Management of County-Owned Lands in Northwestern South Dakota: With Special Reference to Leasing Procedure

Charles W. Loomer

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MANAGEMENT OF COUNTY-OWNED LANDS
IN NORTHWESTERN SOUTH DAKOTA

With Special Reference to Leasing Procedure

By

Charles W. Loomer

Bachelor of Science Degree at South Dakota State College, 1936

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of
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A study of land ownership patterns in northwest South Dakota has revealed that, in 1936, eight counties owned approximately 787 thousand acres of tax-deed and school fund foreclosure land. This is only one indication of the vast amount of public ownership in this area. On the same date there were nearly 994 thousand acres of common school and endowment lands, approximately 387 thousand acres of land belonging to public corporations, and some 328 thousand acres of Federal land. Total public ownership amounted to slightly less than two and a half million acres which is approximately 21 per cent of the estimated total area of the region.

On a slightly different basis of classification, it may be estimated that in 1936 there were approximately 4,667,000 acres of non-taxable lands in these eight counties, with a concentration in four counties amounting to more than 50 per cent of the total land area.

Such a condition is illustrative of one of the major problems confronting local public finance in this area—the loss of public revenue from the property tax through the reversion of considerable areas to public ownership. In this connection, the accumulation of county tax-deed land is particularly significant as it is tangible evi-

\footnote{Harding, Perkins, Meade, Butte, Corson, Ziebach, Dewey and Armstrong counties.}
dence of the failure of privately-owned lands to support the property-tax system. This is the most rapidly-growing class of public land; in the two years from March, 1934, to March, 1936, more than 219 thousand acres of tax-deed land were taken by the eight county governments, an increase of approximately 45 per cent in two years. From 1936 until the present date, the amount of tax-deed land has continued to grow.

Nor does the process of tax reversion appear to be losing momentum. Tax delinquency on the land remaining in private ownership is a common characteristic, and indicates the possibility of further increase in the amount of tax-deeded lands. On January 1, 1935, approximately two and two-thirds million acres of land in the eight-county area were tax-delinquent one year or more, 943,635 acres having been delinquent for more than four years.

The acquisition of county lands has become an outstanding characteristic of this area, and because it represents a decrease in the property-tax revenue of local governments, has practically forced counties into the management of such lands in order to secure a substitute form of income.

Opportunities for the sale of county lands do not appear to have been many, judging from the sale records. In three representative counties, total land sales amount to approximately one-tenth of the total amount of county land now held. Leasing of county lands, on the other hand,
is a practice of wider application. The results of a questionnaire indicate that six counties of this area leased approximately 483 thousand acres during the season of 1936. In 1937, one county leased 90 per cent of its total county lands.

The lease experience of the county governments has not been entirely successful, however. The low value of most county lands and the fact that land values in this area have declined steadily from 1920 to 1936 have no doubt made it more difficult to lease land profitably, while the influence of drouth, low prices for agricultural products, and a general lack of demand for land have tended to depress rentals further. An examination of the leasing procedure actually used by counties of this area suggests, however, that administrative policies may be at least partially at fault.

The present procedure of taking tax-deeds is involved and costly for the county governments, and the fact that thousands of acres of land are subject to tax-deeds but have not been taken by the counties, is evidence that the administration of county lands is handicapped by this situation. There is need for a simplified process of acquisition which would be more speedy and less expensive. Some provision should be made also for making the county tax-titles more secure.

The practice of incorporating conservation policies
in the leasing program, as is effectively done by the
Forest Service administration of grazing lands, is at present
almost completely absent in county management. It should
be recognized as one of the goals of the administration of
county lands that natural resources should be protected and
restored by effective restrictions upon improper land use.

Land classification, recognized as a prerequisite to
efficient management of lands and leases, has been attemp-
ted by only one county in this area. Much of the informa-
tion required for land classification can be accumulated
at relatively little cost over a long period of time, and
it is possible that this can be brought about as an inciden-
tal function of the leasing system. When the system of
land classification is in full operation, it may contrib-
ute much to the effectiveness of the leasing program.

The leasing system should assure, as far as possible,
a stability of tenure for the private operator. Competi-
tive bid for leases may have a harmful effect in this re-
gard, and the leasing authority should give consideration
to this possible effect before adopting such a policy.
Provision should be made for non-competitive renewal of
leases after they are once established.

Leasing rates should be determined only after considera-
tion of the effects they may have on land use and upon the
general demand for leases. It seems desirable that they
be determined on a flexible scale so that rents may be var-
ied from time to time as the productivity of the land changes according to such natural factors as the rainfall. It is further to be sought that lease rates shall be determined by the characteristics of the specific tract of land in question and not upon flat rates applying to hundreds of thousands of acres of county lands. Such a practice would require the separate valuation of each tract of county land as would be accomplished through some system of land classification.

The trespass of livestock is a common occurrence on unleased county lands, and the county governments are handicapped by a failure to provide for some method of effective recourse. State legislation makes trespass on State school and public lands a misdemeanor punishable by fine or imprisonment. It is possible that the adaptation of such legislation to provide for county lands also would decrease the amount of trespass and increase the amount of leasing.

Other changes should also be made in the direction of centralization of the responsibilities of county land administration in one official or office. This official should be given liberal powers of discretion and should be required to supervise county lands by actual inspection. It seems only reasonable that the supervision of thousands of acres of county land should be considered important enough to require the service of one or more full-time
officers. To remove the political pressure which might result in inequitable practices, it seems desirable that this office be appointive rather than elective.
INTRODUCTION

Economic distress of both public and private nature has been much in evidence in the past few years, and it is only reasonable to attribute much of this to the results of long-continued drought, heat, wind erosion, insect plagues, and other natural causes. On the other hand, it has been drawn rather forcibly to our attentions that institutional factors may also be to blame. The situation has at least been such as to focus attention on the workings of public and private institutions and to discover, where possible, where and how improvements may be made.

This study was originally prompted by a recognition of the fact that land ownership in northwestern South Dakota has been undergoing significant developments in recent years, and that the public finance systems of county governments have been subjected to much additional strain as a result. While the attention of this thesis has been directed largely to the problems entailed by county land ownership, it is apparent that the ramifications of cause and effect cannot be segregated so conveniently. Such is the complexity of human affairs that an attempt to trace all influences and results to their ultimate conclusions might conceivably result in a general discussion of all human activities.

It has been necessary, therefore, to limit the scope of this paper to rather narrow limits, ignoring, for the present at least, the implications of factors that do not have a
direct application.

The Scope of the Study

This thesis treats the use and disposal of county lands with particular reference to an eight-county area comprising the northwestern corner of South Dakota.¹

In a consideration of ways and means in which the situation might be improved, a distinction between the long- and short-time aspects of the county land situation should be made. The conditions which arise from the wholesale accumulation of public lands through tax delinquency have a large enough significance to suggest that they may eventually result in drastic changes in local government. From the short-time viewpoint, other less-revolutionary solutions are required. The present need, for instance, is to find immediate use for county lands in such a way that they will return some income to local governments.

This present need, in the opinion of the writer, is best served by an improved leasing system. More comprehensive, more efficient lease practice should strengthen the financial position of county governments, and in addition should promote better land-use practices which tend to stabilize agriculture and increase the value of the land itself.

Later, if human experiences are such that changes of a larger nature seem justified, the transition from the existing situation should be eased by the improvements in general

¹ Harding, Perkins, Butte, Meade, Corson, Ziebach, Dewey, and Armstrong counties.
conditions which would be encouraged by well-adjusted leasing practice.

This belief in the importance of leasing procedure from the short-time viewpoint, is responsible for the emphasis which it receives throughout the thesis and for the suggestions which are made in the final chapter regarding the improvement of lease systems.

Method of Study

A discussion of major aspects of the present situation regarding county land ownership has been taken as the starting point of this study and comprises Chapter I. In this respect, the status of land ownership as it now applies is important in illustrating the size of the problem now confronting us. Land ownership, however, is characterized by rapid changes in the direction of more and more public ownership—a condition which points to an accentuation of present difficulties. A discussion of the rate and direction of these changes is necessary in order to illustrate what the future may hold for county land ownership. To a large degree this is illustrated by a summarization of the tax status of privately-owned lands.

In addition, the first section discusses the general depreciation of land in this region in both its physical qualities and in land values. These considerations affect county governments as land-holders in much the same way as they affect private land-owners. The implications of the physical
depletion of much of the land in this area may suggest further that local government may have an additional responsibility in encouraging correct land use practices to build up this diminishing natural resource.

The second phase of this study emphasizes the present uses which are being made of county lands, and, in keeping with the purpose of the thesis, pays particular attention to leasing procedure. There was a possibility of organizing this chapter on the basis of treating the land management systems of each of the counties in a section by itself. This would have involved much duplication, however, and the method was adopted of treating lease procedure as a whole, divided into various steps and influential factors. The experiences of the various counties have been brought together in each of these sections. It is the purpose of Chapter II to indicate the actual practices which are in present use in the administration of county lands.

A consideration of these practices in comparison with the problems involved in the present situation has suggested that there is need for many improvements in lease procedure. In the final chapter, the writer suggests where and how some improvements might be made. While it is his firm belief that these suggestions could be worked out to the advantage of local government, he recognizes that there may be several ways of accomplishing the same results. It is his hope, however, that these particular suggestions will serve to draw attention
to the fundamental problems involved and may stimulate the interest of others in the administration of county lands.

The Source of the Material

Land ownership facts given in this paper were taken largely from the results of a land ownership study conducted during the winter and spring of 1937 by the Land Use Planning Section of the Resettlement Administration, U. S. Department of Agriculture, in cooperation with the South Dakota State Planning Board and the Department of Agricultural Economics, South Dakota State College. Much of the other information regarding institutional patterns was secured through studies made by the Land Use Planning Section.

Material used in illustrating the tax status of privately-owned land on January 1, 1935, was taken direct from studies made by the South Dakota State Planning Board. In addition, other facts relating to a variety of subjects have been taken from Agricultural Resources, a publication of the Planning Board.

Much general information on lease practice was derived from a questionnaire circulated in the middle of April, 1937. Six of the eight counties in the area provided facts through this medium.

The most important source of general knowledge was opened to the writer as the result of a field trip of a month's

\(^1\) Questionnaire form reproduced in Appendix A.
duration through northwestern South Dakota. The information collected during the performance of his official duties as collaborator with the Land Use Planning Section through a cooperative agreement with the Department of Agricultural Economics was given much additional significance by his opportunities to converse with county officials and others directly associated with the county land situation.
CHAPTER I

THE SITUATION

This chapter is primarily a discussion of the conditions out of which grow the problems associated with the administration of county lands. Many factors would enter into a complete evaluation of the situation affecting local public finance and land use. There are certain aspects, however, which have particular significance in this regard.

The status of land ownership in this area is one such factor. By drawing attention to the large amount of land now owned by the counties, something of the size of the administrative problem is indicated. The relatively small amount of private ownership and the preponderance of public lands illustrates one aspect of the public finance situation, while the actual pattern of land ownership in this area has implications for land utilization, whether it be public or private.

The tax status of privately-owned lands, moreover, indicates that the accumulation of public lands is far from complete. Particular significance may be attached to the fact that much tax-delinquent land has been allowed to remain midway between private and public ownership, apparently because no satisfactory use could be found for lands already in county ownership and partly because taking tax-title to such lands involves some expense to the county.

The depreciation of land in this portion of South Dakota,
both in the physical sense and with regard to land values, has had a large effect upon local governments as it has tended toward a curtailment of county revenues, whether derived from the use and disposal of county lands or the taxation of private lands.

It should be recognized that a discussion of the situation along these lines is essentially a discussion of effects. A series of more fundamental causes lies behind these aspects of the present. Studies of the land policies of the United States, the development of the range cattle industry, the effects of the World War in stimulating crop farming in this area, the effects of drouth, and similar influences might lead to interesting conclusions but have no place in the scope of this thesis.

LAND OWNERSHIP

Summary

Studies of land ownership in northwestern South Dakota show a preponderance of publicly-owned land. County governments, while not the largest land-owners, are now possessed of considerable areas of tax-deed and school fund foreclosure land. From all indications it appears that the amount of public lands are increasing and that private ownership is becoming less common. Such change points to the accentuation of existing ownership problems.

The pattern of land ownership in this area is a complex intermingling of tracts owned by a variety of types of land-
owners. This situation increases the difficulty of correct land utilization.

Non-Taxable Lands in Northwestern South Dakota

One of the most noticeable characteristics of land ownership in northwestern South Dakota is the relatively large proportion of land of a non-taxable character. To the county governments, this situation means increased difficulties in local public finance as it signifies a decreased tax base upon which income from the general property tax must depend.

Figure 1, a map of the eight-county area, illustrates the extent of non-taxable lands in this region. Non-taxable lands, according to this classification, includes county tax deed and school fund foreclosure lands, Federal lands—national forests and parks as well as unreserved public domain—, state common school and endowment land, unpatented homestead lands, and unpatented Indian lands.

It will be noted that the concentration of non-taxable lands is unusually heavy in Corson, Ziebach, Dewey, and Armstrong counties. These four counties include the Cheyenne River Indian Reservation and a portion of the Standing Rock Indian Reservation, and the inclusion of large amounts of tribal land is responsible for the small percentage of taxable lands within their jurisdictions. Armstrong County has the highest percentage of non-taxable lands of any county in
the state, but in all four of these reservation counties more than one-half of the entire land area is non-taxable.

Table 1, giving the gross percentages for these eight counties, shows that Harding County has approximately 39 per cent non-taxable lands, due principally to the inclusion of nearly 386 thousand acres of common school endowment land, as well as considerable tax deed land, Federal land, and unpatented homestead land. Butte County, also contains sizeable amounts of land of these classes. In Perkins and Meade counties, the amount of public land is relatively small as compared to other counties in this area.

**TABLE I. NON-TAXABLE LANDS IN NORTHEASTERN SOUTH DAKOTA, as of March 1, 1936**

<table>
<thead>
<tr>
<th>County</th>
<th>Non-Taxable Land (acres)</th>
<th>Per Cent of Total Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harding</td>
<td>676 080</td>
<td>39.2</td>
</tr>
<tr>
<td>Perkins</td>
<td>303 163</td>
<td>16.6</td>
</tr>
<tr>
<td>Corson</td>
<td>955 200</td>
<td>59.0</td>
</tr>
<tr>
<td>Butte</td>
<td>478 765</td>
<td>33.0</td>
</tr>
<tr>
<td>Meade</td>
<td>370 100</td>
<td>16.6</td>
</tr>
<tr>
<td>Dewey</td>
<td>804 264</td>
<td>66.3</td>
</tr>
<tr>
<td>Ziebach</td>
<td>760 340</td>
<td>60.1</td>
</tr>
<tr>
<td>Armstrong</td>
<td>313 641</td>
<td>93.2</td>
</tr>
</tbody>
</table>

8-County Total ................ 4 666 563 .................. 39.9

*/ Source: adapted from land ownership study summarized in Table I, Appendix B.
THE EXTENT OF NON-TAXABLE LAND IN NORTHWESTERN SOUTH DAKOTA

PERCENTAGE OF NON-TAXABLE LAND PER TOWNSHIP:

LESS THAN 5%  
5 - 15%  
15 - 30%  
30 - 45%  
45 - 60%  
MORE THAN 60%

FIGURE 1. SOURCE: LAND OWNERSHIP STUDY CONDUCTED BY THE LAND USE PLANNING SECTION, RESETTLEMENT ADMINISTRATION, U. S. D. A., IN COOPERATION WITH THE SOUTH DAKOTA STATE PLANNING BOARD, AND THE DEPARTMENT OF AGRICULTURAL ECONOMICS, SOUTH DAKOTA STATE COLLEGE.
Classes of Land Owners

The gross aspects of land ownership in these eight counties are illustrated by Figure 2. In each case the length of the bar represents the total area of the county, while subdivisions show the amount of land in each of several ownership classes. It may be noticed that there is a rather extreme variation in the total areas of these counties. Meade County, with nearly two and a quarter millions of acres, is the largest county in South Dakota, while Armstrong County is the smallest.

Individually owned land, according to this classification, includes all privately-owned lands of a non-corporate nature. This, the largest single classification, includes both resident and non-resident individual landowners and in a few cases, partnerships and similar combinations of individuals.

It should be recognized that individual, private ownership of land is the normal status under the traditional American pattern and that it has been the goal of practically all land policies of the United States, at least until recent years. With this in mind, it is of considerable significance to note the proportion of individually-owned land in each of the counties. In Meade and Perkins counties at the time of this survey, it was approximately 75 per cent. In Butte County, approximately 60 per cent of the land was individually owned,

\(^1\) Table I, Appendix B, gives more detailed statistics of land ownership.
LAND OWNERSHIP STATUS
NORTHWEST SOUTH DAKOTA, MARCH 1, 1936

- INDIVIDUALLY OWNED - COUNTY TAX-DEED
- PRIVATE CORPORATIONS - FEDERAL LAND
- PUBLIC CORPORATIONS - PATENT-PENDING HOMESTEAD
- SCHOOL FUND & ENDOWMENT - INDIAN LAND

--- MILLION ACRES ---

MEADE

PERKINS

HARDING

CORSON

BUTTE

ZIEBACH

DEWEY

ARMSTRONG

FIGURE 2. Source: Land ownership study conducted by Land Use Planning Section, Resettlement Administration, United States Department of Agriculture, in cooperation with the South Dakota State Planning Board, and the Department of Agricultural Economics, S. Dak. State College.
and in Harding County 56 per cent. The proportion in the other counties was considerably less, due mainly to the large amounts of Indian Land in those counties. Corson, Ziebach, and Dewey counties had, respectively 34, 33, and 28 per cent individually-owned lands, while Armstrong County had less than two-and-a-half per cent.

**Private corporation land** includes all land owned by such private corporations as insurance companies, mortgage and land companies, commercial banks, and similar institutions. The detailed ownership statistics in the appendix, (Table I, Appendix B) differentiate between these different classes, and show that the greater share of private corporation land is owned by mortgage and land companies. Total corporation ownership, however, does not exceed five per cent in any of these eight counties.

**Public corporations** include the Federal Land Bank and the South Dakota State Rural Credit Board. Of these landholdings, the Rural Credit organization has the lion's share with amounts ranging from less than one per cent of the total area in Armstrong and Butte counties to 5 and 6 per cent in Ziebach and Perkins counties. Of the eight counties, Butte has the largest acreage of Federal Land Bank lands with 7,810 acres; in the same county, the Rural Credit Board has 11,579 acres.

These three types of land ownership--individual, private corporations, and public corporations--are to be distinguished from other classes by the fact that they may be taxed by
the local governments. This distinction is of fundamental importance in county public finance and it is interesting to note where each bar in Figure 2 is cut by the dotted line that separates taxable from non-taxable lands.\(^1\)

The classification, school fund and endowment, includes two important classes of land, common school and endowment lands and land taken by the foreclosure of permanent school fund mortgages. In all the counties, the first class is the largest, particularly so in Harding County where school endowment lands include approximately 22 per cent of the entire land area. In the other counties, endowment lands are less than eight per cent of the total areas. School fund foreclosure lands comprise less than one per cent of the area of all counties except Butte where they include about one and a half percent of the total acreage.

Common school endowment and school fund foreclosure lands are owned and controlled by two different organizations. The State of South Dakota, through the Commissioner of School and Public Lands, has title to and manages common school endowment lands, while the respective counties own the school fund foreclosure lands, usually managing them on much the same basis as county tax deed lands.

County tax deed lands have been taken by the counties on tax deed in lieu of unpaid taxes. Both from the standpoint of the actual acreage of such lands and the implications for the property tax system, this classification is of distinct

\(^1\) See also Non-Taxable Lands in Northwestern South Dakota, p. 15 of this thesis.
importance. According to the findings of the land ownership study being quoted, the percentage of tax deed lands ranges from 10 per cent in Butte County to approximately 2 per cent in Ziebach. It is probable, however, that this classification, more than any other, has been subject to great change in the period that has elapsed since the study was made.\(^1\)

Several of the counties in the area under consideration have instituted more or less aggressive policies of taking title to land subject to tax deed, with the result that county tax deed lands have rapidly increased.

**Federal lands**, which constitute from one-half of one per cent of the total area of Perkins County to seven per cent in Butte County include the national forests, parks, and reserves, as well as that portion of the public domain which was reserved for homestead entry until 1934. Meade, Harding, and Butte Counties have the largest amount of Federal land.

**Patent-pending homestead lands** are also Federally-owned lands but classified separately for the reason that title is presumably being passed to private individuals from the government. The process of homesteading has been one of the principal methods by which this area has been settled, and this classification has always been an important one. How-

---

\(^1\) By June 1, 1937, Perkins County had accumulated 167,812 acres of tax-deed land as compared to 133,047 acres as shown by this ownership study. On June 20, 1937, Harding County had 178,604 acres of tax-deed land as compared to the previous figure of 164,440 acres. (See Tables II and III, Appendix B.)
ever with the proclamation of President Roosevelt in 1934 which withdrew the remaining public domain from homestead entry, it may be expected that this class of land will eventually disappear. The amount of unpatented homestead lands is greatest in Ziebach, Corson, Butte and Dewey counties, where it ranges from 2 per cent of the total land area in Dewey County to 8.6 per cent in Ziebach.

Indian lands are especially important in the four counties which include the Cheyenne River and Standing Rock Indian Reservations. Butte, Meade, Harding and Perkins have little if any land of this class, but Indian land constitutes 41 per cent of the total area of Corson County and 44 per cent in Ziebach. In Dewey County, 52 per cent of the land is Indian land, while in Armstrong county, the proportion is 93 per cent. Indian lands, according to this classification, include only tribal and unpatented allotment lands. Land for which fee patent title has been given individual Indians is included under "individually owned."

The Pattern of Land-Ownership

From the preceding statistics it is obvious that many classes of landowners are involved in the ownership pattern of this area. It is not sufficient, however, to mention merely the total acreage held by each class; only by referring to ownership maps can the complexity of the ownership situation be appreciated. Figures 3 and 4 illustrate the pattern in two representative counties as it existed on March
1, 1937.¹

The complex checkerboarding of land holdings is at once noticeable. It should be recognized, moreover, that these maps are simplified versions of actual conditions. Public domain, for instance, includes all federal lands, forests, parks, and monuments, in addition to considerable areas of unreserved grazing lands. County land includes both county tax-deed and school fund foreclosure lands. Furthermore, "individually owned lands" and "corporation lands" group together the holdings of innumerable legal entities; these areas could be further subdivided in a way fully as complex as that shown elsewhere.

For the purpose of illustrating this further subdivision of these classes of land, figure 5 reproduces the ownership pattern of a sample township as it was shown by a study in 1934.² In this case, each separate ownership unit is indicated and the "individual" classification is broken up into its component parts. This sample area map also differentiates between resident and non-resident individual owners, a distinction that was not made in the 1936 ownership study. It is significant to note that a report based on the 1934 survey states that "although 59 per cent of the land area (of

¹ These maps reproduced by the courtesy of the Land Use Planning Section, Resettlement Administration, U.S. Department of Agriculture, in cooperation with whom the Agricultural Economics Department, South Dakota State College, conducted this ownership survey.

² This study, made by the South Dakota State Planning Board, formed the basis of the revised survey of March 1, 1936.
LAND OWNERSHIP, SAMPLE TOWNSHIP
ARROWS CONNECT NON-CONTIGUOUS UNITS — ACRES IN ADJOINING TOWNSHIPS INDICATED

INDIVIDUAL, RESIDENT
INDIVIDUAL, NON-RESIDENT
PRIVATE CORPORATIONS
PUBLIC CORPORATIONS
FEDERAL LAND

COUNTY LAND
COMMON SCHOOL LAND
UNPATENTED HOMESTEAD
SCHOOL FUND FORECLOSURE

TOWNSHIP 21, RANGE 2, HARDING COUNTY
Harding County) is individually owned, only 22 per cent is owned by individuals who operate or live on the land.¹

This map also affords examples of a condition that is rather common to the ownership situation in this area—ownership units divided into two or more non-contiguous tracts, often separated by a considerable distance.

The Changes in Land Ownership

No discussion of the significant aspects of land ownership in this area would be complete without mention of the trends and developments apparently taking place. Unfortunately, few data are available on which to base conclusions as to the direction and rate of change in land ownership, and what information is at hand is probably reliable for little more than general deductions.

However, a comparison of two studies conducted at an interval of only two years shows considerable change and may serve to indicate the general direction of the trends in land ownership. As the latter of the two surveys was a revision of the first, the data are quite comparable.

Table I in Appendix B contrasts the findings of the 1934 survey with that of two years later. The data show that individually-owned land decreased in all counties in the two-year period, that corporate ownership decreased in four counties and increased in three, that public corporations increased their land holdings in all counties, that school

¹/ Agricultural Resources, South Dakota State Planning Board, January 1, 1936, p. 107.
endowment lands increased in three counties and decreased in
four, that both permanent school fund foreclosure and tax-deed
lands increased in all counties, and that unpatented home-
stead lands decreased generally.

Table 2 lists the percentage changes in the two-year
period for several significant classes of land ownership.
In some cases, particularly with regard to the statistics
for Armstrong County, the bases are so small that the per-
centages are misleading, but in the larger county and area
totals, the percentages give a fair idea of the rates of
change.

### Table 2. Percentage Change in Ownership, March 1, 1934 to
March 1, 1936.

<table>
<thead>
<tr>
<th>County</th>
<th>Individually Owned Land</th>
<th>Total Assessed Land</th>
<th>County Tax-Deed Land</th>
<th>Total Public Taxable Land</th>
<th>Total Non-Taxable Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harding</td>
<td>-4.9</td>
<td>-3.4</td>
<td>+25.6</td>
<td>+8.2</td>
<td>+7.0</td>
</tr>
<tr>
<td>Perkins</td>
<td>-5.4</td>
<td>-3.1</td>
<td>+63.3</td>
<td>+25.2</td>
<td>+20.5</td>
</tr>
<tr>
<td>Meade</td>
<td>-3.3</td>
<td>-3.9</td>
<td>+426.7</td>
<td>+28.2</td>
<td>+25.1</td>
</tr>
<tr>
<td>Butte</td>
<td>-3.8</td>
<td>-3.6</td>
<td>+24.0</td>
<td>+8.9</td>
<td>+6.2</td>
</tr>
<tr>
<td>Corson</td>
<td>-5.4</td>
<td>-2.5</td>
<td>+19.4</td>
<td>+16.3</td>
<td>+2.1</td>
</tr>
<tr>
<td>Ziebach</td>
<td>-4.1</td>
<td>-1.8</td>
<td>+128.0</td>
<td>+17.1</td>
<td>+1.1</td>
</tr>
<tr>
<td>Dewey</td>
<td>-5.4</td>
<td>-2.0</td>
<td>+8.6</td>
<td>+16.4</td>
<td>+0.8</td>
</tr>
<tr>
<td>Armstrong</td>
<td>-58.3</td>
<td>+7.8</td>
<td>---</td>
<td>+22.1</td>
<td>-4.9</td>
</tr>
</tbody>
</table>

8-County Total: -4.6 -3.2 +45.5 +15.7 +5.1

* Source: Adapted from land ownership summary, Table I, Appendix B.
The rate of accumulation of county lands in Perkins and Harding county is indicated by the data of Tables II and III, Appendix B. It may be noted that total county lands in Perkins County increased from 127,794 acres on October 1, 1935, to 185,012 acres on June 1, 1937. In Harding County, these lands totaled 84,269 acres in 1931, and 198,172 acres on June 20, 1937.

Change in the form of ownership has this significance; if ownership status at present is considered to constitute problems for public finance and land use, further changes in the direction indicated will make for an aggravation of those problems. In other words, public ownership of land—in itself a problem—appears to be growing more common. In the face of such tendencies, it seems unwise to hope optimistically that present problems will "work themselves out".

THE TAX STATUS OF PRIVATELY-OWNED LANDS

Summary

A surprisingly large share of privately-owned lands in northwestern South Dakota have failed to pay property taxes during past years. This means that the relatively small tax base of these counties is further reduced by the fact that a portion is tax delinquent.

Tax delinquency on such a large scale seems to foretell the accumulation of still more publicly-owned land. On January 1, 1935, more than 900,000 acres of land in these eight
counties were subject to tax-deed.

Because the property tax is basic to county public finance, maladjustments in the property tax situation are of fundamental importance. The existence of large amounts of county tax-deed land, as mentioned in the preceding section, is one such maladjustment of much significance. Tax delinquency is another.

Much emphasis has already been laid on the problems created by large proportions of non-taxable land. Tax delinquency goes a step farther by removing a portion of the nominally taxable land from the tax-paying category.

Tax Delinquency Defined

For the purpose of this paper, the term tax delinquency applies only to property taxes. Tax delinquent lands are those on which property taxes have not been paid for one or more years and against which the county holds a claim for unpaid taxes. Lands subject to tax deed are lands which have been tax delinquent for more than the four-year redemption period. Such lands may be taken by the county governments on tax-deed but for some reason or another this has not been done.

The Nature of Tax Delinquency

Tax delinquency is not a recent development. As far back as records are available, it appears that some landowners have failed to pay taxes. Although the problem has reached
great significance only in the last few years, some counties in South Dakota have held tax sale certificates for years as far back as 1917 and earlier.¹ The accumulation of significant amounts of tax deed land, however, is confined to the last ten or fifteen years.

In several respects, the process is cumulative. Tax delinquency in certain areas establishes conditions which favor tax delinquency on other lands. The removal of some land from the tax roll—through delinquency and reversion to public ownership—places a heavier tax burden on the remaining privately-owned land and increases the probability of tax delinquency in those areas.

Furthermore, tax delinquency on a large scale may involve changes in administrative policies that may in turn influence further tax payments. Where tax delinquency is common, local officials are often more lenient in providing means by which back taxes may be paid up and are slower to dispossess the individual owner who falls behind in his tax payments. State governments may also take legislative steps to aid the delinquent taxpayers as when the South Dakota legislature extended the period of redemption in 1935 from two to four years. These changes may serve to encourage further non-payment of taxes.

Types of Tax Delinquency

It is evident that some tax delinquency is a temporary

¹ Agricultural Resources, op. cit., Table 16, p. 75.
condition while other cases are more of a long-standing, or permanent nature. It is common practice for county officials to extend the period of redemption and to give other aid to private owners when it appears that they may be able to redeem their tax-delinquent land under more favorable conditions. In such cases, tax moratoriums, abrogation of penalties on delinquent taxes, postponement of tax sales, provision for the payment of taxes under contract, and similar stay laws may be effective in keeping tax-delinquent property in private ownership.

In other cases, the eventual reversion of tax-delinquent land to public ownership appears inevitable, and the intervention of legislative and administrative measures of this sort only delays the process. Under these circumstances, leniency loses its justification. The county government is the loser because it cannot lease or dispose of the land until it takes title officially.

Obviously, a condition of chronic, long-time tax delinquency is not alleviated by devices designed to relieve temporary conditions. Under these circumstances it is difficult to justify administrative delay in handling cases where unpaid taxes amount to a large proportion of the total value of the land or cases where tax contracts have lapsed and have been renewed several times.

The Extent of Tax Delinquency

A survey of the tax delinquency situation as of the present date is not available, but a study of the tax status of
all South Dakota lands on January 1, 1935\(^1\) gives some indication of the incidence of tax delinquency. In the eight counties of northwestern South Dakota, more than two and one-half millions of acres were tax delinquent for one year or more.\(^2\) In other words, for the whole area, more than 37 per cent of the total taxable area was tax delinquent. In two counties, more than half of the taxable land was tax delinquent.

The tax status of the eight counties on January 1, 1935, is shown by the data of Table 3. Totals for the area are compared with totals for the entire state to illustrate the fact that the northwestern portion of South Dakota had a relatively more serious tax problem than the rest of the state.

Particular significance is attached to the fact that 13 per cent of the taxable lands in the eight-county area were "subject to tax deed". Under the normal operation of the tax system, it may be expected that the taking of tax title by the counties should follow rather closely the expiration of the redemption period, and that the amount of land subject to tax title should be relatively small. The prompt taking of tax title, however, has not been a characteristic

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\(^{1/}\) This survey was conducted by the South Dakota State Planning Board and the results published in *Agricultural Resources*, op. cit., p. 72-37.

\(^{2/}\) In this study, "tax delinquent" applies only to those lands on which the counties had held a tax sale certificate for one year or more. This type of tax delinquency has a greater significance than those cases where tax certificates were redeemed within a year of the date of sale or where private parties have seen fit to buy the tax sale certificates. (Footnote, *Agricultural Resources*, p. 72).
<table>
<thead>
<tr>
<th>Subject to Tax-Deed</th>
<th>Total Tax Delinquency</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>3 Years</td>
</tr>
<tr>
<td>Butte</td>
<td>116 440</td>
</tr>
<tr>
<td>Meade</td>
<td>214 996</td>
</tr>
<tr>
<td>Corson</td>
<td>147 140</td>
</tr>
<tr>
<td>Dewey</td>
<td>74 937</td>
</tr>
<tr>
<td>Kiebach</td>
<td>91 510</td>
</tr>
<tr>
<td>Harding</td>
<td>67 070</td>
</tr>
<tr>
<td>Perkins</td>
<td>227 502</td>
</tr>
<tr>
<td>Armstrong</td>
<td>4 040</td>
</tr>
</tbody>
</table>

3-County Total       243 635 | 1 592 043 | 667 879 | 476 607 | 2 680 164 |
State Total           2 044 953 | 1 663 363 | 3 022 915 | 2 449 493 | 9 487 206 |

<table>
<thead>
<tr>
<th></th>
<th>Per cent**</th>
<th>Per cent**</th>
<th>Per cent**</th>
<th>Per cent**</th>
<th>Per cent**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte</td>
<td>11.7</td>
<td>5.5</td>
<td>7.5</td>
<td>5.6</td>
<td>30.3</td>
</tr>
<tr>
<td>Meade</td>
<td>11.1</td>
<td>6.8</td>
<td>8.3</td>
<td>5.5</td>
<td>31.7</td>
</tr>
<tr>
<td>Corson</td>
<td>21.1</td>
<td>10.2</td>
<td>8.1</td>
<td>12.6</td>
<td>52.0</td>
</tr>
<tr>
<td>Dewey</td>
<td>18.1</td>
<td>12.5</td>
<td>3.3</td>
<td>--</td>
<td>33.9</td>
</tr>
<tr>
<td>Kiebach</td>
<td>18.0</td>
<td>11.4</td>
<td>14.8</td>
<td>8.6</td>
<td>52.8</td>
</tr>
<tr>
<td>Harding</td>
<td>6.2</td>
<td>7.1</td>
<td>8.2</td>
<td>6.5</td>
<td>28.0</td>
</tr>
<tr>
<td>Perkins</td>
<td>14.3</td>
<td>9.3</td>
<td>12.5</td>
<td>7.0</td>
<td>43.2</td>
</tr>
<tr>
<td>Armstrong</td>
<td>20.0</td>
<td>2.8</td>
<td>3.0</td>
<td>--</td>
<td>25.8</td>
</tr>
</tbody>
</table>

3-County Total       13.1 | 8.2 | 9.3 | 6.6 | 37.1 |
State Total           5.6 | 4.6 | 8.3 | 6.8 | 25.5 |

Source: Agricultural Resources, South Dakota State Planning Board, Appendix.

** Per cent of total taxable lands in county.
policy of these counties where county lands have accumulated so rapidly. As a consequence, there has been an unusual increase in this class of land.

Such a situation is open to much speculation. Land subject to tax deed may not be used or disposed of legally by the counties before tax deed is taken, and there is little hope that it may be redeemed by the former owner. Such land seems inevitably destined to pass into public ownership, yet remains suspended in an indefinite position, somewhere between private and public ownership.

The Distribution of Tax Delinquency

Within the counties the distribution of tax delinquent lands is quite general. Figure 6 reproduces the situation in one county of the area, as determined by the tax study of January 1, 1935. Of much significance is the small area left unshaded. This area represents the land that was paying taxes at that date. All other land was either non-taxable or had ceased paying taxes.

Tax Delinquency Since 1935

The data and maps relating to tax delinquency presented thus far are given as representing the situation as of January 1, 1935. Since that time there is reason to believe that the accumulation of tax-delinquent lands has continued. The following data (Table 4) show the acreage of land for which tax sale certificates were sold to five counties in
HARDING COUNTY
TAX STATUS MAP

LEGEND

- PAD UP
- 3 YEAR DELINQUENT
- 1 YEAR DELINQUENT
- SUBJECT TO TAX DEED
- 2 YEAR DELINQUENT
- NON TAXABLE LAND

SCALE

SOUTH DAKOTA STATE PLANNING BOARD
MARY A. STEELE — LAND PLANNING EXAMINER
1934 and 1935. These amounts were not included in the survey of January, 1935, and so represent additional land which became tax delinquent in the two subsequent years.

**TABLE 4. FARM LAND FOR WHICH TAX SALE CERTIFICATES WERE HELD BY COUNTIES in 1934 and 1935**

<table>
<thead>
<tr>
<th>Counties</th>
<th>1934</th>
<th>1935</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meade</td>
<td>19,245</td>
<td>32,284</td>
</tr>
<tr>
<td>Harding</td>
<td>12,630</td>
<td>39,797</td>
</tr>
<tr>
<td>Perkins</td>
<td>74,886</td>
<td>87,800</td>
</tr>
<tr>
<td>Corson</td>
<td>35,750</td>
<td>24,200</td>
</tr>
<tr>
<td>Ziebach</td>
<td>46,378</td>
<td>34,850</td>
</tr>
</tbody>
</table>

5-County Total .......... 238,889 acres 288,931 acres

**Source**: Data collected by Land Use Planning Section.

These data should be interpreted with some caution. They represent, to a large degree, the total amount of land which became tax delinquent in these two years, although they do not include a small amount of land for which the tax sale certificates were sold to private parties. The actual increase in tax delinquency over the figures given in Table 3, page 35, was somewhat less, for in this same period a certain amount of tax deed land was taken. (See Table 5). The addition of this acreage to the status of tax deed land represents a corresponding decrease in the amount of tax delinquent land, although from the standpoint of tax payments the situation is unchanged.
TABLE 5. INCREASE OF COUNTY TAX-DEED LAND, 1934-1936*

<table>
<thead>
<tr>
<th>County</th>
<th>Tax-Deed Land</th>
<th>Increase</th>
<th>per cent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1934</td>
<td>1936</td>
<td>acres</td>
</tr>
<tr>
<td>Harding</td>
<td>122,980</td>
<td>154,440</td>
<td>31,460</td>
</tr>
<tr>
<td>Perkins</td>
<td>81,460</td>
<td>133,047</td>
<td>51,587</td>
</tr>
<tr>
<td>Corson</td>
<td>59,280</td>
<td>73,840</td>
<td>14,560</td>
</tr>
<tr>
<td>Butte</td>
<td>113,415</td>
<td>140,660</td>
<td>27,245</td>
</tr>
<tr>
<td>Meade</td>
<td>17,600</td>
<td>92,705</td>
<td>75,105</td>
</tr>
<tr>
<td>Dewey</td>
<td>77,290</td>
<td>83,928</td>
<td>6,638</td>
</tr>
<tr>
<td>Ziebach</td>
<td>9,920</td>
<td>22,680</td>
<td>12,760</td>
</tr>
<tr>
<td>Armstrong</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>8-County Area</td>
<td>431,945</td>
<td>701,240</td>
<td>269,295</td>
</tr>
</tbody>
</table>

Adapted from Table I, Appendix B.

At the same time, some tax delinquent land was being redeemed. This amount was probably not large, although no data are available to measure its exact extent. A questionnaire submitted to the county officials in this area contained the question: "In your opinion, what proportion of land, once tax delinquent for a year or more, is ever redeemed by the payment of back taxes (under contract or otherwise)?" The answers varied considerably, one reply being "5%", one "10%", one "one-third", two "50%", and one "three-fourths".

1/ Questionnaire form reproduced in Appendix A.
TOWNSHIPS WITH LESS THAN THREE FARMS.

VALUE OF FARM LANDS & BUILDINGS PER ACRE
IN NORTHWESTERN SOUTH DAKOTA

FIGURE 7. Source: U. S. Department of Agriculture

LAND VALUES IN NORTHWESTERN SOUTH DAKOTA

Summary

County governments are directly concerned with the value of land in their jurisdictions both as land owners and as public fiscal agents depending for a large share of their incomes upon taxes levied on real property.
The fact that land values in northwestern South Dakota have been declining for nearly twenty years has meant a diminution in available county revenue from leases and from taxes.

**Present Land Values**

Northwestern South Dakota is characteristically a region of low land values. Due principally to its climate and location, the average assessed valuation of real property per acre in 1936 was $4.15 as compared to $15.93 per acre for the state as a whole.¹

Other studies have shown the same general results. Figure 7 is an adaptation from a map prepared by the U.S. Department of Agriculture.² According to the data illustrated, the value of land and buildings in the eight-county area is practically all below forty dollars an acre, with approximately half valued at less than 10 dollars and most of the rest at less than 20 dollars per acre. Corresponding values east of the river are much higher. Most of the land appears to be valued at more than 40 dollars per acre and considerable areas are estimated at more than 100 dollars an acre.

The reason for this low valuation, is of course, largely based on the physical characteristics of the region. Low

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² Adapted from a map prepared by the United States Department of Agriculture, Bureau of Agricultural Economics, in cooperation with the National Resources Board and the Farm Credit Administration. (From Part VI, Supplementary Report of the Land Planning Committee to the National Resources Board).
annual precipitation, short growing periods and peculiarities of the soil structure have their influence in making this a region of relatively low land values.

The particular significance of land valuation as regards county public finance is that it is one index of the economic productivity of the region. Values approximate the worth of property as a producing agent and when an area is valued relatively low, we may expect to find that its productivity per unit is relatively low. Productivity is an essential factor in the ability of land to pay taxes and otherwise contribute to the support of the local governments. In this area, then, it is evident that land cannot be expected to contribute heavily to the support of the local government.

**Decreasing Land Values**

Public finance in this region has encountered additional difficulties because of the fact that land values have been decreasing steadily since about 1920. The rate of this decline is shown by the data of Table 6 which gives the average assessed valuation of real property for the various counties over a period of years.

From these data it appears that land values in this region reached a peak in 1920 and have declined to such a degree that the 1936 assessed valuations were approximately half the 1920 figures.

This change has a number of implications. In this area, much of the actual settlement came at a rather late date. The
### TABLE VI. ASSESSED VALUATION OF AGRICULTURAL LAND, by counties, 1916-1936*

Values indicated are average assessed value per acre of agricultural land outside corporate limits, as equalized by the State Board of Equalization.

<table>
<thead>
<tr>
<th>Year</th>
<th>Harding</th>
<th>Perkins</th>
<th>Dewey</th>
<th>Corson</th>
<th>Liefbach</th>
<th>Butte</th>
<th>Meade</th>
<th>STATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1926</td>
<td>3.08</td>
<td>4.69</td>
<td>4.73</td>
<td>4.35</td>
<td>4.46</td>
<td>3.83</td>
<td>4.11</td>
<td>15.71</td>
</tr>
<tr>
<td>1925</td>
<td>3.08</td>
<td>4.69</td>
<td>4.72</td>
<td>4.62</td>
<td>4.63</td>
<td>3.76</td>
<td>4.08</td>
<td>15.93</td>
</tr>
<tr>
<td>1924</td>
<td>3.10</td>
<td>4.23</td>
<td>4.84</td>
<td>4.72</td>
<td>4.69</td>
<td>3.80</td>
<td>4.07</td>
<td>15.70</td>
</tr>
<tr>
<td>1923</td>
<td>3.14</td>
<td>4.22</td>
<td>4.76</td>
<td>4.74</td>
<td>4.79</td>
<td>3.74</td>
<td>4.08</td>
<td>16.63</td>
</tr>
<tr>
<td>1922</td>
<td>3.81</td>
<td>4.91</td>
<td>5.01</td>
<td>5.28</td>
<td>4.82</td>
<td>4.39</td>
<td>4.08</td>
<td>18.56</td>
</tr>
<tr>
<td>1921</td>
<td>4.74</td>
<td>6.12</td>
<td>6.17</td>
<td>6.42</td>
<td>6.04</td>
<td>5.42</td>
<td>5.10</td>
<td>23.04</td>
</tr>
<tr>
<td>1930</td>
<td>5.59</td>
<td>7.19</td>
<td>6.80</td>
<td>7.57</td>
<td>6.71</td>
<td>6.40</td>
<td>6.01</td>
<td>27.51</td>
</tr>
<tr>
<td>1929</td>
<td>5.88</td>
<td>7.57</td>
<td>7.18</td>
<td>7.93</td>
<td>7.10</td>
<td>6.78</td>
<td>6.34</td>
<td>28.94</td>
</tr>
<tr>
<td>1928</td>
<td>5.21</td>
<td>7.46</td>
<td>7.15</td>
<td>7.95</td>
<td>7.04</td>
<td>6.93</td>
<td>6.31</td>
<td>28.89</td>
</tr>
<tr>
<td>1927</td>
<td>5.98</td>
<td>7.05</td>
<td>7.28</td>
<td>7.98</td>
<td>7.02</td>
<td>6.82</td>
<td>6.36</td>
<td>29.09</td>
</tr>
<tr>
<td>1926</td>
<td>6.34</td>
<td>7.50</td>
<td>7.97</td>
<td>8.44</td>
<td>7.07</td>
<td>7.12</td>
<td>6.39</td>
<td>31.11</td>
</tr>
<tr>
<td>1925</td>
<td>6.37</td>
<td>7.61</td>
<td>8.11</td>
<td>8.50</td>
<td>7.20</td>
<td>7.67</td>
<td>6.38</td>
<td>32.86</td>
</tr>
<tr>
<td>1924</td>
<td>6.02</td>
<td>7.50</td>
<td>8.15</td>
<td>8.25</td>
<td>7.27</td>
<td>7.69</td>
<td>7.00</td>
<td>33.11</td>
</tr>
<tr>
<td>1923</td>
<td>6.47</td>
<td>8.06</td>
<td>9.19</td>
<td>8.85</td>
<td>7.95</td>
<td>8.71</td>
<td>7.23</td>
<td>36.46</td>
</tr>
<tr>
<td>1922</td>
<td>6.44</td>
<td>8.06</td>
<td>10.09</td>
<td>9.56</td>
<td>9.07</td>
<td>10.83</td>
<td>7.96</td>
<td>38.86</td>
</tr>
<tr>
<td>1921</td>
<td>6.56</td>
<td>8.18</td>
<td>10.84</td>
<td>10.14</td>
<td>9.64</td>
<td>10.87</td>
<td>8.57</td>
<td>42.69</td>
</tr>
<tr>
<td>1919</td>
<td>6.19</td>
<td>7.54</td>
<td>8.31</td>
<td>7.94</td>
<td>8.06</td>
<td>6.70</td>
<td>6.04</td>
<td>39.21</td>
</tr>
<tr>
<td>1918</td>
<td>6.20</td>
<td>6.21</td>
<td>7.96</td>
<td>7.11</td>
<td>8.25</td>
<td>6.76</td>
<td>5.93</td>
<td>27.46</td>
</tr>
<tr>
<td>1917</td>
<td>6.20</td>
<td>6.10</td>
<td>7.65</td>
<td>7.06</td>
<td>7.90</td>
<td>7.72</td>
<td>5.94</td>
<td>25.16</td>
</tr>
</tbody>
</table>

*Adapted from biennial reports of the State Tax Commission, annual reports of the Department of Finance, and annual reports of the Division of Taxation, State of South Dakota.
formation and development of local governments came at a period of uniformly high land prices and the whole system of public services was built up on inflated values. Subsequent decline in those values has tended toward a shrinkage of property tax revenue and a constant readjustment in the plan of local public finance.

The value of county owned lands has been decreasing at the same time. Particularly in those cases where school fund loans were based on over-valued real estate has the county been the loser. When mortgages have been foreclosed, counties have found that the real estate security behind school loans is worth considerably less than anticipated.

The general decline in land values, while affecting all classes of land owners, has operated to the disadvantage of county governments both as owners and as public fiscal agents.

THE DEPLETION OF THE WESTERN RANGE

Summary

The general depletion of the forage capacity of the western range marks a depreciation in value of one of the most important natural resources of this area. Furthermore, this type of depreciation is of a more permanent nature than is a general decline in land values over a wide area.

Range depletion, affecting the productivity of public as well as private land, is irrefutable evidence of improper land utilization. If future depletion is to be avoided and this
natural resource is to be restored, attention must be given
to the proper use and conservation of land. It may be the
duty of public agencies to lead the way in this program.

County government is directly influenced by the condi-
tion of natural resources, as the income of local governments
depends largely upon land, whether it is derived in the form
of taxes or from the administration of public lands.

**Extent of Range Depletion**

There can be little doubt but that the range, in gen-
eral, is seriously depreciated from its original condition.
Although this is a matter of general observation, the exact
extent of range depletion is difficult to measure. A re-
port of the Secretary of Agriculture in April, 1936, states
that the existing range area of the United States "has been
depleted no less than 52 per cent from its virgin condition"¹
and that 76 per cent of the entire range has declined appreci-
ably in the past thirty years while only 16 per cent has im-
proved during the same period.²

The word depletion is used here to denote a reduction in
grazing capacity for domestic livestock. On grazing lands,
carrying capacity is practically synonymous with productivity,
so the above estimate practically amounts to saying that the

¹/ The Western Range, a letter from the Secretary of Agricul-
ture, April, 1936, p. 3.
²/ Ibid., p. 8.
value of the range as a producing agent has decreased by about half since the region was first settled.

In South Dakota, the extent of depletion is probably not so great. The report estimates that the short-grass range of the United States, which includes most of western South Dakota, has depreciated on the average about 49 per cent from its original forage value.¹ That portion lying within western and northwestern South Dakota has declined somewhat less, with a depreciation of between 37 and 43 per cent.² This estimate implies that in this region five acres of range are required today to equal the forage value of three acres of the virgin range.

Although the major finding of this survey was the general condition of range depletion, it is important to notice that the degree of depletion varies among the various ownerships and the form of control within ownerships. As shown in Table 7, the federal public domain which, until the passage of the Taylor Grazing Act, was subject only to the most superficial kind of management, has depreciated 67 per cent from its virgin condition and is said to be the most seriously depleted of all classes of range land. Privately-owned range land has depreciated 51 per cent, a record only slightly worse than that of State and county ownership. Range land in the nation-

¹/ The Western Range, a letter from the Secretary of Agriculture, April, 1936, p. 6.
²/ Ibid., p. 39.
al forests has been under effective management for 30 years and has depreciated the least of any type of ownership class, approximately 30 per cent below the virgin condition.

TABLE 7. RANGE AREAS AND DEPLETION, by Ownership*

<table>
<thead>
<tr>
<th>Ownership or Control</th>
<th>Range Area (1,000 acres)</th>
<th>Depletion (per cent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National forests</td>
<td>37,954</td>
<td>12</td>
</tr>
<tr>
<td>Public domain, grazing districts, etc.</td>
<td>127,792</td>
<td>17</td>
</tr>
<tr>
<td>Indian lands</td>
<td>48,391</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>22,997</td>
<td>3</td>
</tr>
<tr>
<td>State and county</td>
<td>66,516</td>
<td>9</td>
</tr>
<tr>
<td>Private</td>
<td>375,546</td>
<td>52</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>728,196</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

*The Western Range, U. S. Dept. of Agriculture, p. 7

While it does not do justice to the gravity of the situation to dispose of the subject so summarily, three significant conclusions may be drawn from this report: first, that the entire range area is in generally poor condition although the degree varies from region to region and among the various classes of ownership; second: the condition of the greater part of the range area is on the down-grade, rather than improving. In the third place, the relatively better showing of the National Forest ranges may justify the conclusion that range management, even over as short a period as thirty years, pays with definite results.

Causes of Range Depletion

The decrease in forage value of the western range has been due partly to the replacement of palatable vegetation by inferior types of plant growth, but more generally to the mark-
ed thinning of the vegetative cover. Recent severe drouths and the resulting wind erosion have no doubt contributed to this effect, but a considerable amount has been due to the physical mismanagement of the land.

Much has been said of the results of turning virgin prairie over for crop land, and it is possible that the unfavorable consequences of "turning good grass land into poor crop land" cannot be over emphasized. It is at least true that where such crop land is allowed to go back to grass it is only with a considerable loss in forage capacity over the original condition.

Unbroken range land has also been subject to mismanagement. The most frequent mismanagement is over-use, a condition which is apparently quite general. Figure 8 illustrates the degree of over-stocking of range land as estimated by the above-mentioned authority.\(^1\) It will be observed that over-stocking on state and county lands is illustrated as being even more severe than on the public domain, an area with the reputation of very lax supervision.

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\(^1\) Reproduced from *The Western Range*, p. 48.
EXCESSIVE STOCKING OF WESTERN RANGE


In addition to the grazing of excessive numbers of livestock, over-use of range land also implies the use of grass land at the wrong seasons. The carrying capacity of range land, due largely to variations in precipitation, is subject to rather wide fluctuations. Grazing such lands early in the season or immediately following a period of drought does not give grass an opportunity to recuperate and is as injurious a practice as over-use of mature grass.

The use practices which bring about physical depletion of the range resource are in turn affected by more fundamental influences. Depletion resulted from a few outstanding causes, according to the survey of range resources being quoted. The report mentions, in particular, these factors:

1/ The Western Range, op. cit., pp. 9-16.
1. The traditional American attitude toward our natural resources involving the prodigal waste of the seemingly inexhaustible great plains.

2. Rule-of-thumb management of livestock production. The grazing of the western range was a new form of land utilization for the pioneer, and its use by two or three generations of stockmen has given too short a time to develop satisfactory management by large-scale trial and error methods.

3. An unsound land policy and laws, the effects of which have been these conditions:

   a. A checker-boarded pattern of land ownership
   b. The passage to private ownership of land which is either submarginal, even for range use, because of low productivity, or has high public value (such as watershed protection) which cannot be maintained by private owners
   c. The passage to private ownership of key areas, such as water holes and spring range, giving virtual control of much larger areas of public land
   d. The passage to private ownership and the encouragement of dry farming on range land that is submarginal for crops
   e. Excessive tax-delinquency and reversion to public ownership, both of range lands that are submarginal for private use and relatively good range lands that have been used for dry farming

4. The financial handicaps of stock growers, such as inflated land values, excessive costs of local government, fluctuating markets, and unfavorable credit facilities, which may have forced them into improper use of the range.

5. The climate. Low amounts of precipitation which reduce the carrying capacity of the range and which make it slow to recover from such injuries as temporary over-grazing.
The Restoration of the Range

It is a significant fact that the depletion which has been described in the preceding sections, has all occurred in the space of the few decades in which this region has been settled. To restore this resource to its former condition, even with a carefully-planned, conscientious program of conservation, will take much longer.

An illustration of this relationship is afforded by Figure 9. According to this comparison, present grazing capacity is approximately half of that of the virgin range. The potential grazing capacity available after fifty years of effective conservation is only about fifty per cent greater than that of the present and still falls far short of the original forage value of the range. It should be noted that present stocking of the range is half again as large as the estimated grazing capacity.

PRESENT & POTENTIAL GRAZING CAPACITY

Grazing Capacity

Million Animal Units

0 5 10 15 20 25

At Present

Potential - 50 Years

Virgin Range

Present Stocking

⅞ Grazing Capacity of Available Range Area of United States - Estimate of U.S. Dept. of Agriculture
CHAPTER II
PRESENT ADMINISTRATION OF COUNTY LANDS

In the past, the management of county lands in northwestern South Dakota has been characterized by a definite lack of purpose and method. The acquisition of considerable amounts of county-owned land is foreign to the original plan of the property taxation of privately-owned land, and the persistence of the emphasis on private ownership may be responsible for the failure of county governments, in general, to meet the problem squarely.

It is certainly true that a good share of official effort has been directed toward the avoidance of public ownership wherever possible. Early efforts to deal with the problem of tax delinquency and reversion to public ownership took the direction of easing the burden of the delinquent tax payer so that he might be able to retain his land, or, in cases where public ownership could not be avoided, restoring these lands to private ownership through sale.

In spite of these efforts, the accumulation of county lands has continued and we now find local governments owning a large domain and facing the prospect of the acquisition of still more land which is now on the borderline between private and public ownership. Under these circumstances it has become apparent that the speedy return of public lands to
private ownership is impractical and that other uses for county-owned land must be found.

GENERAL CHARACTERISTICS OF LAND MANAGEMENT

The essential problem resulting from conditions such as have been described involves the substitution of large amounts of non-taxpaying county land for privately-owned lands which normally contribute to the support of local government by the payment of property taxes. The goal of remedial action, therefore, is to provide some new source of county revenue to replace the vanishing property tax.

In those regions of the United States where such problems have arisen, the situation has called forth many and varied plans. In South Dakota and in 22 other states, the practice is for tax-reverted lands to become subject to the ownership and management of county governments, but in 19 of the states of the union, such lands revert to State ownership, while in the New England states, tax-reverted lands are taken by townships.¹ The administration of tax reverted lands, then, may be undertaken by any one of a number of public agencies.

There are also a variety of ways in which reverted lands may be used. A natural desire to maintain the status quo suggests the returning of tax-reverted lands to private ownership and the tax roll by sale, by the homesteading process,

¹ Part VII, Supplementary Report of the Land Planning Committee to the National Resources Board, op. cit., p. 49
or by similar means. In practically all states, there is provision for at least the first of these policies.

The return to private ownership may be retarded, however, in a number of ways. The future use of certain areas may be directed by zoning ordinances; tax-reverted lands may be reserved for such uses as the establishment of game refuges, parks, and forests; tax-deed lands may be exchanged and blocked out in a deliberate attempt to consolidate public holdings; or the taxing jurisdiction in possession may be able to dispose of reverted lands to another public agency for some particular use.\(^1\)

In addition to these uses, tax-reverted lands may be retained in public ownership and leased to private individuals. This is the use to which county lands are most often put in northwestern South Dakota, and it is the leasing process that receives the major emphasis of this thesis.

**Uses of County Land in South Dakota**

In South Dakota, county governments derive income from county lands only through sale or lease, usually to private parties. In some few other states, provision is made for

\(^1\) Corson County, South Dakota, is contemplating the disposal of certain of its lands through a Federal purchase project for building up Indian lands in the Standing Rock Indian Reservation.
other uses of county lands. The State of Michigan provides
direct, cash recompense to county governments for the loss
of their tax base through tax delinquency and reversion, and
then the state takes title to and manages tax-reverted
lands. ¹ Other states provide payments to county governments
when reverted land is reserved for such special purposes as
forests, parks, and game preserves. ² In South Dakota, how-
ever, where such provisions are not made, the laws and
policies in force have the effect of forcing county govern-
ments to sell or lease county land in order to secure any
income from it. Any other uses to which the land might be
put are, in a sense, unproductive.

The Sale of County Lands in Northwestern South Dakota

Only a small fraction of the county lands in north-
western South Dakota has ever been sold. No comprehensive
sales data are available, but the experiences of three re-
presentative counties shed some light on the situation. In
Perkins county, the records show that 21,962 acres of county
land have been sold, while the county now owns approximately
185 thousand acres of tax deed and school fund foreclosure
land. ³ In Corson county, 9,564 acres of county land have been

¹/ Part VII, Supplementary Report of the Land Planning
Committee, etc.; op. cit.; pp. 46–47
²/ Ibid.; p. 48
³/ From county records, Office of the County Treasurer,
Perkins County, S. Dak.
returned to private ownership through sale; the county at present has title to more than 95 thousand acres. 1 In Harding county the story is much the same. In the period from January, 1931, to the middle of June, 1937, some 22,301 acres have been sold, while the county at that date had title to more than 198 thousand acres. 2

Not only are the opportunities to sell county land relatively few, but in many cases the returns from sale are disappointingly small. In at least two counties of this area, one dollar an acre was a common price at which grazing land was being sold in 1937. An examination of the records of Corson County showed that in a number of cases the net proceeds from the sale of land did not cover the accrued indebtedness held against the land. This was particularly true in those cases where land had been mortgaged for a school fund loan. In such instances the principal of the loan, the unpaid interest, and the various costs of foreclosure in addition to the delinquent taxes which usually had accumulated at the same time, amounted to considerably more than the price for which the land was later sold. 3

The low prices for which land sales have frequently been made are partially due to the large amounts of land

1/ From county records, Office of the County Auditor, Corson County, S. Dak.
2/ From county records, Office of the County Auditor, Harding County, S. Dak.
3/ From county real estate record as of June 25, 1937, Corson County.
available in this area. The competition between numerous agencies with much land to sell and the small buyer demand have combined to force prices down. The loss to county governments through this sales competition and through generally declining land values have combined to make land sales an unprofitable venture in many cases.

An additional problem arises in that land sales under contract are sometimes not consummated and the land in question is never completely returned to the tax roll. Most counties provide for the sale of land on a deferred payment basis, requiring a cash down-payment and allowing a period of several years to complete the purchase. One view of the sales situation under these circumstances is expressed by the statement of a county official who explained, "We have refused quite a number of people who wanted to buy land on time, feeling that they will be able to make only one or two payments. In those cases, the county has to go all through the process of clearing up the title again and that sometimes takes a long time."

The sale of county lands, as has been pointed out, may be desirable from the standpoint of maintaining the status quo, but it is obvious that it is no cure-all. Even making the assumption that it would be possible to dispose of large amounts of county land at satisfactory prices, the basic

1/ Agricultural Resources, op. cit., p. 100
situation which resulted in the initial tax delinquency is unchanged and the county has no assurance that it will not again become the owner of the land through the former process of tax delinquency and reversion.

County Land Leases

The leasing of county land in this northwestern area involves a much larger proportion of county land than does any other use. The extent of the leasing practice is indicated by the following table which summarizes the estimates of county officials when questioned as to the amount of leasing during 1936.

**Table 8. COUNTY LANDS LEASED DURING SEASON OF 1936**

<table>
<thead>
<tr>
<th>County</th>
<th>Acreage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harding</td>
<td>173,000</td>
</tr>
<tr>
<td>Corson</td>
<td>20,000</td>
</tr>
<tr>
<td>Butte</td>
<td>140,000</td>
</tr>
<tr>
<td>Ziebach</td>
<td>4,269</td>
</tr>
<tr>
<td>Dewey</td>
<td>40,239</td>
</tr>
<tr>
<td>Meade</td>
<td>105,000</td>
</tr>
<tr>
<td><strong>6-County Total</strong></td>
<td><strong>482,508</strong></td>
</tr>
</tbody>
</table>

* From answers to questionnaire.

While the absolute reliability of such estimates is open to some question, it is evident that considerable areas of county land are leased. In some counties, a large share of the total county land is leased; in others, only a small percentage, but the practice, in general, is extensive.

Furthermore, the practice of leasing is slowly growing
in most counties. Harding county is a conspicuous example; the percentage of county lands leased has steadily grown from 41 per cent in 1931 to 90 per cent in 1937.¹ For the other counties, no such data are available, but the statements of county officers frequently indicate that when county lands first began to accumulate, little or no effort was made to put it to any use but that now an effort is made to lease it.

The Significance of Leasing

The leasing of land has a particular importance in west-river South Dakota. The most outstanding characteristic is probably the vast area available for leasing.

In the eight counties of northwest South Dakota, the county governments alone own approximately 787 thousand acres of tax deed and school fund foreclosure land, practically all of which is available for leasing.² Other agencies also offer huge areas for lease. The State Commission of School and Public Lands has approximately 984 thousand acres in this area; the Rural Credits Board has 354 thousand acres; the Federal Land Bank owns some 33 thousand acres. In addition, various private corporations own 332 thousand acres; a large

¹/ See table II, Appendix B
²/ This, and all other ownership statistics in this paragraph adapted from Table I, Appendix B
share of the 328 thousand acres of Federal Land may be leased, as well as most of the 2,168,814 acres of Indian land which is under the management of the Indian Service. It should be further pointed out that absentee ownership characterizes much of the six million acres of land in "individual ownership" and that a great deal of this is leased.

The acceptance of leasing as common practice in farm and ranch management can hardly be over-emphasized. In this region of large scale farms and ranches, it is almost a general rule that a part of the operating unit be leased, a practice that is peculiarly adapted to such conditions of land use. Analysis of 128 farms and ranches in a sample area of Perkins county showed that only 11 were entirely owned and operated by the same individual. Fifty-two units were leased in their entirety, while 65 were a combination of owner-operated and lease tenure.¹

¹ Data from a study of 128 farms and ranches in townships 18-23N., Range 14 E., Perkins County, South Dakota, conducted by Land Use Planning Section.
CHARACTERISTICS OF LEASE ADMINISTRATION
IN NORTHEASTERN SOUTH DAKOTA

The preceding section has pointed out that the leasing of county lands has unusual significance in northwestern South Dakota. As the emphasis of this thesis is upon the lease function, the remainder of Chapter II will be a discussion of major features of county leasing policies as practiced by the local governments in this portion of South Dakota.

For the purpose of simplification, the discussion will be divided into a consideration of various steps and major elements of leasing procedure. The sections follow in the order given below:

- The acquisition of county lands
- Difficulties in securing tax title
- Officials in charge of lease administration
- Land classification
- Publication of land for lease
- Lease rates
- Term of lease
- The Harding County block system of leasing
- County leasing agent
- Penalties for trespass
- Conservation policies and county lease practice
The Acquisition of County Lands

At first consideration it seems that the acquisition of county land on tax deed should be a purely mechanical process and that, as the law provides, tax delinquent, privately-owned land should pass into public ownership shortly after the period of redemption expires. Actually, however, considerable delay sometimes intervenes in this process.

An indication of this fact is shown by the data of Table 9. The large amounts of lands "subject to tax deed" in the various counties at this date is indicative of a prolongation of the process.

<table>
<thead>
<tr>
<th>County</th>
<th>Acreage Subject to Tax Deed</th>
<th>Per Cent of Total Taxable Land Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Butte</td>
<td>116 440</td>
<td>11.7</td>
</tr>
<tr>
<td>Meade</td>
<td>214 996</td>
<td>11.1</td>
</tr>
<tr>
<td>Corson</td>
<td>147 140</td>
<td>21.1</td>
</tr>
<tr>
<td>Dewey</td>
<td>74 937</td>
<td>18.1</td>
</tr>
<tr>
<td>Ziebach</td>
<td>91 510</td>
<td>18.0</td>
</tr>
<tr>
<td>Harding</td>
<td>67 070</td>
<td>6.2</td>
</tr>
<tr>
<td>Perkins</td>
<td>227 502</td>
<td>14.3</td>
</tr>
<tr>
<td>Armstrong</td>
<td>4 040</td>
<td>20.0</td>
</tr>
<tr>
<td>8-County Area</td>
<td>943 635</td>
<td>13.1</td>
</tr>
</tbody>
</table>

*/ South Dakota State Planning Board. See Table 3, p. 35.

As may be seen, there seems to be less delay in taking tax deeds in some counties than in others. It has been the conscientious policy of some counties to take tax deed as
soon as possible except in those cases where it may be possible for the delinquent tax-payer to redeem his land if given more time.

In other counties this policy has not been pursued. One of the main reasons has doubtless been the lack of assurance that the ownership of this additional county land would mean anything to the county by way of increased revenue. As one county official put it, "We could take tax deed to much more land right now, but we will probably wait until we find some use for the land we already have." With such an attitude, many inequalities in the acquisition of county land may be expected. It is the deliberate policy of one county to take title only to those lands for which some use may be expected.

Another county with a large amount of land subject to tax deed takes title to land for which offers to buy or lease have been received.

**Difficulties in Securing Tax Title**

It is undoubtedly true that much of this hesitancy in acquiring county lands may be traced to the difficulties of taking tax title and to the shortcomings of the title itself.

Tax deed proceedings involve checking county records of the owners, mortgagees, assignees, and tax payers; calculating back taxes; filing estimates of cost; serving notice or
advertising notice of the expiration of the time of redemption; filing affidavit of completed service; and then, after the expiration of 60 days, issuing tax deed. ¹

The cost of this procedure varies according to the difficulties of locating and serving notice on the various record parties and as to whether or not it is necessary to advertise the notice of the expiration of the period of redemption. In two counties, Perkins and Harding, county treasurers estimated that the average cost of taking tax deed ranged from $7 to $12 for each deed. ² Corson county records show an additional attorney's fee of $11.50 for each tax deed. ³

The time required for taking tax deed also varies according to the demands of each individual case. The Perkins county official in charge of this procedure estimates that from 70 to 90 days are required in most cases, a period that includes the 60 days required by law between the filing of affidavit of completed service and the issuing of tax deed.

In addition to the time and expense required to take title to land subject to tax deed, the situation is complicated by the fact that the tax title may later be set aside in court because of some discovered flaw. It seems to be

¹/ Tax-deed procedure as outlined by Office of County Treasurer, Perkins County, S. Dak.
²/ Unpublished source.
³/ County real estate record, Corson County, S. Dak.
the opinion of many county officials that tax deed title is highly insecure and that the position of the county as a land owner is greatly jeopardized for that reason. In Corson county, for instance, it has recently been discovered that the tax title to certain tracts is void because the original Indian fee patent title has never been recorded.

**Officials in Charge of Lease Administration**

In South Dakota, the administration of county land is a more or less direct responsibility of the county commissioners. Originally when the amount of county land was small, it was handled directly by the commissioners, either as a group or individually as the land was divided among the various districts. As the amount of county land has grown, it has become customary to delegate at least a part of this responsibility to other county officers.

Nominally, the commissioners remain in charge of at least the general administrative policies. County auditors are usually in charge of the lease record, while lease payments are made to the treasurers.\(^1\) Other officials may be concerned. In Butte county, the county commissioners work with the county assessor in handling public land.\(^2\) In Corson county, much of this work is handled by the highway superintendent in addition to his other work. Dewey county has a

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\(^1\) This is the system in Harding county, typical of other counties in this area.

\(^2\) Questionnaire, *op. cit.*
leasing clerk.\(^1\) Harding county has, at times, employed a leasing agent.\(^2\)

Division of administrative responsibility is a common characteristic of lease management. In no county of this area is the administration of county lands centered in one individual or office, but it is common to find several officials devoting part-time to the problem of county lands.

**Land Classification**

Planning agencies in particular have laid great emphasis on the importance of land classification as a prerequisite to the successful administration of public lands. It is upon such a basis that the differences between individual plots of land are recognized by differential lease rates, use restrictions, and so on.

In this area, the classification of land has not been attempted except in one instance. In Corson county, the beginnings of such a system have been made. One official\(^3\) on his own initiative has appraised some 400 quarter sections of county land and recorded the information on a specially designed form. Among the facts recorded are a general description of the property as to topography, soil, water resources; a description and evaluation of the buildings and

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\(^1\) Questionnaire, op. cit.
\(^2\) County Highway Superintendent.
farm fixtures; a classification as to the number of acres in crops and the number suitable for crops; and similar information that might be useful in evaluating the land. Furthermore relationships between various pieces of land are indicated so that key areas with good water supply or crop land will not be sold without considering the loss in value of surrounding grass lands.

This work has been done in the period of about one year and in addition to this official's regular duties. In most cases, he states, he does not have to make special trips for the purpose of appraising property, but takes advantage of the opportunities given by trips taken for other purposes. In other cases, however, an appraisal of a particular piece of land is wanted for some special purpose, as when an offer to purchase is received. Under such circumstances, a special trip may be made.

So far, no special order has been followed in the appraisal of the various county tracts, but it is hoped that when the system is in full operation, all land will be appraised as soon as it becomes county property.

Publication of Land For Lease

In the administration of large areas of public land, the question often arises as to whether individual leases should be granted without notification of the general public. To do so might conceivably work an inequality, particularly
when there is competition for the particular land in question.

This question of administration is avoided by recent State legislation which provides for the leasing of all county lands at public auction on a generally advertised lease day.\(^1\) This policy, now in general use, has been followed by Harding county with success for several years.

It is significant to note that newly established regulations for the leasing of Federal public domain under the Taylor Grazing Act first provided for separate publication of each application for lease but have now been amended to provide for a general advertisement offering all public lands for lease.\(^2\)

**Lease Rates**

In the leasing of county lands in northwestern South Dakota, both cash and share rents are common. In all counties, leases are subject to competitive bid over minimum rental rates adopted by the Board of County Commissioners.\(^3\) Competition for county lands is such, however, that minimum rates are usually prevailing rates.

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1/ 1937 Session Laws of South Dakota, Ch. 86 (H. B. 28), "An Act Providing for Regulating the Leasing of Certain Lands and Real Property Belonging to Counties and Declaring an Emergency."
3/ State legislation cited above.
In Harding county the minimum annual rates established by the board of commissioners is 5¢ per acre for grazing land and 25¢ per acre for crop land. During the 1937 season these rates were temporarily cut in half.\(^1\) In Corson county 10¢ per acre is the minimum annual rental for grass land; when the land is to be used for corn, cane, or other forage crops, an additional 40¢ per acre cash rent is required; when the land is to be put to small grain, one-fourth of the crop, in addition to the minimum cash rent of 10¢ per acre, goes to the county.\(^2\) In Perkins county, with 6¢ per acre for grazing land is the minimum for one-fourth share of the crop additional when land is used for crops.\(^3\) In other counties, minimum rates are comparable.

Recourse to competitive bidding to establish lease rates is common practice in the administration of all lands in this area. For it is claimed the advantage that it provides maximum returns to the owner as well as establishing a differential between various grades of land which a general rental fee overlooks. To its disadvantage might be quoted examples of cases where operators have been "frozen out" by competitors who made excessively high bids.

The practice of competitive bidding is not followed by the Federal Land Office in leasing public domain. A uniform

\(^1\) Questionnaire, op. cit.
\(^2\) Extract from Commissioners' proceedings, January 10, 1936.
\(^3\) Questionnaire, op. cit.
rate based on $0.50 an acre is charged for grazing land. ¹
Where more than one application for lease is received for the same tract, the situation is investigated by the Division of Investigations, and the lease awarded to the individual adjudged as having the best claim from the standpoint of prior use, location etc. ²

Particular attention should be paid to the fact that Harding county, with minimum rentals of $0.50 and $25 per acre, lowered those rates to $0.25 and $12.50 per acre for the 1937 season. The reason for this change was that because of the poor condition of the grass after the preceding drought year and because of the relative scarcity of livestock in the area, it was feared that many operators might abandon their leases unless some concession in rates was offered. Whether or not this policy accomplished its purpose is, of course, difficult to determine. A county officer made the unofficial statement, "We do not know whether we simply cut county lease revenues in half or whether we leased twice as much as we might have at normal rates otherwise. Our purpose was to help lessors of county lands who otherwise would have had to let their leases lapse." An examination of county records shows that 178,597 acres of county lands had been leased by June 20, 1937, however, while the total amount leased during 1936 was 162,766 acres. ³

¹/ Lease rate for the 1937 season; subject to change.
³/ From county records, Office of County Auditor, Harding County, 1937.
One of the most significant aspects of this Harding County experiment is that it recognizes that the lease value of county lands may fluctuate from year to year. Inflexible, unvarying rates, in effect, assume this value to be constant.

**Term of Lease**

The term of the leases offered varies from county to county. State legislation provides that it may be fixed by the boards of county commissioners for any period less than 5 years.\(^1\) The three-year lease is common, five-year leases are obtainable in some counties, including Harding county, and leases offered on the 1937 lease day in Perkins county were for a one-year period.

The best interests of the private operators call for the more secure tenure offered by long-term leases while from the county’s viewpoint a short-term lease may be more desirable. It is possible that the provision for renewal is more important, however, than the term of the lease. In practically all cases, long-term leases call for the payment for the first year at the time the lease is contracted, with annual payments at the beginning of successive years. The effect is not greatly different from that of one-year leases capable of renewal in following years.

\(^1\) Ch. 86, H. B. 28, 1937 Sessions Laws of S. Dak., op. cit.
The latter practice is followed by the Federal Land Office in leasing public domain.\(^1\) Corson county makes similar provision. "While the lease is made out on County lands for only two years, if the lessee of either grazing or crop lands or both wishes to continue to rent the land, all he has to do is to continue to pay the stipulated amounts on or before March 1st of each year. In this way the land does not come up for competitive bidding until the present lessee relinquishes his claim by not paying the lease price on or before March 1st."\(^2\)

Where provision for renewal is not made, private operators are inclined to discriminate against short-term leases. A conspicuous example of this is afforded by the experience of Perkins county when one-year leases were offered on lease day, March 6, 1937. On April 1, 1937, 83,540 acres of county land were leased as compared to 85,080 acres at the same time the year before. By June 1, 1937, county land leases had dropped to 63,934 acres whereas a year previously they had totalled 93,080 acres.\(^3\)

One rancher gave his version of the situation as "We knew the grass wouldn't be any good this year and so we wouldn't lease for only one year. If we'd been able to get five-year leases, we'd have leased and tried to build it up

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\(^1\) Cir. No. 1401 Revised, U. S. D. I., op cit.
\(^2\) Extract from Commissioner's Proceedings, January 10, 1936, op cit.
\(^3\) From county records, Office of County Treasurer, Perkins county, S. Dak.
for next year. As it was, we stood around, and when no one else bid on our land, neither did we. Maybe we'll lease it next year."

The Harding County Block System of Leasing.

Harding county has gone farther than any other county in this area in the development of an adequate leasing system. In many respects, the procedure is similar to that used by other counties; but the system has several refinements and improvements that render it worthy of special attention. One respect in which lease administration in this county differs from all others is with regard to the establishment of lease blocks.

Under this plan private operators may, if they wish, establish lease blocks by certifying as to the size and location of their operating units. In the large ranch units to which this plan has been applied, the blocks include both owner-operated land and leased land, sometimes belonging to several different owners and, occasionally, unused land. To prevent controversies among neighbors as to whose block leased land shall belong, lease blocks are approved and established only after consenting statements are secured from all neighbors of the operator. When agreements cannot be reached among neighbors, the blocks are not established.

1/ Adapted from unpublished manuscript prepared by John Muehlebeier, Assistant Land Planning Specialist, Land Use Planning Section, and from information supplied by the Office of the County Auditor, Harding County, South Dakota
When the necessary signatures and statements are secured, the application of the operator is passed on by the board of county commissioners who may then declare that a lease block be established.

County land within the lease block, whether it be acquired before or after the application is approved, is then subject to non-competitive lease by the operator of that block. If he fails to lease land as it is acquired by the county or if he fails to renew leases to county land within his block, the arrangement is automatically cancelled and the land is open to competitive bidding.

The program became effective in 1933 and lease blocks established at that time were set up for a period of five years. At the expiration of that time, it is anticipated that the blocks will have to be renewed by the same process as that by which they were originally established.

Thirty-one lease blocks, consisting of approximately 200,000 acres, have been established since the plan was inaugurated. Three of these blocks have been cancelled through the failure of the private operators to comply with the provisions, and in at least one of these cases, the operator is desirous of reestablishing his unit. Thirty-nine thousand acres of county land are included within the original blocks; at the normal lease rate the county would be assured of nearly $2,000 annually.

This plan, like the rest of the leasing program, is
under the supervision of the county auditor in cooperation with the board of commissioners.

This plan has the advantage of offering additional security of tenure to private operators who may avail themselves of it. In addition, the right to lease county land without competitive bidding is obviously to the advantage of the operator. On the other hand, the county has reasonable assurance that the land falling within the lease block will be leased.

Apparently the legality of this plan has never been tested. There has been a small cost to the county when the lease block is established and subsequent costs of supervision, and the payment of these costs by the county treasurer has been questioned on the grounds that the law makes no such provision. In addition, lease of county land to an individual without offering the land for competitive bid may come into conflict with State legislation passed in 1937.¹

While the sponsors of the plan hoped that it might eventually be extended to include most of the county land, it is obvious that the system is best adapted to large operating units, and it is the opinion of the writer that it will not prove practical in all cases. The desirable influence that such a plan may have in encouraging larger operating units and in establishing more secure land tenure

¹/ Ch. 86, H. B. 28, 1937 Session Laws of S. Dak., op. cit.
cannot be denied, and the possibilities of the application of this plan in other counties is worthy of serious consideration.

**County Leasing Agent**

Harding county has contributed another refinement in leasing procedure in the person of a special agent hired by the county to give direct supervision to county lands and the leases thereof. No regular provision is made for such an officer and, to date, he has been hired on a part-time, commission basis.

The duties of this agent include both the collection of lease rents and the actual supervision of county lands. Periodic inspections of tax-deed and school-fund foreclosure lands have revealed many cases where county lands have been used without the formality of leasing. Under such circumstances it has been the practice for the leasing agent to hold the trespassing livestock and inform its owners that they are liable for unpaid rent and for an additional penalty amounting to one half the lease rent.

The legality of such measures have not yet been tested, as the amounts involved in most cases have been too small to encourage court proceedings. It is the opinion of the State Department of Finance, however, as stated in a 1934 report to the county, that the legal position of such an agent is untenable, as no provision for such an officer has ever been made.
That the performance of this agent has been to the advantage of the county can hardly be questioned. For his services during one season he was paid approximately $1100.00 as per diem, travel expenses, and 10% commission on leases collected. The leases paid to the county through his efforts amounted to approximately $3460.00.

The duties of such an agent receive further justification when it is considered that unleased county lands are subject to frequent trespass for which no remedy is taken. Although no information is available as to the frequency of trespass and the loss to the counties represented, it is obvious that when large amounts of land, widely scattered throughout the county, are not supervised by actual periodic visitation not only the county but also rent-paying lessors of county land are the losers.

**Penalties for Trespass**

The counties are sometimes at a loss as to how to proceed in cases where trespass on county lands is discovered. The general trespass law provides that under such circumstances injured parties may recover damages in a civil action, and may hold trespassing livestock until damages are paid, but, considering that grazing lands often rent for

1/ Sections 2921 and 2924, Compiled Laws of South Dakota, 1929
$2 an acre for an entire year, the actual damages sustained when such lands are used for a few weeks without official consent may amount to too small a total to warrant recourse to law.

Another disadvantage to the use of this trespass clause was presented by a county official who pointed out that the holder of trespassing livestock is himself liable for any damage to such property while it is in his care. Under these circumstances, the use of the trespass clause may involve too great a risk to be justified by the end in view.

A preceding section has mentioned that in Harding County, trespassing livestock have sometimes been held and used to force the payment of unpaid lease rents and an additional trespass penalty.\(^1\) Another possibility was suggested by a Harding County official who informed the writer that in a few cases unpaid rents have been collected when the county refused to make other leases to the individual until the trespass had been adjusted.

\(^1\) See County Leasing Agent, p. 76 of this thesis.
Conservation Policies and County Lease Practice

As a large land-owner and as a public organization, it seems that county government is in an ideal position to inaugurate policies that would prevent further depletion and promote conservation of land resources. At present, however, this remains nothing more than a possibility. The conservation elements in county leasing practice amount to little more than a superficial distinction between grazing and cropping as intended uses of the land. One lease rate is specified for grazing and a higher rate asked when the intended use is cropping. One county officer pointed out that the effectiveness of even this degree of supervision was open to some question, explaining that an operator might lease a quarter section, paying additional for 15 acres which he intended to put into crops, but that no later check was made by the leasing authority to determine whether the lessee put 15 or 150 acres to this use.
CHAPTER XIII

SUGGESTIONS FOR THE IMPROVEMENT OF
LEASE ADMINISTRATION

INTRODUCTION

The preceding discussion of lease practice in northwestern South Dakota has suggested that the methods now being used and the results now being obtained are not entirely satisfactory. Many possible changes might be made in lease administration with the view to improving the general situation.

It is the purpose of the present chapter to make certain suggestions for the improvement of lease management. These particular suggestions have been developed with a view to their adaptability to the immediate situation. With this purpose in mind, it is apparent that they can involve no very radical changes but should be capable of operation after a few minor revisions of legislative provision or administrative policy.

It should be stressed, however, that the problems entailed by extensive county land ownership have an exceedingly great significance for public finance, land use, and for the whole system of local government. It is possible that the future may see great changes in the method of meeting this situation.

For one thing, it is at least possible that provisions will later be made so that county governments may make use of
county lands in other ways than by sale or lease. At present, South Dakota counties can receive no income from their real property except by these two uses, but in other states, additional alternatives are possible. Wisconsin counties, for instance, may take advantage of the forest crop laws of that state, and block out certain of the county lands acquired by tax reversion for inclusion in county forests. On these forest lands, county governments receive an annual payment of 10 cents an acre from the State in addition to a certain percentage of the stump value of timber cut from such areas.\footnote{Part VII, \textit{Supplementary Report of the Land Planning Committee, etc., op. cit.}, p. 48.}

While other county lands may be put to lease or sale uses, as in South Dakota, the significant point is that these counties have an additional alternative from which they may receive income. That such provision might sometime apply to counties of South Dakota is conceivable; forest use is, of course, improbable on any large scale, but the same method might be used for the development of parks, recreational areas, and game preserves.

Management of tax reverted lands by the county governments is perhaps the most direct and easiest plan to follow, inasmuch as the county government is the initial sufferer when the land ceases to pay taxes. Furthermore the administration of public lands requires a certain amount of local organization that is already present to a large extent in county governments. County governments are usually handicapped, how-
ever, by their necessity for turning county land into revenue by some method. When private demand for land, either through lease or sale, is lacking, county revenues fail. In other cases, another undesirable feature is present in that counties, for fiscal reasons, may be leasing or selling land, that is well adapted for some public purpose as a park or a game preserve.

Another possibility that might be realized in the future is that the administration of tax-reverted lands, now the responsibility of local county governments, may be removed to other agencies, possibly in the State government. In nineteen states of the United States, tax-delinquent land reverts to the State governments and not to the counties. The State of Michigan early developed such a plan which is today one of the best examples of this sort of system. After land is delinquent for five years, the State represented by the Department of Conservation, takes possession and may reserve suitable areas for forests, State parks, recreational areas, and game preserves. Unreserved areas are subject to sale to private parties, homesteading, or exchange. When tax delinquent lands revert to the State governments in this way, some provision must be made for a substitute form of income for the local governments who suffer through loss of tax base.

In Michigan, county governments which are deprived of the use

1/ Part VII, Supplementary Report of the Land Planning Committee, etc., op. cit., p. 46–47.
or taxation of these lands are reimbursed by annual payments from State funds. These payments, scaled to the acreages relinquished by the individual counties, are derived from various sources according to the use to which the land is put; thus, on lands reserved for forests, the Department of Conservation pays the local governments the lump sum of 25 cents an acre in extinguishment of tax liens and an annual tax of ten cents per acre from the game protection fund.

The advantages given for state administration are that it makes possible greater efficiency and method in handling public land. Furthermore, as reverted lands are usually acquired in scattered plots and not in large blocks, the process of consolidation by exchange or purchase is very important, and in this procedure state administration has a decided advantage. One of the most desirable attributes of state administration, however, is that state governments usually have larger available resources than local governments and are not under as much compulsion to make "profitable" use of the land. Under state ownership plans, reservation of certain lands for special public uses is more feasible. A fundamental problem is entailed though, in that county governments must either receive special compensation or must eventually curtail their public services.

**The Possibility of the Centralization of Lease Administration**

The nature of the leasing situation suggests at least one other possibility of future change. That possibility is
that two or more of the various public land-owning agencies
may see fit to establish a joint leasing system. At present
there is much duplication. In this eight-county area of South
Dakota there are at least four Federal agencies—the Federal
Land Bank, the Forest Service, the Indian Service, and the
General Land Office—offering land for lease. Two State
agencies—the Rural Credits Board and the Department of School
and Public Lands—enter into this competition. This is in
addition to the various county governments which offer school
fund foreclosure lands and tax-deed lands for lease.

The leasing problems facing all these organizations are
essentially the same, and the development of separate leasing
systems, even of the most efficient type, must necessarily in-
volve some duplication—duplication which centralized leasing
administration might avoid.

Before this consolidation can be realized, it is cer-
tain that some standardization in leasing procedure must be
achieved. Various cooperating agencies must be in general
agreement as to the technique of lease management, the rates
and duration of leases, the amount of supervision and restrict-
ion of land use, and so on. It may be expected, however, that
this general agreement will tend to develop as experience shows
the relative worth of different views.

Such a plan would probably appear first as the joint en-
deavor of two or more similar agencies, but the possibilities
of later extending it to include many forms of ownership
should be considered. If lease administration could be im-
proved and standardized and reduced to a procedure that always made the highest possible returns consistent with good land use, at the same time protecting resources by effective conservation provisions, it might be that many land owners—private as well as public—would want to include their holdings under the system.

Lessees could be benefited by the standardization of the lease practice. The advantage over the present situation are obvious when it is considered that now one private operator may have to deal with several different lessors, paying different rates for similar land, in blocking up a single operating unit.

The position of the county governments, should such a plan develop, would have some significance as, regardless of the degree of centralization, local organization would be required for both leasing and supervision. The county is in a position where it could easily develop that organization from its present set-up.

THE IMPROVEMENT OF PRESENT LEASE PRACTICES

The remainder of this last chapter is devoted to a discussion of possibilities for the improvement of present leasing procedure. These suggestions are to be distinguished from those just presented by the fact that these can be adapted more or less readily to conditions as they now exist.

The most fundamental requirement is, of course, that the situation be faced squarely. It is the lack of this characteristic that is often most noticeable in the administration of
county lands. Whether it arises from the fact that the county land problem is still relatively new or from a human disinclination to recognize the existence of a new tendency that is foreign to the traditional property system, the results are essentially the same.

The formation of an efficient, satisfactory system for the administration of county lands depends upon recognition of the problems involved and a willingness to abandon outmoded methods which are no longer justified by actual conditions.

It is the opinion of the writer that the proper approach, more than any other requirement, is essential to the effective management of county lands. There may be several ways of achieving the same result, and no one is yet qualified to state what constitutes the right and wrong of leasing procedure. Satisfactory results, however, are no accident and must eventually depend upon the attitude with which the problem is attacked.

**Simplified Process of Acquisition**

Technically, perhaps, tax-deed procedure does not enter into the leasing program, but in effect it has undeniable implications. As has been mentioned, the complications in the present method of taking tax-title make it an expensive and time-consuming process, while the net results are partially unsatisfactory as it seems the tax-deed title itself is insecure and may be set aside through legal technicalities.
As a result, counties are sometimes loathe to go to the trouble and expense of taking title to lands subject to tax-deed unless there appears to be definite prospects of disposing of the land either through sale or lease.

It is desirable, therefore, that attention be directed to improving the process by which county lands are acquired by making it less expensive and less time-consuming.

As a suggestion, it has been noted that considerable cost in taking tax deed comes from the necessity of making personal service on record owner, mortgages, assignees, and tax-payers, notifying them of the expiration of the redemption period. Instead of personal service it would be possible to notify these people by registered mail if legal provision were so made. County officials to whom this suggestion was made were of the opinion that it might save considerable of the expense connected with tax-deed proceedings, that in some cases it would save several days' time, and that for all practical purposes, notice served in this way would be just as satisfactory.

With regard to quieting tax title to reverted lands, the experiences of other states should be examined. The State of Michigan, for instance, has made legislative provision to the effect that tax-title may be set aside only during the first six months after the registration of the deed. After that period, the public title to tax-reverted land becomes clear
and unencumbered. As a contrast to that situation, in South Dakota a three-year statute of limitations applies to tax-deed title, but it has been found that under certain conditions tax-title may be set aside even after that period.

Centralized Management of County Lands

One of the great needs of county land administration is provision for a full-time official who shall be charged with the administration of county lands and who is authorized to travel and exercise personal supervision over county real estate.

The administration of thousands of acres of county land is a service that should demand the full-time attention of a capable officer. When this work is divided between several offices, it is difficult to center responsibility for any given situation and it is possible that such a situation also makes for less personal interest on the part of those engaged in the work. From the mechanical standpoint, there is an obvious advantage in centralizing records and official procedure in one office rather than having it divided between two or more.

This proposed official should not be subjected to political pressure by making his office an elective position. The opportunities for using county lands for political purposes is great, and, by placing the management with an appointive offic-

1/ Part VII, Supplementary Report of the Land Planning Committee, etc., op. cit., p. 46.
2/ Section 6825, Compiled Laws of South Dakota, 1929
er, it should be possible to avoid some of the dangers of this mis-use of the public trust.

It is also important that the administration of county lands should carry with it some travel authority. With large acreages of county lands scattered over many square miles, efficient supervision without travel is hardly possible. The experience of a Harding County leasing agent in discovering and handling trespass has been indicated. It is significant to note that the Forest Service, acknowledged as handling the leasing of grazing lands with notable success, considers actual supervision very important. According to one account of Forest Service work:

Regular periodic inspections are necessary in order to discuss problems with the users, see that plans are being complied with, check on trespass, and observe conditions of the range. At least two intensive inspections a year by a qualified forest officer have been found to be the minimum requirement on intensively used ranges.

Classification as a Prerequisite to a Sound Land Policy

The importance of knowing the characteristics of the land included under the lease program can hardly be over-emphasized. Each piece of land is essentially unique and it is hardly justifiable to treat hundreds of thousands of acres of county land as an unvarying commodity, yet without an attempt at land classification, not much more can be expected.

1/ The Western Range, op. cit., pp. 263-264.
Land classification makes possible the handling of county lands on the basis of the characteristics of the individual tracts. One of the most obvious possibilities suggested is that differential rates between different grades of land may be established, instead of treating all grades of land as being similar as in the practice under the present system. Differential rates of this sort should provide for greater equality between value given and value received. When two tracts of land, one relatively good and one relatively inferior, are leased for the same figure, it is obvious that there is an inequality somewhere and that someone, either the lessee or the operator leasing the land is losing. On the basis of land classification, however, it is possible to vary lease rates to correspond to the actual productivity of the land.

Land classification is also necessary in establishing and carrying out a successful conservation program. One of the first steps in such a program would probably be the restriction of cropping to certain suitable lands, yet even this first step is impossible without some sort of classification.

It should also be mentioned that the development of zoning ordinances for directing the land use of a region depends upon land classification, and that where this may be expected in the future a general classification of land is necessarily the first step.

Land classification, in other words, has application both from the standpoint of bettering present administration of county lands and from the standpoint of the possibilities
it may permit in developing future policies. Its significance has been stressed considerably in recent years, but the fact that only one of the counties in this northwestern area has attempted such work indicates that the importance of land classification as practical management policy is not yet fully appreciated.

An attempt to make a thorough classification of a large area in a short time is an expensive undertaking and for that reason county governments might be inclined to disregard land classification as being impractical. The experience of Corson County should be considered however, as an illustration of the fact that over a long period of time essential information as to the characteristics of county land may be collected at small expense. This is particularly true if the county official or officials in charge of county lands is engaged in direct supervision by actual inspection.

Conservation Policies in the Lease Program

So far, county governments in this area have made little attempt to incorporate conservation policies into their administration of public affairs, although growing interest in this phase of governmental responsibility is evident elsewhere. The accumulation of large amounts of county land suggests, however, both the need and the possibilities of establishing a conservation program, and in no place is there a more direct connection than with the leasing system.
The widespread depletion of the range resources has been described, and there is hardly any need to mention the desirability of halting further decline and encouraging the restoration of natural resources. County governments would, of course, derive first benefits of a conservation program through its effects on county land. Effective policies for the protection and rehabilitation of the range should result, over a period of time, in material benefits to the local governments, but it may also be that the effect on the management of land belonging to other owners would be just as significant. Nearly everyone agrees as to the worth of "conservation" as an abstract generality, but the fact remains that a concrete example of effective range management is more valuable than words in encouraging general adoption of the practice.

County governments seem to be in a position where they can supply this example. As owners they can enforce whatever restrictions on the use of county lands that they may see fit to make. Because of the fact that they are concerned with the administration of large areas with a considerable total value, they may also be justified in spending some time and effort in developing conservation policies that a private land-owner on a smaller scale could not.

In planning and establishing such a program, local governments can undoubtedly benefit from the experiences of other agencies in this field. The practice of the Forest Service in leasing portions of the national forests is a conspicuous ex-
ample of a well-planned and effective conservation program. That it has paid in the preservation of the range is shown by the fact that national forest ranges today, on the whole, are 70 per cent as good as virgin range, as contrasted with 33 per cent on the unrestricted public domain and 49 per cent on privately-owned rangeland throughout the West.¹

On the Federal ranges, particular attention has been paid to the avoidance of over-use of the forage resource. The program includes a restriction of the number of livestock to within the sustained grazing capacity of the land. Improper seasonal use is corrected by provisions for keeping stock off the range in the early spring and late fall when the grass may be easily damaged. Attention has also been given to facilitating the natural reseeding of range plants and to the proper distribution of livestock over the grazing areas.²

Considering all aspects, the leasing system of the Forest Service should provide local governments with many ideas which might be adapted to the needs of the counties. It should be recognized, however, that the revenue motive necessarily occupies a position of first importance in the determination of county policies, whereas the Forest Service recognizes the protection and conservation of the forest resources as the primary consideration.

Attention should be drawn to the fact that conserva-

¹ The Western Range, op. cit., p. 36.
tion may be achieved by both positive and negative means. A program designed to correct land use and prevent harmful practices by such means as have been ascribed to the Forest Service promotes conservation in a direct, positive way.

On the other hand, land use is also directed by other factors. High lease rents and the unstable tenure brought about by short-term leases and competitive bidding may place handicaps on correct land utilization. The removal of such handicaps may result in a negative sort of conservation policy. For this reason it is desirable that the leasing system be examined to discover if it may be exerting any such pressure on the use of the land.

It is highly probable, however, that lease administration is less to be criticized in this respect than other phases of the management of public affairs. A consideration of how much effect taxation may have in directing land use has no place in this thesis, but it should at least be pointed out that all public policies should be coordinated, at least to the extent that they do not interfere with each other.

The Rates of County Leases

(1) Some previous attention has been paid to the matter of rates on county leases and it has been pointed out that various factors may be directly influenced by the lease rate. For one, high rates may demand too-intensive land use and improper land utilization may result. High rates may also
tend to discourage leasing and the actual volume of leasing may suffer on that account. On the other hand, county administration is under pressure to keep the public income as high as possible, and high rates may seem to be most directly productive in this respect.

Lease rents must be determined with a view to these several factors, and just what is the best solution is apparently open to much discussion. The variation in the minimum rates determined by the commissioners of these counties has been mentioned. Only a part of this variation can be explained on the basis of actual differences in the land itself, and the rest must be due to differences in administrative policies.

No hard-and-fast rules for the determination of lease rates can be cited, but it should perhaps be pointed out that the amount of public revenue depends upon the volume of leasing as well as upon the rates, and that, conceivably, lowering lease rates might result in enough increased volume so that the net income would remain the same.

In this connection, it should be recognized that an extensive coverage of the leasing system is to be desired, and that, other things being equal, it is better to have a large part of the county land under lease and paying a smaller rental per acre than to have only a portion of the land leased at higher rates. Widespread leasing coverage assures more uniformity in the use of the land and should give the counties better control. The situation is possibly more salutary in
that operators are all treated more or less equitably, whereas under the other circumstances, one operator may be leasing and paying a high rate for county land, while a neighboring operator may be making unofficial use of unleased county land.

(2) It seems to be fairly common practice for the county commissioners to determine minimum rates, as is provided by law, and allow those minimum rates to prevail for a period of years. It is a matter of fact that the forage capacity of a given piece of land varies from year to year, and that the worth of the land to a private operator varies from time to time. Fixed minimum rates—which often become prevailing rates—therefore hint at inequalities. Correlation of rates with the actual value of the land as it varies from time to time seems desirable.

Attention has been called to the fact that in Harding County, the minimum rates of 5 cents and 25 cents per acre were cut in half for the season of 1937. It might be that the adoption of some similar method would introduce flexibility into the rental scale. Lease rates, established for normal years, might be declared subject to correction from year to year as the circumstances may warrant. The promotion of better use practices might result, and it is possible that there would be a tendency toward a more uniform amount of leasing over a period of time as there would not be so much incentive to abandon leases during poor years.
and expand them under better conditions.

(3) In discussing lease rates, the practice of the Forest Service should be mentioned. Rates of grazing leases in the national forests are based on the number of livestock to be grazed rather than on the acreage of land. In this system, the operator pays a fixed rate for each animal unit grazed under the terms of the lease, while the number of livestock permitted to graze is varied according to the discretion of the administrative authority. When the range is in relatively poor condition, livestock numbers are restricted; under more favorable circumstances, the numbers are increased. In this way a correlation of rent with forage capacity is secured, over-use of the land is prevented, and the leasing operator is assured that his costs of grazing a certain number of livestock will be more uniform over a period of time.

(4) The prevalence of competitive bidding on leases is to be deplored because of the way it may affect the use of the land. The tenure of a lease operator is imperiled as his lease may be terminated at any lease day when some other individual betters his bid. In case of competition, lease rates may be raised beyond a point justified by the quality and condition of the land. Both of these possibilities may contribute to mis-use of the land by private operators. It might be pointed out that one report, in speaking of the Forest Service says: "The principle of competitive bidding
was not adopted because it was early recognized that to do so would be disadvantageous to the small operator and lead to instability in agriculture.\footnote{The Western Range, op. cit., p. 257.} From the standpoint of the county income, however, competitive bidding on leases sometimes proves profitable, and the force of the revenue motive in influencing county management must be recognized.

It seems at least possible that a compromise between the competitive bidding practice and fixed rates would be more justifiable than unlimited application of the competitive principle. Minimum rates are now established by the commissioners, as is provided by law. It seems possible that reasonable maximum rates might also be established. Between these two limits, competitive bidding could be allowed to function as it now does. The county would be assured of a certain minimum rate on leases and would stand to profit by the occasional competitive bidding over and above the minimum rates. At the same time, private operators would be assured that lease rates could not go above a reasonable upper limit, and one operator could not be displaced by a competitor who was determined to carry competitive bidding to unlimited heights. In cases where competition still existed when maximum rates were reached, the lease might be awarded on the basis of the claims of the operators as to prior use, better adaptation of the operating units, loca-
tion, or some other claim to better use practice.

Duration of Lease

Many of the considerations mentioned in the preceding section apply to the question of length of lease. Stability of tenure for the operator is to be desired as it gives him a better basis for planning his operations, tends to give him a more personal, long-time interest in the land he leases, and should encourage better use practices.

It is generally considered that long-time leases provide this assurance and it is certainly true that lessees usually tend to favor long-time leases as contrasted with one-year or seasonal leases. In the opinion of the writer, a more important consideration is the provision for the renewal that is granted with the lease. There is little difference in actual operation between a one-year lease with provision for renewal without competitive bid and a long-term lease, payments for which are made every year. A long-term lease which is automatically put up for competitive bid at the expiration of the term may actually be less secure for the operator than a one-year lease which is capable of indefinite renewal without competition.

From the standpoint of the county, the situation is much the same in either case. Long-term leases do not mean a definitely assured lease income over the entire period, as lease payments are usually paid at the beginning of each year and cases are frequently found where leases have been abandon-
ed by the operators before more than a few of the payments have been made.

Particular attention is called to the policy in Corson County which permits the unlimited renewal of a lease without subjecting it to competitive bid providing that the lessee continues to make his annual payments on or before a specified date.

Prior use of leased land creates a right that should not be denied the operator, and the county leasing policy should make provision for safeguarding that right. A private operator should have the right to use land for an indefinite period provided he continues to pay his lease rent and observes whatever regulations the county may impose on the lessee. A three or five-year lease subject to competitive bid at the end of that period does not guarantee this right, and whatever the term of lease, there should be provision for its renewal.

A certain caution should be observed in the issuance of such leases. For one thing, it is conceivable that an operator might continue to lease a tract when, judged by other standards than the right established by his prior use, another application for lease might be more worthy. To provide for such circumstances it might be advisable to establish long-time intervals at which competitors might challenge the right of the lessee, all parties submitting their cases for the adjudication of the leasing authority. If the
circumstances seem to show that another operator is better qualified by virtue of his location, operating-unit system, the proportion of feed base to grass land, or similar considerations, the lease right might be transferred.

Another provision of the leasing system should be to provide for a change in lease rates if conditions should change materially after the lease is issued. In case the land should depreciate in its productive value, the lessee is always protected in that he may terminate the lease at any time. When the value of the land becomes greater, the county should be protected. It is in regard to this last point that a portion of the Corson County policy which provides for renewal at former rates may be questioned. It is possible that the lease provisions should call for the payment of rates which are subject to change at the discretion of the leasing authority.

Should Lessees Be Subject to Sale?

The problem of leasing county lands is complicated by the fact that an opportunity to sell leased lands sometimes occurs. If sale is considered desirable for the counties' benefit, lease provisions should allow for the right to terminate the lease at any time in order to make sale possible. However, the effect that making leases subject to sale would have on the security of the lease tenure is obvious.

The right of the county to dispose of the land through
sale should perhaps be modified in recognition of the rights of the lessee. In the first place, the land should not be subject to sale "at any time". In the second place, the lessee should be given first right to purchase if his lease tenure is broken by the prospects of sale.

Leases could possibly be set up so that they might be subject to sale only at rather long intervals. Between those times, the lease should be inviolate. At intervals of three years, for instance, the county might reserve the right to offer the land for sale. In case an offer should be received and considered, the lessee should be given first right to make the purchase if he should care to meet the price of the prospective buyer.

Trespass on County Lands

County governments have no effective recourse in the case of trespass on county lands. As has been noted, the general laws on trespass are too unwieldy for much use by the counties, and in addition provide only for the recovery of damages. County governments should have recourse to some method that is capable of general application and can be used to force the payment of rents.

State legislation provides for trespass on State school and public lands by declaring it a misdemeanor punishable by fine or imprisonment or both. If such provisions could be adapted to apply to county lands, county governments would be in a much better position to deal with trespass. The
threat of the misdemeanor clause should make a formidable weapon to use in the collection of unpaid rentals.
APPENDIX A

The following questionnaire blank was sent to the County Treasurers of seven counties in northwestern South Dakota on April 13, 1937. Within two weeks, six answers had been returned.

The form was submitted to Harding, Perkins, Meade, Butte, Corson, Ziebach, and Dewey counties, and the requested information was returned from all except Perkins County.
RETURN TO:
Department of Agricultural Economics
South Dakota State College
Brookings, South Dakota

QUESTIONNAIRE

1. Approximately what acreage of county tax-deed land has been leased by your county during the past year (1936)? (ACREAGE) ____. Has there been any significant change in the amount of leasing during the past three years? (IF SO, WHAT?)

2. Does your county have a definite policy for leasing county lands? (YES OR NO) ____. 

3. What official, or officials, have charge of such leases? (CHECK ONE OR MORE)
   ___ County Treasurer
   ___ County Auditor
   ___ County Commissioners (individually, by districts)
   ___ County Commissioners (as a group)

4. Does the income from leasing county tax-deed land go into the general county fund? (YES OR NO) ____. Does the income from leasing school fund foreclosure land go into the general fund? (YES OR NO) ____. (If the answer to either of the two above questions is NO, please indicate the reason and state where the money goes.) ________________________________

5. Does the same general policy apply to the leasing of all county lands (tax-deed, school fund foreclosure, etc.)? (YES OR NO) ____. 
6. Does your county have a regular procedure for taking title to tax delinquent land? (YES OR NO) ___. In your opinion, is this procedure satisfactory? (YES OR NO) ___. Please indicate the most serious defects, if any:

(CHECK) Takes too much time

County unable to secure good title

7. Does your county take tax title promptly when the redemption period is past (___), or is the administration lenient in hopes that the delinquent tax-payer may have time to pay up? (___). (CHECK ONE OR THE OTHER.)

8. In leasing county lands, are any of the following devices used to restrict or direct the use of those lands? (CHECK);

Different rental rates according to use (as grazing or crop land)

Restrict cropping to certain land

Restrict number of animal units on grazing land

Restrict grazing to certain seasons

9. In your opinion, what proportion of land, once tax delinquent for a year or more, is ever redeemed by payment of back taxes (under contract or otherwise)? ________

10. (A blank sheet inserted for additional remarks.)
### TABLE I.

Land Ownership Summary, Eight Counties, as of March 1, 1934, and March 1, 1936.

### TABLE II.

Harding County Land and Leases, 1931-1937.

### TABLE III.

Perkins County Land and Leases, October 1, 1935, to June 1, 1937.

### TABLE IV.

Corson County Land Status, June 25, 1937.
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*/* Source: Land ownership study conducted by the Land Use Planning Section of the Resettlement Administration, U. S. Dept. of Agriculture, in cooperation with the South Dakota State Planning Board and the Dept. of Agricultural Economics, S. Dak. State College.
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Source: County records, Office of the County Auditor, Harding County, S. Dak.
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*/ Source: County records, Office of the County Treasurer, Perkins County, South Dakota

**/ Per cent of total county lands.
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Source: County real estate record, Office of the County Auditor, Corson County, South Dakota.
APPENDIX C

BIBLIOGRAPHY
BIBLIOGRAPHY

Books:


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(3) Lutz, Harley Leist, Public Finance, D. Appleton-Century Company, N. Y., 1936

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(4) Agricultural Resources, a preliminary report of the South Dakota State Planning Board, January 1, 1936


(7) Grazing Districts in Montana: Their Purpose and Organization Procedure, by M. H. Saunderson and N. W. Monte, Montana Ag. Exp. Sta. Bul. No. 326, September, 1936

