
For several years my contacts with the literature of the farm tenure problem have been occasional rather than systematic. It was coincidence therefore that in the month prior to undertaking this review I should have encountered two significant commentaries on that problem. One came from an outstanding agricultural economist who, while leading a discussion group, expressed the fear that the current national agricultural policy might be stifling commercial farming as America has known it and substituting therefor peasant farming under a governmental overlord who would curb entrepreneurial impulses leading to embarrassingly efficient production. The other comment also emanated from an outstanding agricultural economist, Professor Paul S. Taylor of California, who wrote in the May Harpers of the movement toward farm consolidation which is spurred by the desire to realize the efficiencies of the new agricultural machinery. Commercial, mass-production farming would, he feared, oust tenants from good land, concentrate them on poorer land, and increase migration to city relief rolls or to the ranks of farm labor.

With two such conflicting judgments of the trends in farm tenure at hand, I turned with lively interest to Ig. Diller's case history of a southeastern Nebraska farming community. Which view-with-alarm would this study corroborate? The answer, I found, is neither. The Diller community (about 100,000 acres centered on a village named for the author's great-grandfather) seems to have been stabilizing the land tenure relations which in other areas have been disintegrating.

The author, who wrote as a Raymond Fellow at the University of Chicago Law School, candidly reveals that he began his investigation with the expectation of corroborating an hypothesis which embodied the conventional charges against expanding farm tenancy. Tenancy had mounted in the Diller area; the percentage of land under lease had grown from 35 per cent in 1910 to 76.5 per cent in 1939. But this change, Mr. Diller found, flowed from the advancing age of the settlement and from the loss of the land's speculative appeal. Despite diminished returns since the World War and the severe drought of the middle 'thirties, the land is not an unattractive investment. But now it is the soil which must be cultivated, not "the main chance." The urges to sell and to buy alike have diminished. Land tends to stay in the hands of families after retirement or death has removed the owner-operator. Townsfolk of the vicinage have always held much land for investment; their holdings continue. Mortgage foreclosure has not greatly altered the situation, thanks in large measure to the emergence of that paternal mortgagee, the Federal Land Bank. Consolidation by purchase or lease does not seem significant, yet commercial farming, with its emphasis on cash crops, continues.

Looking at the tenant's side, the author finds none of his fears confirmed. Tenancy does not impair the social status of the tenant. His landlord is often a relative. The

1 Goodbye to the Homestead Farm, 182 Harpers 388 (May 1941). Professor Taylor's observations were directed chiefly to the Middle West.

2 It should be remarked that the author does not endeavor to project his findings beyond the community to which they relate.

3 Including land leased by farmers who own part of the land they farm.

4 Veblen, Absentee Ownership 135 (1923).
tenant's farming methods meet the community standards, which have been rising. He moves infrequently and usually under circumstances which lead to no antisocial con-
sequences. He puts his savings into equipment rather than into an equity. He signs
one of the three prevalent forms of leases, the detailed provisions of which neither he
nor the lessor reads (and which the author, like the parties, does not discuss, although
the forms are set forth in an appendix).

Mr. Diller does find a problem that needs correction in the spread of tenancy in
common resulting from succession to land for which there is no ready market. The
administration of such land tends to be embarrassed by multiple ownership, but the
author advances an economic rather than a legal solution: government aid for the
heir or devisee who wishes to operate to enable him to purchase the interests of his
colleagues or devisees. Another problem noted by the author, which so far as I know has
received little, if any, attention (perhaps because solution must remain remote), is that
caused by the artificial pattern which the government survey of western land has im-
posed on its farms and road system. For legal description a quarter-section may be a
convenient unit, but, as the author shows, it may defy the natural contours of the
soil and lead to inefficient farming units. Moreover, the section-line roads ignore topog-
raphy and the motorist's aversion to right-angle turns.

It is impracticable here to describe in detail the character of the data assembled by
Mr. Diller's research. They are interesting, illuminating, and rather reassuring. Their
selection illustrates the author's legal bent; an agricultural economist or a rural sociolo-
gist would have placed emphases elsewhere, although all three would cover much
ground in common. But Mr. Diller has looked into such matters as the competition
of joint tenancies and conditional deeds with wills and intestacy as the medium of
transmitting family property. He devotes some pages of an appendix to the happily
small grist of land cases which Diller litigants have brought to the courts. Knowledge
of this sort has been lacking to the students of legal institutions, and Mr. Diller's con-
tribution should be welcomed by them, even though it does not reveal serious malad-
justments crying for reform. If complaint were to be made, it would be directed to the
author's reluctance to speculate more as to the significance of the legal structure which
he depicts in operation. It is hard to avoid the suspicion that his happy discoveries on
the economic level have taken the edge from his curiosity as to the legal institutions he
examines. That these have worked tolerably well does not mean that they should be
taken for granted.

The book is very readable. When statistics become formidable they are tucked
away in an appendix. Though bound in heavy paper and reproduced from typescript,
the book's format is pleasing. It is unfortunate, however, that these economies in
production could not have been reflected in price.

David F. Cavers*

* As well they might; they were evolved when a great many of the nation's real estate trans-
actions related to just such communities.

* Visiting Professor of Law, University of Chicago (1940-41); Professor of Law, Duke Uni-
versity.