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Article Summary: As a south Cedar County historian researching land acquisitions by settlers, the author formed three determinations: to clearly identify the "free land" myth, to uncover the elements of public dissemination that have perpetuated the myth, and to test the "free land" myth within a specific locality.

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Names: Willa Cather, Ole Rolvaag, Edna Ferber, Jack Schaeffer, Mari Sandoz, Fred Shannon, Roy M Robbins, Paul R Gates, Orville H Zabel, Columbus Delano, John P Crothers, Richard H Ives, Charlotte Goddard, Moses B Goddard, John P Bean, George H Boggs, Berea M Willsey, Warren H Chapman, J P Gage, Charles J Off, William Van Marter, Louis Seyl, Enoch Chase

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Photographs / Images: View of Belden, September, 1891, on Logan Creek, Nebraska; Louis Seyl, who acquired land under the Land Purchase Act of 1820

THE FREE LAND MYTH IN THE DISPOSAL OF THE PUBLIC DOMAIN IN SOUTH CEDAR COUNTY, NEBRASKA

By Zachariah L. Boughn

A local historian is faced with a number of problems: location of primary sources, the reliability of these sources and the historical myths that have become ingrained in the consciousness of a people. These myths may be within the context of a strictly local event or personage or within a national setting in which the locality played a part. It is within the context of the latter that I as a south Cedar County historian researching land acquisitions by settlers find a firmly ensconced myth stating that free land by virtue of the Homestead Act and, to a lesser degree, the later Timber Culture Act was the cornerstone of settlement. After repeated confrontations with this supposition, I formed three determinations: (1) to clearly identify the myth, (2) to uncover those elements of public dissemination that have fostered and perpetuated it, and (3) to test that myth within a given locality.

The myth's wide prevalency precludes difficulty in identification. Easily categorized as the free land myth in the settlement of the Trans-Missouri West, it encompasses three elements: (1) a time limit, 1865-1890, (2) a place element including Oklahoma, Kansas, Nebraska, the Dakotas, Montana, Wyoming, and parts of Colorado, and (3) the essence of the myth itself. That essence holds that following the Civil War thousands of land-hungry settlers crossed the Missouri River, moving west as well as following the river north and west—all drawn by the expectation of free land. Seeking to justify the myth's deep imprint upon the historical consensus of the community, I discovered the initial local impetus close at hand in my own family's oral history, which in significant respects is like other

family histories of south Cedar County. They usually involve oral reminiscences of a forebear who was an early county settler, and almost invariably follow a familiar evolutionary pattern.

The story of a great-grandfather settling on the prairie deals basically with an identification of the location where he established a "home" for his family. The passage of years sees the "home" become the "old homestead," and great-grandfather emerges as a "homesteader" who received his quarter section from the government free of charge.

Supporting oral history in the solidification of the myth are local historical publications, many of which represent the efforts of a community to provide a historical record during a community birthday celebration of 50, 75 or 100 years. These efforts perform an excellent service in collecting a wealth of material under one cover that otherwise might be lost. However, these writings often contain general statements with little supporting evidence. A jubilee publication in south Cedar County stated that settlers were drawn to that township by free land offered by the Homestead Act and Timber Culture Act.¹ Research reveals that in the township's thirty-six sections there were only two homestead patents (titles) and one timber culture patent comprising 480 acres of a total of 81 federal patents conveying title to 13,223.61 acres.²

Another source of the free land myth, besides oral history and local historical groups, is school textbooks. It is not uncommon to find statements in junior high and senior high history texts that thousands of expectant ex-soldiers, eastern farmers, and eager immigrants from Europe were attracted by the promise of free land in the West.³

The myth, on occasion, has received additional support from generalizations found in professional regional writings. An article dealing with the Burlington and Missouri River Railroad's tax problems in Nebraska in the 1870's-1880's states that all the land in central and eastern Nebraska not allocated to the railroads was acquired by homesteaders.⁴

Further support for the myth appears in a parade of prairie-frontier novels, ranging from poor to excellent, to which several generations of readers were exposed. A sampling of some of the outstanding literary works of this type makes the point clear. Willa Cather's *My Antonia*, published in 1918, is a tightly structured work treating the Americanization processes for

immigrants; and depicts narrator Jim Burden growing to young manhood on the rolling prairies of southern Nebraska under the tutelage of his homesteader grandparents among the children of neighboring homesteaders.⁵ Almost a decade later in 1927, Ole Rolvaag's *Giants in the Earth*, was published. A moving work with strong overtones of tragedy as immigrant Norwegian homesteaders struggle to survive on the Dakota prairies, its theme emphasizes free land.⁶ The last years of the 1920's produced a swift-moving tale, *Cimarron*, which caught the fancy of countless readers. Edna Ferber's novel centered on Yancey Cravat, a frontier non-conformist, who makes the great homesteading runs into Oklahoma and later into the Cherokee strip.⁷ The next generation enjoyed Jack Schaeffer's rugged, two-fisted tale of raw strength, *Shane*, 1949. Using a Wyoming setting, Schaeffer portrayed honest, hardworking homesteaders, Joe and Marion Starrett and son Bob, in their deadly struggle with the cattlemen. They are aided in that struggle by an itinerant gunfighter, and at last, win their right to farm their free land in peace.⁸ One of the trans-Missouri West's most prolific writers, Mari Sandoz, very ably treated the free land theme in *Miss Morissa*, 1955. The heroine, a young woman doctor, earns the respect of the rough and tumble society in which she lives. Miss Morissa builds her home and hospital in the North Platte River Valley on land acquired by virtue of homestead and timber culture entries.⁹ This brief survey of a coterie of leading novelists and works pertinent to the free land myth indicates that several generations of readers were exposed to the concept. The impact of the prairie-frontier novel on the creation, dissemination, and acceptance of the free land settlement syndrome has been profound.

An even greater exposure of the general public to the myth has been through moving pictures and television. Tried and true scenes depict a great expanse of wind-swept grassland. A burning high plains sun's relentless rays punish man and beast as a sweat-drenched team plods woodenly along. Striding alongside is a bearded, determined, rifle-toting pioneer. Upon the wagon, reins clutched purposefully with kids clustered around her, is mother. Land-hungry migrants are moving west to claim their free land homestead. This basic plot with endless variations has been lucrative for producers. For sixty years walk-in theaters and somewhat later drive-ins have offered these pictures on a weekly basis to an audience of insatiable western fans. Television has

followed the older industry and increased the exposure to a nightly rather than a weekly basis. Thus we see that the myth of free land encompassing every prairie acre in the trans-Missouri West has been propagated through every media form, thereby becoming a part of our historical heritage.

At this point it should be noted that the myth has had scholars exposing its vulnerability. Fred Shannon took the view that the role of the homestead in western settlement prior to 1890 had generally been overestimated. He argues forcefully that the general textbook account has been that of the frontier's close in 1890 with all the free land homesteaded. Actually by June 1, 1890, only 372,659 homesteads were perfected, accounting for 3 1/2 per cent of the total land area west of the Mississippi River. Shannon adds statistical reinforcement by pointing out that there was more land homesteaded from 1910-1936 than in all of the earlier forty-eight years the law was in operation.¹⁰ Paul R. Gates believes that the significance of the Homestead Act in settling the West was distorted and compiled figures showing more land being paid for after the Homestead Act became law than before its passage.¹¹ Roy M. Robbins reached a conclusion similar to those of Gates and Shannon. He stated that during the period of 1862 through 1882, there were 552,112 original homestead entries but only 194,888 final entries. Robbins believed that homesteading on the high plains was pioneering at its worst. Winds, prairie fires, hail, and lack of water, fuel, and building materials were potent factors in the failure of many original entries to be finalized.¹² Recent scholarship has directly refuted the free land myth. Orville H. Zabel has pinpointed the myth's dispeller as the local historian searching carefully in the maze of land records in county court-houses.¹³

With the myth identified and the transferral elements discerned, it becomes this paper's purpose to test the myth within a given locality. This study is based upon federal patents (titles) to grantees in the disposal of ninety sections totalling 57,238.49 acres of the public domain encompassing two and a half townships in south Cedar County. The locality selected for testing consists of gently drifting hills and small valleys drained by innumerable tiny streams reaching haltingly southeast and northeast to form numerous confluences with the area's primary watercourse, Logan Creek. This stream meanders east and north as it works its way across the two western townships, then swings abruptly north



September, 1891, view of Belden, located in south-central Cedar County on Logan Creek.

and south again as it slowly crosses the northern half of the easternmost township. The Logan and its tributaries provide an array of floodplains ranging from a few yards to a mile in width. Moving away from those floodplains and leisurely enfolding each other are endless small hills slightly separated by shallow draws and gracefully cupped saddles. A productive land with rich dark brown to black soil, it rests in the eastern Nebraska rainbelt, receiving twenty-two to twenty-four inches of rainfall annually.¹⁴

The Logan Valley lies in the transitional zone between the Central Plains and Great Plains regions with the westernmost township's west line abutting the official eastern boundary of the latter.¹⁵ Officially the area's designation is T28NR1E (Randolph township), T28NR2E (Belden township), and the north half of T28NR3E (Laurel township).

Theoretically if the myth held true in the acquisition of these ninety sections, the federal government would have issued 360 patents under the provisions of the Homestead Act and the Timber Culture Act. Such a disposal became an impossibility with the first day of statehood. Upon attaining that status, seven different purposes were implemented by which the federal government granted land to the state of Nebraska.¹⁶ Four of these categories were operable in south Cedar County: common school land, sections 16 and 36 in every township; state university lands

provided by the Enabling Act of April 19, 1864; lands allotted under the provisions of the act of September 4, 1841, for internal improvements; and land granted as stipulated in the Agricultural College Act of July 2, 1862, better known as the Morrill Act. The following table reveals that federal patents to the state of Nebraska under the categories effective in Cedar County totalled 13,707.10 acres.¹⁷

STATE LANDS IN SOUTH CEDAR COUNTY

<i>Act</i>	<i>Acres</i>
September 4, 1841 (Internal Improvements)	1,912.96
August 14, 1848 (Common School Lands)	3,200.00
July 2, 1862 (Agricultural College Act)	7,954.14
April 19, 1864 (Enabling Act-University Lands)	640.00
Total	13,707.10

Just as the state lands were outside the myth's definitions, the remaining 43,531.39 acres were not destined to fulfill its requirements. This acreage was also subject to railroad lands that were withdrawn. The Burlington and Missouri River Railroad Company of Nebraska, incorporated May 12, 1869, was assigned all rights, powers, and privileges acquired by the Burlington and Missouri River Railroad Company of Iowa under the Railroad Act of July 2, 1864.¹⁸ These rights included a land grant consisting of ten alternate sections per mile on each side of the right-of-way from Plattsmouth to Kearney.¹⁹ Since the alternate sections allotted the Burlington overlapped the earlier land grants assigned to the Union Pacific, and also included alternate sections already pre-empted or homesteaded, Burlington lands were short 1,200,000 acres.

In 1871 a ruling by Secretary of the Interior Columbus Delano allowed lands, known as lieu lands north and south of the twenty mile right-of-way designation, to be selected as far north and south as needed to correct the deficiency. Burlington land officials selected 11,500.82 acres of lieu lands in Cedar County.²⁰ The selectors had a good eye for land; they chose 8,269.68 acres in south Cedar County.²¹ The removal of the Burlington's 8,269.68 acres as potential free land entries left a total of 35,261.71 acres from which the free-land myth could emerge. That emergence could have been manifested only in an overwhelming rash of patents issued to homesteaders and tree claim entrants. Such a condition was not forthcoming. The patents were granted but the legal vehicles predicating issuance were seven different laws not

just two, the Homestead Act and the Timber Culture Act. The following table demonstrates the laws involved, the patents issued thereunder, and the total acreage deeded. There were eighty-three individuals who utilized the seven laws to acquire 212 patents, giving them the title to the remaining 35,261.71 acres in Cedar County's southern townships.

LAWS UTILIZED TO ACQUIRE
THE PUBLIC DOMAIN IN SOUTH CEDAR COUNTY

<i>Law</i>	<i>Patents</i>	<i>Acres</i>
April 24, 1820 (Purchase Act)	58	11,090.90
February 11, 1847 (Bounty Act)	6	960.00
September 28, 1850 (Bounty Act)	1	40.00
March 3, 1855 (Bounty Act)	130	20,514.48
May 20, 1862 (Homestead Act)	11	1,716.89
July 2, 1862 (Agriculture College Act)	3	480.00
March 3, 1873		
March 13, 1874 (Timber Culture Acts)	3	459.44
June 14, 1878		
Totals	212	35,261.71

An important question arises concerning the eighty-three individuals obtaining patents. It is imperative that we know how many were speculators. The meaning of the term speculator must be predicated, among other elements, upon the size of a family farm in the locality under study, all amounts of land over this standard figure being potentially speculative in intent. The criteria for a family farm must include topography, soil, climate, and physical limitations in what one man can farm. Applying this framework to south Cedar County one finds small, undulating hills, rich soil, and twenty-two to twenty-four inches of annual rainfall, all favorable growing conditions. However, the amount of land a man could actually farm even under these favorable conditions was limited. It was generally held to be impossible for a man to farm more than 160 acres with the farm implements then in use.²² This point is buttressed by the establishment of early eastern Nebraska claim clubs of a quarter section as a family farm.²³

These factors indicate that the definition of the term speculator in south Cedar County must involve 160 acres as a starting point. In addition to their quarter sections, some settlers acquired additional acres to provide quarters for sons and daughters. There is also the possibility of a farmer acquiring an extra quarter for use as a wood lot. Finally, there were those who acquired an extra two

or three quarters for rental purposes. Thus an individual might hold up to a section and not be considered a speculator. For the purposes of this paper land holders of a section or more are categorized as speculators.

This criteria makes speculator designation relatively simple. Moreover, certain speculators in south Cedar County were easily identified in that four were numbered among the top fifteen state-wide speculators covering the years 1863-1872.²⁴ The four speculators, John P. Crothers, Richard H. Ives, Charlotte Goddard, and Moses B. Goddard, using the 1820 Purchase Act, acquired eleven patents for 3,188.14 acres of excellent land.²⁵

The fact that these four speculators received all of their patents by virtue of the 1820 Purchase Act demonstrates the popularity of that act in acquiring south Cedar County land. A total of fifty-eight patents issued under the Purchase Act of 1820 deeded 11,090.90 acres to grantees.²⁶ The importance of this act cannot be underestimated in the acquisition of land in that it accounted for approximately 32 per cent of all the public domain granted by the federal government to individuals in south Cedar County.

Besides the well-known state-wide speculators there were other speculators investing in the township and obtaining large amounts of land. John P. Bean, George H. Boggs, Berea M. Willsey, Warren H. Chapman, J. P. Gage, and Charles J. Off were grantees of sixty-five patents, fifty-eight of which were acquired under the provisions of the Bounty Acts of 1847 and 1855, giving them title to 10,000.17 acres.²⁷ A discussion of the acquisition of land by these six lesser-known investors moves inalterably to a scrutiny of the Bounty Acts and the abuses committed under their stipulations.

The history of the bounty land warrants is characterized by deceit and dishonesty. The basis of much questionable conduct rested upon the right of the owner of the warrant to assign it to whomever he so desired for whatever price he might receive. Politicians, speculators, and land brokers engaged in a headlong rush to wrest warrants away from the unsophisticated original warrant grantees for a mere pittance.²⁸

That these conditions were present in the land under study becomes evident in an investigation of patents issued for bounty land warrants. Of the sixty-five patents to the six lesser known speculators, fifty-eight were acquired under the Bounty Acts of 1847 and 1855. Individually, the Bounty Act of March 3, 1855,



Louis Seyl, who acquired land under the Land Purchase Act of 1820 in south Cedar County in 1872 and 1873.

provided twenty-five warrants, all re-assigned to Warren H. Chapman, obtaining for him twenty-five patents for a total of 3,995.77 acres. John P. Bean, using the same procedure, acquired twelve patents for a total of 1,909.40 acres. Charles J. Off, too, utilizing the abuses of the act, garnered eight patents that furnished him 1,280.00 acres. These three speculators, using the Bounty Act of 1855, garnered forty-five patents good for 7,185.17 acres.²⁹ Overall, the Bounty Acts of 1847, 1850, and 1855 rendered 137 warrants that netted 137 titles for 21,514.48 acres.

The story of the disposal of the public domain is never complete without recognition of the bounty broker's role. When the acts of March 22, 1852, and March 3, 1855, made all military land warrants issued assignable, the appearance of the middleman became inevitable.³⁰ It was the brokers who set the market price for warrants. It was they who in thousands of cases acquired the warrants from the original owners or from their estates for a fraction of their worth, and resold them to the actual filer. The result was to eventually bring the majority of warrants into the hands of brokers and speculators.³¹ South Cedar County had its bounty land broker in the person of William Van Marter of Peoria, Illinois. Van Marter dealt extensively in warrants used to garner titles in the townships. His name appears in the Deed Records with almost systematic regularity as he made thirty-four bounty warrant reassignments good for 5,377.43 acres of rich farm lands.³²

The brokerage operations of Van Marter and his colleagues along with the other Bounty Acts abuses tend to obscure their original purpose—to reward soldiers with land which they themselves could utilize. On a nationwide basis, that purpose and reality diverged sharply. South Cedar County reflected that divergence all too clearly. Of the 137 patents received by individuals by virtue of bounty warrants only one original warrant holder acquired land in the townships. Enoch Chase, a veteran of the War of 1812, entered his warrant and obtained a patent for 159.96 acres in T28NR1E.³³ Returning to the speculators under discussion, it is to be noted that these individuals obtained seventy-six patents that netted them 13,188.31 acres of the 35,261.71 acres that remained after the state and railroad lands had been removed from public acquisition. It was a far cry from a free quarter section for a family. Actually these ten individuals received enough land to support eighty-two farm families.

In demonstrating the myth's failure in south Cedar County and assuming speculative intent in ownership of a section of land or more, interesting results occur. Eighteen individuals receiving 640 or more acres garnered 114 patents to acquire 20,329.60 acres. These individuals received enough land to have provided 127 families with a farm.³⁴ Pursuing this line of investigation and using the myth's 160 acre farm as the cutoff acreage, the total number of patent holders who received more than this acreage is forty-eight. These landholders garnered 175 patents granting them 30,075.78 acres, enough for 187 family farms.

Who acquired 160 acres or less? In this category thirty-five grantees acquired thirty-seven patents awarding them title to 5,185.93 acres. However, only eleven were homestead patents and three were timber culture patents. This means that only 38 per cent of the patents for 160 acres or less were homestead and timber culture patents totalling 2,176.33 acres of land. Recalling that the total acreage of the two and a half townships was 57,238.49 acres then the true picture is evident. Out of a total of 212 patents granting 35,261.71 of those acres, just fourteen were free land patents by virtue of the homestead and timber culture acts. In the acquisition of land in T28NR1E, T28NR2E, and the northern half of T28NR3E comprising 57,238.49 acres of some of the finest land in the Trans-Missouri West, only 2,176.33 acres were disposed of under the Homestead Act and Timber Culture Act, 3.3 per cent.

The free land myth insofar as the investigated locality is concerned cannot be accepted. The lands assigned to the state, the selection of Burlington railroad lands, the acquisition of thousands of acres by speculators and the liberal use of the Purchase Act of 1820 and the Bounty Act of 1855 combine to mock the myth's validity as applied to south Cedar County.

NOTES

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17. Cedar County Deed Records: Book 2, 40, 240, 529; Book 27, 349, 350; Book 40, 100.
18. *Ibid.*: Book 5, 82. 19. Sheldon, *Land Systems and Land Policies*, 90.
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31. Sheldon, *Land Systems and Land Policies*, 60.
32. Cedar County Deed Records: Books 4-9, 13, 15, 18, 19, 21.
33. *Ibid.*: Book 27, 305. 34. *Ibid.*: Books 3-9, 11, 13, 15, 18, 19, 23, 24, 26, 31, 51.