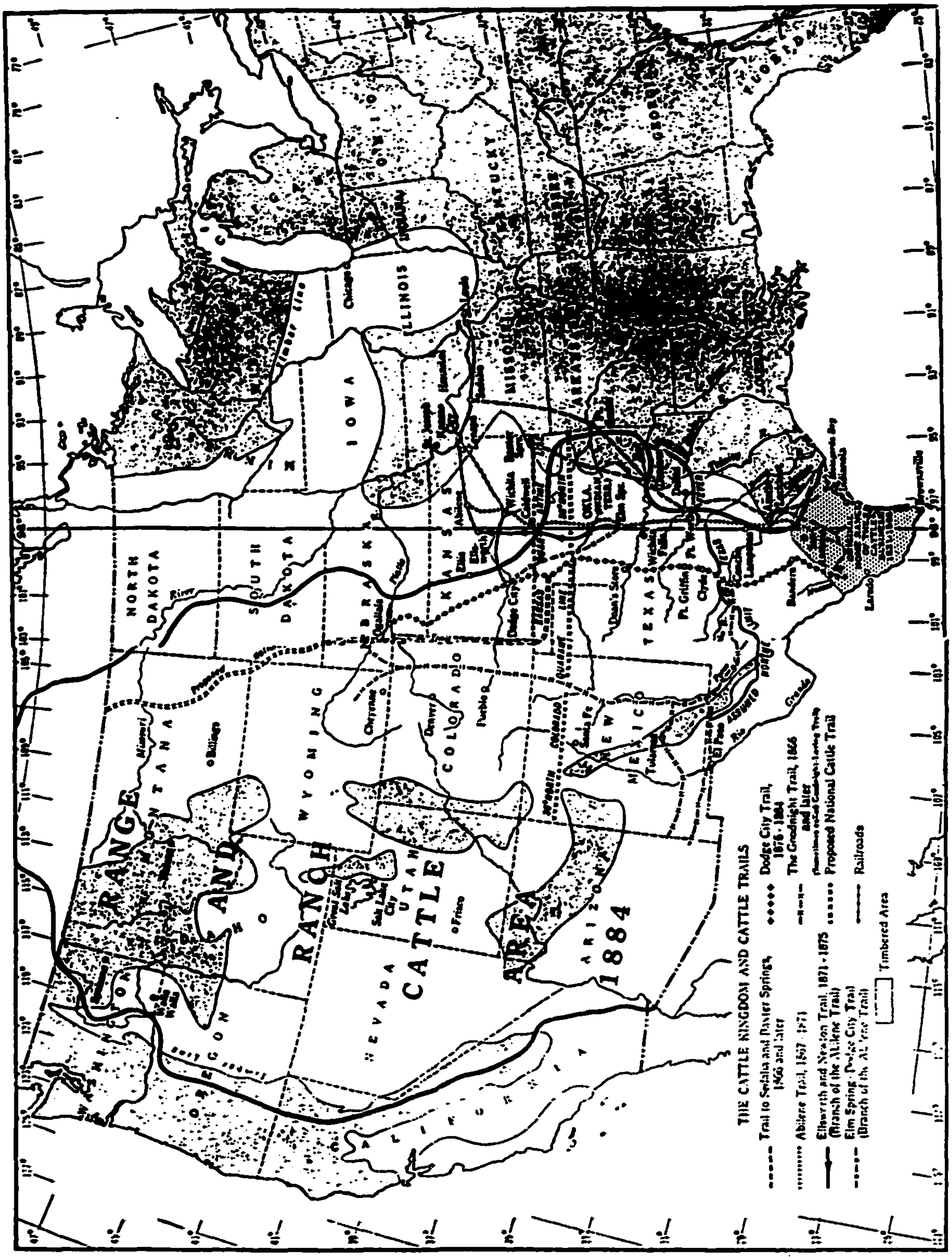


Figure 3.4
Range and Ranch Cattle Area, 1884
Reproduced from Webb (1931: 225)

trails, joining, crossing, coming together again, parting and weaving in and out until even the animals themselves must have wondered if they were on the right trail" (Chrisman 1998: 43). The fact remains, however, that this soon-to-become state was the cattle corridor.

Ranches, Cowboys and Culture

During these regional image-building years, from roughly 1866 to 1887, the emergence of a cowboy culture in this region became solidified, as seemingly endless profit and opportunity for this life abounded. Cimarron County specifically, was home to as many as seven ranches (Figures 3:5 and 3:6). Geographically, the Western Panhandle became a popular crossroads as the cattle industry supplied eastern markets and stocked the northern ranges of Wyoming and Montana, making the location a profitable location for ranches. Texas remained primarily a breeding range; the Oklahoma Panhandle and surrounding areas became grazing lands for prior market fattening and future shipment to Kansas railheads. The Panhandle also provided a temporary range for cattle going further north. By 1866 already mature (four or more year old steers) flooded the markets. As the late 1880s approached, many herds were made up of a majority of young steers (yearlings and two year olds) that were to stock the northern ranges, making the Panhandle a flourishing partner in this industry.

Life on the range and trail was anything but easy, especially in the Panhandle, where "this region was a part of no state or territory and had no established law and it was this fact which won its name of No Man's Land (Herron: 4). Jurisdiction wasn't

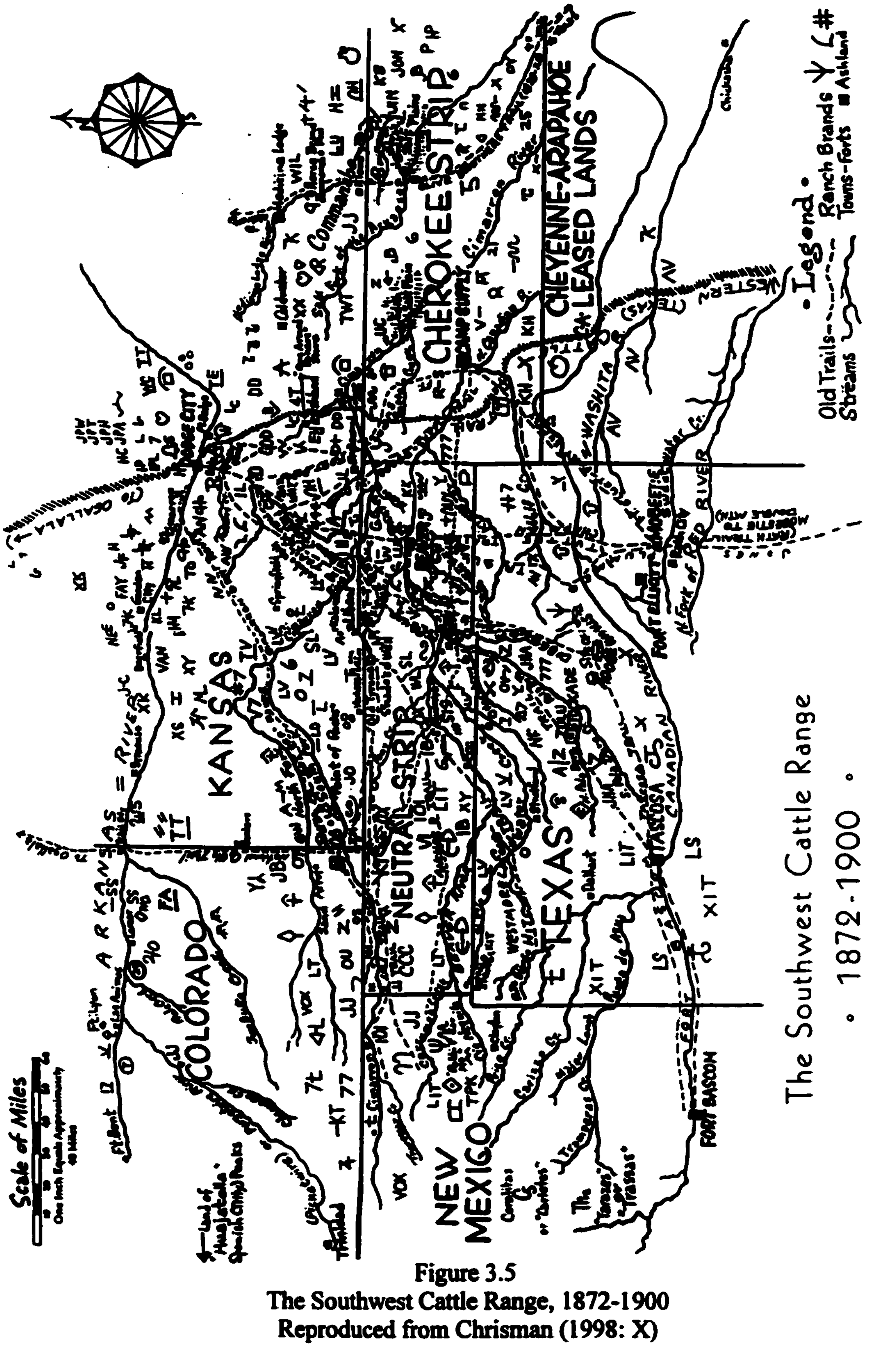


Figure 3.5
The Southwest Cattle Range, 1872-1900
Reproduced from Chrisman (1998: X)

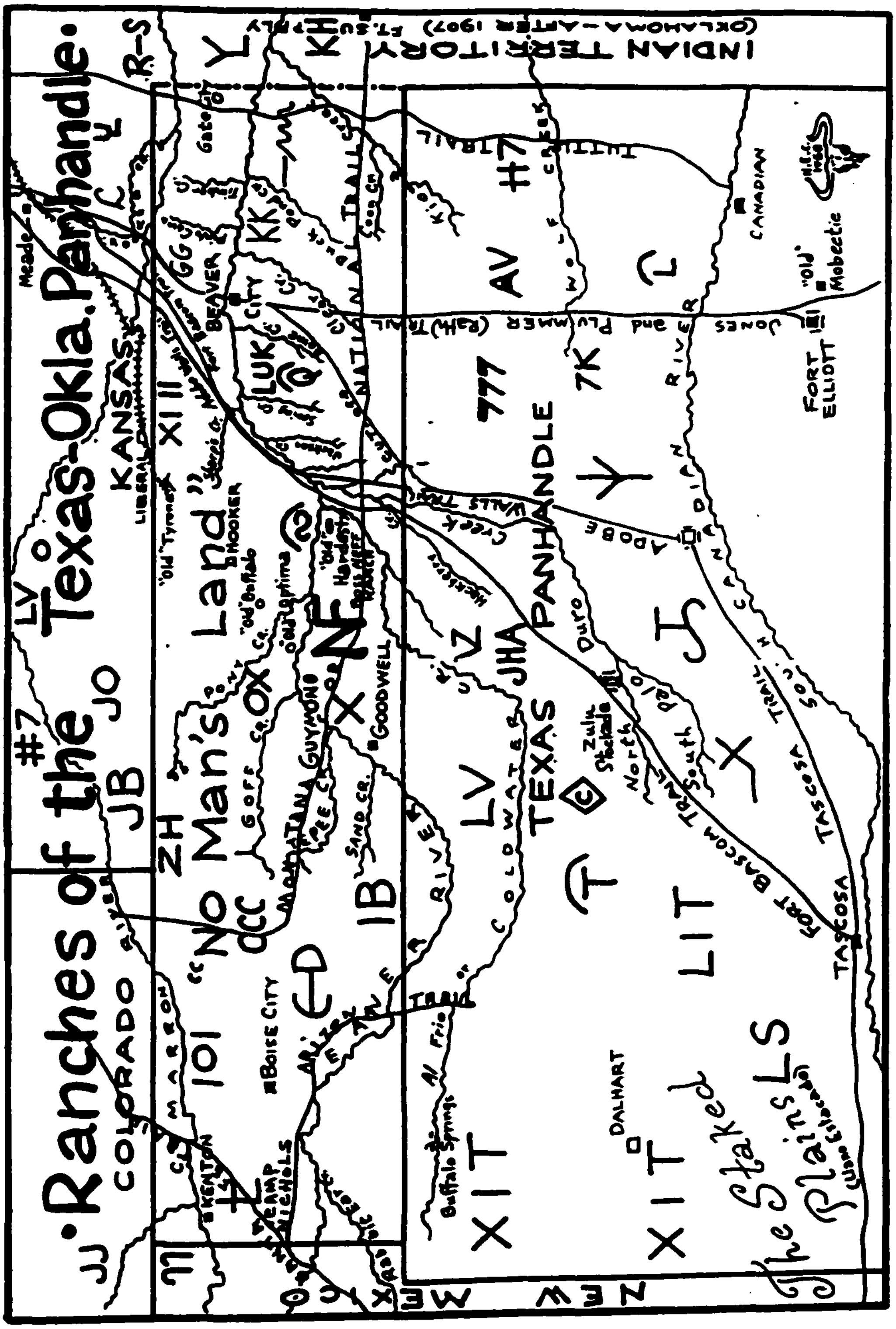


Figure 3.6
Ranches of the Texas-Oklahoma Panhandle
Reproduced from Jackson (1982: 156)

officially established there until 1890, when the Organic Act was passed, claiming this strip of land as part of Oklahoma Territory. A typical ranch headquarters was established by a source of water and the lands adjacent to the water became the range. Since more than one range for a ranch might not be contiguous to another, mental "divides" created the boundaries. Before noticeable homestead settlement "no ranchman owned any land or grass; he merely owned the cattle and the camps. He did possess what was recognized by his neighbors (but not by law) as range rights" (Webb 1931: 229), on a first come first use basis, being called a "customary range." Customary range lands were formalized by a notice listed in a local newspaper, listing the mental boundaries and the brand or symbol that a particular outfit would use.

Range life of cowboys had a code of its own. There were rules about the number of bulls one could herd, the quality of bulls one would keep, when to have roundups, and how to deal with "grass pirates" and rustlers. Grass pirates were those who had not officially acquired a range and were grazing on claimed or unrecognized lands. Rustlers were cowboys who stole cattle or changed brands. Both of these violators were dealt with by ranchers who most times belonged to a "cattlemen's association." The association acted quickly to police the prairie and left little doubt as to their effectiveness. Cow custom enforced by cattlemen's associations, went far beyond merely defining the limits of each man's or cattle company's range. It dealt with such matters as water rights, the disposal of 'mavericks,' or unbranded cattle, fencing, quarantine regulations, the inspection of trail herds, the time and manner of conducting roundups, and a score of other matters (Dale 1965: 76). The ranches with their cattle and cowboys became a fraternal society adapting range rules to this unique land. Nowhere else was a more honored set of laws within its ranks -- misunderstood by the larger culture -- instituted in such an enormous expansive territory. Many of the actual laws of the West were adopted form range rules.

Also misunderstood was the actual life of the cowboy, today often romanticized, commercialized, and popularized from movies to mascots. The cowboy's life was one of hard work, routines, loneliness, danger, skill, and occasional fun. Roundups in spring or fall required skill and a dexterous horse, for it was here that rider and horse were one, separating calves for branding or mature cattle for the "beef herd." Branding itself was no easy task, lifting, manipulating, and controlling animals often times weighing more than these men. The drives were long, hard, and sometimes dangerous especially when crossing rain swollen streams or encountering outlaws and the like. Jim Herron, in his "Unreported History of No Man's Land," explains in part, his first drive when he was fourteen.

> In the spring of 1880 I left our cattle [on a family ranch] and joined one of these large herds and went . . . to Dodge City and Ogallie [Ogallala] Neb. I had been on the trail six months, doing a man's work and was tired out. There were eight of us with this herd of three thousand head of yearlings and two-year old steers, besides the boss, the horse wrangler and the cook. We stood one forth night guard duty only when it rained or stormed, then all night or until the storm was over and the cattle were quieted down. It was pretty tough work for a boy . . . but I am ambitious to know it all and someday be a real cowboy.

Other accounts[7] elaborate on a myriad of personal experiences: Having to cross rivers of quicksand; enforcing a ranch boundary line (at a "line camp"), alone for days; roping or "throwing down" a sick cow festering with parasites, so as to dress it with medicine; all of these stories provide a glimpse of cowboy life. Interestingly, the colt 45 revolver was hardly mentioned, probably because not many range riders were skillful shooters. Revolvers were only used in life threatening situations and during strenuous activities were not even worn. Although many excerpts suggest at times a propensity for a limited vocabulary of colorful language, many cowboys were well read, even in the classics of the time, thanks to the loneliness of ranch life and a demand for anything in print. These stories seem to be endless. However, one thing rings true for each: the hospitality, camaraderie, and a sense that this special land with its experiences is what made the individual cowboy and cattle country unique.

The End of an Empire

Negative circumstances affecting the longevity of the cattle industry were starting to emerge by the 1870s; ripples were becoming waves, so that by the late 1800s this once impending institution was but a shadow of itself. A combination of foreign involvement, cattle-pregnant northern ranges, the railroad, unpredictable markets, barbed wire, the windmill, land survey, settlers, and the blizzard of 1886-87 all led to the collapse of the cattle empire.

[7]All personal stories of this area are footnoted in the bibliography. Many stories are excerpts from personal interviews and the "Territorial Oklahoma Manuscripts" housed in the Western History Collections at the University of Oklahoma.

Foreign investments

Interest from Europe in the industry was basically a result of the exporting of American dressed beef to Great Britain, and to a lesser degree other European countries. Scotsmen were the most enthused about entering the industry. They became pioneers in the scientific breeding of cattle, creating a better marketable cow, and invested a sizable amount of capital in cattle raising on the Great Plains. "Most important of all, perhaps, they brought to the cattlemen's empire of grass rare business ability, thrift, foresight, and sound judgment, qualities which the ranching industry sorely needed and had hitherto largely lacked" (Dale 1965: 105), or were these qualities married to a profit motive actually destroying the industry? Always an economic presence in the past, by the 1880s English and Scottish investment grew substantially, thanks to the large profits being generated in the business. The investment and management strategies of a Scottish syndicate represented by the name "Prairie Cattle Company" among others, had a lasting impact on the Western Oklahoma Panhandle, and the cattle industry itself.

> These Scot and English syndicates . . . were in some instances mere stock floating ventures and, as such . . . [were] buying livestock "range count" on the western and southwestern plains, employing managers who were not competent to wrestle with the range problems of the day, floating huge capital stocks out of which they first paid high dividends in lieu of honest earned profits, all of these and many more, if not "shady" then unwise practices, finally brought the end of the syndicate in disaster (Chrisman 1998: 77).

Specifically in the Western (Oklahoma) Panhandle the largest of these syndicated companies, the Prairie Cattle Company, methodically started in 1881 by purchasing brands in the area, assuming ownership. In four years, by 1885, this

Scottish syndicate listed seventeen brands, among them the Cross L; JJ and JJ inverted; and LIT ranged primarily in the Cimarron area (Figures 3:5 and 3:6). With this increasing maze of "brand-buying," one can understand the problems that ensued due to the non-territorial status of "No Man's Land" in settling differences.

> The English and eastern cattle syndicates by this time had taken nearly all of the country. Some of them claiming as much as forty miles square, and often had disputes over boundary lines. Finally at a round-up on a certain creek where two separate companies claimed the range, and all mavericks and unbranded cattle, one boss killed the other. All federal courts turned the case down, claiming no jurisdiction in the case (Herron: Collection Territorial Oklahoma Manuscripts 4).

A Dry Market, a Devastating Storm

Besides many of the other elements that directly influenced the demise of the cattle industry, two major developments stand out, one man made, one natural, which had a momentous immediate impact on the Panhandle: southern and northern range capacities and the blizzard of 1886-87. Of all the other long term components that would eventually play a more significant role in molding the Panhandle's future however, were the arrival of the "nesters," or homesteaders.

The mid 1880s were the "boom" times for the cattlemen. High cattle prices, increased demand for beef, and handsome profits to be made, created an overstocking and overgrazing of the range in both the southern and north plains. The northern ranges in Montana and Wyoming were swelling with cattle. By 1885 overstocking was leading to the massive depletion of range grasses throughout cattle country. Conditions were ripe for disaster if either a severe drought or hard winter were to occur. To remedy this situation many northern ranches were corn feeding rather than grass feeding their cows that were going to eastern markets. The emergence of the Corn Belt played an important role in this shift in feed from grass to corn, but it was too little too late. In the southern plains the markets were weak (northern ranges no longer needed stock cattle) and the constant flood of settlers wanting to become ranchers, fascinated about the west was at its zenith. To easterners "to be a cowboy was adventure; to be a ranchman was to be a king. Furthermore, settlement could not wait, the land would be taken up; soon it would be too late to "get in" on this good thing" (Webb 1931: 233). Hence, both the northern and southern plains were choking with herds, many that had no market.

As weather on the Plains tends to be so unpredictable, many old timers and resident cattlemen must of sensed a new cycle approaching with the heavy, soaking rains that fell in the autumn of 1885 in the overstocked Southern Plains region, reducing winter pasturage. The winter of 1885, although not exceptionally severe, did create considerable cattle loss however and facilitated poorer spring cattle. Added to these circumstances President Cleveland ordered the removal of more than two hundred thousand head of cattle from the Cheyenne-Arapaho Reservation, to already bulging adjacent northern plains lands, at the beginning of 1885. By 1886 the winter storm that swept the Northern Plains area proved to be the final blow, blizzard followed by blizzard occurred with the frigid torrent extending south to the Canadian River. "The fences in the Southern Plains became barriers for drifting cattle which piled up, starved, trampled each other and, finally froze to death. Cattle losses ranged from 40 per cent to 90 per cent of the herds. Cowmen swore they could walk along the drift fence north of the Canadian River all the way . . . to New Mexico . . . and to Denver . . . without stepping off swelling carcasses of dead cows" (Kraenzel 1955: 110).

Range life never really recuperated in both the Northern and Southern Plains. The storms of 1886 and 1887 didn't end ranching life either, it just changed it. In fact cattle-ranchers still thrive in many Great Plains locales, including to Cimarron County today. The prairie had changed too. The many grasslands of yesterday are farms today. Smaller scale operations with specific area breeds and fenced pastures have replaced the endless public domain lands that once comprised the lands called cattle country.

Chapter 4

Maverick Lands to Managed Lands: The Emergence of the School Lands Commission

No Man's Land

No Man's Land had a forced existence. Hemmed in by the organization of adjacent lands, its boundaries were created by a republic and its fledgling territories soon to become states. Who's land was it? Until May 2, 1890, when it became an official territory of the United States, No Man's Land was home to ranchers, settlers, speculators, outlaws, and Plains Indians. The Panhandle's quest for acceptability and identity was a rough journey without any real jurisdiction or clear governmental guidance. For the cattlemen there was no better place for ranching; for the trader, speculator, and outlaw it was considered a home for wealth; to the settler it was cheap land for a new start and family life; to all it was a landscape of opportunity.

As surrounding lands gained status, inevitably "the strip" would too. Its land would be divided into sections for settlement and eventual ownership, disregarding the native locality and the need for large holdings for economic survival. Cimarron County would become a substantial depository for "in lieu of" and indemnity school rental lands, lands that were intended for even distribution to benefit the educational infrastructure with its schools and their children. Subsequently various governmental structures would give credence to this area and influence its fate. One such agency, the School Lands Commission would impact lives and economies in this place for years to come.

The earliest definition of what was to become the Oklahoma Panhandle occurred with the 1819 signing of the Adams-Onis Treaty marking the 100th Meridian as the western border of the Louisiana Purchase and the Panhandle's eastern border. Land west of the Meridian belonged to Spain, Mexico, and later Texas until 1850. With a majority American population and a desire to belong to the United States, Texas was annexed in 1845. The former Republic permitted slavery within its territory; however, its boundary extended north of the Missouri Compromise Line of 1850 (36° 30'N Latitude) which prohibited slavery in this area. To settle northern boundary and other disputes with Texas and to clarify the eastern boundary of New Mexico, President Millard Filmore in 1850 approved the Texas and New Mexico Act. This act fixed the southern boundary of the Oklahoma Panhandle at 36° 30' North Latitude and the western boundary at 103° West Longitude. The final northern limit of this "strip" was defined in the Kansas-Nebraska Bill of 1854 creating Kansas territory with a southern boundary established at the 37° North Latitude.[1] With the advent of legal boundaries, its unique status and isolation were now complete. It was part of the Public Domain of the United States, inherited by default.

Surveying these lands was the primary step for acknowledgement. The first recorded survey apparently occurred in 1826 in conjunction with the original Wilson-

[1] Interestingly this area was presumably defined latitudinally by not only the Mexican but United States governments as well. Chrisman in "Lost Trails of the Cimarron" documents (pages 47-48) a first hand account of L.A. Allen, a frontiersman, cattleman and lawman, remembering this Strip of land, even before the formalization of its boundaries, as a Mexican trade passage route to Indian Territory. This thirty-five mile wide Mexican corridor was purportedly used extensively until the early 1860s and was "used . . . without fear of molestation, for the United States government had guaranteed them [the Mexicans] security from attack by the settlers on the north and the Texans on the south."

Exter Mexican empresario grant by Alexander Le Grand. A second survey followed in 1832 by the New Arkansas and Texas Land Company, contracted by John Beals and Jose Royuella with the Mexican State of Coahuila and Texas (Figure 2.7). Both surveys were hoping to fulfill grant stipulations and promote settlement. These surveys yielded a general description of the area, but were sometimes less than accurate and failed to secure any worthwhile settlement. With United States Public Domain status and the passage of the Homestead Act of 1862 and anticipating squatter settlement, Judge N. C. McFarland of the Commission of the United States General Land Office, ordered the Panhandle to be surveyed again in 1881. Public lands were to be partitioned into townships. Both cattlemen and the Cherokee, hoping to stem the inevitable advance of settlement, claimed this land until 1885 and tested the validity of the sectioning of "Public Domain" lands.[2] "Cattlemen moved into the area and used the strip as a huge pasture . . . some of them paying taxes to the Cherokees. The United States Supreme Court in 1885 decided the public land strip did not belong to the Cherokee Outlet . . . Secretary of the Interior L. Q. C. Lamar . . . announced the area was 'public domain' and open to 'squatters right' . . . and caused the decline of open stock raising" (Schnabel 1995:68). What was indicative to the entire Panhandle was not the case for Cimarron County, which generally maintained its stock capacity.

[2] With Indian removal to Oklahoma many tribes were given enticements in exchange for uprooting their people, the Cherokee Tribe were granted an outlet to the west from their lands in Eastern Oklahoma. At one point the "Cherokee Outlet" was thought to include the Panhandle, giving the Cherokee jurisdiction over these lands and the right to collect grazing taxes from non-tribal cattlemen.

As homesteaders moved in, sections of Panhandle land were claimed sporadically from east to west. Parcels of land ranging from a quarter section originally to eventually more than a thousand acres were offered to Panhandle settlers. Each township contained six square miles, divided into thirty six sections,[3] and each one mile square consisted of 640 acres. An east-west baseline and a north-south meridian were established for an interesting "initial point" of reference from where all sections could be measured and identified. The western border of the Panhandle (103° West Longitude) became the Cimarron Meridian, and the southern border of the Panhandle (36° 30′ North Latitude) became the baseline. Hence, the starting point of measurement was the extreme southwestern corner of the Panhandle where these two geometrical lines intersect (Figure 4.1). This rectangular system of measurement both helped facilitate future homestead claims and ownership transactions, and became the basis for selected school and rental sections.

<u>The New Conquistadors: East Meets West</u>

The lure of western lands especially after the Civil War was fueled by a labyrinth of reasons, but the most powerful motive was of owning or freely using some portion of public domain lands. Westward migration found eastern farmers seeking similar lands in order to practice similar crop techniques. Influential

[3] It appears that this was only a partial survey, just establishing or reconfirming earlier markings, not including specific section lines. "On March 2, 1881, when the Sundry Civil Bill was being considered in the Senate, the Committee on Appropriations submitted Amendment No. 76 providing the sum of $18,000 for running correction lines, guide meridians, and township lines in the Public Land Strip. The following day the Bill, including the Amendment, was passed by Congress" (Berlin B. Chapman, File 15, Box 3-42, Paper 34, O.U. Western History Collections). The section line surveys were to come later eventually being finished by 1894, four years after the Panhandle became part of Oklahoma Territory.

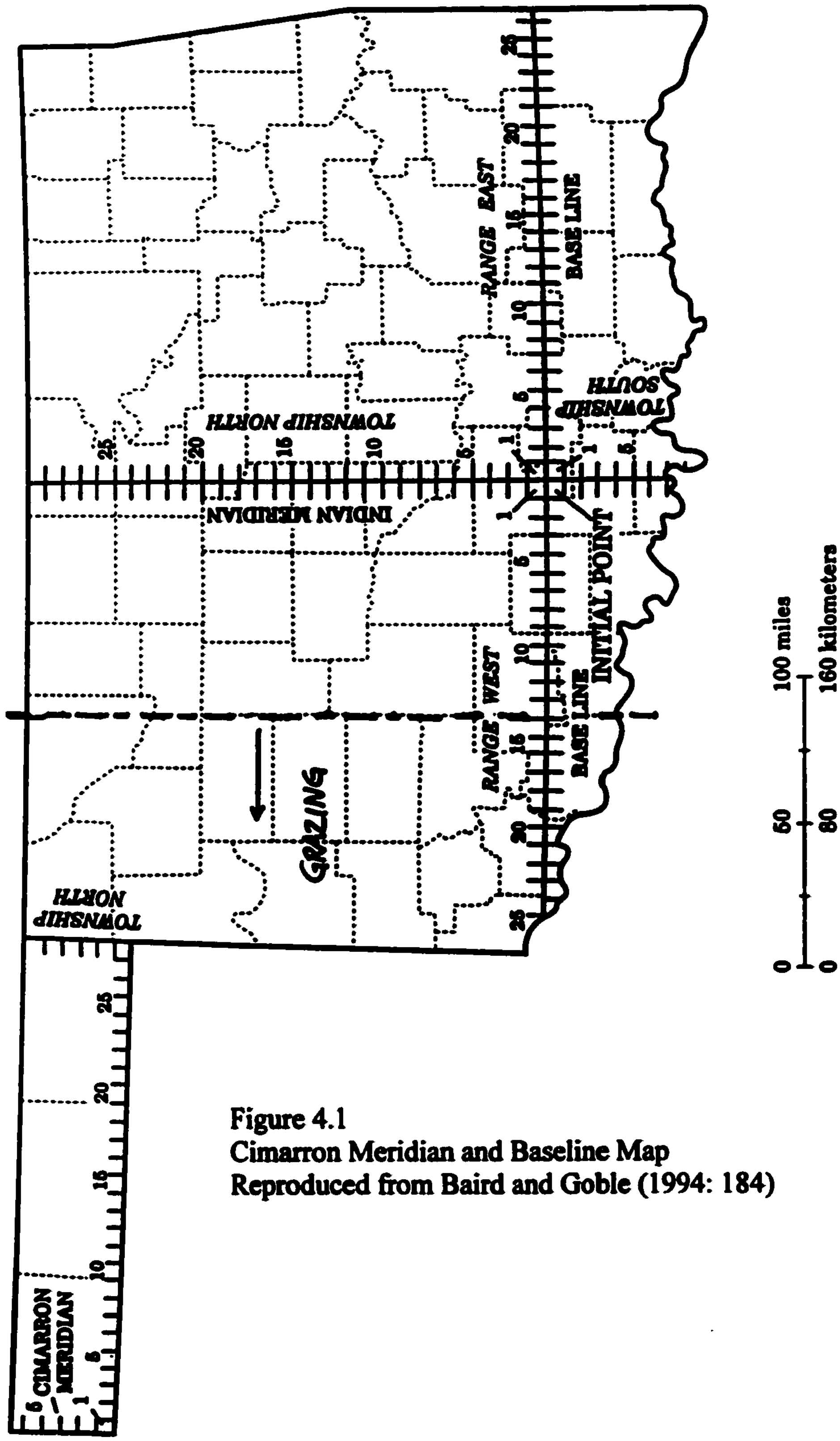


Figure 4.1
Cimarron Meridian and Baseline Map
Reproduced from Baird and Goble (1994: 184)

geographers such as Vidal de La Blache and Isaiah Bowman verified the prevalent assumption that pioneers needed to find the same environments with like soils, climate, and slopes to mimic their previous home (Salsbury 1975: 303). However, the prairie grasslands were to change all of this, subjecting many new eastern settlers to both a hostile physical and cultural environment.[4] For as Walter Prescott Webb has argued, "methods of pioneering were worked out east of the ninety-eighth meridian [a line considered by many to be the dividing line between the Great Plains and the less arid farmlands] and were well suited to conditions there, but when these institutions of the East undertook to cross into the Great Plains they broke down and had to be modified" (Webb 1931: 428).

Most of the elements that precipitate conflict and misunderstanding within this region, as mentioned in Chapter 2, are reoccurring and will again become reality with the advancement of the frontier. The Spanish, the settler, the cattlemen all experienced many of the same issues that have plagued this area and contributed to stereotypes and poor land management decisions. Two of these elements stand out regarding the homesteading of western lands: The perception that these lands would be more agriculturally bountiful than they actually were, and the forcing of old ways and institutions on new lands didn't always work. Wrote Kollmorgan:

> it appears that the extensive grasslands of the American West stood as an open invitation to the pioneers to establish a grazing or range economy. However, the woodsman settlers coming from the East never conceived, projected, or defined a suitable range economy . . . the American woodsman challenged this intrusion with . . . a variety of geographic misconceptions . . . expressed . . .

[4] "Eastern" referring to potential settlers east of the Mississippi River.

> mainly in the efforts of the rainmakers, the irrigators, and the exponents of dry farming. (1969: 215).

All three pioneers (rainmakers, irrigators, and dry farmers) would be the next conquistadors, they too like their Spanish counterpart, would be the advance guard for America's frontier agencies.

Rainmakers believed vegetation, especially trees, would encourage precipitation. Some regarded George Perkins Marsh, a noted geographer and early naturalist, as a champion of this theory and attempted unsuccessfully to amend the Homestead Act requiring homesteaders to plant trees.[5] Numerous publications and advertisements appeared picturing these lands as a treed and watered happy paradise. One of the earliest Panhandle speculators was George Scranage, whose newspaper ads enticed Ohioans immediately following the Civil War to move west. "Cheap homes . . . McAllister and Scranage, locators of land in Neutral Strip, Indian Territory, can give you the best situation and figures on land . . . finest climate, best farms, purest water in the country. Titles clear and terms easy" (Schnable 1995: 69). Other accounts conjured up images that a pioneer family couldn't resist, quarter sections of land that were "covered with fields of grain, whose market proceeds would more than pay for the land; [with] a spring and a grove which encircle a happy home filled with many tokens of prosperity and the merry music of children" (Lowenthal 1982: 12).

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[5] Marsh in "Man and Nature" concluded that forests create rain. His research findings, widely known, did not acknowledge the West, and were doubtful to many.

Without any tangible results and drought conditions that loomed throughout the area in the 1890's, farmers turned to other methods of rationalization for their settlement and survival. As the era of the rainmakers waned, other conquerors, namely the irrigators and the more "scientific" dry farmers, would impact the precious lands that the cattlemen relied on for survival. Irrigation was espoused, wells could be dug anywhere, and small farms would prosper -- so the argument went. "One can scarcely find in the myriad of valleys of the West – even in the region classed by the Public Land Commission as 'non-irrigable,' or 'desert lands' – a quarter section upon; which water cannot be made to flow from a well at a trifling cost" (Kollmorgen 1969: 229). By the turn of the century it was becoming increasing clear that the hundreds of millions of acres that many claimed had the potential to be irrigated, was just a fantasy.

At this time a third attempt to modify this landscape, dry farming, came into vogue. This focused on small isolated parcels of land probably not much larger than a quarter section if that, due to regular and intensive cultivation given the technology of the time. The basic strategy involved deep plowing, growing low water-tolerant crops, fallowing lands, and consistently working the topsoil in an attempt to maximize the retention of moisture. All of these techniques were used to arrest the arid West and were generic in implementation. What was good for one area, no matter what soils, specific vegetation, or other local considerations, was assumed to be good to all other areas. In fact, advances in technology including the windmill, and the motorized pump provided for successful irrigated lands near abundant sources of water. Similarly, many an acre became bountiful in the Great Plains by using dry farming techniques. The key would be knowing the land and its nuances, limitations that weren't fully comprehended until the mid-1930s.

Squatters, Cattlemen, Speculators

Two additional elements promoted occasional hostility and misunderstanding in this meeting of East and West. One was the interfacing of two antagonistic peoples, cattlemen and newcomers. The second, how government decision makers parceled these lands, proved to be detrimental to both ranchers and settlers. Within Cimarron County and the Panhandle, the East-West cultural confrontation developed in earnest in 1885 and 1886. Squatters were "officially" allowed to enter the Panhandle in 1885, this with cattle killing winter storms of 1886, which for many cattlemen signaled an end to a prosperous era, helped trigger the clash of cultures.

"Nesters," or "grangers" as the cattlemen called the squatters, were in legal limbo. Even though they could enter the Panhandle and occupy or claim land, they could not file for a homestead until officials established a claims office. The "strip" had been only partially surveyed, and Congress had neither granted authority to a district land office nor to the General Land Office to dispose of its lands in the area. Further, it became known that Congress had not placed the public land strip within any federal court district; consequently, no court had jurisdiction to try anyone violating federal law within the "strip."[6] Area newspapers sensationalized these

[6] Taken from personal accounts: Tracy Papers, Territorial Oklahoma Manuscripts, Western History Collections, University of Oklahoma.

circumstances and dubbed this land "No-Man's Land." Nevertheless, a constant stream of immigrants went to Kansas and spilled over into this neutral strip which had previously been entirely cattle lands. Friction quickly surfaced over homestead claims. The Homestead Act and various settlement acts that followed favored family farm operations of 160 acres requiring heads of households to pay minimal filing fees in order to acquire the land. These 160 acre prairie claims with plowed fields located near valuable sources of water on previously fenced lands would fragment open range ranch lands. Cattlemen regarded the land and water theirs; they had occupied the range first. Even before the 1885 ruling designating the Strip as public land open for squatters, many cattlemen attempted to ignore the fact that sod houses, plowed cropland, and town sites were already becoming reality. To survive some cattlemen fenced more of the open range, claiming water sources, and becoming in a sense grangers themselves. Herds on many occasion still roamed freely often over the nestors tilled lands.

The Homestead Act of 1862 failed to recognize the need for larger tracts of land in more arid landscapes. One hundred-sixty acres could possibly support three to five head of cattle, but most certainly never the hundreds or even thousands of head needed to support a ranch. In 1873 the Timber Culture Act provided 160 free acres to settlers if they planted trees. This act, lobbied for strongly by the rainmaking interests, gave a shrewd rancher or potential rancher the opportunity for an additional 160 acres. During the 1870s many prudent voices suggested that on the public lands of the Great Plains large quantities of land must be given to, sold, or rented to interested grazing concerns. S. B. Burdett, Commissioner of the General Land Office, and John Wesley Powell stressed the importance of modifying existing laws to accommodate this region. Wrote Burdett:

> I have endeavored generally to indicate that the offerings of the public lands west of the one hundredth meridian would not be inimical to the objects of the prevailing policy which has tended to restrict disposals to the Homestead and Preemption Laws. The facts will justify the declaration of this policy of restriction which has retarded actual settlement in this region, while the record shows that in many localities it has been the fruitful source of fraud (Webb 1931: 418).

For some cattlemen survival required piecing together several claims. Thanks to prior Preemption Acts, the Desert Land Act (in some areas), the Homestead Act, and the Timber Act, a married rancher could accumulate, by combining various claims, as much as 1,760 acres of land.[7]

Of the hundreds of settlers that swept into southwestern Kansas, as early as the autumn of 1885 some home seekers spilled into the eastern part of the strip. By the spring of 1886 settlement in Kansas was already approaching its limits (Kinchen 1948: 386). In 1886, Representative James A. Burnes of Missouri introduced a bill "to establish and organize the Territory of Cimarron, secure the public lands therein to actual settlers, remove unlawful enclosures [fences], and for other purposes" (Kinchen 1945: 218). The political motivation for this early bill was to open No Man's Land to the Kansas overflow of settlers. The bill did not pass, but it sparked a discussion as to the annexation of these lands to Kansas or even Texas. Some

[7] The intent of various preemption acts, including the last to be authorized in 1841 was to separate the settler from the speculator. Those that settled on 160 acres and made improvements were given preference to eventually own the land as against the purchaser for speculation.

perceived that ranchers were thwarting destiny sanctioned in Jeffersonian ideals and scriptural commands (Genesis 1: 28) to conquer the earth. The "nestors," of course, sought prime lands. To ranchers they were like birds fluttering to choice locations (nesting), bringing with them speculators, towns, and eventual eradication of their way of life. At times frustrations became violent, especially when involving land speculators like George Scranage and his men. Oliver Nelson, a rancher during these times, related a story about how he almost "dry-gulched" (ambushed) a "Scranage henchman," when granger law began to replace cattlemen's law. Nelson told his neighbors that he would shoot on sight any Scranage men caught near his ranch (Chrisman 1998: 231).

The settler faced a grim life. Most families were prepared to subsist for one, maybe two years, after which a territory would surely emerge. There were no outside opportunities for investments or loans, little or no opportunity for filing claims, no future mortgages, and hardly any markets even if one did plant more than just survival crops. This was new land. It took at least two to three years to bust sod, plow, develop, and nurture the land for a good crop of wheat or corn. Besides cattle raising, the only immediate option for income would be to gather up the plentiful buffalo bones, take them to Dodge City and sell them for eight to eleven dollars a ton, no easy task.[8]

The cattlemen were more established, they had a strong network of relationships both personal and economic, a sense of community existed. Cattlemen

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[8] These bones were the source of fertilizer and food filler when ground up.

were blind to many of the changes that were occurring. "For a time there still seemed to be an abundance of pasturage. The cowmen did not at first understand how much their range had suffered by the homesteading . . . they began to realize that their cattle did not fatten . . . the range was shrinking" (Dale 1965: 230). Settlement in the Panhandle concentrated mostly in the eastern one-third of the Strip. By the spring of 1888 squatter homesteads extended some 90 miles west of the eastern border of the Panhandle, beyond which the cattleman still reigned (Baird 1994: 122). The rancher never dreamt that overtures by town boomers[9] and settlers to the east for territorial recognition would ever change his landscape.

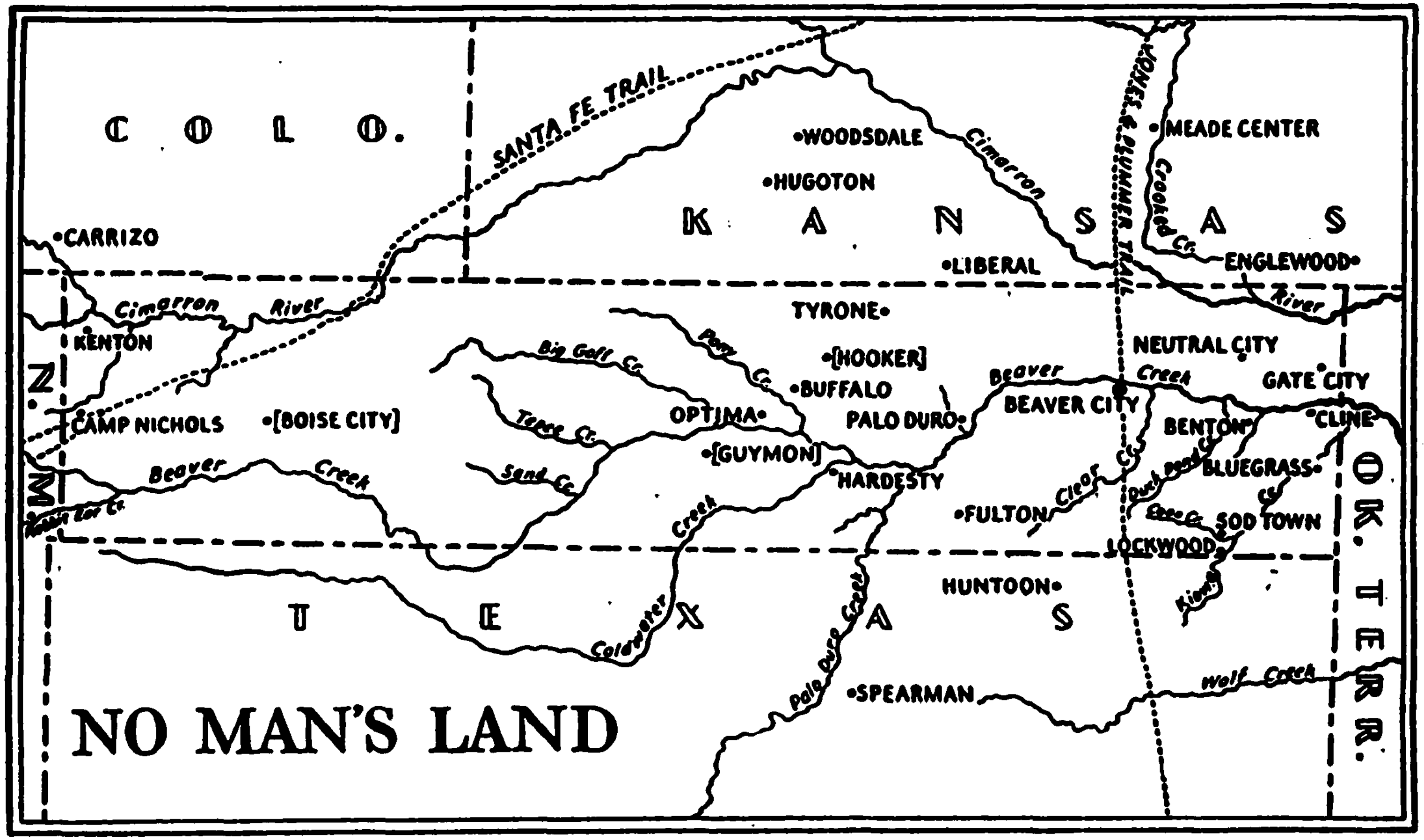
Few ranchers attempted to make many claims to their lands by circumventing the legalities of various Congressional Land Acts before territorial days, in most cases especially in what would be Cimarron County, cattle roamed freely on unclaimed lands. Homesteaders however were pressing for recognition, speculators were encouraging town sites, and the increasing activities of swindlers and outlaws in these lands provided the inertia for territorial acknowledgement. Political events prior to and after the defeat of the Burnes bill in 1886, although questionable, probably did provide momentum for the Panhandle and adjacent eastern lands to be called a territory by 1890.

Tough Times for Cimarron Territory

Pre-territorial lawlessness in No Man's Land precipitated a meeting in August 1886 at Beaver City by a group of thirty-five squatters and Beaver City area citizens

[9] Speculative settlers hoping to establish a town.

Figure 4.2
Beaver City, No Man's Land
Reproduced from Rister (1948: 2)



(Figure 4.2). This group was concerned about claim jumpers and "road trotters"[10] and about the future of the Strip. From this meeting came the formation of the "Respective Claims Committee" which had hammered out a plan to discourage claim jumping and avoid disagreements among the settlers regarding town lots and homesteads (Kinchen 1948: 394). This group of presumably legitimate squatters and towns people eventually formed a territorial council in which a delegate would be sent to Washington, D.C. to plead their case for territorial status. At the August Claims Committee meeting in 1886 came a call for a larger mass meeting of Strip residents to be held at Beaver City on November 19, 1886. The purpose was to establish a more representative pre-territorial law-making governmental body. In response, more than one hundred residents crowded into the Beaver City sod schoolhouse to formulate a plan of action.

The schoolhouse meeting authorized the creation of three Panhandle voting districts separated by Meridians. It also called for February elections so delegates could start the business of pre-territorial constitution writing in March of 1887 (Rister 1948: 140). The objective was to be recognized by Congress, as was California years earlier, for its "civil" government structure, which would facilitate admission to U.S. Territorial status. Interestingly one controversial person, Dr. O. G. Chase, a town boomer,[11] was almost entirely responsible for the settlement and promotion of

[10] These were generally individuals who would force squatters form their lands by violence or threat, and if a claim was abandoned it would be claimed by the criminal.

[11] The term "boomer" actually has a dual meaning. It was used to describe new town speculators and was also a term used for those legally entering new settlements at a prescribed time, with the sounding of guns.

Cimarron Territory, and just as interestingly, within two years not realizing his goals, Chase returned to Colorado. Chase represented the spirit, zeal, and perseverance that many had to this unique strip of land. Like Scranage, he was a typical land speculator, hoping to become rich in a relatively short amount of time, and become politically influential in the process.

The attempt to have the "Territory of Cimarron" approved by Congressional action was clouded with controversy. The weak but recognized Claims Committee operated as a first step in a governmental structure. Many envisioned the need for a more representative government for the whole strip to expand the duties of the "Respective Claims Committee. At this point members of the Respective Claims Board scheduled an election of delegates for February 22, 1887, so a first regular legislative session under the direction of O. G. Chase could meet on March 4, 1887 to formalize the workings of a new soon-to-be territorial government. The goal was to have a representative selected as territorial delegate to Congress. A general election of all "Strip people" was scheduled for November 8, 1887. At the March 4th meeting the seal of Cimarron Territory was unveiled and the Strip was divided by lines of meridian into three districts for representations (Figure 4.3).

> Despite such symbolic progress, two factions soon evolved in the territory – one under O. G. Chase, the other headed by Reverend R. M. Overstreet, a Presbyterian preacher. In July, 1887, Overstreet's faction held a rump convention in the new town of Rothwell, located a few miles from Beaver City, to nominate a territorial delegate to Congress . . . Chase refused to attend . . . The Rothwell Convention nominated [John] Dale as candidate (Schnabel 1995: 72-73).

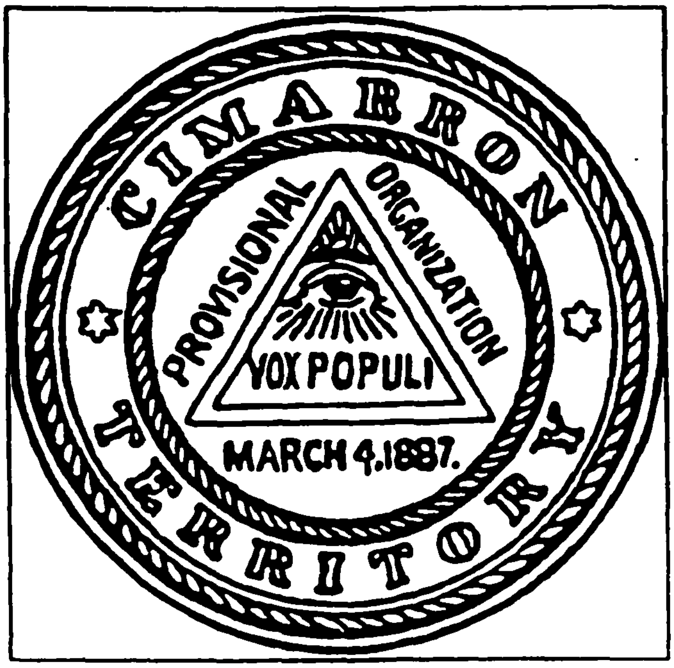


Figure 4.3
Seal of Cimarron Territory
Reproduced from Wardell and Morris (1957: 5)

Dale and Overstreet represented a large portion of the settler sentiment outside of the Beaver City environs. In fact, many in the soon-to-become Territorial Panhandle didn't realize that such a government had been organized, nor were they interested once it became clear that Beaver City decisions would predominate. Before the Rothwell Convention, wanting a more representative cross section of the "Strip" to prevail on Congress, John Dale wrote to Senator Cockrell of Missouri to ask for suggestions. Cockrell suggested that a representative nominating convention elect a delegate to travel to Washington. It can only be assumed that Dale was in effect seeking a rationale and blessing for what he and Overstreet did in Rothwell at their convention. They hoped to promote the image that Chase was on a one man mission to become territorial governor or some other important future official without the consent of the general populace.

The stage had been set, and as planned, the people of "Cimarron Territory" voted for territorial status on November 8, 1887. Declaring himself victorious, Chase prepared to travel to Washington. Overstreet, Dale and their supporters weren't willing to acknowledge defeat, especially since Chase and Ogden (Chase's son-in-law) who was Secretary of the Territory, were the ballot enumerators. By December of 1887 both Dr. Chase and John Dale were in Washington D.C. pleading their case to Congress. Chase, however, with his connections, attracted Representative William Springer to read Chase's petition to a session of Congress on behalf of the No Man's Land settlers. Springer asked that Chase be entitled to the privileges of the floor of the House but he was not extended this honor (Rister 1948: 150-151). The outcome of Chase representing the Cimarron Territorial Council and Dale representing the Cimarron Territory Rothwell Convention was that Congress soon acted as to the territorial status of No Man's Land. By now an exodus of weary homesteaders were encouraged to join the opening of Indian Territory's unassigned lands for settlement in April 1889.

For cattlemen the period between 1886-1889 was the end of an era. Sporadic drought and winter blizzards of 1886, 1887 and 1888 started the process of change. Even though most of the settlement was in the eastern portion of the Strip, a rancher couldn't help but wonder how his holdings would be influenced by the Homestead Act.

Meanwhile, for the farmers and boomers, hope of soon becoming Cimarron Territory was eroding with every new day. Both Chase and his rival Dale returned to No Man's Land hoping that Congress would soon act, in light of the fact that both were denied the position of congressional delegate. Chase returned from Washington in spring 1888 in the middle of an extended period of drought and hardship for the people of the Strip. Conditions were so poor that on May 8, 1888, the Cimarron Territorial Council transmitted a memorial to Congress explaining the sufferings and asking for assistance. None was forthcoming.

One final attempt for territorial recognition was made in December 1888. With the hopes of keeping squatters on their claims and to show a unified front for a visiting *New York Sun* reporter, the judicial committee of this unsanctioned fledgling territory hammered out an Organic Act to be submitted to the electorate for a vote on April 23, 1889, in hopes of at last winning congressional approval. "Their scheme encountered a snag. On April 22, just one day before the scheduled election, the Unassigned Lands, Indian Territory, opened for settlement, and the run for homesteads drew away approximately one-half of the people of the Public Land Strip, who abandoned their hopes of territorial status and settled where clear title to land was achievable" (Schnabel 1995: 75). Estimates vary as to the exodus of people who abandoned their squatters' claim in the Panhandle for a 160-acre homestead east beyond Kingfisher in April of 1889. Possibly as many as 12,000 left, leaving No

Man's Land with roughly 3,500 cattlemen (Baird 1994: 124).[12] It is known that Chase, the unabashed land speculator from Colorado, had returned home after the Run of '89. A few settlers and town boomers remained as did a few territorial officials with empty titles and no real support or endorsement. The territorial movement inspired mainly through the aspirations of Chase, an energetic town-boomer and entrepreneur finally materialized on May 2, 1890 when homestead and town site laws were embodied in Beaver County in the New Territory of Oklahoma (Figure 4.4).

School Lands, Sacred Lands

The birth of Oklahoma Territory brought inherited school lands, lands that would be reserved for the use and benefit of the public schools and their children within the Territory (and later the state). These designated lands would provide political, economic and personal differences of opinion for years to come.

The concept of school lands had its roots in earlier colonial land endowments and land acquired or ceded to the federal government by the original thirteen states. These lands were commonly called public domain lands. "Land endowment of public education in New England dates from 1659. As early as 1621 the Virginia Colony appropriated one thousand acres for the maintenance of free schools, and several endowed colleges had been established in the colonies by the time of the American

[12] It appears excluding the cattlemen, that David Baird's estimates (a noted Oklahoman historian) come closest to a compromise number of homesteaders in the Panhandle in the late 1880s. "Judge Tracy, a resident of No Man's Land since 1885, estimates the squatter population at its height at about twelve to fifteen thousand, though the Cimarron Council, in a memorial to Congress in May of 1888, claimed a population of fifteen to twenty thousand" (Kinchen, 1948: 389).

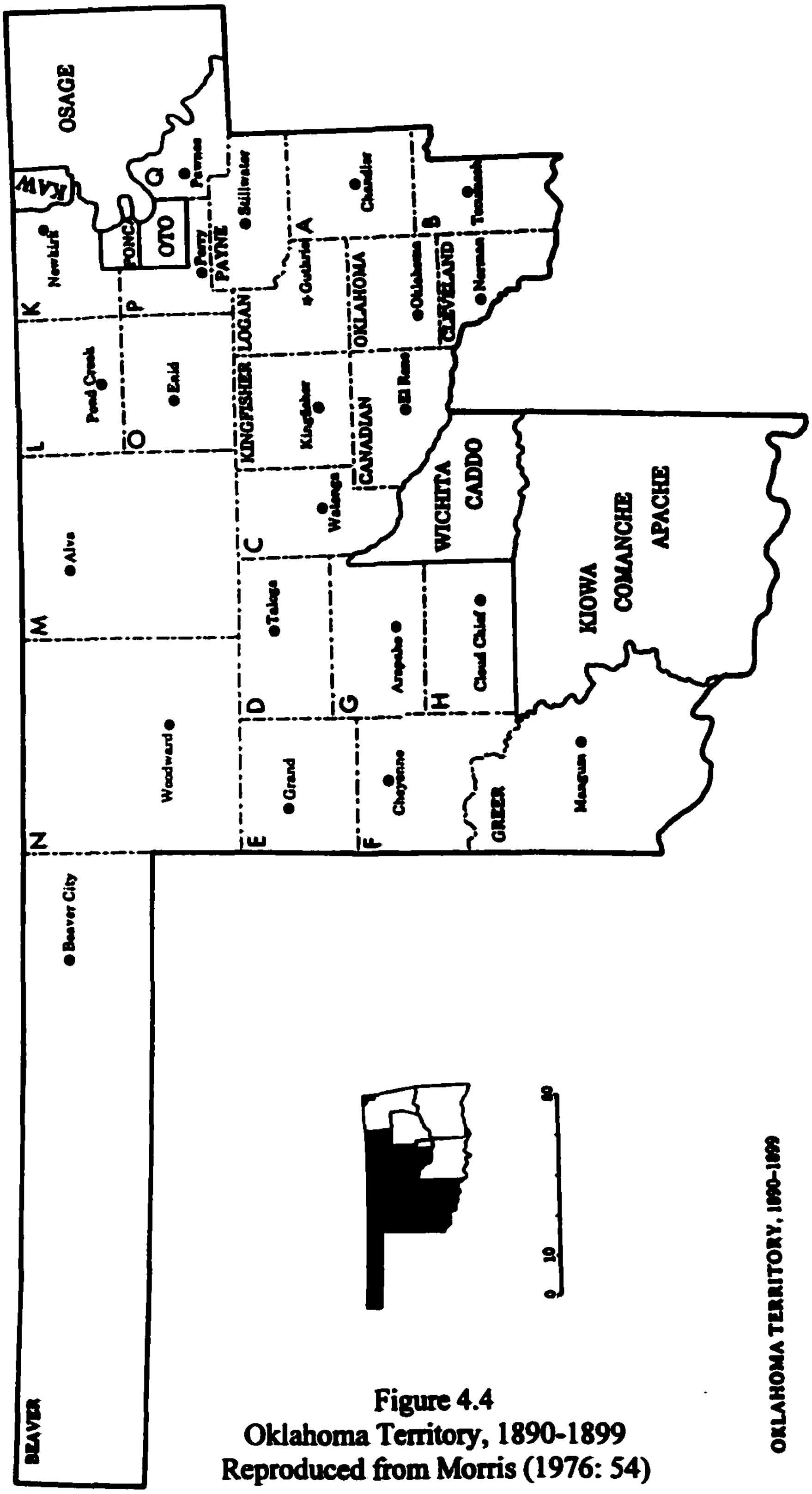


Figure 4.4
Oklahoma Territory, 1890-1899
Reproduced from Morris (1976: 54)

Revolution" (Nelson 1968: 293-4). As the frontier stretched westward the need for more manageable settlement units with the semblance of a rudimentary government, inspired territorial status and a land division system.

The Land Ordinance of 1785 divided land for future settlement into units six miles square called townships (Figure 4.5). The ordinance also provided for one lot for section in each evenly divided thirty-six section township, within the Northwest Territory, to be reserved for public education. The first attempt to reserve land for public purposes occurred in the Territory of Ohio when "lot 16" was granted to each township for the intended use by that township as leased school land. These school lands for various reasons proved difficult to lease and soon many townships opted to sell off these lands. This policy of reserving one section of land for school use continued until 1848, when Wisconsin attempted to include section 26 for school use. Although the Wisconsin lands were eventually homesteaded, this action paved the way for all territories, usually expressed through their Organic Acts, to reserve two sections in each township for school use. With the proclamation by President Benjamin Harrison in 1889 to open the Oklahoma District to settlement, both sections 16 and 36 of each township, whether surveyed or unsurveyed at that time, were reserved for the benefit of the public schools.

<u>Governors Steele and Seay: The Leasing of School Lands</u>

The Organic Act of 1890 that created Oklahoma Territory reiterated in its section eighteen:

> that sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby reserved for the purpose of being applied to

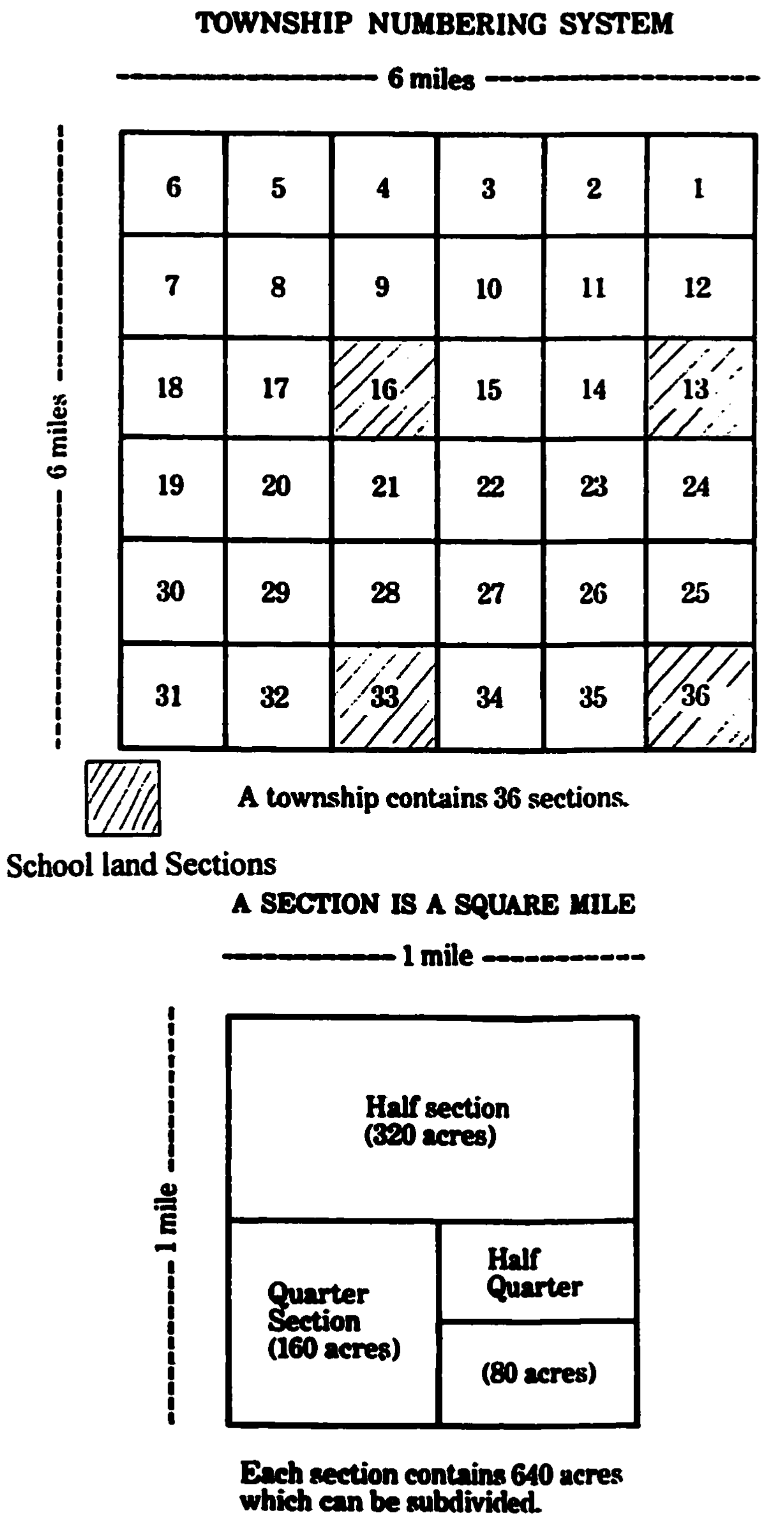


Figure 4.5
Reproduced from Wagoner (1987: 104)

> public schools in the State or States hereafter and thirty-six, or either of them, are occupied by actual settlement prior to the survey thereof the County Commissioners of the counties in which such sections are so occupied are authorized to locate other lands, to an equal amount, in sections or fractional sections, as the case maybe, within their respective counties, in lieu of the sections so occupied (Hodge 1937: 14).

Interestingly, the Territorial Organic Act never specified the quality of the "equal" or "in lieu of" lands, just the quantity. In Beaver County which was eventually divided into the three counties of Cimarron, Texas, and Beaver, most of the replacement lands, starting with territorial days through statehood, were slowly accumulating in what was perceived to be the poorest of lands. It soon became clear that all school lands would sit idle until statehood, unless settled upon by the many homesteaders that didn't secure a claim during the Run of '89. These by law vacant "school lands" in most cases were the best potential lands in the Territory. Early in his term Governor George W. Steele encouraged settlement of school lands; indeed Steele said that those who would settle on school lands would eventually own the land by the time of statehood. His proclamation of 1890 said: "You men who have failed to locate on homesteads, settle on good quarters of school lands, cultivate them as your own and when Oklahoma becomes a state you shall own them as your homes. The people of Oklahoma thought that the territory would follow the history of many other states, and when it reached statehood would sell its school lands to its citizens" (Golobie 1904: 5). Although no legislative action backed this proclamation, the good faith promise gave many the false hope that these lands would be theirs. That precedent has influenced the mindset of lessees since 1890, and is important to recognize when dealing with school land issues today.

Realizing the great monetary benefit that would be derived from the rental of these lands and hoping to sustain and make official Governor Steele's proclamation, Abraham Jefferson (A.J.) Seay, the second territorial governor, traveled to Washington to petition Congress for authorization to lease such lands, due to the fact that a university, a normal school, and an agricultural and mechanical college had opened within the territory's first year. Before becoming territorial governor, Seay was a respected and extremely capable district judge within the territory. Having developed a strong relationship with John W. Noble, the U.S. Secretary of the Interior, when Seay became governor, his first official act was to correspond with Noble, to request permission for the immediate leasing of school lands so that revenues would be available at the earliest possible date for the support of territorial schools.[13] In 1891 Congress permitted the leasing of Oklahoma's territorial school lands. The Indian Appropriation Act, as it was sometimes referred to, opened to settlement other Indian Lands and provided the first rules and regulations to the leasing of school lands in the Territory.[14] "The School Lands reserved in the Territory of Oklahoma by this and former acts of Congress, may be leased for a period not exceeding three years for the benefit of the school funds of the said

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[13] It should be noted that Clark Brown, Governor Seay's biographer, puts a little different "spin" on getting permission to lease school lands, inferring that it was Seay who first established the territory as the first ever to lease school lands when he was really formalizing the earlier actions of Governor Steele. This was indicated in a 1921 draft, biography of Abraham Jefferson Seay by Clark Brown, located in the Seay Collection, Box 5, Folder 4, Western History Collection, University of Oklahoma. Seay's contribution in the leasing of these lands eventually generated revenues that directly benefited Oklahoma Territory.

[14] The prime legislation granting the leasing of territorial lands is recorded in U.S. Statues At Large, XXVI, pg. 81.

Territory by the Governor thereof, under regulations to be prescribed by the Secretary of the Interior" (rules and regulations of the Board for Leasing School Lands [finally] adopted May 2, 1899).

Territorial Acts and Acquisitions

During territorial years (1890-1907) an awkward mix of acts, regulations, politics, acquisitions and confrontations between ranchers and government (both territorial and national) came to exist. Because a commission and a land office were not established until 1893-4, the Secretary of the Interior in April 1891 provided the basic guidelines for the administration of these lands. Besides having the governor oversee the leasing process on three-year leases, several significant regulations were formally prescribed for the leasing of these lands. The amount of land for lease was limited to 160 acres or a quarter section except in the grazing district.[15] After public notice the highest sealed bid was awarded the lease. The monies were placed in custody of the Territorial Treasurer. Upon the re-leasing of school lands the governor was to fix the rental at a reasonable rate and give preference to the former lessee, if the lessee had fulfilled his agreement in good faith. These early regulations make no mention of selling any school land parcel. However, two issues would resurface in the years to follow, the preference to re-lease and the rental rate. Both are important for later scrutiny, especially in light of later litigation involving the school lands commission.

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[15] Primarily western lands, see Figure 4.1.

Under Territorial Governor Seay, and Interior Secretary John W. Moore, the U.S. General Land Office (G.L.O.) now oversaw all leasing of school lands in 1892. Due to the quantity of leases and the amount of paperwork and correspondence involved, Commissioner S.W. Lamoreux of the G.L.O. recommended that the total administration of territorial school lands be placed under the direction of the Territorial Legislature. It wasn't until a presidential proclamation in 1893 however that Congress transferred the administration of leasing school lands to Oklahoma Territory, and later, by act of Congress in 1894 that it became official.[16] Governor Seay was also instrumental in having western territorial lands leased in larger tracts (Governor Steele had mentioned this idea in his first governor's report), recognizing the aridity of these lands and possible economic loss if not leased in more realistic quantities. This decision benefited especially cattle ranchers since in Beaver County alone there were approximately 1000 quarter sections of school lands that were basically pasture lands. Corresponding with Secretary Noble, Governor Steele learned that there was no apparent objection to the leasing of these lands in quantities up to 640 acres, and that Noble and Assistant Commissioner Manning M. Rosie would recommend a formal amendatory rule to the original guidelines, which were also later approved (Chapman Collection, Box C-42, File 13).

These actions solidified what was already the norm in Beaver County, a territorial county that encompassed the entire Panhandle at that time, the bulk of

[16] It appears that second territorial governor A.J. Seay and the Secretary of the Department of the Interior John W. Noble knew one another, according to Clark Brown, Seay's biographer, both personally and politically. This could be one explanation for the quick transfer, by government standards, of leasing operations to the Territory.

which was ranchland: cattlemen would be able to lease lands in tracts as large as they were willing to pay for.[17] With the Act of March 3, 1891 more than a quarter section could be leased west of Range 13 of the Indian Meridian, this being the arbitrary north-south line that divided what was known as grazing lands from agricultural acreages (Figure 4.1). This ruling originated in 1891 and remained in effect through the administration of Governor Haskell, first governor of the State of Oklahoma. The provision for treating western leases differently was based on the experiences of the early settlers in the Texas Panhandle, southeastern Colorado, and southwestern Kansas that suggested that these lands in particular were more valuable in native grass for pasturage than as tilled land for raising crops. "Some of the western leases were made in quarter or half section tracts for farming, but most of the land in the western part of the territory particularly that in Beaver County, was leased for grazing only, with a proviso in the lease that no part of the land was to be broken for farming without a special permit from the Department, issued upon the recommendation of a special agent or appraiser" (Wenner, Box 1, Folder 19, page 4). Even though, by the blessings of the Secretary of the Interior, modifications to the regulations were made, allowing for more than 160 acre leases in Beaver, D, E, F, G, and H counties and the Cherokee Outlet, by 1892 only twenty leases had been granted in Beaver County (Figure 4.4).

[17] It wouldn't be until just before statehood that future Cimarron County in particular would legally be able to convert ranchlands into lease lands. During territorial times these public domain lands were used by the cattlemen . . . most not really leased.

This seemingly low number of leases is somewhat misleading. Only with the settlement of the Cherokee Outlet in 1893 did placement of indemnity lands, and later other in lieu of lands, accumulate in large quantities in the Panhandle, now allowing for more school land leases. Also, the twenty school land leases recorded for 1892, although exact records are difficult to access, were in all probability larger than the maximum 640 acres. The last territorial legislative assembly in 1895 authorized the land board to use wise judgment in the leasing of school lands west of Range 14 and to lease tracts as large as were necessary. It was also quite plausible that already large ranches that were still in operation, saw the opportunity to lease school lands to complete or add to their existing homesteaded or unclaimed holdings, unfortunately the process was slow, acreage having to be surveyed first by an overworked and understaffed CLO. Also, it seems to have been common knowledge that cattlemen paid rent to the territorial school fund for all of the lands inside their holdings that were school lands, although exact records for this practice are difficult to document (Wenner, Box 1, folder 19). One assumes that, regarding the twenty leases, individuals were quite possibly leasing more than one thousand acres per lease, or using but not leasing as of yet.

An End to an Era

Controversy and misunderstanding regarding ranchlands were also common in relations with the federal government. Pressured by would be homestead interests, John W. Noble soon after territorial status was granted, directed ranchers to take down all of their pasture fences from public domain lands. The cattle business involved practically every resident of the Panhandle at that time through employment or growing feed crops. However, protests from the cattlemen forced Secretary Noble to modify his order. His new directive required the "cattlemen to open the main trails, provide necessary gates in their fences and not to interfere with the rights of settlers seeking homesteads upon the public domain . . . Each year following more and more settlers drifted into the country and homestead lands, compelling the opening of more trails and the cutting up of more pastures, but cattle raising still remained big business (Wenner, Box 1, Folder 19, Page 3). This was a period of transition for the cattlemen with a waning cattle industry, having to parcel ranches into future deeded and school land property. However, large ranches still prevailed on the prairie. For example, "in the nineties [1890s] it was possible to go from forty to fifty miles in the Panhandle without seeing a single human being. The famous CCC Ranch consisted of twenty-three townships in the Panhandle of Texas and Old Beaver Country" (Lewis 1939:56). However, by the early 1900s with changing markets, better rail transportation, and an increase in homestead activity, the large cattle companies disappeared for the most part, leaving more individual family ranching operations on this changing landscape.

After 1890 western territorial Indian lands acquired through purchase or agreement were opened to non-Indian settlement. By 1906 all available lands had been opened to settlement in the territory (Western Oklahoma) leaving the eastern portion still occupied by the original Five Tribes (Figures 4:6).[18] With each successive opening of western Indian Lands, Congress through the Territorial administration (primarily at first the governor and a clerk/secretary), set aside sections sixteen and thirty-six as common school lands for leasing. In the eastern half of what was to become Oklahoma during territorial days Indian lands were surveyed and registered first to tribal members. No school land sections were set aside, instead with the merging of these lands in1907 with Oklahoma Territory, the new state was given monetary compensation for its school funds.

Cherokee Land for Higher Education

Even before Territorial times Oklahoma had established a viable educational system comprising of two colleges, one in Norman, one in Stillwater, and in Edmond a territorial Normal School (Grades K-12). "The first public institutions located in the Territory were institutions of learning, the first public buildings erected were colleges, and the first and only bonded indebtedness of the Territory was incurred for the erection of these colleges. Other territories of the Union have been content generally to wait for statehood before establishing colleges" (Berlin Chapman Collection, Box C-42, File 13, Paper 32, Page 33). As early as 1891 Territorial Governor Steele in his report to the Secretary of the Interior pleaded for the opening

[18] The original Five Tribes were the Cherokee, Creek, Seminole, Choctaw, and Chickasaw Nations. With the coming of statehood these tribal lands were dissolved by agreement and became part of the encompassing political unit known as Oklahoma.

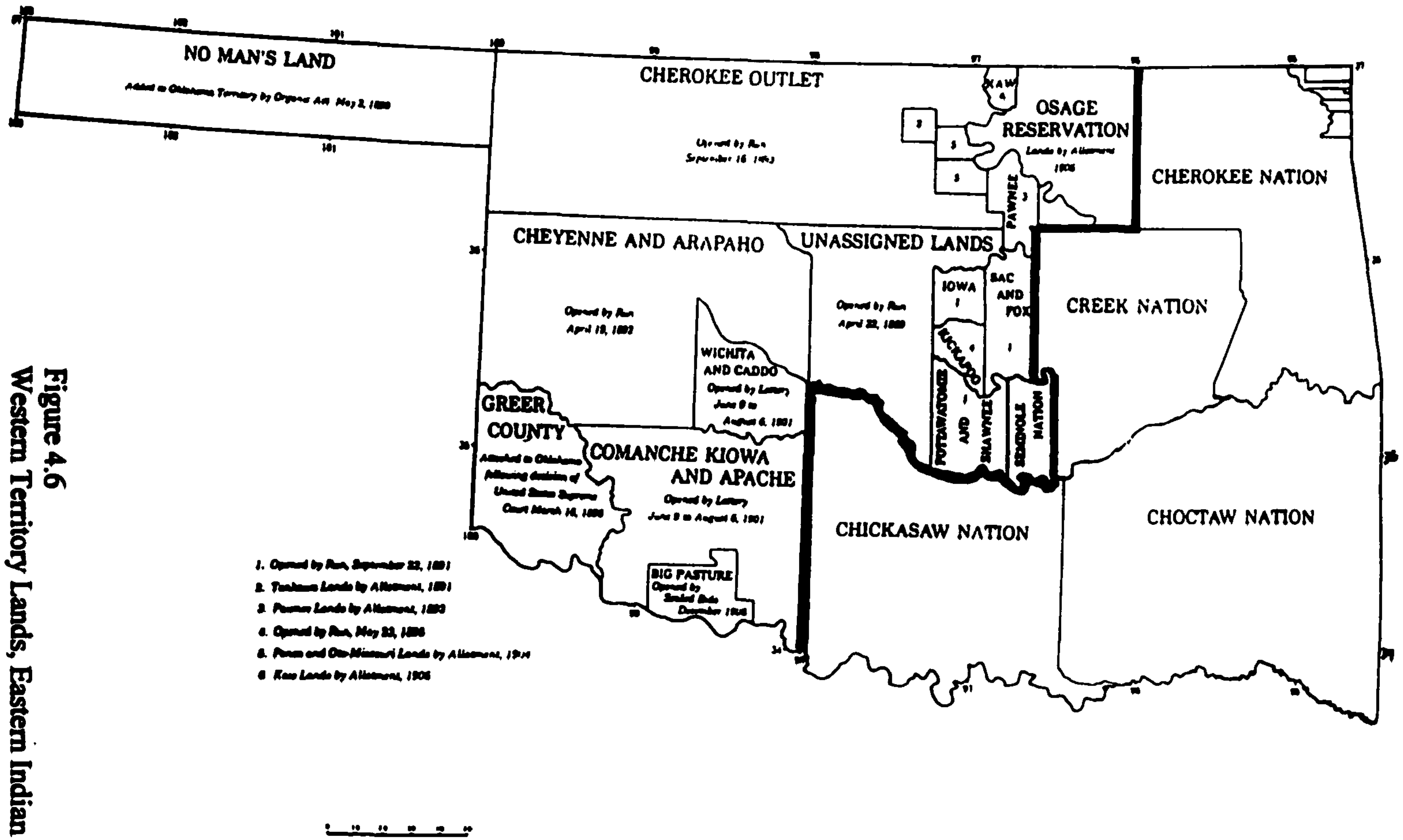

Figure 4.6
Western Territory Lands, Eastern Indian Lands
Reproduced from Morris (1976: 42)

of the Cherokee Outlet for the benefit of school lands and settler alike, even by force if necessary.

The Cherokee Outlet was one of the last large tracts of unsettled land. Although not opened for settlement in 1891, the eventual opening of these lands would provide the Panhandle, especially the far western portion, with thousands of acres of what were to become indemnity lands. Realizing that public domain lands would quickly evaporate leaving no lands reserved for higher education and public buildings, two strong advocates of education, Henry E. Asp and David R. Boyd (then President of the University of Oklahoma) traveled to Washington, in order to influence Congress to secure a bill for the reservation of lands to be used for higher education and public buildings, sections thirteen and thirty-three respectively. Even though the Committee on Territories opposed this action, its Chairman, Senator Orville Platt, drafted an amendment to the original bill not only reserving sections 16 and 36 for public school, but also allowing other land reservations for public purposes as might be deemed wise and advisable. This act was approved by President Harrison on March 3, 1893, the last day of his term (D.W.P. 1935: 382). Soon the necessary lands were acquired from the Cherokee and by proclamation on August 19, 1893 President Cleveland opened by land run the Cherokee Outlet on September 16th. With this opening four sections of land in every township were reserved for the benefit of common schools, universities and public buildings -- sections sixteen, thirty-six, thirteen and thirty-three.

Territorial Governor William C. Renfrow was advised that these school lands were to be leased under the same conditions as all other territorial lands under rules and regulations prescribed by the Department of the Interior. With the opening of the Cherokee Outlet allotments first had to be secured for every Indian, a price agreed upon for the purchase of the remainder of unalloted lands, then a proclamation issued for settlement. This was generally a procedure that was followed in obtaining most Indian lands for eventual white settlement. In the Outlet, as in any land open for settlement, when sections sixteen, thirty-six and now thirteen and thirty-three were occupied, in this case by allotment lands, equal replacement lands had to be located if not in that new county, then somewhere in the state, most likely the unsettled western Panhandle.

The CLO Becomes Official and Controversial

A combination of events actually provided the impetus for the formation on May 4, 1894, of Oklahoma's first board for leasing school lands, later to be known as the Commissioners of the Land Office. The first indication that the bureaucratic duties and responsibilities in overseeing territorial school lands were too cumbersome was when Interior Secretary Noble turned over operations to the General Land Office. With the opening of the Cherokee Outlet for settlement and the expiration of hundreds of earlier school land leases granted in 1891 for three years, a board for leasing in Oklahoma Territory was established under the 1894 Act of Congress. This avoided the awkward situation of submitting leases for direct approval either to the Department of the Interior or to the General Land Office. As events unfolded, all leases established in 1891 were extended until February 1, 1895 to allow time for advertisement so as to elicit the highest bids on new leases as prescribed in a new set of rules.

Although the Territory was being weaned from the Department of Interior and the General Land Office, these two governmental agencies had final jurisdiction over any territorial decisions that were made in regard to the administration of school lands. While requesting an extension of lease agreements, Governor Renfrow stated that "if this matter were left to me I would have all lands upon which the leases are about to expire appraised and give lessees the privilege of taking the land at the appraised value" (Berlin Chapman Collection, Western History Collection, Box C-42, File 13 Paper 32, University of Oklahoma).

In response to Renfrow, Commissioner Lamoreux of the General Land Office, as part of redefining the thrust of the school lands board which was to be given more local authority, proposed a plan whereby both the school land board and lessee would supposedly benefit. The directive stated that the school fund was entitled to the current commercial rental value of the land on an open market and that the lessee be given the choice to remain on school lands at the highest bid offered, which gave him preference right (Report of the Governor of Oklahoma, 1895: 16).[19] This directive would set a new precedent in the way rental rates were to be administered. Also, by the Act of Congress in May of 1894, the Board for leasing school land now was

[19] In the original set of regulations issued by the Department of the Interior, when Oklahoma became a territory, the lease was to be "awarded to the actual bidder at the highest amount of rent bid in each case, not requiring current market value, or making mention of it, leaving rental rates up to the discretion of the Governor.

composed of the governor, the secretary of the board (to oversee its operation), and the superintendent of public instruction. From this point on "the Board for Leasing School Lands" was under jurisdiction and approval of the Territorial Legislature. Controversy surfaced when the territorial legislature approved the guidelines to the operation of the School Lands Board. By the summer of 1895, the legislature still couldn't agree on specific working regulations. In his governor's report William Renfrow admitted that

> the subject is a very difficult one, and there exists considerable disagreement as to the correct method of reviewing leases . . . it seems clear that the school fund is entitled to the commercial rental value of the land on an open market, and it is equally clear that the lessee on the land should be given the preference to lease the land at the highest rental offered . . . it is hoped that the next legislature will provide proper rules and regulations, that the lessees may know certainly what to expect at the expiration of their leases (Report of the Governor of Oklahoma 1895: 16).

This Governor's Report, while reinforcing the 1894 GLO guidelines that stressed "the commercial rental value of the land . . . lease the land at the highest rental offered," was not really what the Governor, his supporters, and the lessees wanted as policy. Prior to this the governor basically set the rates for lease "at a reasonable rate" when it came time to re-lease, giving preference to the former lessee, as was set forth in the original 1891 regulations prescribed by the Department of the Interior at that time.[20] These two issues (preference right and rates charged for individual leases) would plague the School Lands Board until 1982. Politics and

[20] This "reasonable rate" clause was inclusive in the "supplemental" rules prescribed by the Secretary of the Interior as part of the original proclamation. The lessees and Governor Barnes never wanted the changes instituted by the Government Land Office (GLO).

micro-management by 1899 played heavily on the territorial legislature in its quest to craft agreeable rules for the operation of the School Lands Board.

After the fifth legislative assembly "failed to perfect a suitable measure for the care and control of school land funds," to use Governor C. M. Barnes' words, Barnes vetoed it, leaving the legislature the opportunity to "perfect" a better bill during another session.[21] In the meantime the impasse prompted Governor Barnes to draft his own set of regulations which prevailed until 1909, almost three years after Oklahoma's Enabling Act when the legislature passed the state's first leasing law. In point of fact Barnes' rules mimic the original 1891 regulations that stressed the concept of leasing for a reasonable rate, and if the land were managed in a "husband-like" manner in good faith, the lessee would have the preference right to re-lease the land for an additional three years.

To Sell or Not to Sell

Prior to 1904, and especially during earlier territorial days the leasing of school lands steadily increased from year to year as adjusted by the governor and the School Lands Board. The appearance of the new regulations in 1894 brought about higher rates and a comprehensive appraisal in 1896 which established rates that changed little until 1904. For example, before the 1896 appraisal, quarter sections leased in western counties netted an average of roughly seventeen dollars, while after 1896 western quarter sections averaged nearly thirty-five dollars (Nelson 1968: 298).

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[21] It should be noted that Governor Renfrow (before Barnes) during the fourth legislative assembly also vetoed a bill for the operations of the school land board.

Many closely associated with school lands perceived upcoming explosive times in light of the 1894 regulation changes. The 1896 appraisals and the past disagreements between the governor's office and the legislature fueled many to voice their opinions. These concerns prompted latent interest groups and individuals to surface, advocating the sale or retention of school lands, especially during the early and mid-1900s. Governor Steel had promised ownership; now many felt was time to honor that promise.

The idea of selling or not selling school lands in Oklahoma surfaced in earnest through the efforts of a mathematics professor, Fred Elder, at the University of Oklahoma, who was concerned that educational institutions and the state government would suffer substantial economic loss if authorities allowed school lands to be sold. When addressing the Oklahoma Legislature in 1899 he stated that the first interests of the state were its schools, then came the state itself, and the people who occupied school lease land were last in priority. His writings and public speaking engagements (primarily form 1899-1902) were persuasive: school lands must be kept, perpetuated, should be long term (25 to 50 years), reappraisals must be free from political control, and the practice of "rack-renting" or subleasing lands for personal gain must end.[22] Subleasing had always been forbidden on agricultural leases (ranchlands included). Although not a common practice, it [subleasing] occurred in noticeable instances until 1903, when a provision was made that application and permit issuance would be necessary for such purposes if deemed right and proper by the School Land Board. It was quite possible that at least in this instance Elder and his supporters might have influenced this CLO action. Elder was especially concerned with the blunders made in other states wherein "enterprising men with indifference to the state . . . [made] . . . fortunes at the expense of others (Elder, August 1899:4). Knowing that statehood would eventually firm up school land policies, Elder provided a forum for many who at that time tried to avoid or had no knowledge of the future gravity of common and higher school funding. During the early 1900s besides Fred Elder, by resolution, the Commercial Club of Norman (Oklahoma) supported Elder's views in a statement to the Committee on Territories of the United States Senate. During this time Dennis T. Flynn, territorial delegate to Congress, sponsored a bill, which never materialized, that would have made possible the sale of school lands in Oklahoma.

In 1904, John Golobie, a newspaperman from Guthrie, advocated the sale of school lands through a lengthy pamphlet entitled "Which is the Better, Individual or State Ownership of School Lands?" Golobie championed individual tillers of the soil who were viewed as tenant farmers in bondage to the whims of the school lands leasing system. Through newspaper columns in the *Guthrie State Register*, speaking engagements, and correspondence, Golobie's efforts were as impressive as Elder's.

Prior to statehood many individuals, organizations, and newspapers were articulating the reasons for and against the selling school lands. The sentiment in favor of selling the lands was mounting, putting pressure on both the leasing board

[22] In researching the Elder Collection no correspondence or record of public speaking on school land issues was ever found to be dated after 1902.

and the legislature to come up with equitable solutions. A 1906 column in the *Lawton Democrat* entitled "Isn't It Strange" probably best summarized current thought for the sale of these lands, for it was becoming more and more an issue of big versus small and government versus the individual: "The cities of Oklahoma gobble [up] this school money . . . the tenant on the school land would be transformed into a free holder . . . the territorial teachers' association . . . is perpetuating this un-American system of tenantry." These views were also held by another influential long time organization founded in 1898, the State Land Lessees Union, which by 1909 influenced the legislature in its decision as to the sale of school lands.

The State Land Lessees Union was one of the most influential lobbying organizations advocating the sale of school lands. Its membership included roughly six thousand lessees who at first were not going to wait for statehood to secure the right to purchase their lands, as was promised during early territorial days. Under the vigorous leadership of J.B. Tosh of Hobart and Clayton Hyde of Alva, the Union boasted of 10,000 lessees and 40,000 members by 1908 (Barde Collection Box 1, Western History Collection, University of Oklahoma). Supporting the Union and in cooperation with their efforts was the Joint Labor Legislative Board of Oklahoma which consisted of various bankers, railroad executives, and labor union representatives who were affiliated with numerous "sister" organizations.

Although never mentioned in any of their transactions, their motives were not entirely centered on the plight of the lessee to purchase leased holdings. Statehood in 1907 offered opportunity and economic gains, especially for those directly involved with or connected to coal mining and oil exploration. Even before statehood railroad companies and other corporations took leases of the very best coal lands, paid a fraction of their worth, from tribal governments and individuals alike in securing mining fields and towns. The MK&T ("Katy") Railroad was the owner of the single largest company in the Territory, the Osage Mining and Coal Company. By 1907 the few corporations that controlled the Oklahoma coal industry were mining three million tons of coal annually, in a place dubbed "the best steam coal west of Pennsylvania" (Baird and Goble 1994: 278). Just as mining boomtowns were dotting the landscape, soon oil well drilling added to an even more pronounced mosaic, with the discovery south of Tulsa of a large underground reservoir of oil on the farm of Ida Glenn, becoming one of the richest pools of oil in the world (ibid: 281).

With the potential sale of thousands of acres of school lands, what would become at first glance private deeded lands might be sold or leased eventually to insistent entrepreneurs. The State Land Lessees Union's stance was one of clarifying the legalities of the rights of the state and the rights of the lessees, stating that every lessee must have preference right to release his land until it is sold, and be monetarily rewarded for any improvements. The organization consisted of members from most counties in the state, each electing a representative who would disseminate information to the membership within that county. Their efforts did expose certain weaknesses within the leasing process which led to legislative action with the first-ever-sale of school lands in 1909, and the first-ever-state leasing laws authorized by the state legislature.

More Land, Statehood and Sales

The Enabling Act was the final step in the process of forming a legal and legitimate state government. The Act was a dynamic document that recorded the legal operations and laws authorized by Congress that the Territorial Legislature had worked on as a precursor to the Oklahoma Constitution. The School Lands Board operated within this framework under the approval of the Department of Interior and the General Land Office until statehood. Before the passage of the Enabling Act in 1906, Oklahoma's School Land Board was managing approximately 2,150,000 acres of land (Commissioners of the Land Office, Annual Report Lease Department, 1910, page 3). With the passage of this Act that would create the State of Oklahoma, the federal government in Section Twelve of the Enabling Act granted Oklahoma additional replacement or in lieu of lands for swamp and overflow lands, as every other new state had been granted since September 1850.

Oklahoma had almost non-existent swamp or overflow lands. Hence, the grant became the "New College" Grant providing various portions of the original acreage to be used for the benefit of established and future educational institutions. No specific section of any township was yet chosen for the use of these new college lands which had to be filed upon by the School Lands Board before statehood which was literally months away. Since these lands had to be chosen expeditiously on any remaining, unreserved or unoccupied state public domain lands, few places if any in the state offered such quantity of lands -- except the western part of the new state, especially the Panhandle.

The filing for these lands occurred in the summer of 1906 at the Woodward Land Office by the Secretary of the School Lands Board, who quickly hired part-time bank clerks in the area to deal with such a vast number of filings. For two weeks, working both day and night at a feverish pace, 1,050,000 acres of land were added to the coffers of the School Lands Board. Inasmuch as each college and school had thousand of acres which couldn't be inspected assigned to it for its benefit, filings became a mechanical process. "At the time these filings were made, it was impossible to tell anything about the land, whether it was good, bad or indifferent so in order to treat all of the schools alike, we filed sheets alternately for the different schools, continuing in this routine until each had achieved their full quota" (Fred Wenner Collection, Box 1, Western History Collection, University of Oklahoma). Previous in lieu of lands and indemnity lands had already been assigned to the Panhandle. However, it wasn't until the New College Lands that the Panhandle and especially Cimarron County, acquired the bulk of its school lands, making it today home to approximately 30 percent of all state school lands (Figure 4.7).

The CLO: New Trust, New Laws, First Sales

Oklahoma was proclaimed a state on November 16, 1907, and with that proclamation the Territorial Board for Leasing School Lands was transformed into the Commissioners of the Land Office (CLO) by Section 32, Article 6 of the Constitution of Oklahoma. "Upon admission of the state into the Union" as Section

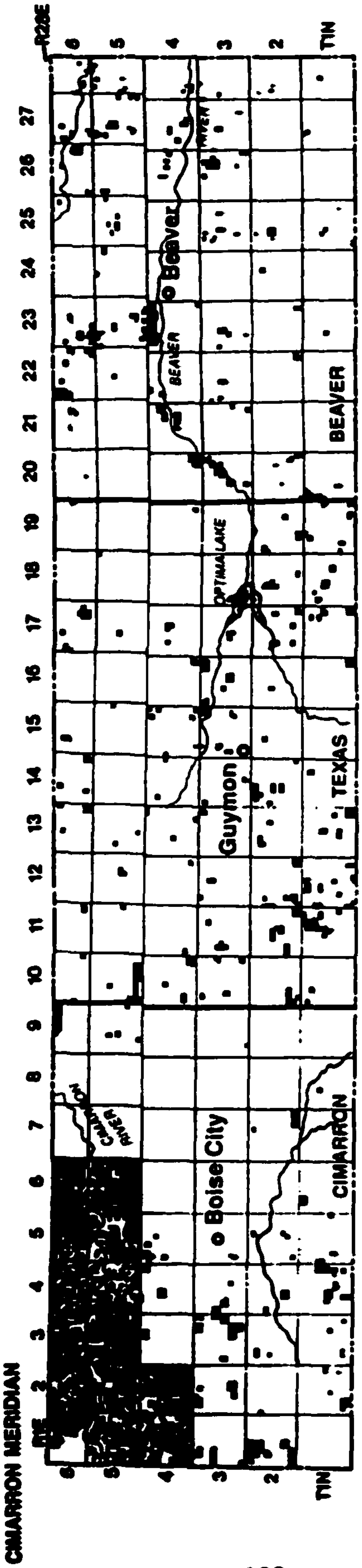


Figure 4.7
Cimarron County School Lands
(CLO, Inventory of School
Lands Map, 1989)

Seven of the Enabling Act states, "there is hereby appropriated, . . . the sum of five million dollars for the use and benefit of the common schools of said State in lieu of sections sixteen and thirty-six and other lands of the Indian Territory." With statehood the CLO had at its disposal a total grant of approximately 3,200,000 acres of land from all of its sources,[23] including the recent 1,050,000 acres of New College Lands, plus the five million dollars to compensate for in lieu of acreages in Indian Territory. With other accrued assets, the total permanent fund of the Commissioners of the Land Office at statehood was $16,216,504 (Chronicles of Oklahoma 1935: 382). Section 32, Article 6 of the Enabling Act also addresses the administrative structure of the CLO at the time of statehood. The CLO consisted of five members: the governor, secretary of state, state auditor, superintendent of public instruction, and the president of the board of agriculture, who had control "of the sale, rental, disposal and managing of the school lands and other public lands of the state and of the funds and proceeds derived therefrom, under the rules and regulations prescribed by the legislature."

Significantly, in Article Eleven of the State Constitution, the State accepts all grants and donations of land under the provisions of the Enabling Act and is pledged to preserve lands and moneys in a sacred trust, and that all proceeds "for the benefit of the common schools, shall constitute the permanent school fund, the income from

[23] This figure is often disputed due to sketchy territorial record keeping, differences of opinion within official CLO records, including various writings and research articles on the issue. Estimates range form 2,785,174 to 3,331,075 acres. See Appendix I in the Rachel Butler 1980 thesis in this study's bibliography. For this study the round figure of 3,200,000 acres will be the approximate number referred to.

which shall be used for the maintenance of the common schools in the state. The principal shall be deemed a trust fund held by the State and shall forever remain inviolate. It may be increased but shall never be diminished . . . no portion of said fund shall be diverted for any other use or purpose" (Section Two, Article Eleven, Oklahoma Constitution). This idea of a sacred trust to be increased and never to be violated plays a major role in the future operations of the land office in years to come.

New Laws

From roughly 1907 to 1911 the Commission was in a state of transition; it had to reorganize administratively, reappraise lands, note improvements, recheck various lease and sub-lease accounts, and finish the appraisement of the New College Lands granted the state in the terms of the Enabling Act. With such burdens, Chapter 49 of the Session Laws of Oklahoma for 1907-08 provided some relief by extending all soon-to-expire leases until January 1, 1909. This basic "taking stock" of operations was needed primarily by the legislature as a basis for any future legislative decisions. Also, during this transitional period the day-to-day operations were defined by a combination of the Territorial Organic Act, the Enabling Act, and the developing Constitution of the State. Major differences with previous accumulated CLO regulations were few. Regulations such as preference leasing, the right to purchase at the highest bid (although not strictly adhered to, most governors basically set prices), keeping rental funds for both distribution and investment to schools, leasing for a period of no longer than three years and not sub-leasing, were all original stipulations of the Organic Act, and Governor Barnes' regulations when the Territorial Legislature was in gridlock. With the advent of the Enabling Act and later the State Constitution further specific regulations were added and eventually approved by the legislature.

Many leases were to expire on January 1 1909, and as the 1908 appraisal of lands drew to a close, the first leasing law of 1909 was soon to be launched, blending the old with the new, all past laws with the Enabling Act and new legislative requirements. This act gave the Commissioners of the Land Office official legitimacy and formalized the CLO. Chapter 28 of the Session Laws of March 2, 1909 within Article I contains the first State Leasing Law. These were still times of tumultuous transition and clarification, witnessed by the fact that in many major revisions to these new lease, re-leasing, and later sale laws occurred in 1910 and 1911 legislative documents. Major provisions or changes that differed with previously mentioned regulations include: leasing for a period of ten years (to be re-appraised every five years); 160 acres may be leased east of the grazing line and up to 640 acres west of the line; rental will be fixed at a yearly rate of 4 percent of the lease market cash value; lessees may sub-lease lands upon approval for not more than one year; the renter may use his/her lease as collateral security for a loan; and leased land may be sold at any reasonable time by the state through the CLO. The majority of these guidelines would remain in effect with little or no modification until 1982.

First Sales

The sale of school lands was authorized both by the Enabling Act of 1906 and the 1907 State Constitution. However, due to the earlier appraisals, reassessments, and the finalizing and application of the 1909 Lease Law no sales occurred until December 1909. The first momentous sales occurred from 1910 to 1917, tapered off in 1932, then resurged with historical events precipitated by the Dust Bowl Era and WWII foreclosures. From the late 1940s on through 1970s most sales were minimal as were the quantities of land sold. The manner in which lands were to be sold in 1909 was reflected in constitutional and legislative acts, in conjunction with rules and regulations prescribed by the Commissioners of the Land Office. The 1909 Act and subsequent revisions besides setting leasing guidelines, theoretically offered all school lands in the state for sale: "the Commissioners of the Land Office should dispose of and sell and convey . . . all lands owned by this state, reserved, granted and taken in lieu of sections numbered sixteen, thirty-six, thirteen and thirty-three, and known as indemnity lands" (Session Laws of Oklahoma 1909, Amended Senate Bill No. 1). The only exempted lands were those that were in the process of, or had been identified as mineral, gas, and oil lands through geological and economic survey, which were removed from sale until 1915, but could be leased for periods not exceeding five years.

How Much Was Sold?

Naturally, not every parcel of land was sold at once. Dispersed lands were offered at various times by creating sales districts, from which the newly created sales department would select parcels, advertise the sale, and conduct all transactions in regard to that sale. Sales districts were numbered sequentially with each successive sale, districts were comprised of a county or counties, and the sale lasted generally for a year, depending upon the quantity of land to be sold. In 1909-1910, the first, second, and third sales districts were organized. It appears that in every year except 1914, until 1917, one to three sales districts were created. From Oklahoma's approximately 3,200,000 original potentially-disposable acres, approximately 1,290,000 acres of land were authorized for this first sale, representing a mix of indemnity and other lands. With sales occurring from December 5, 1909 to January 8, 1910, in the first three sales districts that were established, by December 27, 1909, 306,435 acres of school land had been sold (CLO, Annual Reports, Sales Department, Dec. 31, 1909, printed Jan. 1, 1910, pages 1-8).[24]

In Sales District Nine, comprising of Cimarron and Texas counties, the first major land sale had its debut in Cimarron County on October 10, and by October 13, in Texas County, both county sales lasting approximately two weeks. The bulk of these lands were New College Lands, which up to this point were being surveyed for mineral, petroleum, and artesian well use, making them exempt from sale until all surveys had been completed. All lands for sale were classified as "Grazing B," meaning any one particular person could purchase a maximum of two sections or 1,280 acres, allowing for non-contiguous totals if necessary. At that time 568,210 acres were offered for purchase, at public auction at the County Court House. The

[24] Roughly 9.6% of all of the school lands were sold at this time.

rules said that a "purchaser shall be required to establish and maintain valuable, lasting, permanent improvements other than fencing, before he shall acquire title to any of the land . . . and that the land is purchased for his own use and benefit" (Sales Pamphlet, 1909: 4). From 1909 to 1917, seventeen sales districts were formed before and after the establishment of District Nine facilitating the sale of school lands. The year 1917 was the end of an era of systematic school land sales. For the time being most acreage sale including the Panhandle and Cimarron County seems to have ended.

Records and reports that describe early transactions, sales, and total acreages in various funds are published in CLO Annual Reports. Many of these early publications over the years have been misplaced or lost. It is quite difficult to ascertain the total quantity of acres that were sold during these early years (1909-1917). One particular landmark economic study completed by Oliver Hodge in 1937 does reveal a good approximation of unsold lands, lands remaining in the CLO Trust. Hodge wrote "most of the sales were completed prior to 1917 . . . a total of 1,970,579 acres have been sold from these seven funds[25] . . . This leaves a total of 846,750 acres of granted land . . . [also] in addition to this granted land these funds are accredited with 119,394 acres of foreclosed land" (Hodge, 1937: 87). Upon completion of sales in 1917 the CLO still retained approximately 956,144 acres of trust land. In round

[25] There are nine "funds" within the CLO jurisdiction, each having a certain quantity of land for CLO use. The first seven categories create the "permanent" fund; the last two categories create the "revenue" fund for CLO operations. Hodge's calculations do not reflect if any of these lands were sold from the last two categories during 1909-1917. A more specific discussion of CLO structure will be forthcoming in this study.

numbers it would be reasonable to say that with an original statehood grant of 3.2 million acres, over two million acres of school lands were sold during the 1909-1917 era.

Cimarron County was the exception to the rule. Even though much of its land had been sold, with such quantities of lands to begin with, it retained a large amount of its original acreage, due to the large tracts leased by relatively few individuals in what many would consider a hostile environment. No Man's Land in the minds of many has always been invisible and not recognized, until some momentous action or event forced involvement. Territorial lands were homesteaded briskly, except on some western and most Panhandle tracts. Since territorial days the Panhandle has always been the recipient of much needed replacement or in lieu of lands. No Man's Land was the safety valve, the dumping ground for already settled upon school land sections. Territorial status saw the accumulation of thousands of acres of school lands in future Cimarron County reclassified as ranch lands. What was once a ranch with the allotted homesteaded land, would become a ranch with school lands or possibly a school lands ranch, with the majority of its holdings literally a ward of the state. A rancher now had to rent or purchase additional acreage to maintain a viable operation, however difficult that might be, creating smaller operations and a changing ranch economy. The sanctification of the CLO created for Cimarron County a myriad of concerns that would fester until 1982.

Chapter 5

A Different Landscape: People, Perceptions and a Sense of Place

Cimarron County is distinct. Besides being the furthest west and least populated of Oklahoma's counties, it is arguably the most stereotyped, ranched, historically rich, geologically significant, and climatically challenging county. According to the vast majority of its citizens Cimarron County is comprised of the toughest, most kind-hearted people in the state. "Why it's God's Country," explained Evelyn Roberts, a Kenton resident in a 1990's interview. The many attributes that it does possess clearly set this county apart from the rest of Oklahoma, creating a strongly unique place nestled in the heart of the Southern Great Plains region. These lands and people have oft-times been manipulated or misunderstood by governmental and land office decisions and policies, promoting an "after thought aura" concerning downstate[1] actions that affect ranching life.

Cimarron County: Physiographic Heart of the Great Plains

What makes this county so different? Various regional associations help define Cimarron County. It is the only Oklahoma county that has the distinction of being in the "heart" of the Southern Great Plains. That Cimarron County is in the "heart" of the southern Great Plains is open to debate. Cotton Mather in "The American Great Plains" contends that three strong characteristics do in fact delineate this region: "the Great Plains is a physiographic region which exhibits great physical

[1] Again as mentioned in Chapter 1, "downstate" is a common colloquial term, used by many Panhandle people, to refer to the rest of the state.

and economic variety, yet the region possesses traits which give it coherence, such as its cowboy complex, its character as a transit region, and its cultural megalophilia" (1972: 237) and Cimarron County does exhibit an exceptional bond to all three of these traits.

As Mather puts it "cows and cowboys are not just legendary figures from the past or symbolic expressions of the present" (ibid, 253) in Cimarron County it is an every day way of life both economically as well as culturally. What Mather refers to as "cultural megalophilia," a love and the necessity for large holdings, is unmatched anywhere in Oklahoma in relation to current ranch acreages and the previous cattle industry operations especially in the 1800s. Even today, school land ranches[2] average six to eight thousand acres, which is considered by many to be a minimal operation. Lastly, besides easily identifying with these regional traits, the premise that Cimarron County is a transit region is exemplified through its past legacy of being a corridor for the drover who escorted millions of "beeves" to northern markets, or the fact that one of the most successful commercial and pioneer pipelines to the west, the Santa Fe Trail, cut a swath through the center of Cimarron County's ranch country. Evidence of a viable transit region still exists today with tons of beeves and other commercial wares motoring through Boise City via U.S. routes 385, 287, 64 and 56 on their journey to the northern and southern markets of Colorado and Texas and beyond (Figure 5.1). Common too are the many tourists passing through on their way to and

[2] Ranches that have a majority of school lands.

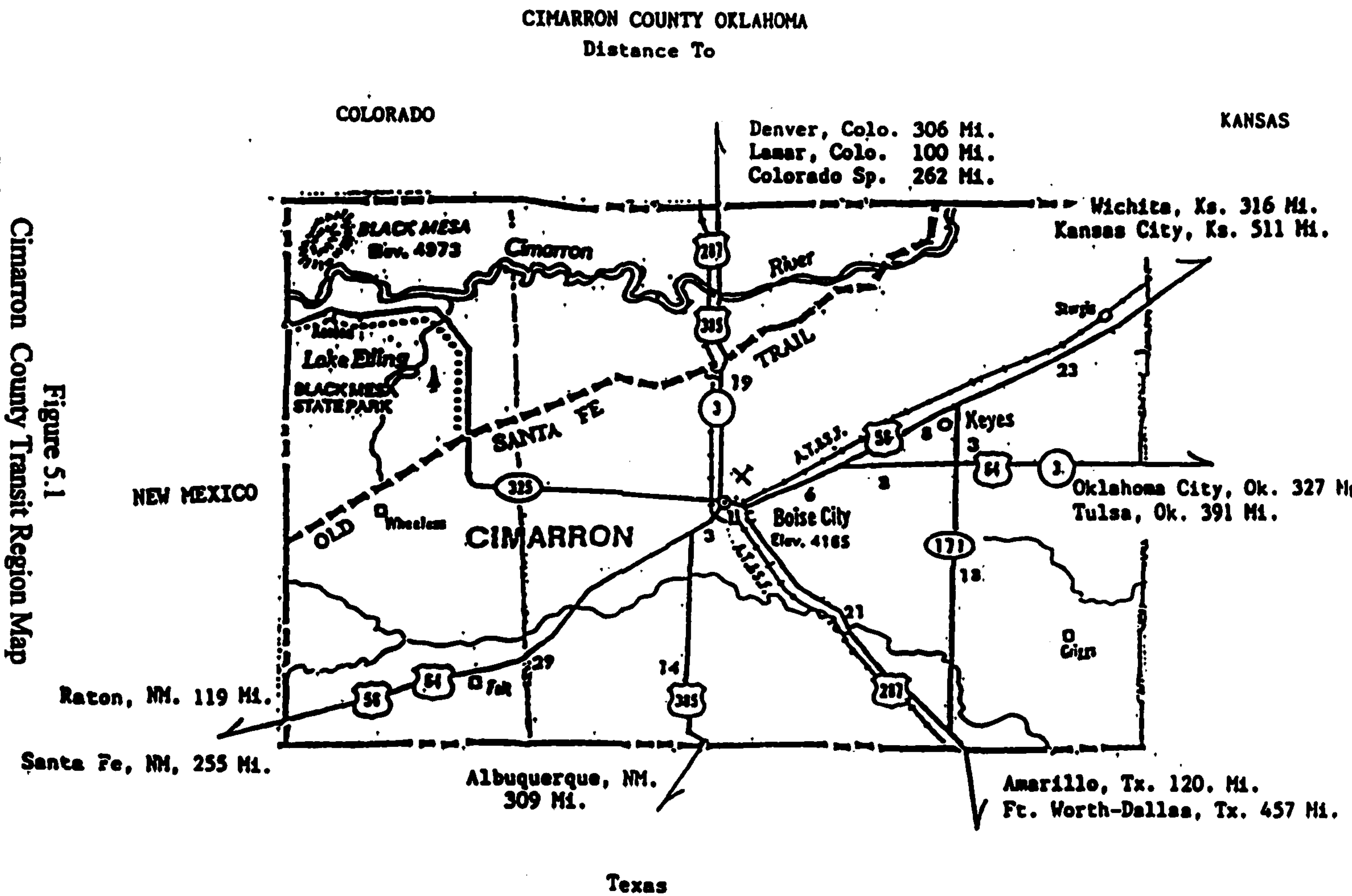


Figure 5.1
Cimarron County Transit Region Map
(Boise City Chamber of Commerce Handout, 1992)

from vacation destinations in the Rockies. Reflecting such a tight fit of Mather's criteria, it is clear to see that Cimarron County is indeed a core area represented by sub-sections V and X on Mather's map of the Great Plains that encompass a mix of short grasses, ranching, wheat farming, lava capped plateaus and mesas (Figure 5.2).

R. C. Langman's study of the Great Plains region defined the core area, or heart of this region, using natural and geographic criteria. He found that Cimarron County is part of the nucleus of the Southern Great Plains Region (Figure 5.3). No other Oklahoma county exemplifies as many combined singular Great Plains natural and geographic attributes: relief features, climatic characteristics, vegetation and soil associations as does this county.

Relief

Concerning relief, although variations in the Great Plains appear to be minimal, in fact what some may consider monotonous is hardly the case. The Great Plains slopes eastward from 6000 feet above sea level at the foot of the Rocky Mountains to roughly 2000 feet above sea level on its eastern border. Cimarron County is found between this region's highest and lowest elevations. It is home to Black Mesa, the highest point in Oklahoma at 4,973 feet above sea level. The cattle ranches of the county average 3,500 to 4,300 feet above sea level, making these lands the most elevated rental properties in the state (Figure (5:4).

Geologically too, Cimarron County is situated in the center of the Southern High Plains

> which is a vast apron of water-deposited materials weathered from the Rocky Mountains, [deposited] mostly during the Pliocene epoch [of the tertiary

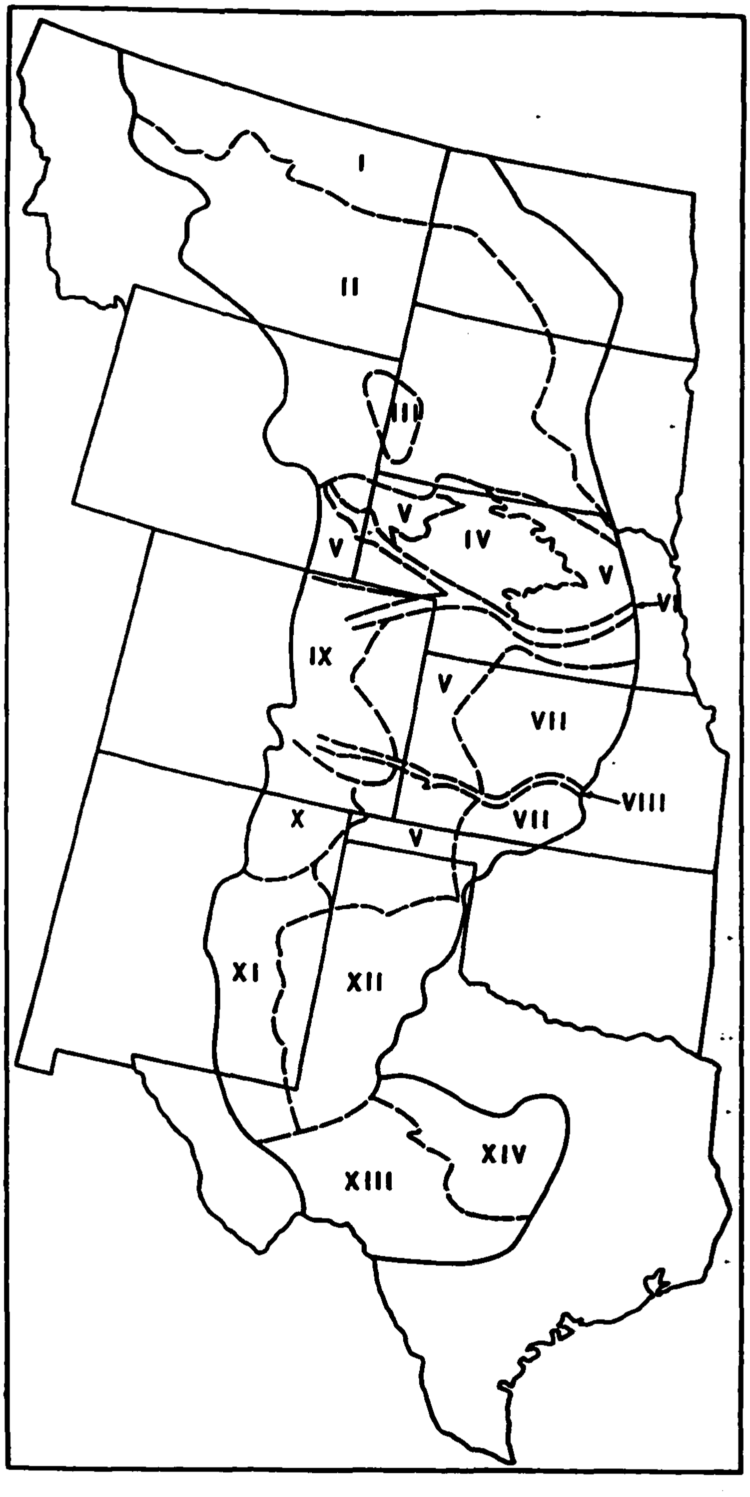


Figure 5.2
Mather's Great Plains Section Map
Reproduced from Mather (1972: 240)

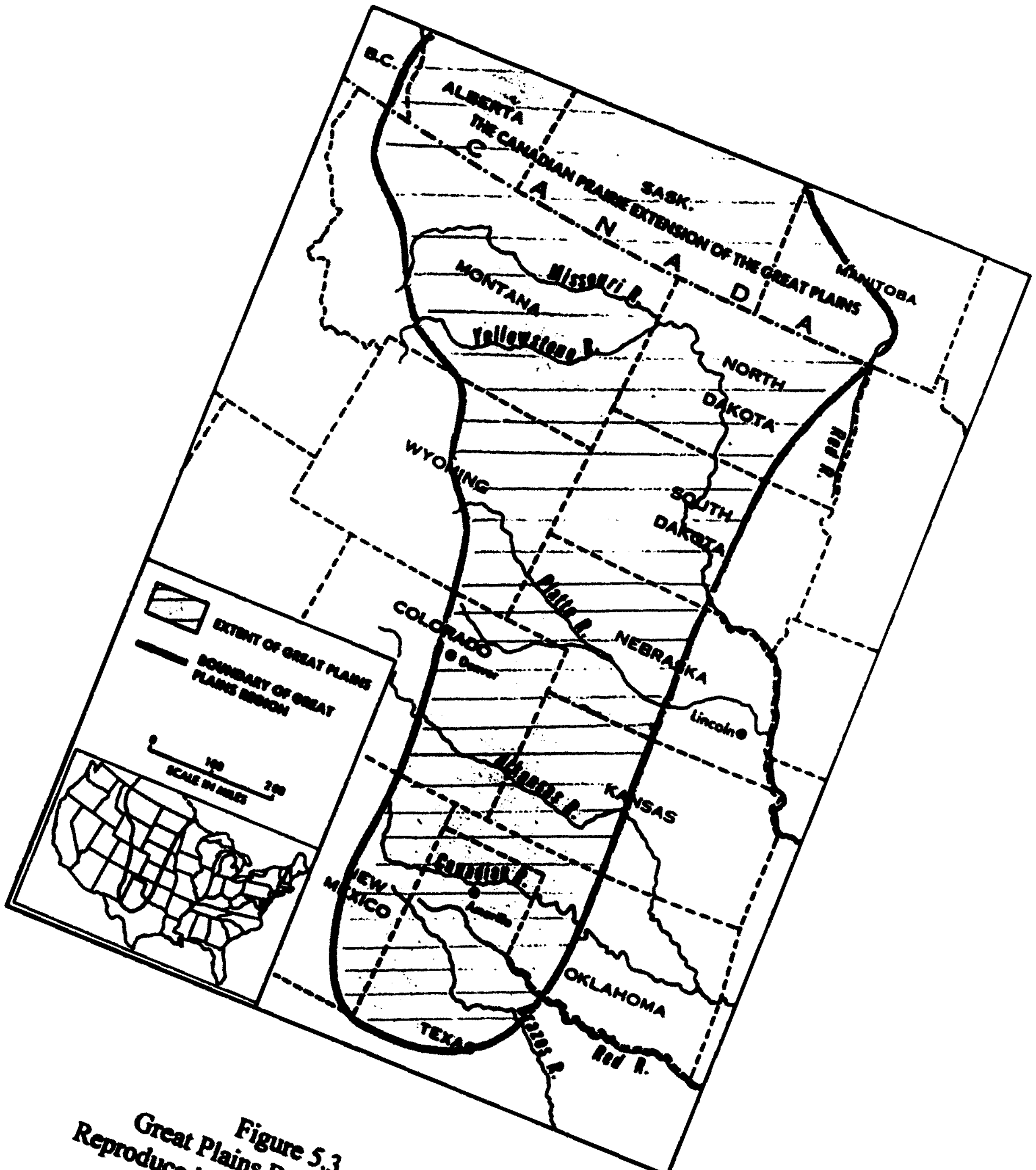


Figure 5.3
Great Plains Boundary Map
Reproduced from Langman (1971: 7)

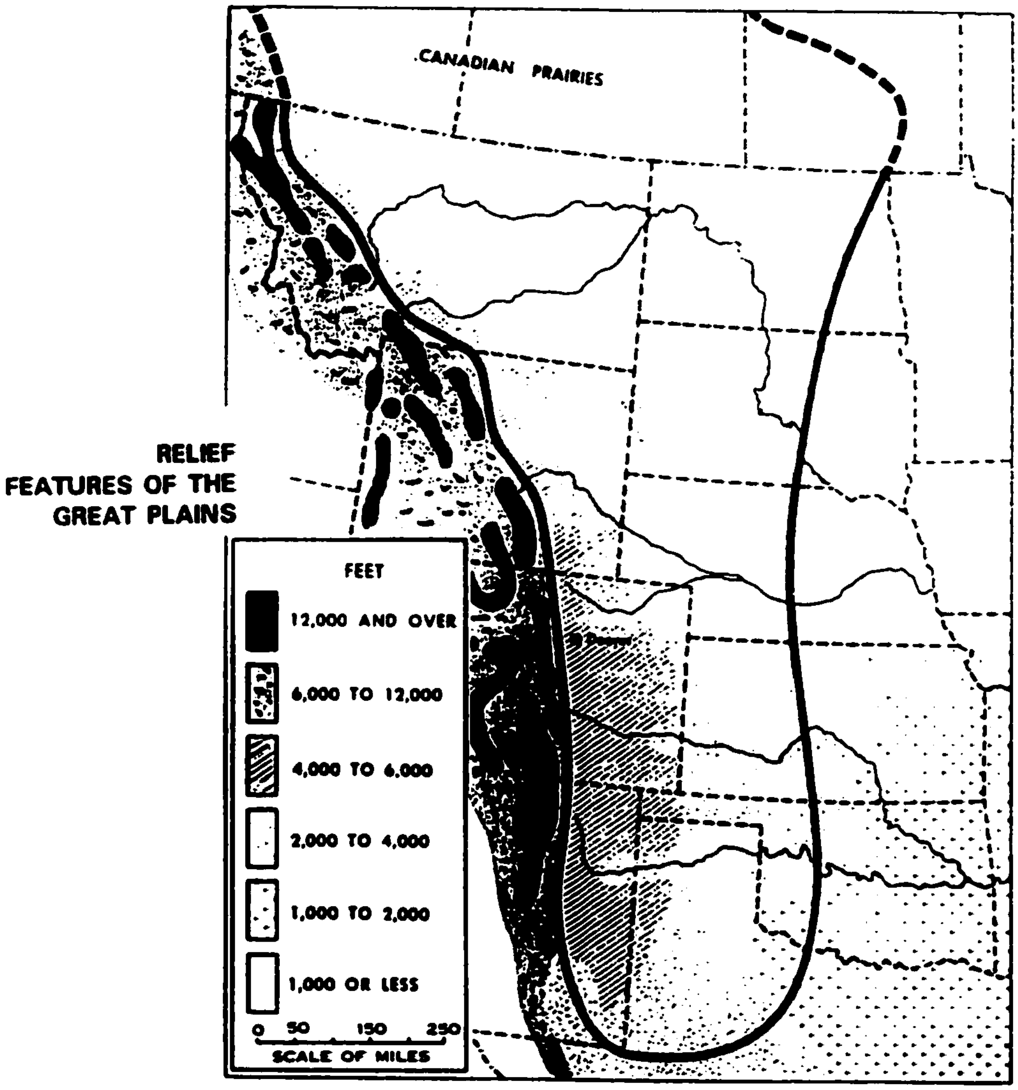


Figure 5.4
Great Plains Elevation
Reproduced from Langman (1971: 11)

> geologic period]. These deposits, called Ogallala are smooth and have a steady slope to the southeast . . . they are mostly limy brown silt and sand with gravel deposits near the bottom. During the Quaternary Period, windblown sands and silty loss were deposited over [these] Tertiary materials (U.S.D.A. Soil Survey, Cimarron County, Oklahoma, June 1960:2).

Over the years in the northwest quarter of the county which is crossed by the Cimarron River, erosion has exposed sediment of the Tertiary Period being of harder much older soils and rock of the Cretaceous, Jurassic and Triassic geological periods (Figure 5.5). This is a typical occurrence in the High Plains environment, unique only to this area of Oklahoma, and again exemplifies the heart of this ancient Southern Great Plains geological period according to Langman.

Climate

Cimarron County has a semiarid climate. Precipitation variations from west to east are 17.24 inches reported annually at Kenton to 15.78 inches recorded at Boise City, near the center of the county (Figure 5.1). With average monthly July temperatures of 77.9°F, heavy evaporation rates are commonplace (Cimarron County Conservation District, Long Range Total Resource Conservation Program, 1999: 19). Much of Cimarron County's aridity is attributed to the rain shadow effect due to the Rocky Mountains and strong prevailing westerly winds, which are a common characteristic (14.17 mph yearly average wind velocity) in this region. "Winds are an omnipresent part of the Plains and mean velocities are higher here [Cimarron County, Panhandle] than in any other part of the United States except near Cape Hatteras and in the Straits of Juan de Fuca" (Doerr and Morris 1960: 74).

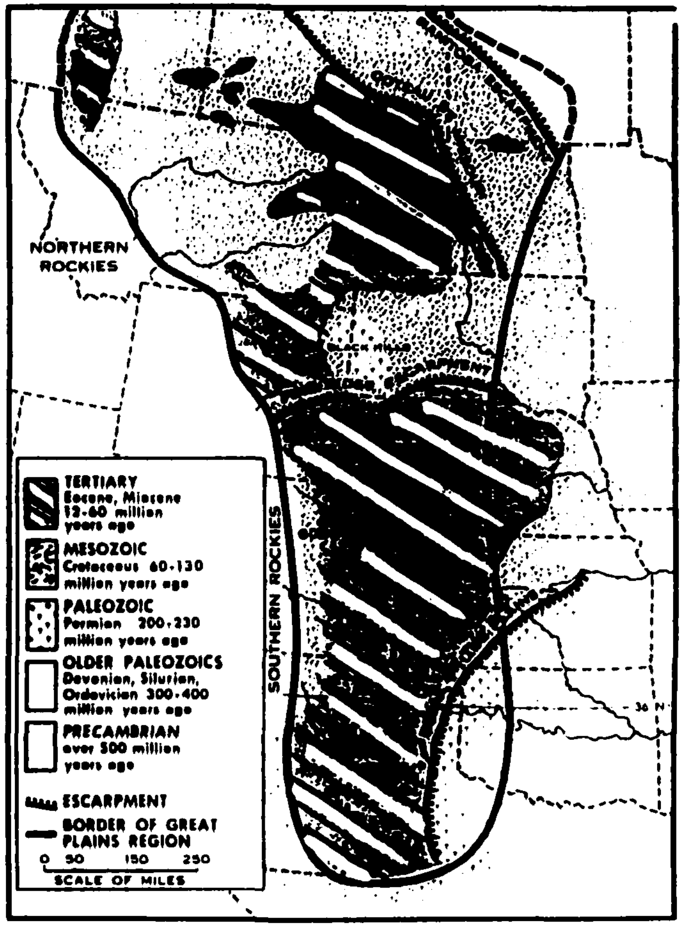


Figure 5.5
General Geology of the Great Plains
Reproduced from Langman (1971: 14)

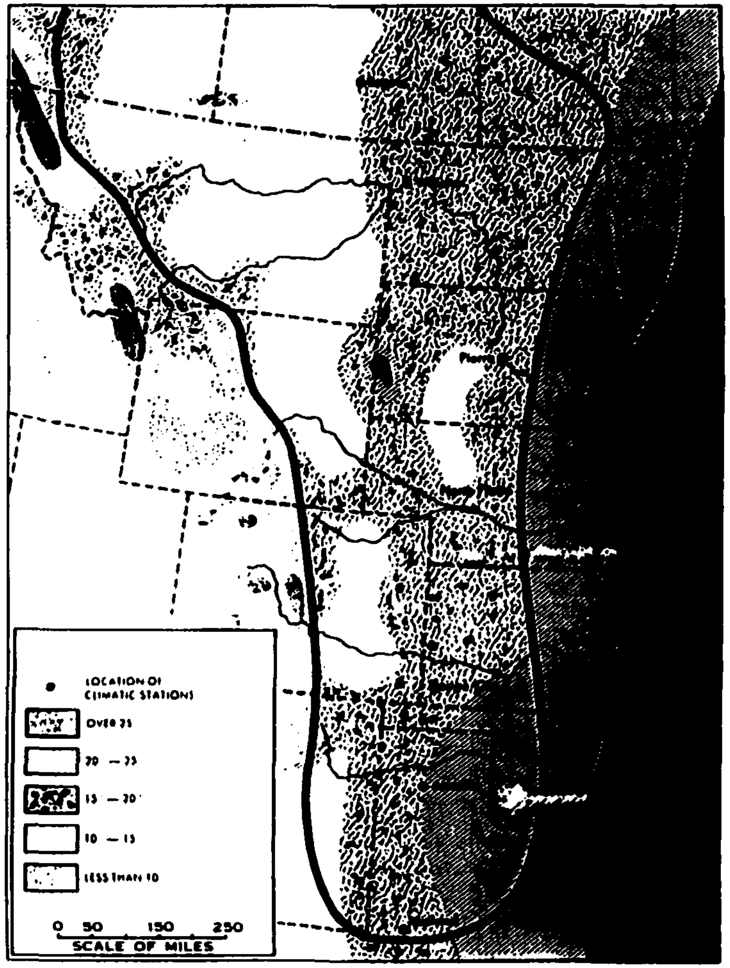


Figure 5.6
Precipitation in the Great Plains
Reproduced from Langman (1971: 26)

"Normal" precipitation in Cimarron County is somewhat "dicey" which is caused by fickle regional air masses and the displacement of one by another, creating as much as a 60° F drop of surface temperature within just a few hours. Even though these conditions exist, Cimarron County exemplifies the most common precipitation averages attributable to the core of the Southern Great Plains region (Figure 5.6).

Soils

Soil types and vegetation cover are conversely related. The soils usually indicate the type of vegetation that will thrive in a certain region, and vice versa. Two predominate soil-vegetative associations dominate the study area of Cimarron County and support the most prevalent grasses, indicative to this area. They are the Mansker-Potter Soils and the Trauessila-Berthoud Soils. Both represent better than 95 percent of all soils on these school lands. The vast majority of state lands in Cimarron County are located in fourteen townships in the northwestern portion of the county, represented by the six townships from T5N east to R6E and by the six townships further north from T6N east to R6E, plus the two townships of T4N, R1E and T4N, R2E (Figure 5.7A). It is within this unique fourteen township study area, that these soils dictate the vegetation and cattle carrying capacity of these lands.[3]

The Mankser-Potter complex of soils were developed from eroding Ogallala loams expose gravels in a rolling to broken to steep and stony topography near sandy

[3] Carrying capacity, which will be elaborated upon later, indicates how many head of cattle will thrive on a certain unit of land (an acre) over a specific period of time (a year), without damaging the soil-vegetative and regeneration balance.

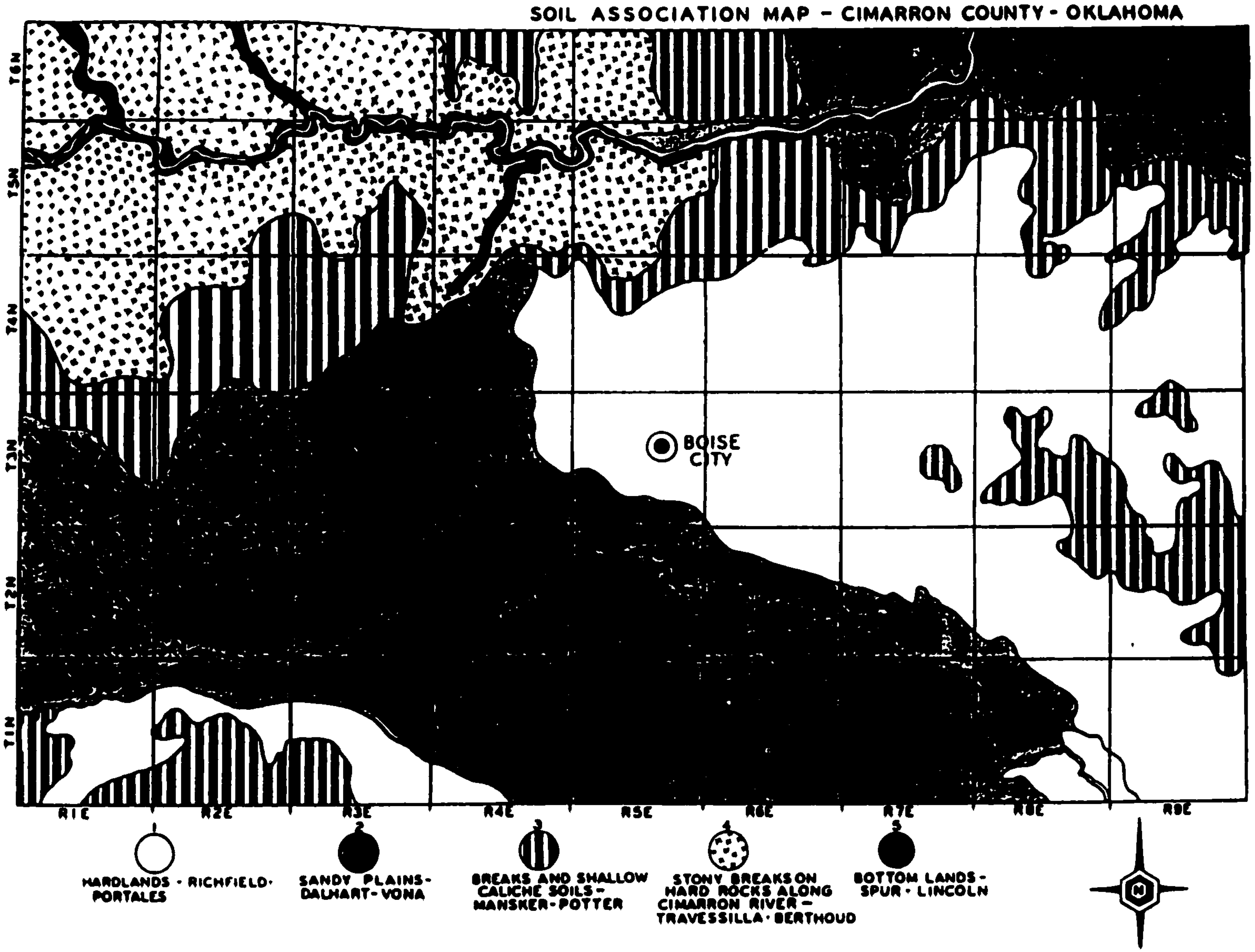


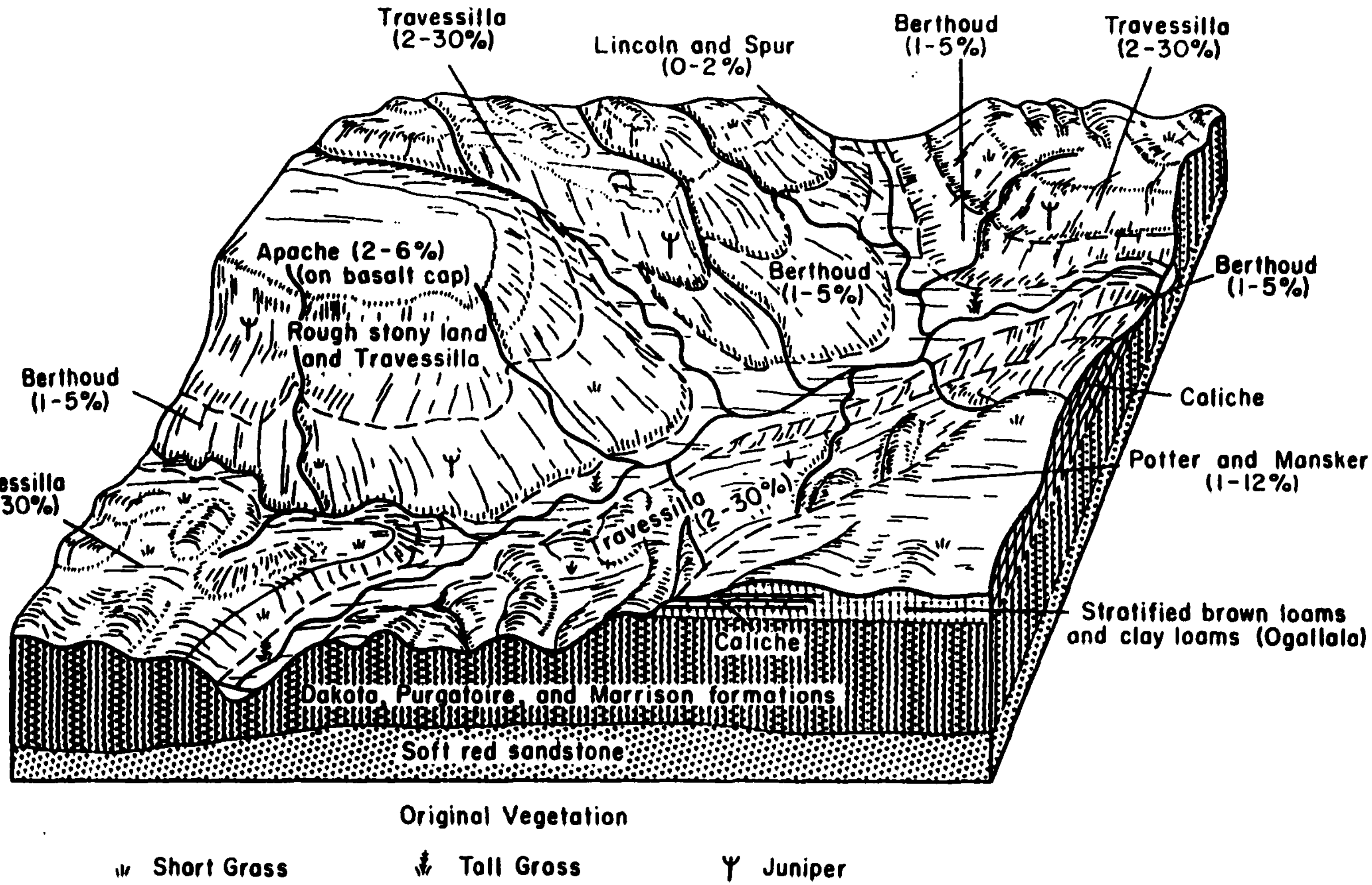
Figure 5.7A
Cimarron County Conservation District Map Report, May 1979 (page 11)

bottom lands. At the surface these soils are clay-like, lime permeated that have topsoils occurring to depths of 6 to 20 inches, which support mostly blue grama, buffalo and side oats grama grass, being suitable for grazing but not for crops. Severe wind and water erosion with runoff problems tend to take place on slopes greater than 3 percent in these soils (Cimarron County, Soil Survey, June 1960: 10). The Travessilla-Berthoud Soil association (Figure 5.7A) characterizes primarily 10 out of the 14 townships of school lands in Cimarron County. These soils are of poorer substance, being less deep having sandstone and shale fragmentation. Much of this soil is located near the foothills of mesas and small escarpments and is of a more sandy nature. This soil is only suitable for range use and has a tendency to erode if care is not taken and some overgrazing occurs. Hence, the Ogallala deposits of sand, loess, and alluvium in varying thickness are at the surface in most of Cimarron County except in generally the northwest quarter where school lands are located. It is here where the more eroded Ogallala soils are exposed, such as the poorer Mansker-Potter and Travessilla-Berthoud soil associations (Figure 5.7B)

Vegetation

The native vegetation cover here historically and currently consists of side-oats grama, blue grama, and buffalo grass (Cimarron County Soil Survey, June 1960: 9-10). In both of these major soil complexes (Mansker-Potter and Travessilla-Berthoud) the major vegetation cover is grama and buffalo grasses (Figure 5:8). However other vegetation has thrived in much of this area also, particularly little blue stem, western wheat grass and hairy grama grasses, which support the extensive cattle

Figure 5.7B
Northwest Cimarron County Soil Association Map
Cimarron County Soil Survey, June 1960 (page 7)



—Typical landscape is the northwestern part of Cimarron County

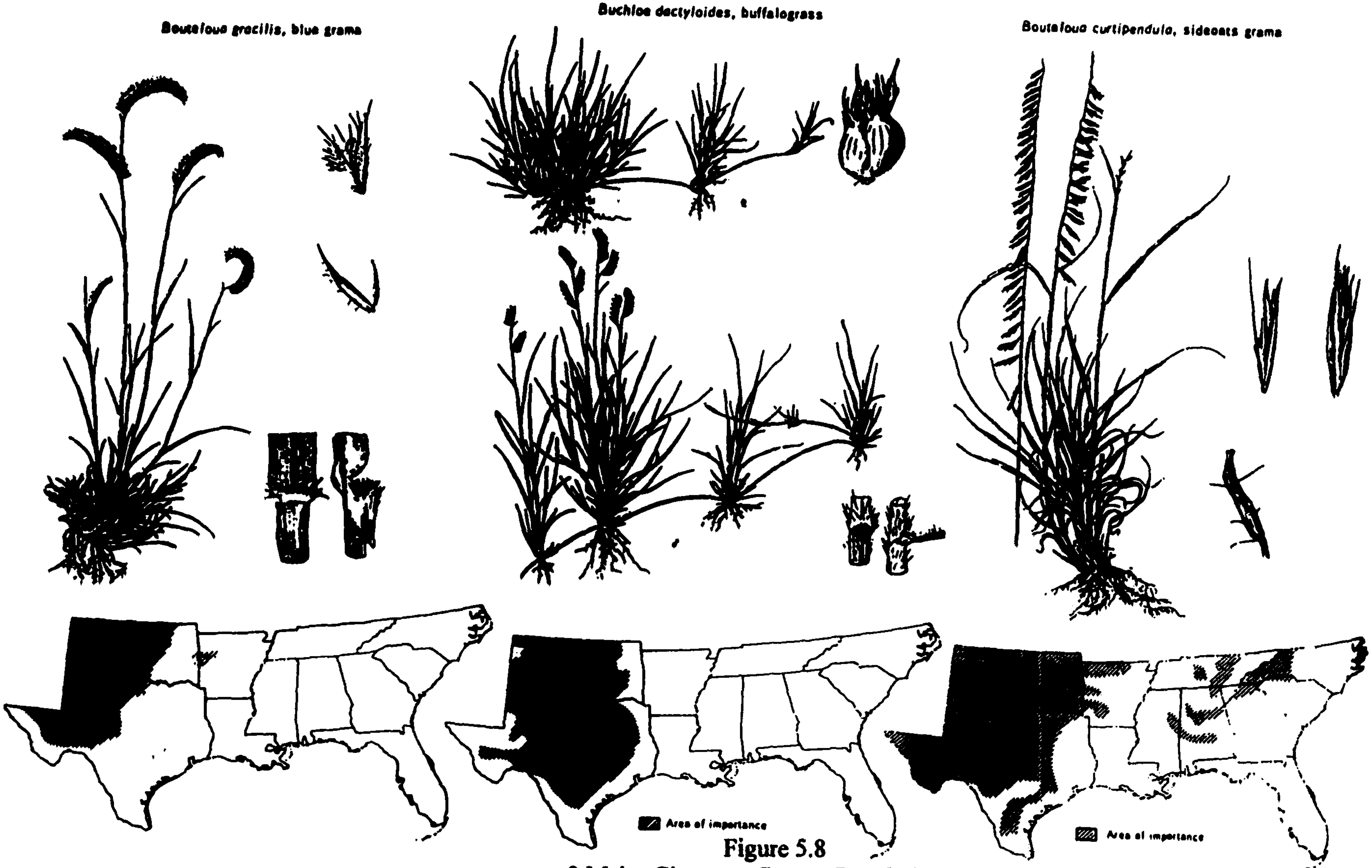


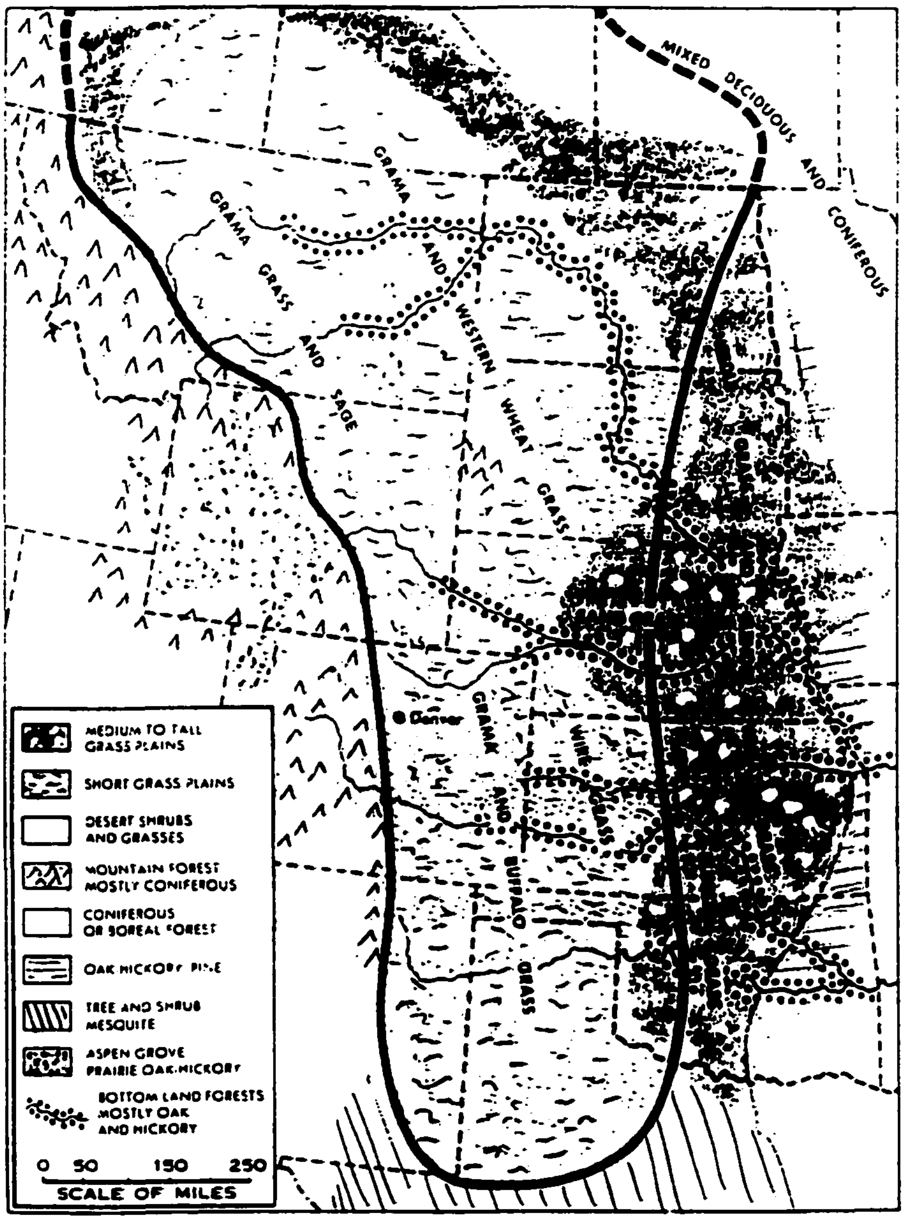
Figure 5.8
3 Major Cimarron County Ranch Grasses
Cimarron County Conservation District Vegetation Supplement (1979)

economy of the region. Grama and buffalo grass are the chief vegetation in the Southern Great Plains which is normal in arid areas of limited precipitation, with droughty or alkaline soils. Cimarron County thus exemplifies what Langman considers to be stereotypical Southern Great Plains vegetation (Figure 5.9). Cimarron County again representing the southern core of this region.

Thus Cimarron County is unique, especially from the rest of Oklahoma. This uniqueness is found in Langman's purely physical landscape perspective (structure, relief, climate, soils and vegetation), and is found in Mather's regional "man-land" relationship, where the landscape dictates the major human patterns, where "certain cultural traits have persisted since early white settlement [and before] and are prominent throughout the region" (Mather 1972: 237).

Cultural Landscape and Place

Culturally these southern plains ranchlands are also one of a kind, exemplifying a myriad of features that give this area its "signature." A cultural landscape encompasses "an ensemble of ordinary features which constitute an extraordinarily rich exhibit of the course and character of any society . . . every landscape is a scene, but landscape is not identical with scenery . . . landscape is all around us . . . related to, but not identical with, environment . . . [it] is defined by our vision and interpreted by our minds . . . [our] environment sustains us as creatures; landscape displays us as cultures" (Meinig, 1979: 4-5). Every important landscape has a social history which is an accumulation of values, behaviors, and actions, a vernacular culture that needs to be examined in Cimarron County's case in order to



NATURAL VEGETATION OF THE GREAT PLAINS

Figure 5.9
Natural Vegetation of the Great Plains
Reproduced from Langman (1971: 31)

decipher future antagonisms with the CLO. It is through this landscape lens that Cimarron County will be viewed, eventually leading one to examine Cimarron County not just as a landscape but also as a place -- landscape being the more general public construct, place being a more personal individualistic component in this cultural-perceptual mosaic.

To observe and analyze these shared elements of the cultural landscape Yi-Fu Tuan suggested that one look at a particular landscape from different angles, the "vertical view" and the "side view." The vertical view sees landscape as a domain, a work unit, objective and necessary for a livelihood, while the side view is an aesthetic, moral, personal look at that landscape, putting the person "in" the landscape. Both angles help one discover a particular landscape's essential character (Meinig, 1979: 90). To understand the nature of the evolutionary real and perceived conflict between the School Land Commission and the ranchers of Cimarron County, observation included both the "insider and outsider" perspectives: rancher versus downstate institutions and their policies. To discuss sequentially the most significant attributes of these people within this landscape, a melding of the basic components of a cultural landscape as noted by Meinig and the factors that contribute to the viability and vitality of a place according to Yi-Fu Tuan, with contributions from Edward Relph, inform the following discussion.

Meinig addresses ten perspectives from which a landscape may be viewed -- ten ways a person may want to describe a particular landscape -- as nature, habitat, artifact, system, problem area, wealth, ideology, history, aesthetic uniqueness and sense of place (Meinig: 1973, 34-47).[4] One or more views may be emphasized within this framework depending upon its importance in understanding a particular "stretch of country." Although by no means complete, these views structure the discussion of Cimarron County. The following discussion provides a sound understanding of various historical, social, political and personal happenings that eventually helped shape school lands decision-making-policies in Cimarron County.

Insider and Outsider Perspectives

Viewing this landscape *as nature* with all of its awe and majesty and pristine natural resources has always been under-emphasized in this study area. "Natural landscape" stereotyping from early historical expeditions, Dust Bowl days, buffalo, today's economic activity, and this area's isolation from the rest of the state give most outsiders the perception that these lands are desert, barren, hot, poor, inhospitable, endless, monotonous environs. However, in the mid-1990s Black Mesa, the highest point in Oklahoma, was purchased by the Nature Conservancy of Oklahoma to preserve a part of the awe and majesty of Oklahoma. As one rancher put it "the environmentalists are a threat to ranching, they think we're contaminating the rivers and destroying the ecosystems, but we're not, we're using the land for what it was meant to be used for."[5]

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[4] Meinig's ten viewpoints on landscape interpretations are italicized in the following discussion.
[5] A very strong sense of community is indicative to ranching, hence many ranchers are sensitive to what others think about them through interview transcript, they would rather talk "one on one" so as not be misunderstood and would rather not be directly quoted. During interviews I promised anonymity when it came to most issues sensitive or not. The vast majority of these interviews took place during the spring break and summer months from 1991 through 1999. Listed in this research bibliography however are the names of the people who have been gracious enough to grant me an interview.

Likewise the *aesthetic* nature of this landscape -- its rugged geological beauty and vast expansiveness -- is not the main essence of this landscape, although many local residents and long time visitors may beg to differ. The attention given to this area through the arts does give legitimacy and credence to its value as a special landscape. The biography of a landscape through various authors, according to Marwyn S. Samuels, is what gives a place "selfhood," a specific identity, and puts it into context with other different and nearby surroundings, creating an important one-of-a-kind recorded history that can be traced. Authors such as recently-deceased La Verne Hanners, and others like Jennie Rose Benton, Bernice Jackson, and Norma Gene Young comprise a sample of those who have tried to preserve this dynamic landscape by giving outsiders a comprehensive look at its strengths and beauty. It is important when setting the stage for Meinig's framework that the reader understand how strong the feelings are toward the aesthetic grandeur of this landscape as explained by its local authors and residents. A strong sense of place is evident especially by those who value this land, graze, respect and admire it. As one Kenton area rancher explained, "This is a perfect spot to live. There are not earthquakes, floods or tornadoes. This is a peaceful, quiet place and we praise God for the beauty."

Ranchers and Farmers: Today's Image, Yesterday's Tragedy

Viewing their landscape as an *artifact,* as Meinig puts it, something that is conquered and controlled by man leaving his mark everywhere, is contrary to most cattlemen in their grazing practices. Yes, this landscape has been transformed, thanks to a changing infrastructure, but the basic integrity of the land has never been comprised. The same general vegetation exists, the carrying capacity of the land is monitored, and ranchers understand that in order to survive on a long-term basis, they must be good stewards of the land. As one resident stated, "if you don't take care of the land it ain't gonna take care of you." However, in many ways the pioneer image has given this area in Western Cimarron County a negative legacy, disregarding current realities.

To elaborate, these lands are ranchlands, not croplands. In the catastrophe created in the mid-1930s by conquering technologies and climatic cycles, ranchlands were the recipient, not the cause, of the Dust Bowl disaster. With already pre-existing mistrust and friction toward farmers, one can only image how a cattlemen felt when cross-county neighbors were receiving massive government assistance to recoup, thanks to the recommendations of a federally appointed Great Plains Committee, and he basically wasn't. During the 1930s the farmer benefited the most from a half-century of land abuse. Payments started in 1933 and continued to 1937 through the Emergency Relief Administration, the Industrial Recovery Act, the Emergency Relief Act, the Bankhead-Jones Farm Tenant Act, the Department of Agriculture and the New Deal land-utilization policy implemented by way of the then recently formed Soil Conservation Service. In many areas the submarginal farmlands were converted to grazing lands.

During the Dust Bowl Era, (roughly 1933 to 1939) acreage control (a cousin to today's "CRP," crop reduction program), grain technology, irrigation development, crop insurance and parity pricing for the farmer emerged. For the rancher relief came mainly through economic measures such as halting forced land sales, deferring of mortgage foreclosure, the refinancing of credit and a minimal effort to compensate him for destroyed cattle (Kraenzel, 1955: 152). Even today some of the same stereotyping is reflected in the rancher farmer relationship. "Farmers and the farming community generally view the ranchers like we're on welfare, just because we lease what they consider to be inferior land in order to make a living," explained a rancher. Ranching may possibly be the least damaging change agent. To the cattlemen land was never intended as an *artifact* to be manipulated, chewed up or changed permanently, just understood.

Current Solutions to Past Problems

A direct result of the calamitous 1930s was to view this landscape as a *problem area,* which evoked a strong emotional identification with, and reverence for nature. The goal was to achieve some sort of balance or harmony with the surroundings and to make land productive and efficient without destroying the environment. Since the 1930s this image has been the focus of most having contact with these lands. The driving force behind sound land management policies in this area is the Cimarron County Conservation District which works closely with the Natural Resources Conservation Service, the Oklahoma Conservation Commission, and the Oklahoma Economic and Development Association. All are directly or indirectly involved in programs designed to help farmers and ranchers alike to understand the landscape in terms of being a *habitat* that is interdependent on many complex *systems* in order to thrive.

Although the majority of state-and federally-funded programs still favor the farmer in Cimarron County, a few specific efforts assist the rancher to understand the landscape in terms of its vegetation, soils, slopes, elevations and exposures, and the hydrologic and climatic processes that shape this land. Meinig would view this landscape as a *problem,* recognizing the various perplexities and differences between farm and ranchland programs, aggressively inspiring actions that would hopefully correct any glaring imbalance. One such program in Cimarron County places major emphasis on the improvement of the range ecosystem through the planting of better forage vegetation, erosion prevention techniques, and lower cow-calf ratios to reduce further the possibility of overgrazing.

<u>Overgrazing, Water and Wealth</u>

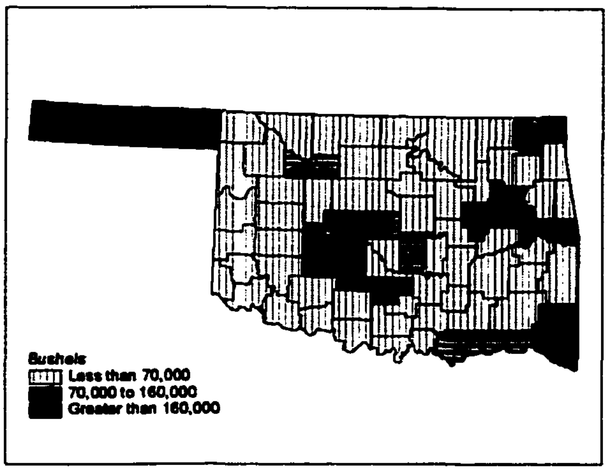
From a local standpoint this rangeland management program appears to be taking hold. In 1995 10,000 acres of grazing lands were actively involved, and by 1999 the most recent figures generated by the Cimarron County Conservation District (CCCD) indicated that currently 30,000 acres are committed to this strategy. Ironically the CCCD acknowledges in its FY1995-FY1999 Report (page 2) "the Commissioners of the Land Office is under court order to receive the maximum return from the grazing leases by competitive bids. This is expected to increase overgrazing and erosion on state school land and adjoining private land."[6] The CCCD and a vast majority of ranchers detest this approach (of competitive bidding), claiming it promotes an impersonal, tentative, removed relationship with the land, and promotes the possibility of an outsider renting and overgrazing. One rancher explained "bidding is poor stewardship. The land owns us. Its like a member of the family, we don't tell it what to do, it tells us what to do . . . The longer people have the land the better they'll manage it . . . An outsider will rape the land and leave!"

Another closely associated program encouraged by the CCCD is the "Plan Grazing Systems" approach to land conservation, simply helping the rancher retire various parcels of land during the grazing season in order to rejuvenate it, giving a higher sustainable vegetative yield during the following year. Regarding acreage for this program, the CCCD reported that a meager 1,000 acres in use during 1995 increased dramatically to 30,000 acres by 1999 (FY 1995-FY 1999 Report, page 6C).

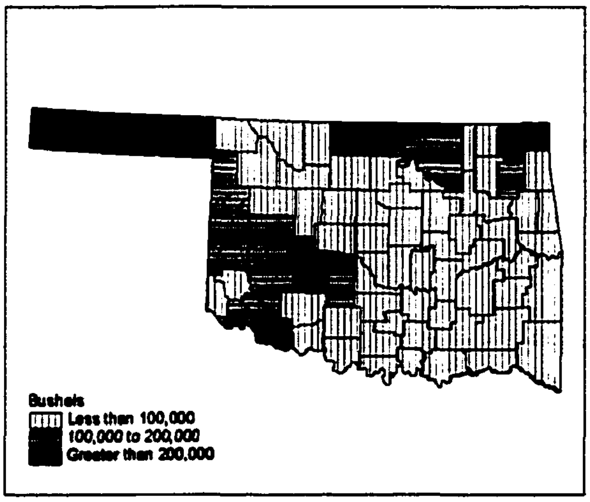
Still another major recognizable *problem* when viewing this landscape as both a *habitat* and an intermingling of *systems* that is just now being addressed is improving water management practices in the area, not only in concert with surface water, but with its major groundwater supply, the Ogallala Aquifer, which is being depleted at an ever growing rate. Excluding the area in the northwestern corner of Cimarron County where Black Mesa is located, most all of the farming acreages and population in the county are mainly dependent on groundwater. Wells are dug for

[6] The change in CLO philosophy to instigate competitive bidding on leases which had not been widely practiced prior to 1982 will be elaborated on in the following chapter.

1993 Corn for Grain Production



1993 Grain Sorghum Production



1995 Oklahoma Cattle & Calf Inventory

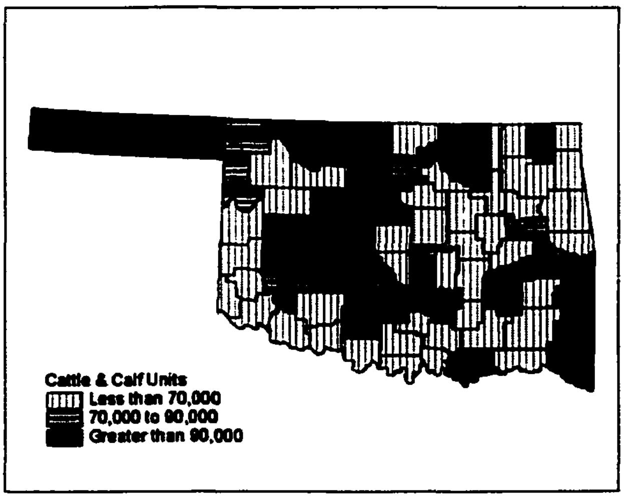


Figure 5.10
Cimarron County Conservation District Report Maps (pages 24-25)

personal, feedlot, ranching and irrigation use. It is clear that the potential for economic growth for this county is directly related to water resource management. Already with three major feedlots, that fed out in 1995 approximately 160,725 head of cattle, Cimarron County is the state's leading producer of grain sorghum, the second leading producer of corn for grain, and the third leading county for all cattle and calves (Figure 5.10). The conservation agencies are acutely aware that a more aggressive plan of water resource allocation must be instituted in the near future. As with any viable landscape a trade off and balance must be maintained between the natural landscape and any economic endeavor. Two of Meinig's elements of landscape description create a mutual cause and effect relationship, namely viewing the landscape through a series of *problem* solving activities or viewing the landscape for its *wealth* of market potential. Cimarron County is again

rather unique economically, almost 100 per cent of the population is reliant on agricultural and ranching related industries according to the 1990 census. The county's lack of diversification provides for many less complex economic issues which give a greater sense of unity and understanding when identifying problems associated with its economic focus. This two-pronged economy (farming and ranching) creates, especially to the outsider, the image of a simplistic have or have not economic picture. A person might assume that great wealth is generated here thanks to the two faceted economy, which is suited to large landholdings that encompass the entire county. On the other hand one might assume that a stagnant, depressed situation exists due to hardly any economic diversification. The popular view held by most downstaters, including both governmental institutions and private individuals, is that most ranchers have wealth because they control so much land. These perceptions are important to remember when looking at the CLO and the 1982 litigation against it. That Cimarron County does possess a healthy climate for potential economic growth in farming, ranching related and non-related industries, is discussed in the final chapter.

<u>Cimarron Ranchlands: Historical and Ideological Happenings</u>

Concerning Meinig's last three elements in understanding a landscape, Cimarron County's *history*, *ideology* and sense of *place* represent the most divergent points of view from the insider-outsider perspective, and as many believe, are the crux of numerous blunders associated with the administration of CLO laws. Prominent historical and ideological happenings precipitated many of the misunderstandings that lead up to the 1982 litigation. Also, a sense of place, both perceived and real, gives insight into the actions and reactions of both the rancher and the CLO prior to and preceding the lawsuit.

This sense of place which permeates the ranching landscape came to be through a dynamic chronological cumulative process. The topography, soils, climate, vegetation, and hydrology have historically had a strong influence on economic activities and perceptual images of this land. From a nomadic bison economy to a sheep then cattle industry, to a sustainable ranching country, a strong sense of place has emerged. Vast acreage was needed in all operations, with the first official government recognition occurring when the territorial grazing-farming line was instituted in 1891, which permitted greater than 160 acre leases (see Chapter 4, also Figure 4.6).

Governor Steele's proclamation in 1890 had declared an opportunity for ownership through statehood to those who had settled on school lands if they persevered and were patient. The seed had been planted, even officially, from territorial inception: Those leasing school lands need not be overly concerned for these lands would eventually be theirs. This created a historical mindset that the School Lands Commission encouraged and even nurtured through "preference leasing" until 1982. Additionally, it had always been assumed, especially by the lessee, that a more than reasonable rental rate not only reflected this arid landscape's capability, but also provided a lesser financial burden in order to promote a possible future probability to purchase. Interestingly, regarding rental rates, when appraisals of school lands were finally completed in 1909 just before substantial land sales and new higher rental rates were issued, the protests by lessees were so prolific that the CLO canceled its order making the 1908 rates still applicable until 1910. Instances such as these repeated themselves to a lesser degree up to the 1982 suit, and reinforced the lessee's belief that these lands would one way or another be his through perpetual rental or purchase. To make the situation even worse, a false sense of near ownership was implanted in the rancher's psyche by allowing him at one point to use his rental school lands as collateral for various loans.

No other singular historical happening molded the *ideological* landscape of Cimarron County more than its forced birth in 1854 which led to it being called unassigned land, better known to all as "No Man's Land." For thirty-six years until 1890, it was literally "No Man's Land," especially for the rancher/settler. In 1888, the congressional record stated that

> at the present there is no legal machinery by which they can acquire title to the lands upon which they have settled. There is no law to protect them in the property which they may take with them into the territory; there is no law that protects them or their persons or property from violence while in the territory; there is no law in that section by which they can collect any debt or obligation which may be contracted, and there is no law by which the people of Kansas, or of New Mexico, or of Arkansas, can collect any obligation that may be contracted with a settler upon this no-man's-land, there is the utmost need of some legislation touching this land, for it is virtually outside the pale of the law, and outside of the United States in that respect, although geographically within its limits (Congressional Record Senate Proceedings for September 24, and December 12, 1888).

From its very creation No Man's Land was an anomaly. It was never fully accepted or recognized as viable land from an outsider and institutional point of view. To the insider-rancher this encouraged mistrust of the agency and a strong will to survive no matter what the circumstance might bring. True this was cattle country, inhabited by a rare breed of Plains pioneers, spirited, tough minded, independent and misunderstood in what many considered inhospitable or, at best, difficult country. Most ranchers then and now feel married to the land in the truest "give-and-take" sense, and many understand that in a sort of predestined way, not many other people would thrive under such conditions. With this attitude most ranchers know that structures, institutions and policies enacted by others will come and go but the land will always remain. The people never really change only the names of this place: Cattle Country, Unassigned Lands, No Man's Land, Oklahoma Territory, Oklahoma, today the Panhandle, and again No Man's Land. The label "No Man's Land" and all of its manifestations, exaggerated or not, has been etched in our minds and is still a powerful reminder of the gamit of perceptions that have been conjured up over the years: 1854 (its "boxed in birth"), 1890 (added to Oklahoma Territory), 1907 (became part of Oklahoma), 1982 (litigation over lands), and today. To an insider, however, a strong sence of place exists.

The Intended, Imagined and Inconspicuous Landscape

A significant sense of Cimarron County "the place" with vast school land acreage, emerges through applying Meinig's basic structure. Several other specific qualities concerning the viability and vitality of these ranchlands through place descriptions and analysis by "place geographers," Yi-Fu Tuan and Edward Relph, also emerge. Relph cautions that for many place is difficult to sense, due to its seemingly abstract and perceptual nature. Relph explains however, that in a place individuals group the world around them, singling out those elements which may serve as a means or an end for their use and enjoyment, not just through the senses, but through the projection of personalities. Both emotional and tangible bonds tie people to the landscape, making space not just a perceptual place, but a "lived" place as well (Relph 1976: 10). An outsider has to live "in this field of domination" (as Relph calls it) in order to understand the content and substance of both the intended and imagined landscape.

Tuan explains that "a place is the compelling focus of a field: it is a small world, the mode at which activities converge . . . places that yield their meaning to the eye, and places that are known only after prolonged experience" (Board, Chorley, Hagget, and Stoddart 1974: 236). For Tuan, the intended (symbolic) and imagined do stylize a place. However, it is the affectionate (inconspicuous) every day features that also create a landscape. Tuan calls these affectionate, and usually inconspicuous place features "fields of care," represented through "the look" of a town and its establishments, use of space and activities, homes and other material artifacts that express a conscious and emotional identity that define that place. "Public symbols can be seen and known from the outside: indeed, with monuments there is no inside view. Fields of care, by contrast, carry few signs that declare their nature: they can be known in essence only from within. Human beings establish fields of care, networks of interpersonal concern, in a physical setting" (ibid: 241).

Identifiable Ingredients

The visible intended landscape of western Cimarron County is mainly a symbolic representation of its history and physical surroundings. The symbolic physical landscape is represented by three impending geological structures in the area: Black Mesa Nature Reserve, the highest point in Oklahoma (4,973 feet), giving this area its namesake by insiders, "Mesa country," and two impending geologically formed shale-sandstone structures representing the likes of an "old maid" and another representing a "wedding party" directly visible from State Highway 325 east of Kenton, Oklahoma. These imagined and yet realistic representations of people portrayed in stone emphasize the significance of this relationship between the people and their identification with this landscape. Historically, a strong bond to the past in this area is expressed through other symbolic sites that showcase its archeological and frontier image to those wishing to explore the area. Dinosaur tracks preserved in Morrison sandstone formations near Black Mesa and a dinosaur pit again near state Highway 325 plus many "folsom man" artifacts, especially projectile points, are ubiquitous in this immediate area.

Along the Santa Fe Trail, which traverses this region, "Autograph Rock" and "Robbers Roost" are probably the other most revered symbolic sites in the area.[7] The importance of the Santa Fe Trail is noted in highway markers. Autograph Rock provides another meaningful link to the pioneer experience. Lastly, Robbers Roost, used as a past outlaw headquarters near Kenton and the trail blazed by Coronado of Spain many years before, provide much of the speculation and folklore associated with buried wealth which is said to be here (Figure 5.11). The past for these mesa ranchers and community is significant. As Tuan puts it, "to strengthen our sense of self, the past needs to be rescued and made accessible . . . The passion for preservation arises out of the need for tangible objects that can support a sense of identity" (Tuan 1977: 187-8). For Cimarron County, these sites provide the visible content and substance that bonds this place, and makes it different. Community traditions and ceremonies also help provide for a strong sense of place through events, especially the annual Santa Fe "Trail Daze" celebration (late May or early June) or the Kenton Easter pageant.

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[7] Autograph Rock near Cold Springs Crossing displays many carved inscriptions of past trail pioneers, and is designated as a national historic site. Robbers Roost was the home of the infamous Coe Gang, who preyed on traders and travelers on the nearby Santa Fe Trail.

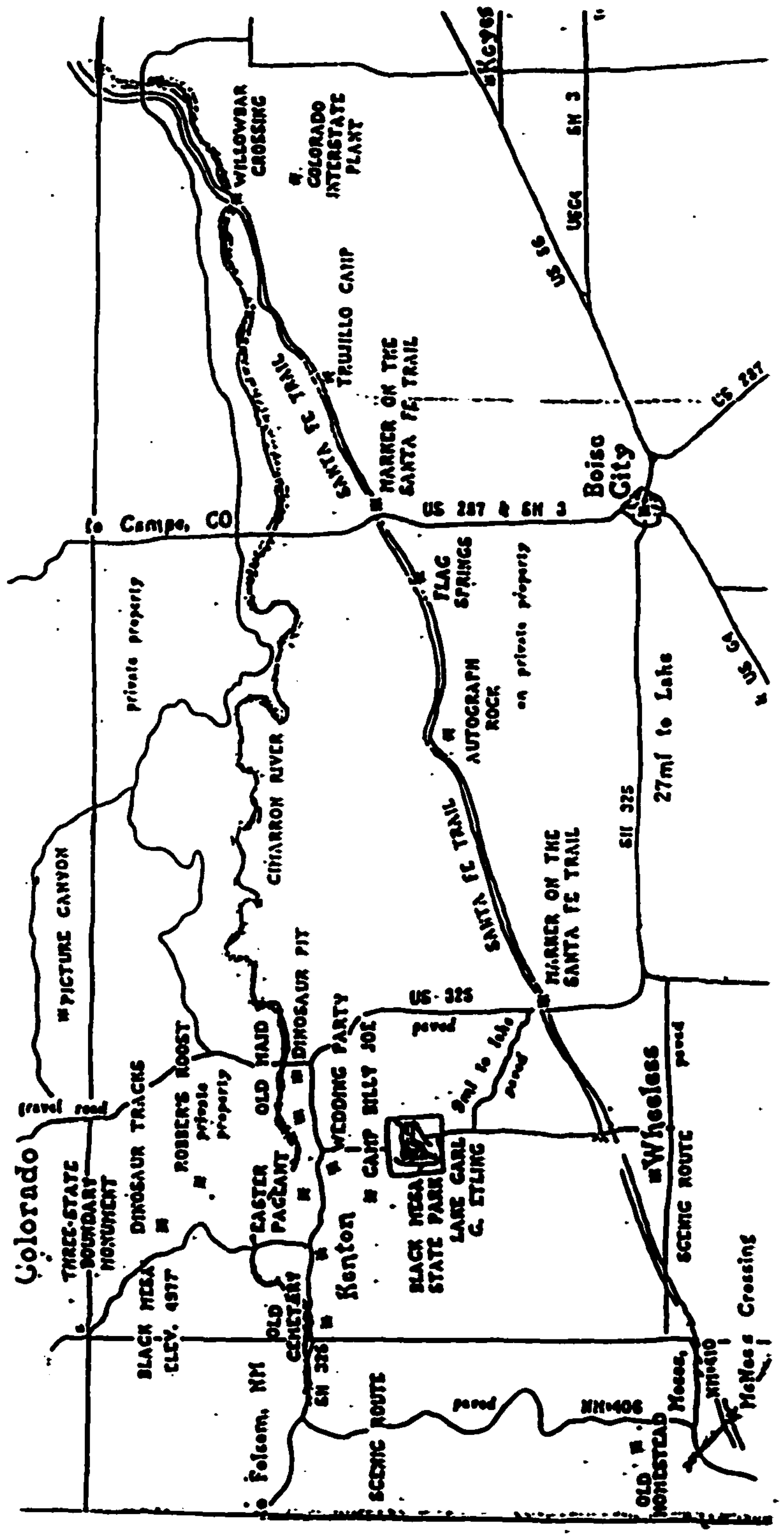


Figure 5.11
Cimarron County Historical Sites
(Hitching Post – Local Lodging Advertisement Map 1996)

As for the hard-to-see, more inconspicuous landscape, what Yi-Fu Tuan dubs "fields of care," usually only experienced by an insider and only understood by a long-term visiting outsider, Boise City, and to a lesser degree Kenton, exemplify strongly this "must" ingredient in sustaining a viable, vibrant place, mainly through its cafés and restaurants. As a recent *Southern Living* article states, "The Kenton Mercantile, a ramshackle general store [to outsiders], serves as the town's nerve center. Residents stop in for snacks and a talk. Visitors seek directions and supplies. There they find Alan Griggs . . . Alan monitors the ongoing discourse that defines Kenton life . . . The Merc (as it's called) is headquarters for everything that rates as news" (Vol. 33, #7, July 1999:72). It is there that the past is resurrected, rehashed, sometimes embellished and reinforced creating a sense of self. It is there that deeds are recorded and remembered, and community decisions are made. It is there that the identity of this place is preserved and at times modified. It is through this real and perceptual landscape that the physical boundaries of this place, its field of domination, is created, defining ranching country – northwest Cimarron County.

A Distinct Cultural Region?

It might be argued that this area has many of the same attributes as does a distinct culture region as defined by Wilbur Zelinsky in his *The Cultural Geography of the United States*. Zelinsky classifies culture areas into three temporal categories: the traditional region, the voluntary region, and an emerging hybrid region, which displays qualities of both the traditional and voluntary region like western Cimarron County. Generally, traditional regions are born-in-stayed-in regions; voluntary regions are chosen for future aspirations with other strangers of like-mindedness. Zelinsky suggests that two major characteristics set cultural regions apart from any other variety of geographic regions. They are "(1) The extraordinary number of ways in which it is manifested physically and behaviorally; and (2) the condition of self-awareness on the part of the participants" (Zelinsky 1992: 112). From all appearances, this ranching society situated in the heart of the southern Great Plains does exemplify this criterion.

Zelinsky's model is intended for a much broader national contextual understanding, specifically through the identification of five major traditional culture areas within the United States, mapping these areas as first, second, and third-order cultural boundaries (Figures 5.12 A & B). A traditional or first-order cultural region is one that is mostly self-contained, populated by residents that are born into and generally stay within that region, with little in- or out-migration, having a symbiotic long term relationship with the land with a distinctive visible landscape (Zelinsky 1992: 110). Zelinsky clarifies his mapping of cultural areas stating that migrations from three basic colonial culture hearths positioned along the Atlantic coast explain these modern boundaries. It was the formation, nurturing and growth of those hearths that eventually led to westward settlement. He recognizes that as the newer regions developed, they tended to be a blending of original hearth area cultural traits and became harder to define.

When describing the "West," region V (Figure 5.12 A & B), Zelinsky calls it "the problem of the West" and concedes that this area poses "a genuine dilemma" in

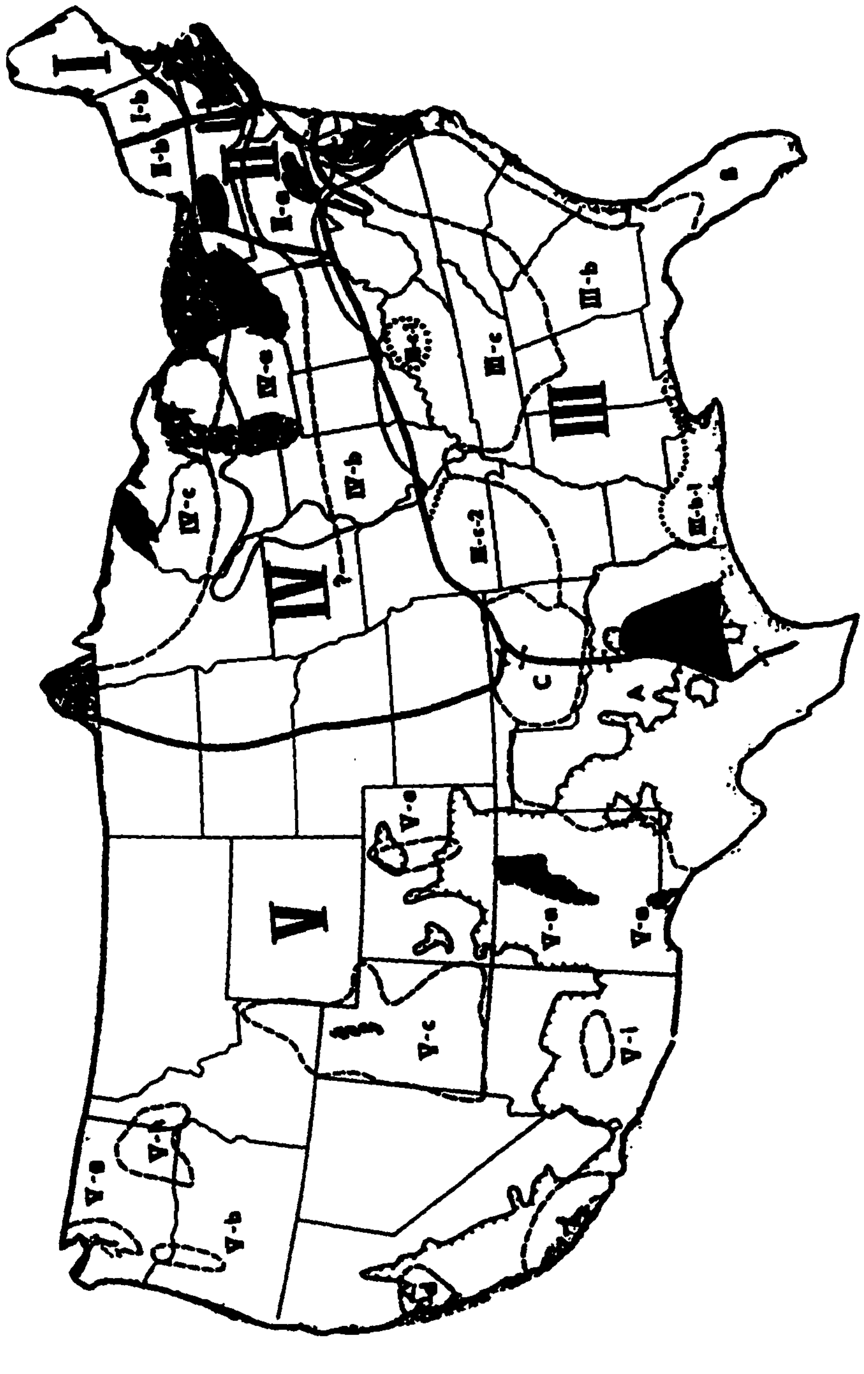


Figure 5.12A
Zelinsky's Cultural Boundaries Map
Reproduced from Zelinsky (1992: 118)

First-order cultural boundary
Second-order cultural boundary
Third-order cultural boundary
Documented core area
Presumed or incipient core area

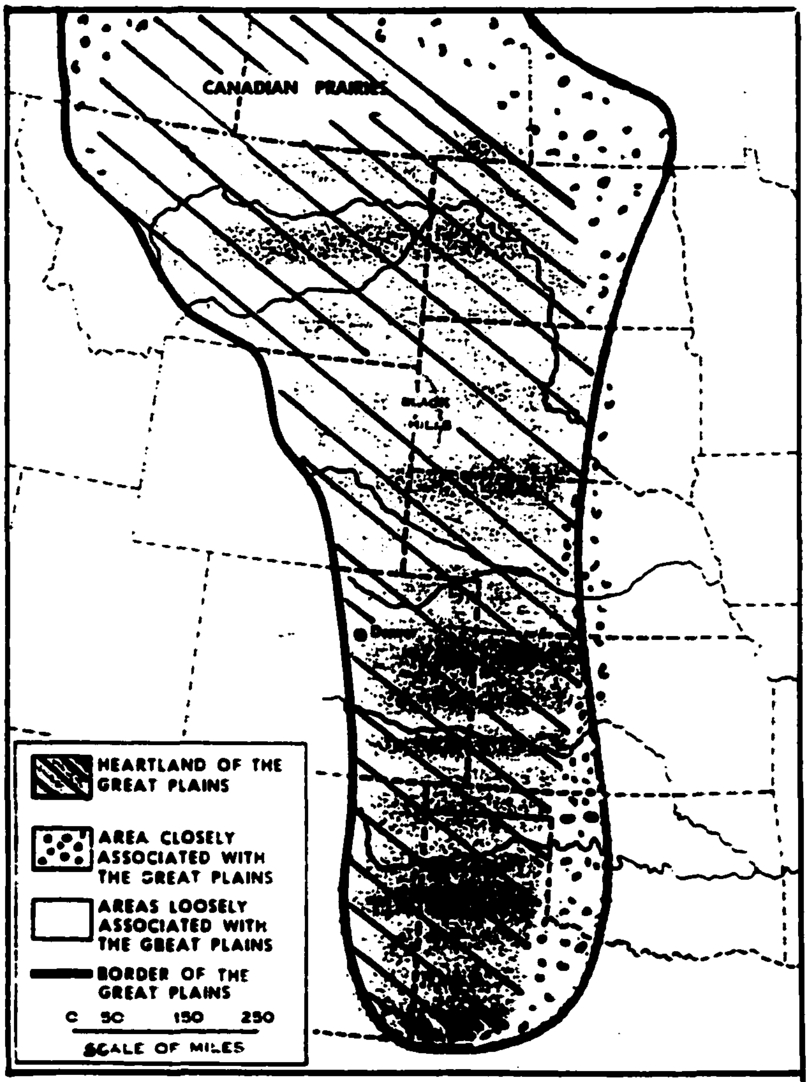
Boundary of Socioeconomic Core Region of North America, ca. 1970
Northern boundary of significant Hispanic-American settlement (after Nostrand)

REGION	APPROXIMATE DATES OF SETTLEMENT AND FORMATION	MAJOR SOURCES OF CULTURE (listed in order of importance)
I. NEW ENGLAND	1620-1830	England
I-a. Nuclear New England	1620-1750	England
I-b. Northern New England	1750-1830	Nuclear New England; England
II. THE MIDLAND		
II-a. Pennsylvanian Region	1682-1850	England & Wales; Rhineland; Ulster; 19th Century Europe
II-b. New York Region, or New England Extended	1624-1830	Great Britain; New England; 19th Century Europe; Netherlands
III. THE SOUTH		
III-a. Early British Colonial South	1607-1750	England; Africa; British West Indies
III-b. Lowland, or Deep South	1700-1850	Great Britain; Africa; Midland; Early British Colonial South; aborigines
III-b-1. French Louisiana	1700-1760	France; Deep South; Africa; French West Indies
III-c. Upland South	1700-1850	Midland; Lowland South; Great Britain
III-c-1. The Bluegrass	1770-1800	Upland South; Lowland South
III-c-2. The Ozarks	1820-1860	Upland South; Lowland South; Lower Middle West
IV. THE MIDDLE WEST	1790-1880	
IV-a. Upper Middle West	1800-1880	New England Extended; New England; 19th Century Europe; British Canada
IV-b. Lower Middle West	1790-1870	Midland; Upland South; New England Extended; 19th Century Europe
IV-c. Cutover Area	1850-1900	Upper Middle West; 19th Century Europe
V. THE WEST		
V-a. Upper Rio Grande Valley	1590-	Mexico; Anglo-America; aborigines
V-b. Willamette Valley	1830-1900	Northeast U.S.
V-c. Mormon Region	1847-1890	Northeast U.S.; 19th Century Europe
V-d. Central California	(1775-1848) 1840-	(Mexico) Eastern U.S.; 19th Century Europe; Mexico; East Asia
V-e. Colorado Piedmont	1860-	Eastern U.S.; Mexico
V-f. Southern California	(1760-1848) 1880-	(Mexico) Eastern U. S.; 19th & 20th Century Europe; Mormon Region; Mexico; East Asia
V-g. Puget Sound	1870-	Eastern U.S.; 19th & 20th Century Europe; East Asia
V-h. Inland Empire	1880-	Eastern U.S.; 19th & 20th Century Europe
V-i. Central Arizona	1900-	Eastern U.S.; Southern California; Mexico
REGIONS OF UNCERTAIN STATUS OR AFFILIATION		
A. Texas	(1690-1836) 1821-	(Mexico) Lowland South; Upland South; Mexico; 19th Century Central Europe
B. Peninsular Florida	1880-	Northeast U.S.; the South; 20th Century Europe; Antilles
C. Oklahoma	1890-	Upland South; Lowland South; aborigines; Middle West

Figure 5.12 B
Zelinsky's Cultural Boundaries Map
Reproduced from Zelinsky (1992: 119)

cultural classification, but acknowledges in a somewhat awkward fashion that "cowboy-Western-livestock complex" is a single subculture, although fails to recognize it cartographically. He states that "the concept of an 'American West' is strong in the popular imagination and is constantly reinforced by the romanticized images of the cowboy genre . . . The cattle industry may have accounted for more than half the active Western acumen, as measured in acres, but it accounts for only a relatively small fraction of the total population; and in any case a single subculture cannot represent the total regional culture" (Zelinsky 1992: 129). If population is the major determining factor for regional or subregional recognition, it is unclear why Zelinsky bestows "regionality" to areas such as "central Arizona," V-i; "inland empire" V-h; "Willamette Valley" V-b, or any less populated region. The southern Great Plains, encompassing Cimarron County for that matter, what Langman refers to as "the Great Plains Heartland" (Figure 5.13) is arguably a distinct culture region.

This area does mirror, with Cimarron County ranchlands as its core, a region with a distinctive visible landscape. These people who have an intimate long term relationship with the land and form a human ecology specific to that locality; they are like-minded people, with a sense of place that creates a snapshot of a homogenous society. This area has nodal, and peripheral traits expressed through various associations, primarily of economic nature. Regional telephone directories focus on the Oklahoma and Texas Panhandle areas (Figure 5.14) as represented by the "Eaglenet" directory, which includes listings from Liberal, Kansas south to Amarillo, Texas. Likewise, the electric service, provided by Southwestern Public Service



THE GREAT PLAINS HEARTLAND

Figure 5.13
The Great Plains Heartland
Reproduced from Langman (1971: 34)

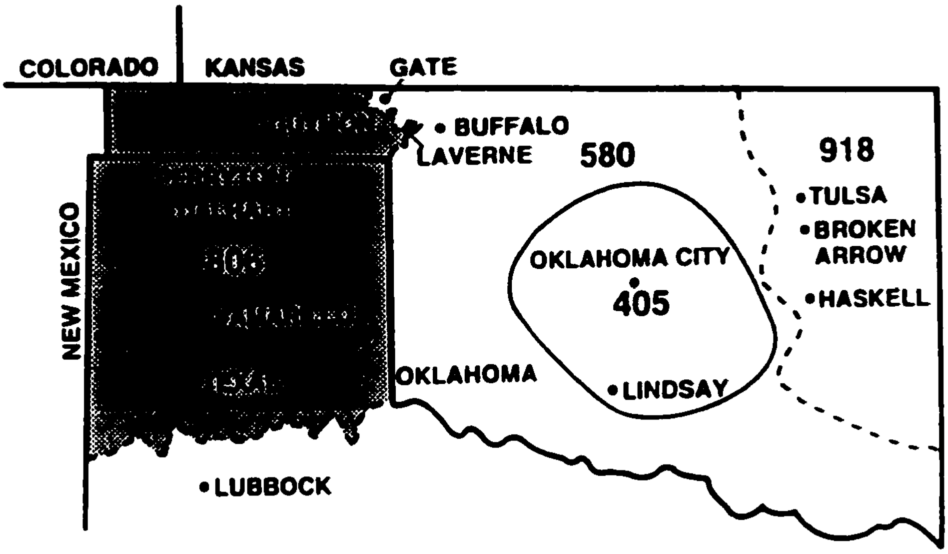


Figure 5.14
Regional Telephone Map (EagleNet Phone Book 1998 Edition)

Figure 5.15
Southwestern Public Service Company Map, 1999

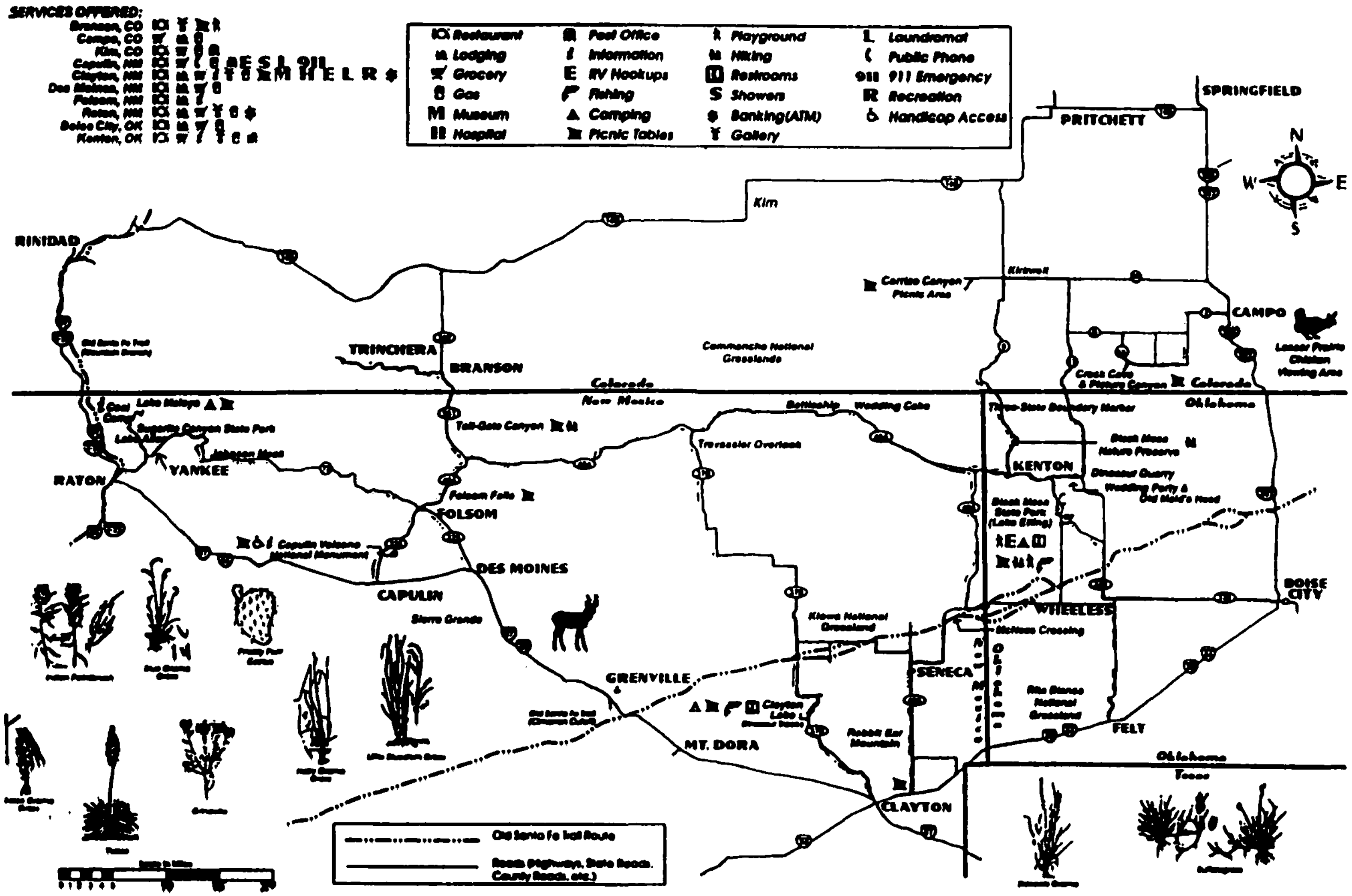


Figure 5.16
Dry Cimarron Scenic By-Ways Map, 1998 (Boise City Chamber of Commerce)

Company, also includes a multi-state regional network that includes southwestern Kansas, the Oklahoma Panhandle, Texas Panhandle and southeastern New Mexico (Figure 5.15). Historically, this mesa ranchland country is identified as a sector included as part of the "dry Cimarron scenic by-ways tour" (Figure 5.16). Regionality that excluded recognition of downstate Oklahoma was also depicted through the vast majority of conversations and all of the formal interviews that the researcher conducted. Cattle were fattened and/or marketed regionally in Clayton, New Mexico; Trinidad, Colorado; Liberal, Kansas; or locally in Felt, Boise City or Guymon, Oklahoma. Large consumer purchases, such as appliances, television sets and significant medical care gravitated south to Amarillo, Texas, and occasionally to Liberal, Clayton, Boise City and Guymon. Substantial grocery purchases, entertainment and eating out at a "special place" all involved traveling to Amarillo. Not one family or person that was interviewed had any strong identification with the broadcast markets in downstate Oklahoma; most television and radio coverage emanated from Texas, Kansas, New Mexico, and Colorado. Lastly, newspapers, other than the local Boise City newspaper reflected similar regional patterns. Very few subscribed to an "outside" Oklahoma newspaper.

Cimarron ranching country is then a different land physically and culturally. It is a land that historically has been the brunt of conflict and frustration due to many factors (see Chapter 2, "Factors of Conflict and Frustration"). In a sense it is a region that mimics the Doctrine of First Effective Settlement by the real and psychological imprint that has been left by the cattle economy. By definition, "whenever an empty territory undergoes settlement, or an earlier population is dislodged by invaders, the specific characteristics of the first group able to effect a viable, self-perpetuating society are of crucial significance for the later social and cultural geography of the area" (Zelinsky 1992: 13). It is this relatively unchanged economy, its land and its people and their culture, that has yet to be fully understood by downstaters, that at times verbally acknowledge its uniqueness, but fail to act accordingly, that will become the focus of litigation. It will be this different landscape that will cause far reaching policy changes within the CLO. It will be this different landscape that will be forced to change.

No Man's Land

There's a part of old Oklahoma
Facetiously called, "No Man's Land".
And downstaters smile when they tell you,
It's a desolate, barren wasteland.

For until you have walked in the valley
Where the dry Cimarron River flows,
You'll be just like all other skeptics,
Judging things by what others don't know.

But, if you desire an adventure
That carries you backward in time
Come climb o'er the rocks and the mesas
Into a country sublime.

Here you'll find answers to questions
That have puzzled scholars for years,
And the beauty by which you're surrounded
Might even fill your eyes with tears.

But, if you've a notion to capture the wind
Or cage in the mesas and trees
You'll soon discover that God owns this place
And He's sharing it with you and me.
(authored by a local Kenton Poet)

Chapter 6

Formalization of Frustrations: The CLO, Courts, and the Ranching Community

From the beginning Oklahoma Territory and later the State of Oklahoma has had charge of unquestionably the most controversial lands ever granted to Oklahoma: school lands. Managed by territorial governors and their clerical staff, then by a leasing board with gubernatorial oversight, and since statehood by a commission with legislative sanction, the leasing and sale of these holdings have always been and still are the focus of antagonism for many in western Cimarron County. Two volatile issues, the practice of preference leasing and the maximizing of profits from leases, became the basis of a law suit in 1982. The fallout between ranchers and the CLO continues. Reviewing the historical and economic growth of the CLO and practices regarding preference leasing and maximizing profits are essential in comprehending today's policies and actions. Two time lines, Appendix B and C, provide a concise chronological listing of events prior to and after the 1982 lawsuit.

The CLO: Sacred Trust, Sacred Funds

Before statehood the leasing of school lands was placed in the hands of the Territorial Governor, first as an appendage of the U.S. Secretary of the Interior, and in 1891 under the U.S. General Land Office. Presidential proclamation in 1893 and congressional approval in 1894 made the lands office a separate territorial agency acting independently under the guidance of the territorial legislature. Thereafter the Territorial Governor, Secretary of the Territory, and the Superintendent of Public

Instruction constituted a board for the leasing of school lands until statehood. With statehood the Commission of the Land Office became constitutionally legitimate.

Prior to statehood in three distinct sections of the Enabling Act, school land was granted to the territory for its future use, sale and benefit. Section Seven of the Enabling Act granted sections of land sixteen and thirty-six in each territorial township for the use and benefit of the common schools. This became the "CS" fund, initially comprising nearly 1,500,000 acres. Section Eight granted that land in sections thirteen in each township benefit universities, normal schools (teachers' colleges), and the agricultural and mechanical colleges. These lands totaled approximately 350,0000 acres and became the "SEI" (State Educational Institutional) fund. Lastly in Section Twelve of the Enabling Act, well over one million additional acres were granted to Oklahoma for current and future use. This fund was entitled "NC" or the New College Fund. These numerous parcels amounting to approximately 3.2 million acres at statehood were proportionately divided between various county educational institutions, becoming the basis for what would be called today "Separate Trust Funds" by the CLO (Figure 6.1). The New College Fund with over one million acres was further subdivided into five smaller grant funds as stipulated by the Enabling Act for specific institutional use, with additional acreage assigned to some of the same higher educational institutions already represented in the lesser 350,000 acre SEI Fund. Section Twelve (New College Lands) of the Enabling Act explained

> that in lieu of the grant of land for the purposes of internal improvements made to new states by the eighth section of the Act of September 4, 1841,

LOCATION OF ACREAGE BY COUNTIES AND FUNDS OF LAND GRANTED BY THE FEDERAL GOVERNMENT TO THE STATE OF OKLAHOMA FOR SCHOOL, COLLEGE AND OTHER PURPOSES

County	Common School	Common School Indem.	State Edu. Insti.	State Edu. Insti. Indem.	University	University Preparatory	Agri. and Mech. College	Colored Agri. and Normal University	Normal Schools	Public Bldg.	Public Bldg. Indem.	Union Graded and Con. School Dist.	Union Graded and Con. School Dist. Indem.	Total
Logan	26,230	......	......	......	....	....	....	....	....	....	......	....	....	26,230.00
Oklahoma	32,887	18,100	......	......	....	....	....	....	....	....	......	....	....	50,987.00
Cleveland	16,752	......	......	......	....	....	....	....	....	....	......	....	....	16,752.00
Payne	26,422	......	2,720	......	....	....	....	....	....	1,280	......	....	....	30,422.00
Noble	14,640	......	6,614	......	....	....	....	....	....	9,240	......	....	....	30,494.00
Kay	24,528	......	12,000	......	....	....	....	....	....	13,920	......	....	....	50,448.00
Pottawatomie	20,400	6,009	......	......	....	....	....	....	....	....	......	....	....	26,409.00
Lincoln	49,960	50,715	......	......	....	....	....	....	....	....	......	....	....	100,675.00
Pawnee	17,271	......	4,760	......	....	....	....	....	....	6,360	......	....	....	28,391.00
Garfield	37,700	......	18,502	......	....	....	....	....	....	19,200	......	....	....	75,402.00
Grant	38,400	......	19,215	......	....	....	....	....	....	19,200	......	....	....	76,815.00
Canadian	31,201	640	640	......	....	....	....	....	....	2,240	......	....	....	34,721.00
Kingfisher	31,632	......	......	......	....	....	....	....	....	....	......	....	....	31,632.00
Stephens	3,840	1,600	3,200	2,400	....	....	....	....	....	1,280	1,600	....	....	13,920.00
Jefferson	4,000	1,280	1,920	1,600	....	....	....	....	....	1,920	1,760	....	....	12,480.00
Grady	3,120	2,880	1,600	2,880	....	....	....	....	....	3,360	2,400	....	....	16,240.00
Caddo	47,160	7,160	15,874	7,360	....	....	....	....	....	17,800	3,360	....	....	98,114.00
Comanche	43,320	6,200	10,880	7,360	....	....	....	....	....	14,240	11,520	....	....	93,520.00
Major	38,600	......	16,900	......	....	....	....	2,863.04	2,716.37	18,700	......	....	....	79,779.41
Alfalfa	30,080	......	19,200	......	....	....	....	....	....	13,760	......	....	....	63,040.00
Blaine	31,700	......	480	......	....	....	....	....	....	2,218	640	....	....	35,038.00
Woods	48,120	......	23,840	......	3,621.55	1,086.08	5,881.60	3,669.05	9,075.12	23,200	......	....	....	118,494.34
Tillman	15,040	4,800	8,320	......	....	....	....	....	....	7,360	......	....	....	35,520.00
Kiowa	46,382	9,880	19,520	9,440	....	....	....	....	....	16,160	12,320	....	....	113,702.00
Washita	34,320	......	2,560	......	....	....	....	....	....	1,600	......	....	....	38,480.00
Custer	35,440	3,920	1,920	......	32.80	....	....	....	....	....	1,120	....	....	42,432.80
Dewey	34,519	3,840	......	......	771.78	....	....	798.85	812.79	....	......	....	....	40,742.39
Woodward	42,080	......	21,120	......	8,217.95	6,913.55	2,449.80	4,410.06	983.32	21,760	......	....	....	101,934.70
Jackson	12,760	......	6,240	320	....	....	....	....	....	480	......	9,280	....	29,080.00
Harper	49,040	20,360	19,200	......	23,318.66	1,641.44	887.35	4,060.05	11,630.86	11,400	......	....	....	141,538.36
Greer	26,480	15,040	17,800	3,920	....	....	....	....	....	....	......	14,560	4,000	83,600.00
Beckham	38,560	11,560	7,320	3,840	....	....	280.00	....	....	....	......	8,160	4,480	76,200.00
Roger Mills	31,728	3,360	2,079	......	4,046.76	3,236.71	720.00	....	701.40	....	......	....	....	45,871.67
Ellis	37,362	640	13,440	......	10,882.48	8,448.30	8,564.92	3,198.28	4,309.87	12,800	......	....	....	99,645.85
Cimarron	87,000	......	9,333	......	148,738.17	44,987.54	163,992.16	66,240.07	143,653.95	....	......	....	....	639,946.89
Texas	63,790	17,280	9,333	4,480	84,278.76	55,865.39	26,738.26	316.28	75,434.63	....	......	....	....	277,810.52
Beaver	66,480	27,520	9,334	......	33,208.75	24,049.78	36,524.59	17,112.06	48,164.42	....	......	....	....	252,383.68
Total	1,199,078	214,784	304,784	47,600	251,138.33	146,228.73	246,032.88	102,669.08	299,478.73	239,508	34,720	32,000	8,480	3,186,911.78

Figure 6.1
Total School Land Acreage. Reproduced from Hodge (1937: 85)

> which section is hereby repealed as to said state, and in lieu of any claim or demand of the State of Oklahoma under the Act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflow lands, which grant it is hereby declared is not extended to said State of Oklahoma, from the public lands of the United States within said State, for the purpose indicated, namely; for the benefit of the Oklahoma University School, two hundred and fifty thousand acres; for the benefit of the University Preparatory School, one hundred and fifty thousand acres; for the benefit of the Agricultural and Mechanical College, two hundred and fifty thousand acres; for the benefit of the Colored Agricultural and Normal University, one hundred thousand acres; for the benefit of normal schools now established or hereafter to be established, three hundred thousand acres. The lands granted by this section shall be selected by the board for leasing school lands of the Territory of Oklahoma immediately upon the approval of this Act. Said selections as soon as made shall be certified to the Secretary of the Interior and the lands so selected shall be withdrawn from homestead entry (June 16, 1906 Enabling Act, Statute 12).

Hence, five distinctive school land funds were earmarked expressly for the benefit of specific state educational institutions.

Later as the five funds profited and changed, specific university names and acronyms for most changed too, helping to clarify each fund. The funds became known as the University of Oklahoma ("UV") Fund; University Preparatory Schools ("UP") Fund; the Oklahoma State University ("OS") Fund; the Normal School ("NS") Fund; and the Langston University ("LU") Fund. Again, all five of these funds were derived from the huge "New College" original grant.

All of the funds are generally self explanatory except two: the "NS" or Normal School Fund, and the Preparatory School ("UP") fund. Normal schools are considered teachers colleges. Today this fund benefits ten colleges and universities including Northern Oklahoma College, Southeastern, University of Central Oklahoma, East Central University, Northeastern, Northwestern, Southwestern, Cameron University, Oklahoma Panhandle State University and the University of Science and Arts of Oklahoma. As mentioned, the preparatory school fund originally amounted to nearly 150,000 acres for the support of the University Preparatory School located at Tonkawa (now Tonkawa Junior College). As of 1936 most of this granted land (136,020 acres) had been sold. The profits must constitutionally be invested in First Farm Loan Mortgages, Oklahoma bonds, county bonds of the State of Oklahoma, and United States Bonds (Hodge 1937:58). All totaled these seven main funds, the five mentioned above plus the common school (CS) and the educational institutional (EI) funds, are the bulwark for all of the CLO assets. These seven funds are considered permanent funds.[1]

Two other funds, the Public Buildings Fund ("PB") and the Greer ("GR") fund, complete all nine trust fund categories. By law the nine trusts are separately administered and segregated from the other funds, with assets forbidden to be commingled. The corpus, which cannot be distributed to any of the beneficiaries (the schools and school children of Oklahoma), is created from original land and monetary grants and is held in special regard, to be preserved and held in sacred trust.

> The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the Enabling Act, and any other acts of Congress, for the uses and purposes and upon the conditions, and under the limitations for which the same area granted or donated; and the faith of the State is hereby pledged to preserve such lands and moneys and all moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were granted or donated (Oklahoma Constitution, Section One, Article 11).

[1] Permanent funds by law (Enabling Act) may never be depleted.

At the time of statehood in 1907 Governor Haskell proclaimed in his annual report to the Secretary of the Interior and the State of Oklahoma that practically all of the school lands of the Territory were under lease, and that since 1891 the total net proceeds from leasing these lands amount to $3,617,628.01.[2] This represented a substantial increase in both revenue and rentals since territorial birth, when Territorial Governor Steele reported in 1891 that approximately 600 quarter-sections of school land had been leased from roughly 1600 available quarter-sections, realizing total net proceeds of $4,536.82. Governor Barnes, seven years later in 1898, acknowledged that the school land department from its small one-man (the governor and his assistant) "doing-everything-beginning," became the largest and most important department in the Territory with well over 5,500 lessees. This increased fund growth precipitated CLO expansion. The number of commissioners during the first session of the Oklahoma legislature in 1907-08 increased from three to five: the Governor, Secretary of State, State Auditor, Superintendent of Public Instruction and the President of the Board of Agriculture to manage, loan, invest and deposit revenues in the permanent school fund. The second legislature crafted legislation to facilitate in 1909 the largest land sale ever in the State of Oklahoma, selling roughly two million acres of prime school land from the original endowment of three million plus acres in

[2] All of the following statistics regarding rentals and profits from territorial days are extracted from Governor Reports to the Department of the Interior namely years 1890, 1892, 1898 and 1907. These documents are referenced in this paper's bibliography.

less than eight years, creating unprecedented monetary growth to the CLO bank coffers.

Over the years the most lucrative income to the nine specific funds has been through natural gas and oil royalties. Just prior to statehood oil was discovered on school land in Cleveland, Oklahoma in Pawnee County creating a dilemma for anxious oil companies, due to the fact that mineral rights on school land sections could not be leased. Quick acting Governor Frank Frantz secured the mineral rights on all school lands by act of Congress (Fred L. Werner Papers, Box 6, Western History Collections, University of Oklahoma), creating sizable oil and mineral related profits to the CLO.[3] Besides the income from the oil and gas royalties, sale of easements (access to oil and gas sites), surface damage payments and the sale of sand and gravel are the largest contributors to the nine permanent funds.

The CLO in 2000

In the year 2000, the CLO is still the state's biggest landlord owning approximately 780,000[4] acres of land under the guidance of Governor Frank Keating, Lt. Governor Mary Fallin, State School Superintendent Sandy Garrett, State Auditor and Inspector Clifton Scott, and President of the State Board of Agriculture Dennis Howard. The Secretary of the CLO, Ernest Hellwege, oversees all Commission

[3] Today the CLO has 7 organizational divisions: administrative, service, legal, audit, minerals, real estate and financial divisions.

[4] This figure was recorded in the most recent CLO Report, the 1998 supplement to the annual Report published by the CLO. A recent March 2000 news article however listed the current holdings at approximately 765,000 acres, not referencing any specific CLO document.

operations on a daily basis and manages all trust assets and dispersals to educational institutions across the state. In February 2000 the combined assets of the nine permanent trusts, including all CLO assets, amounts to $987,360,071, of which 18.7 are mineral related profits (CLO Annual Report 1998-1999 with supplement). In one fiscal year—1998, the CLO earned $119,073,458 in combined fund income and distributed that year over $53 million to the seven main permanent fund recipients, excluding the public building fund and Greer County Fund (Figure 6.2). These monies are distributed annually to school systems, colleges and universities for their operation, maintenance and growth, based on student population figures: the largest districts and schools receiving most of the revenue.

Using the Common School (CS) Fund which benefits secondary public schools as an example, $38,849,224 in FY-98 were dispersed through each of the state's 77 county treasuries to be divided among that county's specific school systems (Figure 6.3).[5] For that fiscal year, the largest portion of monies was generated through interest and dividends on bonds and securities (over 80 percent) while 13.2 percent accrued through surface lease rentals (CLO Annual Report and Supplement, 1998). Upon closer scrutiny, however, one must remember that interest on bonds, money market accounts and stock dividends are part of a cumulative investment portfolio; surface leases (school lands) are annual payments by the lessees to the CLO, and are profits that eventually become part of the cumulative portfolio. It

[5] It should be noted that due to the nature of this CLO map Cleveland County's revenue sharing is difficult to read. It is $2,276,654.

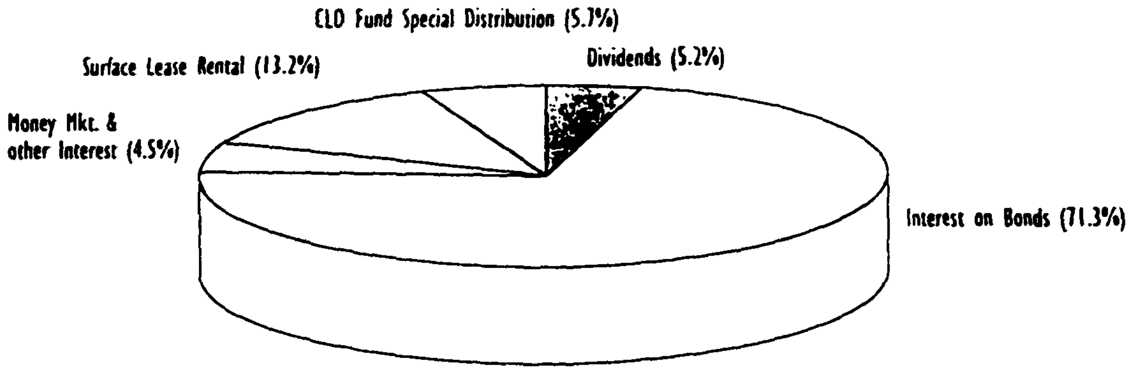
SCHEDULE OF INCOME AND DISTRIBUTIONS
YEAR ENDED JUNE 30, 1998

	Common Schools (CS)	Educational Institutions (EI)	University of Oklahoma (UO)	Northern Oklahoma (UP)	Oklahoma State Univ. (OS)	Normal Schools (NS)	Langston (LU)	Public Building (PB)	Greer (GA)	Combined Funds
INCOME										
PERMANENT FUNDS										
MINERALS										
Royalty	$11,786,069	$1,952,381	$526,656	$323,010	$200,053	$430,544	$138,910	$924,737	$16,067	$16,299,243
Lease Bonus	1,388,430	591,000	89,001	183,799	56,165	16,172	5,110	51,255	0	2,303,020
Delay Rental	49,070	7,929	1,510	2,458	1,169	1,343	160	2,022	0	65,661
Gain from Sale of Securities	26,500,171	6,162,326	1,102,009	699,465	604,392	1,039,619	494,742	0	0	36,610,004
Gain from Sale of Land	3,307,301	329,331	60,044	86,619	119,440	154,171	59,430	0	0	4,116,336
Escheat	53	0	0	0	0	0	0	0	0	53
Sale of Easements	230,000	83,075	23,645	8,041	4,644	12,026	0	9,710	0	380,749
Surface Damages	102,021	10,392	18,846	5,864	3,680	13,000	0	22,040	45	248,696
Sale of Sand & Gravel	13,616	79,442	5,616	0	4,709	0	0	0	0	103,383
Total Permanent Fund Income	43,474,339	9,216,676	1,819,487	1,230,864	994,252	1,666,875	698,360	1,011,780	16,112	60,128,745
REVENUE FUNDS										
INTEREST										
Farm Loans	163,447	10,190	2,507	635	1,343	1,497	820	0	0	180,439
Installment Sales	16,570	1,585	31	0	0	123	302	0	0	18,611
Bonds	34,390,864	7,330,700	1,370,129	882,103	749,926	1,305,204	636,784	0	0	46,673,872
Short-Term Investments	1,052,006	225,221	42,399	20,101	24,335	39,574	18,283	71,066	9,510	1,511,295
Oil & Gas Royalty	930,411	279,698	10,472	6,333	2,560	23,816	665	8,380	140	1,262,675
Dividends on Stocks	2,449,353	571,132	103,039	65,416	57,202	96,938	46,436	0	0	3,389,596
Custodial & Management Fees	(2,002,630)	(444,231)	(82,368)	(52,492)	(45,669)	(77,559)	(37,089)	0	0	(2,742,038)
Surface Lease Rental	5,642,685	1,300,560	248,634	106,429	322,373	300,029	80,694	600,146	33,513	8,651,063
Net Revenue Fund Income	42,643,506	9,290,935	1,694,843	1,036,525	1,112,150	1,689,702	746,097	687,792	43,163	58,944,713
TOTAL COMBINED INCOME	86,117,845	18,507,611	3,514,330	2,267,389	2,106,402	3,356,577	1,444,457	1,699,572	59,275	119,073,458
DISTRIBUTIONS										
DISTRIBUTIONS TO SCHOOLS										
Common Schools	36,131,505	0	0	0	0	0	0	0	0	36,131,505
Colleges	0	7,850,836	1,421,501	861,620	957,633	1,427,220	638,537	0	0	13,157,347
Special Distribution	2,717,719	614,189	112,705	72,539	65,222	103,653	45,001	0	0	3,731,028
Total School Distributions	38,849,224	8,465,025	1,534,206	934,159	1,022,855	1,530,873	683,538	0	0	53,019,880
Public Building Distributions	0	0	0	0	0	0	0	976,881	0	976,881
CLO Fund	4,820,867	1,057,910	199,417	128,613	115,465	183,906	79,647	102,445	3,490	6,691,780
CLO Fund Redistribution	(2,717,719)	(614,189)	(112,705)	(72,539)	(65,222)	(103,653)	(45,001)	(66,363)	(2,585)	(3,799,976)
TOTAL DISTRIBUTIONS	$40,952,372	$8,908,746	$1,620,918	$990,233	$1,073,098	$1,611,126	$718,184	$1,012,963	$905	$56,088,565

Figure 6.2
CLO Total Earnings 1998 (CLO Report 1998)

School Land Trust
FY-98 Source of Distributions

FY-98 Distribution = $53,019,880



COMMON SCHOOL DISTRIBUTION

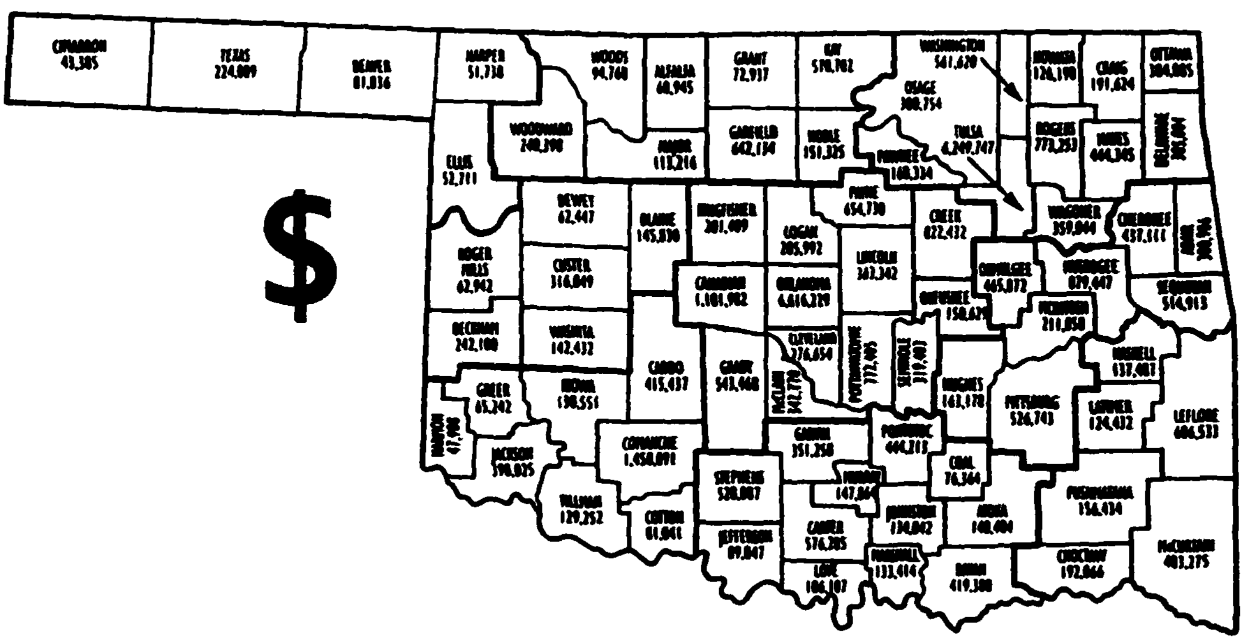


Figure 6.3
CLO Earning and Distribution Map (CLO Report 1998)

would be this permanent common school fund, benefiting the many school children of Oklahoma, and the eight other permanent funds, that would be questioned as to their constitutionality in 1981 by a state legislative representative and the Oklahoma Education Association. Questions addressing key Oklahoma Statutes relating to the operation of these funds in realizing the maximum amount of profit for the benefit of school-aged Oklahomans would be clarified by the Attorney General. Maximum profits always have been the goal of CLO sales and leasing policies. Leasing historically connected the lessee to the land as part of an integral relationship, manifested in what was thought to be legal precedent: preference leasing.

Early Assumptions, Leasing and Policies

Thanks to an aggressive Territory Governor George Steele, Oklahoma in 1891 became the first state to lease and secure revenue from lands set aside for school purposes. Steele was permitted to dispense leases up to 160 acres of land, after public notice, to any qualified individual at the highest bid for a period of three years. After three years preference to re-rent was usually given. At that time Rule 7 stated that "in case a new lease is to be made at the expiration of the lease, the preference shall be given to the former lessee, if the Governor finds that he cultivated the lands in a business-like manner, and fulfilled the terms of the lease in good faith" (Rules and Regulations of Board for Leasing School Land including Department of Interior Regulations, May 2, 1899, page 14).[6] At this time while under the jurisdiction of the

[6] The rules for leasing, eleven in all, were approved by an Act of Congress March 3, 1891. This rule was the most important of the eleven.

Secretary of the Interior monies derived from leasing were deposited in the Treasury of the United States, earmarked for Oklahoma. (Berlin Chapman Collection, Western History Collections, University of Oklahoma, Box C-42, File 13, No. 32).

Significantly, during those fledgling years of school land management and until 1976, the practice of preference right leasing was never codified or made law by any Oklahoma legislative action. It was just a custom and became one of the main issues in the 1982 litigation. Preference to purchase at the time of sale was legally recognized but never the preference to re-lease year after year.

The Assumed Sale of School Lands

Governor Steele's statement that "you men who have failed to locate on homesteads, settle on good quarters of school lands . . . and when Oklahoma becomes a state you shall own them as your homes" (ibid, Chapter 4, page 21) initiated the belief that lessees of school land would have first choice to bid on a leased parcel when offered for sale. As the option to purchase was never exercised and leases extended year after year, lessees became entrenched in their belief that the day would never come for an opportunity to purchase. Lessees felt like tenants tossed about by the winds of politics and prevailing policies. They were regarded as second class citizens trapped by their situation. As one popular writer of the times put it "they had made the pioneer's desperate plunge for a piece of permanent soil that meant independence, manhood, equality, liberty, home – and had failed. They saw nothing before them but a weary road back home, a hired man's or renter's future" (Golobie 1904:5). The State Land Lessees Union represented lessees rights and became major lobbyists for the sale of these lands. After statehood, disappointed that lands were not being considered for sale in any expeditious manner, membership nearly doubled and in 1909 helped force the sale of much of the land.

Most governors of Oklahoma envisioned sales that would one day provide private ownership for many. Territorial Governor Renfrow requested an extension of original 1891 leases in 1894, and strongly urged the Department of the Interior and General Land Office to sell the land to the lessee at an appraised fair value. Territorial Governor C. M. Barnes had also always assumed during his tenure that school lands would be sold. In his report to the Department of the Interior in 1900 he emphasized that "it had been customary in all territories in which school land was reserved to allow the land to lie idle until such time the territory was admitted to statehood, when some provision would be made for the disposal of the lands" (Report of the Governor of Oklahoma, C. M Barnes, 1900:22). Fred L. Wenner, the CLO's own secretary in his 1903-4 Report recognized the temporary nature of these lands saying "we should keep before us the fact that these lands were set aside for the benefit of the schools and institutions of Oklahoma . . . the Territory only having the right to lease them until such time as the state shall assume control" (Fifth Biennial Report, Board for Leasing Territorial Lands, 1903-4:5).

<u>Preference Problems in 1909</u>

Finally in 1909 legislative haggling subsided, land appraisals were confirmed and CLO sales commenced. Immediate confusion and misunderstanding surfaced as to what in fact was meant by preference right, for both the lessee purchasing his land, and the lessee who would remain on his land still renting, until sold.

Concerning the preference right to purchase, the Enabling Act clearly stated that "... under such rules and regulations as the legislature of the said state may prescribe, preference right to purchase at the highest bid given to the lessee at the time of such sale ..." (Enabling Act: 1906, Section 9), the key words being "preference right" and "given." From the lessees viewpoint, many by this time who had waited eighteen years to purchase, this "preference" to purchase was solely theirs, "given" to them and was their "right," regardless of competitive bidding from outsiders. It appears that the assumption of the time, legalities aside, supported this viewpoint and disregarded the fact that other interested parties might bid on the same plot of land!

Governor Haskell in a 1909 meeting with a large group of lessees in Guthrie and seizing on political opportunity, said that all school land should be sold and the lessees have "full benefit" of the preference right. "Full benefit" meant giving the final choice to purchase or continue leasing to the lessee, changing the intent of the Enabling Act.[7] In his Guthrie meeting with many concerned lessees in attendance, on the issues of preference leasing, he first criticized the Act which was included in the Oklahoma Constitution by stating "I only regret that laws that we are not responsible for ... [that have] to be executed ... I trust that the good will get rid of these laws

[7] Haskell was no stranger to convoluting the Enabling Act, one year after his meeting in Guthrie with these lessees, he ignored the restriction that the Capitol remain in Guthrie until 1913, and moved it to Oklahoma City (Wagoner 1990:142).

just as quick as possible."[8] He reiterated at this meeting that "the Land Grant Act says that the lessee has a 'preference right;' I expect the courts will have to decide sometime whether the expression is a joke or whether it has some substance to it." Enabling Act aside, Haskell continued his discourse, reinforcing the idea that it should be left entirely up to the lessee to decide his own destiny, and then reaffirmed "I regret that we often hear that the lessee be satisfied with his preference right . . . I expect he would if you let him, decide what his preference right is, but as long as you let him decide what his preference right means, he can stand and look on and when the bidding is through the auctioneer turns to him and asks, 'now here's where you[r] preference right comes in' . . . let's believe that when the highest courts say it" (Oklahoma State Register, Guthrie Oklahoma, May 13, 1909). Haskell and the lessees wanted favorable laws so school lands could be easily accessible for purchase. However, the only legal legislative changes relating to preference right sales from the original Enabling Act occurred with the 1910 legislative revisions, one year after the commencement of sales. In Section 7147, of the Revised Laws of 1910, the phrase "given to the lessee" is removed and a "no bid—all of the lands" statement added: "[The lessee] shall have the preference right to purchase all of the lands so leased by him at the highest bid at the time of the sale or in case of no bid then to take the same at the appraised value."

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[8] This conversation took place in a large auditorium, and as was the common practice in those days quite a bit of punctuated flamboyant oratory was understood by the crowd, thanks to body language, gestures, etc. but hard to record for a note taking newspaper journalist.

Sale Realities

It appears that Governor Haskell favored a liberal school lands disposal policy. So did the state legislature. In light of the legislative amendments from 1910 to 1911, it allowed the renter to purchase when no opposition occurred -- theoretically granting him/her the opportunity to obtain all of his/her land. For most buyers east of the grazing line this meant the right to purchase a quarter (160 acres) to one section (640 acres) of land depending on the terrain. West of the grazing line "Class B" lands could be "sold in tracts not to exceed two sections, if in the opinion of the Commissioner of the Land Office it is deemed best and proper" (Laws Governing the Sale and Leasing of State and School Lands, CLO, 1914). The phrase "deemed best and proper" was construed by many to offer in some cases more than the allotted acreage; however, both political and rancher realities were quickly becoming evident especially in Cimarron County. Foremost was the fact that it was difficult at best for most ranchers to purchase all of their land, both for obvious monetary reasons (two sections, 1280 acres would be a substantial purchase), and for "ranch" reasons, assuming that most viable ranches averaged more than 6,000 acres as they do today. For the rancher two options existed, bidding on your neighbor's land and paying 10 percent of the purchase price plus assuming a CLO 5 percent loan for ten years; or hope that the CLO will allow you to continue leasing in a no-bid situation, as was the scenario for many ranchers.[9]

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[9] The stipulations of the purchase agreement are located in Section 7162, Revised Laws of 1910.

The Leasing of School Lands

No one intended that all school lands would be sold. The 1909-11 laws governing sales specifically limited offerings to all indemnity lands, public building lands, and new college lands. Although this was the vast majority of lands held in trust (close to two million acres), the common school lands (CS Fund) was never originally offered for disposal. Of the initial sections sixteen and thirty-six granted to Oklahoma as a Territory, close to one million acres would still be leased, until further legislative directives were enacted.[10] Both the first legislature and the CLO knew it would be unrealistic to expect all of the lands to sell. There were strong political considerations to contend with, including Fred Elder and the Norman Commercial Club and legislative peers and pressures. From the start, the sale of school lands was one of the most important difficult questions confronting the first legislature. The fight on the Senate Floor on May 27, 1908 between Senators Johnston (for the sale) and Redwine (against) lasted all day until midnight with the legislature finally passing a bill providing for the sale (Clayton Hyde Collection, Box 5, Folder 7, Western History Collections, University of Oklahoma). Controversy was no stranger to these lands, and the practice of renewing leases noncompetitively would polarize the rancher and the CLO.

The second Oklahoma legislature in 1909 enacted the procedures governing the first sale of school lands. The second legislature also provided passed legislation

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[10] As mentioned in chapter 4 when the sales dust had settled by 1917 of the original 3.2 million acres, a little over two million were disposed of leaving less than one million acres in trust.

that all public lands in the State of Oklahoma be leased by the CLO. It also provided that school lands, sections thirteen, sixteen and thirty-six rent at 4 percent of their actual cash value on a yearly basis based on the 1908 appraisal. All lands would be subject to sale at any time to the highest bidder. Finally, it was noted that since most leases were for periods of five years, leases which were to expire on January 1, 1915 may be extended "for any number of years not exceeding five years on the same terms and conditions or until such time as the said leases shall be sold" (summarized from "Laws Governing the Sale and Leasing of State School Lands" rules 42 and 43, section 7170 and 7171, plus rule 64 which was House Bill 441).

The Status Quo

In the formative years 1909-1911 neither the CLO nor the first and second legislatures ever seriously addressed re-leasing school lands for extended periods of time. There were always specific dates in the laws for renewal of contracts at first. For example in House Bill 411 (1910) leases which were to expire on January 1, 1915 could renegotiate for another five years at 4 percent of the actual cash value. This would be the closest any post-statehood legislative action would come in acknowledging any true preference right leasing.

This is important since preference leasing is directly linked to the amount of monies earned from each lease agreement. By law, rates were fixed at 4 percent of total value of the land, and like future lease agreements this policy seemed to be etched in stone -- never changing status quo as the years progressed with few exceptions.[11] There was nothing competitive about re-lease contract agreements, except the fluctuating cash value of the land. Many lessees asked why leases should be competitive. Many believed it was the very enabling act which gave him the preference to purchase the land at highest bid (by matching it, often called "right of last refusal") and should also give him preference to rent the land at a reasonable stable rate, year after year.[12]

Scandals, Studies, and Sales

The sale of school lands seemed always to be controversial. Concerns mainly centering around inferred or direct phrases within the Oklahoma Constitution regarding the CLO, the leasing of school lands and their administration, would provide the spark for various committee and task force recommendations. Phrases such as "sacred trust . . . most beneficial . . . return full value . . . obtain maximum benefit (Art. II, Sections 1, 2, 5) would plague task force studies and internal recommendations within the CLO for years. On the other hand CLO practices, the selling of lands, rental procedures and policies during the 1930s and 1940s, for understandable reasons were not controversial. These were decades of dramatic ebbs and flows in market prices for farm products, livestock sales and later the demand for CLO rental lands.

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[11] During the 30's some agreements dipped as low as 2 to 3 percent under the circumstances of the time (depressed economy – foreclosures, etc) and as high as 10 percent in later years.
[12] Again that singular phrase extracted from the enabling Act in Section 9, "Right to purchase at highest bid being given to the Lessee," (emphasized), meant for many that in leasing, the lessee had given to him the preference to lease year after year.

In the 1950s scandal and pressure to sell school lands would publicly surface. It was learned at this time that the Commission was making large loans to favored senators and individuals at 3 percent interest, less than half the going rate for CLO lands at the time. Also there "were instances when prominent people bought school land at rock bottom agricultural prices and almost immediately resold it to commercial enterprises at a huge profit (Ervin, Tulsa Tribune, Oct 1989: B1 and B4). The CLO's practices were questioned and so was its very existence. Riddled with these allegations (nothing went to court) the CLO in its 1950-1952 Report was extremely sensitive to the political climate by devoting a substantial portion to the benefits of maintaining school lands. The Report indicated that "it is believed, however, that closer and wiser supervision of these rentals will in the future produce a greater portion of the proportional revenue to the schools for which the benefit of these lands were acquired in the first instance." This lengthy discourse continued: if land were to be sold "then it would . . . deliberately destroy the greatest stabilizing factor in its investment program . . . [and] would be a virtual abdication of the trust obligation imposed upon the State of Oklahoma and executed by the Commissioners of the Land Office" (CLO Annual Report, July 1, 1952:36).

The scandals of the 1950s became the reforms of the 1960s. The 1960s became primarily a decade of Republican leadership under the Bellmon and Bartlett administrations whose philosophy was to place school lands into private ownership, benefit the tax rolls and institute judicial and legislative reforms (Wagoner 1990:184). Governor Henry Bellmon and the CLO in 1965 offered for sale 11,400 acres of land in the Panhandle, fifty-eight separate tracts in Cimarron County and ten tracts in Texas County. Up to this point, since the 1940s no sizable quantity of previously foreclosed land was offered, a sale of this magnitude was unusual. "I don't know what I really expected," said Oliver Hodge, State School Superintendent and member of the Oklahoma School Lands Commission. "... This is kind of a historical thing," Hodge said. "A sale like this hasn't been held in the state for 20 years" (Jackson; December 1985: Daily Oklahoman).

The Bartlett and Starcevich Studies

In 1967 Governor Dewey Bartlett authorized an extensive study to determine if all school lands should be disposed of. This officially recognized years of sporadic, public and private debate over the value of these lands. Much of the inconsistent interest in these lands had to do with political considerations and mineral (petroleum) concerns. The considerable quantity of CLO lands are located on or near lucrative oil reserves, and low rental profits coupled with lease transfers at the time stirred up the interest to sell (CLO interview 1999).[13] Issued in August of 1967 the Bartlett study examined the "pros and cons" and projected policy changes for the 780,658 acres of school lands. Panhandle school land acreage in 1965 averaged $150 per acre when sold yet paid 75 cents per acre in annual rent. It was emphasized that if the 1965 monies generated from the Panhandle sales were to be invested at 4 percent,

[13] Although the state owns all mineral rights to these lands forever,with the possibility of all lands being privately owned, some corporate arrangements might surface as to the exception to the rule, granting mineral rights as was speculated in the interview. Interesting, not until 1984 did the Governor's Commission on Reform of State Government suggest that 25 percent of the mineral rights under school lands be sold! It never became law (Report on the CLO by C. R. Packer, 1984).

these funds would yield approximately $6 per acre per year (Governor's Study for CLO, August 3, 1967).

The Bartlett Study made other points for the sale of school lands. Land values in 1965 were high and their sale would place lands on tax rolls, contributing to local school districts via ad-valorem taxes and would save the state operating management costs. However, a stronger argument not to sell any of these lands prevailed; it recommended securing higher profits. The most potent argument focused on increased land values, and the hedge against inflation as long as these lands were held in trust. Taking in consideration past historical acreage values, from 1966 to 1970 the average increase in state school land values in fact did increase by 23.41 percent.[14]

Another timely study at the time, in conjunction with the Bartlett Study, headed by an independent consultant, Mr. Starcevich, offered many suggestions to maximize efficiency and generate substantial profits. It encouraged halting school land sales unless there became an "overwhelmingly compelling" reason why. It suggested the elimination of "privileged individuals" by offering five year competitive bid leases (extinguishing preference leases) to all renters and strongly encouraged fewer requests for lease transfers by imposing higher transfer fees.[15] Lastly the Starcevich study favored imposing stiff penalties for lessees that would not

[14] This was included in a stapled CLO packet entitled "The Sale of School Land" with a variety of tables, charts, and narrative concerning especially the 1967 report, among other papers dated 1970. It was most assuredly part of many other informational documents collected for the 1982 suit.

[15] To keep leases within families or among friends, and provide the CLO with a steady income for a particular lease, leases could be transferred. Upon transfer bonus monies, depending on the acreage, would be paid to the person(s) who found a suitable tenant to continue renting by negotiating a new contract. In many cases the bonuses were thousands of dollars.

practice accepted soil conservation service policies and practices. This particular study predicted that with competitive bidding, as the Bureau of Indian Affairs did with its lands, profits would escalate two fold.

Both the Bartlett and Starcevich studies would start sowing the seeds for change in the next several years, addressing what many thought to be the lethargic nature of the CLO and its policies. They served as a precursor to future distinct changes that would eventually transform relations between the CLO and the rancher.

Studies from 1967 Yield 1976 Preference Leasing

Although most of this particular 1967 study's recommendations were viewed with caution, skepticism, and in some cases ignorance by various CLO staff and ranchers, changes could be predicted and were sensed by many (CLO interview 1997). Bartlett's July-August study of the Commission in 1967 was more an internal study within the CLO, using a consultant, with a staff study team making recommendations. Prior to this a Senate committee consisting of seven senators in March of 1967, mailed questionnaires to lessees to determine if the CLO was fostering satisfactory relationships with lessees and practicing prudent leasing methods. This Senate Report found that rental rates were not a reflection of the land (grassland rates too high), lessees were not fully advised of their rights, and appraisals were in many cases not verified (the appraiser did not go upon the land). The Senate Committee's "feelings [were] that the Board should more closely supervise the administration of the department correcting the Secretary [of the CLO] when his policies are wrong." In essence the Governor, State Superintendent and the other members of the CLO Board should change policies when they were wrong. To many this report favored the lessee, but paved the way for more comprehensive internal studies.

The fallout from these two major assessments in 1967 generated no significant immediate legislation. In 1976 however, the legislature made official the practice of customary preference leasing by the CLO. Was it the 1967 bi-partisan Senate Report which seemed to champion the lessee and his rights that after nine years influenced this legislative decision? The 35th Legislature during its Second Session crafted House Bill 1163 which directed the CLO to offer a renewal lease to an incumbent preference right lessee. The legislature finally legitimized preference-right leasing where in H.B. 1163, Section Three (in part) it states "every lessee holding a preference right lease on agricultural or grazing lands who, after appraisement for rental purposes, desires to renew said lease . . . if the current lessee has in good faith complied with all requirements of his existing lease to the satisfaction of the Commissioners of the Land Office, the new lease shall be awarded to said current lessee . . ."(Kincannon 1982:16). The well timed 1967 studies seem to have been behind this and other CLO changes.

The 1970s: Decade of Validation

The decade of the 1970s was like a snowball gathering inertia from the major changes of the 1960s, relentlessly gaining momentum for the avalanche that was to occur in the 1980s. New cries for reform, this time from State School Superintendent Dr. Leslie Fisher and State Auditor Joe Bailey Cobb, surfaced. Fisher, a CLO Board

Member, stated "if we managed it the same way for a private individual, we'd all be canned . . . I used to look [before his appointment] at those apportionments [to schools] and think there were a bunch of crooks on the Land Commission . . . I'm on the Commission now and see we just don't understand what we're doing" (J. Standard, *Sunday Oklahoman*, 1971: 17A). During the 1970s both Cobb and Fisher urged an end to then current leasing practices and pushed for sale of land. Both cited the lack of return on investments as a major problem and were deadlocked with Governor David Hall and Agriculture Board President Billy Ray Gowdy, who opposed the sale of any lands (ibid). By 1976 other momentous CLO regulation alterations occurred in addition to HB 1163. At this time the CLO instituted a rule change to stop all lease transfers on the 767,804 acres of leased holdings, except between persons related "within the second degree of consanguinity,"[16] and to establish a system differing from market valuation, that would determine rental value on leases based on the lands income potential (*Sunday Oklahoman*, April 4, 1976:A8). The curb on lease transfers was to be expected, throughout the years it had been widely villianized on the premise that paying bonuses for transfers mean the lease rates were too low and indicated that the state did not maximize rent from leases. These actions were only a precursor as to what would soon happen.

For appearance sake the CLO was in the news starting especially in the mid 1960s as major changes were taking place, but it was the 1970s that instituted the

[16] Second degree, meaning transfers of rental lands among sons, daughters, brothers, sisters, grandchildren, grandparents and parents only.

most momentous changes. Although some lessees were disgruntled at the tighter transfer restrictions of the late 1970s, when all was said and done thanks to legitimizing preference leasing, it was an amicable decade. Rental rates based on the productivity of the land, not just its market value compared to other similar holdings in the region, provided a more individualistic assessment of the vegetative capacity when considering crops or carrying capacity. This action would greatly benefit many ranchers. The recognition of preference leasing provided the much needed psychological security to ranchers, reinforcing their contention that their lease was like deeded land, in the family, and besides you could still transfer your lease between relatives, pay low very reasonable rental rates and feel secure that your ranch would not be parceled out and sold without you having the last word.

To validate House Bill 1163 (preference leasing) in making sure that the CLO was not on precarious ground after passage of this law in 1976, an inquiry was made of the Attorney General as to whether H.B. 1163 was in conflict with either the Enabling Act or the Constitution of the State of Oklahoma. In essence the ruling elaborated that "after the adoption of the Constitution, this completed contract superceded all previous agreements, reservations, rules and regulations with reference to the land" (Attorney General Opinion #76-311, State of Oklahoma: 1976). Since the legislature enacted a law which was now part of Oklahoma's codes, past relinquished grants and regulations became "one" with the Constitution, the Constitution now advancing and replacing all past amended and new statutes. Both the Enabling Act and the State Constitution are compacts and contracts; the Enabling

Act as a compact (agreement) granted lands as a promise to Oklahoma, once the accepted stipulations (contract) were transferred, the process was complete and formalized, giving the authority to the State of Oklahoma in toto (Kincannon, 1982: 18). Hence, the new law in its totality was valid according to this interpretation. One other looming question that the CLO chose to clarify at this time (1976), dealt with competitive bidding, did lessees have to compete with others to obtain a contract? Apparently it was the consensus of the Attorney General that when granting a preference lease competition was not required, since the rental rate was already fixed by law (64 O.S. 1971, Section 253A).

The Statutes, the Suit, The Reactions

The mid-1970s to early 1980s were years of transition for Oklahoma. A farming-ranching dominated economy soon became an oil economy. The markets that were previously strong in wheat and cattle turned sour and by the early 1980s this took its toll on the mindset of many lessees. For downstate folks in 1981 unemployment was low, land prices were high and the economy was booming.[17] With the booming economy many believed school land profits should be equally strong. Issues again dealing with maximum benefit, return on investments, and CLO leasing policies dealing with these concerns, latent for nearly five years, started to resurface. A combination of factors, besides those previously mentioned helped create the final steps toward major litigation.

[17] In fact at this time (1981) Oklahoma had the lowest unemployment rate in the country (Wagoner, 1990:192).

During the late spring of 1981 state representative Penny Williams requested an official Attorney General's opinion on three overlapping issues concerning the maximization of earnings from the leasing of school lands, which in effect challenged existing state constitutional statutes. Representative Williams asked three basic questions: Was it required of the Enabling Act or State Constitution that preference right leasing be granted to current lessees? Was it the CLO's duty to base rental rates on current market values? Was it constitutionally permissible for the legislature to allow leased or re-leased lands to be granted to the highest bidder?

Previous to this request, in the late 1970s and early 1980s Republican Tom Daxon, Oklahoma Auditor-Inspector and member of the CLO Board, vocalized his disappointment at the "bad job" that the Commission had done in this area. He was concerned that the CLO wasn't earning suitable revenues from its rentals, and recommend that the CLO sell its lands. In a comprehensive 1982 news story documenting shaky CLO practices it was reported that "Daxon said he had brought the rental rate, interest rate and preference right issues before the Commission over the past several years . . . but I kept getting outvoted 4-1."[18] The same *Daily Oklahoman* story revealed that in 1979-1980 an audit completed by Alexander Grant and Company noted that the trust funds were receiving income well below current interest rates, and suggested that with prudent investment the CLO could have increased its cash flow by millions. Lastly, it was mentioned that an independent

[18] Daxon was soon to announce his candidacy as a contender in the upcoming gubernatorial race against Governor George Nigh who was running for a second term.

audit prompted CLO General Counsel R. R. Williamson, Jr. in January of 1981 to say that the current laws setting rate ceiling on sales and loans "are causing an unconscionable loss" to the state's student population (Splaingard, 3-1-82; *Daily Oklahoman*). All of these events once again put the policies of the CLO in the public and legal spotlight, and led to skirmishes between the CLO and district court and then the CLO and Cimarron County ranchers.

Attorney General Cartwright's Ruling

Attorney General Jan Eric Cartwright issued his opinion in response to Representative Williams regarding the questions of preference rights, rates and bidding on June 16, 1981. In his official response to Representative Williams he stated that the right of renewal on a preference lease is "unenforceable . . . it precludes any other person from leasing said land, even if he is willing to pay more than the statutory rate set forth in [statute] 86.1 [of the constitution, does] . . . substantially benefit a special class of persons at the expense of the trust estate" (Attorney General Opinion No. 81-112, June 16, 1981).

Next, in addressing the rental rates by citing Title 64 of the Constitution, 1971 Statute 86.1, Cartwright indicated by its wording the statute in fact by law, limits rental rates. "The Commissioners . . . when leasing or re-leasing preference right lands shall charge and collect therefor an annual rental equal to three percent of the fair cash market value thereof . . ." fixing the rate at a special, non-negotiable level (ibid). Cartwright cited a 1979 Attorney General Opinion (79-317) that ruled "ineffective" the practice of setting limits on rental rates, due to the fact that the CLO is subject to managing a "sacred trust" and they have a duty to secure all of the revenue they can safely secure (79-317).

Before 1976 "the Commission set lease rentals at 3 percent of the appraised value for preference right leases and 5 percent for non-preference right leases [by law]. In 1976, they [the CLO] said, "the policy was changed to a fluctuating formula based on productivity and income value of the land" (Hammer; November 22, 1981; Sect. A). This was a CLO management policy change which was not apparently law, initiated by the Commissioners who thought that their actions were within constitutional boundaries.[19] The CLO itself in 1981 just prior to the Williams query, asked for a similar ruling regarding rental rates which resulted in Attorney General Opinion Number 81-39 that reiterated in part the earlier 79-317 ruling by stating "it is the duty of the Commissioners to obtain the maximum return for the trust estate from the funds under its control.."

Finally, in answering the question of bidding on leases, citing some of the same statues, Cartwright continued "it indeed would be constitutionally permissible for the legislature to permit such preference right leases to be leased or re-leased to the highest bidder" (Attorney General Opinion No. 81-112, June 16, 1981). This ruling affirmed that neither the Enabling Act or the Oklahoma Constitution required preference leases, all persons must have equal right to lease, maximum rental on fair

[19] As mentioned earlier in this chapter this was in conjunction with the lease transfer policy changes also instituted in 1976.

market value must occur, and lands sold, leased or re-leased should be offered by public bid to the highest bidder. This reversed the earlier 1976 ruling.

The Courts Take Charge

With the Attorney General's ruling the Oklahoma Education Association (OEA) and the School Land Commission almost simultaneously filed original action lawsuits asking the State Supreme Court for guidance in this controversy. Lana Tyree, representing OEA with several school districts, filed a lawsuit against the Commission, stating in the brief to the Supreme Court that the CLO refused to follow the Attorney General's advice, and was failing to adhere to the gist of the Attorney General's recommendations. The specific OEA suit alleged that five statutes in Title 64 of the Oklahoma State Constitution were unconstitutional. In early November of 1981 the State Supreme Court agreed to assume jurisdiction over the OEA suit and consider the constitutionality of all statutes relating to rental procedures on school lands (November 18, 1981, *Daily Oklahoman*).

In reviewing the suit the Supreme Court acknowledged that the petitioners (OEA) contended that in fact the five statutes were unconstitutional. Of the five statutes, two (64 O.S., 1971, Statute 86.1 and Statute 89) dealt with the maximum rents which the Commissioners could charge when leasing preference land. Two other statutes (64 O.S. Supp. 1979, Statute 52c and 64 O.S. Supp. 1974, Statute 100) limited the amount of interest the CLO could charge in making farm loans and selling trust land. The last statute that was deemed unconstitutional (64 O.S. Supp. 1976, Statute 260.2) challenged the preference right to re-lease (Percival, 1982:4). By a vote of six to three the high court declared these statutes unlawful.

In expressing the representative dissenting opinion, Judge Robert Simms in his summary said that the high court decision was based on "assumptions of fact" and claimed that competitive bidding would cure the problem "rests on shaky ground." He also recognized that even though the Commissioners are charged with obtaining a good return, "it is also true that they have a duty to act prudently, and to make financially responsible decisions" (Splaingard, Feb. 17, 1982, *Daily Oklahoman*).

Many thought the possibility did exist that higher interest rates and bidding on leases may in fact backfire, creating less of a demand or vacant properties. Could the CLO be pricing themselves out of the state land rental market? The Commission in less than five months after this ruling voted to seek district court direction in the implementation of leasing practices that would clarify the intent of the decision. From the OEA standpoint this action was viewed as "foot dragging." In their opinion "the Commissioners have attempted to circumvent the Supreme Court by going to the district court . . . several of the Commissioners have said that they disagree with the intent of the ruling . . . what we are left with is a Commission that says unless we are told every A, B, and C, we can't proceed . . . why would they require further direction from the courts? . . . they have access to General Counsel, staff attorneys and an outside law firm, as well as the Attorney General" (March 5, 1982, *Daily Oklahoman*). Tyree, the OEA attorney, added "now they have a Supreme Court ruling and they have the gall to say they're confused and come before you [the district court] asking you to interpret the order of the Supreme Court [that's] ludicrous" (Splaingard, March 3, 1982, *Daily Oklahoman*).

Realistically the CLO was being cautious and prudent to allow for all interests and concerns to surface within a legal setting, clarifying each step under the court's jurisdiction. They were in fact profoundly cognizant of their precarious charge and sensed the potential for future litigation or at best always constantly having to revise what they perceived to be sound administrative changes (CLO Interview 1997). What this amounted to, from a Commission point of view, was the equivalent of rewriting Title 64 of the Oklahoma State Constitution.

While under the jurisdiction of the Supreme Court, the CLO in fact did attempt to take action in February of 1982, with regard to leases about to expire, roughly three months after the original briefs were filed. Waiting for the Supreme Court to make a ruling on the pending litigation during December of 1981 and January of 1982, advising current lease holders to be patient, the CLO decided to extend in February of 1982, 550 leases for another year, for leases that expired December 31, 1981. In conjunction with this decision the Commissioners agreed to take competitive bids on leases, but allow the current lessee the opportunity to match the bonus offered by another bidder (Splaingard February 18, 1982). Within hours on the very same day the Supreme Court's six to three ruling put the lessee in limbo once more by canceling lease extensions.

Reaction and Reality

Reaction from Cimarron County and its ranchers to the lawsuit was that of both concern and outrage, especially in dealing with maximization of rents, and the right to re-lease lands on a noncompetitive basis. As one rancher put it "why do some teachers get tenure, but we don't?" (Hochenauer 1982:1). A Cimarron County Conservationist supported the ranchers concern by adding "the OEA talks about this "sacred trust" to the school kids, I think we've all got a sacred trust to the land . . . the ranchers are doing a good job of stewardship of the land, so why shouldn't they get tenure in ranching the land? (Etter, Nov. 29, 1981; *Daily Oklahoman*).

The idea of higher rental rates rekindled longstanding differences and misunderstandings between downstate people and the ranchers of Cimarron County. These ranch lands were sacred but not equal with downstate ranches. Much of the local reaction was well documented in the *Boise City News* which tended to add more depth and understanding on particular issues. One comprehensive article written by Kay Peck on February 24, 1982, quotes rancher Robert Carr Vincent, who at the time leased over 17,000 acres of school lands, as saying that "the main thing that bothers me is the irresponsible charges leveled against the ranchers without knowing the facts." The ranchers were reacting to an affidavit filed with the Supreme Court contending that the local ranchers were "cheating" the State's school children, renting land that was appraised significantly lower than the state average of $662 per acre. The news story emphasized that school land in Cimarron County is not average state land, and reported the local agricultural authorities valued the majority of the grassland in the area to be worth from $100 to $175 per acre, not $662. It was also confirmed in the story that many ranchers in the area were currently leasing CLO lands at rates of $5.40 per acre per animal unit (AUM) per month, while comparable leases of area federal grasslands were at $1.86 per-anum (in 1982) per month. Downstate concerns were forgetting how bountiful yet fragile (as witnessed during the Dust Bowl days) these grasslands are, disregarding climate, soils, and vegetation in their assessment of the true difference in carrying capacity between lands in central Oklahoma as opposed to lands in the Panhandle. Clearly the OEA and downstate interests never accessed the unique landscape variables associated with Cimarron County's school lands.

Different Land, Different Acres

An animal unit per month or year "aum-auy" downstate is hardly representative of an aum-auy, as a cow-calf unit is commonly called in the Panhandle. Many people associated with the suit never realized how different one acre of land is from another, especially in the Panhandle. The number of acres that are needed to support a cow-calf unit is known as the carrying capacity or stocking rate of land. Many factors determine the carrying capacity of an acre of land, however, it is the amount of cattle consumable vegetation that primarily determines the number of acres that would "carry" an animal unit. A cow-calf unit for calculation purposes is generally acknowledged as one cow and one calf (just born) with a combined weight of 1000 pounds. According to the Cimarron County conservation service (CCCS) the average cow-calf unit will consume 3 percent of its body weight per day in ranchland areas, translating to 30 pounds of forage per day for a typical unit.[20] Typical county grasslands in the area produce 600 pounds of forage per acre per year. However, to run a continuous year after year operation, the rancher must make sure his livestock only consumes one-half or 300 pounds per acre per year of vegetation. At that rate on a 10,000 acre ranch typical to Cimarron County, a particular rancher will need 33.3 acres of land to support one cow-calf unit (CCCS Interview, 1999). Thirty-three acres for a cattle unit is a very good carrying capacity average for most Panhandle ranches. However, on school lands with stony breaks and shallow soils represented by the predominate Travessilla-Berthoud Soils most ranchers agree that 40, and in some cases 50, acres of land are needed to successfully maintain a cattle unit annually.

As one rancher put it "the guys who figure stuff like this, never have been out here to see the county" (summer 1999 interview) and was quick to point out that 28 to 30 acres of ranchland to feed a cow unit for a year is excellent in the Panhandle compared to the nine or so acres it takes in most downstate ranching operations. Carrying capacity is different, cow calf units are different, the land isn't the same, and so the rent should not be the same, many cattlemen believe. A 10,000 acre Cimarron County ranch would be equivalent to a 2 or 3,000 acre ranch downstate.

> Out here they [downstaters] have a hard time understanding the land . . . down there they really would have something, but here they don't have much . . . it's always appealing to people who come from the East . . . we're not any different from our neighbors, New Mexico or Colorado, we're the same stuff,

[20] The numbers used here are generalized to convey the close approximate acres needed to support one cow calf unit. It should be noted however that although approximate, they do represent many ranching landscape situations in Cimarron County.

> [land] but because we are unique to Oklahoma we're big wealthy land owners . . . . They get dollar signs in their eyes when they come here . . . they want more money, and that's part of this deal with rent . . . for this land they can't tell me the rent is cheap (mused a Cimarron County rancher in a 1996 summer interview).

Confirming Panhandle stereotypes were statements like the following: "In behalf of us land hungry peasants out here in Poverty Land [Guthrie/Downstate] I wish to ask why it is that public lands become available only to those persons wealthy enough to afford a lease on these huge acreages that includes this imaginary 'public' the school [lands commission] . . . has a right to bid on the lands, as well as the ranchers, who I am sure are suffering no hunger pains" (Binkley, 1981:1). Written by the editor of the *Guthrie Journal* during the 1981 Cartwright ruling this was the view of many who thought it unjust for those renting to have the privilege to purchase such valuable lands without public competition, if and when they were ever offered for sale.

Judge Cannon's Court and Eventual Sales

As March 1982 approached the CLO asked for a hearing with the Oklahoma County District Court where they hoped to receive further definitive guidance on their leasing policies. In court District Judge Joe Cannon called the CLO's past actions "unconscionable" and advised the Commissioners "not to advance one penny on any of [their] loans" and suggested that they look for ways to cancel every loan made since statehood. He also stated "I'd do away with all leases and re-lease them to get the maximum benefit for the kids of Oklahoma. I can't see how the law should be any other way" (Johnson, March 12, 1982). Cannon's remarks inspired the CLO only four days later to again formulate a competitive bidding policy for leases, this time not giving the current lessee the automatic right to match the highest bid. Rental rates as in the past were determined on the land's productivity, causing State Auditor Tom Daxon who favored a market value appraisal to voice the only dissenting opinion (Splaingard, March 19, 1982),

With April approaching the CLO had hoped to institute the new procedures: advertising land prior to sale, issuing a lease to the highest bidder, and lastly appraising base rental rates by using a land yield formula. What resulted was another lawsuit filed with Judge Cannon halting the renewal of more than 57,000 land leases by the CLO. "The school districts [in concert with the OEA] filed the lawsuit because they were unsatisfied with a new Commission policy of auctioning leases at the highest bid" (Hammer, April 21, 1982) and other procedures. Concerns surfaced over improvements on rental lands and their alleged inflated value, along with testimony stating that the Commission could accrue sizable profits if the land were put up for bidding on the open market, instead of using productivity formulas. W. R. "Bob" Massey, the Commission Secretary at that time, countered that the CLO over the years had been doing a good job in securing profits, saying that "total rent income . . . doubled from $10.9 million in the 1972-1976 period to $20.9 million in the 1977-1981 period (ibid).

Not recognizing previous CLO profits and stating that the CLO's system could not work, Cannon ordered three basic lease auctions to occur by June 16, 1982. He ordered the CLO revamp the system that favors farmers and ranchers, concoct a plan that will attract more eligible bidders, and immediately begin to collect on past due rents since December 31, 1981 (Miller, April 27, 1982). To most ranchers it seemed unbelievably unjust that rent be doubled retroactively for leases that expired on December 31st. The five month wait was agonizing enough, but this ruling just seemed to accentuate the frustration of the 550 leases that were affected.[21] Forty refused to pay and were facing possible eviction. Cannon, hammered with telephone calls from lease holders accusing him of doubling the rates, said "I didn't do that, I told them [the CLO] to collect their reasonable rent in relation to the market value of the land, I told them [the lessees] they can't have it free . . . until I ordered them [the CLO] to do something, the School Land Commission wasn't collecting any rent" (Johnson, June 8, 1982).

<u>Ping Pong, Policies, and the Press</u>

The back and forth exchanges of politics, policies, and personality seemed to be portrayed as an entertaining game in the press. However, this was no game for the rancher. The lessees voice was necessary. As part of Judge Cannon's most recent ruling, targeting June 16th, 1982 as the day of reckoning, Commission Secretary Bob Massey was told to institute a series of public hearings open to all who would be affected by CLO decisions. A hearing examiner would receive all oral and written testimony and would develop a feasible list of recommendations for first the CLO to modify or accept, eventually creating a final plan to be reviewed by Judge Cannon.

[21] Lease renewal occurs on a rotating basis, every 5 years. These were the first to be renewed, 550 being a fraction of the thousands of leases.

John Percival, a former assistant Attorney General, was hired to start hearings the first week in June 1982 (Hammer, May 19, 1982).

Just prior to these public hearings, which were to be held downstate in the House of Representatives Chamber, Attorney David Petty of Guymon and an associate filed suits in all three Panhandle counties, plus Harper County, in an attempt to have local district courts conduct hearings that would in essence nullify Cannon's ruling (Johnson, June 8, 1982). It was felt that local Panhandle concerns should be taken care of by local judicial institutions. Within days, however, the ball was back in Cannon's court when the Attorney General's office informed the Supreme Court that a legal nightmare was ready to be unleashed where the CLO could potentially face several lawsuits involving their lease and rental practices. The Attorney General's Office, in an unprecedented move, submitted to the high court a motion requesting the consolidation of all suits into one. Eventually jurisdiction was assumed by the Oklahoma County District Court, Cannon saying that the lawsuits in the Panhandle were an attack on his rulings (Greiner, June 15, 1982).

The Percival Report

After four intense days of hearings in early June 1982, with roughly four to five hundred people in attendance, 130 who took the opportunity to talk, with over 150 letters and written comments in hand, John Percival, the hearing examiner, compiled his recommendations (Percival 1982:2). Although Percival's rule and policy suggestions had no binding effect on the Commissioners or courts, it did exhibit a spirit of compromise, later disregarded by Judge Cannon as not within the letter of the law. Percival noted that most of the suggested rules were "merely updated versions" of rules already in existence but emphasized that several major changes be considered for adoption. Percival's plan called for a minimum bid on leases to be roughly 90 percent of the market value of the land with state owned improvements.[22] His plan stated that market value and fair rental value of the land would be accessed with appraisals that considered surrounding land comparisons. Since agricultural and ranching land loans would always be the most important option for many in dealing with the CLO, Percival maintained that in order to yield higher profits the CLO should have a fixed slightly lower .25 percentage relationship with federal land bank loans, the Commission's chief competitor. Rule changes dealing with interest rates on certificates of purchase for investment and loan interest options were suggested, mainly to align these monies more strongly with current market conditions (Hammer, June 17, 1982).

Focusing on competitive bidding, the Examiner recognized that under existing litigation the need for competitive public bidding is critical. The CLO should not set rental rates, instead the market place should set them. Percival reiterated that rentals charged in this manner are virtually immune from any constitutional attack. With this recommendation in mind, the hearing examiner noted that he experienced the most emotional, intense outpouring of concern from those in attendance regarding competitive bidding replacing preference rental renewal policies.

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[22] The following review of Percival's recommendations are all specifically outlined in the booklet/report entitled the "Report of the Hearing Examiner," in appendix "D." Also it was law that any building or improvement by a lessee on school land property, was property of the state.

> Not one positive comment, oral or written, was received on the issue of public competitive bidding. All of the lessees fear that public competitive bidding will mean loss of their leases. Some fear [loss to] corporate farming operations; some expressed concerns about professionals looking for tax write offs . . . concern was also expressed about community disruption resulting from neighbor bidding against neighbor. Some [lessees] were of the view rents would go so high no reasonably prudent rancher could afford to operate the lease, [and lastly] . . . wasteful farming techniques [would be] necessitated by the lack of security [in not having the] ability to re-lease [and] would result in soil depletion and a reduction in agricultural value (Percival 1982:13).

The volume of discussion gravitating around the option to re-lease and the importance of it to those who were present, prompted the examiner to add his own personal recommendation for a match-the-highest-bid rule, knowing that it would be contrary to current legalities. To match the highest bid meant just that, giving the option to the lessee to be last in the bidding process by matching the last bid. Four other important modifications and additions to the current rules were discussed with suggested changes, and should be mentioned as a result of Percival's report. Specifics on the advertising of lands, establishing trust fund investment goals, the consideration for property appraisals in relation to the market, compensation to lessees for improvements (which was yet to be resolved), conservation guidelines and procedures for public bidding were the bulk of the remainder of the hearing examiner's report.

<u>Cannon Scores: Sale Ordered</u>

The hearing examiner's report was issued in June of 1982. In July of 1982 Judge Joe Cannon, after reviewing the new revised leasing and loan regulations, said he would make the rules himself if he had to, paddling the policy ball back to the CLO's side of the table. "I don't' intend to let this land go to pot and the school children's money go down the drain just because you [CLO] won't act . . . I've been saying all along I didn't want to write these rules, but if the Commission doesn't do its constitutional duty, I'm going to do it for them" (Walden: July 9, 1982). At the crux of the disagreement were past unresolved issues that the CLO was trying to salvage. Cannon's proposals expressly required public bidding on all leases, prohibited automatic lease renewals, and stipulated that holdover tenants (those without competition) pay market value rental rates. He balked at low interest loans by barring the Commission from contracting any more loans to land buyers, until interest rate procedures could be reviewed.

As volleys were exchanged with special hearings and meetings called, the CLO slowly adopted some of Cannon's suggestions. During the first few weeks of July 1982 the battles were most intense, concentrating on issues that had to be resolved before summer had ebbed away. Within days of his first negative reaction to new CLO policies Cannon also ordered the Commission to collect rent or file legal action of those lessees that have been holding out, not having paid their current rent. A contempt of court proceeding was threatened. As the CLO was adjusting to the edict of the court compromising more, eventually one important issue still remained, all leases had to be subject to public bidding. Toward the end of the three week battle at a Commission meeting the Commissioners still rejected Cannon's public bidding amendment, as a final hope that one of the important issues with ranchers and the CLO could be saved. Cannon basically responded by putting the requirement back in his hearing agenda where both CLO and OEA attorneys presented their case.

When the hearing ensued M. C. Kratz, Jr., attorney for the CLO, argued briefly and called no witnesses. Three public bidding advocates enumerated their views for six hours on the witness stand (Miller, July 17, 1982). By July 20th, as a result of these final hearings, Judge Joe Cannon ordered that all leases be subject to competitive bidding adjusted to market values. The Commission was ordered again to rewrite policies and gain approval from Judge Cannon as soon as possible. During the late summer and winter months of 1982, the new rules were refined, submitted and approved by both the CLO and Cannon, leases appraised, a system of leasing and bidding procedures were finally finalized, advertisement strategies put in place in anticipation of eventual auctions.

As fall of 1982 approached, a few nagging issues remained to be resolved with rentals, none that many thought couldn't be worked out. In late September, however, frustrations flared again when Judge Cannon ruled that improvements built on school lands were property of the state (CLO) when leases expire. Questions about who should receive the profits when lands were re-leased or sold punctuated efforts of the Commission to resolve smoothly what were perceived to be the final hearing stages of the original suit.

One other expected decision became reality. In conjunction with the improvements order, Cannon also directed the School Lands Commission to sell all of its 766,000 acres of school land. "I've told you this before, but it doesn't seem to sink in," Cannon explained to M.C. Kratz, the CLO lawyer, "you are going to have to operate this trust for the benefit of the children." Cannon further stated that the land had been used for "political purposes . . . it's the biggest political plum to come down the pike" (Robinson, October 16, 1982). The State's school lands were divided into five districts, each area having all leases expire on a given date, different districts having different expiration dates. With this in mind Cannon ordered the Commission to begin the sale of school lands in January 1984 when the Oklahoma City area district leases expired. Meanwhile by March of 1983 the Cannon directed CLO lease plan finally took effect, auctions for leases were to commence in the Panhandle and Harper County on March 4th and 5th. This first round of public auctions for leases involved only 6,921 acres most that had been turned back to the state by previous lessees who couldn't afford to continue leasing or no longer wanted it in the family under the old regulations. These auctions for leases would serve as a model for other areas of the state if approved by the court (*Daily Oklahoman*, August 18, 1982).

What most ranchers in Cimarron County cherished was their sustained relationship with the land, and what they had fought for so relentlessly was lost, they believed to the courts, the CLO and downstate politics. Not only were ranch leases in jeopardy but sale seemed inevitable and their very livelihood perceived tenuous at best. What started as a battle with the Court in 1982 with support and sympathy for the CLO changed to a sense of betrayal and even anger. As CLO policies had to be enforced in later months and years the frustrations were sinking in, they had become formalized not only for the CLO, but especially for Cimarron County ranchers as well. As one rancher put it, "Judge Cannon caused such a turmoil, they [the courts and CLO] can't do anything that's pro-lessee . . . ever since bidding its put a bitter taste in my mouth . . . this kind of change would scare anyone . . . who's going to handle all of those [downstate-out-of-state] 'tire kickers' anyway, they'll snatch up this land then dump it again?" (Gress interview with rancher in 1996).

Chapter 7

Findings and the Future

The Basis for Analysis

My interest in western Cimarron County, in particular ranching on state school lands, began in 1991 with my first long-term visit. In subsequent visits I wondered if, in fact, these lands and people were markedly different. After greater contact with school land lessees, I asked if these ranchers were victims of agency and institutional misunderstanding and policy. The 1982 lawsuit suggested that eventually all school land would be sold, ending the existing land tenure system of most ranchlands in Cimarron County. This was reinforced in the middle of my research years when, in 1995-96, the CLO announced that all school land was to be sold, only sparing the best 300,000 acres for investment. If all school lands were sold, what impact would institutional policies have on the ranching community and Cimarron County?

I knew that to grasp the depth of current actions, a chronological analysis of past changes in this landscape would be essential. Temporal investigation would help frame and answer the most important geographic questions: What processes have created this unique place and how are these patterns represented in the landscape? These basic questions became the crux of this research and the basis for answers in this final chapter.

Five prevalent realities are inherent in this landscape and anyone associated with it. Today, as in the past, many perceive this land to be more bountiful than it is.

The natural landscape is misunderstood. Distant decision makers (agencies and institutions) impact its well being. Antagonisms surface due to policies, perceptions, and misunderstandings. Finally, by its very nature this landscape lends itself to marginal outside connections and exhibits a lacking infrastructure.

Distinct Landscape, Distinct People

Compared to most of Oklahoma, the Panhandle, in particular Cimarron County, is the highest, most arid, and most geologically different county in the state. Punctuated by mesas this area is home to one-of-a-kind soil associations not found elsewhere in Oklahoma. An elevated sandstone and lava capped landscape in the western half of this region gives way to the more level Plains of Mansker-Potter and Travessilla-Berthoud soils which strongly correlate with grama and buffalo grasses. These physical features -- land, structure, relief, climate, soils and vegetation – have significantly influenced economic patterns. These unusual soils to the rest of Oklahoma, are home to roughly 30% of all school lands in Oklahoma.

From early Native Americans to Empresarios to cattle empires these lands seemed destined to be different, supporting vast herds of buffalo and later cattle. During Territorial days this land was settled like no other. Both allotted homestead and ranching acreage more than doubled in many cases west of the imaginary grazing line. Prior to statehood thousands of acres of in-lieu-of replacement lands for already occupied school land sections were located in the Panhandle because here were vast unclaimed holdings. Today ranches are still unlike downstate holdings; due to low carrying capacity, most consist of at least six to eight thousand acres need for economic survival. This reality led individuals and agencies to think in parochial terms when applying policies affecting these lands. Most perceived the area to be more productive than it actually is. Interestingly, the worth of these lands were never really questioned until American "scientific" expeditions crossed these lands in the early 1800s. Prior to this Spanish encomendia surveys indicated abundant grasslands and well watered streams. By 1820, however, Major Stephen H. Long while exploring Oklahoma, dubbed this county as the "Great American Desert" and was supported by Edwin James, an accompanying botanist (Wagoner, 1990: 59-60). It was at this historic moment that misunderstanding of these lands, their value, soils, climate and vegetation would taint perceptions forever. The size of holdings in Cimarron County was borne of necessity, not of wealth.

In a sense Cimarron County exemplifies qualities of the Doctrine of First Effective Settlement. The imprint of the cattle economy, as stated in Chapter 5, persists. The Panhandle's perceptual "emptiness" was created by nature and a transient population: migratory Plains Indians, failed Spanish settlements, trappers, traders, and finally cattle drivers over cattle trials, which by territorial times encouraged ranching and a permanent populace. This ranching culture permeates this country today. Mather's descriptions of this region's "cowboy-complex," persistent "transit region" tendencies, and the need for large land holdings (referred to as "cultural megalophilia") support the idea of an exceptional real and symbolic place.

The idea of Cimarron County ranch country as a special place is reinforced by Edward Relph, Yi-fu Tuan and D. W. Meinig as well. Relph and Tuan support the argument that both the symbolic landscape of cattle country and the unknown-to-the-outsider landscape make this place especially unique. Analogous to a core and periphery, the ranching community in Cimarron County does portray strong characteristics of a "field of care" (core) that reveals a true "field of domination" (periphery). Both strong tangible and emotional bonds help create powerful perceptual and real boundaries in this area. Through daily activity, every day vernacular, personal actions, celebrations and relationships, the natural and symbolic landscape contribute to an intended and imagined home . . . "true" to those that are its inhabitants, clearly identifiable to insiders and to long staying outsiders as well.

In viewing Cimarron County through Meinig's ten perspectives I am impressed with the number of descriptors that can be utilized to describe these ranchers and ranches. Every one of the ten elements validates how special Cimarron County ranchlands and their lessees are. The locale exudes a certain nature and aesthetic rugged beauty. Ranchers focus on the inherent problems facing these lands, especially in regard to its carrying capacity and aquifer depletion. Not one rancher views his landscape as an artifact, something to conquer; instead ranchers follow a harmonious give and take relationship with the many complex systems that affect daily activity. This land is treated more like a habitat blending man and nature in assuring its wealth, being aware of its shortcomings so that it will always be sustainable. Its history is set apart from the rest of the state and ideologically, its people are too.[1] All of these ten perspectives set Cimarron County ranchers and ranches apart from any others in the state, and for the most part in the greater Great Plains as well.

Victims of Agency: Circumstance and Misunderstanding

Territorial times transformed this abundant grassland interspersed with occasional streams and mesas into a land never to regain recognition for its true value. It became "No Man's Land" forever. The Panhandle is rarely called by its true landscape depictions: cattle country, ranch country, or mesa country. Instead it's just "No Man's Land" or at best the Panhandle. The "No Man's Land" phrase stuck and has pervaded the land, people and policies bestowed upon it.

This land was victim early to "agency" in the sense of institutional edict and agency associated with action. Early Spanish and later Mexican attempts to gain a foothold on these lands granted Encomiendas to individuals that were doomed for failure from the start. Without natives to work the lands, settlements could not flourish, and besides too many miles separated the capital, regional infrastructure, and supportive military from these distant Cimarron lands. Later as victim to earlier established neighbors, this forced boxed-in area was supposed to be land for settlement, but soon became inhospitable to those who imposed eastern agrarian ways on this arid landscape, adding support to its negative namesake. How convenient it was for the Territory politically and economically to have this vast replacement

[1] Meinig suggests that the ten elements are barometers as to a place and its special qualities, the more elements that connect with an area's distinctness the more it is regarded as unique. Again Meinig's ten landscape descriptive topics are landscape as nature, habitat, artifact, system, problem, wealth, ideology, history, aesthetic uniqueness and a strong sense of place.

acreage waiting to be classified as school land, thus, not having to disturb downstate settlement patterns. Circumstances converted ranchlands into school lands with a multitude of perceptual and real misunderstandings on the horizon.

Most ranchers never recognized the ramifications of distant policy makers or downstate institutional structures, or for that matter really cared. Early on they were given preference, as sort-of-a-thanks for being stewards and lessees on these vast ranchlands, providing a steady income for the CLO trust funds. Interest rates on loans were low, rental rates were reasonable, and ranchers considered these lands "family." Soon however as Meinig would suggest, ranching ideologies, views on wealth and viewing the land as an artifact created problems and frustrations with downstate agency. From statehood and especially after World War II, market value and wealth potential were questioned officially in 1967 and 1976, leading many in agency to think sale, sell off these barren holdings, and gain immediate wealth for the trust and children of Oklahoma. By 1981 questions centering around these monetary issues became formalized, and reinforced perceptions of these ranchlands. Today sales are an ongoing threat to emotional and economic stability.

From a rancher's standpoint they, the lessees, were transformed overnight, thought of as lease numbers (e.g., "CS-2013") with legal descriptions on land waiting to be auctioned for new rental rates, or for sale upon expiration of the lease. Rates became segregated from the land's productive abilities. It would be the fair market value, not the more personal production-carrying capacity characteristics, that would be reflected in rental rates. Besides, it would be downstate cow-calf comparisons that would influence the doubling of Panhandle rents, satisfying the court's edict. New policies dictated these changes and it became frustrating for ranchers to accept and adjust. Carrying capacity rates, landscape characteristics, ties to the land for generations, and lease preference meant seemingly nothing. When given the opportunity finally to become an integral part of sweeping policy changes in June of 1982, through a series of public hearings, approximately 130 voices were forgotten (Percival 1982:2). In the final analysis what mattered most to ranchers was preference to re-lease, even at market value.

Sales and False Assumptions

Most in 1982 assumed that Judge Cannon's decree to sell off all school lands was the harsh reality of more than one-and-a-half years of political policy jockeying. As leases expired Cannon said the ranchers and farmers would be free to purchase the land through public competitive bidding. "Cannon calculated that selling the land would bring about 400 million [dollars] to the Commission coffers, which could then be reinvested in government securities, certificates of deposit and some farm mortgages to make more than . . . 5 million [dollars] per year" (Robinson, 1982 *Daily Oklahoman*). Cannon stipulated in his order of 1982 that a timetable be established for sales targeting various parcels of land in certain counties over a period of five years, starting in 1984, noting that land not sold be re-leased at fair market value (ibid).

Cannon's blistering commentary of 1982 heaped on the Commission (he suggested that "my little granddaughter could do better than that" when referring to

CLO profits) changed to general astonishment by 1983. One year before sales were to start, higher than expected bids submitted during the first lease auctions were three times higher than income from land leased under past CLO policies (*Daily Oklahoman*, March 10, 1983). In his abrupt turn-around Cannon extolled the virtues of his earlier dictate by stating, "What's happened here is that the School Land Commission conducted the kind of auction I ordered them to do" . . . saying that the permanency of the land would be a better investment for Oklahoma. He added, "It's hard to squander the land. We're on a new program now and it looks like this new program will work" (Donovan, *Daily Oklahoman*, 1983). According to Cannon school lands now didn't have to be sold.

In the years after the lawsuit the CLO became hesitant in policy making and policy acting. After all, many felt that Judge Cannon was quite outspoken and reactionary in decisions that affected CLO operations and relations with lessees. In fact the vast majority of ranchers then and now still are dreading the day when leased lands will be auctioned for sale. The mindset, established in 1982, has permanently tainted CLO-rancher relations.

Acreage Facts and Foreclosures

What are the hard facts? How many acres have been sold, or for that matter will be sold? Briefly recapping in round numbers, at statehood Oklahoma had at its disposal 3.2 million acres of school land. Before statehood the U.S. government in two separate actions granted Oklahoma 2.1 million acres of land. First, as part of the original Enabling Act Agreement, sections sixteen and thirty-six in each township were granted to Oklahoma Territory "for the purpose of being applied to public schools." During Territorial days (1890-1906), due to the popularity of non-ranch lands, many sections were already settled on, forcing the land office to replace these lands elsewhere primarily within the Panhandle, if replacement or in-lieu-of lands couldn't be easily located within a particular county. Secondly, in addition to sections sixteen, thirty-six and in-lieu-of acreage, as early as 1893 with the northern strip settlement of the Cherokee Outlet, the School Lands Commission inherited more land from the Government Land Office. Owed to the efforts of Henry Asp and David Boyd, higher education institutions were able to reserve section thirteen for their use in each township, and at this time the state was granted section thirty-three for public building use. From 1893 until statehood four sections of land (sixteen, thirty-six, thirteen, and thirty-three) were granted to the Territorial Land Office for the generation of revenues to fund common schools, higher educational institutions (today, University of Oklahoma and Oklahoma State University) and the public building fund. Much of this in-lieu-of exchange land was placed within grazing lands, most importantly Cimarron County. In total these two acts amounted to the granting of 2.1 million acres of land to Oklahoma Territory. Just prior to statehood in 1906 in fulfillment of the Enabling Act, 1,050,000 more acres of what became known as New College Land was granted to the soon-to-be state. These New College lands were to benefit primarily higher educational institutions other than the University of Oklahoma and Oklahoma State University. Already replacement lands were scarce because of previous acquisition of sections sixteen, thirty-six, thirteen, and thirty-three acreage. Again, the Panhandle was recipient of these lands, in particular Cimarron County. Hence, by statehood 2.1 million school land acres grew to approximately 3.2 million acres.

Although the majority of in-lieu-of replacement lands were located in the Panhandle, replacement acres existed within other counties. The four designated school land sections had not been immediately settled. One inescapable fact remained, however. An enormous quantity of CLO acreage was located in Cimarron County. Furthermore, another factor contributed to the vast holdings of the CLO in the Panhandle and Cimarron County. All lands not settled upon nor rented were considered public domain lands, which eventually came under the control of the state School Land Commission. Such a volatile environment where thousands of acres were transferred and settled during these early territorial days, compounded by insufficient record keeping helps to explain why possibly as many as 99,000 acres have never been accounted for (Butler, 1981: Appendix I)

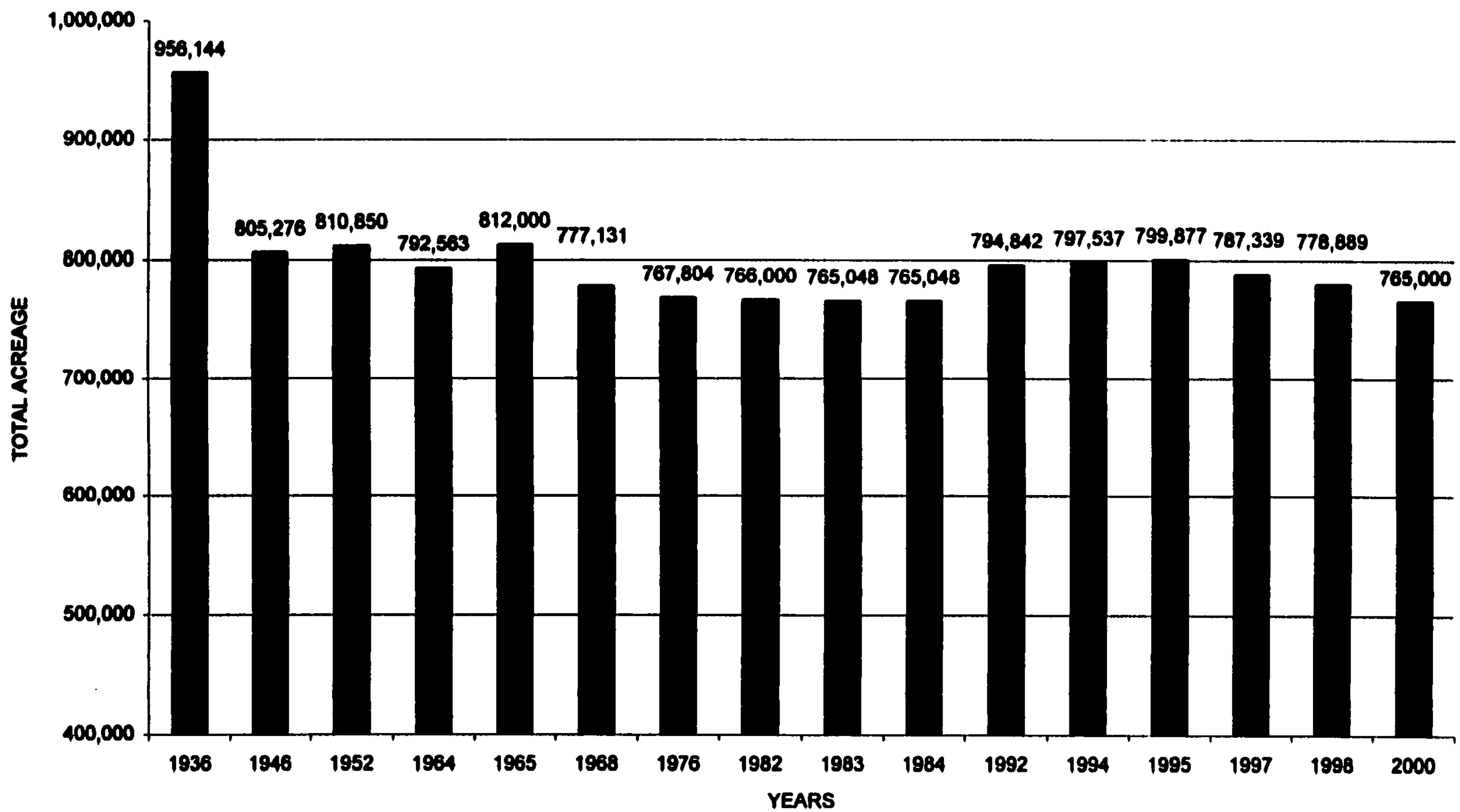
Sales: From Statehood to Lawsuit

During the sale years 1909-1917, as noted in Chapter 4, a little over two million acres of school lands were sold, leaving roughly 1.2 million acres of land in 1917. From 1917 until the mid-1930s, more discrepancies emerge as to acreage sold. However, using the landmark Hodge study as a basis for the most exacting totals, as of 1936 there were approximately 887,000 acres of unsold original granted land in the State of Oklahoma (Hodge, 1937: 96 and 99). What becomes so cumbersome in dealing with total CLO acreage at any given year is the add-on-foreclosed-acres of land, accumulated because of personal and state economic trends. For simplicity and understanding, it became generally accepted that total acres meant both the remainder of original grant lands and the current foreclosed lands added to that total. With this in mind, in 1936 there were actually 956,144 acres of school land in Oklahoma (ibid), meaning that from 1917 to 1936, through a combination of original grant land and foreclosure lands, nearly 244,000 acres of land were sold.

In March 2000, only a "hodge-podge" of CLO biennial or yearly annual reports were available through the Commission Office or the State Department of Libraries. Just before and after the 1982 litigation, copies of these valuable research tools were misfiled or have disappeared, making exact acreage totals on a yearly or biennial basis difficult to calculate. Added to this frustration is the fact there are no recent consistent county by county totals of school land properties published or mapped. One has to rely on the Land Management technicians (LMT's), individuals who are assigned to monitor, assist and appraise specific holdings in their region. Thus, to ascertain the amount of school land sold prior to and since the 1982 Judge Cannon ruling seems impossible. I rely on total CLO acreage figures from various reports and newspaper articles during various years to determine the impact of the lawsuit (Figure 7.1).

Owed to the Hodge and Butler studies, 1936 is a relatively accurate baseline year for monitoring total school land acreage. Since 1936 school lands, primarily foreclosed lands, and some original grant lands have always been sold. Pre- and especially post-World War II years saw quite a flurry of activity in foreclosures and

FIGURE 7.1
TOTAL CLO ACREAGE in Oklahoma, 1936-2000
Data compiled from yearly CLO reports and newspaper accounts



sales. Butler records that after 1936, 150,868 acres of school land had been sold in fiscal years 1945 and 1946 (Butler 1980:58). Subtracting the 1946 sales total from the Hodge 1936 total (956,144 acres), one would assume that in 1946 the School Land Commission had charge of roughly 805,276 acres, yet I do not know the mix of added-on foreclosed land to this figure.[2] With this wyley combination of foreclosures and sales just prior to the 1982 lawsuit, the CLO had at its disposal 766,000 approximate acres of land as reported in numerous *Daily Oklahoman* newspaper stories from 1981 and 1982.

Looking carefully at Figure 7.1, one can quickly determine that the 1982 lawsuit had hardly any impact on reducing school land totals. Total acreage has steadily grown since 1982, with the exception of 1983-84 and 1995-96. Currently it is at the 1984 level according to one newspaper source (Mize 2000: Section 3). Reasons for this growth may be attributable to the "oil-bust" days of the 1980s and to ever increasing rural to urban migration patterns. There were 4,496 people living in Cimarron County in 1960, by 1995 the County population dropped to 3000 (Statistical Abstract of Oklahoma, 1996:48). More and more foreclosures may follow. Many farming and ranching communities in counties are dwindling slowly as witnessed in Cimarron County's census figures.

[2] In order to appreciate the incongruity of foreclosures it should be noted that with the CLO Reports that are available, starting in 1952 until 1982 the amount of land foreclosed upon ranged from 30 to 50,000 acres annually. The foreclosures are a result of not being able to continue low interest loans made over the years to farmers and ranchers by the CLO. Since the 1982 lawsuit the CLO has been actively getting out of the loan business. As of today (March 2000) the CLO no longer administers directly any loan agreements.

Sales Roulette

At the inception of this study my strongest assumption was that all school land would eventually be sold. They haven't. After Judge Cannon's reversal in 1983 and the reality of higher bids, a political and economic wait and see game has ensued.[3] In 1983-4 the CLO did sell off minimal holdings, but this was soon offset by the increasing yet fluctuating foreclosures. With total CLO acreage actually increasing for eleven years, politics again created a potential nightmare for the Panhandle rancher. In 1995 newly elected Republican Governor Frank Keating appointed Rob Johnson as Secretary to the School Land Commission. Earlier Republican governors have encouraged the sale of CLO lands, and another round of sales seemed evident. In what was coined "the sale of the century" (Figure 7.2), the CLO announced that it would sell 500,000 acres of its approximate 800,000 acres of trust land, retaining 300,000 acres of its more productive land (Jenkins, *Daily Oklahoman, 1995).*

Once again the rancher was put on notice, once again all of the uncertainties and misunderstandings would resurface, and again the agency cast doubt on the rancher's destinies. The sales, according to Secretary Johnson, would be spread over a twelve to sixteen year time period, and sale of the first 40,000 acres would start in 1996. Within two years, however, the School Land Trust was reduced by only 12,500 acres, and a new secretary of the Commission was appointed. The latest appointee, Ernest Hellwege in an interview in 1999, stated that from 1991 to 1999 roughly

[3] From 1983 hence, school land could be sold, Cannon however thought it wiser to keep the land as an investment, a hedge against inflation.

Figure 7.2
Sale of the Century

THE COMMISSIONERS OF THE LAND OFFICE
ANNOUNCE THE LARGEST STATEWIDE LAND OFFERING
SINCE THE BOOMERS AND SOONERS
MADE HISTORY IN THE OKLAHOMA LAND RUN

PUBLIC AUCTIONS
SEPTEMBER 30-OCTOBER 11, 1996
16 COUNTIES, 99 PARCELS

30,000 acres of school land had been sold, and that the intent is still to sell off marginal holdings, keeping the highest most productive land as part of the CLO portfolio. Again, although 30,000 acres had been sold since 1995, total school land acreage in 1998 was only 21,000 acres less than in 1995, due to foreclosures (Figure 7.1).

Close Up: Cimarron County

At the time of statehood (1907) Cimarron County was granted nearly 636,000 acres of school land (Figure 6.1). Paralleling statewide CLO sales form 1909 to 1917 and then again after World War II, thousands of Cimarron County acres were sold, leaving the county with close to 251,000 school land acres (Figure 7.3). That remained constant until 1965. As CLO state total holdings approached 812,000 acres in 1965, it appears the state initiated auction sales to dispose of some of the land. During this time 9,497 acres were auctioned off in Cimarron County, most of it selling in one day, reducing the county's school land holdings to more or less 242,000 acres (Jackson, *Daily Oklahoman*, December 1965). This acreage total appears to remain relatively constant for many years. In 1976 a story in the *Daily Oklahoman* said that Cimarron County contained 242,134 acres of school land (Figure 7.4) affirming that from 1965 to 1976 acreage was stable (Montgomery, 1976: Section A). Total CLO holdings for Cimarron County would remain basically unchanged until 1996. During the 1996 statewide "sale of the century" about 6,000 acres of school lands were sold in Cimarron County (CLO interview, 1999). Today (as of 1997-98 CLO Reports) Cimarron County contains 236,270 acres belonging to the School

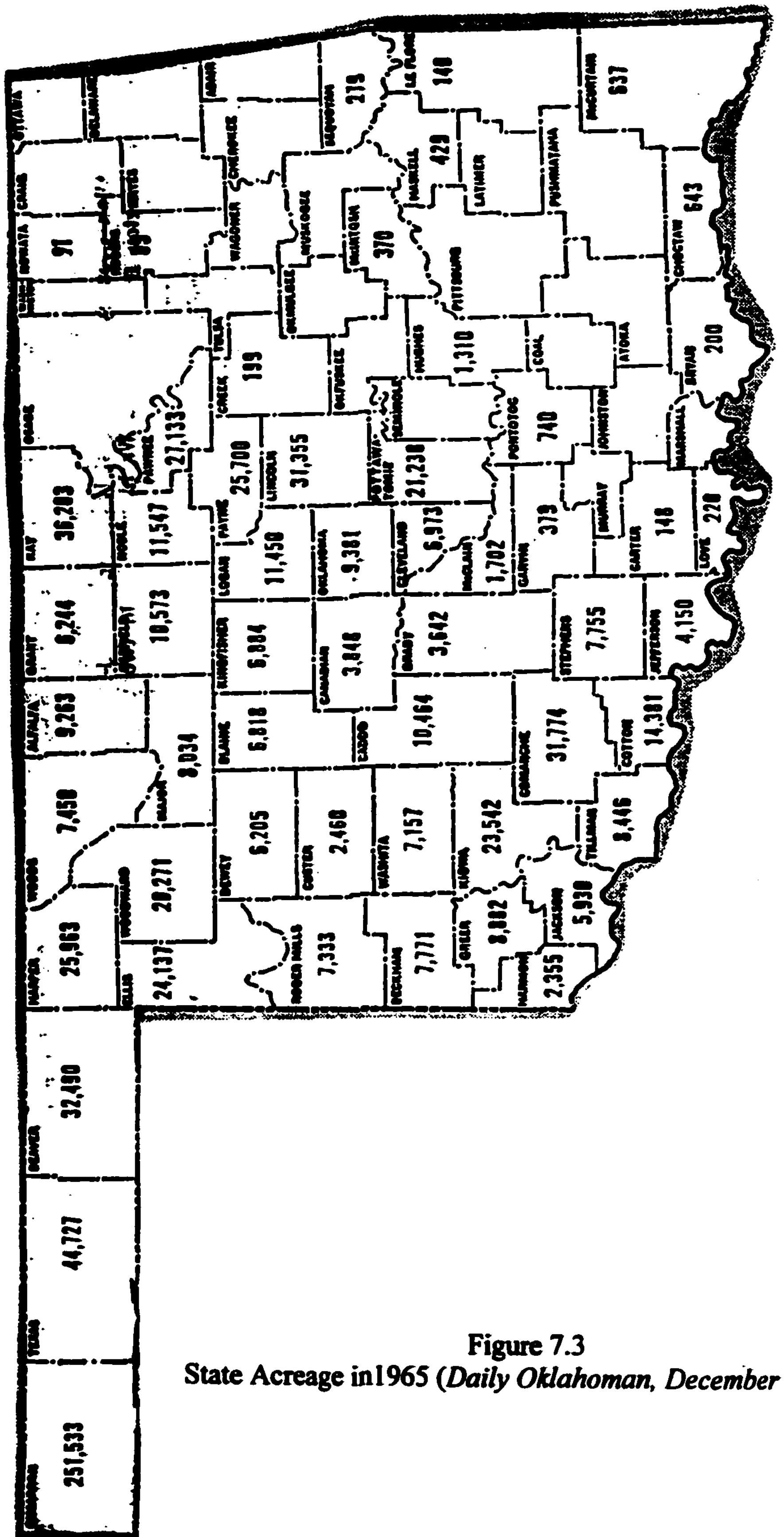


Figure 7.3
State Acreage in1965 (*Daily Oklahoman, December, 1965)*

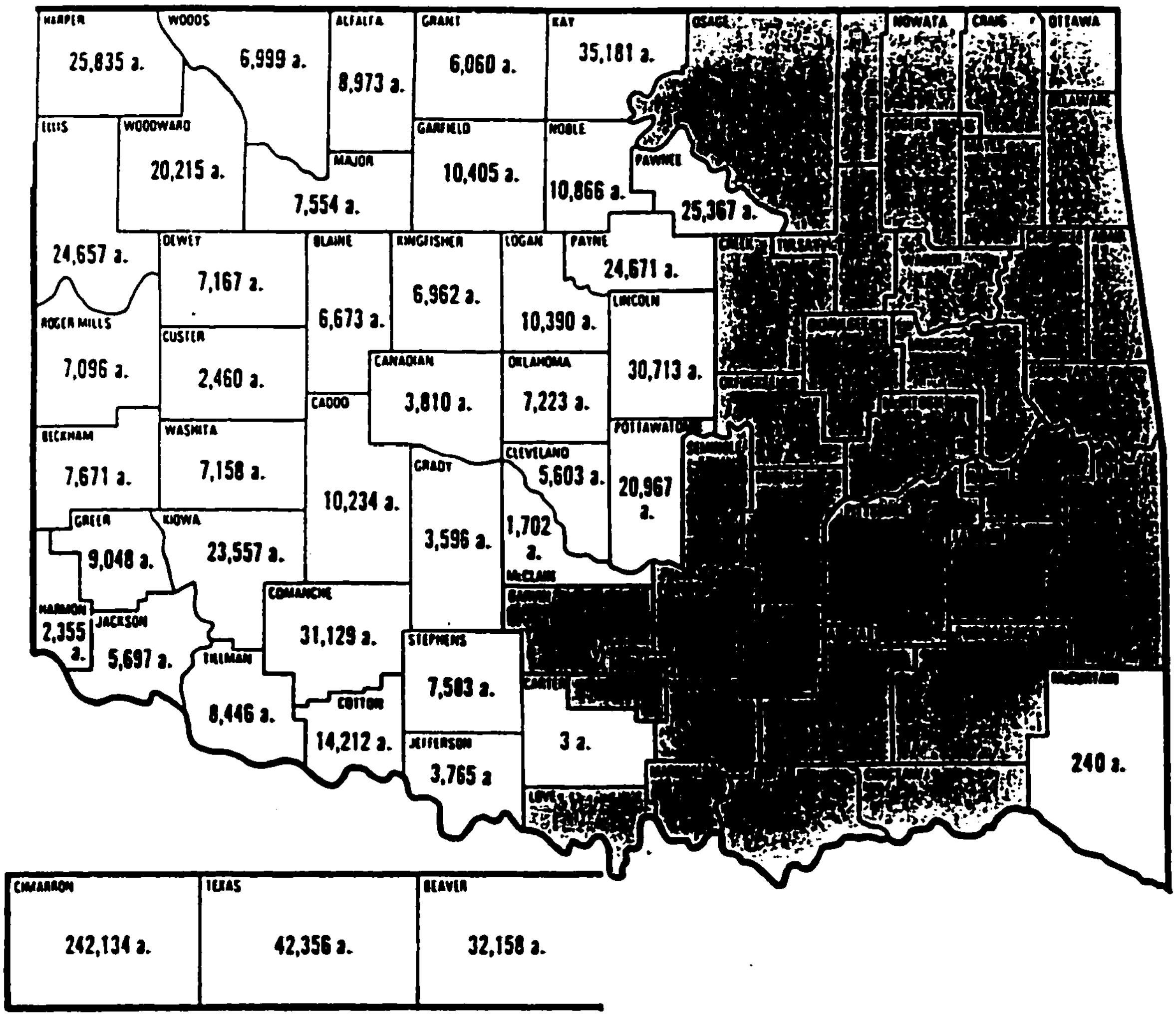


Figure 7.4
State Acreage in 1976 (*Sunday Oklahoman, April 4, 1976)*

Lands Commission (Figure 7.5). It is unclear, in analyzing the latest printed 1997-98 Annual Report with supplement, if this latest acreage total includes any foreclosed on lands.[4]

Mapping the Impact of the Sales

Regarding the last question to be addressed in this research, I anticipated a direct impact on the ranching community and the county, as a result of CLO policies and inevitable sales. I assumed that land sales meant outside buyers. The vast majority of these acres (from the 1965 and 1996 sales) have been purchased within ranch families. Ranchers, the few who can, when given the opportunity, purchase lands within or near their own holdings. This was especially apparent in the most recent 1996 sales.

A strange set of circumstances existed just before and during the 1996 sales.[5] Most ranchers were informed that a majority of their CLO lands would be sold as their leases expired. They could bid on their acreage in a competitive sale atmosphere, having the last bid if necessary.[6] It was predicted that within twelve to sixteen years only prime state lands would remain. As the sale approached, the CLO appeared to change its focus, allowing lessees to keep their lease holdings by bidding on them, or to request lands of their choice be auctioned for sale. Two ranchers chose

[4] Using past interviews and old reports as a guide, the assumption is that this figure does include foreclosed acreage.
[5] The following discussion is based on a series of interviews with area ranchers and the CLO.
[6] This policy of giving the lessee the last bid if wanted has recently been instituted, although unclear as to its inception. It was a Percival Report suggestion.

SURFACE OWNERSHIP BY COUNTY

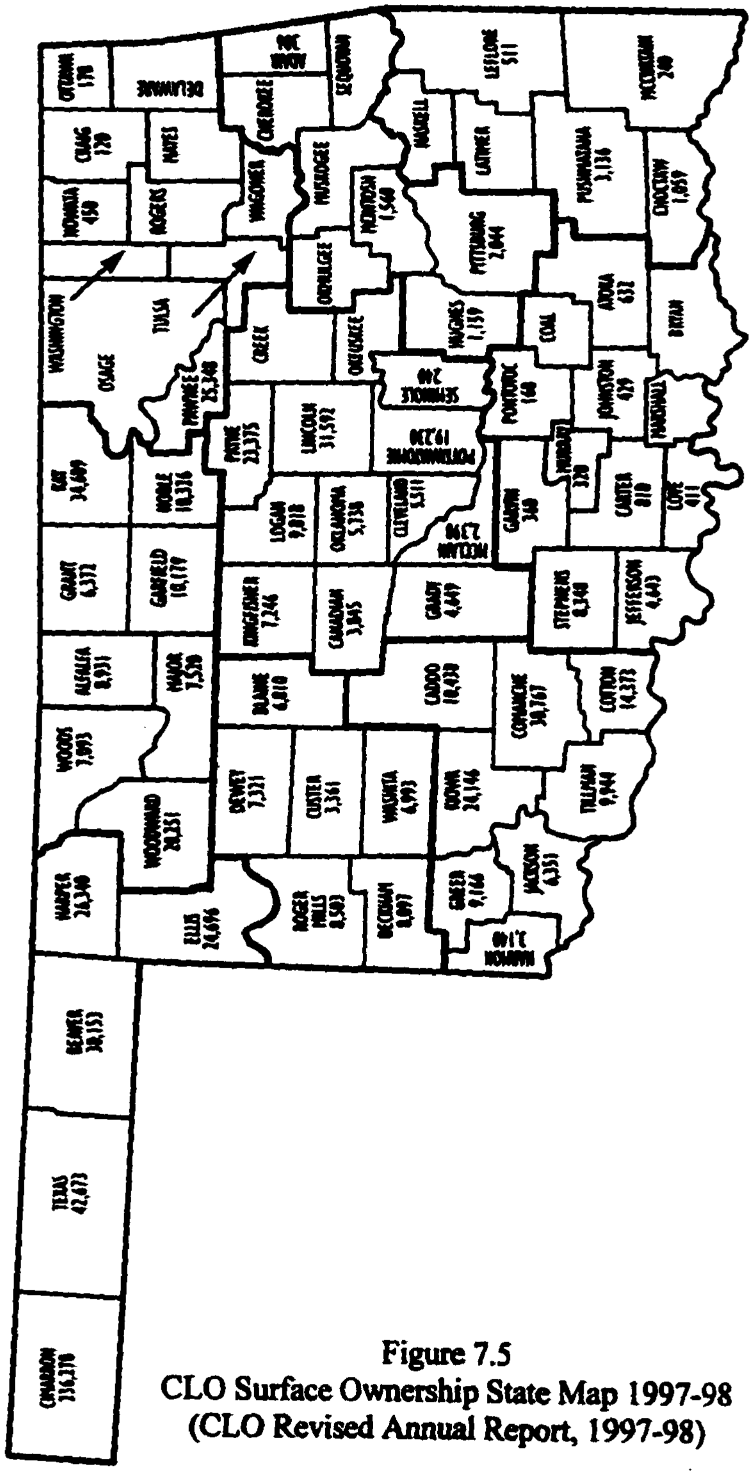
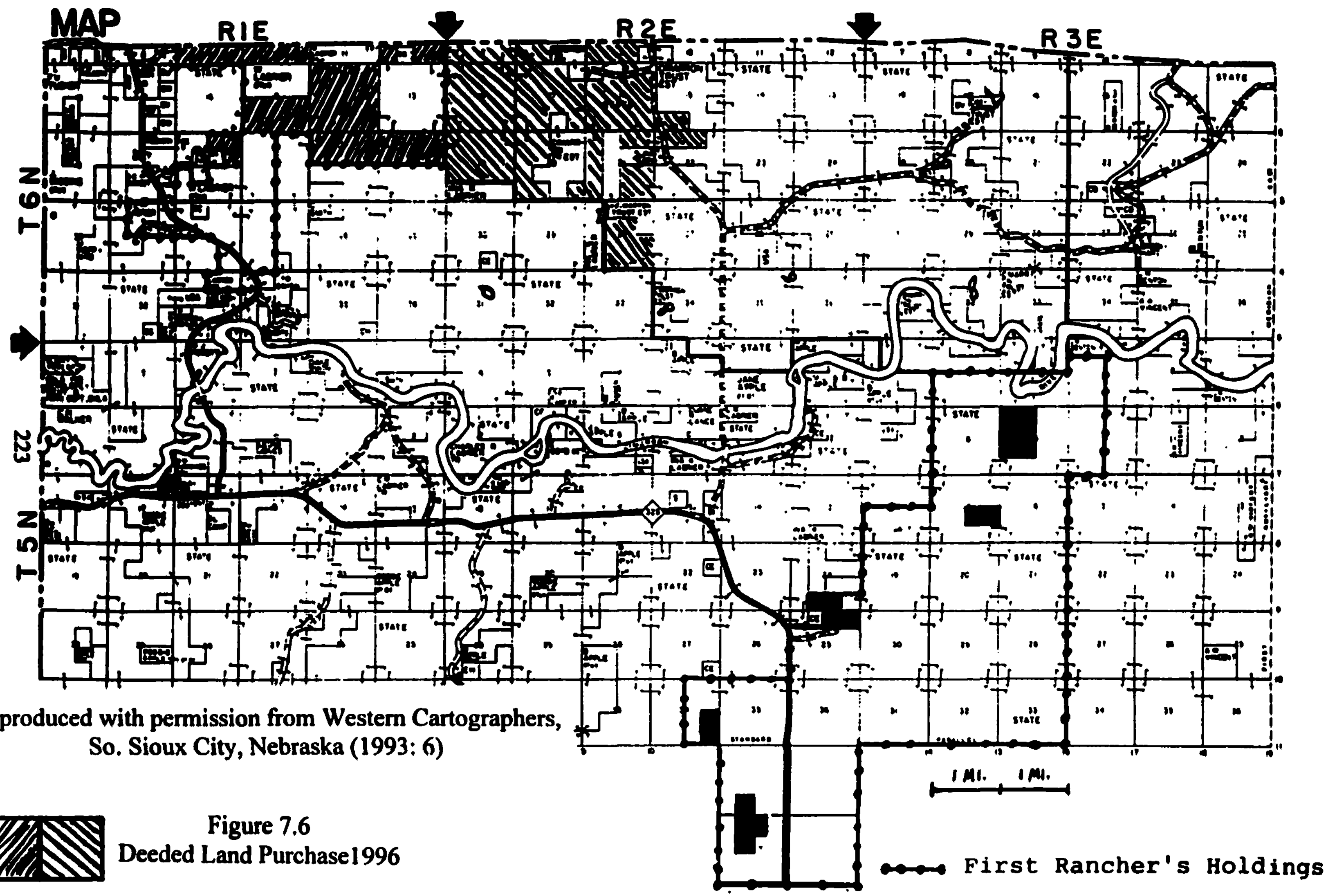


Figure 7.5
CLO Surface Ownership State Map 1997-98
(CLO Revised Annual Report, 1997-98)

portions of their lease lands to sell, and in the auction process between both, purchased roughly 6,000 of their own CLO acres.

Both ranchers have family ties to this area since territorial days. Both are deeply concerned with the future of their unstable CLO holdings and livelihood. The first rancher who has land south of Range 1E purchased approximately 2,400 acres of school land, leaving among others, sections sixteen and thirteen as leased lands (Figure 7.6). The second rancher purchased close to 3,500 acres of CLO land south of Range 2E, adjacent to the first rancher's holdings.

The significance of the landscape patterns represented in Figure 7.6 will help clarify subtleties at first glance, and reflect momentous changes with closer scrutiny. As mentioned earlier large ranch holdings are necessary for economic survival, and these two ranches are among the largest. The first rancher in the 1950s purchased the ranch west of Highway 325, within Township 5N, Range 3E. The deeded land was acquired because the original owner forfeited his land. The school lands were included in the purchase package. To a lifelong resident of the ranching community, a "couple-of-thousand" acres of land sold here-and-there "doesn't" seem to be of much concern. At closer look, however, over 15,000 acres (approximately 9,000 acres in 1965 and 6,000 acres in 1996) have become deeded land since 1965, this being the acreage of a good sized ranch as represented in Figure 7.6. With occasional bankruptcy, the threat of more sales and only a few ranchers able to purchase land, the future may be grim for the average CLO lessee. Although the 1996 sale was only the second time in Cimarron County since 1907 that CLO lease land was offered, it



Reproduced with permission from Western Cartographers, So. Sioux City, Nebraska (1993: 6)

Figure 7.6
Deeded Land Purchase1996

won't be the last. In this sale alone basically one-half of the first rancher's original pre-territorial lands became deeded and one-fourth of the second ranch became county taxable land. As of March 18, 2000 the School Land Commission has announced more statewide sales that will total 12,200 acres (Figure 7.7) with three parcels totaling under 600 acres to be sold in Cimarron County (Mize 2000, Section C). At this time it isn't clear if it is farm or ranchland, or if these acres are lessee inspired or represent foreclosed lands.

Changes are taking place although subtle to many ranchers. The reality is evident, more than ever the future possibility of long-tenured land being lost at auction to outrageous outside bidders is part of this existence. The fear of neighbor bidding against neighbor is less than outsider-to-rancher bidding. During the 1996 auction it was estimated that both the first and second ranchers bid at least 20 percent higher than most thought they should have bid, in order to keep their lands within the family (Rancher and CLO interview, 1999). As one rancher summed it up, "we're pretty vulnerable and defenseless, much like puppets attached to governmental strings. Who knows when another big sale will happen" (Gress interview, 1999). Next time it really could be the "sale of the century."

Business and Ranching Responses: Window to the Future?

Since my last question couldn't be answered immediately (not much Cimarron County school land had been sold, 15,000 acres since 1965), then polling the business and ranching communities became necessary in attempting to predict the future. During the summer of 1998 I designed a formal anonymous survey for both the

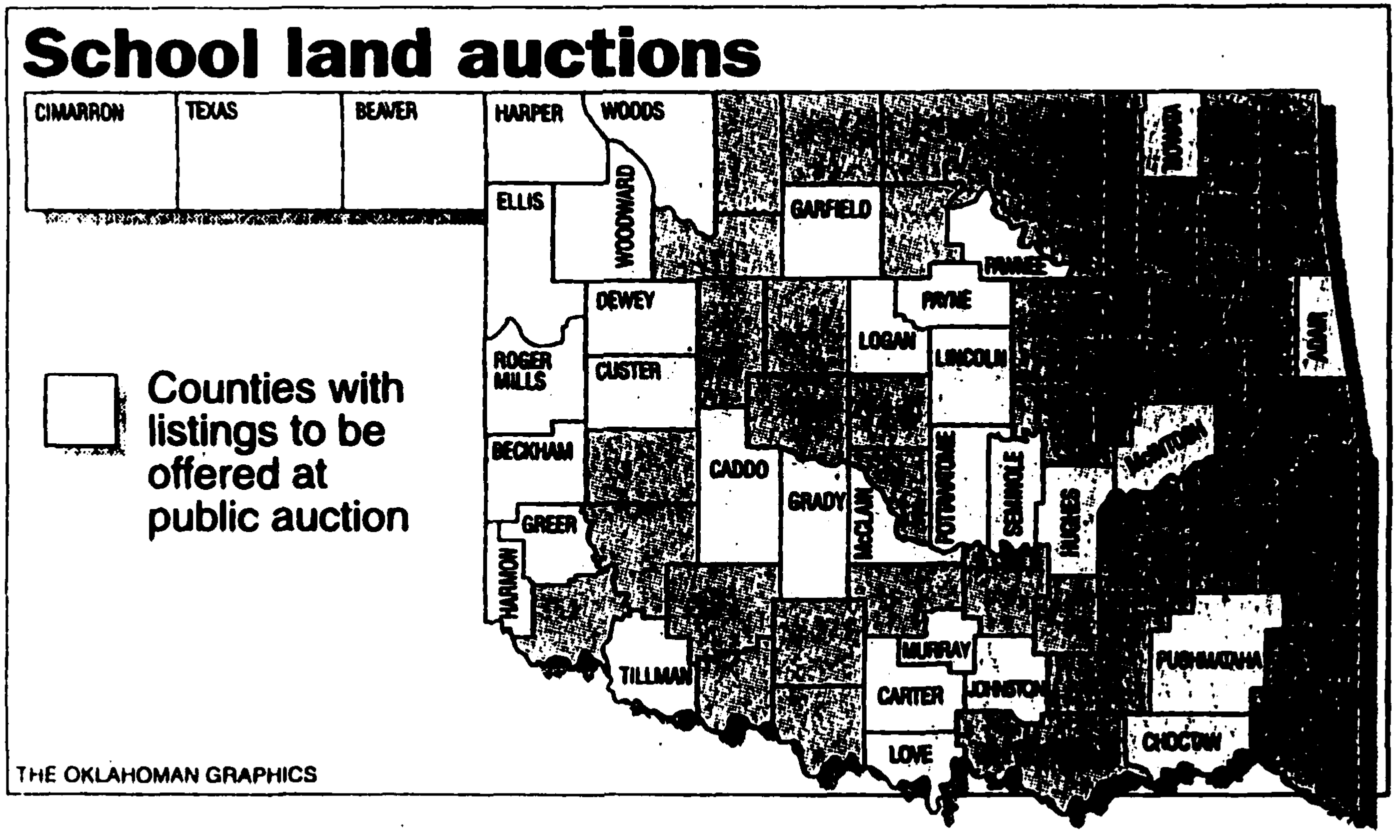


Figure 7.7
Announced Sales, March 2000 (*Daily Oklahoman*, March 18, 2000)

rancher (Form R) and the Boise City business community (Form B) to ask for input on school land potential sales. Questions generally focused on the economic impact that might result from school land sales (Appendix A). All twenty surveys were hand delivered to the most active ranchers leasing the majority of CLO lands (ten surveys) and to the most active members of the business community (also ten surveys) who were associated with the local Rotary Club. All twenty of the hand delivered surveys were mailed back during Fall of 1998. Many responses supported my research assumptions and provided research depth. The primary intent of the survey was to access the economic impact of school land sales, now and in the future, on the county and both the business and ranching community.

At the time of the survey, two years after the 6,000 acre sale of county lands (all ranch land) occurred, both the business and ranching communities maintained a skeptical wait and see attitude. Regarding the business community 60 percent of the respondents classified themselves as providing professional service in the community, and 40 percent retail/service providers. All considered themselves knowledgeable in school land issues and acknowledged that 30-50 percent of their customers currently lease school lands. Seventy percent indicated that they have been in business in the area 25 or more years. Up to this point the business survey revealed somewhat predictable results: a generally stable, long-term business community that was knowledgeable about school land potential sales and current issues.

The interesting differences that do emerge between the business and ranching sectors are also somewhat foreseeable. Ninety percent of the business community stated that the business climate in Cimarron County is stagnant or loosing ground, and indicated that one-third, if that, of its youth would stay long term to make a living in the area. Keeping these responses in mind it is easy to understand why most business people would like to see school lands sold, and proceeds put on the tax rolls. At least 70 percent felt that the sale of school lands would have a significant or long-term impact on Cimarron County but would have a positive impact on the economy and the business sector. It seems safe to say that although the business community is supportive of ranching on school lands, it would rather see these lands in private hands, generating much needed county tax income.

The ranchers in the area were a more established group. Half lived in the county for more than seventy-five years and for twenty-five to fifty years or more have leased CLO lands. Hardly any sublease their rental lands and at least 60 percent of them lease better than half of all the land they control. Most deeded land until recently has been typically near water or is the family residence. Most all had operations of 5,000 to 8,000 acres or more and 50 percent of the respondents had ranching operations over 12,000 acres. Generally, their responses supported many of the perceptions and assumptions I had of this area. The ranchers also feel that the selling of these lands would have a significant long-term impact on the county economically, but in a negative sense. Many view these holdings as the only sustainable sensible economy for the region, and feel that it wouldn't be too realistic to sell off these lands because eventually whatever happens, the land would revert to the cattlemen sooner or later. The ranchers also acknowledge the youth flight from the county to better opportunities, but through interviews I learned that it is generally the non-ranching young adult segment that is moving out, not necessarily the ranch youth. Lastly 90 percent of the ranching community wanted to purchase their rental lands in some sort of long term, fair and reasonable way.

Current Prospects

In a sense both the business and ranching communities are correct. All agree that the current leasing situation is harming the county, business and rancher alike. All agree that the county needs more revenue and an economic boost. Again, the long-term solution would be to sell these lands to those who have cared for them. The rancher versus the CLO conflict would thus end.

To many Cimarron County exhibits characteristics of a vulnerable county with 3,000 plus population, little noticeable political clout, a low ad-valorem tax base, and sporadic signs of young people out migration. Will some CLO lands be transferred to the Tourism Department? Will large agricultural ranch related corporations or other large industrial concerns purchase CLO lands? Or will the economic activity be generally the same? Through interviews these were much of the concerns voiced within the ranching community. More than 50 percent of the interviewees perceived that the political and economic climate was ripe for big business in the next few years.

Some economic diversification is on the horizon. The Boise City Chamber of Commerce, the Regional Oklahoma Economic Development Authority (O.E.D.A.), and Panhandle Oklahoma Development (a voluntary business group) are actively recruiting downstate and out-of-state businesses to locate in Cimarron County and the area. Also, because of the intersection of four major U.S. highways in Boise City, varied service establishments operate which include motels, restaurants, and gas stations. Boise City itself supports a hospital, school system, and nursing home, the three largest employers in the area. The feed lot, grocery, bank and trucking companies, and a local successful dairy[7] -- a latecomer (1995) to the economic mix -- are the next largest employers.

Even though the economic climate is supportive of new adventures, the slow ebb of out-migration, low county tax base, and uncertainty over the status of school lands has prompted over the years a few ranchers to expand their economic opportunities. Catering to an increasing tourist population seems to be the most logical avenue for income. Over the years a cattle drive business has flourished, as has the growing bed and breakfast business. This land and people are unique; pride and perseverance seem to abound. They've always been victims of agencies and misunderstandings but they always adapt to new policies. Whether the school lands are sold, this country will long be ranching country. Vast acreage (roughly 236,000 acres) is controlled by less than twenty ranchers, most with pre-territorial and territorial roots. The perception is that somehow these lands will always require special people who recognize the limitations of the land and are willing to make sacrifices. As one rancher observed, "Let them [outsiders] buy it [CLO land]. Heck,

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[7] The dairy produces raw milk which is transported downstate (to Norman's Highland Dairy) and out of state.

after awhile they'll mismanage it, figure its not worth it and eventually be lookin' to get rid of it" (Gress interview, 1996). Whatever the short term impact of sales may have, one senses that this physical landscape will be timeless. Possibly for a few, the human landscape may be timeless as well.

Research Observations

In accessing this research, I must elaborate on a mixture of shortcomings, strengths and observations. A strong emphasis in this study and the methodology I used was on Cimarron County's historical roots. Drawing on Carl Sauer's influence I determined that to understand the relationship of the CLO and any other government institution with this land and its people, a sense of place through time was important. Building on past peoples and events was central to future policies. Geographers such as Relph, Tuan and particularly Meinig helped this research uncover the sense of place that is so prominent in the ranching community. Quantitatively a sense of place, with its symbolic and real landscape is nearly impossible to measure. However, with the help of especially Meinig, much of this area's persona was documented. This study dealt with a still changing, dynamic topic, where although the trend seems to be the sale of school lands since 1965, policies, politics and perceptions have made it difficult to see any clear patterns. Landscape patterns do exist, but until recently (1996) have been changing very little. Maps of Cimarron School Lands look nearly identical year after year (Figures 7.8 and 7.9). However, that might change. The ranchers seem to downplay eventual sales, possibly to avoid

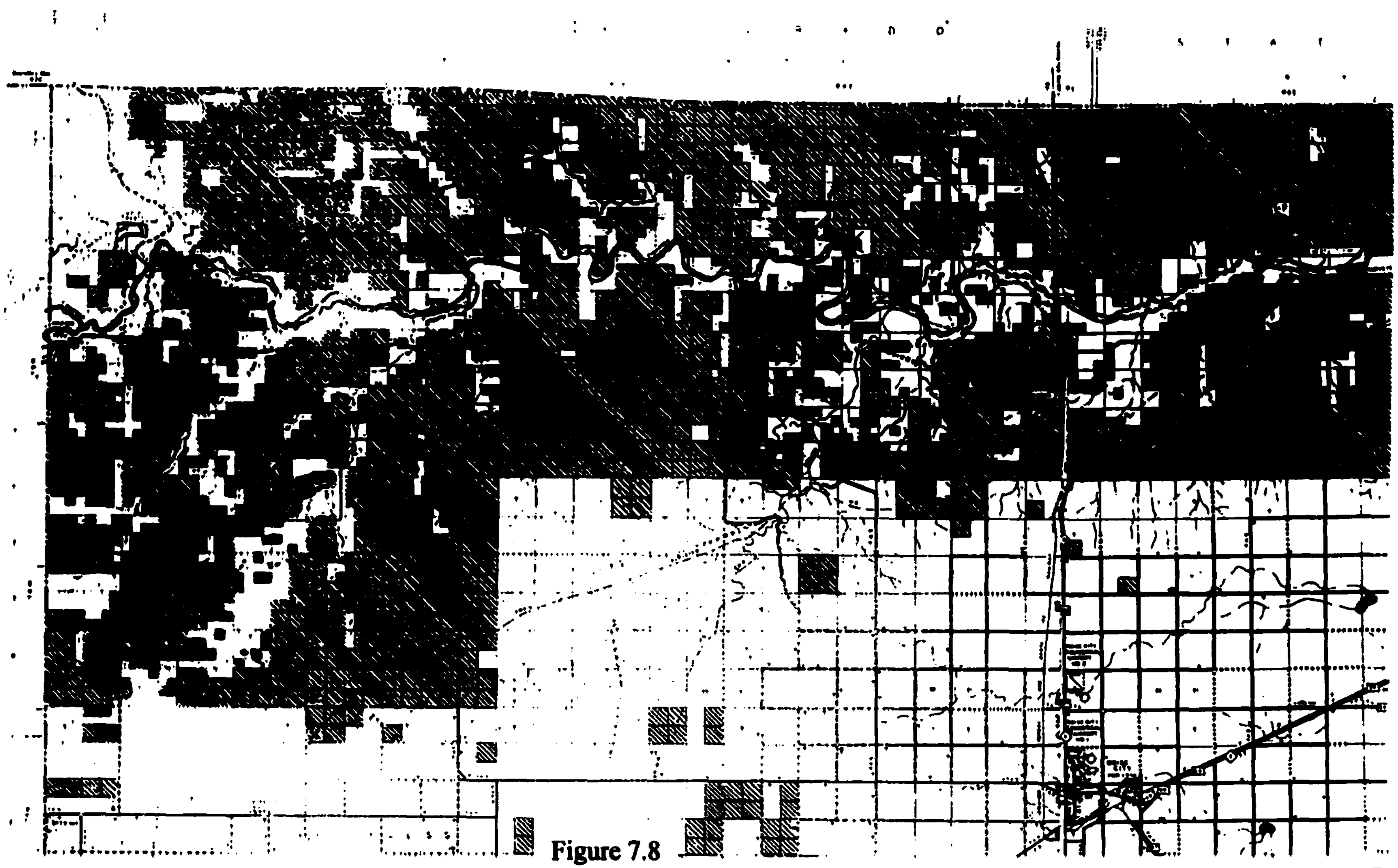

Figure 7.8
School Land Holdings in Northwestern Cimarron County, 1974
(Cimarron County L.M.T. files)

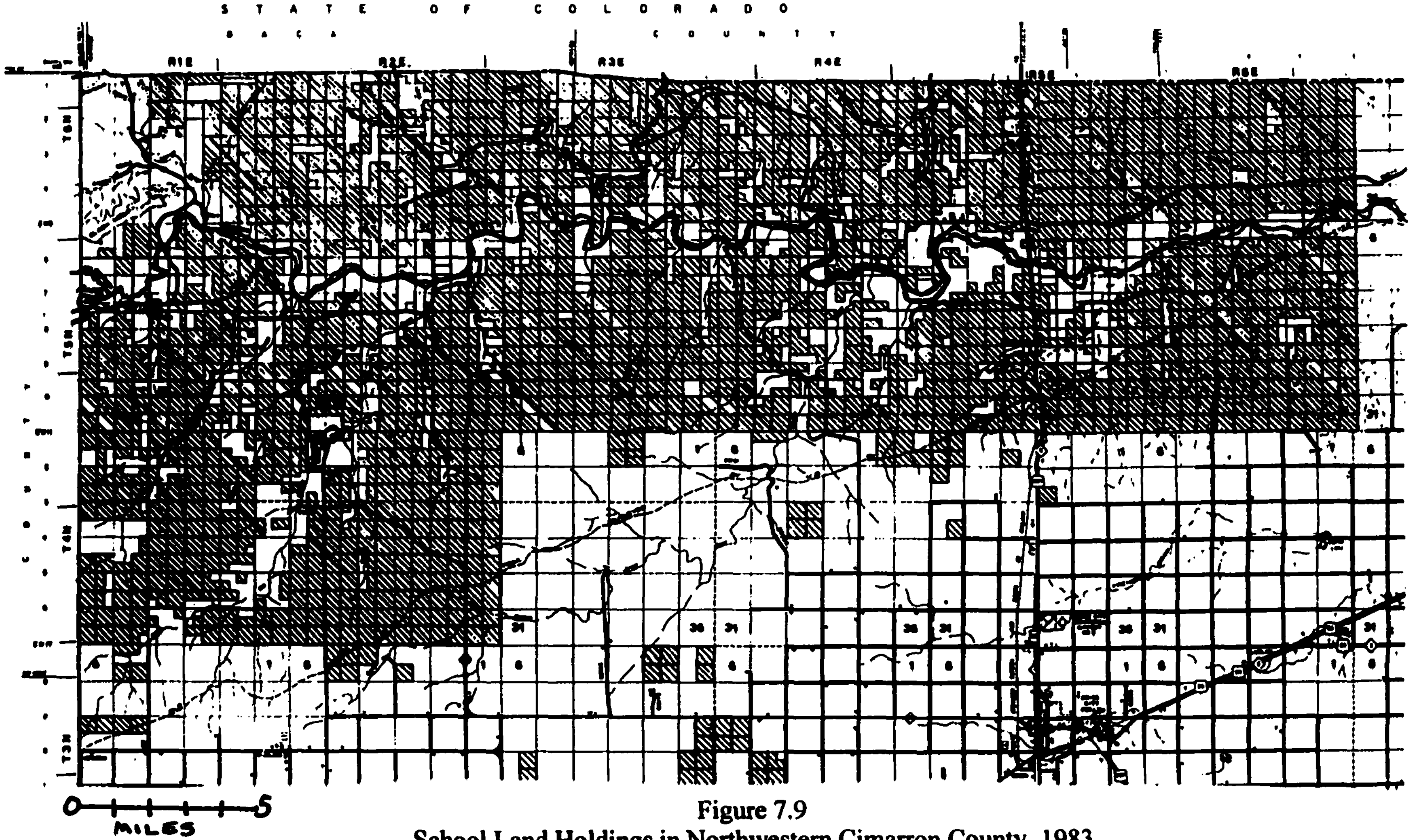

Figure 7.9
School Land Holdings in Northwestern Cimarron County, 1983
(Cimarron County L.M.T. Files)

the long term inevitable, that the CLO, may move to the 300,000 acre ownership total that is mentioned so much.

Concerning the Commissioners of the Land Office with politically appointed Commissioners, it's hard to have much long term consistency with this agency. Granted, a few employees have weathered various administrations, but these folks seem to be the exception. It was mentioned in interviewing that within the last few years the CLO administrative staff has been cut in half, making it arduous on the remaining staff to complete normal tasks. Although exceptionally helpful, historical records, minutes of meetings, past reports and a bevy of other documents are "boxed up," rubber-banded" and quite disorganized. Especially difficult with this study was the lack of any "in house" acreage maps. The Land Management Technicians (L.M.T.'s) have their own, but the agency has none that display current county by county holdings. GIS is non-existent. County lease descriptions are available, showing where the lease is located with an identifiable lease number.

My first inclination was to map lease and lessee changes, but I quickly learned that in Cimarron County hardly any leases change. They remain in the family. In the future, if more sales occur, a mapping comparison would be worthwhile.

This study relied heavily on primary sources, especially the University of Oklahoma Western History Collections and personal interviews. The CLO information, as mentioned, was excellent but somewhat disorganized. In a locale where less than fifteen ranchers lease the majority of school land, I was fortunate to interview half of them, plus others associated with this ranching community.

In completing this study some of the gaps in school land research have been filled. Oliver Hodge documented in his economic study the status of lands and funding up to 1936. Rachel Butler emphasized conservation in dealing with school lands, and supplies much needed historical background to 1980. My research draws on Hodge and Butler, also CLO agency facts and policy changes. I try to determine the current status of the CLO by focusing on the unique lands and lessees of Cimarron County.

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FORM B
RETAIL/WHOLESALE MANAGEMENT

Appendix A

SCHOOL LANDS ANONYMOUS SURVEY

Thank you for your time and cooperation in completing this survey. This anonymous survey with your responses will be used as part of a paper written by Gary Gress, a graduate student in geography, at the University of Oklahoma, who has enjoyed making Cimarron County his "second home" over the past many years. Again, thank you for making this paper a success, your contribution is invaluable.

Mark one or more:

□ Retail □ Wholesale □ Professional □ Service

Please mark the appropriate box and answer every question as best you can.

1. To what extent is your knowledge, how much you do know, regarding the sale of school lands in Cimarron County.
□ Nothing □ Limited Knowledge □ Familiar □ Very Knowledgeable □ Detailed Understanding

2. Approximately what percentage (%) of your customers currently lease school lands?
□ Less than 10% □ 10-30% □ 31-49% □ 50-70% □ Over 70%

3. How many years has your business been a service to this area?
□ Less than 5 years □ 5-15 years □ 16-25 years □ 25-40 years □ over 40 years

4. How long has your family lived in this area (within 100 miles)?
□ Less than 15 yrs. □ 15-30 yrs. □ 31-50 yrs. □ 51-75 yrs. □ over 75 years

5. If you have other business interests, what percentage (%) of time do you spend with these other activities?
□ No other business interests □ Less than 30% □ 30-40% □ 41-50% □ More than 50%

6. In your opinion, currently what impact do school lands have on the economy of Cimarron County?
□ None □ Little □ Some □ Significant □ Overwhelming

6A. Is this economic impact positive □ or negative □ ?

7. If the majority of school lands were to be forced to auction and sold, what future impact, in your opinion, would this have on Cimarron County's economy?
□ None □ Little □ Some □ Significant □ Long term

7A. Would that economic impact be a positive impact □ or a negative impact □ ?

8. In your judgment, what percentage (%) of young adults (under 21) will stay in Cimarron County for a livelihood (employment, raising a family or both)?
□ Less than 10% □ 10-30% □ 31-50% □ 51-70% □ More than 70%

9. In our opinion what percentage (%) of school lands currently occupy Cimarron County?
□ Less than 5% □ 5-25% □ 26-35% □ 36-50% □ More than 50%

10. In your judgement what is the "business climate" in Cimarron County?
□ Losing ground □ No growth □ Slightly growing □ Steadily growing □ Booming

11. In your opinion what percentage (%) of people in Cimarron County other than yourself and friends, know about the potential sale of school lands?
□ Less than 10% □ 10-25% □ 26-50% □ 51-75% □ over 75%

In your opinion should school lands be sold, why?

Any additional comments that you feel would be helpful:

Please complete and mail at your convenience in a timely manner, using the attached self-addressed stamped envelope. Thank you!

Gary Gress
5100 Montrose Ct.
Norman, OK 73019

FORM R
Ranching/Agricultural

SCHOOL LANDS ANONYMOUS SURVEY

Thank you for your time and cooperation in completing this survey. This anonymous survey with your responses will be used as part of a paper written by Gary Gress, a graduate student in geography, at the University of Oklahoma, who has enjoyed making Cimarron County his "second home" over the past many years. Again, thank you for making this paper a success, your contribution is invaluable.

Please mark the appropriate box and answer every question as best you can.

1. What percentage (%) of your ranch lands are school lands? (Approximately)
☐ Less than 10% ☐ 10-30% ☐ 31-50% ☐ 51-70% ☐ More than 70%

2. What size of ranching operation do you run? (Approximately)
☐ Less than 2000 acres ☐ 2000-5000 acres ☐ 5001-8000 acres ☐ 8001-12,000 acres
☐ More than 12,000 acres

3. How long have you or your family been leasing school lands?
☐ Less than 5 yrs ☐ 5-15 yrs ☐ 16-25 yrs ☐ 26-50 yrs ☐ more than 50 years

4. If you have other business interests besides ranching, what percentage (%) of time (yearly) do you spend with that other business?
☐ less than one month ☐ 1-3 months ☐ 4-5 months ☐ 6-7 months ☐ over 7 months

5. What percentage (%) if any, of your school lands do you sub lease?
☐ Less than 10% ☐ 10-30% ☐ 31-50% ☐ 51-70% ☐ More than 70%

6. If the majority of school lands were to be forced to auction and sold, what impact, in your opinion, would this have on Cimarron County's economy?
☐ None ☐ Little ☐ Some ☐ Significant ☐ Long term

6A. Would that economic impact be a positive impact ☐ or a negative impact ☐?

7. In your judgment, what percentage (%) of young adults (under 21) will stay in Cimarron County for a livelihood, (employment, raising a family or both)?
☐ Less than 10% ☐ 10-30% ☐ 31-50% ☐ 51-70% ☐ More than 70%

8. In your opinion what percentage (%) of school lands will eventually be sold off, within the next two years?
☐ less than 10% ☐ 10-30% ☐ 31-50% ☐ 51-70% ☐ More than 70%

9. How long has your family lived in this area (within 100 miles)?
☐ less than 15 years ☐ 15-30 years ☐ 31-50 years ☐ 51-75 years ☐ over 75 years

10. If given the option to purchase the school lands you now lease, in a fair and reasonable way, what would you do?
☐ not purchase ☐ buy selected parcels ☐ hope to eventually purchase most of the existing leased lands

11. In your opinion, what percentage (%) of people in Cimarron County, other than yourself and friends, know about the potential sale of school lands?
☐ less than 10% ☐ 10-25% ☐ 26-50% ☐ 51-75% ☐ over 75%

In your opinion, why are school lands being sold?

In your opinion, should school lands be sold, why?

Any additional comments that you feel would be helpful.

Please complete and mail at your convenience in a timely manner, using the attached self-addressed stamped envelope. Thank you!

Gary Gress
5100 Montrose Ct.
Norman, OK 73019

Appendix B

Pre-Lawsuit Timeline

1890 – Territorial Status/Organic Act/Purchase West Indian Lands. Governor Steele promises CLO lands as a future home to settlers

1891 – First school land leases/western grazing/Governor A.J. Seay obtains permission to lease lands

1893 – Cherokee Outlet opened/Asp-Boyd lobbied for sections 13 and 33

1894 – Birth of CLO/New leasing regulations

1895 – Governor Wm. Renfrow – lessee preference to buy. Preference to lease at fair market value recommended by G.L.O.

1899-1903 – Fred Elder, campaigns against sales

1900 – Governor C.M. Barnes supports sales

1898-1909 – State Land Lessees Union, push for sales

1903-1904 – Fred Wenner, CLO Secretary, encourages sales

1906 – Enabling Act, all granted CLO lands secured

1907 – 3,200,000 school land acres, plus $5 million confirmed to new state

1909 – Governor Haskell encourages sale of school lands

1909-1917 – First land sales, approximately 2 million acres sold

1910 – "The Lessee shall have the preference right to purchase" reiterated by Governor Haskell

1917-1936 – 956,144 plus acres total (244,000 acres sold)

1950-1952 – CLO "political" leasing practices questioned (CLO Report supports keeping land)

1965—Governor Henry Bellmon and CLO sell 11,400 acres of land in Panhandle

1967 – Bartlett and Starcevich studies concluded not to sell

1976 – Legislative sanction to offer preference leasing, HB #1163 and Attorney General approval, leases based on productivity not market value

1970's – Both Cobb (State Auditor) and Fisher (State Superintendent) support sales

1980's – Weak wheat/cattle/oil markets impact CLO sales decisions

1981 – Penny Williams requests the Attorney General's opinion on HB 1163 and CLO practices.

1982 – lawsuit

Appendix C

Lawsuit Timelines

1981 – Cartwright ruling, CLO policies unconstitutional

1981 – Both CLO and OEA file lawsuits asking Supreme Court for guidance

1981 – Supreme Court acknowledges statutes unconstitutional (6:3)

March 1982 – Commission seeks district court direction/guidance. OEA upset/accuse CLO of stalling

1982 – CLO forced to extend current leases

April 1982 – 2nd lawsuit filed by OEA and school districts stopped renewal of 57,000 leases (CLO was to advertise land, lease to highest bidder, use land production formula)

June 1982 – Judge Cannon orders collection of past due rent for 500 Panhandle leases (rent doubled)

- Judge wins battle
- Directed CLO by Fall to sell <u>all</u> lands starting in January 1984
- Lease auctions to start March 1983

March 1983 – Abrupt turn around -- bids much higher than expected. Cannon reverses order to sell all school lands.

APPENDIX D

Interviews
1991-2000

Bobby Apple

Marvin and Jennie Rose Benton

Ross Biaggy

Cherrie Brown

Rick Brown

Jay Clark

Nole Crase

Jay Ann Custer

Bob Dawson

Judy Dawson

Francis Glass

Alan Griggs

LaVerne Hanners

Ernest Hellwege

John Jackson

Asa Jones

Ron Kincannon

Keith Khulman

Wesley "Jr." Labrier

Bob McBride

Sam Manske

Ron Overstreet

David Petty

Don Prather

Phyllis Randolph

Monty and Evelyn Roberts

Monty Joe and Vicki Roberts

Jim Rosenbery

Carol and Dan Sharp

Mr. and Mrs. Truman Tucker

Dr. Kenneth Turner